

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

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

Present:

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

The Chaplain took the prayers.

Railways – Operational Difficulties – Question by Mr Henderson

The Speaker: Hon. members, we turn to our order paper. Item 1, 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 Tourism and Leisure:

- (1) *Do you accept the findings in the Jarvis and AON reports, which highlight serious deficiencies in the operation of the Island steam and electric railways;*
- (2) *how do you propose to address the reported deficiencies; and*
- (3) *will your department use fully qualified rail engineers to implement the recommendations in the reports?*

The Speaker: I call on the Minister for Tourism and Leisure, the hon. member Mr Cretney, to reply.

Mr Cretney: Thank you, Mr Speaker. To establish an independent and professional view of the infrastructure condition of both steam and electric railways my department commissioned the Jarvis report. The AON Health and Safety Report was a part of government's risk management programme funded by the Treasury for the express purpose of commenting on the existing arrangements for the management of health and safety within the organisation and offering recommendations to help improve the existing safety management system. My department accepts the findings of both reports.

Progress on implementing the recommendations contained within the AON report is being monitored on a regular basis by the Isle of Man Railways' Health and Safety Committee. The works identified within the Jarvis report are extensive and need to be undertaken to ensure the continuing safe operation of the railways. There is £600,000 within the department's current year revenue budget for permanent way works, and this will be targeted at the priority areas identified within the Jarvis report. Further to this, a bid to introduce a capital scheme as part of my department's capital estimate submission for the 2000 budget

will be made. The significant budget required is over £12 million and spread over a seven-year period.

My department has already appointed Gibb Limited, a firm of consulting railway engineers, to manage and supervise the contract works covering the current year budget provision. It will also be my department's intention to make a similar appointment for any capital programme contracts.

Mr Henderson: Mr Speaker, I thank the hon. minister for that comprehensive reply. Would he agree with me that the items contained in the Jarvis and even the AON reports need to be implemented as soon as practical, and would he also agree with me that there are timescales highlighted within the Jarvis report and is his department prepared to meet the various timescales that are laid down in the Jarvis report?

Mr Cretney: Yes there are timescales laid down within the report and it will be our intention, subject to Treasury approval, to meet those timescales and, yes, I do accept, as I said earlier, the findings in the reports, which do highlight deficiencies and which we need to act upon.

Mr Henderson: Mr Speaker, a further supplementary, sir. Would the hon. minister agree that in the implementation of the various proposals within these reports a joint consultative process with the staff of both steam and electric would be the way forward and, inclusive in that, any staff side organisations that are present within the steam or railway companies?

Mr Cretney: Can I say, Mr Speaker, that we accept the input of the staff on the ground who are involved in the day-to-day running of the railways. I would suggest - and it has been commented on by the Transport and General Workers Union in the past - that the railways' Health and Safety Committee, which we set up two years ago as a means of addressing railway health and safety issues and giving an opportunity for staff to raise their concerns, is a legitimate way where those people who are involved on a day-to-day basis can have legitimately their input, together with management, to take things forward.

Tourist Accommodation – Number of Beds – Question by Mr Singer

The Speaker: Item 2, hon. members, and I call upon the hon. member for Ramsey, Mr Singer.

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

- (1) *What tourist accommodation, calculated by number of bookable beds, was available in -*
 - (a) 1994;
 - (b) 1999; and
- (2) *what current accommodation, calculated on the same basis, does your department expect to be available in -*
 - (a) 2000;
 - (b) 2001?

The Speaker: Again, the Minister for Tourism and Leisure to reply.

Mr Cretney: Thank you, Mr Speaker. The total number of registered bed spaces in 1994 was 10,116. The current total for 1999 is 8,503, a reduction of 1,613 bed spaces.

In answer to the second question, the Registration and Grading Commission predict that there will be a total of 8,400 registered bed spaces in 2000 and 8,300 by the year 2001. Although the net bed space figure has been downward the percentage rate of decrease through the 1990s has slowed. Thus in the early 1990s the total bed space figure dropped by over 10 per cent per year whereas the percentage decrease between 1998 and 1999 was 0.7 per cent. It is predicted that in the next five years the total number of registered bed spaces will level out at between 8,000 and 8,500.

Mr Singer: I thank the minister for the detail in his answer. As the number of bookable beds has decreased, though, considerably since 1994 and, as the minister said there is no sign of an increase in the near future, in order to justify the budget that is spent by your department on encouraging visitors to the Island do we not need some kind of incentive to assist hoteliers and prospective hoteliers to provide accommodation particularly in the middle range of tourist accommodation?

Mr Cretney: Mr Speaker, can I say first of all that I do not think I said that there was no opportunity for there to be new bed spaces; in fact, the reverse applies. I think that there will be people who will see that the industry does provide opportunities into the future and I think that that may be different than has traditionally been the case and I think we may have to go out of our way to try and encourage that. At the moment there is no grants and loans scheme available; that was discontinued because of lack of demand under the last administration.

In relation to the question about the future, the recently published 'Tourism Strategy, Building for the Future' sets a number of objectives, one being to encourage appropriate new tourism development and events in line with market opportunities. My department has identified the need to create a tourism task force to sell the advantages of investing in tourism opportunities to potential investors. Discussions are taking place with the appropriate organisations to establish this task force and I am pleased to say that the hon. member from the Legislative Council, Mr Delaney MLC, who has, since I became minister, headed up the marketing and tourism section of the department, I think with a great deal of success and hard work, has been charged with heading up this responsibility. I am pleased to advise the House that discussions are taking place which are likely to result in additional bed spaces becoming available through the redevelopment of properties that are currently not registered also.

Mrs Cannell: Mr Speaker, in view of the task force which the hon. minister has indicated has now been initiated by the department, what else can be done to assist the minister and the department in achieving an increase in accommodation, particularly of a higher quality? What can he identify will help the situation for him?

Mr Cretney: Mr Speaker, we have identified that there has been some renewed interest, which is contrary to the case under the past administration, in terms of grants and loans, so we have included as a wish list item for that to be reinstated. Now, whether it will be or not is subject to discussion and negotiation with the Treasury. Also, the income tax capital release scheme which was introduced in 1991 and has been used by a number of developments and is likely to be increasingly used as properties are redeveloped can assist obviously on the

basis that those premises then into the future are going to be successful and are going to pay tax.

Mr Singer: Could I ask the hon. minister, in view of his positive replies to the question, will these incentives - I suppose overall word would be 'incentives' - be available or does he see them being available outside Douglas - in Ramsey, Peel, wherever?

Mr Cretney: Mr Speaker, again, since I have been in post and, I know, under my predecessors, the importance of tourism to benefit sectors all around the Island has been recognised. There is no doubt about that and so, yes, clearly any incentives that we were successful in bringing forward - and at this stage we are not in that position, that will be subject to obviously further discussions - would want to be available throughout the Island. The Isle of Man is a beautiful place all around, and so it is my suggestion that the assistance that is available should be available to assist all around the Island.

The 'Tongue', Douglas – Conveyance of Ownership – Question by Mr Henderson

The Speaker: Item 3, hon. members, and I call upon the hon. member for Douglas North, Mr Henderson.

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

Can you confirm that the land, known as the 'Tongue', has been conveyed into the unqualified ownership of the Department of Transport?

The Speaker: The Minister for Transport to reply, the hon. member for Castletown, Mr Brown.

Mr Brown: Mr Speaker, the answer to the question is yes. I am advised that in 1885 the Crown Estates conveyed to the Manx Government Douglas harbour and foreshore. The plan attached to the conveyance clearly shows the Tongue to be inside the area conveyed. Since 1885 the Tongue has been owned, operated, administered and maintained by the department and its predecessors.

Mr Henderson: Mr Speaker, I thank the hon. minister for his reply and acceptance and obviously observance of the conveyancing papers that the Tongue has now passed into his department's ownership, but, notwithstanding the currently proposed developments, will he accept that this may disadvantage the smaller boat owners within the harbour who originally were the original subscribers for that piece of land?

Mr Brown: Mr Speaker, time moves on and we are redeveloping Douglas harbour to the benefit of hopefully all persons who wish to use Douglas harbour facilities.

Small Boat and Craft Owners' Association – Consultation for Douglas Section – Question by Mr Henderson

The Speaker: Item 4, the hon. member for Douglas North, Mr Henderson.

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

Will your department extend to the Douglas section of the Small Boat and Craft Owners' Association the same degree of consultation as is presently extended to the Ramsey section of the association?

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

Mr Brown: Mr Speaker, for several years my department has consulted on leisure craft matters, particularly harbour dues, with the Manx Yachting Association. This organisation is the umbrella body for the Isle of Man Yacht Club, Douglas Bay Yacht Club, The Manx Sailing and Cruising Club, Laxey Sailing Club, Peel Sailing and Cruising Club, and the Castletown and Derbyhaven Motor Boat and Yacht Club. All of the above individual clubs are also consulted as necessary on other relevant matters at various levels within my department.

The Isle of Man Small Boat and Craft Owners' Association was formed earlier this year and I met them on 4th August 1999 to discuss matters relating to the developments taking place in Douglas. As I confirmed at that meeting held on 4th August, I confirmed with the association and I am able and pleased to reaffirm again here today that my department will consult with the Isle of Man Small Boat and Craft Owners' Association in the same manner as we do with other similar organisations.

Douglas Harbour – Use of Footbridge – Question by Mr Cannell

The Speaker: Item 5, and I call upon the hon. member for Onchan, Mr Cannell.

Mr Cannell: Mr Speaker, I beg leave to ask the Minister for Transport:

Since its installation, what percentage of the foot passengers on sailings to and from Douglas harbour have used the footbridge linking the Edward and Victoria Piers?

The Speaker: Again I call upon the hon. member for Castletown, the Minister for Transport to reply.

Mr Brown: Mr Speaker, my department does not extract from the harbour-related statistics the specific information relating to foot passengers using the elevated walkway between the Edward and Victoria Piers. This information is therefore not recorded. However, as an indication, my department would estimate from the total sum of passenger statistics and knowledge of the Isle of Man Steam Packet Company's operations that approximately 38 per cent of foot passengers passing through Douglas harbour use the elevated walkway. This represents approximately 58,000 passengers.

Mr Cannell: Yes, a supplementary, Mr Speaker, please. I would like to ask the hon. minister if he agrees with me that more plans are needed to encourage the use of what is a very, very expensive facility in this area?

Mr Brown: Mr Speaker, I am not really sure what the hon. member means by his supplementary. When a boat berths at the Edward Pier, then they have to use the walkway if they are a foot passenger.

Mr Singer: Could I ask the hon. minister, is the minister aware at all of any criticism from perhaps older people saying they find it difficult to use the bridge because of the number of steps and the lift space when a boat arrives is not adequate and they would have to wait otherwise?

Mr Brown: Yes, Mr Speaker, there had been some concern expressed in the early days, which was from a specific package holiday company. What there was was a clear misunderstanding that they can make special arrangements with the Steam Packet Company

for persons to be transported round by coach or bus if they have difficulty in getting or using the facilities which are the walkway, but that is the only concern I have had expressed. Again I would make the point that going along this walkway is no different than many of the UK airports and there is a lift facility available which is more than adequate to accommodate the passengers, and certainly the reaction has been, the limited reaction I have had, that people find it better than walking out in the open air.

Mr Karran: Vainstyr Loayreyder, would the minister inform this hon. House, have the faults that have been developed as far as this white elephant been resolved as far as this whole affair of this walkway?

Mr Brown: Yes, Mr Speaker, I find it amazing when we improve facilities for the people we are attracting to the Isle of Man that some members call it a white elephant because they do not agree with it. I would say it is not a white elephant and it is a long-term investment for the benefit of those who are travelling to and from the Isle of Man so they do not have the inconvenience of getting on and off coaches, they do not have the inconvenience of standing around waiting to get on and off those coaches and they do not have the inconvenience of having to walk in inclement weather between piers.

Furthermore - I just re-emphasise again - passengers now travelling on the Steam Packet do not have to carry their suitcases; it is treated like an airport and the only baggage they have is hand baggage. It is a lot more convenient than it used to be.

Mr Karran: Vainstyr Loayreyder, so have they resolved the design faults in the building or have they not?

Mr Brown: Mr Speaker, the hon. member talks about design faults; I am not sure of any design faults. There have certainly been occasions where rain has been penetrating through the seals in the actual main walkway, but that is a responsibility clearly at this stage of the contractor and, as I understand it, that matter has been resolved.

The Speaker: I return to the original questioner, Mr Cannell.

Mr Cannell: Mr Speaker, may I ask the minister, is it not the case that this construction is yet another example of a sledgehammer being used to crack a nut and indeed is a blue elephant, not a white elephant?

Mr Brown: Mr Speaker, sledgehammer to crack a nut - firstly it was approved by Tynwald Court, so therefore everybody in this House was involved in that decision. My department gave a presentation, we answered questions that members raised and I specifically responded to the points raised in that debate. Tynwald Court - that is, the parliament of the Isle of Man - approved my department's plans to improve passenger facilities at Douglas harbour. Now then, whether or not it is a white elephant, a blue elephant or whatever elephant you want to call it, at the end of the day we have improved the facilities that were there and it amazes me how easily people forget just how difficult it was for people to get from A to B in terms of getting on and off the boats.

Mr Speaker, all I can say is that it works well. There have been some initial problems, which I indicated earlier and they are being resolved or have been resolved and, as far as I can see, we should be proud of our harbour facilities, which are a great improvement on what they used to be some years ago.

Noble's Hospital – Audiology Clinic Waiting-List – Question by Mr Houghton

The Speaker: We go on to item 6, hon. members and I call upon the hon. member for Douglas North, Mr Houghton.

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

What is the average waiting-list for a patient to attend the audiology clinic at Noble's Hospital?

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

Mr Karran: Vainstyr Loayreyder, at any one time there are approximately 200 patients waiting for a first time appointment at the hospital's audiology clinic. The clinics see on average a total of 350 patients, consisting of both new and follow-up patients, each month. Clinics are now held two full days a week. On average 20 patients are seen each clinical session, which would either be a morning or an afternoon.

Mr Houghton: Mr Speaker, may I ask the hon. member for Social Security can he justify the current position that a child in my constituency must wait up to 18 months for a consultation on the NHS or see the consultant immediately if the parents pay privately, and does he therefore not agree that a way forward must be found urgently to reduce this waiting list especially for children, sir?

Mr Karran: Vainstyr Loayreyder, I am unaware of such a thing. As far as I am aware, there is sometimes a waiting list of nine months for non-urgent referrals. I will be absolutely disgusted if that is the case, especially if members in this hon. House recall the abuse that I took over ENT and the fact that I said that we were blackmailing parents into going private several years ago, so I am unaware of this. I shall raise the issue with the department and if I had known this was the reason for the question I would have raised it and given the hon. member an answer today.

Mr Houghton: Mr Speaker, I thank the hon. member for his answer, sir.

Isle of Man International Broadcasting Company – Provision of Information to Members – Question by Mr Cannan

The Speaker: Item 7, hon. members, and I turn to the hon. member for Michael, Mr Cannan.

Mr Cannan: Thank you, Mr Speaker. I beg leave to ask the Chairman of the Communications Commission:

In respect of the Isle of Man International Broadcasting Company, will you provide members with a copy of each of the following -

- (a) the memorandum and articles of association of the company;*
- (b) notice of meeting and agenda of the annual general meeting held on 7th October 1999;*
- (c) minutes of the annual general meeting;*

- (d) *notice of meeting and agenda of the extraordinary general meeting held on 7th October 1999; and*
- (e) *minutes of the extraordinary general meeting?*

The Speaker: I call upon the Chairman of the Communications Commission to respond.

Mr Bell: Mr Speaker, as regards part (a) of the question I can advise members that the memorandum and articles of association are lodged with the companies registry and are available for inspection by the public.

As regards the remaining parts of the question, this information is not lodged with the companies registry. At this stage the commission has no statutory power to request the company to provide it with either the notice of the meeting, agenda or minutes of the annual general meeting held on 7th October nor indeed the extraordinary general meeting also held on 7th October. However, any changes to the directors or share structure of the Isle of Man International Broadcasting Company Limited as a result of either meeting will have to be notified to the companies registry within the statutory period.

Mr Cannan: Can I ask the minister, how can he expect any responsible member of this House to agree to the issue of a broadcasting licence to a company that is frightened to reveal details of its corporate structure? And further, why is the Isle of Man International Broadcasting Company unwilling to inform members of this House that at the extraordinary general meeting the resolution was that the issued share capital of the company be changed by creation of £15 million A shares of 0.00002267 pence each and that the shares so created should be issued to existing shareholders against their surrender of the ordinary shares of £1 each now held by them according to the proportion one ordinary share of £1 for 44,910 A ordinary shares?

The Speaker: Now, the Chairman of the Communications Commission, the hon. member for Ramsey, Mr Bell, to reply.

Mr Bell: Mr Speaker, we have already been over this in another place. I have explained quite clearly this is a private company. At the moment it is gathering its finances together, it is structuring the company with the aim ultimately to apply for the full licence for the long-wave broadcasting company. At that stage the company will have to present to the Communications Commission a full and detailed breakdown and explanation of how that company is structured, who the shareholders are and that will be under the scrutiny of both Treasury and indeed PriceWaterhouse, who are our financial advisers, and until that time I cannot add anything further to what I have already said.

Mr Henderson: Mr Speaker, could I ask the hon. Chairman of the Communications Commission in relation to the International Broadcasting Company that in any granting of a substantive broadcasting licence an independent report should be commissioned in relation to the transmitting gear of this particular station and in special reference to the health and safety of the said transmitting gear?

The Speaker: I would ask that the Chairman of the Communications Commission be aware that I do not want the question broadened too far in his reply.

Mr Bell: Thank you, Mr Speaker. The simple answer to that is that we are well aware of what our responsibilities are in the commission. That is one of the elements which will have to

be proven to the commission, that the whole operation is safe and ecologically sound, and we have already taken the first steps towards setting up an independent review of that situation.

Mr Cannan: One last supplementary, Mr Speaker. Would the minister agree that there appears to be a double standard in the issue of government licences? Very stringent conditions apply to the application for any sort of banking licence from the Financial Supervision Commission, but the Communications Commission will issue a provisional licence to a broadcasting company with a share capital of only £340 and no tangible assets.

Mr Bell: Mr Speaker, can I say first of all that the provisional licence which was issued to this company was issued with the full knowledge and acquiescence and voting support of the Court of Tynwald. It was fully debated there and members are totally aware of what the background and intention of that company is. However, hon. members, I am sure, are well aware of the hon. member for Michael's integrity and sincere concern for the wellbeing of the Island, and I am sure the hon. member, bearing that in mind, if he has any information which shows that there are problems with this company - I would be very grateful if he could let me know so that the company can be properly investigated by my commission.

Legislative Council – Direct Election – Report of the Select Committee Received

The Speaker: We turn then, hon. members, to item 8 on our order paper and I call upon the hon. member for Ayre, Mr Quine.

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

That -

- (1) the Report of the Select Committee on the Legislative Council be received;*
- (2) the elected Members of the Legislative Council be directly elected by the people of the Isle of Man; and*
- (3) in accordance with the recommendation at paragraph 7.4, the recommendation at paragraph 7.3 of the report be approved.*

Hon. members will recollect that in April 1997 the House established a committee to consider the role, constitution and election of the Legislative Council. The committee was also to consider the implications for the remuneration of Members of the Legislative Council as a consequence of any change to their role. Along with your good self, Mr Speaker, Mrs Cannell, Mr Cretney and Mr Rodan, I have had the pleasure to serve on that committee.

In March 1998 the House considered an interim report which, as I explained at the time, provided a functional analysis of the present Legislative Council and second chambers in general. That interim report was envisaged as a means of facilitating debate and thus obtaining members' views on a number of options for reform.

Turning to the report now before hon. members, sir, you will note that we have revisited the options commencing with the proposition that the Legislative Council should be abolished. We have concluded that there are substantial constitutional and practical implications which make this option unattractive. Now, this is not to say that a strictly unicameral system could not be devised. The present functions of the Legislative Council could be performed by the Keys alone, but it is highly probable that such an arrangement could be legitimately criticised as detracting from the efficacy of the parliamentary processes. Tynwald and the Keys would,

should the Legislative Council be abolished, become virtually one and the same body, albeit discharging different roles. Inevitably there would be fewer members to share the parliamentary and governmental workload. That said, sir, I would stress that the committee has recognised the need to approach this task on what it believes to be politically achievable.

Looking to other options with particular regard to the evidence submitted, your committee has decided to categorise the options in accordance with the selection and appointment process. In practical terms this has entailed looking at options based on appointment by electoral college - in other words, by the Keys, although that is not the only option in terms of an electoral college - and then options based on popular election. The issue of democratic legitimacy has featured strongly in the evidence which has been put to our committee, and I would stress that.

First we revisited those options where selection and appointment were made by an electoral college, which are set out in the interim report at paragraphs 4.3 to 4.6 and again, in the final report, in paragraphs 5.2 to 5.5. The four options incorporate one or more functional elements, and if I could just spell them out, sir: revising primary legislation, scrutinising delegated legislation including European legislation, scrutinising government policy and administration and appointment or, if you wish, service in posts in the Isle of Man Government other than as a minister. It is important that we keep these functions, which I have spelt out, to the forefront of our minds, for any case for a second chamber rests very largely on these duties and responsibilities.

Our examination has led us to the conclusion that of the four options set out in paragraphs 5.2 to 5.5 of this report, only the last option is tenable, and that is limiting the functions of the Legislative Council to revising primary legislation, scrutinising delegated legislation including European legislation, and scrutinising government policy and administration and service in the Isle of Man Government other than as a minister. If we are to have election by an electoral college - in other words, by the Keys - it is our conclusion that that is the only tenable option.

This option would largely maintain the status quo with the following exceptions: the voting and appropriation of public monies would be exclusively a matter for the Keys; members of the legislature would have no capacity to be ministers; and the nomination of the Chief Minister would be exclusively a matter for the Keys. Now, this option would represent some advancement towards a more democratic system of government, but it is not the preferred option of your committee. However, if that is the path that this hon. House decide to follow, your committee would make two further recommendations: the President of Tynwald should not be Chairman of the Legislative Council as this could give rise to a conflict of interest. Members of the Legislative Council should elect one of their own to be presiding officer; and second, legislation should be introduced to remove the right of the Bishop of Sodor and Mann to vote in the Legislative Council and Tynwald, and our reasoning on that point is set out at 5.6 of the report which is before you.

Another issue highlighted in considering this option for reform is the long and tortuous election process, or it can be certainly long and tortuous on certain occasions. We recognise the democratic value of the procedure, but have proffered two suggestions which could improve the position: we recommend that the Standing Orders Committee should consider

and report on those two propositions if that, in other words if it is the electoral college approach to the appointment of members of the Legislative Council that we are to pursue.

On the issue of remuneration of members of the Legislative Council following any reform, as advocated in paragraph 5.5, we propose that the remuneration of members of the Legislative Council should be 15 per cent less than that of members of the Keys - our reasoning on this matter is at 5.7.2 and 5.7.3 of this report - and secondly, that the presiding officer of the Legislative Council would receive the same basic salary as a Member of the Legislative Council plus a percentage uplift to reflect the responsibilities of chairmanship. We note that the Joint Committee on the Remuneration of Certain Public Servants will be reporting shortly, and consequently we hesitate to make a firm recommendation in terms of remuneration at this time.

We then looked at options for reform of the Legislative Council on the premise that they would be appointed by popular election, which in our view would convey to the Legislative Council the highest degree of democratic legitimacy. A significant amount of evidence submitted underlined the importance of popular election. Indeed, hon. members will note that in both the written and oral evidence provided by the Legislative Council itself, while they would wish the Council to remain as it is, they have no objection to the introduction of legislation to provide for popular election. Your committee in this report make a further observation and suggest that unless popular election is embraced, pressures for reform will remain and the status and value of the Legislative Council will be further eroded, leading, we fear, inevitably to the abolition of the Legislative Council. We suggest that popular election would provide a Manx parliament and government with increased institutional vigour, largely removing constitutional and political tensions. We feel that a popularly elected Tynwald would emphasise the parliamentary status of Tynwald. This is a value judgement of the committee; others may see it, of course, differently.

Turning to our specific proposal we envisage a unicameral legislature with two legislative branches - in other words, a unicameral legislature in the form of Tynwald and two legislative branches in the form of the Keys and the Legislative Council. The starting point would be a general election for 32 members of Tynwald, although there is nothing magic in that figure of 32; that is simply an amalgamation of the two existing figures. At the first meeting following the general election members of Tynwald would elect one of their own as a presiding officer. The presiding officer would have a deliberative vote and not a casting vote and would be debarred from holding any government position. At the next sitting of Tynwald the Chief Minister would be elected by the members of Tynwald. Following the selection of a Chief Minister the members of Tynwald would elect seven of their number to be members of the Legislative Council. There would be nothing extraordinary in being required to serve on the Legislative Council, which in substance would be a legislative committee. Hon. members are presently elected to and required to serve on committees of the legislature. The remaining members would, for legislative purposes only, be members of the House of Keys. Both Keys and Council would each elect one of their number as a presiding officer, and these two presiding officers, in common with the presiding officer of Tynwald, would have a deliberative but not a casting vote. They would be debarred from holding a government appointment, which of course is essentially the present position.

We do not see appointment to the Legislative Council as being a disadvantage to any member. Both Keys and Council would sit separately to consider, amend and enact primary legislation. Legislation could be introduced in both branches. Members of both branches could introduce private members' Bills. The differences between branches would be resolved by conference as at present but importantly I think, ultimately by Tynwald voting as one body. The view of the majority of the members of Tynwald would prevail and that must be the ultimate test, the ultimate adjudication.

Further consideration would be required to address such issues as single, multiple-member or all-Island constituencies. This in turn may reactivate the issue of electoral reform but, to be realistic, these issues will be raised out with reform of the parliamentary structure in any case.

As the lead time for any parliamentary reform would be extended there would be ample time to address such collateral issues. Importantly, all parliamentary business other than primary legislation would be considered by Tynwald Court voting as one body. Question Time would become exclusively a matter for Tynwald. Business would dictate the frequency of sittings for Tynwald, Keys and Council. Cheques and balances would be effected through the standing committees. We have the Standing Committee on Expenditure and Accounts now; we have approved in principle the Standing Committee on European and Delegated Legislation, and of course the additional committee could be one dealing with policy and administration. They are a matter for further consideration.

The committee of this House, by a process of evaluation and indeed elimination, have identified two viable options for reform, one based on the continuation of the electoral college system of appointment - that is, appointment by the House of Keys - and one by popular election. The preference of your committee is a popularly elected Tynwald Court with two legislative branches drawn from the elected members. In arriving at our conclusions and recommendations we have related these options one to another to arrive at our preferred option, and I would conclude, if I may, by summarising that exercise.

First, reform based on retention of appointment by Keys as set out in paragraph 5.5. Members of the Legislative Council would lose the right to serve as a Chief Minister, to vote on the selection of the Chief Minister, to vote on the appropriation of public moneys, initiate public Bills and introduce private members' Bills. There would be a reduction in the remuneration of members of the Legislative Council. The Lord Bishop would retain his seat in Tynwald and the Legislative Council but lose his vote. The residual value of the Legislative Council clearly would have to be seriously questioned. To some extent, sir, such change would deflect the call for greater democratic legitimacy. The inflexibility of the existing tricameral system most surely would remain in being, and consequently a constraint on the use of the legislative resources as a total.

The second option, sir, is reform based on popular election. While somewhat fundamental in its approach, it retains Tynwald, Keys and Council, albeit the latter two would be solely legislative committees. A unicameral arrangement with popular election would not only address the matter of democratic legitimacy but also the matter of claim to political primacy. Differential remuneration would become a non-issue. Greater flexibility in the utilisation of resources and some cost benefit is attained. The capacity of the legislative

machinery is enhanced. Cheques and balances are maintained, albeit not through a separate arm of the legislature.

Parliamentary reform may be seen by some as being of greater academic than practical value (**A Member:** Hear, hear.) Our study shows that this is most certainly not the case in the Isle of Man. There is need for a parliamentary structure which, while retaining the essential cheques and balances, allows for the efficient and cost-effective conduct of parliamentary and governmental business. In parliamentary terms and more so in governmental terms this calls for maximum flexibility in the use of human resources, and all the more so given that we are a small legislature with a small membership.

The motion is, I trust, readily understood. Part (1), I would suggest, should present no problem. It simply calls for the report to be received. Part (2) puts to the test the principle of membership of the Legislative Council being directly elected.

The final part seeks the House's endorsement of the proposition at 7.3. The motion lends itself to amendment, but, objection in principle or substance apart, I would suggest that the lesser issues of concern could best be addressed through any legislative process which follows from today's deliberations and decision. Mr Speaker, I beg to move the motion standing in my name, sir.

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

Mr Downie: Mr Speaker, I beg to move:

That standing orders be suspended to allow the motion to be debated as a whole, but each paragraph voted on separately.

Mrs Cannell: Mr Speaker, I am happy to second and reserve my remarks.

The Speaker: Hon. members, we have the proposal put by Mr Downie, seconded by Mrs Cannell, that the standing orders be suspended to allow the motion to be debated as a whole, but each paragraph voted on separately. Does any member wish to speak to that? In that case, hon. members, I propose to put that motion to you now, so that we know when we debate the motion on the order paper exactly how we will handle it at the conclusion of that debate. Those in favour of Mr Downie's proposal for the standing orders to be suspended to allow the motion to be debated as a whole but each paragraph voted on separately please say aye; against, no. The ayes have it. The ayes have it.

Hon. members we continue with the debate. Hon. member for Onchan, Mr Cannell.

Mr Cannell: Mr Speaker, I find this subject to be clear to me as a recently elected member of the House of Keys. I heard this morning a Member of the Legislative Council saying that there was no public call for reform. I suggest, sir, that that opinion is wide of the mark. My findings on my fairly recent travelling on the elections, certainly of Onchan, were quite different to that; there was a call for reform of the Legislative Council and that, sir, I feel is reflected by the observations of your committee as reflected upon by the hon. member, Mr Quine in his introduction of this motion.

Mainly speeches which concentrate on internal matters do not appeal to the public. They are regarded as a waste of parliamentary time, but I feel, sir, as we turn into the new millennium this subject now has been debated for quite sufficient time. It comes out in the form

of a motion before this hon. House this morning whilst I have a motion in a different place attempting to achieve something very, very similar. So my position is that providing the object of the exercise is achieved, I shall be quite happy to say that my endeavours in this matter, my aspirations in this matter will have been satisfied.

I think a case is more than overwhelmingly been made out that reform is required. I also think that the way it is going to be done is not perhaps quite as revolutionary as has been proposed from time to time, and I do not see for quite some time members now, or members coming, agreeing to the abolition of the Legislative Council altogether. It might be said to be a step too far at the moment. I would suggest, with the greatest respect to everyone, probably that would be the eventual outcome, but it will be quite some time. But I do welcome the steps which have been outlined on the paper and the reasoning behind them that we do reform the Legislative Council and that we grasp the opportunity to do so by backing this motion on the paper today. I think the timing is absolutely right for it. It is not an attempt to stuff everybody by putting the motion into the Keys rather than Tynwald, but certainly, if the power is to return mainly to the House of Keys or to rest with the House of Keys, then no finer body can consider the matter, because I would suggest - and I do so not without taking a slight gulp before I say so - that if the members of the Legislative Council are to contribute to a debate they should technically, I would think, declare a vested interest in it, because anything they say is obviously going to affect it, whereas what we are doing here although we have the interests of the Council being maintained will not. So I would advocate - and this is a brief speech, you will be pleased to hear - that this motion be supported in its entirety.

Mr Brown: Mr Speaker, as the member who moved the original motion in this House, and deliberately moved it in the House as against Tynwald Court, which had been ways of trying to deal with it before, I have to say I recognise there is a need for some change, that there is a need to reflect public opinion. However, whatever change is made it is not at any cost, and to say I am disappointed with this report is putting it mildly. I think it is unworkable, I think it is a recipe for conflict and I do not believe what is in this report in any way is in the best interests of the Isle of Man.

The last speaker raised the issue about the status of the House of Keys. Well, if you go to paragraph 6.2.6, for example, it straightaway reduces the status of the House of Keys, because it says the only place that members will be able to ask questions will be in Tynwald. So the House of Keys is reduced in status. It makes the House of Keys basically a committee, and I do not believe it is what the people want, and it is certainly not what I want. (**Mr Gilbey:** Hear, hear.) It makes the House of Keys nothing more than a committee of Tynwald, not a House in its own right, which it is at the moment, not a House that is a branch of Tynwald and has powers of its own but reduces it to the status of a committee, and I do not believe that is what anybody wants.

I am not going to say an awful lot because, quite honestly, I have just tried to pick out what I see as the fundamental points. We have a tricameral system in the Isle of Man which is unique, it is based on our heritage, and some people might think, well, in these days that does not matter - we saw that in the interim report of the committee, who suddenly said, 'Well, let us have a single system; no tricameral, no bicameral, we will just have the straightforward one chamber, and that was rejected by the House, thank goodness.

We have here a situation in this report - just some of the points I have picked out - where we are talking about the people electing 32 people to serve in Tynwald on behalf of the people of the Isle of Man, and straightaway under the procedures in the report and paragraph 6.22, page 33, we have from one of the numbers the election of a President of Tynwald, and then we go onto page 35, same paragraph, and we have the election of a Speaker and the election of a separate presiding officer for the Legislative Council. So straightaway three of the 32 will be people in positions who can do very little. So why fight an election? Then you go on: the presiding officers are not allowed a casting vote. I find that amazing: the casting vote is always clear in standing orders; It is to keep the status quo. It is a clear parliamentary procedure, so the vote is right. If you do not give the presiding officer the vote you end up with a situation where it is a tied vote, and because it is tied, it fails. Now, okay, it might not matter, but it certainly does not follow, as far as I know, other parliamentary practices or for that matter even local authority practices. No explanation why they should not have a casting vote. A casting vote is not real power; a casting vote is just correcting the record so the vote is seen clearly that there were more votes one way than the other. Now, just one item.

We then go on to page 34, paragraph 6.2.2 and I just wonder: we have under this procedure people who are going to fight on election; they have fought an election, they have been elected to Tynwald and then Tynwald will decide who is to serve on the Legislative Council. According to the report there is no choice. If you are elected you will be required to serve on the Legislative Council whether you want to or not. Under this position I cannot understand why anybody would want to go anywhere near the Legislative Council. (**Mr Gilbey:** Hear, hear.) What on earth would anybody want to be elected to the Legislative Council for after fighting an election for Tynwald Court? Now then, the committee members might well come back and say, 'Ah! but, they will have responsibilities' because it covers that, about their responsibilities: the same as the Keys. Conflict. A smaller body - we have trouble now with Legislative Council members who do make points at times -

Mr Houghton: And they are ministers.

Mr Brown: Never mind ministers. Ministers are elected, most of them, by the House of Keys and the point is that we already have a situation where there are sometimes conflicts between Members of the House of Keys and Members of the Legislative Council because some Members of the Legislative Council see their role different to how I think most of us envisage a Legislative Council. So we have a situation already. You imagine when you have got a Legislative Council of members who have been elected by the public and they are a smaller number than those who have been elected by the Keys, or have been put to the Keys, by heck, they are going to feel that they are in the strongest position because they are the smallest group. So again there is going to be conflict, and if there is not going to be conflict, why go to the Legislative Council?

I am disappointed that one of the specific questions that was asked of the committee was to look at what they saw the role of the Legislative Council. It is not there. We are going to elect this body and we work out the role later. That is not a way for us to make a decision. I can hear it coming. It is going to take years for this to come in; it might take five years, it might take 10 years. But the principles are not even right, and if you have not got the principles right you cannot build on it, you have nothing, and there is so much conflict in this report, which I believe generally in some cases is misunderstanding or dogma, whichever it might be, from

the committee, it takes us down a road that I honestly believe is impractical. I am not questioning whether or not the Legislative Council should be elected by the people. You can elect the Legislative Council by the people if you like as long as you know what their role is. The problem at the moment is the Legislative Council do not really know their role, because it has evolved and changed in a way that nothing is clearly laid down and that is why at times Legislative Council members sometimes sound more like Members of the House of Keys than some of the Members of the House of Keys sound! This will make it worse.

The Isle of Man has changed over a period of decades to get the stronger responsibilities into this House as a branch of Tynwald, and this will reverse that back. This will create conflict, it will create absolutely a situation that I honestly believe is not in the best interests of the Isle of Man. It certainly, in my opinion, reduces the status of the House of Keys, I have not doubt about that at all, and I know that I will be told I am wrong and this is not right and that is right, and all I can say is that we will all have different opinions on this. I am one who has taken a keen interest in parliamentary matters and procedures, and I have to say I do not read it anywhere hardly in this document, and therefore -

Mr Quine: So have others.

Mr Brown: - the hon. member who is moving it is muttering away there, which is often his way when he does not like what other people have to say, but I am just making the point that, as far as I can see, this is purely a road that will not be in the best interests of the Isle of Man and would hope that members will reject the report, just have it received and, quite honestly, somebody else is going to have to look at this issue, but I do not believe what is in this report is in the Island's best interests and therefore I will be voting against it.

Mr Karran: Vainstyr Loayreyder, it seems there is going to be a lack of people preparing to get up and debate this issue. I believe that the committee have worked hard trying to wrestle with the issues of the Legislative Council. I know that it is going to be very difficult outside, because I think my hon. colleague for Onchan is quite right, it is very popular to get the Legislative Council elected so called democratically, and I have to say that I am disappointed with the report in many ways, and I find myself in a difficult position because there is need for change in the Legislative Council. I find it scandalous that you can spend years and years in the upper House at any age without any mandate coming back from the people, and I do think that is wrong and I think we need legislation. Where you can spend 20 odd years in the upper House without any mandate from the people, there is something wrong and I think that is something especially when they get over the age of retirement and I personally would like to see, if nothing comes here today, a private member's Bill from someone to put an age limit on how old you can be re-elected in the upper House.

I would fight to the end as far as the lower House is concerned because the Keys' name comes from 'choice', and I believe if the people in Onchan want to put a 96-year-old on a life support unit as the replacement for myself or my two colleagues, that is democracy and that is fair enough with me, and the lower House where the people elect the members, then that is up to the members of the general public, and I believe I would never support an age limit for the lower House, because it is elected by the people and democracy is about choice and that is the way it should be. But in the upper House, where it is regarded as the earliest form of redundancy, this mediaeval form of redundancy - when you cannot get elected, you clear off up to the upper House - I think there should be an age limit. So I hope that if we do not see

anything from this today we will see some legislation to put some sort of age limit on the upper House so that once you have been elected, once you are over either 65 or 70 you cannot seek re-election unless you have been elected up there from the people, and I believe that is something that should be done.

I am disappointed as far as this report is concerned, because I personally feel that if I was having my way with reform I would have the upper House elected if we are looking at a way of keeping the tricameral system of government of eight members from the whole Island on STV so a vote from Ronague was worth the same vote as from Douglas and Onchan, and as a former member for Middle Sheading I know, and my colleague the Chief Minister will know, that Santon and places like that were forgotten for years because by the time I had canvassed Santon it would take me a week for 300 votes, whilst I could do 1500 votes up in Onchan in the old Middle Sheading, and so if you are to go down the thing I would have liked to have seen that and 16 members in the House of Keys if I would have had my way, in order to put the membership to a level where we were a national government and not state representatives, because I believe at the present time where this report falls down is that there is too many in my opinion if we are to have 32 elected, especially at one time.

One of the oldest adages of what I remember is stability, stability, stability. At the present time, yes, I believe there are a lot of people who do get mixed up with the adjacent island as far as their House of Lords and our Legislative Council are concerned, and our Legislative Council and House of Keys should not be looked on that role of the adjacent island, because we were there and our system was there before the adjacent island had their system, and our system is a lot more democratic than what happens there. And when we look to the other side from the Island and we look at the Irish Republic, there is a certain amount of undemocratic system as far as that is concerned.

My personal concern with this report is that it has not thought things out. I think we should have gone for a more systematic way of working out where we wanted to go. We should start with the age of them, then we should start with restricting how many times they can be re-elected up there without facing the mandate of the people if we are going to go down the road of having an upper House.

Now, I understand that members find it very difficult not to vote for the principle of the change so that what we have at the moment is a situation where people outside do see the upper House and they are aggrieved that they do not have any right to elect this upper House. I think at the moment we have major problems from the adjacent isle, and I am very worried about the fact that we might be dealing with this issue, which will go off for years; in the report it does not say who is going to make the decision of who is going to lead the way as far as whether it should be the Council of Ministers or it should be members in this hon. House. What I am worried about is, I believe that we should support receiving this report. I believe that it should be seen as a green light for change to be done to the upper House. I have changed my view recently about the upper House because I would have abolished them completely if I had had my way. I think back to the days when we were bringing in the Sexual Offences Bill and some of us in this hon. House were virtually living under siege when this Bill was going under there, not knowing what would be found on the other side of our front doors, and members in this hon. House, aided and abetted by an upper House who did not need to be populist, who did not need to win a vote, who ran away from these sorts of situations. But that

is what they were put there for in the first place and we, who were dependent on our income as an elected member, could stand up and look after the national interest; they ran away.

So personally speaking I would have liked to see the abolishment of the upper House, but that is out of the question. But I do feel I would have liked the fall-back position of the *chiare as feed*, the 24 - 16 MHKs and the eight MLCs - as a fall-back position from that. But I do feel and I hope that this is not used as an excuse, this report, for individual members to bring up pieces of legislation as private members in order to chip away at the injustices that are in the present system.

Mr Downie: Mr Speaker, hon. members, I will try to be brief on this particular issue. Absolutely no problem at all agreeing to accept the report, absolutely no problem with having all members of the Legislative Council, or whatever form we are going to have in the future, being democratically elected.

I do have some reservations about the third paragraph and the recommendations in the report. Can hon. members imagine 32 or 33 people going out to be elected in this Island and the problems that is going to cause? Before we do that, we have got to have somebody in from the Boundaries Commission. We will have to re-examine all the various constituencies and, who knows, in that process we might lose one or two constituencies, particularly some of the smaller ones; they could well be amalgamated in the process. Then, at the end of it all, your 30-odd members in here are all of a similar status, all democratically elected, so you have not just got a dozen or more people plying for Question Time or trying to point-score, you are going to have 33 people here who, as far as they are concerned, are open house. They have got constituents, they are democratically elected, so they are all going to be in here trying to make their mark.

As a Douglas member, I have honestly felt that the east of the Island has been under-represented for some years (**Mr Cretney:** Hear, hear.), and if we are going to do the job properly let us have it done on a proper basis of proportional representation. Let us have a situation where there are some more members in the parliament representing the areas that are more heavily populated, and I think that is another issue that has got to come into it.

In my opinion, the report is not conclusive. I would congratulate the tremendous amount of work that the committee have done, because it has been a very, very difficult task to put a report together but I think this is just the start, and I would like to think today, if this report is received, the principle is established of having a proper democratically elected parliament system, we can then go on to review the situation in more depth.

Now, we all stand up here and we are talking about rights and, here we are, we are in contravention, in my opinion, of one of the basic rights: we are having a discussion or a debate about the future of the Legislative Council and unfortunately they have not been able to come in and have any input. So I would think that, whatever happens, the big debate and the crunch-time has to take place in Tynwald Court. Now, I accept, as I say, the principles of everybody being elected but there is a lot of expertise on the backbenches. There are some members up there who make a very valuable contribution to the governing and well-being of the Island, and I think it is important that when we do take the decision it is done with the maximum amount of input by the parliament itself.

In conclusion, hon. members, I will be voting for the first two sections of the report, the first two paragraphs, but I would like to think that in doing that we are accepting that a principle has been established today and at some time in the future there can now be a rolling programme of having an in-depth view into where we see our parliament going in the next few years. I think that the report does not cover or deal with lots of the questions that have been already posed today and I think we need a proper in-depth study before we make a final decision. Thank you, Mr Speaker.

Mr Shimmin: Mr Speaker, the mover of the motion in one of his comments referred to parliamentary reform as being to some of academic benefit, and I would agree that to many people both in this House and externally this is an issue which should not distract us from the operation of government. However, in my view it goes far deeper than that and, whether or not we like it, I believe that now is an opportunity to begin a serious parliamentary reform.

From my limited understanding of the electorate you could categorise them in three groups: those who are keen and follow politics - they are the people who regularly get in touch with any of ourselves, Members of the Legislative Council, the radio, the newspapers and they have a keen understanding and appreciation of affairs affecting the Isle of Man. Small in number, I would like to see that number grow and become more aware and involved in political issues. We then throughout the Island have those members of the public through single issues as life affects them. It might be to do with planning, it might be to do with personal circumstances, but they touch into politics and politicians because of their own lives being affected by something to do with the political world. The majority consider much of what we do in this chamber and another House as an irrelevance. Although it does touch their lives, it is in an intangible way which they do not appreciate and I would contend that to many of the majority of the people they see the politicians and the politicking that goes on as something which they either ignore or find an irrelevance or something which gives them less than a great deal of respect for the work done in these chambers.

I find that very sad and I find that something which we ought to be addressing within parliamentary reform. We leave ourselves wide open when we revisit so many times so many decisions that have been taken, and then any new members come in, such as myself and others at the last election, we are not satisfied with the reasons why decisions were taken so we want to revisit. We want to regurgitate, cogitate and, to the eyes of the public, it is an irrelevance and a waste of time. I believe that there is a great deal which can be done by politicians on this Island to once again rekindle a level of respect in the eyes of the public which I believe at the moment, through a variety of reasons, we are losing. We have to reach out and try and touch the silent majority of people, those people who, through years, have eroded their respect for the offices that we serve.

So looking at parliamentary reform, we have the Legislative Council as being one the people know about, they have heard about and they have gained a great deal of dissatisfaction after the farcical episodes last time for election when we in the Keys, week in, week out, came back and, I would say, in the eyes of the majority of the public, were made to look foolish by our inability to make a decision and elect people to those posts. (**Members:** Hear, hear.) That is what the public saw. We understand more democratically, or more parliamentarily or politically, why we have standing orders and we go through the process but to the majority of the people it was merely an embarrassment and reinforced, for those who

were prejudiced against politicians, a negative view of us. So now we can do something about it.

The report, well written, well structured and one which, on such a contentious issue to have managed to get five people to sign it, is no small feat in itself. I am sure within those five people there have been a variety of different views and I am sure that, were we to go along with the three recommendations before us today, I think it was my hon. friend for Castletown, Mr Brown, who mentioned that this will take years. So we could make a decision today which would give the appearance of actually moving the debate forward but in reality would it actually cut into affecting people's lives out on the streets or would it, once again, be us re-examining our own internal mechanisms without actually achieving any worthwhile benefit to the people of the Isle of Man?

I find it difficult to say, but I believe that the Legislative Council for parliamentary reform is the easy option. It is one where we can stand up and say, 'Yes, of course they should be democratically elected.' It is an easy position for politicians to say 'We are democratically elected, therefore democracy dictates others should follow the similar route.'

I contend that a decision taken some months back by the Chief Minister and the Council of Ministers is fundamental to this debate, and that is a decision for parliamentary reform of local authorities to be curtailed. To me, we have a pressing problem whereby the status of local authorities has been repeatedly undermined by this chamber, and people within the public have lost confidence in local authorities when the amount of work that is being done by some of them is very commendable. It is a difficult issue and has been for 20 years, and all attempts to reform it have been thwarted because there was too much at stake for individuals to force through local authority reform. But to me, the foundations of the political life on the Isle of Man, the very foundations and the root of it are the local communities and the local authorities. I would far prefer the time of this Court was spent trying to deliberate and make decisions upon our local elections and local authorities before we address what has far less relevance to the people, which is the make-up of the unicameral, bicameral or tricameral system which most people would not understand or have any real importance of its nature.

Issues we have already raised this morning, many of which I would support, are merely going to be ways of burying this for years: STV system; 32 individual seats; multi-number seats. I have views on all of these. I believe we have to address them. When I came into this House I came in because in no small part it was first-past-the-post. I was a newcomer; there were two seats and only three candidates. I am convinced I picked up many people's second votes as 'Take a chance on him - a young family man, give him a chance' - far from the right way to being elected to a chamber of this importance. I came in having no political background and no policies, yet I was able to be elected under the system we have at the moment. People took a chance on me for five years. I believe that unless we seriously address the STV system and actually get people into a level where they are elected on ability rather than suitability of 'Know the family - nice young Manxman, we'll give him a chance,' I believe we will never really enhance the ability of this House or the reputation in the public.

We have heard talk about numbers, whether we have 32 or 24 split 16 and 8. Look around at the workload that the majority of people in this chamber are already doing. Were we to reduce it from its present number to 24, again we could argue that case but will that enhance the service to the public? I believe that the majority of people in this chamber and the

Legislative Council are prepared to put in considerable hours to work for the people of the Island. I want to enhance that. I do not want to reduce it by reducing the numbers. If we are going to enhance it it needs to get the quality people into the positions to service and work for the people of the Isle of Man, and if we find that there are people within either this chamber or the Legislative Council who are not putting that work in, then I do not believe that this debate necessarily is the best way of solving that particular issue.

I believe that we can get lost in issues legitimately raised, and were we to go down the road of supporting all three of these motions I would find that we would spend years on issues that I would find quite fascinating, I would be heavily involved in, but I am unsure as to what benefit that would be to the people of the Island.

The member for Onchan, Mr Karran, I think, if I see him correctly, thought that by receiving it would be a green light that we are looking at this issue. I would contend that, were we to support items (1) and (2) of the motions before us, that would send a real green light out but it would not force us down a road of saying that this is the next issue that we have to deal with and spend years embroiled in trying to find how in 10 years' time we could actually amend it.

I will not talk any further. My personal view is that, as important as the Legislative Council and popular election is, I believe there are other areas that we ought to be focussing on upon first. I will be supporting the first part and the second part of the motion. I will reserve judgement on the third part but hope that the message goes out. I am not against reform. Let us make sure the reform is for the benefit of the people and not for politicians playing at politics. Thank you, Mr Speaker.

The Speaker: Does the hon. member for Garff wish to speak?

Mr Rodan: Yes, thank you, Mr Speaker. With this report the House has before it basically two options: one which is not very radical, in effect the status quo; and the other an option which is very radical indeed, based on direct popular elections. The reason for there being only two options before the House this morning is that the committee has identified these as the only two positions which are sustainable.

Now, the hon. member for Castletown - the first thing he said was that the proposals in this report were unworkable. What the report does is identify positions which are sustainable and could be made to work if the important principles are accepted, because when you read the report and you see the way that all the possible options and permutations have been examined by the committee you start from the position of the two principal considerations, the electoral college and the popular election, and if you follow these through to their logical conclusion you come to two sustainable positions that could be made to work.

The electoral college option - the trouble with that is that it leaves with the Council powers that democratically are no longer sustainable but could be made to work as long as you accept that there will always be conflict in that situation. The popular election option would certainly not be workable if we were talking about two different elections at different times and two elected bodies, each complaining equal democratic legitimacy. That would be a recipe for conflict. That would be indeed a recipe for institutional conflict which exists already.

When the hon. member for Castletown refers to conflict, of course - when you have a situation where politicians are involved there is always going to be political conflict by definition - presumably what the hon. member means is institutional conflict. I believe that under the radical proposal the possibility of that conflict will be minimised because both the Keys and the Council would have equal parliamentary status and conflict would be less likely. What would need to be put in place is a mechanism to resolve conflict. At the moment we have the Speaker's conference to resolve conflict between this House and the Legislative Council. Where conflict arose in a situation of a democratically elected Tynwald Court there would need to be put in place a mechanism where Tynwald itself as a whole would make the decision and resolve the conflict. So what the report does is flag up the need for a mechanism. But simply to dismiss that because it is a recipe for conflict does not acknowledge that there is conflict in the system that we have at the moment and conflict that will continue in the system if the non-radical option is continued with.

The hon. member for Castletown's other main complaint apart from the unworkability and the recipe for conflict is that the status of the House of Keys is restored to no more than that of a committee, but I would say 'What an important committee!' (*Laughter*) a legislative committee to progress legislation, to bring in legislation which would then be revised by the other legislative committee, i.e. the Council, or vice versa. That is a perfectly proper role for this House to have. Of course, the complaint is that because this House is the only democratically elected branch of our parliament at the moment, it has naturally drawn to itself a parliamentary role and it is no surprise that in recent years there has been a spread, from Tynwald Court as the parliament of the Isle of Man, of elements to this House such as scrutiny of the executive who have questions to ministers - quite rightly that this should have happened, but the only reason it has happened is because there has been a feeling that it is far more appropriate for that to take place in a democratically elected body and that the people's representatives should do the scrutiny of the executive. What the radical proposal of direct election will do, of course, will be to restore to Tynwald its prime status as parliamentary forum for the Isle of Man, a status which has been devalued in recent years. (**Members:** Hear, hear.) If Tynwald Court became exclusively an elected chamber there would be no good reason for parliamentary scrutiny to take place in other than the democratically elected chamber. There would not be the requirement for it to be taking place in this House, and I believe that restoring to Tynwald full parliamentary authority would give it an enhanced status which it has lost in recent years.

The parliament of the Isle of Man, if we are to be a democratic nation, requires that its components be democratically elected and elected as a body at a common election and functions flowing from that for the progress of legislation, and I believe that the radical proposal before you, part (3) of the motion, is the way to achieve that. The other issues that have been raised to do with the mechanics of boundary adjustments and proportional representation and all the rest of it are issues which flow from acceptance of the principles in this report and of course will have to be examined. I have particular preferences as to how the 32 elected members would be elected to give them democratic legitimacy, but that is another debate further along the line. So let us cross that particular bridge when we come to it and not be distracted by the difficulties or perceived unworkabilities in all that by throwing out the important principles this morning.

This report has been extremely thorough and I believe, if members look at it very, very carefully and examine the reasoning and the logical conclusions that are the result - and there are only two logical conclusions - they will accept that there is a very clear choice this morning: it is either to accept, more or less, things as they are with a reduction in powers, because that is a sustainable position, or it is to go for the truly democratic option which is sustainable and, if there was a will, could be made workable.

Mr Henderson: Mr Speaker, I read this report with much interest and realise that a lot of hard work has gone into it, and certainly it has taken some two years to get to the floor of this hon. House, which shows the depth of consideration that has gone on. However, I do detect from some members that perhaps some of the issues are almost taken personally, which is a shame, because I have also noticed over the past year or so that when any different view to that of the establishment is presented it is almost seen as an undermining or a belittling of something and, far be that from the truth, I see it as a testing and a focusing from a different angle, from different sets of people in scrutinising the important issues that are put before our parliament and our legislature, and I see it as vitally important that we should have different viewpoints, not just a set of viewpoints that always combine and push the same signal out to the general public of this Isle of Man.

Having said that, it is blatantly obvious that the report has highlighted a situation of strategic drift, and I do not know how many times I have to bang that drum, but strategic drift is certainly the issue that shines out of this quite clearly. What is strategic drift? Well, it is where an organisation, using a set of policies and systems to progress its own objectives, drifts away from the mainstream of what is happening out there in the real world, and I am afraid to some extent, whatever anyone thinks in this hon. House or another place, we are using systems, policies and processes, even the systems of standing orders, that may not always marry up to the fast-changing world of 1999 and the movement into the new millennium, and that is the main reason I see we are here this morning and the main reason for this debate and this report. Change is required and we need to have a more efficient interface if we are going to move smoothly into the year 2000 and carry on in a more effective way with the business of this House and that of another place.

Some of the main problems are easy to see and certainly easily identifiable, where we have a structure in the Legislative Council who are not popularly elected and are not really accountable, and certainly it is a structure and a system that allows for ministers to be elected from that Council as well and who also then can be seen as not being accountable.

There are many other issues as well which I need not bother going into here because we could go on for ever and a day on it, but those are some of the main issues and, to my mind, we need to do something. How long do we let this position continue and how long, in my opinion, do we keep letting the people of the Isle of Man down? We are either going to address it or we are not going to address it. People are frightened of change, feel uncertain with it and feel uneasy with it. Well, that has always been the same, and it was certainly the same with me when my own role in a previous life came under scrutiny for pretty much the same reasons but it is a path that had to be gone down, tested, readjusted and reorganised and, as it happened, it turned out pretty well and things became more effective and a more efficient system was developed, and I think the same could be done here. I see this report as setting the scene. It is up to others as we go on to fill in the foreground as time goes on. If we

vote this report in and all that it stands for, you cannot have an instant revolution; it is going to take time to work out and test the anomalies, and I am sure there will be anomalies in it and things that need further fine tuning and so on. There is no way it will not, but I see it as setting a foundation. As they say, we may not like it but it is obvious that we do need the change. It may not be agreeable to all and someone is always going to find fault with something whatever decision we may make, so how long do we keep putting it off? How long do we keep deferring it for?

The hon. member for West Douglas was quite right when he said this hon. House and another place could be seen to be losing the respect of the electorate out there. I feel that is quite right from time to time and it is something that we seriously need to think about in this hon. House and another place and we need to seriously think how we are going to go about addressing that issue. But I have to say, Mr Speaker and hon. members, the public do understand what the Legislative Council is. They may not understand it to the depth of technical and legal definitions in its totality but, nonetheless, the Legislative Council does give impressions out to the public and they can see it; they can see that people can go upstairs, as it is called, and effectively dodge the issues. Now that is public opinion, sir. It is also seen that ministers can be picked from the Legislative Council and they understand that those ministers could be seen to be unaccountable to the electorate, and that is what the public understand in some ways. I am sure there is much more but those are a couple of the big issues that have been flagged up to me.

Now, the hon. member for Garff mentioned institutions, and he mentioned that word several times. Well, I say we are at a stage of not institutions, we are at the stage of institutionalisation, and that means we are stuck, we are static and we are not looking as far forward as we could be doing, which is what happens in a case of institutionalisation. I could go further and introduce a concept called group-think where the members of a certain elected group of people or whatever, an organisation are looking out for their own best interests and losing sight of the bigger picture, which could be the case here if we do not grasp the nettle. Having said that, I think we do need to move on and I think we do require to make some sort of change, and with that I support this report and the hard work that has gone into it.

Mr North: Mr Speaker, I listened this morning and I do not think there is any doubt that we need to find a way forward. The Isle of Man is changing, has changed, and if you leave these sort of evolutionary things too long then the changes that are needed, the longer you leave it, become more and more dramatic, and unless we actually accept - and most people seem to accept one and two - number three - it is a compromise situation. There are many in here that have said they want to do away with the Legislative Council altogether. This is a compromise report, no doubt about it, but I do not think that number three actually says anything, and the hon. member for Castletown, I think, raised some excellent points, as did the hon. member, Mr Shimmin, for West Douglas. But all those need to be addressed, and I am sure that we all realise - and I am not reading into this report that none of those things are going to be addressed - they are going to have to be addressed whatever you do, and the detail has to be worked out, and I think again it was the hon. member for West Douglas, Mr Shimmin, that said it will take many, many years to do that -

Mr Cretney: Not too many.

Mr North: - and it will, and a lot of work will have to go into it. But I see this as actually strengthening Tynwald and I think, in years to come, the way the economy is going, we are going to have to be looking at some further changes as to how the executive is able to function and report back and be accountable - and that is what this is all about, accountability - to Tynwald. We are going to have to work out how the executive is going to be able to operate within Tynwald, and so I hope that hon. members will recognise that there are not any hard and fast decisions here that are actually taken other than that the elected Members of Legislative Council be directly elected by the people of the Isle of Man. So I hope that hon. members will support that and then a lot of the detail needs sorting out later.

Members: Hear, hear.

Sir Miles Walker: Mr Speaker, I am brought to my feet principally by the remarks of my hon. friend, the member for Garff, when he suggested to us that we had but two options: we had the electoral college as suggested in this report and we had the more radical solution of popular election to Legislative Council, again as suggested in this report. But there is a third which we should not dismiss, which is voting against this report and going for what I consider to be the status quo now (**Mr Gilbey:** Hear, hear.), so I think there are three very clearly. . . and there may be more, but we should not believe that the electoral college as suggested in the report and as suggested by my hon. friend, Mr Rodan, as first option, is the situation we have at the moment. It certainly is not and, as far as I am concerned, the Keys acting as electoral college in the way as anticipated in this report and then confining the responsibilities of Council in the way this report does is certainly not acceptable to me. I cannot imagine anybody at all wishing to be elected to the Legislative Council without being able to vote on the appropriation of public moneys, without being involved in the election of ministers and without any participation in the election of the Chief Minister. It seems to me that it would be a pretty boring set of responsibilities without those.

Members have alluded to the situation that arose in this House when we were electing the last round of members to the Legislative Council and saying it was a disgrace, it made us a laughing stock and so on. I have to say it was entirely in our own hands (**Mr Cretney:** Hear, hear.), and I believe the situation that resulted at that stage was one that was construed in order to drive us along this path of reform (**Mr Gilbey:** Hear, hear.). I have no doubt about that in my own mind. I do not think it was an accident because of the way we carry out those elections.

The reasons for change - there are three phrases that have been used that I have just made a note of: political primacy, democratic legitimacy and enhancing the parliamentary status of Tynwald - all very important subjects on their own, very important issues, but all very subjective and I guess each one of us could argue a different slant on each of those headings. I certainly could. I do not see what is wrong with the members of a Legislative Council being elected by the House of Keys for a term of five years with the House of Keys acting as an electoral college. I think that is democratic legitimacy, it provides me with no problem at all, and so we could argue the rest of them. We talk about restoring to Tynwald its full parliamentary status and 'the people have lost respect in Tynwald' and so on. I have to say I do not believe that to be the case. There may be a few people in our community - and they are fully entitled to their own views - who would argue that what I have just said is the case. I do

not believe for one moment that they represent a majority view within this community that we are fortunate enough to represent.

The popular election to Tynwald Court as suggested in the report, of course, is nothing new. It was what many of us would recall as the Victor solution and it was well debated in the early 1990s, and I had many, many conversations with the hon. member at that time, Mr Kneale, and I supported the process of that legislation up until the second reading stage, and then I decided that it would be, in my mind, unworkable. I have not been persuaded to change my mind by any comments or anything that is in this report, and I accept that the members of this committee, our committee, have worked very hard to bring out the options and I congratulate them for it, but I have to say they have not persuaded me, and perhaps that is not surprising! (*Laughter*) I find the thought of elections to Tynwald and then dividing us off into two committees. . . and there would be a heck of a lot of lobbying in that little process, I am sure, but then you have a committee which you would call the Keys Committee, and to that we elect a chairman and we will call him Speaker, but I have to say I believe there is something more important in the Speaker's role to have a Speaker of the House of Keys than just the election of a chairman of a committee of 23 or 24.

Mr Gilbey: Hear, hear.

Mr Cannell: You signed the report.

Sir Miles Walker: It seems to me - maybe your view, Mr Speaker, if I can put it that way, but it certainly is not mine.

A Member: He cannot speak.

Sir Miles Walker: I think that the Speaker of the House of Keys has a much more superior role, one that has developed over very many years, and I would be very cautious about undermining that and reducing it to the role of the chairman of a committee, albeit a superior committee if that is what hon. members would wish to call it, and I think the same would go for the President of Tynwald. There was a lot of debate, a lot of changes, a lot of amendments before we got into place the position we have at the moment with the presiding officer of Tynwald, and I believe we arrived through all that debate at a reasonable solution, again to reduce the role of the presiding officer of Tynwald - and I suppose it would take the place with the Speaker, in a way; I had not thought of it in that way - we elect members of Tynwald, 32 members, and then we elect a presiding officer out of the body of Tynwald. It does cause a problem for that individual who may be elected. He would be, in fact, politically neutered because he would not have another place within which to speak. I think there are a number of difficulties there which need thinking through and I accept that I have not thought them through.

I am also concerned at the thought of a popular election to Tynwald, 32 seats. And members are suggesting we should put out of our minds at this time how those 32 people should be elected and we should just think about the principles.

Mr Downie: We want to know now.

Sir Miles Walker: I think we need to know now, I think we need to know in advance, I think we need to know where we are going, and this step-by-step politics is not always a very good idea. 32 single seats I can see as the favoured way of election (**Mr Cannan:** Hear, hear.)

the majority of members of this House support single seats. I do not. Thirty-two single seats and a first-past-the-post system of election, I believe, would give the people of this Island the worst possible representation in their parliament.

Members: Hear, hear.

Mr Brown: STV you want.

Sir Miles Walker: And I certainly would not want to go down that road. If we are thinking about 32 seats, let us give some thought to eight constituencies of four seats and a return of STV.

Members: Hear, hear.

Mr Gilbey: No.

Sir Miles Walker: I think there might be some sense in that, if we get to that situation but I hope we do not, because I for one am firmly convinced that the situation we have at the moment is one where the Keys are in control and I know that people can do convoluting sums to prove that the majority of the Council and a minority of the Keys can get together and form a majority in Tynwald, but how often has it happened in real life? I would suggest I do not think ever, but very rarely anyway. So I do not think that that is a real problem.

So it would be my intention to vote against the report. The hon. member says 'Ah', I have very clearly stated my views, not only to this committee but also to my electorate, to my constituents in the south of the Island. They know where I am coming from. They know I do not believe it undemocratic for the House of Keys to vote for Legislative Council - (**Mr Gilbey:** Hear, hear.) because the power, the majority, the basic support for government policy has got to come from the House of Keys under our present system, and I think that is right. If the report gets through and we have to get on to detail, I have got a lot of quick thinking to do because I am not convinced on either of the ways forward, but I do not want to see a neutered Legislative Council. It seems to me that that is of little interest to those members who may be elected there and it is of little use, in fact, to our parliament which is Tynwald. I am not convinced by the arguments in this House. I would congratulate the members for the work that they have put into it and for their endeavours to find a consensus, because I guess a lot of endeavour went into finding that consensus, and of course consensus do not always lead us to the right solution either. So I think we should bear that one in mind as well. Thank you, Mr Speaker.

Mr Gilbey: Mr Speaker, I very much agree with the remarks of the last speaker, the hon. member for Rushen, Sir Miles Walker. As the hon. member for Garff, Mr Rodan, says, if the public separately elected an upper House it would lead to conflict. How very right he is. Let us think about it. If the upper House or the other House were subject to an all-Island electorate of 50,000 people while this House was elected on a constituency basis, it is quite obvious that those in the other place would think they were the senior ones because they had an all-Island franchise. If they were elected on a regional basis they would think the same because they would say, 'I am representing a whole region' - say 20,000, 15,000 people - 'I am not just representing the lower numbers represented by our present constituencies', and that is why the committee proposed the election of Tynwald and then the division into two bodies.

But how I agree with Sir Miles and the hon. member for Castletown, Mr Brown, about the disadvantages of this. Who in their right mind would want to fight an election without knowing what body they were going to end up in? (**Mrs Crowe:** Yes.) Who would want to be propelled into a body that they did not want to? And it is no good saying this is just like a committee of this hon. House or another place, it is not at all; it is into a separate legislative body, and there would still be conflict between the two bodies. Anyone who thinks there would not is totally wrong.

Again, as Sir Miles has pointed out, how would the 32 be elected in the first place? Is it to be 32 single seats? Whatever method it was it would mean enormous changes in our present electoral boundaries and system, and we know the hours, the days, that have been wasted in the past on that and in fact no change made in the end.

Therefore I am convinced that the proposal before us would not work ever, and furthermore it is clear to me that agreement will never be found on the method by which the public elect two houses. Even those who think the principle is right will never actually agree on how it is to be done.

Furthermore, I do not believe, as Sir Miles has intimated, that a majority of the electorate really are wanting this major change. A few may, but the vast majority believe, as some other hon. members said, that there are far more important things for us to do which mean much more to the electorate than spending days and weeks and months on this matter.

Therefore I shall continue to oppose the idea of an elected upper House as I always have. I believe that the Legislative Council should be kept as it is, as a revising and delaying chamber, and the only change that I would like to see is basically that put forward in my evidence to the committee, and that is that it is a pity that some members of the Legislative Council, as some other hon. member mentioned earlier this morning, keep on behaving as if they were members of the House of Keys rather than as elder statesmen in a delaying and revising chamber.

Mrs Hannan: Mr Speaker, I think I accept to a certain extent that the public are not necessarily looking for change with regard to Legislative Council. I do not think it is one of the high profile issues at an election at any time, but it is an issue which is raised on a regular basis, and therefore I think there is concern out there. But I think someone suggested that the public understand Legislative Council. My understanding of that - and I have been in politics a little longer than the member who mentioned this - is that the public do not understand Legislative Council. They do not understand what they do and they do not understand the part that they play in the governing of this country.

Within this report I would say that I welcome the acceptance that Legislative Council should be elected by the people, but this report just does not go far enough. This has already been said by a number of members, but it suggests that this happens and the end, but it does not tell us how we are going to get to that end, and it is that time from here to when it is accepted or when the changes are introduced that concerns me. We could all very clearly vote today to accept (*Interjections and laughter*) this report today and then the major parts of it would not be accepted by the House through legislation, through standing orders or whatever, and therefore we could do all of that. The report looks at it, I think, for the reason of looking at the end result and not looking at how we are going to get there. I understand the reason for

doing that, because if it was done in any other way people would be picking holes in it and saying, 'I don't accept this, or I don't accept that,' and therefore it would not get through. So it is not an easy issue as we have heard talked about this morning.

As I said, it has already been said that people understand what Legislative Council is about. They do not; they do not even understand what the House of Keys is about. People think we sit every day and of course we clearly know that we do not; they think it is Tynwald every day; they do not understand that it is Keys, and that is our fault, because people have never been educated into understanding the differences between Keys, Council and Tynwald.

Now there are a number of concerns I have. It is with regard to forming committees of Tynwald. I accept that this is one way of looking at it, but to form a committee of Tynwald is actually saying that we were doing away. . . all right, you call it the House of Keys, but you are actually doing away with the House of Keys. The Legislative Council I do not have a concern about. We can call that whatever we want. We can call that a committee of Tynwald, because Legislative Council was just an advice to the Governor or to the Lord of Mann at one time, so I have no problems with that; but I believe the House of Keys is for the people and therefore I think it is more than just a committee of Tynwald. I realise that is just linguistics, but I do believe that the work that we do is so important, and I have always said at every election that the most important work that we do with being elected to the House of Keys is to consider legislation and to give it proper consideration because it can last for 200 or even 300 years.

Now, the upper House does have an important job and therefore I actually support the retention of Legislative Council, but I would support it in being a second chamber elected by the people, and there are many ways in which this could happen. Clearly it has not had the majority support of this House in the past, but when we are looking at how the upper House is elected and the importance of the job that it does, I do not think it should be beyond us to set out a job description of what they are responsible for and the time that they would be expected to undertake that work. It should not be beyond the wit of this House to do that. That has not been put forward by this report.

I do not think it would be a problem for the electorate to elect 32 members at any one time. I see the problem of what would come from that: the single seats, the multi-seats, the all-Island electorate and the way in which the election takes place. The election at the moment, the first-past-the-post, is completely undemocratic, absolutely and completely. But nobody has addressed how we actually become democratically elected in this House, let alone trying to put forward a democratic Legislative Council. I have gone through it before and I will go through it again: my people in my constituency get one vote; if they live in Ramsey, they get two votes; if they live in Rushen, they get three votes, and therefore that is completely undemocratic (**Members:** Hear, hear.), and that is something that should be given consideration as well as democratically electing the Legislative Council.

Within this report I am not sure why the report states that the presiding officer should not have a casting vote. It does not give a reason; it just says that they should not have a casting vote and then passes on to the next issue. In the same way as Bills falling at the dissolution of Tynwald - my understanding was that happens at the moment. I fail to understand why that is included.

With regard to issues that have been talked about this morning, I cannot understand Mr Karran's ageist comment that people should cease to be members when they get to a certain age. I think after a lifetime in politics some people do end up with quite a remarkable insight into politics and the political aspects and aspirations of people and how things work and therefore I do not necessarily think that people should be barred. It is up to the public to decide whether someone is fit, and that is why I believe that everyone should be democratically elected. On another issue, in some areas people who are old are valued simply because they are older and have a greater understanding and a lifetime of learning, and that is put to a great deal of use. We should not follow the banks where they get rid of everybody at 50 and all that experience and knowledge is taken with them and then they are employed by someone else, because that would be the case here and the criticism in recent times has been, 'Oh they have been a member of the House and then they have ceased to be a member of the House and they become a director of something'. Well, that is because they have still got something to offer.

I cannot understand either the comments made the member for Douglas West when he suggested that the east was unrepresented.

Mr Downie: Under.

Mrs Hannan: Sorry, under-represented, because it is over-represented. (*Interjections*) You know, if you are looking at the Isle of Man in total the east has 16 members. The north, west and south has eight members, and therefore I think they are over-represented and I think they should give some of the seats back to the north, west and south.

Mr Cretney: Well, why do we have the prisons and the incinerators?

Mrs Hannan: Legislative Council equally has more representation than the rest of the Island and I am including the Bishop in those outside the east.

Comment was also made about the attitudes of the public towards MHKs. I do not want to get into this too much but I do believe some of the issues that are raised by us are local authority issues, are the smaller issues, they are not the big issues, and they do, I think, belittle the House of Keys when these things are discussed and sometimes in Tynwald when they are discussed ad nauseam (**Mrs Crowe:** Hear, hear.). Some of the issues that are covered in the press are only the negative issues. The people are never told, or very rarely told, what something is going to do in constructive way. It is always put forward as a confrontation. It is all very well to look at a story and to say, 'This is an angle that we will cover,' but if the original story is not covered in total, then the problem is that all the members of the public see is the confrontational side of it and the actual issue does not get through and is not covered by the press, and I am talking about the written press as well as the oral press.

I do not think either that management talk is the way forward. Management talk is all very well and we get an awful lot of it in this day and age, but management talk is not the way forward. We are politicians and I have the right to speak and put forward my views and vote on something in the same way as other members do and that is why we end up almost always with a compromise, because each individual puts forward their wishes, their aspirations and we are not all the same.

I will certainly be supporting the first and second part of this motion before us today. I desperately want to see Legislative Council elected by the people. I want to see the two legislative assemblies elected by the people responsible to the people and I certainly do not have any wish to control the age of people at which they stand, because if we are looking at the elderly we could also be saying that until somebody has 40 years' experience of life they should not be standing and I would not want to go down that road, so I think we have got to leave it to the electorate with that. Legislative Council, I believe, should be elected but I am concerned that should I accept this report - and it is the only thing we have got before us today - it will take some five to ten years to implement and then it might not even get implemented, and it might be better to look for a better, quicker solution to electing Legislative Council. Thank you, Mr Speaker.

Mrs Cannell: I will be brief, Mr Speaker. I think those members who are in the House today have to remind themselves why the select committee was appointed in the first place. It was following a motion and it was because the public were dissatisfied with the accountability aspect of the Legislative Council, and so the committee sat and they deliberated for a period of two years, and I am glad that I was on that committee because I learned quite a lot about the previous role, the present role of the Legislative Council.

Now, the hon. member for Castletown said earlier he was disappointed because the committee had not addressed the role of the Legislative Council but I would remind him that we did come forward with an interim report which examined the previous role, the present role and what we saw for the future, and that was presented to members and hopefully was to trigger some kind of comprehensive debate.

Members must also remind themselves that there were provisional conclusions in that and it was in relation to the Chief Minister - the election of the Chief Minister should be undertaken by the Keys and not Tynwald - that ministers should be appointed by the Keys from Keys members and not legislative members and also the preparation of public moneys, budgets, debates and alike should be undertaken by the Keys. Now, that was fully endorsed at the time by this hon. House as being -

Mr Brown: A point of order, Mr Speaker. It think it is important that it is acknowledged it was received, not approved.

The Speaker: Hon. member, resume.

Mrs Cannell: Thank you, Mr Speaker. The principal components within the interim report were by a majority approved by receivership in the House. (*Interjections*) I accept it was received but, going by Hansard and looking at the contributions made at that time, there was an overwhelming majority of members who spoke or were in support of the preliminary recommendations.

We have to accept, and I think hon. members do accept, that the role of the Legislative Council at the moment is not doing an awful lot for the democracy of the Isle of Man and indeed for the service of its people, although we have heard this morning that some members who are stuck in a rut in relation to this want to retain the status quo. Well, that is not moving forward into the 21st century at all. It is not recognising why the select committee was established in the first place. We were tasked to look into the present situation and come forward with some positive recommendations, and I believe that is what we have done. I have

heard quite a number of red herrings this morning that were floated in previous debates and I would ask those thinking members in this House not to be swayed by the red herring debate. But we have also heard disappointment expressed that the recommendations do not contain any kind of idea or recommendation towards the election process if members were mindful of adopting, or approving in principle at least, that we should all, both Houses, go out to the public, but I have to say that it is my understanding that the remit of this committee did not extend to examining the election of the Legislative Council, the House of Keys, or indeed of the members of Tynwald and so therefore we did not touch upon that.

We have heard for a call back for STV. I just have one thing to say on that: this hon. House approved a return to the first-past-the-post because it is the first-past-the-post system that the people trust and rely upon (**A Member:** Hear, hear.) and they are happier with that system and we are here to serve them.

Remind ourselves what were the principal concerns of the reason for reporting. Remind ourselves of that before voting. We also heard latterly, 'Who would want to stand for election when they did not know what their role was going to be?' and I think it was the hon. member for Glenfaba that touched upon that, but again I would put another question, another rider into that and say, 'What member knows that he or she may be elected as a minister or Chief Minister prior to a general election?' and that has some substance to it given that we received a petition for redress of grievance this year on Tynwald Day with the question of when a constituency, particularly when they have one representative who is chosen at present by the Chief Minister to serve as a minister, feel under-represented, that the minister is unable to ask questions, the minister is unable to do many things that the electorate would have expected of a member (*Interjection*), and let us not forget at election time it is a member who they elect to the Keys, not a potential minister but a member, and so we have not addressed that situation so I do not think we should have our vision clouded by the question put by the hon. member for Glenfaba.

There is no doubt that the public want proper accountability. At the moment we have a minister for the largest spending government department - and that is, Health and Social Security - serving as a member of the Legislative Council. Now, that precludes us as a House when we meet every week, every Tuesday to deliberate, from probing and testing and questioning the Minister for Health. We only have an opportunity now to do that once a month when the House meets with the Legislative Council in the form of Tynwald Court, and I think we should remind ourselves of that anomaly, that undemocratic situation that prevails. Of course, the favoured recommendation of full accountability for the whole of the parliament would address that particular anomaly along with others.

Just briefly I will just touch on the ageism comments that have been made. The hon. member for Onchan said that he would like to see a retirement age brought in and I have some sympathy with him in relation to that, particularly as we in another place debated such retirement age only a week ago. Now, the law as it will apply to the land and the adjacent land is that both men and women will retire at 65 years of age, and I think that members should practice what they preach. If the recommendations contained within that report which was approved last week come forward and we look at more flexible retirement ages for our own workforce, then the same should apply to us.

Mrs Hannan: Nonsense!

Mrs Cannell: If, of course, we do not consider a flexible retirement age - that is to say that if our workers want to go earlier or if our workers want to go later, pre- or post- 65 and that is supported and measures brought in - then equally it should apply to the House and to the Legislative Council and ultimately Tynwald Court, but of course if it does not and the present situation prevails where one has to retire whether you like it or not at 65, then I think the same should apply to us. (**Mr Cretney:** Hear, hear.) If we want equality, then we should provide that equality not only between man and woman but between this House and our people.

I will be supporting, obviously, the recommendations as a member of the committee. Thank you.

Mr Brown: Mr Speaker, on a point of order, if I can clarify, the member who is a member of the committee who has just resumed her seat said that it was not the role that was given to them to look at elections and can I just confirm that it says quite clearly '... to consider (a) the rôle, constitution and election of the Legislative Council;'

The Speaker: I acknowledge that, sir. May I call upon the hon. member for Ayre to reply to the debate now?

Members: Agreed.

Mr Quine: Thank you, Mr Speaker.

Mr Corkill: Do you feel up to it now?

Mr Quine: I feel absolutely ready for it, yes. (*Interjections*) Mr Speaker, there was a reference a moment ago to ageism. In the last two hours I have put on about three years.

Mr Bell: So have the rest of us!

Mr Quine: And the rest of you will put on three years the next hour!

Mr Speaker, I think it has largely followed the path that I anticipated. We have a range of views influenced and motivated by different considerations, and that is the nature of the democratic forum. We have those which I suppose you would put in the class of the dinosaur who say that everything is all right, we are all happy, we are all comfortable, the end product does not matter a great deal; we have those in the middle who are prepared and willing to look at it sensibly, look at the objective analyses that have been provided to these reports and to judge it on its merits - and thank God for that element; and we have a small percentage who I suppose are relatively disinterested.

One preliminary before I deal with members' individual comments: I would remind members that the select committee put before you a pretty detailed interim report, and when I introduced that report I served notice here to say that this was an opportunity for you to come forward and let us have your ideas. Well, very, very few have come forward with their ideas. We as a committee have done our best to analyse this objectively and put all the facts in front of you. I believe we have achieved that and some members have recognised that we have achieved that.

One further point, of course, is that it has been open by the nature of the motion for anybody to stand up here today and say 'No, I do not agree with part (3); you should go this way.' They have not done and therefore I think there is a compelling inference that people that

have opposed part (3) are taking a negative stance and trying to create a little bit of a smokescreen.

If I may now deal with some of the comments, I thank Mr Cannell for his comments. I am aware, we are all aware, that Mr Cannell is very supportive of the reform of the Legislative Council, and in particular I welcome his view that the case for reform has been well made. I believe it has been well made, because there is a great deal of analysis there based on a highly objective approach and I do not think, quite frankly, that one could wish for more.

Mr Brown spoke next. I had some difficulty reconciling some of his comments with the fact that he was the mover of the motion which set up this select committee. He was enthusiastic for reform, he spoke and listed a considerable number of shortcomings in relation to the Legislative Council but today seems to have gone off. So we have to ask ourselves why, but I would suggest that, of course, Mr Brown is the only one that can answer that. He said the system is unworkable. Quite clearly anybody who could read this report in the detail that we have produced it and suggest that the system is unworkable either is so biased he does not wish to give it any credit as being a workable system or has not been able to understand what is in the report. Quite clearly this report spells out lucidly and, I believe, in a very readable form precisely what is intended and how it would work, and in case he has had difficulty in that respect I will revert to it a little later in my response. 'Only ask questions in Tynwald' - the whole issue is that we would have Tynwald as a unicameral body and it is through that body that questions would be asked. It is made quite clear in the report that with an adjustment of the workloads which would be there it would be for the Standing Orders Committee to decide how frequently the different bodies would meet. That is in the report and Tynwald can meet as often as we as members of that Court would decide it should meet. So nobody need be deprived of the opportunity to ask questions. Indeed, I have heard a number of ministers express the view that they wish there was less time for asking questions, but that is another matter.

Mr Brown: Not me!

Mr Quine: He said the tricameral system is unique. The tricameral system, as far as we have been able to ascertain, has no parallel. To that extent I suppose you could call it unique, you could call it out of step with normal political processes or you could just call it a hangover from history, but I think it matters not what we have in terms of a tricameral system or, if you want to try to view what we have got as a bicameral system, put it in those terms; that is not what we have been about. We have been given a remit to look at the functions and come up with a proposed way forward. I believe we have done that.

He then appears to take issue with the number of 32. The report deals with that. The report makes it quite clear there is nothing magical in that figure. It can be 32, it can be a lesser figure; it matters not. He raises the question of casting votes, why we have recommended - and it is a matter of detail, of course - that the presiding officers should have a deliberative vote and not a casting vote, and the answer is quite simple as set out in the report: because Tynwald as one would determine issues that require to be determined where there was a difference of view. So if we were to do otherwise you would be giving constituency representatives two votes. There is a process and the reasoning is in that report, and it is there for hon. members to read and digest.

'No choice' - he objects to what is proposed in terms of the civic recommendations by the select committee because it provides no choice about serving on the Legislative Council. Again, the report makes it quite clear: the whole accent of the proposed change is that it will be a strengthening of Tynwald. Tynwald would be the primary body and the Legislative Council and the House of Keys by the same token would be there purely for the reasons of processing primary legislation. That is spelt out in the report. There is no mystery attached to that. So I do not see how one loses anything there and I do not see why a requirement to serve in the context of primary legislation only as a Keys or as a Council member takes anything away. It is precisely the same as we get, as said in the report. . . it is determined by Tynwald and indeed by this hon. House that we will serve on committees and we serve on those committees.

Conflict result' - well, he seems to be concerned that the proposal would give rise to conflict. That I cannot fathom, because the conflict exists now in the sense that we have two bodies - three bodies if you wish to view it as a tricameral legislature - and there are conflicts of interest between those bodies. Here we would be talking of one body, a unicameral approach other than in relation to primary legislation, but primary legislation, which is the one area that we by objective analysis have been able to define as worthy of having two chambers, is accommodated within these proposals.

'The role of the Legislative Council is not stated' - the role of the Legislative Council is very clearly stated. Our proposal is simple, sharp and readily understood, and that is that the Legislative Council would be a legislative committee dealing with primary legislation to provide the checks and balances in processing primary legislation. That role is quite clear.

Mr Karran seemed to be concerned about the age limit. He will forgive me for suggesting that I am less concerned about the age limit, but I really do not think it is a matter very, very fundamental to the decisions that we really have to take today. I know and I recognise his view and I certainly have no difficulty in supporting the view that Mr Karran voiced this morning, and that is that democracy is all about choice - absolutely, and we are proposing a system that carries that forward in an unqualified manner, because all members of Tynwald in the future would be popularly elected, and that is the ultimate, I would suggest, in giving the people choice.

I think the next point that Mr Karran raised, which is, of course, who is going to lead the way forward - well, I think that is quite clear. We have before us today a motion. The motion is in three parts. If the three parts of that motion carry there will be a clear instruction to progress with the reform of the Legislative Council. Now, a Bill of this importance - I would expect the Council of Ministers, having been remitted, to run with that, but if they did not run with that there will be a queue of people waiting to run with that Bill. So carrying it forward is not the issue. The issue is for us to lay down here today a remit and giving instruction that it is to be carried forward. If we just here today endorse part (1) and part (2) and then back off and say 'Oh, don't worry about part (3),' then it will not go forward unless other members take action by way of private members' Bills.

Mr Downie - well, first of all I thank Mr Downie for his contribution to the debate. He also raised the question of numbers; in the report we have suggested 32 members simply by putting the existing membership together, and he seems to have some concern about that and how that would be addressed. Well, the answer is quite clear: as we address any adjustment

to constituency boundaries and that would be through a boundary commission, but the figure of 32 - as I have said in the report, as the report states, there is nothing magical about that 32. If I understood Mr Downie, he said the report was not conclusive. I think the report is absolutely conclusive. The report has done a complete analysis of the situation and it has evaluated the information and put forward to you the two propositions that stand up to measurement and evaluation. I do not think this committee could have been more conclusive than what they have been.

Mr Shimmin started from a position but seemed to end up in a different position. He said that we should not leave ourselves open to again revisit this subject, and then he went on later on to say that he was relatively happy with (1) and (2) but not (3). I am afraid if there is a lack of support today for (3) we will be revisiting the subject ad nauseam, as we have done over many, many years. The way forward in my view is the way that is advocated in the report. Part (3) can be the basis of a Bill. That Bill can get onto the floor of this House and if members then want to change what is in that, come forward with their amendments, that is the way but what is not to be recommended in my view is to simply draw a line under (1) and (2), leave (3) out because then there will be no instruction to get a Bill on the floor by which it can be carried forward. So I would ask Mr Shimmin to consider that point, and I feel that we will be able to address his concerns as I hope we will carry the exercise forward through the legislative process.

I thank Mr Rodan for his support. He also explained quite clearly the position of the Legislative Council and the House of Keys and stressed that members are not losing any of their powers or any of their responsibilities. The difference is that they are going to assume those responsibilities through a strengthened Tynwald. That is going to become the driving element in this. Nothing has been taken away. Something has been added; it is going to be added because by having this unicameral approach we are going to have advantages of flexibility and better use of resources, and I might add, just picking it up at Mr Rodan's contribution, that those who may have some hesitations about whether we are going it alone on the basis of what is essentially a unicameral system - I would ask them to have a look at page 10 in the report, which is a document which has been submitted by the Legislative Council and was submitted to support their view that it was not unusual for small jurisdictions under 100,000 to have their own legislative set-up, and that is quite true. It is not an issue that we were concerned about unduly. We took it for granted that a legislature would be needed, but the interesting thing there is that there are 38 of these small jurisdictions and, of those 38, only six are bicameral. So the message that comes across to me from that is that where we have small jurisdictions and where we have jurisdictions which have to function on, I would say, a more restricted basis and have to have regard obviously to the better use of their resources, they have adopted the principle, by and large, 38 to 6 on this particular listing, of having unicameral set-ups. And again, further in this report you will see there is a reference here to an authority, there is a quote which we made here in this report which shows that the current trend is towards a unicameral approach, not a bicameral approach. So it is just opportune for me to pick that up when I am commenting on Mr Rodan's contribution, for which I am most grateful.

I thank Mr Henderson for his contribution. He raised this issue of drift. He referred to it as strategic drift. I think it can be stripped away from that terminology if we wish, but there is an

inherent message in what he is saying. We have an opportunity today to grasp this issue or once again shy away from it, and in that event we will have drift; we have had drift for years on this subject for various reasons because some people like the system we have got - more often than not, I am afraid to say, because they have been looking forward to the day when there might be a comfortable chair for them in the upper House (**Members:** Hear, hear.) (*Laughter*) and I think the public may not be au fait with all the functioning of the Keys and the Legislative Council and Tynwald, but they can see when somebody is ducking and diving. They can see that for themselves. So I think it was opportune for Mr Henderson to put his finger on this word 'drift,' because we have that option today to avoid further drift but, if we do not take it, if we do not carry it forward from here into the legislative phase, we will have drift; there are no two ways about it.

He also underlined the issue of what we have termed in the report 'democratic legitimacy' and underlined, as I have done already, I think, that if we are to carry this forward then all three parts of this motion must be carried. We will be seen as abandoning the exercise if we do not carry it forward and get it onto the floor in Bill form and argue the pros and cons of the case.

Mr North - I thank him for his contribution. He made a similar point, that what we have before us is a motion that provides a way for us to carry it forward into the legislative forum, and I strongly endorse that. I believe that if we let this opportunity slip today we will regret it. (**A Member:** Hear, hear.)

Sir Miles, - well, of course, Sir Miles, I suppose, is one of the dinosaurs that I referred to! (*Laughter*)

Mr Cretney: He is younger than you.

Mr Quine: But I look younger! (*Laughter and interjections*)

I knew where Sir Miles was going to come from. He gave written evidence to us and so there is nothing surprising in that. That is the view of the dinosaur. If you want to be aligned with that, as the hon. member for Glenfaba wishes to be aligned to it, so be it (*Laughter and interjections*). It would make a very handsome pair in harness (*Laughter*). Mrs Hannan, of course - I know where she comes from; she is very strong on the issue of popular election. I thank her for that. I hope today she will go forward beyond that and endorse the motion in its totality so as we can get down to the nuts and bolts. Some of the issues that she has raised we have said in the report cannot be avoided; I would not want them to be avoided. I know her enthusiasm for the STV system and issues such as that. By endorsing this report we are not going to avoid them. We are going to bring them into the circle as we carry it forward.

I thank Mrs Cannell for her contribution. As a member of the committee I suppose it should be expected that she would be supportive, but she has made a very useful contribution to this debate.

So much for members' contributions. Let us try to get back on track as to what this is all about. I believe there is common ground, that there is serious dissatisfaction with the Legislative Council as it is presently constituted and you set up a committee tasked to seek a solution to that. Your committee, I believe, has done that. We have looked at the issues on which there was cause for concern, we have looked at the issue of lack of democratic

legitimacy in the Legislative Council, we have looked at the question of disparity in workload between Keys and Council, in a large part because of the constraints inherent in the present two-tier or three-tier system and, as per the remit which we were given, we have expressed a view and sought to address the concern that members have spoken to on the earlier occasion about the remuneration of members, which obviously is directly very clearly connected to their role. So we have taken that on board. We have gone into a great deal of research and analysis. We have put that before you. You have had an interim report; you have had a chance to debate that interim report; you now have this final report with all the details in it.

We have come up with certain conclusions, but the two basic conclusions are that if you want to stick with the electoral system you can stay with the electoral system and the Keys can continue to elect the Council. That is available to you, there is no doubt about that, but if you are going to do that then I am afraid, using a phrase that was used here this morning, we are going to see a severe neutering of the Legislative Council. There is no other way it can be sustained without that, and even if we do that, even if we do curtail its functions we are still going to be left with a situation where it will continue to be on a slide until it disappears (**A Member:** Hear, hear.), and that is the truth of the matter and for to suggest that it is anything other than that is to bury your heads in the sand.

Where are we? We are entering the 21st century. The days of the dinosaurs have gone. We have said that there is another way forward which it stands scrutiny, it stands analysis and it is workable, and that is to have a popularly elected Tynwald with 32 members and we divide simply for the purposes of dealing with primary legislation, and we have a legislative committee called Keys, a legislative committee called Council to deal with primary legislation. Tynwald becomes strengthened. Members lose not a thing. They retain all the powers and duties and responsibilities but, inherent in that, we have a system that can take us into the 21st century, a system that allows for flexibility and best use of government resources which we have not got within the present system. Surely there must be merit in taking that approach. So that is where we arrived at; those are the two propositions which we have put to you.

I must ask hon. members to bear with me a little longer because I think in trying to arrive at a decision on this I do not propose to outline the advantages and disadvantages of option 1 because that is not our recommendation but if any member would wish them they are all written down here. But what I would like to do to focus members' thoughts is to bring to your minds very briefly the advantages and disadvantages of the system which is recommended to you in this report. First of all it not only retains Tynwald Court, it enhances Tynwald Court and gives it greater importance; it retains a meaningful role for the House of Keys and the Legislative Council in the context of dealing with primary legislation; it addresses the objection to members of Legislative Council not being subject to popular election; it makes available all members of Tynwald for service within government, creates choice, greater flexibility with, obviously, potential for more cost-effective parliamentary and governmental processes; it retains and, I would suggest, strengthens in point of fact the needs for those essential checks and balances that we need in the system by going through this committee system; it addresses the issue of the relativity of remuneration between the House of Keys and Legislative Council; it accommodates demand for popular election without creating significant conflict of interest; it does involve a move to a unicameral system and, through that, largely meets the demands of members and obviates this issue of the outright abolition of the

Legislative Council; and it removes conflict of interest and does not engender conflict of interest.

Now, we have not come up with those as matters that we have dreamt up. These are issues which other members have raised and said are matters of concern to them in the present set-up. So we have addressed them and we have found an answer to them in the recommendation that is before you. Now, I would not be so foolish as to say that every detail of what we put forward will find majority support but assuredly, hon. members, there is sufficient merit in the case to endorse all three parts of that motion before you and carry it forward to a legislative process (**Mr Cannan:** Hear, hear.). I have no doubt whatsoever, and if we do not, as I say, we will be seen to be ducking and diving yet once again.

If I could now just end up with the motion itself, as I said at the beginning, the motion is in three parts. Members have had, thanks to the move by the hon. member for West Douglas, Mr Downie, the opportunity to amend any part of this motion if they so wish. I must assume that if there has been no such move there are no better ideas floating around this House at this point in time. So that opportunity has been provided to them. You now have the opportunity to support (1), (2) and (3) or the motion in its totality, but I appeal to members: support this motion as a whole, because by supporting (1) and (2) you will be revisiting the subject, no doubt about that. You will be seen as once again avoiding the issues. We have to endorse all three parts of this. Through that we will carry it forward to a legislative process and we would then have the opportunity to consider it in whatever way we wish, whether it be through - and God forbid! - another committee process to try to bring it closer together but, more likely and more realistically, by amendments being put onto the floor of this House. By getting it onto the floor of this House in legislative form we will bring this matter to a finality, because even if the Legislative Council, when they get it, kick it out, it can come back here and we can still pass it but simply to say, 'Oh, I will play safe, I will just endorse the first two parts of this' is reneging from your responsibilities, with due respect. I appeal to members: support this motion as a whole and let us look forward. (**Members:** Hear, hear.) The choice is simple: move forward or stand still. If you stand still then you answer for that, not me. Mr Speaker, I beg to move.

The Speaker: Now, hon. members, in line with your decision taken earlier this morning we will take item 8 in its three sections dealing first then with (1), 'that the Report of the Select Committee on the Legislative Council be received'. Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Cannan, Quine, Rodan, North, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 20

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

The Speaker: Hon. members, (1) passes with 20 votes being cast for and 4 votes against.

We then turn to (2) of item 8, 'the elected members of the Legislative Council be directly elected by the people of the Isle of Man.' Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Cannan, Quine, Rodan, North, Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Karran, Cannell, Gelling and the Speaker - 20

Against: Mr Gilbey, Sir Miles Walker, Mrs Crowe and Mr Corkill

The Speaker: Hon. members, part (2) again is carried, again with 20 votes cast for, 4 votes against.

We turn then to the third part of the motion, that reads, 'in accordance with the recommendation at paragraph 7.4, the recommendation at paragraph 7.3 of the report be approved.' Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Cannan, Quine, Rodan, North, Houghton, Henderson, Cretney, Duggan, Mrs Cannell, Messrs Singer, Cannell and the Speaker - 12

Against: Mr Gilbey, Sir Miles Walker, Mrs Crowe, Messrs Brown, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Bell, Karran, Corkill and Gelling - 12

The Speaker: The casting vote, hon. members, is for. (**Members:** Hear, hear.) Therefore the motion carries. We turn, hon. members, then to items 9, 10 and 11 on your order paper. I call upon the Secretary.

Mr Brown: Mr Speaker, whilst, with respect, you said the casting vote was for, could you please announce the result?

The Speaker: The voting was 12-12. The casting vote 'for', sir.

Mr Brown: Thank you, sir.

Bills for First Reading

The Speaker: Items 9, 10 and 11.

The Secretary: The Public Health (Amendment) Bill, Mr Quine; the Social Security Bill, Mr Cannell; the Acquisition of Land (Amendment) Bill, Mr Corkill.

The Speaker: Hon. members, that takes us through to item 12 on the order paper. Being conscious of the clock I feel it would be unfair to start this particular item at this stage, therefore the House will rise and commence its sitting this afternoon at 2.30. Thank you.

The House adjourned at 12.58 p.m.

Companies (Transfer of Functions) Bill – Second Reading Approved

The Speaker: We have made progress this morning, hon. members, down as far as item 12 on our order paper, the Companies (Transfer of Functions) Bill for second reading. I call upon the hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I am very pleased to move the second reading of the Companies (Transfer of Functions) Bill.

This Bill is being proposed with a view to centralising all matters relating to the regulation of companies within the Financial Supervision Commission. It is hoped that such a move will

lead to a more effective system of developing, monitoring and enforcing company law on the Isle of Man and assist in the process of supervising corporate service providers. This is of course extremely important in a jurisdiction like ours, where one of our major activities is corporate administration.

The effect of the Bill is to transfer to the commission the functions of the Chief Registrar with regard to companies, business names, limited partnerships, building societies and credit unions. As a result of this transfer of functions, certain other functions currently carried out by the Treasury, the Clerk of the Rolls and the deemsters which relate to the supervision of companies are to be transferred to the Financial Supervision Commission in order that, so far as possible, the administration and enforcement of the transferred functions will be controlled by the commission.

The Bill transfers to the commission the functions of the Chief Registrar under the following statutes. Those Acts are contained in schedule 1 but, for the benefit of the members, they are the Companies Acts 1931 to 93, the Partnership Act 1909, the Registration of Business Names Act 1918 and the Registration of Business Names Act 1954, the Industrial and Building Societies Act 1892 and the Industrial and Building Societies (Amendment) Act 1955, the Insurance Act 1986, the Non-Resident Company Duty Act 1986, the Credit Unions Act 1993, the Limited Liability Companies Act 1996 and the Companies (Transfer of Domicile) Act 1998. The actual provisions of the aforementioned statutes have not been amended, save for the substitution of the Financial Supervision Commission for all references to the registrar, Chief Registrar, register of companies et cetera, wherever occurring, and any resulting consequential amendments.

In addition to the above amendments the Bill introduces the following amendments and transfer of functions.

The prescription of forms. Throughout the statutes a variety of different persons are currently responsible for the prescription of forms in relation to different types of corporate vehicle. It is considered to be sensible to centralise this function within the Financial Supervision Commission which will then be able to prescribe, for instance, what information the various corporate vehicles will need to submit to the authorities.

Prescription of fees. Similarly it is proposed that the commission should prescribe the fees under the aforementioned statutes, with the exception of fees prescribed under the Partnership Act and the Registration of Business Names Acts which are currently prescribed by the deemsters and the Clerk of the Rolls respectively. The fees under the remaining statutes are prescribed by Treasury. After the Bill has been brought into force these fees will be prescribed by the commission with the concurrence of Treasury. Any fees, duties or moneys received by the commission will be paid into and form part of the general revenue of the Island.

Transfer of functions from Treasury. Certain notable functions have been transferred from the Treasury to the commission. Firstly, the Treasury may currently amend and alter the forms of tables A, B, C, D and E found in the schedules to the Companies Act 1931. These tables lay out a number of detailed matters as to how companies are to be run. This power will be transferred to the commission.

Secondly, under the Income Tax (Exempt Companies) Act 1984, a secretary of an exempt company must be appropriately qualified. A similar situation occurs under the International Business Act 1994. An individual who satisfies the Treasury that he has adequate knowledge and experience of the duties and responsibilities of a company secretary may be authorised by the Treasury to act as such under these statutes. These functions of the Treasury will be transferred to the commission, and that individual must also satisfy the commission that he is a proper person to hold office.

Thirdly, under the Companies Act 1986 the Treasury can prescribe the form of memorandum for the association of a company and the different articles of association which may be used by a company. After the Bill has been brought into force these functions will be performed by the commission.

Fourthly, under the Companies Act 1992 the Treasury is currently permitted to make provisions by regulations to enable title to securities to be evinced and transferred without a written instrument. This function will be transferred to the commission. However, the concurrence of Treasury will still be required.

Fifthly, under the Companies (Transfer of Domicile) Act 1998 an offshore company may apply to the Treasury for consent to be continued in the Isle of Man. Similarly, an Isle of Man company may apply to Treasury for consent to be continued in a country or territory outside the Island. This function will be transferred to the commission who will exercise the discretion over such grant or refusal of consent.

Investigation and disqualification. Section 5 of the Companies Act 1974 currently allows the Treasury to apply to court to appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the court directs. In order to support the application there must be evidence to the satisfaction of the court that such an investigation would be in the public interest. The ability of the Treasury to apply to court will be transferred to the commission.

Under section 31 of the Companies Act 1982 if it appears to the court that the conduct of a person who has been a director of companies which have gone into insolvent liquidation makes him unfit to be concerned in the management of a company, the court may make an order upon the application of the Attorney-General to the effect that that person will not take part in the management of a company for a defined period not exceeding five years. The ability of the Attorney-General to make such an application to the court will be transferred to the commission.

Under section 26 of the Companies Act 1992 the Treasury may apply to court for a disqualification order if a person's conduct makes him unfit to be a director, liquidator, receiver or manager of a company or in any way to be concerned or take part in the promotion, formation and management of a company. This function will be transferred from the Treasury to the commission.

Finally, section 26 of the Limited Liability Companies Act 1996 allows the Treasury to apply to the court to appoint one or more competent inspectors to investigate the affairs of the company. This function will be transferred to the commission.

Transfer of functions from the Clerk of the Rolls. The Registration of Business Names Act 1918 confers certain powers upon the Clerk of the Rolls. These powers enable the Clerk of the Rolls to request certain particulars from a firm or person with regard to the registration of a business name and to extend the time during which a person or firm must furnish particulars in connection with the registration of business names under this Act. These functions of the Clerk of the Rolls will be transferred to the commission.

Appeals for the courts of summary jurisdiction. Currently appeals against a decision of the registrar, for example, with respect to business names under the Registration of Business Names Act 1918 and the Companies Acts 1931 to 93 are to the Clerk of the Rolls and the Chancery Division of the High Court respectively. Provisions have been included in the Bill in order that appeal against the decisions of the commission will be to the courts of summary jurisdiction, due to the capacity of these courts to deal with these issues.

I hope that this Bill will be supported by the House. As can be seen, there are no new functions suggested by the Bill, merely a transfer of existing functions, the aim of which is to try to improve the effectiveness with which we administer our company laws. The Financial Supervision Commission believes that the transfer of all the aforementioned functions to one body will allow a more uniform administration and enforcement of these functions.

I beg to move that the Companies (Transfer of Functions) Bill 1999 be read for the second time.

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

Mr Karran: Vainstyr Loayreyder, all I would like to ask of the mover is that there will be no moves as far as any curtailment as far as union membership is concerned with the transfer of function of this to the FSC. Can I make sure that there will be no movement as far as that is concerned?

The other issue that I am just concerned about is accountability. As far as the accountability of this Bill is concerned, how does that affect the staff and the procedures that are going to be transferred?

Mr Henderson: Mr Speaker, I would just like the hon. mover to come back with some assurances, if possible, in moving the Companies (Transfer of Functions) Bill in as much as does he not feel that this is conferring huge and wide-ranging powers to an already powerful body and improving their power base even further to such an extent that it could be in the future that we may be passing legislation just that bit too far and would this have any detriment to existing companies or future companies setting up in the Island or our business attractiveness: would that be affected in any way with passing this Bill? That is what concerns me. If those queries could be answered I would be grateful. Thank you.

The Speaker: I call upon the hon. member for Douglas East, Mr Braidwood, to reply.

Mr Braidwood: Thank you, Mr Speaker. Mr Karran mentioned the union membership of the staff. At the present time there is no union recognition at the FSC. The number of people associated with the companies registry is 19¹/₂ whole-time equivalents. There have been long consultations with the staff side, with their representatives and the Personnel Office. At the present time there can be a transitional situation. Staff, if they want to, can remain in the civil service and will be appointed to other departments. Others can be transferred to the FSC with

no union membership. Others can make a transitional movement but then can reconsider their decision and then go back to the civil service. They will be allowed nine months, but that is still for negotiation with the Personnel Office and with the staff association.

On Mr Henderson's point, at the present time all we are doing is transferring the functions of the companies registry to the FSC, so I can give him an assurance that there is not going to be an increase in the power base of the FSC. In actual fact there will be a better administration of the companies and a closer look at the formation of the companies.

The Speaker: Hon. members, the motion is that printed at item 12 on your order paper, that the Companies (Transfer of Functions) Bill be read for a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Villa Marina Bill – Second Reading Approved

The Speaker: We turn then to item 13 which is the Villa Marina Bill, again for second reading, and I call upon the hon. member for Glenfaba, Mr Gilbey.

Mr Gilbey: Mr Speaker, this Bill, which is promoted by the Department of Local Government and the Environment, is to vest the Villa Marina complex in the Isle of Man Government in accordance with a resolution of Tynwald dated 18th May 1999. I think it would be helpful if I reminded hon. members of the wording of that resolution which was as follows: Villa Marina, motion made: 'That Tynwald - (a) having acknowledged, by resolution at December 1997 sitting, the importance to both Douglas and the Island of the Villa Marina complex and the need to refurbish and redevelop the complex; and (b) recognising that the Department of Local Government and the Environment and the Department of Tourism and Leisure have been unable, in spite of their best endeavours - (i) to progress the joint scheme to which the December 1997 resolution referred; or (ii) to negotiate a lease with the Douglas Corporation on terms acceptable to the government; (c) supports the introduction of legislation for the acquisition by the government of the Villa Marina complex, including the arcade, colonnade and gardens.' This resolution was carried in the Keys by 21 votes to 1 and in the Council by 8 votes to 0.

The land affected is described in the Bill and shown on a map which has been deposited in the General Registry. Copies may be inspected at the General Registry, the Clerk of Tynwald's Office and the offices of the department at Murray House, Mount Havelock, Douglas.

Clause 1 vests the Villa Marina, as defined in schedule 1, in the Department of Transport and Leisure. It provides for the transfer of staff in accordance with schedule 2.

Clause 2 requires Tynwald approval to any disposal of the Villa Marina and precludes any change of use while it belongs to the Department of Tourism and Transport.

Clause 3 provides for the payment to Douglas Corporation of compensation for the acquisition of the Villa Marina.

Clause 4 transfers licences in respect of the Villa Marina.

Clause 5 is supplemental.

The acquisition of the Villa Marina will involve expenditures provided in clause 3. Proposals for further expenditure on repairs and improvements will be submitted to Tynwald in due course. I beg to move.

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

Mrs Hannan: I feel it is incumbent upon me to speak against this Bill, as I voted against this in another place.

I am concerned because I think that this is government taking over quite a large piece of estate from a local authority and I think, while the mover suggests that this cannot be disposed of unless and until another Bill can be brought forward before this House to dispose of this particular real estate in the future - I am not saying today, tomorrow or even next year or in 10 years' time, but after that, that can happen - it concerns me that we could be seen as being heavy-handed with regard to local government. Local government has a responsibility and it has a responsibility no matter whether it is Douglas, whether it is in my own area or whether it is a parish council. They have a responsibility.

The responsibility of this local authority, I suppose you could say in a way, has been usurped over the last 10 years because we have been talking to them about doing this, and maybe what we should have been saying to them is they should get on and do it because it was important that this building was maintained. But we have come up over the years, government has, with plans that have been in lots of ways seen as being quite outrageous for this particular area, very grandiose because 'Government has plenty of money.' Government does not have plenty of money. Local authorities do not have plenty of money. They have responsibilities and there are all sorts of responsibilities and problems in local authorities and I do believe that in this particular case us taking this over is not going to solve the problem of the Villa Marina. What it is going to do is lay on government a realisation that it is going to cost a lot of money to keep a building such as this up to standard. The local authority have not been doing it and when you consider that government will have to spend money, the money has to come from somewhere. It is not going to come from the local authority, so it is going to come from somewhere and it is going to come out of other areas of government expenditure. There are so many calls on government expenditure these days.

But I come back to the point which I made previously that I do believe that local authorities have a responsibility and while we can aid and assist them in some things, we should not be directing them. They have this responsibility and I can see other local authorities coming along in future and saying, 'Well, you did it for Douglas, you did it for the Villa Marina.' I believe what we should be saying to Douglas is, 'It is your responsibility: you should be getting on with it.' Now, if there are faults within the town hall, then I think those sorts of faults and those sorts of problems should be addressed and they should be addressed in an adult and professional manner by politicians on both sides. I believe the faults and the problems are with the town clerk and I believe that we should be trying to solve this problem along with the politicians there and not taking it over whole and complete from the local authority.

I would rest my case. I shall be voting against this legislation.

Mr Duggan: Mr Speaker, the minister did indicate regarding compensation. This is a very valuable piece of land here which must, in my opinion, be worth millions of pounds. Could he indicate to the House what the valuation is of that land?

Mr Shimmin: Mr Speaker, I do not intend to be long, merely to indicate to the minister, if he is not already aware, where I stand in this issue. I have supported him up to this stage with this Bill, reluctantly. I will again support him today. It has been with a desire and hope that the corporation would actually come forward and re-enter into discussions with the department. The minister has made himself available, although I do not believe that he has been generous with his availability to the corporation. He has said, 'They can come and visit me at any time.' I believe on something like this he would have shown himself to be a larger man had he actually made an approach to the corporation to resolve this issue. Unfortunately, this minister, like the previous one, appears to have adopted a stance which mirrors the stance of the corporation which implies there is almost no progress going to be made whilst the two parties are dug in trenches. I hope that I am mistaken in that. Maybe there are issues going on behind the scenes.

I share the same reluctance that many members do about taking an asset off any local authority. However, I do believe that there have been faults on both sides. I have made issues with the mayor and the leader of the council about my concerns regarding Douglas Corporation and its operation. I am not satisfied with the way they have tried to push this through, nor am I satisfied with the way the DoLGE have brought forward their plans to a stage which I believe is likely to find considerable opposition from within this House when we do actually get those plans on the floor.

Therefore I will support the second reading. I will reserve the right, bearing in mind issues that might take place over the next two or three weeks, to oppose at the later stages.

Sir Miles Walker: Mr Speaker, I supported the resolution of the Department of Local Government in Tynwald in May of this year. I did so because it seemed to me that it was all part of the negotiating procedure and it seemed to me quite proper to put that sort of pressure on the parties to try and get them together to solve what is and what has proved to be a very difficult situation. Unfortunately, for whatever reason, that did not happen, and I am not going to try and apportion blame in any way at all. It just seems to me a fact of life that the parties in this particular problem are still a long way apart.

But I think it is worth just reflecting back on where this situation started just to see how we got ourselves into the situation now of trying to pass legislation to take over the ownership of this building, and it started a little bit more than 10 years ago with an approach from the corporation for some grant aid, for some assistance towards the redevelopment of the Villa Marina complex, which is, and in my view rightly, in the ownership of the corporation. In broad terms that request for grant aid was supported and I think that the original proposal was a pound per pound up to a ceiling of so many millions. Now, that was fine. I went along with that. In fact I led the debate on that, along with my colleague at that time, the hon. member in the Council now, Mr Delaney.

There, I think, is the first problem. Government identified in its estimates a sum of money for the Villa Marina but there was no progress on the spending of it and so it has seemed to me and a number of members that here is a number of a million pounds in our estimates which has to be considered in the totality and which sterilises that sort of money for uses in other areas. That seems to me that is problem number one.

Problem number two is then trying to urge the corporation to get on with the job, to detail what they think should be encompassed in the scheme, and that brings into the debate, quite properly I suppose, the professionals in the Department of Local Government and they give their view. So there grows then a difference of opinion how that grant in aid should be spent.

Then we had the situation of 'Well, it seems a good idea, doesn't it, when we have the Gaiety Theatre down there? Why don't we put it all under one manager?' This is the way the discussion evolved and, yes, that seemed a good idea as well: 'Let's progress it with the corporation - can we get agreement on that?' The answer is, 'Well, we agree in principle, but we don't like the way you're going about it', and so more legislation was passed to create a situation where there could be legitimately a joint management of that complex. There we have a further involvement of government in a building which is in the ownership of the Villa Marina and the debate continues, and because we cannot get agreement government then says, 'Well, we'll pass some legislation; we can't agree this and we'll take it over', and there is a question in my mind: why? Is it because we do not want to see the demise of the Villa Marina as it is and do not trust it under the stewardship of the corporation? Is that what we are doing this for? Or is it because a number of members feel - and it is a legitimate view, I suppose - that the cost of the Villa Marina should not be a rate-borne cost, that the cost of the Villa Marina should be not on the ratepayers of Douglas but it should be borne by the taxpayer in general? Is that the reason we are progressing this Bill? And I rather think it is a reason for a number of members, and I say that, as far as I am concerned, that is legitimate, but I think it would certainly be helpful to me if members would identify for what reason they want to take over the ownership of the Villa Marina.

It seems to me that the problem with government taking it over is that it is yet another issue that central government is going to deal with which should rightfully belong to a local authority (**Mrs Hannan:** Hear, hear.) and what will we do when we come to revise the local authority structure, as we will in due course? Is this one of the issues that will be passed to a local authority? It all seems to be rather convoluted to me.

I have to say I would much prefer this building to stay in the ownership of the corporation. It seems to me quite legitimate and proper for central government to provide grant aid to take some of the financial responsibility away from the ratepayer of Douglas. I do not object to that at all. If that takes us on to an all-Island rate, as it will in some members' minds, just let me explain where I would come from on that. I do not mind an all-Island rate as long as we who at the moment have no say in who comprises the membership of the corporation have some say in that. Now, it seems to me if some structure can be constructed which would give me a vote for the people that we are going to pay rates for, then I go along with that. I know, as well as other members, that is not on. An all-Island rate will not work, but a support from central government towards the cost of the rebuilding of the Villa Marina and towards its running expenses, if that is a problem with some members, seems to me absolutely legitimate. What I am not certain about, if that is not the reason for this Bill, if it is that we are concerned about the future of the Villa Marina and we do not trust the stewardship of the Douglas Corporation, then I cannot go along with that view.

Mrs Cannell: Mr Speaker, I think it is incumbent upon me as one of the MHKs for Douglas East in which this particular piece of land and buildings lie to actually make a contribution at this stage.

I did support the motion to in principle bring forward the legislation for government to actually take over and acquire the site, and I am in support of the Bill and its second reading. However, I would ask the minister just one or two queries in relation to the particular clauses contained within the Bill, and I would ask him with regard to 3, and that is to do with the compensation. Under the Acquisition of Land Act 1984 what provision is laid down within that particular Act to give the corporation a reasonable and fair compensation payment, given that it is not merely just giving money to a corporate body, as it were, but it is in fact giving money or moneys back and compensating the people of Douglas (**A Member:** Hear, hear.) who have financed this particular asset for a very, very long time. I would hope that the minister is looking at a figure that is far, far more reasonable than that which was quoted in the press recently, which was somewhere in the region of half a million pounds, which I consider to be an insult in relation to the land in question. I would have thought that this particular piece of land has a premium price, even taking into consideration the existing zoning which is for leisure use.

I would also ask under clause 5, and here I see the short title is to be the Villa Marina Act 1999 and that three other Acts are going to be repealed. I am a little concerned that the Villa Marina Act 1910 is to be repealed because my understanding of that particular Act is that it provides protection for the land, that is to say that it shall be used and laid out for public gardens unbroken by buildings, or words to that effect, and I would hope very much that that type of provision will prevail. It is the land more than the buildings, I have to say, that is of concern to me. (**Mr Duggan:** Hear, hear.) As I have said in previous debates, it provides a very valuable green lung for Douglas, is very popular with locals and visitors alike and is a welcome retreat away from the business of the promenade, congested traffic, roads et cetera and is a very, very safe haven for youngsters, for children to play. So I would hope that the minister does not have any hidden agenda here in relation to the land.

I would just like to finally ask him whether or not he did receive my very, very short paper which was entitled 'A Tribute to the Villa Marina', which outlines some of the photographs of the existing building and gardens as they were when they were originally built, compared with photographs of recent additions and changes that were undertaken by the Douglas Corporation over the years, and I would refer him to the back page and the top picture which gives a very, very good idea of what the building looked like originally before the corporation began to tinker with it, and I would hope that he and his architects would be looking to do something like that if and when it is acquired by his department on behalf of the government.

The hon. member for Rushen remarks in relation to why are we doing it? I think again, and I am not answering on behalf of the minister, we have to cast our minds back to the reasons why members felt it appropriate to take this course. One was the recognition of the importance of the Royal Hall and the retention of the Royal Hall, and the worry that corporate neglect had prevailed for so many years that that was in jeopardy perhaps of becoming damaged. That was the first reason, and I think there is an element of mistrust in the competence of the corporation, given the neglect over the years. They actually made a fortune out of this building when it was run and very busy as a tourist attraction. It still is a tourist attraction to a degree, but going back to the heyday, there was lots of money taken over the tills then, the tills were ringing. But as I understand it, the money was never ever reinvested back into the building, and this is why we get to the sorry state of affairs today.

The photographs contained within the briefing paper of course are not bringing us up to the present date because of course since one of the last photographs that was taken on the back page at the bottom the Chinese restaurant as was -

Mr Cretney: Indian.

Mrs Cannell: - previously a silver service restaurant, of course has been subsequently demolished, and I would draw the minister's attention to the fact that despite all the gossip and rumours and red herrings flying at the time during 1990 and 1991, it did have rot in it but it was not riddled to the extent that it was in jeopardy of falling down. In fact it took a very long time for the machinery and the demolition men to actually take that part of the building down, and I think it therefore demonstrates just how sound and stable this particular building is.

It is old, it is coming up to 87 years of age and it is in need of attention, and I would suggest that it is an all-Island facility and has serviced the Island as a whole very well for a very long time, and I think that it is befitting that government should use taxpayer's money in order to invest, enhance and preserve this particular site that is enjoyed by all Islanders, and it would not bother me a jot if it did set a precedent for other such initiatives coming forward to this hon. House from other parts of the Island. If the argument is good, then I will listen to it. If it is fair, then I may well back it. But I will support the second reading.

Mr Cannell: Mr Speaker, a few remarks. The previous speaker seemed to have suffered a degree of amnesia, I think, from her former days on the town council herself, but we will let that go. But I think it is fair to say that few of us in this hon. House actually want to do what is proposed in this Bill. Certainly I do not for choice, but there is little alternative. We are faced with a situation of intense frustration and the total intractability of the Douglas Corporation to proceed on a refurbishment scheme for what is definitely, as the preceding speaker said, a Manx national asset.

But let us not run away with the fact that it all hinges on the Royal Hall. The Royal Hall is all right and could be refurbished, but we are talking of a sacred cow element coming in about the Royal Hall, as if that is the last word in developments for tourism and for general use: it is not, it is superseded by developments of a different nature quite substantially, but nevertheless it does retain some character.

But many might say that what is needed is a complete demolition job of the Villa Marina and a restart on what is such an important site, and when you talk of the Villa Marina you talk of many other facets of that, including of course the grounds and the as yet unanswered, apparently, situation of the bowling green in Derby Road as to whether it is or whether it is not included. According to what day it is that seems to vary; perhaps the minister could enlighten us.

But we do have also another edifice dedicated to indoor entertainment at the end of the promenade known as Summerland. That too is also beginning to come to the end of its useful life, and we cannot have two refurbishments, so one is going to be sufficient. There is no doubt that Summerland could take over the role of the Villa Marina if an equivalent amount of money was to be spent upon it, and there is a viewpoint taken that some of the area of Summerland actually could be brought up to the requisite standard, and you might say you start from a base more modern at Summerland than you do at the Villa Marina, but a lot of money would have to be spent on Summerland if that was to be the case.

So the Island is faced with having no major indoor entertainment area both for its valuable visitors and for its own people. There are many, many uses required of such a place. Concerts are the main thing. If we are to maintain our position in the Isle of Man as a place which promotes such commodities, then we have to have somewhere to hold them, and the Villa Marina has, to be fair to it, served extremely well in that regard. But we do also need a smaller room where smaller functions can take place. The modern trend now is to have 300-seater theatres which can be adapted for a variety of uses, as the sports facilities at the NSC have been adapted. If you go to the sports halls of the NSC you see the multi-use that can be made of one particular area, with fold-out grandstands and the like, and while I am not suggesting we should have fold-out grandstands at the Villa Marina, it does demonstrate, I would suggest, what can be done with modern thinking and modern methods. So we are tied with that at the moment.

Now, this is not a government grab in my opinion, it is a government rescue, because we have tried everything else, there is not anything else that can be done. As I said when I started, there is not anybody here who would have willingly gone along with it had they seen even an inkling of the Douglas Corporation coming to the rescue themselves on their own facility. But my information is that the corporation has, even in extremely recent times, had an emissary down at the town hall attempting to see a last-minute olive branch being put forward, and the gentleman was rebutted. There was no suggestion that there could be any more discussion under the present circumstances.

Now, the Douglas Corporation has been acting in a difficult way, let us say, to be charitable about it. But I am a little bit worried that we do not get duped here that the Douglas Corporation are not setting us up for something that they are going to be mightily glad to be shut of, because that could easily happen, where you force the government to take something off your hands, and at the end of the day you are standing behind closed doors and you are rubbing your hands saying, 'Boy, we got shut of that pretty easily, didn't we? And not only that, we are trying to get the Manx Government to pay for the privilege.' I would suggest that if the ratepayers of the town really do think the Villa Marina is a crumbling edifice, they cannot do anything about it, their elected Douglas Corporation representatives decide that they do not want to do it themselves and give it to the government, maybe we would take it, but I would humbly suggest that we certainly do not pay for the privilege, least of all sums ranging from half a million pounds to £8 million, quite preposterous, and then the cost of doing it as well.

They are continuing to force their own scheme at the moment, allegedly. The Douglas Corporation have planning permission in before the authorities; indeed I think it has actually recently succeeded. Are we to honestly believe that the corporation are going to do the Villa Marina up with money which subsequently, according to the information I have, they are going to need to approach the same department for that now perpetrates this Bill upon us? Can we honestly say that that is an equitable position, where they will be forced to come along and say, 'We will need the money to do this'? What sort of a reception do they expect to get on that? Or have they got sufficient money to do it and at the last minute it will spring forth, because if they have, then the people who are in charge of local authorities in the Isle of Man, which is the Department of Local Government, should know about it, where this cache of money is going to come from. I certainly do not.

So what we have is that while all the huffing and puffing goes on, we do not have any firm plans, and let us not think that if the Villa Marina is acquired by the Department of Tourism and Leisure it is going to instantaneously be refurbished in a fortnight and be ready for next Easter. It could not be done in less than about two years, if the start was given this afternoon. So from a tourism point of view, that is a very undesirable position indeed. One cannot deny that a local authority such as the corporation, which has seen all its once proud offices such as health, water, roads, transport, electricity, fire brigade that I can think of straight off, all without much of a real fight, seem to be putting up a tremendous fight on this one. What is it about the Villa Marina? Why are they so keen to hang on it and to prevent us actually doing it? I do not know that they are.

As I said at the start, the cost is the thing overall, but it is the will to do it. As I said, we do not want to do it, really, but we have no choice.

Mr Quine: Hear, hear.

Mr Karran: Vainstyr Loayreyder, I am a little bit saddened today, as the person who put a motion down trying to get something done about this some considerable time ago, that we have ended up having to come with a piece of legislation like this against the democratically elected local authority of Douglas, and it is very disturbing that we are having to take such action.

Now, when we were looking at the motions in the past over the Villa, which has brought this Bill about in the first place, some said that we would end up in a situation where we would end up in the trenches, and that is what has happened as far as I can see, as far as this whole affair has happened.

What concerns me is what some of the members have been saying here today, and the personalities that are involved as far as this piece of legislation is concerned. I do not think the Minister for Tourism and Leisure can be seen as been bombastic or hell-bent on trying to push one side as far as these issues are concerned, and I do feel that if it had been other personalities and other members in this hon. House I could have quite easily voted against this Bill, but I will support the Bill, even though I am not very keen on voting for something to take something away from a local authority where its people vote them in and they make the policies as far as that is concerned.

But I do think when I listen to some of the different camps within this House, we have the hon. member for Rushen talking about 'They don't want it' and 'Leave it with the ratepayers.' I could sympathise with that and that was one of the reasons why, as a Member of the House of Keys, we pushed for government to take it over because this facility is important and I am afraid the Royal Hall is important as far as the Island is concerned, because if we ever want any decent large events on the Island we have to preserve that. We have let everything else go, we have let the Lido go. I think we have got to preserve the Royal Hall, and I think we cannot look parochially as far as this is concerned and I think it is wrong for us to say, 'Oh well, I'm in Onchan, it does not affect my ratepayers: leave them with it, let them get on with it.' I think we as a national government have to support the fact that we need this sort of facility in the Island.

It is sad that we are ending in a situation that some said we would end up with as far as this legislation is concerned, and I think the hon. member for East Douglas cannot have her

cake and eat it as far as this is concerned. I think it is wrong for her to expect us to take it over and give them millions and millions of pounds for taking it over. My ratepayers in Onchan will not be wanting and will not be saying, 'Well, can we have some of the money back that has helped to subsidise the rates over the years as far as this building is concerned', and we will not have a situation where also the bottom line is a piece of land is only worth what it has got planning permission for, and that is the bottom line. If you have an acre of land that is agricultural land, it is worth £1500 an acre, if you have it as development land, it is worth £100,000 an acre, and at the end of the day we are taking over a piece of tourist infrastructure which needs to be recognised and valued.

I am disappointed that we have not been able to resolve this issue. I think it is a great shame that it has had to come to this. It does not do us any good and it sure does not do the Douglas Town Council any good as far as their credibility is concerned that something could not have been worked out and I am saddened that we have ended up in this situation today. Unfortunately it seems that we are going to end up having to do this, but it should worry members that we are compulsorily purchasing a facility from a local authority that has a mandate by its own people. That does worry me and it does have a bad reflection on Douglas Corporation for us to be supporting such a piece of legislation.

Mr Henderson: Mr Speaker, well this debate has extraordinary turn and it is what brings me to my feet, really. The biggest castigator of discussing local government in this hon. House has just resumed his seat and especially has given me some castigation in past debates. I am amazed. Having said that, we are here unwittingly to look at this, and I am also amazed at the other contributors to the debate outside of Douglas.

We have got a problem that needs solving and we have got to be brave enough and try and move the issue forward. I think at the clauses stage this is where we can resolve any issues such as what is going to happen to the building, how it is going to be managed and what is going to happen to the land et cetera, et cetera. I feel fairly certain from the assurances from the hon. minister that the land is going to stay exactly the same. There is scaremongering going on, so I have no problem with that.

I do have a problem, however, with this mandate for the people that everyone keeps talking about, least of all the member who has just resumed his seat. Douglas Town Council has a mandate from the people in as much as they are elected to the town council. As a mandate in respect of this operation, though, I think the story could be considerably different, and he ought to remember that and be careful who he thinks he is representing or misrepresenting. But nonetheless I think we should progress this and just see where we get to at the clauses stage.

Mr Brown: Mr Speaker, I think that, echoing some of the points made by other members, we are all disappointed that over the years that this issue has been around we have not been able to reach a goal which meant that both parties were happy, and I believe that that has just come down to one main issue, and that is lack of trust between Douglas Corporation and government, and it does not matter who is there, who the individual minister is, there is just a total lack of trust to get an agreement which will enable this complex to be run in the best interests of the Isle of Man.

I think ideally all of us would have preferred to have an agreement where everybody wins basically, in theory, and I have to say - and I was one who was involved in negotiations for many, many years over this issue, both as Minister for Local Government and the Environment and as Minister for Tourism and Leisure - all I can say is that from myself, my departmental colleagues who were on those departments at the time and from the officers who dealt with it the commitment could not have been greater to try and achieve an agreement that would have found a way forward, and we ended up to the stage where government was basically going to pay 75 per cent of the cost of the refurbishment. A joint board was to be created which would operate the Villa Marina and the Gaiety, and it seems to have been lost that the Gaiety Theatre was going to become part of this complex, and a formula had been agreed where it ensured that the cost to the Douglas ratepayers, who would have continued to be joint owners of the Villa Marina, would have in revenue terms been minimal, and unfortunately it just has gone on and on and on to a stage where I think the building has been put in danger. We have only seen the whole issue come back to life in terms of starting to invest again happen in recent times, and I have to say, as somebody who represents an area outside Douglas, I do not believe that the Douglas Corporation can do up the Villa Marina effectively at the ratepayers' cost. They just cannot raise the resources. They might like to shout that they can and they might take it on board that they expect to get grant assistance from government, but they cannot expect to get anything, I would not have thought, like a 75 per cent grant. So the whole thing has got to a stage where the whole situation really has, unfortunately, gone sour.

But the losers are the people of the Isle of Man, if we do not deal with this issue, and unfortunately I do not believe we have any choice but to go along the road of passing legislation to deal with the issue, because I do not believe that if we talk for another 10 years we would get an agreement, because there is no will to get an agreement. It is talk and talk, but nothing happens. In fact work that we are now talking of being done by the corporation, they are talking of doing now, should have been done years ago. The whole scheme should have been completed this year, even based on the timescale of a number of years ago. So here we are, the major hall in the Isle of Man, yes, it could be replaced with all sorts of things, yes, government could go and build a larger hall elsewhere. It does not really matter. It is very easy for government to walk away and say, 'Well, we don't need the Villa; we'll find a bit of land on the outskirts of Douglas or in Braddan' or wherever it is -

Mr Cretney: Not Braddan again!

Mr Brown: - and it might be popular and they could build a large civic community entertainment centre for the Isle of Man and just say to Douglas, 'Well, it doesn't matter because we'll build a new one: you crack on.' But is that really in the best interests of Douglas and is it in the best interests of the Isle of Man? My answer to that is no. So we need to find a way forward.

As far as the use of the land is concerned, the Bill is quite straightforward. There is no doubt at all: the Bill is specific.

As far as the compensation in terms of acquisition of land, it is using the Acquisition of Land Act and will get the value that is valued by an independent person who is trained in valuating the land for its purpose. It cannot be used for development, so therefore it has a different value. It is quite straightforward. It is not a political argument. It will be purely a professional point of view put forward. And I do not think we could have been fairer because

we could have actually said, and some would say, because it is going to cost government millions of pounds of capital, capital that we cannot really afford - well, we can afford, but it means it has an implication on the rest of government's capital programme - it would have been easier for government to say, 'Well, as we're taking over the liability, we're not going to give you a penny, we'll just take it off you.' I do not think it is acceptable, I do not think that most people think it is acceptable, but there are people who do.

At the end of the day, whatever the arguments, whatever the hassle, whatever the differences of opinion, I think there is one thing certain: the vast majority of the people of the Isle of Man want the Villa Marina refurbished, put into good order and used to the benefit of the people of the Isle of Man as it always has been, and when you go in the Villa, and this is over a number of years, I think it is always very sad when you see the state of it, the original plaques, the state of the walls internally, because there has been this argument going on for years and years and years.

It is time to make a decision and sadly we have not been able to make a decision between two partners and unfortunately a decision now has to be made to take over the ownership of the Villa Marina, if you want the matter resolved, and I do believe this is the only way forward and therefore I will be supporting the Bill.

Mr Downie: Mr Speaker, I think this is a sad day for this House and I think it is a sad day for the corporation because I would have honestly thought that this summer would have given the opportunity for the various parties to get together and to thrash this out. As a previous speaker has said, throughout the long history there has always been a very, very good deal on the table as far as the corporation go. Seventy-five per cent was talked about, the setting up of a joint board, the incorporation of the running of the Gaiety with the Villa and a joint body to oversee that, and any deficiencies being met by government. Now, there are tremendous plusses there and I think it is regrettable that a way has not been found to come to some sort of a constructive deal or a compromise which would enable us to give the Villa a new lease of life.

But let us just have a little look at the broader picture at the moment. We have got Summerland on the promenade which, for whatever reason, government acquired from the corporation when it was losing somewhere between £350,000 and £400,000 a year, a tremendous drain on the corporation at that time, as is the Villa. If you look at the last 10 years, hon. members, there have been millions and millions of pounds of government money put into both Summerland and the Villa and at the end of it all, really, what have we got to show for it?

I appreciate that since the Department of Tourism have taken Summerland on they have put some new investment in. But the way tourism is going, we cannot afford to properly fund and manage and hope to fill two venues, and we are at crunch time now and the decision is quite clear. As far as I am concerned we have to finish up with one viable venue and in my opinion, quite rightly, that is the Villa Marina linked with the Gaiety, a centre of excellence for entertainment in the middle of the promenade, and that is where its future lies.

Now, there is another option that has not been discussed in the debate today. If all bets are off and we are going back to a blank piece of paper, as was indicated early on, perhaps the corporation would be willing to go and embark on their own scheme and apply in the usual

manner, as any other local authority would, for the 25 per cent grant. Castletown have done it, I think one or two other local authorities have done it, and that is how they have dealt with their civic halls. Now, that is an option which I think has not been pursued.

But I think to flag up the red herring here about the grounds of the Villa Marina having a tremendous value, personally I would like to see the value of the grounds being reinvested into the facility. It is in nobody's interest to pull money out and divert it somewhere else, because at the end of the day somebody is going to have to find about £13 million or £14 million down there to do the job properly, and it just does not stack up. We are talking about the politics of the madhouse, hon. members, and it is about time people realise that to fund this and then to gradually work out a programme for it in conjunction with the Gaiety and the deficiency that is involved over the years - is going to be tremendous.

I will be supporting the second reading of the Bill today because I honestly think that we have got to keep our options open. I would earnestly hope that even at this late hour the corporation and Department of Tourism or Department of Local Government can get together and thrash out some sort of an agreement, in the national interest. They have a responsibility too to try and do something with this problem, and I would reiterate the very valid point that the hon. member for Onchan said, Mr Cannell, that this is not a takeover, this is a rescue package, and I think we have got to keep that in our forethoughts all the time.

Hon. members, I would urge you to all support the second reading of the Bill, but at the same time I would like to send out a message to the corporation: it is not too late to come and have some dialogue and see if we can find a way round this in everybody's interest. The building is deteriorating down there. I had a look through the other day and I am saddened at the way things are going, but it is crying out for investment and the sooner we get to a position where we can make a decision and get on with it the better. Thank you, Mr Speaker.

Mr Cretney: Mr Speaker, I do not know who we are trying to fool here, and I am sorry that I have been drawn to my feet, but I think it is a matter that perhaps should be on the public record, even if it has not been up to now, and that is a matter of fact that this summer there have been informal discussions taking place between myself and the leader of the council in relation to this. There have been questions at the town hall, so it is something that has been talked about on the periphery, so I do not want anybody to be under any misapprehension that we have now got to this stage and we are now suggesting to get together and have meetings. We have not been on cruises or off the Island. We have been here and we have been talking throughout the summer, so I do not want anybody to get under that misapprehension.

With regard to the Villa Marina at the present time, I was in the Villa Marina on the Friday and Saturday of this last week gone and it was wonderful to see it busy and bouncing and lots of people in that place, and that is what we want to see for the future: We want to see it busy, bouncing and properly equipped for the future. We want to see the gardens maintained, as the hon. member for East Douglas has suggested. If you look at one of her pictures it shows the gardens and it shows between the gardens and the promenade all the concrete, and isn't it nice now that those windows are in there and you can look out and people can look in?

Mr Downie: At the government's expense.

Mr Cretney: It might well be at the government's expense but I think it has to be accepted that, again back to the Royal Hall, the Royal Hall is something of national importance, it is something worthy of maintaining, it is something which the many organisations use, the Guild, so many other organisations throughout the year, and if we can combine that with tourist-type events as well what a thing we should have for the future.

But I do not want anybody to be under any misapprehension that we are just sitting back and doing nothing and just allowing this to get to this stage because all hon. members, if they read their Council of Ministers minutes, would know what has been going on throughout the summer, and I am sorry that I have had to say that here because it is something we have been trying to do on an informal basis to try and take things forward and everybody should be aware of that.

One of the things that was suggested some time ago was that what government's real agenda was that Summerland should be replaced and the hidden agenda was 'Get rid of Summerland and we'll take over the Villa.' It has always been the case and the business plan was worked up between the two parties on the basis that it is only sensible to have one major venue such as the Villa Marina. My own personal view is that Summerland was never the same after it was rebuilt. I think it is a great shame that it was rebuilt. I think it is a great shame it was called Summerland as well. (**Several Members:** Hear, hear.) I think that the previous Summerland, despite the horrible oroglass, despite that, was so far ahead of its time it was a wonderful place and I just think it is such a great shame, what happened there. But we have to look to the future and the future is in my opinion without Summerland and it is with an enhanced Villa Marina working in tandem with the Gaiety and I hope that we can continue to make a little progress.

However, I think it has been accepted and I have explained to others that it is right that the Bill should progress through its stages, through its second reading today. People outside of here are aware of that and if we can make any progress, then wouldn't that be a good thing?

Mr Quine: Mr Speaker, I am surprised to hear Sir Miles, the hon. member for Rushen, saying, 'What is the reasoning behind all of this? What are we trying to achieve?' He speaks as if the problem with the Villa Marina came up two years ago. The Villa Marina has been rumbling on for years, including 10 years of Sir Miles's presidency. If it was that easy to resolve I assume it would have been resolved. The reasons have been set out in long debates in recent times and in papers, so I really cannot understand where he is coming from.

We have basically got two options here and that is really we can put up or shut up. We can say to Douglas Corporation today, 'Right, we're going to leave it to you. Do what you will. Tart it up. Extract, on an ongoing basis, more and more funds from your ratepayers and try to keep it tarted up.' It is not going to achieve anything positive, if for no other basis that they have not got a financial plan that will underwrite the operation of the building on that footing. It just does not stack up. And if it has been suggested or if inherent in that proposition we are saying, 'Look, Douglas Corporation, we'll leave it in your hands because you are the local authority, all wonderful chaps, it's all yours: carry on and, here, have this £9 million from central government funds and we're not going to take any measures to secure that investment.' That is rubbish. Tynwald Court, never mind this hon. House, I cannot see them handing over - and I have been told in no uncertain terms by authorities within government

that this is the case - £9 million over and saying, 'Go and do what you will with it.' Let us live in the real world. So that is not an option. We have gone through that and as for dialogue, I have had my share of dialogue, as have numerous other ministers of DoLGE, and it is a dialogue with the deaf. That is not a dialogue, that is pointless. We have gone well beyond that.

The other option is what is before us here today, and we have taken this decision. We take it over, we carry out a major refurbishment that not only preserves this building for its value in heritage terms, it not only preserves it for the value in the use of the people of Douglas, but it brings it into use for to meet perfectly legitimate requirements for the tourist industry as a whole. That is what this proposition is that is before us here today and I do not see how any logical approach or attempt to evaluate these two options can arrive at any other proposition than take it over, pay reasonable compensation and let us get on with it. It has rumbled on for years and the thought of further dialogue, well that is absolutely pointless.

Mr Cannan: Hear, hear.

Mr Rodan: Mr Speaker, I am surprised that the debate has gone on as long as it has today and I put it down to a marked tendency that when issues are allowed to drag on for years the original objectives are lost sight of and there is a great tendency to try and reinvent the wheel and go back to first principles. As the previous speaker has said, we are beyond that and some of us are in danger of forgetting why the Bill is before us at all, and the Bill is before us because it has been brought forward to this House as the ultimate step in a very lengthy process, an ultimate step, to secure the public interest, and the reason we are here is to ensure the public interest and the taxpayer's interest, and the whole process up to this point has demonstrated that the public interest would not be served by a public facility, which is what the Villa Marina is, being progressed in apparent isolation from the other public facilities that this Island enjoys. That fundamental point seems to have been lost somewhere along the line, and underpinning all the public facilities of course is the taxpayer's interest and whether that taxpayer's interest is reflected as grant assistance from central government to local government schemes or funded entirely by the taxpayer, like other public facilities such as the Gaiety and Summerland, the taxpayer's interest is paramount and this is why we are debating this this afternoon and why those of us who are not in Douglas and arguably not directly involved, because we have taxpayers in our constituencies who at the end of the day are going to be responsible for paying for this, it is right and proper that it be debated here.

The point I simply would wish to make is to remind everyone that the reason this Bill is here is because it is the ultimate stage of a very long, protracted process and we have got to do the right thing in the public and the taxpayer's interest.

The Speaker: The hon. member for Glenfaba to reply.

Mr Gilbey: Mr Speaker, thank you very much. The hon. member for Peel, Mrs Hannan, started this debate and was concerned that we were taking over land from a local authority without justification. Now, I am afraid there is more than ample justification. I did explain this very fully in the debate earlier this summer, and I do not want to repeat the whole of that speech because it runs into several pages, but I must touch on some of the points. In December 1997 Tynwald Court passed a resolution which recognised the importance of the Villa Marina complex both to Douglas and to the Island and supported a joint scheme to refurbish and develop it. That resolution also placed on record the concern of that hon. Court

at the apparent reluctance of the Douglas Corporation to progress the scheme in a manner which provided for the future joint management and administration of the complex. As a result of that resolution the Department of Local Government and the Environment was instructed to negotiate with the corporation a lease of the complex on terms acceptable to government and then to undertake the refurbishment and develop a scheme unilaterally. So as long ago as then Tynwald decided, and I think by a large majority, that it had to take unilateral action. Tynwald Court also sent the clearest possible signal to Douglas Corporation that if the negotiations were unsuccessful, legislation would be introduced for the acquisition of the complex by government to enable matters to be progressed. Therefore what is before us today is not new at all. It is something that Tynwald decided on in principle, if all else failed, as long ago as December 1997, nearly two years ago.

In the 16 months that passed between that resolution and me giving the speech in May one would have expected that Douglas Corporation would have acknowledged and responded positively to what Tynwald was saying. However, for reasons which we shall never fully understand, the intervening period was punctuated by further procrastination on the part of the corporation. Now, attempts have been made to suggest that this was purely a matter of personalities and that perhaps the corporation, for some reason that I do not know, could not get on with my predecessor, the hon. member for Ayre, Mr Quine. However, this is absolute rubbish because the hon. member for Castletown, Mr Brown, his predecessor as Minister for Local Government and the Environment, the hon. member of Council, Mr Delaney, tried without success in the early 1990s to make progress. Then Mr Groves who became Minister for Local Government and the Environment in September 1994 was instrumental in securing agreement with the corporation which led to the joint scheme and the signing of the design fees agreement which has since been undermined in the way I explained at Tynwald.

My hon. colleague in the department and the former minister, Mr Quine, has also worked very closely with the hon. Minister for Tourism and Leisure, Mr Cretney, to overcome a succession of obstacles placed in the way of progress by Douglas Corporation over the 2¹/₂ years to last May. I said then that the message was abundantly clear. We cannot afford to waste more time on fruitless discussions and that the government must take control of the situation.

The Villa Marina and the Villa Marina not falling apart but as an improving facility is needed not just to serve the people of Douglas and the ratepayers of Douglas Corporation but the people of the whole Island.

The hon. member for Peel then seemed to intimate that the government would change the use of the Villa Marina, suggesting that these ridiculous suggestions that we are going to build office blocks or car parks there have some validity. They have not at all, they are absolute rubbish, and are figments of people's mind that this would happen now or in the future (**A Member:** Hear, hear.) and I will explain why in detail when I reply to the points made by the hon. member for East Douglas.

The hon. member for Peel then said the problem would not be solved by government taking over the Villa Marina. It will because it is the only way to solve it. We have spent 10 years without solving it and unless we take positive action no solution will be found.

She said that local authorities have a responsibility, and indeed they do, but I would suggest that if they had lived up to their responsibilities in this case we would not be where we are today.

Finally she blames the town clerk and I think this is as wrong as blaming members of the civil service. Councillors and elected members of Tynwald are those who are responsible, not civil servants or corporation officials.

Now, the hon. member for South Douglas, Mr Duggan, says this is a viable property. I am sorry to tell him it is not viable at all. Far from making profits, it makes substantial losses and has to be heavily subsidised. Millions of pounds of expenditure are needed to put it into an acceptable standard, let alone improving it, and then as the hon. member for Onchan, Mr Karran, has mentioned, there are quite rightly very severe restrictions on its use, which means quite rightly it can be only used for its present purposes, which again reduces its value.

I would like to thank the hon. member for West Douglas, Mr Shimmin, for his continued support. Now, he says that I should have approached the corporation, but I would like to go into some detail regarding this. As he says, I did offer to see them and I think he is mistaken to say that I should have approached them, for the following reason. Before the vote on the debate in Tynwald in May of this year I made it perfectly clear, and re-emphasised this several times, that if the corporation wanted to talk to me or to the department we were available at any time to talk to them, but I did not say that I would approach them and it was on the basis that they would approach me or the department if they wished to that the resolution was passed by an overwhelming vote of 21 to 1 in the Keys and 8 to 0 in the Legislative Council.

Now, in fact the council had many opportunities to talk to me about it. They most kindly asked me to a very pleasant lunch on Wednesday, 4th August when the leader of the corporation was there, the town clerk and one or two other people. Now, they raised various points in detail which they wanted me to take up and I immediately wrote a memorandum to members of the department advising them of these points so that action could be taken, but never once, surprisingly enough, did they mention anything about wanting to discuss the Villa Marina or trying to come to some alternative arrangement, and there are records to prove that this is the case.

Now, the hon. member for Rushen, Sir Miles, says, 'Why are we taking it over?' Well, the hon. member for Ayre has answered this very clearly, but I will reiterate. We are taking it over because we have to get firm action to maintain and improve it for the good of the whole of the Island.

Now, the hon. member for East Douglas, Mrs Cannell, asks, 'What are the terms of the land acquisition and how would it work?' Now, this is referred to in clause 3 of the Bill which is headed 'Compensation' and it says, 'The Treasury shall pay compensation to the Corporation for the acquisition of the Villa Marina, such compensation to be determined in accordance with Part III of the Acquisition of Land Act 1984 and to be paid into the borough fund of the Corporation.' Now, basically what happens is that both parties appoint experts to negotiate a price and if they cannot agree one it goes to arbitration, and I am sure that both parties will not agree a price initially and therefore it will go to arbitration.

The hon. member then raised the point about her concern that the land might be developed, and let me read you from clause 2, 'Restrictions on Disposal and Use': 'Paragraph

1 (3) of Schedule 1 to the Government Departments Act 1987 (restrictions on disposal of land) applies to the Villa Marina with the substitution, for the words "without the consent of Treasury", of the words "without the approval of Tynwald". Now, that means it could not be sold without the approval of the whole of Tynwald. Then it goes on, 'Subject to subsection (3), the Villa Marina - (a) shall be held by the Department as if it had been acquired by the Department by agreement for the purpose of its functions under the Recreation and Leisure Act 1998; and (b) shall not be used for any purpose other than the provision of facilities mentioned in sections 2 to 5 of that Act.' So I am absolutely satisfied that the future of the Villa Marina as a leisure complex of the type it is now is secure in the future. Of course Tynwald, being a sovereign government, could always change any legislation, but they could equally well in the future if we have done nothing and decided to acquire it then and change its use.

I did indeed get the hon. member's letter, for which I thank her very much. Of course architectural style is always a matter of personal view and I would agree with her personally that I think that what was there originally looked a great deal better than what is there now, but that is purely a matter of personal opinion, but I would like to thank her for the letter.

I think she mentioned the deterioration of the building, and that is a strong reason why positive action has to be taken before it deteriorates any further, and I agree that it is an important all-Island facility for everyone in this Island and that is why it is a matter in which the government has to intervene. If it was just the parish hall in St John's it could be left to the local commissioners, but it is not. This is a vital government national facility.

As the hon. member for Onchan, Mr Cannell, says, there is little alternative and it is vital to preserve it. He indeed referred to the planning application by the corporation in respect of what is called their scheme for the Villa Marina. Now, obviously as Minister for Local Government I am not going to refer to the merits or demerits of this scheme, but I would say, as I said when interviewed on the radio, I should find it very surprising if the corporation saw fit to expend any of their ratepayers' money on progressing such an application through architectural stages before this Bill had been decided one way or another.

The hon. member for Onchan, Mr Karran, is disturbed that we have to take such action. I think we all are because we none of us would be disturbed if the Villa Marina was in beautiful condition and being modernised without us having the necessity to bring in a special Bill.

He says we have ended up in the trenches. We have not ended up in the trenches now. We have, unfortunately, been in the trenches for 10 years, as stated in my reply to the hon. member for Peel, Mrs. Hannan. Four Ministers for Local Government and the Environment, four sets of members of that department and different officers have all failed to get an agreement over 10 years. Can they all be wrong? I really doubt it.

The hon. member for North Douglas, Mr Henderson, is right in saying we have a problem which needs solving and we should have the courage to solve it by passing this Bill, and he is absolutely right, as I think I have emphasised already, that we should have no concern regarding the future of the site. That will be secure in the future as it has been in the past.

The hon. member for Castletown is right to say that the present situation sadly appears to be due to lack of trust and, as I have already said, I agree with him, but it does not seem to matter who the minister, members or officers of the Department of Local Government have been, none of them have been able to get a fair agreement. But one could also say that in this

time there have been different members of the Council of Ministers and different Chief Ministers and under their guidance it has been impossible to produce a solution. I think he is right in saying that Douglas Corporation could not afford to go it alone at the ratepayers' cost and that the people of the Island will certainly lose if we do not act. Indeed, he is right also in saying the scheme should have been completed now. If there had been a sensible scheme 10 years ago we should now be enjoying the fruits of it. As he says, and I have explained, the Bill is clear on how the valuation of the land and terms of compensation are reached. He is also quite right to say that the government could have, and indeed some people thought should have, put down a nominal amount of money in this Bill as a compensation but they did not do that; to be absolutely fair and to be seen to be fair, they have used the ordinary basis of compulsory purchase.

I agree with the hon. member for West Douglas, Mr Downie, that this is a sad day, and again he has emphasised what good deals have been offered in the past: 75 per cent grant from government, offers of joint operation with the Gaiety. And he is also right - we have to be realistic. There is not a place for two major venues in the Island, one run by Douglas Corporation and one run by the government, and we should have the Villa Marina linked to the Gaiety. He is also right, as I have stressed and some other hon. members have, about the low intrinsic value of the Villa Marina and the fact that this is not a takeover but a rescue bid.

The hon. member, the Minister for Tourism and Leisure, has referred to the informal talks that he had been having throughout the summer. However, I must point out that despite his efforts, the efforts of yet another person to add to the list, I have already mentioned nothing farther has so far come of them and therefore I would urge that we press ahead with this Bill or, as the hon. member for Castletown, Mr Brown, has said, we will be talking not just for the 10 years past but the next 10 years.

Mr Quine, the hon. member for Ayre, has put it very succinctly in another way. He says we can either put up or shut up. We can either tell Douglas Corporation to get on with it alone, but they have no viable financial scheme, and certainly no-one can envisage the government handing £9 million to anyone, Douglas or anyone else, without a proper scheme, proper costings, proper projections and everything else; the other option is for us to take over the Villa Marina as proposed in the scheme in this Bill and improve the Villa Marina and bring it back to its former glories for the advantage of everyone in this Island, and I do hope that everyone in this hon. House will vote to support addressing this Bill so we can achieve those aims, which I am totally convinced are in the interests of not just the people of Douglas but everyone throughout this Island. Also, do not let us forget our visitors for whom the Villa Marina is a very vital facility.

Mr Houghton: Hear, hear.

The Speaker: Hon. members, that concludes the debate on the Villa Marina Bill second reading. We will now vote. Will those in favour please say aye; those against, please say 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, Messrs Shimmin, Downie, Singer, Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 22

Against: Sir Miles Walker and Mrs Hannan - 2

The Speaker: Hon. members, the motion carries with 22 votes cast for and 2 votes cast against.

Shops Bill – Consideration of Clauses Commenced

The Speaker: We turn then to item 14 on our order paper, hon. members, the Shops Bill for consideration of clauses. I call upon the hon. member for Rushen, Mrs Crowe, to move clause 1.

Mrs Crowe: Thank you, Mr Speaker. Surely it must be an aim of good government of this Island to enable its retail industry to compete fairly. I do not need to repeat the anomalous 1985 compromise legislation that has been and still does disadvantage many traders.

Since 1929 regulation of this Island's retail business has been unfair. Seventy years ago the first select committee was appointed to address shop hours. It ended in disarray. Only the chairman signed the report. Four other members put in two memoranda of dissent and so it has continued. Our Island retailers have seen their livelihood determined by select committee after select committee. The retail sector of our economy has for over 70 years tolerated a degree of interference by this government in its affairs that has not been imposed on any other industry on the Island. Now is the time to show our support for equal trading rights for retailers by the speedy implementation of the 1999 Shops Bill, which will encourage the industry and afford excellent protection to shop workers.

The principal objects of the 1999 Shops Bill are: to repeal the 1985 Shops Act; to regulate the hours shop workers work and to provide extensive new employment protection for shop workers; to prohibit the opening of any shop on Christmas Day.

Mr Speaker, may I now proceed to clause 1? Clause 1 refers to the interpretation of the expressions used in the Bill.

Sub-clause (1) contains definitions. In the definitions and through the Bill references are made to the Employment Act of 1991. The definition of 'dismissal' can be found in section 42 of the Employment Act 1991. The definition of 'retail trade or business' is the same as in the Shops Act 1985 except for paragraph (b). The definition of 'shop' and 'shop worker' are the same as those included in the Shops Act 1985.

Sub-clause (2), when taken with sub-clause (3), applies provisions of the Employment Act 1991 to this Bill. Section 85 of the 1991 Act deals with the periods of continuous employment and is relevant for the purposes of clause 4(1)(b) of the Bill. Section 88 of the Employment Act 1991 contains the general definitions used in that Act and which are also used for the purposes of this Bill.

Sub-clause (3) modifies the effect of schedule 7 to the 1991 Act as it applies for the purposes of this Bill and the calculation of periods of continuous employment.

Sub-clause (4) modifies the effect of section 43 of the Employment Act 1991 which treats as dismissal the refusal by an employer to permit a woman to return to work after childbirth. For the purposes of this Bill the woman is treated as a shop worker on the effective date of dismissal if she was employed as a shop worker before leaving work for the birth of the child. I beg to move that clause 1 stands part of the Bill.

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

Mr Singer: Mr Speaker, I wish to move an amendment that reads as follows:

That clause 1 and all remaining clauses of the Shops Bill, together with tabled amendments to the Bill, be referred to a select committee of three members to consider and report no later than 29th February 2000 sitting.

A select committee can examine the proposed legislation and consider firstly if this Bill as set out before us offers added protection to our shop workers who wish to opt out of Sunday working, and secondly, if there are weaknesses and omissions, then how the Bill's proposals can be rectified. Members will have received an unsolicited letter from the synod secretary of the Methodist Church which explains their worries. Their letter is certainly not bible-thumping but expresses concern on the effect on family life, and they support a closer look by the select committee. Much of this Bill has been lifted from the UK legislation and it is claimed by the Department of Trade and Industry member promoting this Bill that the workers in the Isle of Man will never have had it so good. This statement may well be true -

Mrs Crowe: It is.

Mr Singer: - but if, for example, the UK legislation was only adequate then our legislation would only be adequate, and I would contend that it can be better if a short time is taken to look at the Bill in detail. After all, why should our workers be offered anything less than the best?

When I asked the advocate retained by the DTI at the recent lunchtime seminar what the differences were between the UK Act and the Isle of Man Bill, her only reply was about different definitions of words. I would contend that just this one comment is an extremely important point. After all, the Bill is words, and to lift sections of the UK Act and apply it to Isle of Man legislation, then claim it is the best for our workers, yet the definition of important words and phrases have been changed, needs proper investigation to determine what we actually mean by the wording of the Bill. It might well have been better if we had brought forward an Isle of Man Bill rather than tinkering with the UK Bill to make it fit our situation.

At the seminar the chairman stated quite categorically that no anomalies were in this Bill. That was a specific statement. All hon. members were in agreement at the second reading that the anomalies in the 1985 Bill were ridiculous and had to go and I believe that hon. members would wish to ensure that anomalies were not being introduced in the Bill before us today. Times have changed very quickly over the last few years. Shop work has changed, hours have changed dramatically and without doubt in the larger stores shop workers are no longer only people who stand behind a counter serving a customer, filling the shelves when necessary and going home when the shop door is locked at 6 o'clock. Any Bill must look after all the people who work in shops and businesses which retail to the public. It can be asked, for example, with the great strides forward of sales by e-mail, should those workers be covered by the Sunday opt-out protection? Many retail shops have staff in on Sundays to fill shelves, complete computerised reports et cetera, at times when the shop is closed for the serving of customers. Should these people be ensured the protection that the others have? If your answer is yes, then the Bill does need to be amended and is not without fault or anomaly as has been claimed.

There is no protection in this Bill for job applicants who might be discriminated against because they do not wish to work on Sunday. Such discrimination would, I hope, be investigated by a select committee to see if such discriminations could be avoided.

There is, therefore, the need to identify the possible anomalies. Let me demonstrate just one glaring anomaly: in Douglas we have a bookshop which has a cafe. Under this Bill those workers would be able to opt out of Sunday working. Shop workers in a cafe nearby would not have this protection. Is that right? I would make it clear that to extend the protected rights to all shop workers, regardless of their job in their retail premises, would help eliminate these anomalies but would not cause the shop to shut on a Sunday as opted-in workers and Sunday-only staff would be manning the premises.

Hon. members discussed at the seminar the reasons for the closing on Christmas Day but not Good Friday. I had assumed that Christmas Day was a day to be closed as a concession to those who treated it as a religious day and therefore I could not understand why Good Friday was not also included, as that day has probably more religious significance and Good Friday was included in the first consultation paper sent out by the Department of Trade and Industry. I must say I found it difficult to believe the main reason we were given and I would ask the promoter of the Bill to repeat that answer to this hon. House, because Good Friday could be included and be treated as a Sunday with opted-in workers conducting the business. The business would not have to close on Good Friday.

The 1994 UK Sunday Trading Act has the intention of protecting the small retail outlet. We were told by the Chairman of the Office of Fair Trading that is the intention of this Bill, but the 1994 UK Trading Act specifically prevents retail outlets above a certain size from opening for more than six hours on a Sunday. That is protection for the small retailer and it is not to be enacted in the Shops Bill 1999, so we are not doing everything to protect our smaller business. It has been quite obvious that the aim of the Department of Trade and Industry as promoted in this Bill is to clear the decks of anomalies, but in doing so they are disregarding the responsibilities to the workers, and I would not expect that from that department. The fact that definitions, words, wordings, explanations need clarifying and that new anomalies are being created are some of the reasons that I believe we need a select committee to take a little time examining the provisions of this Bill to ensure that the Isle of Man employee who works in a shop does receive equal consideration and treatment to his or her counterpart in the UK and that the law is clear and unambiguous to aid its interpretation by the employer. That is what I believe the reputable employer would want and also the industrial tribunal. In fact, the work of the industrial tribunal may be greatly reduced if both sides understand their rights and responsibilities.

I think it is more difficult to sort out the total aims of the Bill by a series of amendments rather than in an overall context that would be employed by a select committee. I feel I must make clear my position to hon. members: whilst I opposed the Bill at second reading, I fully accept the democratic decision of this hon. House to wish to proceed. I have no wish to cause unnecessary delay to the Bill, but I do wish to see that its provisions are what are needed for the times we live in, and I have explained why I believe that important aspects of the overall needs of the shop worker and the employer need to be studied closer.

At the beginning of the afternoon I had an article circulated to me which described the opposition in Jersey to a clamp-down in Sunday trading. Now, I do not know if every member

received this or whether it was specific to myself, but can I say that if members did receive this, this has got nothing to do with this part of the Bill, the clauses, or the move to a select committee. I accept that we are going ahead with Sunday trading, so I would ask hon. members to separate that out entirely. What I am trying to do here is to send it to a select committee to look at the provisions for shop workers who will be working now on these Sundays.

I would think there are two clear camps: either we do wish to get this right after so many attempts and take a little time to ensure that we do get it right, or we say it has gone on long enough, we know it contains no flaws, as we have been told, and the Manx worker is better protected than any other worker in any other jurisdiction.

I hope I have indicated to hon. members that this Bill is not utopian in character and improvements can be made, and I hope hon. members will agree that those improvements should be made before the Bill becomes an Act rather than looking to an amendment Bill in the near future by which time shop workers working for perhaps the less reputable employer will have suffered a detriment. We are told we have waited 70 years to get it right. Seventy years and four months might convince us that we have. Therefore I move the amendment as printed.

Mr Quine: I beg to second, Mr Speaker. I think, as the hon. mover of the proposal to refer it to a committee has said, there is a narrowing of viewpoint in terms of whether or not this legislation should be put through and whether or not there should be a rationalisation of the working within shops. I think that is narrow, but I must say that having regard to the amendments which are being floated before us and on our desks here today, I cannot but hold the view that we do need a further attempt to come to some sort of understanding on amendments of this nature, and if we can attempt to do that by 29th February - and that is the date; no later, it says, than 29th February - I would have thought that that would be a worthwhile exercise. What matters at the end of the day is getting a piece of legislation through which, radical as it may be in the sense that we are adopting a massive change in relation to what is on the statute books now, at least we have an obligation to make sure that this is right. These amendments, I believe, justify a further final look by a select committee process, so for that reason I am pleased to second the motion.

Mr North: Mr Speaker, my views on this Bill are well known and were recorded at the second reading. I am not in favour of what is going to happen on the Isle of Man but I do not believe that to put this to committee is going to achieve anything at this stage. I think this House has catered for amendments of this type in the future on many occasions before and I think we should cope with them now. I shall look at each one as it comes along and make up my mind at the time.

Mr Houghton: Mr Speaker, I rise to endorse the previous speaker, Mr North, on his viewpoint on this. I think this whole issue has been looked at and scrutinised to death -

Mrs Crowe: Absolutely.

Mr Houghton: - by many, many previous boards with the help of Mr Kinrade, the Chief Inspector of the Board of Consumer Affairs. He himself must have spent hundreds of hours of research and advice that has been given; he is to be commended for that. Notwithstanding the speech of the hon. member for Ramsey, Mr Singer, with his carefully researched material and

also his amendments, if we do move to that stage with these amendments, those will be examined as we work our way through, but what I would do is speak against this motion and I feel, as indeed I am quite sure other hon. members feel, that it needs to be thrashed out here and now. Thank you.

Mr Henderson: Mr Speaker, I rise to support the amendment put forward by Mr Singer. I think it is fairly clear that if Mr Singer can look through this Bill and find anomalies and produce some amendments from it, and myself (*Interjection*), if we were afforded more time there may be more anomalies, and surely that must indicate to the hon. members present that really, if this is what we are going to do this afternoon then it should go to a select committee for a little more scrutiny, iron out some of the anomalies that we have discovered, and it would make life a lot easier. We can plough on through all the amendments this afternoon and in all likelihood we will get up to the half-past-five mark, I have no question about that, but, having said that, I think in order to give this Bill some credibility and actually do it some justice, going back for a second look would not do it any harm whatsoever and then progress it following that.

I myself have nothing against the Bill in principle either and only seek to enhance what is there already and iron out any problems. Thank you.

Mrs Cannell: Mr Speaker, I rise in support of the amendment, and I appreciate that this House and another place have actually given considerable thought and there has been a lot of time spent on debate in relation to this particular aspect of things, the Shops Bill. Indeed, the previous chairman of trading standards on various times attempted to move or promote a similar thing.

Nevertheless we have before us a green Bill containing clauses within it that have not been raised in previous proposed Bills of this nature before, and therefore I think, in view of the wealth of amendments that may well be floated if this motion is not supported at this time, it does question the validity of this particular Bill. Now, I understand that there will be pressure on trading standards by the organisation representing the shops - all the different organisations, not just the Chamber of Commerce but others as well - that there will be pressure put on to bear because we are now approaching Christmas time and they will be looking to try and cash in as much as they can between now and the festive season, but I would suggest that waiting until 29th February 2000 sitting , we are asking for 16 weeks' grace. Sixteen weeks is no length of time at all, really, to further consider not only the provisions contained within the Bill but also, as the motion says, to actually consider the amendments which we have been circulated with today, and I think it is incumbent upon us to actually do that because there is a very great risk that shop workers are not actually going to benefit an awful lot from this in relation particularly to the working of a Sunday. Personally - I know that this view is shared by other hon. members - I would like to see other such protective provisions brought in for other people who have to work on Sundays (**Mr Cretney:** Hear, hear.) and I know that that is supported.

Nevertheless, we are faced with the Shops Bill today, which really is not the correct vehicle for considering other people's working practices on a Sunday but perhaps that is something we could address. Perhaps that is something that the select committee could also consider in relation to this. I think we owe it to our workers to give 16 weeks' consideration and, let us face it, the task is quite a large one but I think if we get the right three hon. members on such a select committee they can start meeting straightaway and come back in

February. They may well come back and say everything is fine. They may well come back and say the Bill as written, as presented to members, is fine, there are no anomalies. Then again, there may be anomalies which may be covered in part or whole by the amendments being proposed.

I believe that this type of Bill should be properly considered. We are a relatively new House in relation to this sort of Bill. This House has not had the opportunity to study a Shops Bill. Other hon. members in this House have. Other hon. members have been here a long time. I have not. I have been here almost three years, and there are two or three that have been here as long as I and others an even shorter time.

The Speaker: Hon. member, I really do not mind how long you have been here; what interests me is whether or not we will send this Bill to a committee. *(Laughter)*

A Member: Hear, hear. Get on with it!

Mrs Cannell: Well, that interests me too, Mr Speaker. *(Interjections)* What I would ask, though, is for a little bit of tolerance in relation to this particular motion and some sensibility and sensitivity here, because we are dealing with people and their working lives. Thank you.

Mr Corkill: Mr Speaker, I find it rather surprising what I am listening to (**Several Members:** Hear, hear.) with regard to this particular motion. This Bill must be one of the Bills that has been talked about, debated about publicly and within the walls of Government Office for a considerable amount of time now. I think the issues are all very clear, and I think it would be very tempting perhaps at this time, when we have been debating other business during the day, to say, 'Well, yes, let us just shunt this off to a committee and we can get on with our lives.' But the reality is we are in the clauses stage; if we run out of time today, there is next Tuesday and we will start again with a fresh view on things - perhaps the chamber will not be quite so warm. I cannot understand why there is a desire to delay it, because delaying this Bill will make the problems worse, will actually make the debate more intense, particularly as we draw towards the Christmas period, although the passage of this Bill will probably not be delivered for that type of time frame anyway. But the reality is, I believe, this is a delaying mechanism. (**A Member:** Hear, hear.)

The amendments have been circulated and all right we have got quite a few of them, but they have been circulated for a little while now, there is one arrived today, and I am sure methodically we can work our way through them. That surely is the work of this House; perhaps it is something we do not do enough of these days.

Mr Cretney: Hear, hear.

A Member: Well said.

The Speaker: Hon. members, can I say then that the motion before us is that clause 1 and all remaining clauses of the Shops Bill together with tabled amendments to the Bill be referred to a select committee of three members to consider and report no later than the 29 February 2000 sitting. Does the hon. member wish to reply?

Mr Singer: Very briefly.

Mr Cretney: Of course, he does. It is his right.

Mr Singer: Mr Speaker, can I thank the hon. Mr Quine for seconding the motion. He is quite right: clarification is important now but not later.

Mr North said he opposed Sunday trading, and did so, but I was pleased to hear from him that, even though he is opposing this, if we do get to the clauses stage he will look at each clause dispassionately, and I do hope that all members will do the same.

I thank Mr Henderson for his support and Mrs Cannell for her support. The clauses have not been discussed ad nauseam in the past, certainly not by this hon. House as they have been lifted from the 1994 UK Act and we have not discussed them in this particular House before. So they may have other items on Shops Bills which may have been discussed ad nauseam but certainly not this particular Shops Act.

By sending this to a select committee I would say clearly to members that this would not, or would not be intended to, reopen the whole question of whether Sunday trading should be deregulated. That has already been decided by this hon. House at the second reading, that they intend that it should be deregulated. But it is all about protecting the workers who wish to have Sunday off. So I listen to the hon. Mr Corkill but there is no desire, as I said, to delay but to step back and get it right, because if I wanted to try and delay it I would certainly would not have asked the select committee to report back by as early as February 2000.

A Member: Hear, hear.

The Speaker: Hon. members, are we ready now to vote on the motion? (**Members:** Yes.) Clause 1 and all remaining clauses of the Shops Bill are referred to a select committee of three members and reporting at the 29 February 2000 sitting. Will those in favour please say aye; against, no. The nos have it.

A division was called for and voting resulted as follows:

For: Messrs Quine, Henderson, Duggan, Mrs Cannell and Mr Singer - 5

Against: Messrs Gilbey, Cannan, Rodan, Waft, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Cretney, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 19

The Speaker: Hon. members, the motion fails, 19 votes being cast against; five votes were cast in favour. We therefore continue with the first reading of the clause and we have the amendment in the name of Mr Singer.

Mr Singer: Thank you, Mr Speaker. This amendment is in several parts. It is rather complicated and I do request members' patience. All the amendments do not cause shops to close but are aimed at the clarification of the law to both the employee and the employer, with clearer definitions to make the legislation workable. Page 1, after line 9, insert 'detriment' and the definition as printed. One of the rights of the protected and opted-out worker is that neither is to be subjected to any detriment by any Act, and that is in clause 12. They have not got to be subjected to any deliberate failure by the employer to act because the employee has refused Sunday work by signing the opting-out notice. The Bill does not define a detriment, but in clause 12(5) it says what it is not. This amendment clarifies for the employer and the employee what is a detriment. The hon. member Mrs Crowe at the second reading herself defined some examples of detriment which are in *Hansard* and her examples are included in this amendment which now defines clearly what is a detriment.

Page 2, line 15, in the definition of retail trade or business, for the words 'but does not include', substitute 'and includes'. That therefore includes those items under (b) and (c) as definitions of 'retail', 'trade' or 'business'. I could not see any reason why those retail trades should be omitted, and employees doing similar jobs are not treated equally and have no rights on a Sunday. This is an example I referred to earlier on, where in a shop with a café the workers are protected and a café worker is not. This is creating many anomalies which is totally against the intention of repealing the 1985 Bill and introducing the 1999 Bill. Again, we would be saying that some retailers can sell goods and not others on a Sunday, and that some employees are protected and some are not. Again, I would say this will not shut those businesses but they will open with those opting in and those wishing to work on Sunday. The amendment says to omit the paragraph lines 16 to 18. This is dealing with pharmacies, and takes pharmacies out of the definition of retail trade or business, because pharmacies are or can be considered as an extension to emergency medical services, and certainly on a Sunday, Good Friday, Christmas Day, the hospitals are there issuing people with prescriptions and the person needs the prescription on those days, and that is the reason for asking for lines 16 to 18 to be omitted.

Line 28 changes the definition of 'shop work'. 'Shop work' in the Bill just says ' "shop work" means the work of a shop worker'; this amendment clarifies all shop work rather than just describing it out of the work of a shop worker. Shop work has changed and it can nowadays take place for various reasons even when the shop is not opened for serving customers, which I will refer to now in the next recommended alteration - that is, in the definition of 'shop worker', to add at the end 'or any other shop work'. As I say, this is linked with the definition of shop work. Serving a customer nowadays or receipt of orders or dispatch of goods is not the full definition. It can include computer programming, general accounts work, the jobs of the cleaners - they work in the shop on a Sunday - storemen, shelf fillers, trolley supervisors, shop cafeteria staff, staff cafeteria staff, van drivers and stocktaking itself. This amendment means the less likelihood of employees falling outside the law's protection as a shop worker. These new definitions do protect the employee's rights and would bring them more into line with the UK.

Line 32, for the definition of 'Sunday' substitute, ' "Sunday" includes Christmas Day and Good Friday'. As I said earlier on, the first draft of this Bill issued as a consultation paper by the Office of Fair Trading included Good Friday. Good Friday is regarded as a more religious day than Christmas Day and, regardless of contracts with the newspaper wholesalers, the rights of shop workers in general who wish to observe this important day should be recognised. I would make it clear that including Good Friday does not mean the shop having to close as on Christmas Day, but makes it equal to Sunday when opting-out workers will work on Good Friday. So the shops are not being forced to shut and the amendments will remove the anomalies of different people in some shops having a different status and will give all who work in a shop the right to a protected worker status - that is, they opted out because they wished to do so. I therefore beg to move those amendments in clause 1, Mr Speaker:

(i) *Page 1, after line 9; insert -*

"detriment" includes demotion, a refusal of promotion, a variation in working hours, a reduction in pay and any other prejudicial alteration or purported alteration to the terms and conditions of employment;"

(ii) *Page 2, line 15; in the definition of “retail trade or business” for the words “but does not include” substitute “and includes”.*

lines 16 to 18; omit paragraph (a) and re-number subsequent paragraphs.

(iii) *Page 2, line 28; for the definition of “shop work” substitute -*

“shop work” means work in or about a shop on any day whether or not the shop is open for the serving of customers;”.

line 31; in the definition of “shop worker”, at the end add “or any other shop work”.

(iv) *Page 2, line 32; for the definition of “Sunday” substitute -*

“Sunday” includes Christmas Day and Good Friday;”.

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

Two Members: You cannot on an amendment.

Mr Rodan: Could I, Mr Speaker, ask for some clarification on lines 16 to 18 where the mover wishes to exclude from the Bill references to shops that sell medicines and medical supplies? He has given us the reason why they should be excluded and he may be made a case for that, but what he has done by the drafting of this amendment is to leave that situation completely undefined. In the process of including as a definition of ‘retail trade or business’, (b) and (c), sale of refreshments, sale of programmes et cetera, he is completely silent, on (a). The implication is that it is excluded, but I think in legislation we have to be quite precise, and the way the green Bill is drafted is precise and it defines a retail trade or business as not including sale of medicines et cetera, but his amendment would leave us completely silent on the sale of medicines, and this surely cannot be a good thing.

Mrs Crowe: Mr Speaker, in reply to the amendments as seen by Mr Singer, and I would also add the hon. member for Ramsey, the first part deals with detriment and it is to include a definition of ‘detriment’. Well, we would suggest that there needs to be no definition of detriment. ‘No detriment’ means precisely that: you cannot have any type of detriment to harm an employee. It does not need to be qualified; ‘no’ means ‘no’, no detriment whatsoever, so there does not need to be a qualification of ‘no’.

The changes in the definition of ‘retail business’ have really been highlighted by the hon. member for Garff, who shares the same profession as the mover but clearly was able to read the Bill so that he made sense that if a pharmacist needed to dispense an emergency prescription on Christmas Day he would not be liable to prosecution. So we would suggest that amendment too is faulty.

The third - the definition of ‘shop work’. Now, we have just heard the hon. mover of the amendment saying that we could have computer reprogrammers, we could have carpet-layers, we could include the auditors, all of whom might want to work in a shop on a Sunday when it is closed for trade. It is ridiculous! This is the Shops Bill; we are talking about shop workers. It is not within the remit of this Bill to include every definition of trade and profession on the Island.

The inclusion of Good Friday - now, as the hon. mover mentioned when we first consulted on the Bill, we had Good Friday, we had Christmas Day, then there was a decision

we should have neither day, to be equal. We then took the advice we would stick with Christmas Day; Good Friday would cause us problems. As we all know from the other place, when the Chairman of the Office of Fair Trading goes to take through the temporary exemption Order every single year so that shops can open for the Easter festival, which is so heavily promoted by the Tourist Board, do we want all shops closed on that Good Friday? I will leave it entirely to the House. I would suggest not.

I would suggest, as there does look to be a huge amount of amendments, many of them are consequential on the first few amendments, so it is not actually as frightening as it seems. This Bill is a well-drafted Bill. We have taken advice and legal advice on the Bill. The board of the Office of Fair Trading have been considering this for three years. Unless some wonderful amendment comes forward we feel that the amendments as presented to us today are not worthy of support. Thank you, Mr Speaker.

Mr Karran: Vainstyr Loayreyder, can we just know whether we are going to vote on each one of these separately as far as the clause 1 is concerned? I am rather supportive of the last amendment to clause 1 that I would like to see. So I would like to be able to vote on them on a separate basis.

The Speaker: If you would hon. member, it is normal for amendments to be taken complete as they are printed, as you are dealing with the one amendment to the one section of the Bill. If in fact, it is the wish of the House to do otherwise, well then, the House would have to give that indication. Please continue, sir.

Mr Karran: Vainstyr Loayreyder, I would hope that the House would give that indication. I am concerned about trying to be in the middle ground between when we heard the opening remarks on clause 1 from the mover about 'Oh, it is 70 years' worth of legislation,' but when this piece of legislation was brought in it was a piece of legislation in an era where, if you were up, you were up, and if you were down, you were down, (*Laughter*) and I feel that it is all right us saying about just dismissing the reasons for this legislation when people were lucky to get a Sunday afternoon off in a working week which often started at eight in the morning and did not finish till six at night. I think one wants to try and go down the middle road as far as this is concerned and accept that the hon. mover of the amendments seemed to be the other extreme, that there has been no movement in that time, and I just feel myself that Good Friday should be supported. I know it causes a problem with the Easter festival but I would like some sort of reasoning why it should not be supported, Vainstyr Loayreyder.

Mr Quine: I would just like to support what the hon. member for Onchan in the point he has made, sir. If we look at these amendments under clause 1, they are separate and distinct if for no other reason, of course, we are dealing with a clause of terms of interpretation, so each one stands alone. So unless we are going to have the facility to have a vote on each of these items, I am afraid we are not going to be able to do this particular clause justice, sir. So I would ask you to consider, sir, exercising your discretion, which I am sure you have, to call for an individual vote on these several items which are under clause 1.

Mrs Cannell: Mr Speaker, if the previous speaker was making a proposal there I am pleased to second it, that each line of amendment is taken separately.

Mr Brown: Mr Speaker, I would just like to clarify the part of the amendment where it says, 'Sunday includes Christmas Day and Good Friday'. There seems to be a view building

up that it means that on Good Friday shops can close. My understanding is that that amendment means that the options for people to opt out of working on the Good Friday are available to them but that the premises can still open.

Mr Quine: That is right.

Mr Brown: Now, I have to say that I do not have a big problem with that, because I think if we are willing to give that on a Sunday then I do not see a problem in giving that on a Friday, which is Good Friday. I would just make the point that as a general thing I suppose I find the debate interesting in that there seems to be this view building up that there is a problem with shopkeepers or people who operate retail business -

Mrs Crowe: Absolutely.

Mr Brown: - and that unlike any other business entrepreneur they cannot be trusted to do anything. But that is really something we debated at the second reading. As I say, I certainly do not have a problem in 'Sunday' including Christmas Day and Good Friday, and I think maybe one way to resolve this is to take each paragraph as it is, again to which I have no problem because the rest I do not agree with.

Mr Cannan: Just for clarification, Mr Speaker, I support what has been said by the hon. member for Castletown as long as the worker on Good Friday has the option to opt out. This does not mean that the shop closes. The shop can remain open but the right of the worker to opt out, and on that basis I support this amendment and I hope everybody else will too, because it is just worker protection, not closing the shops.

The Speaker: Hon. members, before I invite the hon. member for Ramsey to reply to his amendment can I tell the hon. House that it would be my intention to take the amendment in four pieces. I think we could take page 1, line 1 down as far as 'employment' as the first; we take page 2, line 15 and line 16 and 18, that piece where it omits and rennumbers, as the second; line 28 down to line 31 dealing with 'shop work' and 'shop worker' I would take as one paragraph; and line 32 for the definition of Sunday. So I would divide the amendment, with your blessing, into four parts. I have the hon. member for Ramsey to reply to the amendment, please.

Mr Singer: Thank you, Mr Speaker. If I can refer to comments by the hon. member for Garff, if he refers to the next clause, clause 2, the point is clarified there in that it will be moved that no shop worker will be required to engage in any shop work on Christmas Day but specifically takes out that it says it shall not apply to pharmacies on Christmas Day. So they will be allowed to open to dispense medicines and sell medicines on Christmas Day. This is purely the definition of retail trade and business. So if the hon. House accepts clause 2 then pharmacies will be allowed to open on Christmas Day.

I must say I thought that the hon. mover of the Bill had rather a dismissive attitude - I do not know whether it was deliberate or not - but certainly to say the words 'no detriment' - full stop - we do not know what a detriment is if it is not written in the Bill. It does say, as I have said, what is not a detriment but it does not tell you what a detriment is. Now, it is very difficult for an employer or an industrial tribunal to have any guide what as to what a detriment is unless it is actually in the Bill, and that is what the intention of this is, to say what positively is a detriment, and then decisions can be made on that.

As far as the definition of 'retail business' is concerned, I think we have dealt with that.

Shop work - if we believe, as I said in trying to move it to a select committee, that shop work is standing behind a counter, filling a few shelves, closing and locking the door and going away, it is not. The hon. member herself referred in her speech to the House of Keys at the second reading she referred to large retailers who can open all day, every day, 24 hours a day et cetera, and that is what possibly we are moving to on this Island in the future. With Tesco's coming they may wish to open 24 hours a day. They may wish to open all day Sunday, and all this is doing is saying that those workers who work in that shop - and they are not just people serving - are employed by that shop and their jobs are relied on to run that shop smoothly, and it is all those categories that I have talked about before. What I am saying here is that those people employed by that shop are a shop worker, not bringing in their accountants who they employ as their accountant. People whose job is in that shop on those premises - I am saying and this is saying they should be covered by this Bill so that they can opt out, because it seems very unfair that a person who is serving or taking the money at the till can opt out and yet somebody who is doing another job filling shelves, or working as they do - they have computerisation - should not be covered. So I am hoping that members will accept this definition of a shop worker and shop work so it does cover everyone and does not create anomalies.

Several members have mentioned Good Friday and I would make it clear, I think, to the hon. Mr Brown, who mentioned it, and the hon. member for Michael mentioned it: yes, this amendment means that Good Friday would be treated as Sunday, so that on Sunday people can opt out but those who opt in and those who work only on Sunday will be able to keep that shop open. The shop will not be forced to close on a Good Friday, and so bringing that in, Mr Brown, is not being detrimental to the business. Thank you.

The Speaker: Hon. members, for the purposes of clarity the suggestion made by Mr Singer with reference to clause 2 relative to pharmacies has been circulated as a proposed amendment in the name of Mr Henderson. Now then, hon. member for Rushen, do you wish to wind up on the debate on clause 1?

Mrs Crowe: I think it is quite clear -

Mr Cretney: Yes! *(Laughter)*

Mrs Crowe: - from my previous comments: 'no detriment' means 'no detriment'. To start qualifying the fact that harm can be done to one then, in a way, narrows the field; at the moment it is no detriment whatsoever to be included.

We have mentioned again the shop worker. It is ridiculous that we would expand that range. Anyone, as Mr Singer suggested, who works in a shop will be classed as a shop worker. It does not matter if they fill the shelves, serve at the till or are in charge of, I do not know, storing the uniforms. They are a shop worker by the definition, but we do not want to include carpet-layers that may come in on a Sunday or contract cleaners, whatever. It is not necessary. This is the Shops Bill.

As for the Good Friday amendment I am perfectly happy to go along with that. **(Members: Hear, hear.)** It has always been my. . . As one of the 6 per cent who actually do go to church on this Island I am quite delighted to include Good Friday as part of this Bill.

Mr Quine: Methodist?

Mrs Crowe: Either.

The Speaker: Hon. members, the motion is that clause 1 stand part of the Bill. To that we have the amendment as moved by the hon. member for Ramsey, Mr Singer, and circulated to you on your white paper. I propose to take that amendment in the four pieces which I have already indicated to you. So taking the first section then - in other words, if you are following your white paper, from page 1 after line 9 insert 'as far as employment', in other words, the definition of 'detriment'. Will those in favour of that standing as an amendment please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Cannan, Quine, Henderson, Duggan, Braidwood, Mrs Cannell and Mr Singer - 7

Against: Messrs Gilbey, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Cretney, Shimmin, Downie, Mrs Hannan, Messrs Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 17

The Speaker: With 17 votes cast against, hon. members, 7 votes cast for, it fails to carry.

We deal, then, with the second part, in other words from page 2, line 15, including lines 16 to 18. All members clear? Will those in favour please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Cannan, Quine, Henderson, Duggan, Mrs Cannell, Messrs Singer and Karran - 7

Against: Messrs Gilbey, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Cretney, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Bell, Corkill, Cannell, Gelling and the Speaker - 17

The Speaker: Again, hon. members, it fails to carry, with 17 votes cast against and 7 votes for. We take the third part of the suggested amendment, from line 28 to line 31 - in other words, including the definitions of 'shop work' and 'shop worker'. Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Cannan, Quine, Henderson, Duggan, Mrs Cannell, Messrs Singer and Karran - 7

Against: Messrs Gilbey, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Cretney, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Bell, Corkill, Cannell, Gelling and the Speaker - 17

The Speaker: Again, hon. members, it fails to carry with 17 votes cast against and 7 votes for.

We come to the final part of the suggested amendment: from line 32 for the definition of 'Sunday' substitute 'Sunday includes Christmas Day and Good Friday'. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Now, clause 1 as amended, hon. members. 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, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 24

Against: None

The Speaker: I take it, hon. members, that clause 1 as amended passed unanimously. We turn then to clause 2. I call upon the hon. member for Rushen, Mrs Crowe.

Mrs Crowe: Clause 2 makes it an offence for shops to open for the serving of customers on Christmas Day.

Sub-clause (1) requires shops to be closed for the serving of customers on Christmas Day. There are no exceptions.

Sub-clause (2) makes failure to comply a criminal offence with a maximum penalty of £2,500. Mr Speaker, I beg to move clause 2 stand part of the Bill.

Mr Cretney: I beg to second, Mr Speaker, and in so doing can I say I think that this is a significant improvement upon the present situation in as much as I do not believe there should be any reason why any shop should have to open on a Christmas Day.

Members: Hear, hear.

Mr Henderson: Mr Speaker, I wish to move the following amendment to this clause circulated in my name to all members. The amendment comes in two parts, sir, the first being on page 3, after line 24 insert 'No shop worker shall be required to engage in any shop work on Christmas Day', and the reason for this amendment is as follows: it allows for work on Sunday to take place but provides an improved amount of protection for Christmas Day. At present the Bill states that every shop shall be closed for the serving of customers on Christmas Day. Therefore staff could technically be brought in to work on Christmas Day to perform other duties other than serving such as stocking shelves or stocktaking. The amendment removes this anomaly in the current drafting and also adjusts the wording which was to link in with the previous amendment, but nonetheless this does offer or afford further improved protection.

Having said that, it also links into the second part of this amendment, which is again circulated to all members under my name: insert after line 24 and immediately following the aforementioned, '(3) Subsections (1) and (2) shall not apply to shop work undertaken in connection with the sale of medicines and medical or surgical appliances at any premises registered under section 75 of the Medicines Act 1976' and then we renumber the subsequent sub-clauses. The reason for this is also in keeping with the comments put forth by the hon. member for Garff on the previous amendment, but nonetheless it also allows for work on Sunday but allowing an improved amount of protection for urgent necessity on Christmas Day, removing anomalies which exist in the current drafting whereby it states currently at line 24 of this sub-clause 'Every shop shall be closed for the serving of customers on Christmas Day.'

This means that every shop will be shut, the amendment allowing pharmacies to open for medicines as they are an extension and an integral part of the urgent medical hospital service available at all times, e.g. urgent prescriptions for, say, an antibiotic medicine. This clarifies that pharmacies are not specifically excluded in the generalisations used in the Bill for Christmas Day and therefore would be able to open and people can get medicines if needs be. I therefore beg to move, sir:

Page 3, after line 24; insert -

“(2) No shop worker shall be required to engage in any shop work on Christmas Day.

(3) Subsections (1) and (2) shall not apply to shop work undertaken in connection with the sale of medicines and medical or surgical appliances at any premises registered under section 75 of the Medicines Act 1976 [c.22]”,

and re-number the subsequent subsection.

Mr Quine: I beg to second, sir.

Mr Cannell: Mr Speaker, this is the one item in the Bill which I queried at the presentation, and I undertook to do the same again because I cannot see why there is a particular discrimination for Christmas Day except for the obvious reasons that people probably do not want to work on that day, but my opinion is that if shopkeepers, perhaps one-man-band shopkeepers, care to take the risk of opening on Christmas Day and are prepared to service that and there are sufficient people to actually buy or have goods vended to him on that day then he should be able to do so. I do not see the distinction between Christmas Day. It could be said to be a special day but it is no more special than we have just varied for Good Friday, but because it is expedient for Good Friday because it is a tourist day on Good Friday, then that is all right. What about when you are in a hotel and you have a shop, as indeed there is going to be a lot more of this year where people for the millennium are going to be in hotels over the weekend and people wish to buy something in a hotel shop? Are they going to be prevented from doing so by this Bill and what is the difference between Christmas Day and any other day if you are not of a Christian conviction? You could well be allied to a religion which has nothing whatever to do with recognising Christmas Day. I know it is a long shot but this is my only query on the entire Bill. I just do not see the point in making one discriminatory day. I think you should either say the whole lot or nothing at all.

A Member: Scrooge!

Mr Downie: Just to clarify a similar point. What if somebody came to the Isle of Man over the Christmas holidays and they came from the UK, they have brought a car with them, Christmas Eve there is a problem with the car, there is a vital part required for the next day, very easy to fit, they could be going back to the UK very early on Boxing Day morning and to get that part they need access to a shop? They get hold of somebody who has a key to the accessory shop where this component is. Are they going to be committed on a mortal offence by selling this person this part so they can get on their way? I do not know. These are the areas that worry me, because I wonder what sort of a police state we are trying to set up here. I accept that this is done with the best of intent but there will be problems along the way which will need to be addressed.

I am not sure whether Mr Henderson's amendment was seconded. Has it been seconded?

The Speaker: Yes.

Mr Downie: Right. Just to deal with that, 'No shop worker shall be required to engage in any shop work on Christmas Day' - there again the small man. . . and if you walk down through the street here the big issue in Douglas is not Christmas Day but Boxing Day, because that is when all the sales start (**Mrs Crowe:** Yes.), and there is absolutely no doubt about it: there are people who do come in for an hour and they get very well rewarded by the boss to get ready for the sale on the following day, and I know some shops workers who look forward to going in on Christmas Day because in the evening there when they have done their bits and pieces - they are not serving in the shop but they are getting ready for the sales - that is the day that the owner of the business treats them afterwards and they have a party on the eve of Christmas Day, and these things have got to be taken into consideration and I think we are running the risk here of introducing curfews of virtually saying anybody on the streets on Christmas Day is liable to be shot. (**Mrs Crowe:** Yes.) Now, I do not want to give that impression. (*Mrs Crowe interjecting*) I respect what we are trying to do in the legislation but I do not want to tie us down too much and leave us with all sorts of problems. Thank you, Mr Speaker.

Sir Miles Walker: Mr Speaker, I am supportive of this clause. In broad terms it is right, I think, that shops are not open on a Sunday. I am concerned, though, about making it a criminal offence (**A Member:** Hear, hear.) if people do serve in a shop, and just sitting here thinking about it brought to my mind the situation of a lady, a widow, who on Christmas Day - and I know this because she rang me up first - rang up to say that her dog had taken the Christmas chicken. (*Laughter*) Now, we can laugh but it is quite serious for somebody on their own looking forward to Christmas dinner and she rang me up to see if we had a chicken that we could substitute for the one that was pinched by the dog, and we did not. I know that she rang the butcher -

Mr Downie: They would want a shotgun to shoot the dog. (*Expressions of disapproval*)

Sir Miles Walker: - and the butcher said, 'Yes, I will meet you down in the shop in half an hour and I will sort you out with another chicken.'

Mrs Crowe: That was a criminal offence.

Sir Miles Walker: Now, I think that that situation is a real one which happens in the Isle of Man and to make it a criminal offence in there seems to me to be pretty stupid, quite honestly, (*Interjections*) and I would hope that if a situation like that does arrive and somebody gets in touch with an inspector he would say, 'I am too busy enjoying my Christmas dinner to be bothered with this nonsense,' because that it is what it is. I share the concern that has been expressed by Mr Downie and I think Mr Cannell when they were on their feet but I do not know how you legislate for this one.

The Speaker: Just one moment, hon. members. I have a sudden recollection that I might have omitted Mr Bell. Did you wish to speak?

Mr Bell: No, it is all right.

The Speaker: Okay. In that case, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I would just like to ask: on this clause 2, where every shop should be closed for the serving of customers on Christmas Day, the fact that it is an offence if somebody opens on Christmas Day and is fined £2,500 and on (3) under clause 2. . . Oh no, sorry, we are not onto clause 3. Well, I would just like to concur with the view expressed by the previous speaker in relation to the fine of £2,500. I would ask, though, how is this going to be enforced? (**Mr Duggan:** Hear, hear.) If all the shops are to be closed for the serving of customers on Christmas Day, does that then suggest that the Trading Standards Office will not be closed and that the officers will be out checking on who is open and who is not? (*Mrs Crowe interjecting*) There is no point putting this in legislation if it is actually going to be enforced. We are merely paying lip service here for the likes of Christmas Day, which I think is rather unfortunate.

Mr Singer: I think, briefly, it is a matter of rationalisation here. I listened to the hon. member for Onchan and I have sympathy with his point about Christmas Day and that perhaps Christmas Day should have been treated as Sunday and as Good Friday so that the opting-in worker could wish to do so, but the department has made it quite clear that that is not possible, and I am surprised, really, that if the hon. member felt that way I thought he might have brought an amendment to that. That would probably have received support, but the fact is today there is no amendment on that, and what this one is saying here - whilst it is saying every shop shall be closed for the serving of customers, without this amendment by Mr Henderson it means that a worker can be asked or told, almost, to come in by an employer even though he does not wish to. So Mr Henderson's amendment is clarifying this to say that not only should the shop be closed but if the shop is going to be closed on Christmas Day then no shop worker should be in there or should be forced to come in there. Not every employer would bring someone in and give him Christmas cake and a glass of wine. He would be there made to do his work.

Mr Brown: Mr Speaker, I think, trying to clarify a few points, concern is raised about Christmas Day, and I think, if we take the point that has been raised, that it states every shop shall be closed for the serving of customers on Christmas Day, that is what is being put into this legislation and that if an occupier of a shop fails to comply then they shall be guilty of an offence of £2,500. And of course it will be, as we will see in the next clause, the Office of Fair Trading which is responsible for the enforcement of that part of the Act. If I can remind members that the existing law which we have had since 1985 - and I quote section 2 - states, 'Subject to subsection (2) every shop shall be closed for the serving of customers (a) between the hours of 8.30 a.m. and 2.00 p.m.; and (b) between the hours of 5.30 p.m. and midnight on every Sunday, Christmas Day and Good Friday.' So in other words, now it is a criminal offence because there is a fine there of £1,000 and if this gentleman served the turkey to the lady was actually committing an offence. So the law is that now.

Mr Downie: Tell Marks & Spencer's!

Mr Brown: What we have done in the changes proposed in this Bill is to actually concentrate on Christmas Day, and out of all the other days - Sunday, Good Friday and so on - we have said in the Bill that Christmas Day is the only one that would be left, and that it will be an offence, as it is now, to serve on Christmas Day, and there has been an increase in the fine from £1,000 to £2,500. I think it is important that if you are going to make it an effective offence, if that is what you want, then the fine has to be £2,500, because otherwise in profit

terms even to the larger shops, which of course the courts can take into account, £2,500 profit is actually quite hard to attain unless they are very busy, so I think that that is a reasonable sum as far as I am concerned.

As for the amendment from the hon. member Mr Henderson I am not really sure why that is in, because under the Bill 'shop worker' is defined, 'Sunday' is defined as Christmas Day, therefore a person cannot be required to work on Christmas Day in a shop because under the provisions of clause 4 of the Bill they will be a protected shop worker. Therefore, if you look at the Bill as it is laid out, there is an awful lot of cross-referencing because that is to make it work, and my understanding is that nobody can be forced to work on Christmas Day in the shop, regardless of whether or not they are serving customers - because of course the law says you cannot serve - but they could be asked by their employer to work in the shop on the Sunday stacking shelves, getting it ready for the sale on Boxing Day, but the important thing is that even as the Bill is now written and if we pass clause 4 my understanding is they cannot be required because they have the protection under the legislation. Therefore I believe that the amendment in the name of the hon. member Mr Henderson is unnecessary and because of that I do not feel there is a need to support it.

Mr Rodan: Mr Speaker, in a similar vein to the last speaker I would question the need for the proposed new sub-clause (3) in connection with the sale of medicines, because with the definitions having been left in clause 1 it would appear to be completely unnecessary because, the definition of a shop being premises where any retail trade or business is carried on - and a retail trade or business does not include the sale of medicines - this sub-clause is completely unnecessary because it is currently taken care of both in the definition of 'shop' and 'shop worker'.

Mrs Hannan: Vainstyr Loayreyder, I would just like to try to be a little helpful, but the question was posed by the member for Douglas West and also the member for Rushen regarding what would happen in certain circumstances, and I believe the enforcement officers, which is the Isle of Man Office of Fair Trading, would consider each case, and, even if it was decided a case such as has been suggested by the member for Rushen or by the member for Douglas West was taken to court, I even believe that the court would ask if everybody acted in a reasonable way and I am sure that the court would come down in the case that, yes, it was an emergency and in an emergency, yes, the person can be assisted to repair his vehicle or get something for that or, in relation to the chicken, that could also be, but it would be in an emergency and the enforcement would look at something such as that.

Mr Karran: Vainstyr Loayreyder, I would just like it to be clarified by the mover of the Bill and the amendment. When we talk about no shop worker being required or engaged in any shop work on Christmas Day, under the present provisions the owner can request you to do so for up to three months' notice, if I remember. What happens if the owner decides a month before Christmas to tell the shop worker that he has to work on Christmas Day? How does the saving grace between the three-month rule work then? So I think that when the hon. member for Castletown says that the amendment is not required we need to clarify that point, because I think actually, when you look at it, the technicality of the way that you have got to give notice and you are expected to do it for that time needs to be clarified. So there might be a valid reason for the hon. member for North Douglas's amendment.

I personally do not think shops should be open on Christmas Day, to be honest with you, and I personally think that the hon. member for Rushen as far as his point in these emergencies - well, I would hope common sense prevailed, but the point is we are not here for common sense (*Laughter*); we are here for the laws of the land, and if we allow this legislation as it is to go through then the legislation is there and we have only got to see the problems we have got with some of them in the judiciary at the present time, which puts us in a very awkward position. So I am just wondering whether the hon. mover would consider whether we should be actually replacing her (1) with the hon. member's for North Douglas's amendment (2) and replacing 'occupier' with 'owner' of a shop that fails to comply with enforcing any shop worker to be engaged on shop work will be entitled to £2,500. I think that that more likely would be a far better way of getting around the problem that we are here making the laws of the land today and you cannot allow for the flexibility of saying, 'Well, we will not do it under this circumstance but we will do it,' because I think then we do bring the law into disrepute.

So I feel that if it was possible that we could have a change as far as an amendment on the basis that the amendment in the hon. member for North Douglas's motion amends sub-clause (1) of clause 2 and that there is an amendment to sub-clause (2) of clause 2 being the owner, so it would be quite clear that a shop can be opened but there will be the severest of restrictions as far as an owner or the boss trying to force a worker to work on Christmas Day, because that is the one thing I do have a lot of sympathy with - the fact of people being forced to work on Christmas Day, and I do feel that that is something that has to be defended. I personally would like to defend all shops being shut on Christmas Day, but at the end of the day I do feel that what we should be looking at today is maybe amalgamating the two amendments so that we can have a situation where it shows that we are committed to the recognition of the value of Christmas Day and that we will look upon it in the harshest of terms to forcing an employee to work on a Christmas Day but allow the flexibility as far as Christmas Day opening is concerned, and I think that that is maybe the way forward and maybe at this late date we might adjourn early in order that that issue can be addressed.

The Speaker: Keep talking and we will be late!

Messrs Singer and Quine: Give it to a select committee.

Mr Karran: Maybe then we could have a suitably worded amendment for clause 2 which can take on board the valuable points of the mover of the clause and also the valuable points of the mover of the amendment, which do not both seem to have got it a hundred per cent correct.

Mr North: Mr Speaker, could I ask the hon. mover of the amendment please just to clarify? I am getting a bit concerned about e-commerce and shops on the internet being able to operate on 365 days of the year who probably will not have any staff in, but will they be able to operate? I suspect his amendment is going to cause problems.

Mr Cannell: Mr Speaker if I might make so bold, please, I have lost the connection between the amendment, the motion and clause 1 (*Laughter*), where 'shop worker' is defined at line 30 on page 2, 'any person wholly or mainly employed in a shop.' Does that include the owner?

The Speaker: No, because in fact the word on the end of the first line there, hon. member for Onchan, is 'employed'.

Mr Cannell: Indeed.

The Speaker: Well, if you are the owner you are not employed. (*Interjections*)

Mr Karran: Let us go home!

The Speaker: Hon. member for Rushen, do you wish to speak to the amendment?

Mrs Crowe: I do, please, Mr Speaker. Yes, we did have a little difficulty with this amendment and of course, as a number of members of the House have pointed out, (3) is no longer applicable as this hinges on the amending definition in clause 1 which we have already dismissed, and the shop worker shall not be engaged to work in a shop; no shop will be open on Christmas Day and so consequently no workers will be in that shop for the serving of customers. Thank you, Mr Speaker.

The Speaker: We call upon the hon. member for Douglas North to reply to the debate on his amendment. Now, before you do, sir, could we just have it perfectly plain for my purposes if not for the House's purposes: it appears to me as if your (3) 'Subsections (1) and (2) shall not apply. . .' has been overtaken by the fact that Mr Singer's amendment did not get passed. It could remain in - it has been properly seconded - if you so wish. It simply strikes me as being belt and braces and unnecessary. Now, sir.

Mr Henderson: Thank you, Mr Speaker, for your point of clarification on that. That very subject has been pointed out to me by the learned Secretary and it was an issue that I was going to raise anyway, which is also in response to the hon. member Mr Rodan's query; it has been superseded now although I did indicate in my opening remarks that it was inclusive, but such is the pace of the debate, sir.

Having said that, I wish to address the amendment that I moved, which has nothing to do with enforcement issues or other issues because, as Mr Cannell pointed out, plenty of various different things have been thrown around in the debate and my amendment, the first part of it, still stands in that no shop worker shall be required to engage in any shop work on Christmas Day.

Now, in response to various members' concerns or queries on that, Mr Downie mentioned that it could have a problem with the small man and small business. Well, this gives the shop worker an option rather than it is not a directive but it does give somebody a chance to opt out who is not classed as a serving member of staff.

Mr Brown was concerned. He cannot see the point in the amendment anyway, but it is my contention that it is necessary to provide that little bit of extra contention because to my mind this point in the Bill can be read two different ways and this would slightly adjust it and make it slightly clearer in my opinion.

Mr Karran mentioned he wanted clarification and he mentioned about Christmas Day or everything should be shut anyway in honour of the day and, to be quite honest, I fully support that sentiment, but in relation to the amendment it affords a worker a little bit more protection, which is in keeping with Mr Karran's concerns about workers being forced in, and that was my concern for moving the amendment in the first place. Somebody who is not actually serving but who works in the 'back room' could well be forced in, and this gives them the option. No doubt they would but, if they were really stuck, then they would not have to; they would be afforded a certain amount of protection.

Mr North mentioned e-commerce. Well, I am afraid that is not for my amendment; it only allows that somebody in the back room may have a choice and it is for a debate on another day for that to be discussed.

Mrs Crowe said she had difficulty with the amendment but I am sure she is going to have difficulty with every amendment moved between now and when we finish this Shops Bill, but nonetheless this is an honest attempt to address an anomaly that I felt was here and to help the Bill through on its passage.

In summing up in general, the Bill states that every shop shall be closed for the serving of customers on Christmas Day. Therefore staff could technically be brought in to work on Christmas Day to perform other functions. My amendment simply addresses that, giving them a choice of protection, sir. Thank you.

The Speaker: Now again, just for the purposes of clarity, sir, I take it that in fact your subsection (3) will be deleted and we will just be, as far as your amendment is concerned, dealing with number 2 and renumbering the subsequent subsection.

Mr Henderson: Yes, Mr Speaker, that is correct.

The Speaker: The hon. member for Rushen to reply to the debate, please.

Mrs Crowe: Thank you, Mr Speaker. A number of points have been raised and it seems to have come as a surprise to some members of the House that traders who open on a Sunday at the present time are committing a criminal offence and, much as I would like to say to trading standards inspectors - because it will cause a great deal of problems or has done in the past, hopefully not in the future - 'Please everyone go somewhere else and turn a blind eye to traders that are open', trading standards inspectors have a statutory duty to enforce this legislation, and that is the reason that we are now proceeding with this Bill in the hope that we can get away from criminalising traders who open on a Sunday at the present time. But clause 2 makes it quite clear: no shops will be open on Christmas day. No-one will be in the shops to serve customers on Christmas Day and it will be a criminal offence subject to a penalty of £2,500. Now, if the House wishes not to make it a criminal offence and treat it as any other day that is up to them but, as written, clause 2 is perfectly clear. Thank you, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 2 stand part of the Bill. To that we have the amendment in the name of Mr Henderson, which is on page 3 after line 24, insert '(2) No shop worker shall be required to engage in any shop work on Christmas Day' and renumber the subsequent subsections. Will those in favour of that amendment please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Cannan, Quine, Henderson, Cretney, Duggan, Mrs Cannell, Mrs Hannan, Messrs Singer, Karran - 9

Against: Messrs Gilbey, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Braidwood, Shimmin, Downie, Bell, Corkill, Cannell, Gelling and the Speaker - 15

The Speaker: The amendment fails to carry, hon. members, 15 votes cast against and 9 votes cast for. Therefore I will put the clause in its totality. Those in favour that clause 2 stand part of the Bill, 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, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Karran, Corkill, Gelling and the Speaker - 22

Against: Messrs Duggan and Cannell - 2

The Speaker: The motion carries, hon. members, with 22 votes cast for and 2 votes cast against. Hon. members, in looking at our clock I think it is time that we shut shop as well (**Members:** Hear, hear.) but I would like to inform the House that in fact five members - Sir Miles Walker, the hon. members Mr Downie, Mr Shimmin, Mr Singer and Mr Brown - have all sought and been granted absence from next week's sitting due to their being away from the Island on government business. Five members will be missing next week. Hon. members, it is fairly evident from the discussion so far on the Shops Bill and the way in which the matter has been handled in regard to the amendments that it is sensitive. In that case, hon. members, I would propose to hold over the Shops Bill with your concurrence for a week. Are you content, hon. members?

Members: *Agreed.*

The Speaker: In that case, hon. members, the House will stand adjourned until Tuesday next at 10 a.m.

The House adjourned at 5.39 p.m.