

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 29th February 2000
at 10.00 a.m.**

Present:

The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Mr R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon W A Gilbey (Glenfaba); Hon S C Rodan (Garff); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Mr J P Shimmin 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.

Apologies for Absence

The Speaker: Hon. members, the hon. member for Middle, Mr North, will be arriving later this morning. He is off the Island on government business and will be returning as soon as he practically can.

Crowe EPH Ltd – Liquidation – Inquiry – Question by Mr Houghton

The Speaker: We turn then, hon. members, to our order paper and I call upon the hon. member for Douglas North to ask the question in his name.

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

- (1) *Will you initiate a Council of Ministers inquiry into the liquidation of Crowe EPH Ltd in the context of the construction of the new hospital; and*
- (2) *if so, will you publish the report of the inquiry?*

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

Mr Gelling: Yes, Mr Speaker, the Department of Health and Social Security has been asked to provide to the Council of Ministers a preliminary report on the liquidation of Crowe EPH Ltd. Now, on receipt of that report the Council of Ministers will consider whether and in what form further inquiries should be made.

Mr Houghton: Mr Speaker, in view of this very serious matter and taking into consideration certain allegations, will the hon. Chief Minister agree in the first instance that he should call in the fraud squad to investigate these complaints thoroughly, and whilst investigations are being undertaken would he ensure that those involved who have no fixed abode on this Island will have their passports confiscated, sir?

Mr Gelling: No, I could not agree, Mr Speaker, with the hon. questioner's statement about what should happen. This will be an orderly liquidation, a meeting has already been called and we await the outcome of that, sir.

Mr Henderson: Mr Speaker, will the Chief Minister, on receipt of the report from the DHSS, give a commitment to this House this morning that on receipt of the report the whole issue should be commended to the Public Accounts Committee for examination?

Mr Gelling: Well, not having considered the report, Mr Speaker, it is rather difficult to say what the next step might be and I have already said that on considering that at the Council of Ministers we will then look to see where we go from there, sir.

Mr Quine: Would the Chief Minister not agree that any inquiry conducted by government is going to carry no public credibility and will he not seize the initiative now and come forward and recommend a select committee?

Mr Gelling: Again it is hard to accept the hon. member for Ayre's assumption that an internal report will not have credibility. **(Mr Gilbey:** Hear, hear.)

Mr Speaker, the situation is quite clear. There are two parts to this sorry state that we find ourselves in and I would like to express here and now that we in the Council of Ministers are just as concerned as anybody else at the position we find ourselves in. To state at this time that there should be a select committee to look into something - surely we must know what we are supposed to be looking into before we embark on such a situation as a select committee, sir.

Mrs Cannell: Mr Speaker, in view of the great public concern in relation to this whole matter, does the Chief Minister not agree with me that a public inquiry ought to be initiated and that it would be prudent to do so?

Mr Gelling: I would be probably better informed, Mr Speaker, if the hon. questioner had told me what this great public concern is. Is it the public concern of the taxpayer that perhaps this particular incident might cost us more to finish the hospital? Is it the concern of those suppliers who have found themselves in a position whereby they are creditors of this particular company? It is a situation that we are talking about now prematurely before we in turn have had an internal inquiry whereby we will have the report and I would suggest that the liquidator in turn will have to see what went wrong with the actual company, sir.

Mr Cannan: Will the Chief Minister take note that the Public Accounts Committee have arranged to meet tomorrow afternoon with a view to establishing a sub-committee for consideration and report into the matter of Crowe EPH, and the new hospital and further will the Chief Minister note that the Chairman of the Public Accounts Committee, Sir Miles Walker, has declared a conflict of interest by virtue of his membership of the Treasury and will not therefore take part in the investigation?

Mr Gelling: Mr Speaker, I would have certainly been surprised if they had not done so.

Mr Henderson: Mr Speaker, would the Chief Minister give an undertaking that on receipt of any information he will ensure that previous situations that have arisen and recommendations from those previous situations will be considered in his deliberations and also will he give an undertaking to examining the reasons behind the demise of two of Crowe EPH's predecessors, Farran's and Doyle's, which will also be encompassed in any deliberations?

The Speaker: Now, hon. members, I think we need to be careful that we do not widen the questions too far. The Chief Minister to reply.

Mr Gelling: Yes, indeed, Mr Speaker, we obviously will be asking for all the information that will be relevant to finding out how this incident occurred, so therefore any information that we have to hand will be considered, sir.

Mrs Cannell: Mr Speaker, does the hon. Chief Minister have any intention whatsoever to make the findings of his investigation or his Council of Ministers' investigation public, and if so, when is that likely to be?

The Speaker: Chief Minister, I think you have already replied to the second part of the original question.

Mr Gelling: Yes, Mr Speaker, whatever we find and if anything we find is something that should have happened and did not happen, it is obvious that this will be made public for the simple reason that if that is the case, and I say quite straight if that is the case, it is something we must learn from, so therefore I would accept that that will be the situation, that if we find that something that should have been done has not been done, certainly that will be rectified.

Crowe EPH Ltd – Creditors – Question by Mr Henderson

The Speaker: We turn then, hon. members, to item 2 on your order paper and I call upon the hon. member for Douglas North, Mr Henderson.

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

- (1) *How many resident Manx creditors are there of Crowe EPH Ltd; and*
- (2) *what is the liability of Crowe EPH Ltd to each of them?*

The Speaker: The Chief Minister to reply.

Mr Gelling: Yes, Mr Speaker, this following on directly after the other question it is difficult to perhaps not have answered some of it in the first question, but in answer to the two parts of the question from the hon. member for Douglas North, Mr Henderson, Crowe EPH Ltd convened a meeting of its creditors on 17th February this year. Now, the notice convening the meeting indicated that its purpose was to appoint a liquidator, to appoint a committee of inspection, to fix the liquidator's remuneration and to bring the directors' powers to an end.

Now, at the creditors' meeting on the 17th February I understand that Mr George Noble was appointed as liquidator along with a committee of inspection comprising a representative from each of five companies. Now, I also understand that at the meeting on 17th February Crowe EPH Ltd circulated a statement of its affairs as at 16th February 2000, together with a list of creditors.

Now, creditors of Crowe EPH Ltd have until 24th March to lodge their claims with the liquidator and until that time the liquidator will not be in a position to confirm the full extent and the validity of the claims by creditors of the company, sir.

Mr Henderson: Mr Speaker, I thank the Chief Minister for that answer, but even so, and the establishment of any validity, could he confirm that as it stands at the minute there are 50-plus creditors on that list and possibly somewhere in the region of £900,000 being the figure owed, and could he give an estimate if there are any losses which may be incurred to the government as a consequence of Crowe EPH going into liquidation?

Mr Gelling: Yes, I wish to comment on the list that was circulated in public at the time. Mr Speaker, that is not signed, it is not a valid document in any shape or form, it does not have addresses for any of the companies on the list, so, as I say, that is a list that was made public at that time but it is one that you could not base any validity on for the simple reason that even the author of it is not signified on that particular paper, but let us address that particular list, sir. That list does signify that there is somewhere in the region of £900,000 owed by Crowe EPH to its suppliers and subcontractors, but basically as far as the government is concerned, that is part of the inquiry we are making at this time as to what could be owed in national insurance, tax and VAT, sir.

Mr Houghton: Mr Speaker, can the hon. Chief Minister confirm that the directors of Crowe EPH would incur legal liabilities if they knowingly permitted the company to trade while insolvent, and if so, would he invite the liquidator to investigate the position in relation to Crowe EPH with a view to prosecution and recovery of financial losses of the creditors, sir?

Mr Gelling: Again I would say the answer to the first part is yes and I would have thought that that is all part of the liquidator's job, sir, to recover as much as they can to pay creditors.

Mrs Cannell: Mr Speaker, can the hon. Chief Minister answer whether or not the directors of Crowe EPH hold an indemnity from the parent company, and if so, what is the extent of such indemnity?

Mr Gelling: Again I am responding here, Mr Speaker, to rumour. I have no indication whatsoever that any of the suppliers to Crowe EPH had any guarantee from anyone other than Crowe EPH and their track record as to whether or not they would be paid, so therefore again I would suggest that this is something that is out on the street, that some of these suppliers have a guarantor from the parent in the UK, but that again is only something that I have heard, sir, it is not something I have seen in writing.

Mr Quine: Can the Chief Minister confirm that the DHSS met with Crowe EPH representatives on 21st January or thereabouts to consider a proposition for a variation in terms of contract which was agreed in principle but declined a week later, turned down a week later? What was the proposition put forward by Crowe EPH and why was it subsequently rejected?

The Speaker: The Chief Minister to reply and again, hon. members, we are in danger of widening the question.

Mr Gelling: Mr Speaker, again this is something that I would hope will be in the report to the Council of Ministers from the DHSS following our request from them for an inquiry.

Now, this is a suggestion put forward by the hon. member for Ayre, that there was a situation put to the department for consideration. Now, if that was the case, it is a simple reason that that was put to them as a way of completing the job that was probably outside the contract. Now, that is something that if they have considered and rejected, it is something that I would certainly feel sure will be in the report coming to us from the department as to whether that is the fact, and if it is, why that was turned down, sir.

The Speaker: We turn to the original questioner for a final supplementary on item 2, the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Could the Chief Minister confirm then that usually in cases such as this that government, if they are owed money, have the first option on any recovered moneys and would he not agree that in an exceptional case such as this, this right should be waived in favour of the smaller local creditors who stand to go into liquidation themselves as a result of this episode?

Mr Gelling: It is again very premature for me to answer a question like that when I do not know the facts, Mr Speaker, but what the hon. member is basically saying is that government is a preferential creditor and as such the liquidator, I suppose, will be looking at it from that angle, sir.

Crowe EPH Ltd – Treasury Procedures – Question by Mr Houghton

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

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

- (1) *What procedures did your department adopt to evaluate the appropriateness of Crowe EPH Ltd being offered a substantial contract in the construction of the new hospital; and*
- (2) *in particular -*
 - (a) *what evaluation was made of EPH (Stockport) Ltd; and*
 - (b) *were guarantees sought and obtained from EPH (Stockport) Ltd before a construction contract was offered to Crowe EPH Ltd?*

The Speaker: On this occasion I call on the Minister for the Treasury, the hon. member for Onchan, to reply.

Mr Corkill: Thank you, Mr Speaker. The manner in which the Treasury dealt with this contract followed the procedures laid down in 'Financial Regulations for Capital Schemes'. In accordance with stage 6 of the capital procedures relating to the design and construction team report a submission was made to Treasury in respect of both the work package ground floor slab and drain zones 2 and 3 and subsequently concrete frame zones 2 and 3.

The design and construction team recommended acceptance of Crowe EPH Ltd's tender in both cases, and Bovis, the management contractors, accepted the recommendations and recommended to the Department of Health and Social Security and the Treasury capital projects unit that the tenders submitted by Crowe EPH Ltd be accepted.

There were no untoward comments on the evaluations of the tender and Treasury saw no reason not to comply with the appointment of Crowe EPH Ltd.

Mr Speaker, I do not wish to say any more at this time because I do not wish anything I say to be prejudicial to any future legal action by any party.

Mr Houghton: Mr Speaker, I appreciate the hon. Treasury minister's comments at this time, but may I further just ask him this: what credit checks were actually undertaken by the department, Bovis, the design team and the Treasury and why was the parent company not asked for a guarantee, sir?

Mr Corkill: Mr Speaker, I think it would be wrong of me to add anything to the comments I have already made.

Mr Quine: The contracts in place - were they approved by Treasury, and if so, were they done by Treasury as a whole, in other words the Treasury Committee, or were they sanctioned by a member of the Treasury under delegated approval?

Mr Corkill: Mr Speaker, the capital projects unit has delegated authority under the structure of the Treasury and in the normal way deals with tenders and suggestions of tenders submitted by departments. There was nothing different about this one to other capital projects.

Mr Henderson: Mr Speaker, I would ask the Treasury minister, if he is able to comment, was his department aware at the time of the assessment of this company of the minimal share value and the fact that Crowe EPH was only formed in the late autumn of 1998?

Mr Corkill: Mr Speaker, I am in danger of straying away from the guidelines which I set myself at the beginning of this, but I do not wish to be seen to be unhelpful. Certainly with regard to the value of a particular company, then certainly I would expect the design team and the management contractors to take that into account when preparing those companies suitable to be on a tender list.

Mrs Cannell: Mr Speaker, can the hon. minister inform us as to whether or not during the contract tender evaluation undertaken by the Treasury department it was actually offered to Crowe EPH or was it Crowe (Stockport) Ltd in the first instance?

The Speaker: The Treasury minister to reply if he has the information.

Mr Corkill: I can only reiterate, Mr Speaker, that there was nothing unusual. There were a number of companies that tendered for this particular work and the lowest tender, other issues being taken into account at the same time, was accepted. I understand that the tenders submitted were reasonably close and the lowest tender was accepted from Crowe EPH.

Mr Quine: Having established that this contract was approved under delegated authority have you satisfied yourself that the member of your department responsible for that part of the exercise had before him the requisite credibility checks, both in terms of Crowe EPH and EPH (Stockport)?

Mr Corkill: Mr Speaker, I see that duty to be that of the design team and the management contractor.

School Buses – Safety of Children – Question by Mr Singer

The Speaker: We turn then, hon. members, to item 4 on the order paper and I call on the hon. member for Ramsey, Mr Singer.

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

- (1) *Is it the responsibility of your department to ensure the safety of children on school buses; and*
- (2) *if so, are you satisfied that proper supervision on school buses is available at all times?*

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

Mr Cretney: Thank you, Mr Speaker. Section 87(1) of the Isle of Man Education Act 1949 as amended provides that the Department of Education may make arrangements for the provision of Transport for children attending schools on the Island. In circumstances where that department engages the services of a bus operator such as my department for this purpose, the bus operator and the Department of Education will owe a duty of care to the pupils who travel on those buses to take reasonable steps to ensure the safety of children on those buses.

It is a responsibility of my department to operate all public transport safely. However, such responsibility would not normally extend to the behaviour of passengers towards each other. Hon. members will appreciate that young people travelling to and from school can be boisterous, to say the least. Having accepted that, the difficulty experienced by bus drivers in such circumstances should also be appreciated.

My department recognises that there have been incidents in the past on school journeys which give cause for concern. We are then required to pass on details of such incidents to the Department of Education to consider joint action. These have again been the subject of recent discussion with officials from the Department of Education with whom my department is working closely in order to try and eliminate such problems.

Travel by schoolchildren is of concern to operators, not just here on our Island, but also in the UK where there is now a growing desire for action to establish a code of practice. In the interests of best working practice my department recommends that such a code should be adopted on the Island after taking account of local conditions. The meeting held with officials from the Department of Education has resulted in an agreement in respect of the desirability of establishing a code of practice for the Island. A follow-up meeting has been planned to this end which will take account of legal advice which I asked for when this matter was drawn to my attention and I took the appropriate action.

Mr Singer: I thank the hon. minister for his answer, but would he accept from me that this is not a new problem, it has been going on for a while, and that for us to wait for this code of practice, and he has not indicated how long it is going to be, these incidents are occurring and that it is very likely that a serious incident will occur on a school bus and that we need at this time to have some kind of supervision on the bus, whether it be provided by your department or the education department, and that needs to be done as quickly as possible.

The Speaker: I am not sure there was a question there, hon. member.

Mr Cretney: I wondered, Mr Speaker, but I would like to indicate to the hon. member and to anybody who may be interested in the subject that I am concerned about the situation and that is why, together with my departmental colleague who has responsibility for the public transport section, we are taking this matter very seriously.

We are aware that there have been incidents in the past in relation to the travel of young people on school buses. Some of them are very disturbing in relation to what happens to some young children from other young children and I am afraid in part that this is an indication of the way a minority of young people act throughout society, not just on the buses, but in schools, in public places as well, which is very unfortunate and it is only a minority of young people, I would emphasise. So we are keen to take action about the situation.

In the past when this matter has been drawn to our attention what has happened is that young people have been barred from the buses for a period of time if they have been identified as causing a problem. I do not see that as a realistic long-term solution because in my opinion we need to make sure that young people are in school to get their lessons whenever possible and if a difficulty is caused in that respect I would not be happy with that.

I do believe we need to take action, and whether that will be a person that is supervising the 60 or so young people on a bus is not without its own problems, as I am sure the hon. member would appreciate. One of the other ways we have tried to tackle this situation, and it has been successful in certain respects, is that we do have the ability to video the activities that take place on buses sometimes and that has resulted in the successful identification of young people who have been involved in such incidents and has resulted in action taking place against them.

All in all I want, together with my departmental colleague, to take action sooner rather than later and, yes, the point the hon. member makes about the code of practice in the UK I share with him. All I am saying is that it is a subject which is shared by other jurisdictions outside here and the sooner we can introduce such the better.

The Speaker: Well, we have had a long answer to a non-question. The hon. member for Ayre.

Mr Quine: Mine is much shorter. What are the principal facets of this code of conduct that you are considering?

Mr Cretney: Mr Speaker, I identified that what is happening in the United Kingdom is that a code of practice is being considered. There was a recent article in the relevant trade magazine and that resulted in the editor's e-mail and fax and everything else being red hot because of the problems which exist about this and what is happening in the United Kingdom is that there is to be a conference shortly coming up to consider this matter with a view to introducing such a code of practice. At this stage they have not got to what the detail of the code of practice will include, but I am saying that I believe, separate to that in terms of the Isle of Man, which I am obliged to look after, we should be taking our own independent action sooner rather than later.

Mr Houghton: Mr Speaker, I wonder would the hon. minister advocate the Department of Education start a school prefects initiative who would only have a reporting brief, not a hands-on brief?

Mr Cretney: I think what I would like to advocate, Mr Speaker, is an open minds policy, an open mind to look at what we can do about this situation and how we can improve it.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that the important principle as far as this is concerned is the fact that we should be looking after the majority of orderly children and not the minority and will he give an assurance to this House that his staff who are driving these buses will have the support of management in order that they can put these children off the buses, and would he not also agree that it is up to the parents if these kids are disruptive, that the parents have to take responsibility? It is no good us trying to help the few at the expense of the majority of orderly kids on our buses.

Mr Cretney: Mr Speaker, it seems again that there were a number of questions tied up in the one point which was being made there. I acknowledge the points that have been made by the hon. member. I do not agree with all of them. I have to say I do agree with the point which he makes that we have an obligation to the majority of persons, the majority of young people in this case, to ensure that they are safely transported to school. I do not, however, consider it appropriate action for a bus driver to just, for example, drop a young person off out in the countryside if that young person has caused a problem. I believe that what happens normally is that the bus driver will stop. He will radio in that he has a difficulty. I support the drivers, management support the drivers in that respect and we will continue to do so. This is not something which is a management and staff issue, this is something which we have to resolve.

The Speaker: I think a final supplementary from the original questioner, the hon. member for Ramsey.

Mr Singer: Thank you, Mr Speaker. In supporting the statement of the hon. minister and his intentions to ensure that this problem is eliminated, can he tell me at the present time, whilst we are waiting for this code of conduct, who in fact now has the responsibility for ensuring the good behaviour and safety of the children on the buses, especially in the light of the fact that we are now giving children free travel on buses and we are hoping to encourage more children to use the buses?

Mr Cretney: I think I answered in the original question, Mr Speaker, that the situation is that this is a shared responsibility.

Dance and Drama – Facilities – Question by Mr Karran

The Speaker: Right, we turn to item 5 on the order paper, hon. members, and I call upon the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the the Minister for Tourism and Leisure:

- (1) *What facilities are presently provided by your department for dance and drama; and*
- (2) *what plans, if any, do you have for developing these facilities?*

The Speaker: Again it is the Minister for Tourism and Leisure, the hon. member Mr Cretney.

Mr Cretney: Thank you, Mr Speaker. My department is the major provider of facilities for the performance of both dance and drama in the Island, primarily through the Gaiety Theatre. This is in addition to providing participative opportunities in relation to dance through the Summerland complex, both on the Piazza level, for example line dancing, and in Nimo's Cave nightclub, which is another type of dancing.

With effect from 14th March my department will, of course, become the owner of the Villa Marina and both the Royal Hall and the Gardens Room are utilised for performances and activities, including ballroom dancing. The Villa Marina will continue to operate in the same way in the short term pending refurbishment. However, alternative ways in which ballroom dances in particular can be assisted during the period of refurbishment are actively being sought in addition to assisting other affected parties.

As hon. members will be aware, this year's Isle of Man budget contained within the capital programme financial provision for the refurbishment and redevelopment of the Villa

Marina along the broad lines of the original joint scheme. It is likely that in addition to the refurbishment of the Royal Hall, which will make it an altogether more attractive venue, the scheme will include the provision of smaller scale, more intimate performing spaces which would widen the range of opportunities for drama and dance.

Finally, I am aware that the Isle of Man Arts Council are investigating the acquisition of a temporary performing space which could be used at venues around the Island.

Mr Karran: Vainstyr Loayreyder, would the minister then agree that his department is looking seriously as far as these leisure activities are concerned and if organisations have got difficulties, who do they make representations to within his department?

Mr Cretney: Mr Speaker, I can 100 per cent guarantee that we are taking these matters seriously and I have had, up until now, no question that that is not the case.

In terms of contact with the department, the director of leisure is Mr Ball at the Department of Tourism and Leisure. However, there are individual managers in place at the Villa Marina, the Gaiety and Summerland and I am sure an initial contact with them would elicit the advice which any group who are interested may wish to receive. If they do not receive the correct advice, then perhaps they would go to Mr Ball. If they still do not receive the correct advice, I am happy to talk to anybody any time.

Procedural

The Speaker: Hon. members, I am aware of the House clock and I call on the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I move:

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

Mr Houghton: I beg to second, sir.

The Speaker: Is the House agreed, hon. members?

Members: Agreed.

Sports Fields – Provision at Watterson Lane, Douglas – Question by Mr Houghton

The Speaker: In that case we will continue with item 6 on the order paper and I call on the hon. member for Douglas North, Mr Houghton.

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

When do you plan to provide sports fields on land at Watterson Lane, Douglas?

The Speaker: On this occasion I call on the member for Garff, the Minister for Education, to reply.

Mr Rodan: Mr Speaker, the department has no proposals as yet for making such provision but has been engaged in an initial feasibility study, ascertaining the layout of pitches in the area available, issues such as access and shared use of facilities. The work undertaken so far has therefore been the very early stages of an option appraisal and in due course will be progressed to include an assessment of need and the likely use of any such pitches, together with costings for undertaking the necessary work.

The option appraisal will continue to be worked on over the next 12 months and I would anticipate being able to consider the options identified at the end of that period.

Mr Houghton: Mr Speaker, is the hon. minister therefore prevaricating on a previous departmental decision to provide playing-fields at Watterson Lane when it was agreed some two and a half years ago that, due to the forecasted diminution of playing-fields at both Douglas secondary schools, the fields at Watterson Lane would be used by schoolchildren for sporting facilities in the future? Has he not been advised of this?

Mr Rodan: Mr Speaker, in no way am I prevaricating on a decision of the department. The decision referred to by the hon. member related to a possible use that had been identified for an area of open land in the Douglas town plan which is currently zoned as open space in government ownership in agricultural use and a strategic option has been identified that this could be possibly used for playing-fields. As I have explained to the hon. member, the process is going on at this time of the necessary option appraisal before such use can be contemplated.

Mr Karran: Vainstyr Loayreyder, could the minister give some assurance to this House by giving some sort of timescale, as this issue has been going on a long time long before the hon. member for North Douglas came into this hon. House (**Mr Houghton:** Hear, hear.) and will he look into the issue of getting some playing-fields in that area, especially when you have the likes of Douglas Royals who are as effective as any Department of Education youth club (**Mr Houghton:** Hear, hear.) without adequate facilities for kids and can we have some sort of timescale as far as some playing-fields there?

Mr Houghton: Hear, hear.

Mr Rodan: Mr Speaker, I thought I had clearly indicated in my original answer that the option appraisal is being worked on currently -

Mr Karran: Give us a date.

Mr Rodan: - and I would expect at the end of 12 months to be able to give some further consideration to the various strategic options and I will not be drawn any further than that.

Bovis plc – Contract with Crowe EPH Ltd – Question by Mr Henderson

The Speaker: We turn then to item 7 on the order paper, hon. members. I call on the hon. member for Douglas North, Mr Henderson.

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

What part did Bovis plc play in the decision to enter into a contract with Crowe EPH Ltd for the construction of the new hospital?

The Speaker: On this occasion I call on the hon. member for Onchan, Mr Karran, a member for the Department of Health and Social Security.

Mr Karran: Vainstyr Loayreyder, under the terms of the management contract between the department and Bovis Construction Ltd, now Bovis Lend Lease, the company is, among other things, required to prepare lists in conjunction with the employer and the design team of works contractors for tendering and to investigate and report on their capabilities and financial

standing. The company is also required to assist in evaluating tenders from works contractors and making recommendations thereon.

The reports to the department which led to the awarding of two contracts to Crowe EPH Ltd incorporate reports from Bovis which in effect say that they had discharged their responsibilities on these contracts. The company has recently been invited by the department to provide further information as to the manner in which their investigative responsibilities were discharged.

Mr Henderson: Mr Speaker, could the hon. member with responsibility for Health confirm or otherwise that Bovis UK have used Crowe EPH's parent company in the UK for many years as a preferred contractor?

Mr Karran: Vainstyr Loayreyder, I cannot confirm or deny that is the case, as at the present time I am unaware. I could not say one way or the other because I am not aware of that.

Mr Singer: Mr Speaker, can I ask the hon. member do Bovis in their contract have the right to assist in the formation of sub-contractors? If so, can hon. members see the part of that contract where this is specified, and if not, are you aware that at the liquidator's meeting, David Crowe, who became a director of EPH (Isle of Man), stated that he was introduced to EPH by Bovis?

Mr Karran: Vainstyr Loayreyder, I have heard these allegations. I have no information as to whether they have been verified or not at this time.

Mr Quine: Having regard to the fact that this is our first venture into management contracting, and probably our last, can the member for Health advise us as to the position of management contractors with regard to their legal liabilities? Is it not a fact that if there is an action taken against Bovis, government are liable to be coupled with that action?

The Speaker: I do not think it is necessary to get into the duties of management contractors. The hon. member for Onchan.

Mr Karran: Vainstyr Loayreyder, I think it is very wise in hindsight to talk about the management contract now. I think there were very few of us that fought harder than myself as far as the new hospital in the previous House and we saw the errors of the ways as far as that is concerned. As the person who took up responsibility for what was decided in the previous House, it is all right the hon. member for Ayre talking about the management contract. If there had been mass unemployment and the economy had been in ruins at the present time, the management contract more likely would have served this Island well. (**Mr Gilbey:** Hear, hear.) Fortunately we have a booming economy, we do not have 2,000 unemployed and I think it is very wise with hindsight.

As far as the other side of the issue is concerned, I am very concerned that what I do not want is somebody to get a few cheap points at the cost of the taxpayer having their position weakened in order to make sure that there is a full frank investigation in this sad affair.

Mr Henderson: Mr Speaker, would the hon. member not agree that this is far from cheap points and this is very, very serious for the firms concerned who may go into liquidation themselves and would he not further agree that the setting up of Crowe EPH on the Isle of Man was little more than an administrative manipulation exercise to ensure that a UK company

got the contract, could be transplanted easily into the Island and possibly overcome some procedures and protocols.

The Speaker: Hon. member, again I do not think there is a question there. I think it is a matter of opinion. The hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Really, not dealing with cheap points but dealing with facts and truth -

Mr Bell: That will be a first. *(Laughter)*

Mr Cannell: It is certainly a change.

Mrs Cannell: - can the hon. member for the Department of Health advise as to what legal responsibility has the Department of Health for the actions of the management contractor and the project team, and is he also aware that there are problems again today with respect to the steel frame works in pursuance who are having problems with the quantity surveyor who forms part of the project team? So what legal responsibility has his department got for this?

The Speaker: Hon. member, again it is total opinion and not related to the question in any way.

Post Office Facilities in North Ramsey – Question by Mr Singer

The Speaker: We turn then to question 8 on the order paper. I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg leave to ask the Chairman of the Post Office:

When do you intend to restore the post office facilities in north Ramsey?

The Speaker: I call on the Chairman of the Post Office, the hon. member for Douglas West, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. As members may be aware, the north Ramsey sub-post office ceased operation during November 1999 due to the disappearance of the sub-postmaster. The contract was advertised in December and January with the hope that we would be able to re-establish facilities in this area as soon as possible.

There were some legal issues affecting access and stock in the shop. However, I believe these are now in the process of being resolved.

There was, regrettably, only a limited response to the advert. However, interviews did take place and for good business reasons we feel unable to accept the proposals that were put forward and therefore we are not currently in a position to reopen the office.

The criterion we applied in this process is the same as was applied to applicants for Port Erin recently and last year for Crosby Terrace. An essential element of our commitment to serving the community is ensuring that we do not simply provide a post office but the people with whom we contract are capable of delivering services to a high standard and that their plans for doing so are financially viable and sustainable.

The Post Office has been made aware by the mover of the question, his Ramsey colleague Mr Bell, local commissioners and the public of the desire to reopen the facility in this area. To this end at a board meeting last Thursday it was unanimously agreed that we should

proceed with a further search for individuals or organisations that could provide post office services in this area and the outcome, we hope, will be known by the end of March. Adverts will be appearing in the paper this week and next week.

The Post Office recognises that a post office is an essential part of the community, particularly in the villages and parishes of our Island, and it is my intention that we should always attempt to meet our social obligations. However, it is worth stressing that the Post Office is increasingly required to function in a competitive environment and to do so we must ensure that it performs not only in terms of quality and service but also financially. The volume of business done over the network of the post office counters is being eroded by electronic substitution, notably automated credit transfer of benefit payments to bank accounts. This will substantially reduce our financial performance and ultimately the ability to sustain our social obligations, particularly with regard to post offices. This is a matter that I hope will be discussed with the Council of Ministers when we present our statement of corporate intent and operating plans in April or May of this year.

Mr Singer: In thanking the hon. chairman for his comprehensive reply and assurance that he intends as soon as possible to reopen the north Ramsey post office, can I ask him, on the assumption that Ramsey and other sub-post offices cannot be totally viable on their own account, is it your view that government should be subsidising these out-of-town post offices which offer a necessary service to many people on the Island?

Mr Shimmin: Mr Speaker, there will be a number of issues which we will raise with the Council of Ministers and it is certainly true that we are having more difficulty in obtaining suitable people coming forward to take over sub-post office facilities. The issue of subsidising sub-post offices is a complex one and would involve a restructuring of our current payment arrangements. That is subject to discussions within the Post Office and is not for an answer today.

European Communities (Amendment) Bill – Third Reading Approved

The Speaker: We turn then, hon. members, to item 9 on our order paper, the European Communities (Amendment) Bill for third reading. The hon. member for Castletown, Mr Brown.

Mr Brown: Thank you, Mr Speaker. The Bill is promoted by the Council of Ministers and amends section 2A of the European Communities (Isle of Man) Act 1973. The Bill before the House transfers the power of the Governor in Council - that means the Governor acting with the Council of Ministers - to make orders under section 2A of the 1973 Act to the Council of Ministers and that means of course the Council of Ministers acting without the Governor.

The Bill also introduces a new procedure in relation to the Council of Ministers making orders. The Council of Ministers will still be required to continue to seek Tynwald approval for such orders.

I beg to move the third reading of the European Communities (Amendment) Bill of 2000.

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

The Speaker: Hon. members, the motion is that printed at item 9 on your order paper, that the European Communities (Amendment) Bill be read for the third time. Will those in favour please say aye. The ayes have it. The ayes have it.

Police (Amendment) Bill – Second Reading Approved

The Speaker: Now, I understand that item 10 is not wished to be moved at this juncture. We turn therefore to item 11 on the order paper which is the Police (Amendment) Bill for second reading. I call on the hon. member for Douglas West, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. At a meeting on 11th February 1999 the Council of Ministers considered a report from the Council's sub-committee, chaired by the Minister for Home Affairs, which had been formed to examine the need to effect greater control over the Chief Constable in certain circumstances and ways in which the roles of the Police Authority and the Police Consultative Committee could be rationalised.

The sub-committee conducted a study which identified the need to effect changes to the terms and conditions concerning the employment of the Chief Constable and to strengthen the mechanisms for effecting that control over the police force. It also wished to enhance the framework for the involvement of the public in the development of policing policy.

This Bill is principally to amend the provisions of the Police Act 1993 relating to the functions of the department and the Chief Constable and the appointment and tenure of the Chief Constable.

The main amendments to the Police Act 1993 are: for the Chief Constable to be able to be appointed for a fixed term; that a member of the UK police force can be seconded to act as Chief Constable; the Chief Constable can be dismissed, suspended or required to resign in the interests of the efficiency and effectiveness of the police force; that an independent person or persons, rather than a deemster as currently exists, should hold an inquiry on behalf of the Council of Ministers if the Chief Constable appeals against a decision that he should be dismissed or required to resign; the Chief Constable's right of direct access to the Council of Ministers to be limited to matters relating to national security or public order; that the Police Advisory Group and the Police Consultative Forum be put on a statutory body; the department should have the power, after consultation with the Chief Constable, the advisory group and the consultative forum, to determine the policies, objectives and priorities of the police force and to prepare and lay before Tynwald annually a plan specifying those policies, objectives and priorities and the means by which it is intended that they be achieved.

The department's powers are limited to give directions to the Chief Constable as to the exercise of his functions. It may not do so in respect of operational matters.

The department will have the power to give written general directions to the Chief Constable or to the Police Advisory Group or the Police Consultative Forum as to the exercise of his or its functions and seek information or written reports from the Chief Constable or either body.

The Bill also gives the department new powers to make regulations for the special constabulary, as the Special Constables Order 1954 is known to be out of date.

This is a short but important Bill and I have pleasure in moving that the Police (Amendment) Bill 2000 be read for a second time.

Mr Houghton: Mr Speaker, I am very happy to second this Bill. I rise to give broad support to this Bill which mainly deals with the functions and appointment of the Chief Constable, together with other tidying-up measures. I am, however, rather surprised that there

is so much detail set within primary legislation, rather than using such a Bill as an enabling tool so that the minutiae could be dealt with by Tynwald orders. If I may take an example, I refer to clause 3(4)(a) whereby it states that the Chief Constable shall submit an annual report which will be laid before Tynwald. This in my opinion does not need to be written into law: departmental policy would be sufficient. However, when we turn to clause 4, which deals with regulations for special constables, there are only a few words describing the purpose of this particular section of the Bill. If the hon. mover of the Bill can kindly clarify the following points I would make, then I believe that the wording published should be all that is necessary to enable orders which will be approved by Tynwald in due course to be appropriate and effective and should protect the interests of special constables in the future.

I would ask if the hon. mover would kindly confirm that the Bill will enable for the future provision of such proper policy regulations or an appropriate insurance-type of policy which will adequately cover a special constable who may be injured whilst on duty. I do not expect the hon. mover to go into detail today with regard to such cover as long as it is covered in secondary legislation.

In addition, special constables now carry the same accoutrements as do the regular force. During my time as Commandant of the Special Constabulary speed cuffs and side-handled batons were being introduced and there was uncertainty about the protection a special constable would get if civil legal action was instigated against him in respect of an allegation of misuse.

Another issue concerning special constables is that they are viewed as volunteers to the police force. They certainly do volunteer for service as and when required. However, they differ from their colleagues in the UK by the fact that they are remunerated on the Isle of Man, albeit by just 10 pence per hour, as distinct from their UK counterparts who are not remunerated, but are paid allowances only. By the very fact that the local specials are remunerated then careful consideration should be given to satisfy other areas of the law with regard to employment legislation within a future Tynwald order.

The Special Constables Order 1954 is sorely out of date in many areas and requires an urgent overhaul. I welcome this Bill as being the first step towards improving the conditions of the special constabulary and to that end I offer my support to the hon. mover and his department to assist them in their consultation procedures as they develop good and meaningful regulations which will be beneficial to all in the fullness of time. Thank you.

Mrs Hannan: Vainstyr Loayreyder, I wonder when the member for Douglas North is going to get over not being Chief Constable.

Mr Houghton: Four years ago.

Mrs Hannan: It is a good job we have got two that can do the job because he seems to think that only he can do it, only he has got knowledge of the police force. (*Interjection*) Oh good, we have two Chief Constables with us, the member for North Douglas and the real Chief Constable.

I welcome clause 1. However, I would ask the question of the Department of Home Affairs and I think it is very important that we try to investigate the issues of a Chief Constable. Why is it that we cannot have an officer going through the ranks in the Isle of Man to become

a Chief Constable here? One of the most important areas of policing, it is my understanding, is the Deputy Chief Constable who does most of the work of running and day-to-day regulation of the police force dealing with everything before it goes to the Chief Constable and I would have thought that it should not be without our realms and even within to train somebody to get to the position, and not just one person, but to train officers to get to the position so that they can apply for this particular post. I think it is so important that within our growing maturity we are capable of doing just that. We have done it within certain other areas and I think that we should be aiming at training our own people to get to the top jobs instead of importing people to do the top jobs. In a way, with lots of the jobs that we have, we are just a colonial state and therefore I would hope that the department can seriously look at building up - and I would hope that our existing Chief Constable can do this too because I believe that he would support that as well - to get the people on the ground at the moment trained and qualified so that they can apply for the Chief Constable post.

With regard to reporting, I think I welcome the comments and I do not agree with the comments made by the member for North Douglas -

Mr Henderson: Shame.

Mrs Hannan: - because I think it is necessary to have primary legislation for some of these areas and I think it needs to be laid down. We know what happened in the previous set-up within the police service, we know what happened with the reports from the Chief Constable and therefore I think it is important that it is laid down in black and white - as it will be when it is a Bill because I am sure it will be supported by this hon. House - that it is stated very clearly what happens: the report goes to the department, it is for the department to receive the report of the police service before it is laid before Tynwald.

I am, however, concerned about that we still have two police advisory groups and I wonder if the mover could go through why we need a Police Advisory Group and a Police Consultative Forum. The Police Advisory Group - maybe they do not meet the public and obviously the mover can stress the exact job that they would be asked to do, whether they would meet the public. The consultative forum meet the public, it says, 'obtaining views of the people of the Island'. So I am not sure whether both of the groups deal with the same thing or what. At the moment there is a consultative forum that goes round and meets the public and I think I would want to see a bit more work done before meeting the public instead of just, what I have found anyway in a way, whipping up concerns, because I think either you are there to listen to what people are saying or if you are going to take it on yourself to answer questions, you should exactly know what the law is to answer the questions or to try to gain remedies for, and to my mind I think maybe there needs to be a bit more research done before meeting the public, maybe to find out from the police what local concerns are, from local authorities to find out what the local concerns are so that these can be responded to. Otherwise you are getting maybe two meetings or one meeting a year and not the same people are going to be at the meetings and therefore people come along, voice their concerns and do not get a response to their concerns or do not get any feedback from this consultative group. Now, if it is to listen to locals' concerns and level of policing and not comment on other issues, then I would think that is fine, that is fair enough, and maybe later on issue a bulletin with concerns as to how they have been addressed. I do not know. But I have the feeling that concerns were being

expressed by people and yet there was no way of coming back to those people to answer their concerns.

So I would have thought the consultative body should actually sit down and talk to the local police about the concerns that have been addressed to them and also the local authorities and even members of Tynwald to find out what concerns have been raised with them over the last year, 18 months, prior to a meeting.

Otherwise I do not find an awful lot of fault with the Bill, but I would like a response to those and action from the Department of Home Affairs, of course.

Mr Brown: Mr Speaker, this Bill, whilst small in its number of clauses, is actually a very important piece of legislation which is making some fundamental changes in relation to the police service in the Isle of Man and the changes that are there of course echo some of the modernisation of the police forces in the United Kingdom and bring in procedures which I think are very important in terms of major changes to benefit the public and of course the police service itself. There is always a balance between the police service protecting and providing a service for the public and the public then having their needs met, and I think that this will hopefully provide that balance in a better way than we have had previously under the present law.

I would comment on the point that the hon. member for Douglas North makes about the point of the annual report to Tynwald being in and it should just be policy. I think the point I would make to that is, firstly, it is already in the existing legislation that that issue is there, but I think it is important that the intention of the House of Keys should be demonstrated through the legislation and I think it is absolutely right that the police service, where the Chief Constable rightly has considerable authority, is able to provide a report to Tynwald Court and that that should be covered by statute so there is no question of policy, it is a matter that this House believes that the public should be advised on what the police service has achieved during the last year, and I believe that the Chief Constable's report is welcomed every year by the public and by Tynwald members and is an important piece of documentation to enable us to understand what is going on within the force, trends that are developing and how they are being combated, and I think it is clear that that should be in legislation and that we should say, 'That's what we want.' So I support that change.

I do welcome clause 1(5) again which is quite a fundamental change allowing or enabling a Chief Constable to actually be removed from his post in the conditions that are laid down in 1(5) where it says, 'in the interests of the efficiency and effectiveness of the police force, or otherwise in the public interest', and these are very important phrases within the Bill because if there is a problem at any time in the future it does mean that the Isle of Man, like other forces in the adjacent island, can deal effectively if there is a specific problem. Hopefully we will never have a problem but at least it gives the authority to enable us to deal with it.

The other point I would just cover is the point with regard to the Police Advisory Group and the Police Consultative Forum. They are two specific roles that are different and I think that one of the things we have seen happen over a number of years is, because of concerns expressed, we have ended up with a number of different committees which actually, I believe, make it difficult for the function of the service and for there to be clear lines of communication.

This will actually hopefully advance that by having two specific bodies: one advisory, advising the police on what is required, and the other of course is the Police Consultative Forum.

Now, my views on the Police Consultative Forum follow the hon. member for Peel's to some degree. I had the joy of attending one over a year ago in Castletown and I have to say that if one thing had to be learned from that it is that the people who are the chairmen and members of the forum need to be well briefed as to what is going on in the police force and what changes are proposed to be made. The thing I found from that meeting is that the public left the meeting, or a considerable number of them, extremely frustrated, confused and really did not know what was going on and the reason that that happened was purely because questions that were asked from the floor were not responded to properly and, for example, many of the issues that were raised were actually in this Bill and that Bill at that time was already public knowledge within the forum.

So whilst I am a great supporter of the public forum because I do believe feedback from the public is very important and whilst we as members get feedback now and then because of concerns that happen, I think it is a very important issue to have a properly set up body who sit there and get feedback to the police, and like the hon. member for Peel, I think if you do that, of course it is always a two-way item. If you ask people for their views, then somehow there needs to be a format to enable then the forum to go back to the public, not to go back in six months' time to another meeting, but actually to go back within a reasonable time through some format, whether it is a newsletter, whatever it may be, to actually advise those who are interested what has been determined based on comments that were put to them at the forum.

So these are important issues. I welcome the changes in this legislation. Again I just make the point: a small Bill in number of clauses, but actually a very important number of changes made there affecting the force itself and of course, very importantly, affecting and hopefully improving the situation in relation to the public and its knowledge of what is going on. So I support the Bill fully.

Mr Quine: Mr Speaker, I suppose somebody has to speak for the colonies in the light of the comment the hon. member for Peel has made.

I think there is one important point that the hon. member for Peel has made and that is whether or not it is practical and feasible for us to produce in the future a Chief Constable from on the Island and the answer must surely be yes, but if we are going to do that I think we are going to have to change a number of aspects. First of all in the context of the Chief Constable we are looking for a person with very specific personal qualities and I think you have to have regard to that fact. Now, we are a very small force and whether within such a small group of people you can identify a person with those qualities is going to change from time to time, but we need to recognise that we do need a person that is going to have very specific qualities.

The second thing of course, which is in our hands, is this issue of training. I believe the force has come a long way in terms of training in the last 10 years, we are doing much more than we ever did before, and you have only got to speak to the constables and sergeants and people, inspectors, and I think they recognise this and they recognise they are better off for having the benefit of a stronger training regime. So training, I think, is the second aspect that will influence whether or not we can find an on-Island Chief Constable for the future.

But the third facet of this I think is the all-important one and I think this is where we are going to have to look more radically if in truth we are to find a Chief Constable from on-Island and that is the issue of experience. The duties and events which a Chief Constable is required to take a command position in relation to, required to take a management role in relation to, are many and varied and even in some of the larger forces they will pop up very rarely and so the exposure to that experience is not easy to come by and certainly within an Isle of Man situation the odds on many of these events happening are going to be very long indeed, but if it happens, you need a Chief Constable that can call on that experience, particularly in an island situation - your reinforcements are a long way off, although we are in a modern age of communication - and if we are in truth going to find a Chief Constable with that experience, then we are going to have to change our approach, as many other forces not just in the UK but throughout have done, and that is to provide a facility for the more promising material that we have on the Island to go and spend protracted periods in large police forces in the UK and elsewhere. Whether they be exposure to duty visits in the States or whatever, they are going to have to have wide experience, but more particularly they are going to have to live and serve for extended periods in large UK police forces because that is the nature of our constabulary duties, and until and unless we can take that on board, I am sorry but we are either going to have to accept as a Chief Constable a person that is underqualified in terms of three criteria that I have mentioned, or we are going to have to persuade and induce and support our more promising material to go off-Island and get this experience. We cannot have it both ways and neither can the men. Some of the people, and I am looking back now, some of the Manx material who have laid claim to being Chief Constable, have done little to obtain that experience, and it has been offered to them, I am aware of that.

So in the future if we are serious and if we are to get the message across that perhaps the next Chief Constable is to be an on-Island candidate, then we are going to have to look radically at how we prepare the more promising material that we have got, and they, if they want to aspire to that, have got to take the disturbance and the different type of policing on board for extended periods to get that experience. They cannot have it both ways. They cannot sit back here in a relatively quiet police environment and come through for 20 years and say, 'I'm now number two in this force: I should be Chief Constable.' That would be to sell the community short. If they want to aspire to that position, we have got to make the arrangements, we have got to induce them to take advantage of those arrangements and they have got to show the willingness to go and get that experience, but if we are not prepared to do that, then I am afraid the prospect of us getting a Manx Chief Constable is going to continue to be very remote and I certainly will not support having a second-class officer as Chief Constable of this force. If we are going to appoint a Manx person to be head of this force, he must be qualified and qualified properly and we are a long way away, I am afraid, from providing that and achieving that at this point in time.

So, yes, I have no problem with trying to work towards getting a Manx Chief Constable, but we have got a lot to do if in truth that is what we are aiming to achieve.

Mr Cannell: Mr Speaker, just a couple of brief points, perhaps starting with the address to the final one which the previous speaker has alluded to. There is no-one more proud of the Isle of Man than me and many times I have advocated, why are we bringing in people from off the Island when we have the talent on the Island? But I happen to be of the opinion that when

we talk of officers such as the Chief Constable we are better served by having someone from off the Isle of Man. In my opinion there is too much of the in-built prejudices which people have, the knowledge of certain situations is not to the benefit of the office and in my opinion, and doubtless it will be disagreed with in many quarters, but I really do think that when it comes to the chief man in charge of the police we have to bring in someone who does not have all the ideals of the Isle of Man but brings a fresh new look, as the present incumbent has so clearly done, and I do not say that because he is on my right arm here at the moment. I say that you need to have fresh ideas, which I regret to say are not always forthcoming when you have spent half of your lifetime in the Isle of Man. I say also, though, that it should not necessarily be that it is automatic, I think it is a case of judging whether you do have the material to appoint your home-brewed officers. I think that would be rarely the case, with respect to the island's number two now who has done sterling service, as did his predecessors, but it is a question of overcoming all of the Isle of Man's attitudes by putting a fresh stamp on it and bringing in, as the previous speaker has said, the experience from forces outwith the Isle of Man.

I do not really think it would be practical to do as he suggests and that is to send the Island's number two officer for considerable amounts of training. You would then be left with a vacancy in that position and everybody would move up and it would go on and on till everybody would be heading out around the UK and perhaps beyond, I think the gentleman is suggesting, elsewhere in the world to get the benefit of this experience and come back.

However, it can be done and we have been talking in certain other offices of where people are sent out, but they are not sent out from the Isle of Man with that specific purpose, they go of their own volition and they pick up that experience and then they apply and I think the job advertisement for the Chief Constable even this final time did actually allow for just such a position, did it not? To say anybody with suitable Manx connections would be perhaps preferred. I do not know if that was the remit to the Council of Ministers' selection and ultimately the final selection of the present Chief Constable or not, but as I understood it, there was every opportunity for people who had gained that experience off the Island to come along and make themselves known, as indeed we are doing right now with the potential appointment of future Lieutenant-Governors.

But all that was only following the previous speaker. The small amount of information I was hoping to get from the hon. mover was a position which always mystifies me not just in relation to this Bill and not just in relation to this appointment, but it is in the Bill as clause 1, appointment et cetera of Chief Constable, sub-clause (2) on page 2 and the hon. member for Castletown has already made reference to this sub-clause (5)(c). I have never been able to understand - perhaps that is my fault - about requiring anyone to resign. I just cannot see the efficacy of that. In my opinion we either are going to sack someone or discipline him or fine him or anything else, but how do we ever ask anyone to resign? Either the person resigns himself because he feels unable to continue or he is dismissed or appropriately dealt with for disciplinary purposes. The requirement to resign in my opinion is always a sop to the person who is not deemed to be suitable any more but in fact we cannot let him go because he has done all right previously and we have to ensure that his pension and all his other rights are preserved. In my opinion paragraph (c) needs explaining as to why in this or in any other Bill or in any other office of government or in any other private capacity; requiring someone to resign

I am afraid I never accept because it infers, 'Well, he's done wrong, or he's not good enough, but we'll make sure he's looked after.' It is either one or the other and I have so far never been able to obtain a satisfactory explanation.

Mr Henderson: Mr Speaker, I rise to address some important principles that have been debated here this morning and in particular this notion of sending possible executive material off-Island. I must also apologise to the mover of the Bill for focusing in on these points, because ostensibly I support this Bill and concur with the comments of my colleague from North Douglas on what he eloquently put over earlier in this debate.

But nonetheless we have to look at these senior positions and the hon. member for Ayre, Mr Quine, has mentioned that in such senior positions in the future, perhaps it would be a good idea for aspiring material to go off-Island and gain the experience that is required. That is a very valuable point and it is something that, sadly, has not been recognised as much as it could have been and still is not being recognised and it comes down to the fundamental issue of succession training in this Island, not just in the home affairs department and specifically the police force but other areas too, and there is also another point which I feel I must bring in which is the fact that in some areas when we examine senior positions it is often seen that fresh blood, new blood is better than the existing blood and more capable than the existing blood that is in post in, say, the more junior positions, which I abhor, and if there is anything coming out of the points this morning the hon. member for Ayre has hit the nail on the head and we should and must look at succession training in future for senior positions, and I totally disagree with the hon. member for Onchan, Mr Cannell, in as much as these secondments that were mentioned should not be voluntary, although they show an aspiring candidate with the mettle required if they have the guts to go off and do something, but it should be actively progressed through the civil service department and offers made to senior positions or aspiring staff and these offers made to staff. It should be incumbent on the management to ensure that aspiring staff have the opportunities to reach their full potential and, sadly, that is something that has been lacking in many areas of employment in the Isle of Man and certainly within public sector service areas, of which I have some considerable experience.

Those are the points I would like to throw into this debate, that we need to look at succession training and certainly affording the opportunities for future aspiring staff so that they can have the experience, not just a case of a voluntary basis, but we need to be moving forward now. So with those remarks, Mr Speaker, I will cease my part in the debate.

Mrs Cannell: Mr Speaker, I rise in support of the Bill and I think it is very timely coming forward.

I think we have to look at what we had in place before the provisions laid down within this particular Bill and what we had by way of a method of employment of a Chief Constable was merely with a letter of appointment, and that of course was not satisfactory and certainly is not satisfactory by today's standards, a letter of appointment signed by a previous minister of the Department of Home Affairs, and that letter of appointment gave no warmth, if you like, to a department if that department was not satisfied with the performance of a previous Chief Constable, and so the provisions laid down here provide methods for not only ensuring that it is by way of a proper contract for a given period of time but also there are provisions within it to enable to the department to dismiss the chief officer if he or she did something so terrible as to qualify for a dismissal. Also of course it provides for the suspension from duty, I would

imagine, for some misdemeanour and there is also provision for him to resign. Now, I see that as a very respectable way of pulling out of this particular job and so it gives a choice of methods by which to, I do not want to use the words get rid of, but perhaps to suspend the services of a particular Chief Constable, and I have to support that.

I also welcome the fact that there is provision for regulating the actions, the appointment, the discipline and everything else that goes with it of the special constables, and I am pleased to actually see that in.

Equally I am pleased that it is also laid down within the Bill in legislation that the department shall establish the Police Advisory Group and also the Police Consultative Forum, and I see that as a very positive step forward that that should actually be enshrined within legislation.

I have heard some of the comments made by previous speakers and in particular I picked up on the comments made by the hon. member for Castletown, Mr Brown, when he was talking about newsletters. I can only imagine his comments were coming under 5 18 in respect of the Police Advisory Group and the consultative forum. But surely following the passage of this particular legislation and the appointed day orders to bring in all of the sections I would imagine then that the department will look at regulations to enhance the legislation in respect of the constitution of the advisory groups and the consultative forum - how they are to operate, whether or not they are to publish anything for public consumption and so on and so forth.

So there is a lot of mileage within this very small Bill and I wish it well, I wish the member well who is moving it and I hope it will go through unamended because I think as written it is a very good Bill.

Mr Singer: Mr Speaker, I have reservations with regard to the need to introduce primary legislation as in clause 3 to counteract what appeared to be a clash between the home affairs department, the Council of Ministers and the former Chief Constable, but I will support this Bill, but comment that the introduction of such legislation has to be clear in what it is trying to achieve. Without there being a clearly defined line between what is policy and what is the operational implementation of those policies there can be unacceptable political interference in the Chief Constable's role and his responsibilities. This has been demonstrated many times in the UK and there are lessons to be learnt from those attempts to influence the police force actions. Therefore I would ask the hon. mover how he sees that this Bill ensures that clear separation of responsibilities, as on this island we have no case law to refer to and as an example I would point to page four sub-clause (3) which reads, 'No direction may be given to the Chief Constable under subsection (2)(a) with respect to the discipline or disposition of the police force.' Does this include the disposition of resources? Does it include the disposition of equipment? It is not entirely clear.

My concern is maybe not for now but for the future. Politicians may seek to step over the line and interfere in operational policies and I am not sure that the present wording is strong enough to prevent this occurring. I would welcome the hon. mover's comments and if possible his assurances that there is a clear and obvious separation or whether he feels that the wording of the Bill should be strengthened to ensure that the division of responsibilities is unquestionably clear in the interpretation in the future.

It is important that we get this right now rather than encountering political clashes in future years, which will do nothing to enhance the reputation of the politicians and will reduce the credibility of the Chief Constable and the police force. So I would welcome the hon. movers's comments on those points.

The Speaker: I call upon the hon. member for Douglas West, Mr Shimmin, to reply to the debate.

Mr Shimmin: Thank you, Mr Speaker. I am grateful for the general support for the Bill. I think there have been many issues raised, most of which are not in actual conflict with either the Bill or each other.

From the beginning when the hon. member Mr Houghton referred to whether this should involve primary legislation of having the annual report laid before Tynwald, I believe that is a necessary and appropriate part to be within the primary legislation and in particular following the the previous comments from Mr Singer as to at which stage would the minister have the authority to interfere with those issues? By having it in primary legislation it ensures that the politicians of this Island will have access to that information at a statutory level.

There was debate as to whether the report should be laid before Tynwald or be debated by Tynwald. The option which has been chosen allows any member the opportunity of picking it up and debating it at the following sitting should that be the view of any individual member. Therefore this is a safeguard for the people and the members of this House that they have the opportunity at a statutory level of getting the annual report and discussing it should they see it worthwhile. Therefore I am strongly in support of the idea that that should be in the primary legislation.

The hon. member Mr Houghton refers in some detail to the issue of the special constables, and I am grateful for his knowledge and issues which he has raised with me previously on this matter. I can assure him that the legislation as drafted is fully enabling for the regulations which are now a priority within the department and the police to bring forward regulations to affect the conditions of the Special Constabulary. I believe it is well known now that the Special Constabulary has a high regard within the department and the police force, something which has not always been apparent historically, and we are keen to move forward with regulations.

The issue is one which they are dealing with in the United Kingdom and in order to ensure that we have no omissions there will be a single set of regulations being drafted by the Home Office within the next few months and we would wish to evaluate that to ensure that we have all areas covered. I do believe, having taken advice from the Attorney-General's Chambers, that the current drafting does cover all of those eventualities.

I think the stimulus for much of the debate came from the hon. member for Peel and she raises an issue which I think all further contributors generally supported and although the member Mrs Hannan did not refer to the level of training, I am sure from her comments that she feels very strongly that we should not go for a second-rate Chief Constable but it was implicit within her comments that the necessary training, the necessary experience and all of the issues would be incumbent upon the department and the Chief Constable to allow succession training as referred to by Mr Henderson.

So I do not think that there is any disagreement that in an ideal world would have an opportunity for people of Manx nationhood to aspire to the most senior ranks of any position on this Island. I think we have lacked in the past that opportunity. I think that the Bill is merely enabling to allow us the clarity so that we can pick the best person for the job at any time. It does not under any context force us to go down any particular route, it is merely enabling legislation that gives us the flexibility to make sure we have the right person for the job, and it is incumbent upon the minister in the department now to ensure that funding and support are given to the police service to allow the training which has been alluded to by other speakers.

I was not quite sure from the hon. member for North Douglas, Mr Henderson's comments regarding these opportunities. If I understood that he said this should not be voluntary I would have to strongly disagree with that. This is merely an opportunity by which we can allow those people wishing to aspire to the highest level to take up those opportunities. We cannot and should not be forcing members of the police force to be relocated off the Island if that is not their aspiration.

The comments then generally referred to the establishment of and the running of the Police Advisory Group and the Police Consultative Forum, and I think that members would need to realise that the Police Consultative Forum in particular has been in an embryonic stage and the police service has gone through a level of change in the last 12 months. I attended one recently where the turnout of police officers went from the Chief Constable, the head of the drug squad, the local two divisional inspectors along with representatives of the Police Consultative Forum. Therefore there should no longer be circumstances where information is not available to the public. When they ask questions the information will be available by the people with relevant experience and responsibility.

It is also clear to all members by now that the empowerment being afforded to divisional inspectors throughout the Island by the new Chief Constable will mean that in those Police Consultative Forums there will be people who not only have the knowledge but also have the power to make the decisions and I would be disturbed should there be comments in the next months ahead that people, whether public or members attending the Police Consultative Forum sessions, are not totally satisfied that they are getting the answers and also that follow-up action is communicated to the public. That is a commitment from the Chief Constable and the department that this Police Consultative Forum is going to be a means by which the public have the greater confidence that they will get the information from the appropriate bodies.

The main reason for this set-up is for exactly that purpose, and the hon. member for Castletown, Mr Brown, did refer to in the department previously there was a failure to understand fully where the channels of communication were. I think this Bill will assist in the clarification of that matter.

There are only two final issues I would like to raise. Firstly, with regard to the hon. member for Onchan, Mr Cannell, when he refers to the requirement to resign, I will confirm before the clauses stage but I believe that that affords the opportunity whereby a dismissal would ensure that immediate action to replace that person would give an unnecessary level of pressure within the police service and may rush the final decision. Requiring to resign would allow the police service and the Department of Home Affairs to avoid a time lag which might be necessary with a dismissal. It therefore appears to be good management co-ordination, as we had with the former Chief Constable leaving: he gave us sufficient notice that we then had

the opportunity to establish a replacement in good time. I think that were that not there I believe that it would possibly be a situation where we would have to run for a period of time with somebody not really of the status of Chief Constable to resolve some of the issues alluded to by Mr Quine. We need to have a strong Chief Constable in position. If we are in the unfortunate position of having to dismiss we would then need to have a replacement quickly in position. If the training is not sufficiently up to the level where the Deputy Chief Constable can adopt that role on a long-term basis, that is undesirable for the department. I will clarify that with him at the clauses stage but I do believe it is a useful part of the Bill to have as a safety net.

The other issue is only from the hon. member for Ramsey, Mr Singer, who refers to the operational independence of the Chief Constable. It is something which is very important to the minister and the department and we have sought advice from the Attorney-General with regard to clarifying the drafting of the Bill, and the Attorney-General's advice is that far from clarifying it, were we to put in words along with 'operational independence' the proposed addition would not make the legislation any clearer, quite the contrary in fact. The lack of any consensus as to what are and what are not operational matters has not been able to be resolved by chief officers for many years. The Attorney-General's advice, and having discussed this with the Chief Constable, is that everything is included within clause 4(3) which will cover the full operational independence of the police service and the Chief Constable, and that is something which I and all members of this House would fight vehemently to retain. So I would assure him that the legislation as drafted will retain that operational independence.

Further to that, Mr Speaker, if there are any issues I have not covered, I will attempt to address those at the clauses stage next week. I beg to move, sir.

The Speaker: Hon. members, the motion is that printed at item 11 on your order paper, that the Police (Amendment) Bill be read a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Agriculture (Miscellaneous Provisions) Bill – Second Reading Approved

The Speaker: Item 12 then, hon. members, the Agriculture (Miscellaneous Provisions) Bill for second reading. I call on the hon. member for West Douglas, Mr Downie.

Mr Downie: Thank you, Mr Speaker. This Bill is promoted by the Department of Agriculture, Fisheries and Forestry and the purpose of the Bill is to amend legislation relating to agricultural holdings, wildlife, sea-fisheries and agriculture.

Clause 1 deals with fixed term agricultural tenancies. The present situation is that, other than simply for grazing or mowing, short-term leases can be drawn up for periods of 364 days. If any period of more than a year is set rights of longer term agricultural tenancies may be created.

A landowner may not have immediate short-term plans for using a particular piece of land in the future but may have a future use in mind for it in the mid term. The protection that current legislation quite rightly provides for long-term tenants can potentially be turned against the landowner and make it difficult to take back land originally let for shortish to mid-term leases. The result is that it may not seem advisable to the landowner to let out the land for a period of more than one year. On the other hand, people with a short-term lease of less than a

year will not want to invest in manuring the land or developing it in some way as part of a mid-term planned agricultural use from their point of view. At the end of the year the lease may not be renewed. The result is that the land is not put to such productive use as it might be.

This amendment to the Agricultural Holdings Act 1969 provides for practical arrangements so that a lease of up to five years can be drawn up without creating a statutory tenancy. It will mean that landowners will not be wary of entering into a short to mid-term lease with a tenant. They will be able to have access to their land again for their own purposes at the end of the tenancy.

It will also mean that tenants can enter into a short to mid-term lease with security of tenure during the period of their mid-term agricultural project over a period of up to five years.

The overall result will be that parcels of good agricultural land which currently lie fallow for the reasons outlined will prospectively be brought back into good productive use.

The amendment will involve a procedure of notification by both parties and acknowledgement by my department that the lease will not establish a statutory tenancy. Such a lease shall only apply to agricultural land on which there is no dwelling or other farm building except of a minor or subsidiary nature.

It is important to stress that all of the present protection is retained for existing long-term tenancies. That was long sought for and much needed and gives tenants the protection of statutory tenancies in relation to farms with all their dwellings and outbuildings.

However, the short to mid-term problem has been recognised by the industry for a number of years. Consultation over a good number of years has taken place with the Manx National Farmers Union, the Isle of Man Agricultural Marketing Society, to arrive at this formula which limits the non-statutory tenancy agreements to periods from one to five years and only in respect of bare agricultural land.

Clause 2, hon. members, deals generally with bird sanctuaries and amends the Wildlife Act 1990 to bring further protection to birds in areas of special protection. Consultation has taken place with the landowners associated with the areas of special protection which currently exist.

There are three provisions for the protection of birds introduced by clause 2(a). The definition of species to be protected under orders made by the department in respect of an area of special protection is extended to game birds and poultry as well as other birds. That is outlined in sub-paragraph (i). The definition of an authorised person who may kill birds at such sites is made more stringent, depending on written authority from my department or the Isle of Man Water Authority. That is outlined in sub-paragraph (ii). Any bird sanctuary set up under the Wild Birds Protection Act 1932 is brought within the protective provisions of the 1990 Act as an area of special protection for which my department may make orders, and that is outlined in sub-paragraph (iii).

There is an existing requirement that any persons who keep or have in their possession any bird which is given in a list in schedule 4 of the Act have to be registered. Clause 2(b) means that my department may charge a fee. The fee will be set under the Fees and Duties Act of 1989 in an order made by Tynwald so members will ultimately have an opportunity to be aware of and comment on the fees to be charged.

Section 16 of the Wildlife Act provides that some sections of the Act do not apply in certain limited circumstances and then only provided they are done under and in accordance with the terms of a licence granted by the department. The present wording also provides a similar general derogation from orders made under section 3 of the Act in relation to areas of special protection for birds. Such areas may only be designated with the full permission of all of the owners and occupiers of the area.

Sub-clause (c) of clause 2 limits that derogation to anything which may be done by the owners or occupiers of the land or a person authorised by them recognising their interest but again subject to the terms and conditions of a licence granted by my department.

Clause 3 deals with various fees and charges. There are some pieces of primary legislation where fees and charges were included as part of the Act. This means that the primary legislation has to be amended every time which is not appropriate for the minor nature of what is involved. It would be far less cumbersome to give my department powers to make orders, subject to the approval of Tynwald, and that is exactly what clause 3 does.

As in the case of a registration fee for keeping wild birds, as provided in clause 2, hon. members would continue to exercise their power of approval and comment on such matters without it taking so much time which might usefully be given to other matters.

First of all, sub-clause (1) of clause 3, the Pinfolds Act 1963 - the amendment gives my department the enabling powers to make an order setting fees for pinfolding animals, subject once again to the approval of Tynwald.

Second, sub-clause (2) of clause 3, the Animal Boarding Establishments (Isle of Man) Act 1973 - the amendment provides that the fee, instead of being set within the primary legislation, would be set by an order of the Treasury under the Fees and Duties Act 1989, which would again be subject to Tynwald approval.

Third, as the Fees and Duties Act 1989 is being used to amend the Animal Boarding Establishments (Isle of Man) Act, a similar provision is here made in sub-paragraph (3)(a) of clause 3 in respect of the Breeding of Dogs and Cats Act 1981. This means that the appropriate fees can be set under a Treasury order, subject once again to the approval of Tynwald.

Just to sum up, my department will make its own orders to set fees under the Pinfolds Act and the Treasury will make orders to set fees under the Animal Boarding Establishments (Isle of Man) Act and the Breeding of Dogs and Cats Act. All such orders once again will be the subject of Tynwald approval.

In sub-clause (3)(b) and sub-clauses (4) and (5) the legislative draftsman includes consequential amendments in connection with the provisions already made.

In sub-clause (4) there is a reference to the Riding Establishments (Inspection) Act 1968 which is not otherwise referred to in this clause. This has been the subject of lengthy discussion between my department and the Department of Local Government and the Environment and in particular with regard to the Health and Safety Executive. Alternative arrangements are being made in regard to fees for inspection of riding establishments and removal of the particular reference cited by the legislative draftsman as part of that ongoing progress.

Clause 4 of the Bill deals with enforcement related to EU delegated products. The Agricultural Marketing Act 1934 permits import restrictions to be imposed in certain circumstances. There are products which it is not permitted to import into the Island. Such restrictions would arise where they were approved under arrangements agreed with the European Community. However, there have been no powers of examination and entry by officers to ensure compliance with restrictions. Clause 4 is an amendment to provide powers of examination and entry and also to provide an offence and penalty for obstructing an officer carrying out such duties. Where agricultural products are imported in breach of restrictions they will also be liable to forfeiture.

Members will see that the powers are fully circumscribed and are consistent with powers to enter and examine produce already embodied elsewhere under the Act in respect of other circumstances. It has been an anomaly that there were no such powers in respect of products which fall into this category.

Clause 5 deals with the retention of catches on board a fishing vessel. Clause 5(1) clarifies the intention of the Sea-Fisheries Act 1971. The present wording enables bye-laws to be made in relation to the taking and killing of sea fish. Some species which a fisherman does not intend to take may die before they can be returned to the sea, whilst other species such as scallops may live out of the water for up to three days. Fishermen may take and kill fish which are not retained but it would not be appropriate to take legal action. On the other hand a person may attempt to retain on board undersized or unseasonable scallops or other shellfish which are still alive.

This simple clarification serves to underline my department's positive approach in dealing with our scallop fishery which is the single most important commercial fishery prosecuted by the Isle of Man fleet.

The amendment amplifies the wording concerned: taking, killing, retention or carriage on board any vessel of catches as well as the landing, possession, sale, exposure for sale or offer for sale about which bye-laws may be made. This will make it absolutely clear that 'taking' includes the retention on board.

There is another consequential amendment in sub-clause (2). An earlier amendment to section (2)(1)(b) of the Act by the Agriculture and Fisheries (Miscellaneous Provisions) Act 1998 is repealed as a consequential provision of the current amendment.

Clause 6 deals with the short title of commencement and enables the Act to be cited as the Agriculture (Miscellaneous Provisions) Act 2000.

Mr Speaker, I beg to move.

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

Mr Cannan: Mr Speaker, I welcome the long delayed introduction of this Agricultural (Miscellaneous Provisions) Bill, in particular this amendment to the Agricultural Holdings Act, welcomed by farmers, landowners, so that at last they can give a tenancy on their agricultural land for a period longer than 11 months, up to five years. Indeed some farmers and landowners would have preferred to have seen it for 10 years, but at least by giving it five years it gives a security of tenure without the statutory tenancies on farms to enable other young farmers to expand their operations, it gives them time to improve the land and it gives

them a security of knowledge that at least for five years they can extend their acreage. It also assists the farmer and landowner who may be repairing or have spare land the knowledge that he does not have to seek a new tenant every 11 months.

The agricultural community really do welcome this introduction of the new tenancy agreement and I commend the new Minister for Agriculture for getting this matter forward. (**A Member:** Hear, hear.) It took a long time previously with no response for getting the matter to come to a head. So, yes, I know, as I am repeating myself, the agricultural community and landowners welcome this opportunity to have a tenancy on bare agricultural land up to a period of five years and perhaps some time in the future when this is seen to be running satisfactorily there may be a consideration to amend further to 10 years.

Mrs Cannell: Mr Speaker, just one or two clarifications really I would like to ask of the hon. minister. In clause 2 in relation to the wild bird, the insertion of 'game bird' or 'poultry', will that include battery hens is my first question, and was I correct when I heard him during the moving of this particular Bill that he said the added protection for game bird or poultry was irrespective of whether or not it was in an area of special protection? So I am merely seeking a bit of clarification there as to whether or not it will extend to cover battery hens and whether or not I am correct in that the provision will also include those birds who are outside of a special protected area.

The other question really I have is in relation to clause 4 and this is for the authorisation of an officer to be able to enter at any time any land, vessel, boat, aircraft, container or vehicle of any description if he or she believes that there is an importation which is undesirable or which does not comply. I wonder whether this is actually going to help with regard to the issue of alleged importation from France of contaminated meat. The French did turn round not so very long ago and said that they, obviously feeling very offended at the way they had been treated by the British and others, were going to export all of their BSE-contaminated meat and such. So I wonder whether or not this particular clause is going to give us additional powers to be able to prevent that sort of situation happening, where if contaminated meat from France reaches the British shores, whether or not it may then try and enter our Island and whether or not the provisions under this particular Bill will help to curb that happening, but overall I welcome the Bill and I am glad to give it my support.

The Speaker: I call upon the minister to reply.

Mr Downie: Thank you, Mr Speaker. In response to the hon. member for Michael, Mr Cannan, I know that he has approached the department on a number of occasions to try and effect the speedy introduction of this Bill and there is no doubt about it, it will be a benefit for young farmers and there will be more land available and it will free up the present situation which in my opinion is far from satisfactory and I am grateful for his support in the House this morning.

The hon. member for East Douglas, Mrs Cannell, referred to clause 2. Clause 2 generally deals with an area that the department has responsibility for and that is bird sanctuaries and under certain circumstances the department could authorise someone to go along and take certain measures in a bird sanctuary to perhaps cull numbers or to deal with difficult circumstances, and to give you one example, you may have a small bird sanctuary and all of a sudden it is inundated with wild ducks and they have taken the place over and under the law

as it stands at the moment it would be against the law to shoot them under those circumstances. Now, bird sanctuaries, like other areas, have to be properly managed and this legislation gives an opportunity to have some proper management policy where you are not finishing up in a situation where you have really let the whole situation get out of hand, and to give you an example, we do not have a culling policy within the department, but the arboretum, for instance, at certain times in the year can anything up to a thousand ducks on it and what we try and do is to introduce a management policy and remove them from the area without causing any harm and try and spread them throughout other areas of the Island.

As far as battery hens go I cannot see a situation arising where battery hens would come in and take over a particular bird sanctuary, but if it did happen, and when we put legislation together we have got to be able to deal with unforeseen circumstances, (*Laughter and interjections*) there is a prescribed manner in which battery hens can be collected and if they are required to be culled they can be killed in a prescribed manner as laid down under the code of practice for the killing of poultry. (*Interjection and laughter*)

Mr Downie: You would not necessarily shoot them.

The section that deals with the keeping of birds, just to clarify that, a lot of people on the Island have become interested not only in keeping water birds and birds in sanctuaries, some of the rarer breeds of pheasants and black swans, but we have got quite an active number of people on the Island who are interested in falconry and because of the legislation now in this clause they can seek permission from the department to keep falcons and other birds of prey and go out and fly them at the weekends, and it is a great credit to us that we can do that on the Island, and this legislation is both to protect wildlife, to create sanctuaries and also to deal with some of the circumstances which come along where we may have a situation where we need to kill birds or take birds for whatever reason. It could be the fact that some of the birds are also injured and they cannot be caught easily and they need to be put out of their misery. So basically that is what we are dealing with.

The hon. member for East Douglas, Mrs Cannell, also referred to clause 4 where we are looking for an officer to have power to enter vessels, aircraft or other modes of transport to be able to identify, seize and deal with items that may have been imported into the Isle of Man and particularly where we have certain areas which are covered by derogations.

Now, the issue was raised over French meat. Now, as far as I am concerned the current derogation which we have allows up to about somewhere between 20 and 25 per cent of meat to be imported into the Island. The majority of it, I understand, must come from Northern Ireland where they have a very good health regime similar to our own and we are talking about beef, sheep meat, lamb and veal here. We are not talking about cooked meats or pork. The list is quite specific. But in granting the derogation some years ago the department were never really given proper powers and what we want to do now is to make sure that we have proper powers in place so that if for any reason meat has been imported into the Isle of Man from some sort of a suspect area - it may be from one of the emerging Iron Curtain countries, somewhere outwith the EU - we want to be able to have a system in place where we can have a proper search, seize it if necessary and to protect our very fragile agricultural community and also our very stringent animal health and welfare situation that exists on the Island.

Now, I hope I have clarified that and because it is quite a complicated piece of legislation and, as I say, it deals with a number of issues, if any member wishes to seek any additional information before the clauses stage I will be only too willing to deal with them. Thank you, Mr Speaker.

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

Joint Committee on the Emoluments of Certain Public Servants – First Report Received

The Speaker: We turn then, hon. members, to item 13 on the order paper and I understand that the motion on the order paper will now be moved by the hon. member for Garff, Mr Rodan. I call on the hon. member for Garff.

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

That the First Report for 1999/2000 of the Joint Committee on the Emoluments of Certain Public Servants be received and its recommendation approved.

This is a short report and it is to the point and it does explain the background to the situation whereby the House of Keys and Legislative Council have been unable to show a consensus opinion to the emoluments committee. Therefore it is with some regret that on behalf of the Joint Committee on the Emoluments of Certain Public Servants I report that the committee sees no purpose, as things stand at the present, in proposing any changes to hon. members' remuneration.

The committee did examine the *Hansard* report from the House of Keys consideration of the independent report of the commission, and the chairman of the committee, Mr Radcliffe MLC reported on the matters raised within the Legislative Council and it was at that point, from consideration of these proceedings and what was said, that the committee concluded that they were unable to progress the matter.

I would emphasise before formally moving the motion that the committee's very firm view was that the independent report contained measures which were to be seen as a package of measures and the point of view that had been put forward by some hon. members which suggested that a vote be taken on individual issues within that package was not a fair or appropriate way to treat the package of conclusions from our Commonwealth parliamentary colleagues.

I would like to put on record the emolument committee's thanks for the efforts by the commission and I beg to move that the report at item 13 on the agenda be approved.

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

Mr Quine: Mr Speaker, I suppose this is a diplomatic way of the remunerations committee saying that they are abandoning the exercise and that is a matter for members as a whole to take a view on. But the point I want to make is I have refreshed my memory in respect of the specific recommendations and I do not see how they can be said to represent a package because there are recommendations there which are largely divorced from one another other than in the context that they come under a parliamentary umbrella. For example, there are recommendations there to do with the structure on which remuneration is based but

there are also recommendations there to do with staffing in relation to the Clerk of Tynwald's Office.

Now, it might be said, indeed I think I am probably one of those that touched upon it previously, that the issues of staffing were not really a matter to be embraced by this report, but they are here and I remain to be convinced that all the recommendations of this report have to stand or fall and that the exercise should be abandoned because of the want of consensus. I mean, there are very rarely issues here where you could say there is truly consensus. That is the nature of politics, we debate matters and we take a view on it, and the normal way to determine the issues is for us to put them before this hon. House and have a vote on them and then we determine by a majority decision what is going to happen to them.

So I would ask the hon. mover to try once again to persuade me and hopefully others that this is the appropriate way to deal with this matter. I fear that this will be viewed, certainly outside, as getting this House, and more particularly another place because they discussed their matters and took their decisions in private, away from a contentious issue as we are approaching a general election, a matter which will be resurrected immediately after the next general election, no doubt.

So I am still of a mind that we have a list of recommendations and the way to determine the future of this exercise is to put them individually before this hon. House and then we can vote upon them and if there is a view to the contrary, then I would like to hear it but I am very wary of going along with the proposition to effectively abandon the exercise because there are to my mind a number of these recommendations at least which can stand alone and should be judged by this House. So I look to the hon. mover trying to satisfy me otherwise.

Sir Miles Walker: Mr Speaker, I share a number of the misgivings of the hon. member for Ayre, the member who has just resumed his seat, but I also think that if we are to learn any lessons out of this what I think is a rather sad and miserable saga it is not to repeat the exercise in this way. (**Several Members:** Hear, hear.) To agree an uplift for hon. members and then to set up a committee to advise seems to me to be entirely the wrong way round.

I accept the point that the report from the independent committee contained a package of measures and I think as it contained a package of measures we should accept that package of measures even though some members may not like some of them. It seems to me that that was part of the deal, part of the arrangement that was set up.

I have to say the thought of this issue being resurrected immediately following the next general election leaves me cold. I hope that does not happen. In my view the time to deal with members' salaries is before a general election, as we did on the previous occasion so members, when they stand for election or people when they stand for election, know exactly what the remuneration package will be and if they do not like it, then that is a matter to be considered at election time, but to be elected to come into this hon. House and then to raise the issue I have to say, and I repeat myself, I think is the wrong way.

There are a number of issues concerning staffing which I think are serious issues and which should be considered and I think in fairness can be considered outside of the situation of remuneration of hon. members and the recommendations of the report and perhaps that is the way forward for the committee.

I think the committee have made the wrong decision on this. I think the whole exercise was wrongly based, I am sorry we ever entered into it and because of that I feel I have to vote against the resolution on the agenda paper today.

Mr Corkill: Mr Speaker, we have already started to see the lack of consensus on the way forward on this particular subject with only two speakers having spoken since my hon. colleague moved the motion. What I would like to remind hon. members is that when the much heralded 17¹/₂ per cent rise which we saw in the media was agreed to by this House, part of that agreement also accepted an independent review. Now, the emoluments committee has done that job, it has brought the review back to this House for its views. Hon. members, it was received, only received, by one vote I think it was and that is hardly an encouragement to the emoluments committee to actually progress the issue.

Now, the hon. member for Ayre, Mr Quine, has actually mentioned that each issue should be perhaps put to the vote and he did make that point when the independent review was put to this House. But I do not believe that it is credible in the public view for the House to be cherry-picking or seen to be cherry-picking at the recommendations of a review body that was set up in an independent fashion which was part of the original deal, if that is perhaps not the right word to use but that is what it was. It was a package, the pay increase was accepted by hon. members and alongside that was a recommendation for the independent review.

Now, I for one as an individual, and I know other members commented at the last sitting when we discussed this issue, find there are issues in that report which I agree with and there are issues which I do not agree with, but it was done independently and I believe, and I put that point forward when moving the report to the House last time, that we ought to accept it warts and all. (**A Member:** Hear, hear.) That having failed, and that is why this motion is moved with regret, I believe, to get consensus from the House, what is the way forward? I would say that in the short term there is not a way forward for the committee to progress the situation and I am quite of the opinion, definitely of the opinion, that the next House, when it is elected, will have to address the issue straightaway. Now, that is another disappointment because certainly the duty of the emoluments committee is to try and leave things in a good order for the next sitting, for the next House, as it were, but we have not been able to find a consensus way forward in that respect and I revert to the point that I do not believe that producing the option of cherry-picking particular recommendations is going to be the right way forward, so I would support the hon. mover in this motion and ask hon. members to vote in support of it, but with regret.

Mr Karran: Vainstyr Loayreyder, I have to agree with my hon. colleague. I think it is a bit outrageous that certain members want to take this bit and that bit and the other bit but do not want the bits that they feel.

Personally speaking, I find it absolutely scandalous that we have a situation which has not been addressed: the total imbalance as far as responsibilities within different departments is concerned. You can be responsible for the most trivial, the most inactive, have virtually nothing to do and you can have a situation where you have got other department members in other departments that end up with almost ministerial responsibility.

I am disappointed with the report, I am disappointed with the whole exercise and I long for the day where we will get something that is fair and equitable without different pressure groups trying to look after their own interests.

I must also say that I do find it rather offensive when I hear some in this House attacking others in this House about a lack of work. I think that there is one thing that never did get addressed as far as this whole issue is concerned which is the fact that we have a scandalous situation where we have got some of the department members spending millions of pounds with tremendous responsibilities and you have other people who have little or nothing to do but it is a matter of giving them political sweeteners and it is not even working as far as that is concerned, and I do hope that when this is discussed in the Council of Ministers that you get off the fence, Chief Minister, and you start sorting this out because I find it an absolute scandal at the moment that we have a situation where we have got members who have got nothing to do, who are on departments that have nothing to do and there should be a rationalisation of certain departments as far as their membership is concerned and the sooner the better.

Mr Quine: Hear, hear.

Mr Brown: Mr Speaker, I have a little bit of confusion on this in terms that the report of the commission was in fact dealt with by this House. It was received. That means it went nowhere, end of story, finished. It was then a job of the joint committee to look at whether or not, as they do ongoing, there is a need to change anything in relation to the emoluments of members, whether it be an individual, whether it be whatever, and I have to say, based on the report, I cannot agree with the recommendation 5.1 where it says, 'Given the lack of consensus, and divergence in the expressed views, of Members of the House of Keys on the recommendations in the Report of the Commission, and the terms of the resolution of the Legislative Council on the Report, we recommend that no further action be taken at this time on the recommendations of the Report of the Commission on the Remuneration of Members of Tynwald.' Well, the House did not ask them to take any action on the recommendations of that report because they received it. They did not approve the report, the House received it. To me there is a big difference. If the House had approved the report even by one, then it would have been asking this committee to actually progress the recommendations in the report. So clearly the House was not asked to approve it, it was asked to receive that report. So as far as I am concerned that report came up, provided a lot of information and the House determined it was not what it wanted, it did not see that as the way forward.

A number of issues were raised in the House. One I raised because I, for example, believe that the post of Chief Minister is undervalued in terms of remuneration and as far as I am concerned that is the only one that is.

As far as staffing is concerned, my understanding is that that is a matter for the Tynwald Management Committee, not a matter for this committee, and it should not even be involved in the debate. It has nothing to do with us in terms of considering this report.

So as far as I am concerned, to be quite honest I think this report, well, really is generally not worth anything and we should either dump it and just forget about it or if you are going to approve it you are going nowhere anyway, and I would just echo the points that the hon. member for Rushen, Sir Miles, raised and I have to say my view is the same as his: it should be dealt with by a House prior to a general election to determine whether or not there are any

changes. Whether or not the House liked it, what happened last time - and what happened last time was not necessarily the best way forward - was certainly reacted to badly by the public. The reaction from the public was that no sooner had members got elected than they said, 'The pay isn't good enough: we want more pay.' Now, that is putting it in very simplistic terms and I do not believe that that is how it really did evolve, but that is how it looked.

Clearly this House should either make a view and I believe this committee should come back to the House before the end of this session and say - and when I say 'session', the life of this House, I should say - whether or not it believes there should be any upgrade whatsoever in remuneration and if it says there should not be, for goodness' sake say there should not be. Stop waffling about and leaving it all up in the air: it creates uncertainty. If there is no need to increase members' pay, say that. If there is a need to increase it, then say that and let the House determine and I believe part of the problem we have is because the issues have not been clear, the commission did a job which in itself, I understand, they had difficulty in identifying certain aspects of how they would go forward. The nature of members' work, let us be honest, is so varied and for those of us who do work right throughout the year every day of the year, then of course we can all demonstrate different aspects of our work.

But whatever we do we must take away uncertainty that the public then become suspicious that the House is endeavouring to do something in the future, and I fully agree, as far as I am concerned, if the House does not determine prior to the next general election either there is or there is not an increase - and my view, depending on the information, is I really think that most members are paid adequately and I think there is a problem with the Chief Minister's remuneration for the responsibility the Chief Minister has - then just get a decision and just let the House make a determination and move on. Do not come back after the next general election, whoever the House is, and say six months later, 'We need to do something', because the public do not like that, they do not accept it. They have a right to know before they elect people what the situation is and not only that, those who are standing have a right to know what they are going to get, what they should expect for their remuneration during the life of the House which they have been elected to, and it is that aspect we need to get sorted out and I would suggest that one of the jobs the joint committee may well like to do is actually come forward with a report that recommends a proper procedure for dealing with how we deal with these issues because I think that is what is causing the problem: everything is up in the air all the time.

Mr Cannell: Mr Speaker, I think the preceding speaker put his finger on it. It is a point I made in a previous discussion on this matter and it is that the House should not be having anything whatever to do with dealing with its own remuneration. (**Mr Gilbey:** Hear, hear.) It must be an independent process right through.

Now we have seen an independent examination in this report which is before us at the moment and a certain course of action has been recommended by those who gave the evidence and came to the conclusions and we now are invited to act upon that, but I just cannot believe what I am hearing about the idea that members should be addressing certain aspects of remuneration prior to a general election. It would be an impossible position. No-one in their right mind going out to the hustings would say that they would vote for an increase in their wages: it would be the very thing that would be nailed down when they go to the requisition meetings and go around soliciting for votes. Neither would they say it was

equitable, as some other speakers have said, that they should get in and then say, 'Right, we've got five years for the public to forget: let's get ourselves a good rise straight after the general election.' There is the very valid point that those who are standing need to know what the job is and what it entails and what the money is. There is also the point about those who are considering standing because it is a very great risk for those who stand at a certain age to take on the very fickle job of the possibility of not being re-elected after a further five years, particularly if you are at about 40 to 45 where the prospects of getting re-employed at that age are considerably reduced.

So what I am saying here is it has got to be moved, the whole situation, by whatever method this hon. House decrees that in fact members individually have no input whatever to the remuneration and the terms and conditions on which they are employed, as it were. I do not think I can think of many other organisations, except the self-employed of course, where the people are actually able to say, 'Yes, we want a rise' and tell the people who have got to pay it, 'This is what we want.' It is just not right. It has got to be fully independent right through, but as happens this morning, this independent review is recommending that nothing be done and there is no alternative but to back it.

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

Mr Rodan: Mr Speaker, I think the preceding debate demonstrates very clearly exactly the difficulties the joint committee on emoluments had in considering this issue. The joint committee on emoluments is not possessed of the wisdom of Solomon and unfortunately neither is this hon. House so possessed because it was very, very difficult to find a way forward and the committee would have liked nothing more and I would have liked nothing better than to report to this House this morning that the committee, having considered the debates in the Keys and what went on in the Legislative Council, would have been here this morning considering a positive way forward. The reason that is not happening is because the debate which took place in this branch back in the sitting of 23rd November could not agree on the way forward on what was an independent report. If I could remind the House that that independent review was not approved in this House, it was received, very narrowly received. The other partner in this joint committee on emoluments, in fact the Legislative Council, voted to reject the independent report entirely. So while it would have been very pleasing in that situation to have determined a way forward in all that, it was simply impossible.

The joint committee received no clear direction from this House, received a very positive recommendation from the other place to reject entirely the report, and that was the situation we were faced with, and there is no point members complaining today that there is no clear way forward. We have had not only no consensus in a way forward, we have had no positive directions on an overall way forward.

The point about cherry-picking the recommendations that was very well made I agree with absolutely. I do not think it is possible to cherry-pick, nor is it possible to progress matters such as staffing because, contrary to what has been said, issues like staffing in the Clerk of Tynwald's Office were part and parcel of the report. The report was looking at a package of support, whether that be salary or staffing assistance to members and so on and secretarial assistance, which is part and package of remuneration at the moment, so naturally the situation came in and it would have been improper to consider that separately.

My own personal view, for what it is worth and I said as much at the November sitting, was that the report should have been received, warts and all. There were elements within it with which I profoundly disagreed, but it did in my opinion have the virtue of being an independent, external view with no axe to grind and they came forward with a recommendation and on the merit of that to my mind overrode particular individual recommendations with which I might have agreed. The House chose to take a different view and here we are in this situation today.

Now, if I could just remind the House that this joint committee on emoluments has not been abolished, it continues in existence. It is arguable whether it would be more effective as a Tynwald committee rather than a joint committee reporting separately to the branches. That is another issue and I have a great deal of sympathy with the view we would have determined things in a less involved and convoluted manner if it was a Tynwald committee and had the benefit of a single debate. However, that is another matter, but I would remind members that in 5.2 in this report the conclusion is that although no useful purpose would be served at present by proposing alternative comprehensive arrangements, we will continue to keep the arrangements under review. Please bear that in mind, it will be kept under review. And alternative comprehensive arrangements - the committee would be delighted, if the comprehensive alternative arrangement as proposed by the independent commission is unacceptable, if members could come forward with recommendations to the committee which will be delighted to consider them, and I do stress, alternative comprehensive arrangements, because we all individually see the virtues in individual components of that report, if anyone can come forward with alternative comprehensive arrangements the committee, which continues to sit, will of course consider them.

What we are saying today is that because there was no clear consensus or agreement or pointers from the last debate with which the committee could run, we were not in a position of reporting today on a clear way forward and that situation I will not say is the fault of this hon. House, it is not the fault, it is just a reflection of the reality of this hon. House. There are probably 24 different points of view as to the correct way forward. The committee, having analysed the debate and all the points and it has scrutinised the points made, was unable to find what was said represented the basis of a clear way forward.

So I would ask this House to accept reality: the independent report was not acceptable to this House, it certainly was not acceptable to the other place. Would it be that it had been and we would have had something to run with, as not. Please just support the motion that is on the agenda which allows the committee to carry on giving the matter future consideration, but you may as well accept the reality that it is not possible without starting afresh, completely afresh, to get an alternative, comprehensive arrangement for the way forward.

The Speaker: Hon. members, the motion before the House is that printed at item 13 on your order paper, that the First Report for 1999/2000 of the Joint Committee on the Emoluments of Certain Public Servants be received and its recommendations 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, Rodan, North, Mrs Crowe, Messrs Cretney, Shimmin, Singer, Karran, Cannell and the Speaker - 10

Against: Messrs Gilbey, Quine, Sir Miles Walker, Messrs Brown, Houghton, Henderson, Duggan and Bell - 8

The Speaker: Hon. members, the motion carries in the House with 10 votes cast for and 8 votes cast against.

Hon. members, that concludes the business on our order paper for this morning. The House will now stand adjourned till Tuesday next, 7th March at 10 a.m. again in this chamber. Thank you, hon. members.

The House adjourned at 12.34 p.m.