

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 30th May 2000
at 10.00 a.m.**

Present:

The Speaker (Hon J D Q Cannan) (Michael); Hon A R Bell (Ramsey); 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 (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 Mrs M Cullen, Acting Secretary of the House.

The Chaplain took the prayers.

Apologies for Absence

The Speaker: Hon. members, I have apologies for absence from the hon. member for South Douglas, Adrian Duggan, who is indisposed, the hon. member for Ramsey, Mr Leonard Singer, and from the hon. member for Ayre, Mr Edgar Quine, who is making a full and satisfactory recovery from his recent operation.

**New General Hospital – Contractors' National Insurance and Tax Payments –
Question by Mrs Cannell**

The Speaker: Hon. members, I will now turn to the order paper and I call upon the hon. member for Douglas East, Mrs Cannell.

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

Have appropriate payments of national insurance and tax for the months of April and May 2000 been received from the company engaged to complete the concrete frame works package on the new hospital?

The Speaker: The Minister for the Treasury.

Mr Corkill: Thank you, Mr Speaker. Given the confidentiality requirements imposed by the Income Tax Act, I do not consider it appropriate to divulge specific information about the income tax affairs of one particular client. The assurance I can give hon. members and in particular the hon. member for Douglas East, Mrs Cannell, is that the payment of national insurance contributions and ITIP deductions is monitored very closely by the income tax division. Their computer system provides for regular reminders to be sent if any payments are not made on time. There is also the facility within the legislation to make a determination on an employer and a contractor where a reminder does not result in a payment being made.

The relevant regulations governing the payment of national insurance and income tax requires the payment to be made within 14 days of the end of the relevant month. For this purpose a month means the period beginning on the sixth day of any calendar month and ending on the fifth day of the following calendar month. For example, payments due in respect of the month 6th April to 5th May have to be made by 19th May. Given the months to which

the hon. member is referring, any late payment would at worst be no more than seven working days late as of today.

The Speaker: A supplementary, the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker, and I thank the hon. minister for his reply. Can he advise, however, on how much national insurance and tax has been received by his department for the months of April and May? And further, can he advise on how many personnel on site this actually relates to?

Mr Corkill: In my opening comments, Mr Speaker, I did issue a mention of confidentiality requirements imposed by the Income Tax Act and I stand by those comments, Mr Speaker.

Mrs Cannell: Mr Speaker, in that case, then, can the minister advise on whether under his department's regulations he has had, or his department has had, to send reminders in relation to non-payment of national insurance and tax for the months of April and May?

Mr Corkill: I can confirm that reminders have been sent, Mr Speaker, and that is not unusual to have to send reminders to employers, to contractors, across the board.

The Speaker: A last supplementary, the member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Can the minister advise, then, on whether or not there has been any co-operation following the reminders issued by his department?

Mr Corkill: I would just reiterate the point I made, Mr Speaker, which is that careful due diligence is taken by my department in collecting the moneys due from all employers, all contractors who have to submit their ITIP and national insurance moneys to government. I do not wish to specifically answer on one particular company (**Mr Gilbey:** Hear, hear.) I think it would be setting an unfortunate precedent.

The Speaker: I think we have had sufficient supplementaries.

DHSS – Persons with Learning Difficulties in Community Homes – Question by Mr Henderson

The Speaker: Question number 2, the hon. member for Douglas North, Mr Henderson.

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

For what reasons are persons with learning difficulties supported by your department in community homes, rather than in Ballamona Hospital or within their families?

The Speaker: The member for the Department of Health and Social Security, Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. The policy for transferring people with learning disabilities from Ballamona Hospital to houses in the community was approved by Tynwald in July 1991 as part of the strategy for health and community services on the Isle of Man. I am pleased to report that this programme was completed as recently as 18th May with the opening of two new bungalows at Cronk Grianagh for a total of eight residents. The learning disability wards at Ballamona are now closed. In addition, a number of people with learning disabilities, who were living with their families, but who could no longer continue to do so, are

also now living in houses in the community. There are currently 76 people with learning disabilities living in this type of accommodation, which is staffed on a 24-hour basis.

The great majority of people with learning disabilities on the Island continue to live with their families, and the department would wish this to continue and does provide support services to ensure that parents are helped to look after dependants. Services such as day care, respite care, social work support and help from family aids all provide significant input to ensure that families are helped to care for people with learning disabilities within their own homes.

Mr Henderson: Mr Speaker, I thank the hon. member for his reply, but really it has not addressed the issue of the question that I posed to the department. Therefore, could he please agree with me that some of the main reasons why folk with learning disabilities are living in the community in these homes - and I accept they are nice homes and good care - is the fact that families cannot cope and they could not possibly afford the highly specialised care, and possibly some of these folk have no immediate relatives to look after them in the first case? Would he agree with me that those are some of the main reasons?

Mr Cannell: Yes, Mr Speaker, I am very happy to agree with that. I think that the entire transfer of the patients to this type of accommodation is a credit to the department and to the Isle of Man in general. (**Members:** Hear, hear.) I think that the accommodation which they now have, the lack of stigma of living in an institution such as we formerly had at Ballamona and all the assistance which is given to such people to integrate them into the community reflects great credit on everyone.

DHSS – Disability Working Allowance – Withdrawal – Question by Mr Henderson

The Speaker: Question number 3, I call upon the hon. member for Douglas North, Mr Henderson.

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

- (1) *Do you accept that persons with learning disabilities living in accommodation supported by your department, and otherwise qualified, are legally entitled to the disability working allowance;*
- (2) *if so, how long have such persons been so entitled;*
- (3) *will your department reconsider the withdrawal of the entitlement to the allowance from such persons; and*
- (4) *if not, will you consider withdrawing the entitlement only from such persons who are not presently in receipt of it?*

The Speaker: The hon. member for Rushen, a member of the Department of Health and Social Security, Mrs Crowe.

Mrs Crowe: Thank you, Mr Speaker. In relation to parts (1) and (2) of the question I am more than happy to confirm that any person satisfying all statutory conditions governing any social security benefit has a legal right to that benefit.

In response to parts (3) and (4) it is one of the prime responsibilities of the department to keep under review the statutory conditions of entitlement so that, in light of practical experience or in the development of other social care policies, these entitlements remain equitable between beneficiaries, contributors and taxpayers, and I would hope that all branches of government will regard it as the department's duty to bring forward proposals for modifying entitlement rules where the outcome of a review indicates that in the interests of equality such changes should be made.

In the case of disability working allowance this benefit was introduced in 1991 to help the disabled who wished to work. It was designed to help with the cost of living for rent, for food, for heating et cetera. It was never intended for persons now living in the care in community homes where all daily living expenses are wholly met by the state, meaning that in effect the whole benefit is pocket money. We considered that it could be irresponsible of the social security division to be providing teenagers, and more especially the vulnerable teenagers and others in our care who have learning disabilities, with a benefit of between £73 and £90 a week which is, in effect, pocket money, and that is why an order was brought forward in another place last month to ensure that the benefit goes to those disabled persons who need the extra help towards daily living expenses. Indeed, those are the people that it was intended to help. Thank you, Mr Speaker.

Mr Henderson: Mr Speaker, I thank the hon. member for her public relations exercise answer (**A Member:** Hear, hear.), but could she not answer my question -

Mrs Crowe: I have answered it.

Mr Henderson: - which was, how long have these people been allowed to claim the disability working allowance?

Mrs Crowe: I believe, Mr Speaker, I answered that question: as long as one is entitled, one can claim. The member for North Douglas, Mr Henderson, made it quite clear in a radio interview that he understood this particular social security order and, in fact, he said, 'I have researched this. I have been to the Social Security to ensure my understanding of it,' which indeed he had and the officers explained that order and the reasons for it in great detail. He knows that generally speaking the residents in care in community homes receive about £36 a week for their spends. Is he now saying that we should be giving youngsters with learning disabilities an extra £90 a week, which in some cases will mean over £100 a week cash in their pocket, as spending money? I would consider that Mr Henderson is either being totally irresponsible or he is, as usual, political point-scoring and what is worse, this time he is using the most vulnerable in our society for so-called political advantage.

Mr Henderson and Mrs Cannell Shame!

The Speaker: A final supplementary, Mr Henderson, the hon. member for Douglas North.

Mr Henderson: Thank you, Mr Speaker. All I can ask in my supplementaries are one or two following, but I refute the stupid allegations just made to me. (*Interjections*)

The Speaker: Can we have your question, please.

Mr Henderson: Yes, Mr Speaker. I again put to the hon. member: how long, what time period in months and years have these special people been allowed to claim disability working

allowance, and will she not agree with me that the chopping of an allowance right off is nothing but a breach of human rights and discrimination against the disabled, and that is what I am concerned about?

Mrs Crowe: I explained quite clearly in my first answer: 1991 was when the disability working allowance was introduced to help those who were wishing to work and needed extra for living expenses. The Department of Health and Social Security has progressed the policy of caring in the community so successfully - in fact, I believe that the Isle of Man is now a centre of excellence in this kind of care throughout Europe (**A Member:** Hear, hear.), and I think that in bringing forward the disability working allowance we were tailoring the benefits to best assist those in our care, and all political members of the DHSS have a large social and budgetary responsibility to do the best we can to help the people of our nation. Some members of this House seem to have a different agenda.

New General Hospital – Completion of Incomplete Work – Question by Mrs Cannell

The Speaker: We move on now, hon. members, to question 4 and I call upon the hon. member for Douglas East, Mrs Cannell.

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

When do you expect the work on the new hospital left uncompleted by Crowe EPH Ltd will be completed by the replacement main contractor?

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

Mr Karran: Vainstyr Loayreyder, we expect the work to be completed by mid-August.

Mrs Cannell: Mr Speaker, bearing in mind that it was seven weeks before the replacement contractor was installed on site, has this been worked into the overall run of things when the hon. member says that the contract should finish mid-August? Is mid-August taking into consideration the seven weeks' delay on this particular package?

Mr Karran: Vainstyr Loayreyder, hopefully the situation will be that we will get it completed by mid-August. That might disappoint the hon. member, as it seems to be in this hon. House that many others are not happy unless we try and destroy things, but the fact is that we hope this work will be done by mid-August. One cannot allow for weather or anything like that, but hopefully that will be the case.

Mrs Cannell: Mr Speaker, can the hon. member for Health confirm what the original time limits were which were tendered for in this particular package? And further, can he explain why approximately 30 men have either walked or been sacked off this particular site in relation to this particular package and, in view of that, how can he expect this particular package to be finished by mid-August?

Mr Karran: Vainstyr Loayreyder, I am sure the hon. member will be very happy when we are absolutely ripped off completely by the situation with the new hospital. It is almost impossible, the way that some people have acted in this hon. House, that we have got anywhere. This member was in the vanguard against building the new hospital where it was. Once the decision was decided, we had to get on with what was best for the taxpayer and the

people of the Isle of Man. (**Members:** Hear, hear.) I often claim that my colleagues suffer from vanity over sanity. I think other members in this House are starting to suffer in that they want to prove that we will not end up with anybody working on the hospital, because their private affairs will become the business of the public airways of Manx Radio and this is one, and I think it is abuse and, if we have not got problems, the hon. member will make sure we get them.

The Speaker: I will take just two more supplementaries. The member for North Douglas, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Could the hon. member with responsibility for the new hospital please confirm that the question is directed to ensure that the people of the Isle of Man do have best value for money and if he could please refrain from shadow-boxing himself?

Mr Karran: Vainstyr Loayreyder, all I can say to the hon. member is that I am very disappointed with the hon. member. The position is this is a very difficult project; this is a situation that he would not know about, and he was not here after the last general election when it went round this hon. House three times. We are doing our best to try and get this issue resolved and I do not need cheap jibes just because we have got a general election in 18 months' time and we will have a situation where we end up costing more money. We have a difficult enough job as it is, trying to get value for money, without companies in this Island saying, 'Well, it is an easy job, rip them off, put in any tender'; anyway you are going to end up with an awful lot of bad publicity, so I think hon. members need to become a little bit more responsible as far as this contract is concerned because we have got difficulties enough trying to get things sorted without some people wanting a death wish on the taxpayers getting decent value for money on this project.

The Speaker: A final supplementary, hon. members, the member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Is the hon. member for the department, therefore, in view of what he said this morning, happy to condone that there are apparent breaches in regulations in relation to this particular contract and this particular project? (*Interjections*) And further, is he happy that the Manx taxpayer is being ripped off by this particular project, and what does his department propose to do about safeguarding taxpayers' money as it is my concern and should be his?

Mr Karran: Vainstyr Loayreyder, I need details. Her side partner here was on about shadow-boxing - it is very, very difficult. I hear all these rumours, and what becomes rumour becomes a concrete fact tomorrow. I had tenders in not so long ago on this project where it is unbelievable what they have come up with, simply because they know this is a political football and anything goes. Well, I am sorry; as much as I am in an impossible position between Bovis and the minister, the situation is we are going to try and make sure we do the best job we can. I am not denying there might be problems, but I do not think having people's tax affairs, national insurance contributions or anything else over the airways is the right way about it. What we will end up with is a situation where we have at the present time, where lots of contractors are not even tendering for work up here - that has a severe effect - simply because of the shenanigans that are going on in this hon. House.

Mrs Cannell: On the hospital site you mean.

Heavy Goods Vehicles – Overnight Parking – Question by Mr Houghton

The Speaker: Question number 5, hon. members. I call upon the member for Douglas North, Mr Houghton.

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

When will a HGV park be provided by your department for overnight use by those who operate large vehicles in their private businesses?

The Speaker: The Minister for Transport to reply.

Mr Brown: Mr Speaker, my department have no plans to provide an off-street car park specifically for overnight use by large vehicles operated by private businesses.

Mr Houghton: Mr Speaker, does the hon. minister not feel that his department is letting down those businesses who are providing an enormous amount of revenue in respect of road fund vehicle duty to thousands of pounds a year and that they indeed should be taking care just as indeed any other business should be on the road, sir.

Mr Brown: Mr Speaker, normal business has to provide its own storage, its own accommodation at cost to that business, which of course ultimately will be passed on through to those who are paying for the service, and I see no difference in the terms of heavy goods vehicles. In fact, I would say that it is unfortunate that over the years most of the heavy goods operators have not provided their own facilities off-site. Some of course have made private arrangements and we are very pleased for that.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that the fact that he is not taking any action on this point is that the situation is you are now finding heavy vehicles plonked out on all sorts of farmyards throughout the surrounding area of Douglas, and surely that is detrimental as far as the environment is concerned, and will he revisit the issue as I think the hon. member for North Douglas is quite right over this situation?

Mr Brown: Mr Speaker, if my department was to provide a large area, which is what has been suggested for all the heavy goods vehicles, or a number of large areas, throughout the Island, then the description the hon. member, Mr Karran, identifies may well be that we have a worse situation with a large number of large vehicles parked in the countryside. Clearly my department is concerned about this issue, has over the years introduced legislation to stop large vehicles parking overnight on public roads and where there is a speed limit operative and also, of course, in the new Highway Act that we are promoting we are proposing a provision to make it a condition of an operator's licence that those who operate such businesses have to provide parking off the highway. That is no different than a shop that has to provide its own storage; it is no different than any other business where they have to make sure that they comply with the needs of their business. It has been convenient and cheap for heavy wagons to park on the highway.

Mr Cannell: Mr Speaker, a supplementary, if I may. Would not the hon. Minister for Transport agree with me that it is totally unacceptable to have commercial vehicles parked in residential areas, many of which apparently escape by the fact that they are just shorter than the requirement where they have to park elsewhere and, taking in mind that he has said that it

is not the business of his department to provide parking, that many of the operators should be actually forced to institute such facilities to enable the people in residential areas to have rid of these vehicles parking inconveniently in what is often the case of nice views from their premises?

Mr Brown: Yes, Mr Speaker, we often get complaints about vehicles parked in residential areas. The law is quite specific: it is to stop large vehicles such as coaches, to stop large vehicles such as heavy goods wagons. I think the hon. member is indicating a situation where some of the commercial vans which are transit size and maybe slightly larger now, the Mercedes size. There is a slight difficulty there, of course, because we get complaints about those being parked there, but we also get complaints about holiday homes being parked on the highway. I think the point is that there is not necessarily a perfect solution because, of course, anybody can park anywhere on the highway as long as there are no highway restrictions in that area and people often like to park right outside their own front door so that they have their vehicle right in front of them, which to some degree we can all understand. However, we are talking about heavy goods wagons which are in many cases quite substantial vehicles, and it is a requirement that they are not permitted to park overnight in a residential area where a speed limit applies.

The Speaker: A final supplementary, Mr Houghton, the member for Douglas North.

Mr Houghton: Thank you, Mr Speaker. In view of the acknowledgement, of course, that HGV vehicles can no longer park on highways, and it is noted, of course, that the department is concerned, why does the department not do something positive about this before a motion is brought before the hon. Court of Tynwald instructing the Department of Transport to do something about this? These businesses do need taking care of. They have been forced off the streets, correctly so. Why doesn't the department move forward now with an initiative?

Mr Brown: Mr Speaker, well, of course it is any member's right to bring forward any motion either to this House or to Tynwald Court, and it certainly does not concern me if they do that. What I would hope any member would do before doing that, of course, is ensure that if they are going to put forward a case they see it as a higher priority than other priorities that government has to deal with, and if the hon. member is content that government should invest millions of pounds buying land, providing car parking spaces for heavy goods vehicles or parking spaces, buying for heavy goods vehicles and he thinks that is a higher priority than the pressures on Douglas - for example, for traffic calming in estates, which I know he is very keen on, for parking in Douglas, which I know the member is keen on - and for many other things that we are endeavouring to deal with, if this is a higher priority than those who are in commercial businesses, in some cases making substantial profits, providing their own facilities, then I will be happy to hear the member make that case and I shall certainly be content to defend the case in another place, and it will be a matter for Tynwald whether or not my department is then instructed to invest millions of pounds for this specific business operation.

The Speaker: Well, hon. members, that brings Question Time to a close. We have one question for written answer which you have on your desks.

**DHSS Homes – Persons with Learning Disabilities – Living Costs –
Question by Mr Henderson for Written Answer**

Question 6

The hon. member for Douglas North, Mr Henderson, to ask a member for the Department of Health and Social Security:

- (1) *How many persons with learning disabilities are accommodated in homes supported by your department;*
- (2) *which elements of the living costs of these persons are paid for by your department, and which are not;*
- (3) *are the families of such persons required to pay for any elements of their living costs not paid for by your department and, if so, what elements and on what basis; and*
- (4) (a) *what benefits; and*
(b) *what amounts in respect of each benefit are currently paid to each such person (signified other than by name or present residence?)*

Answer

- (1) There are 92 persons with learning disabilities accommodated in homes supported by the department, of these 76 live in ordinary houses in the community and 16 live within Radcliffe Villas. In addition there are 8 respite beds within Radcliffe Villas.
- (2) All elements of the living costs of these people are paid by the department in part through their individual entitlement to benefits and by direct funding of their care and living costs within the home.
- (3) The families of the individuals concerned are not required to pay for any element of their living costs.
- (4) All residents who claim benefits from social security are assessed as to their individual circumstances and entitlement. In the time available to answer the question, 90 residents have been found to receive benefits.

The benefits received are:
incapacity benefit
severe disablement allowance
disability living allowance
income support
disability working allowance.

The following numbers of people receive these benefits, the amounts they receive per week are:-

IB	SDA	DLA	IS	DWA						
No.	Total Paid	No.	Total Paid	No.	Total Paid	No.	Total Paid	No.	Total Paid	
1	13.50	65	995.27	78	1488.89	36	354.81	7	393.80	

Most residents receive more than one benefit, and the range of benefits is as follows:

invalidity benefit	£13.50
severe disablement allowance	£13.50 - £31.29
disability living allowance	£14.20 - £59.69
income support	£ 0.50 - £46.26
disability working allowance	£ 1.00 - £90.10

Bills for First Reading

The Speaker: We will now move on to the main agenda and Bills for first reading.

The Acting Clerk: The Misuse of Drugs (Cannabis) Bill, Mr Karran; the Constitution Bill, Mr Cannell.

Procedural

The Speaker: Hon. members, before we determine the printed order of business on the agenda I call upon the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. With respect, sir, I would like to move:

That in accordance with standing order 37(2) the House resolves that the motion at item number 14 on the order paper be considered immediately after the lunch adjournment.

My reason, sir, for moving such suspension of standing orders is that we are, as members of the legislature, about to be briefed on the proposed incinerator and alternatives during the lunchtime and it has been deemed appropriate by a number of colleagues here today that we should be considering the motion at item 14 following lunch while the subject matter is still fresh in members' minds.

I do hope that hon. members will support this particular motion, bearing in mind that we do have the Human Rights Bill for third reading, which I would not expect to take too long; we have the Protection from Harassment Bill for the consideration of clauses - again I would not expect that to take too long; but of course we have the Criminal Justice Bill for further consideration of clauses, and bearing in mind that we will not reach third reading for that particular Bill until the next sitting of Keys following the June sitting of Tynwald and then following that, of course, we also have another Bill for second reading, one can safely assume, therefore, that as item 14 is the last item on the agenda we may well run out of time before we consider it.

Bearing in mind the grave importance of the subject matter in relation to the motion, I believe that hon. members ought to afford themselves the opportunity to fully consider and debate this particular item before they are asked to consider any further moves towards the incineration policy and expenditure of the same at the June sitting of Tynwald. I hope hon. members will support the suspension of standing orders to take the issue around 2.30 immediately following the luncheon break. I beg to move, sir.

Mr Shimmin: Mr Speaker, I am pleased to second the motion to suspend standing orders and to take this item in immediately after lunch. It is an area which is of extreme importance and concern both to every member of this House and the public and I believe it would be appropriate for this House to take this today rather than to defer it until another place at another time. I believe that the level of argument raised by Mrs Cannell is legitimate. It should be done now. I believe that the issue is one on which I and other members of this

House have altered their views in recent months, and I believe it is necessary for both the minister and the House to actually evaluate the full views of this chamber before we go to the June Tynwald. I would therefore strongly urge members to support the suspension so we can have this important debate rather than see it running out of time today and make what will, to the public, appear to be a wasted opportunity. Thank you, Mr Speaker.

Mr Downie: I have no trouble supporting the motion before us today and suspension of standing orders. I would, however, be very appreciative if the member moving this motion in the House today could actually supply the members of this House with the draft report of the United States Environmental Protection Agency. I have endeavoured to gain some information about this subject, and although elements of it are available on some of the websites, the document itself appears to be very vague and there is at the same time discussion going on in the UK where reference was made to this particular document last week in a debate about the UK government's waste management policy, and I think that if the member has got additional information which the members are not privy to, out of courtesy they should be circulated to everyone so at least, if we are going to have a debate after lunchtime, members can possibly brief themselves over the lunchtime period and read any available information that the hon. member for East Douglas may have.

Mr Cannell: Mr Speaker, I rise to totally oppose the suspension of standing orders to consider this matter. It is not that it is not suitable and it is not that it might be deemed to be of aid to the public in attending at a requisite time - I am all for that because some of the business which is important to the public often comes on hours after it might have been normally expected; but nevertheless we have an agenda and we have a set order in which items are submitted and are tabled, and there are other considerations. Other people have items which they may consider equally meritorious and I do not feel that this is required to advance this debate, which now must be about 20 years old, on the ins and outs of incineration in the Isle of Man, and for one member I can say quite honestly that I have little difficulty in retaining any information I might get at lunchtime a little bit more than half an hour later.

So I oppose this. I think it is beginning to be now that we have people who consider that their own personal items are more acceptable or more required to be debated than other people's and I think we should stick to our order of business. Anybody who wants to get their items top of the bill can do so with a little bit of forethought and I think it would ill behove this hon. House if in fact we were to start playing ducks and drakes with everybody's personal ambitions to shift the agenda round, because this item is not the only one which concerns people in their business life. It is a busy fortnight for people who have other responsibilities too and I do not think we should start shifting items around virtually at the drop of a hat.

Mr Henderson: Mr Speaker, we are here to conduct the business of the day. Nobody, as far as I can see, is here to shuffle agenda papers around to suit personal motives and all the rest of it. There is a perfectly valid reason why Mrs Cannell, the hon. member for East Douglas, has moved this particular suspension of standing orders; it is quite obvious and it happens time and time again in this hon. House and in another place because the private members' resolutions and so on in general always are tacked on at the end of the agenda and they lose their impetus and, quite often, can lose votes and everything else. And I can see the

point here: if this is split up or whatever, it could lose the meaning that Mrs Cannell hopes to have for it.

I have got no problem with it being advanced up the agenda slightly. It is not going to matter a jot to me; I am here to work until half past five and, if needs be, any other Tuesdays as well, so I have no problem with it.

Mr Brown: Mr Speaker, I am really brought to my feet by the comment from the hon. member for North Douglas in terms that he indicated that because it is a private member's motion it is just tacked on the end of the agenda. I would remind the hon. member that the agenda is for matters laid out by standing orders and it is not a matter for the members of the House as such, but of course it is a matter for the members of the House whether or not we advance anything on the agenda, which is hence the motion before us by the member for East Douglas.

I would make the point that this House's primary role is in fact to pass legislation; it is not to debate motions although, of course, there is that provision there, and it is a matter for the House whether or not it believes that this matter should be brought up the agenda at the expense of legislation. Maybe there is only one more sitting of the House left before this recess, but that one more sitting could mean that some of these Bills if they are dealt with today will get their third reading and then can go to another place before the summer recess and I think members should keep that in their mind because that is important. Whilst this is an individual subject of considerable importance to all of us, legislation of course is also of considerable importance; the difference is that the motion the hon. member has can be debated in another place when in fact that matter is before Tynwald Court; the legislation cannot, and I would just ask members to keep that uppermost in their mind. Voting against this motion does not mean that the matter of whether or not this Island invests in an incinerator and the implications that may or may not be founded, based on advice from other parties - whether or not that, in fact, is going to happen is a subject that will be debated elsewhere, and it can be debated here if the House wishes to bring it forward.

Of course, what we do not know is whether or not the House will finish its legislation with a reasonable time to allow this matter to be debated anyway, and it is always open to a member to seek an extension to standing orders to exceed 5.30, so that is another option open to the House, but I would say that we should concentrate on the primary role of this House. That does not debar the hon. member from having this debate in another place and I would say that if we are going to get what seems to be, looking across from my desk, a substantial document, then I would think to read that in half an hour and to consider it and debate it with some sort of meaningful debate from members who really have not had that opportunity is not necessarily the right way forward, and I would propose that we do not support this motion, that we may still get to the business at the end of the day and ultimately, of course, this matter will go to Tynwald Court, and I think the public, like many of us, are confused because there are so many different points being raised on the matter of incineration and, whilst we can respect those who have a concern about it, there are also many cases put forward by many people of prominence as to the advantages of incineration, but that whole issue will come later and I hope that members will leave this where it is and let us see how we get on with the business of the House.

Mr Karran: Vainstyr Loayreyder I wanted to try and keep quiet on this whilst I always intended to support the hon. member, but the crass hypocrisy of the previous speaker as far as, you know, we cannot suspend. We did it last week when it was the government's side. We could change the agenda when it suits the standing orders and we need to keep it in order now this week because it is not our gang that is doing it. Well, I am sorry, I will support the hon. member as far as this is concerned because I believe that if it is good for the government's side it is good for the other side. This is one of the most important issues and we are going to end up in a situation where we are going to end up with the kids and grandkids hitting us over the head for being so blatantly stupid in this hon. House if we go down the road of what is proposed by the government.

So as far as the hon. member is concerned, I shall support her. I just hope that some members can try and stop their amnesia. You cannot be changing the agenda paper one week for the executive. We have already changed the standing orders so that you can bring amendments here on the hoof because you have got the block vote, and some of us here who wanted to suspend standing orders could never get three quarters of the House; even if we were offering them a double pay rise and 15 years' extra life in this hon. House, I would still have eight votes against me. So there is no chance that some of us. . . and you have done that on purpose and now you try and play it the other way, hon. member for Castletown!

I hope this House, if it has any fairness and decency - it did it last week for the executive, it should do it for the hon. member, and I think it is totally wrong if this hon. house does not do that. I would agree with the fact that I would like to get on with the legislation that is in front of us today but, at the end of the day, this is an important issue which will have more effect than many of the items of legislation down here, more direct effect on the individuals than most legislation on this agenda paper today. I just hope members do not take amnesia and say, 'Well, it is only the hon. member for East Douglas, she's not part of my gang so I'm not supporting her.' I think that is wrong. I think the member has got a legitimate argument, it is one of the most important issues that this House will have to deal with and give a liability to future generations. I hope this hon. House supports the hon. member, and she has my support.

Sir Miles Walker: Mr Speaker, I do not mind what we do as long as we get on with it. (**Members:** Hear, hear.) I have to say, when I read the agenda paper before leaving home or whenever we received it, it seemed to me we would get through all this business in one day. I think that is possible and I think we ought to be doing that. We do have a request from the hon. member to bring a resolution forward; I am content to go with that because I do not see any reason why not to, but the sooner we get on with business on this agenda, the sooner we will be finished.

Members: Hear, hear.

Mr Gilbey: I think there has been a misunderstanding about this. First of all the hon. member talked about a presentation on the incinerator at lunchtime. This is a totally limited one; this merely explains the difference between mass-burn incinerators and pyrolysis. It certainly does not go into the whole explanation about the order which is being put to the June Tynwald. I should explain to hon. members the timetable -

The Speaker: With respect, hon. member, we are debating the suspension of standing orders, not an item on the agenda.

Mr Gilbey: Yes, but I was going to explain why I do not think it is necessary to bring this forward, because there is no urgency between now and Tynwald. The government will be no more committed to building an incinerator than it is at this moment, because quite clearly there will be no commitment at all unless Tynwald at the June sitting approves the entry into a contract. So therefore there is absolutely no urgency about this; whether we pass later Mrs Cannell's motion or not it will not change the position. Nothing would be committed until the June resolution is considered and, if thought appropriate by Tynwald, passed, because clearly the department will not enter into any contract or any commitment in addition to those four investigations which are going on at the moment. So there will be absolutely no commitment that is not entered into now between this date as I stand here now and the June Tynwald, when it will be up to Tynwald to decide whether they pass the resolution put to them or not, having been briefed at three different presentations today regarding pyrolysis, next week regarding dioxins and finally on 13th June regarding the whole project in detail when three hours have been set aside for this, and I hope hon. members have got a letter from the chief executive of the department setting out this timetable.

So I can see no reason to hurry forward this matter at today's sitting but there are vital government Bills which need consideration and progressing.

The Speaker: Hon. member, I invite the mover to reply.

Mrs Cannell: Thank you, Mr Speaker. I have no wish to take up any more valuable time. I thank the members for the contributions that they have made. I would suggest, though, that it is urgent that members consider this item today because of the overwhelming growing public concern in relation to the question of cancer, and I also would have thought that members would be better equipped going into a debate in another place on 20th June if we had an informed debate today. I would therefore like to move the motion standing in my name and I sincerely hope members will support it and allow the debate to come forward.

The Speaker: Hon. members, you have the motion before you. Those in favour please say aye; those against, no. The noes have it.

A division was called for and voting resulted as follows:

In the Keys -

For: Mr North, Sir Miles Walker, Messrs Houghton, Henderson, Cretney, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Mr Karran and the Speaker - 12

Against: Messrs Gilbey, Rodan, Mrs Crowe, Messrs Brown, Bell, Corkill, Cannell and Gelling - 8

The Speaker: Hon. members, the motion fails to carry. There were 12 votes for, 8 against. As it was a suspension of standing orders 16 votes in favour were required.

Human Rights Bill – Third Reading Approved

The Speaker: We now move to item 9 on the agenda, the Human Rights Bill for third reading. I call upon the hon. member for Castletown, Mr Brown.

Mr Brown: Mr Speaker, the Human Rights Bill 2000 gives further effect in Manx law to the rights and freedoms guaranteed under the European Convention on Human Rights which have applied to the Isle of Man since the Island ratified the European convention in 1953. The convention rights which already apply to the Island are given in clause 1, schedule 1 of the Bill and the Bill provides that legislation applying to the Island - that is, Acts of Tynwald, the UK Parliament, church measures and all subordinate legislation whenever enacted - must as far as possible be read and be given effect in a way which is compatible with convention rights. The Bill provides that a person may seek an interpretation that legislation, whether primary or secondary, is compatible with the convention rights. If a declaration of incompatibility is made by the courts this does not affect the validity, continuing operation or enforcement of the legislation in respect of which such a declaration is made. In other words, a declaration of incompatibility is not binding on the parties to the proceedings to which it is made.

It will be a matter for government and ultimately the Island's legislature whether or not they feel that our Manx law should be amended to remove any conflict between the rights given to our people under the Human Rights Act and our own legislation. The courts cannot, because they will have no powers to, override the authority of Tynwald and its branches. The Attorney-General has a responsibility to advise government when a declaration of incompatibility has been made. Under the provisions of the Act it will be unlawful for a public authority to act in any way which is incompatible with the convention right. However, there is a defence in that if, as a result of one or more provisions of an Act, the authority could not have acted differently or where one or more provisions under an Act cannot be read or given effect in a way which is compatible with convention rights and the authority was acting so as to give effect or enforce those provisions. A public authority is determined as a court or tribunal and any person certain of whose functions are functional of a public nature - for example, government departments, government boards and local authorities. However, neither Tynwald, the Legislative Council or the House of Keys, or a person exercising functions in connection with proceedings in Tynwald or any of its branches, are determined as a public authority or acting as a person whose functions are of a public nature.

Under the provisions of the Bill that now is to get its third reading, damages may be awarded by the appropriate court against a public authority. However, the court must take into account the principles applied by the European Court of Human Rights in relation to the award of compensation as provided under article 41 of the convention.

The Bill provides, as does the European convention, which already applies to the Island, the freedom of expression, freedom of thought, conscience and religion. There is a provision within the Bill for the Council of Ministers to permit a derogation. The Bill requires also that the explanatory memorandum of a Bill to be put before the House or the Legislative Council must provide a statement to the effect that the Bill and its provisions are compatible with the convention rights, or a statement to the effect that, although the member moving the Bill is unable to make such a statement of compatibility, the member nevertheless wishes to proceed with the Bill. In either case it will still be a matter for the legislature whether or not it pursues the Bill and its provisions.

Finally, there will be a considerable amount of learning required by our courts, government and other public bodies to ensure that the provisions of the Act are understood and complied with and therefore, as can be seen under clause 23 of the Bill, the Act will come

into force when the Council of Ministers are satisfied that the Island is ready to progress with the provisions within the Act. The Act can be brought into effect on such day as the Council of Ministers determine by order, and provisions of the Act may be brought in on different days.

This is a major step forward for the Island and an important one for our people in enacting our own human rights legislation, and therefore I have great pleasure in moving that the Human Rights Bill 2000 be read a third time.

Mr Bell: I beg to second, Mr Speaker.

Mr Houghton: Mr Speaker, as indeed during the second reading of this Bill, I am thoroughly disgusted for many reasons why this Bill, which has been referred to on the streets as a criminal's charter, really needs to go ahead and go through the branches. It really does not affect the man on the street. It will cause confusion in the legal profession; it will cost government an absolute fortune in the years to come; it will cause untold bureaucracy; it will lead to many amendments of Acts of Tynwald because of incompatibility reasons, as has been explained this morning by the hon. mover, and of course I think it will lead to chaos and confusion, and really, in closing, I just think that this Bill, to sum it up, will actually negate the public's fundamental right to see real justice being seen to be done. It will negate that right, sir. Thank you.

Mrs Hannan: We are here, Vainstyr Loayreyder, to represent the people. We are not exceptional people. We are here to make sure that everyone has rights and that people's rights are respected and therefore, in representing the people, we are not over and above the people, we are the people (**Mr Houghton:** Hear, hear.) and therefore it is up to us to guard jealously those rights, the rights of people and every individual. That does not mean that someone has more rights than someone else or someone has less rights than someone else. We do have freedom of speech and, within this Court, yes, we are all able to represent viewpoints. In the street people are able to represent viewpoints, but there does have to be a balance with that responsibility. There are rights but there are also responsibilities, and we are here also to protect those rights and responsibilities. We are here to protect people from all sorts of initiatives that this legislation brings in: to protect freedoms, to protect privacy, to prevent people being tortured - all the things that happen throughout the world. This legislation is bringing this home into domestic law, and therefore I think it is a great day today for the Isle of Man. I think it is a wonderful day that we are able and we have the freedom within our House of Keys to bring forward this legislation.

We talked before about 20 years to bring forward some sort of plan for dealing with waste that is produced and, because we have not got on with it, we are seen to be somewhere demeaned because of that. For longer than that we have tried to bring human rights to our people, something that they do not have to take away to a different country to be heard, and therefore I think it is absolutely wonderful today that I can be part of a Human Rights Bill looking after the rights of our people and giving them rights, responsibilities, but protecting them.

Can I just say before I end that even criminals have rights, even criminals are people -

Mr Houghton: Now they will have more rights.

Mrs Hannan: They will have no more rights than me or any other member of the Isle of Man, but they also deserve rights and therefore this legislation will protect everyone.

I do not think and I would hope that we will not demean people. People do have different outlooks, we do attract different people and people do develop differently within our community and therefore I think that in actual fact, instead of criminalising everybody straight off, we should even try harder under human rights legislation to give people more rights and protect those rights for them.

I think it is a great day. I am very proud of being part of the Human Rights Bill 2000 in the House of Keys.

Mr Gilbey: Mr Speaker, I am drawn to my feet by the statement of my colleague and friend, the hon. member for Peel, who seemed to suggest that people in the Isle of Man had no human rights. I really do not think we can let that statement go unchallenged. Personally, I think that the Isle of Man probably has more human rights for all its people than most other countries. For example, we have a court system where you can go right through to our court of appeal and then beyond that to the House of Lords at the same time - it is no good sneering at what is a system which gives an appeal to a completely independent and very prestigious legal body. We also have the right of petitions to Tynwald; we also have the right of petitions of dolance. So I think it is quite wrong that it should go on the record unchallenged that the people of the Isle of Man have no human rights, because I for one do not think that is true or accurate.

Now, regarding this Bill, I think there are different arguments to it, one of the arguments put forward by the hon. member for North Douglas, Mr Houghton, and then there is the other side that it is advantageous to have these matters tried in the Isle of Man rather than go to Europe and, as in all things, I do not think it is a question of black and white; it is probably a question of shades of grey. But to my mind this Bill has advantages over what is in the adjacent isles in that it does have some different provisions but, more importantly, as the hon. mover has made very clear, it will not be rushed in. The Bill will be put in place and then the Council of Ministers will wait to see how it operates in other countries and what problems there are or are not, after which it can be brought in and, if necessary, if there are appalling problems elsewhere, an amendment Bill could be brought in to deal with them. So I think that on balance this Bill should be supported on the basis that the hon. mover has explained.

Mr Henderson: Mr Speaker, I support this Bill in 99 per cent of its entirety. A Bill that subscribes to the right to liberty and security and all the various other articles listed out in the annexes at the back - freedom to thought, conscience and religion, freedom of expression - has got to be a good thing; it brings us in to the 21st century.

Mr Houghton: We already have them.

Mr Henderson: It backs up what the Chief Secretary and the Attorney-General were saying to the UN earlier in the year.

Now, having said that, I too have one or two misgivings and I have alluded to those before, and perhaps I have some sympathy with my colleague for North Douglas in the law and order issues. That is something that we need to think carefully about. But what does concern me is the issue still of legal aid, and I am concerned with that and especially with the

comments from the hon. member for Peel, Mrs Hannan, where she said, 'rights for everyone.' Well, that is mostly true, but we still have a problem here where, although the hon. member moving this Bill has said everyone will be entitled to legal aid et cetera et cetera, that is fine but I think it is still legal aid on the basis of working for the very poor and means-tested, so actually the more money you have the less legal aid you will get. And then we have the grey area of people who are not earning that much and who will not be able to be entitled to a great load of legal aid and then they will not be able to assert their human rights because they will not be able to afford the case and the solicitors and all that goes with it to progress a genuine human rights issue. Now that is something I do feel strongly about, and I hope in the fullness of time that the hon. mover may be able to look at that particular issue. I accept legal aid is an expensive option for the government of the Isle of Man and so on, but if we are progressing human rights and we are saying it is a good thing to do and it sends out positive signals to the rest of the world and all that, then perhaps we could look at this issue here where the 'grey area' of earners, as I have come to call them, who are just above the threshold for full benefit but nevertheless fall into the area where they may be entitled to a quarter or a fifth of legal aid benefit will not be able to afford to progress a human rights issue which could be quite costly and therefore they would lose out on trying to progress something of their rights.

So those are my concerns. I do make a call upon the hon. member, Mr Brown, to look at that particular issue as we are going along this road. It may be possible to make amendments in the future - I feel certain it will be - and bear those comments in mind, but otherwise I am supportive of the Bill.

Mr Rodan: Mr Speaker, just following from the last hon. speaker, I think it is worth reminding ourselves that the Isle of Man has in fact been signed up to the Convention on Human Rights since 1953. What is happening and what this Bill is all about is that it is now considered the time is long overdue to recognise the importance of making these rights more directly accessible under the convention by enabling people to enforce them in the Island's courts rather than go to the considerable delay and expense which is currently involved in taking our cases to the European commission and court in Strasbourg; that is what this is all about.

The hon. member for Douglas North has focused in on one possible area of difficulty regarding legal aid, and the difficulties surrounding that in terms of alleged breach of the human right to a fair trial is an illustration of the many, many areas of concern that are now going to be thrown up by this particular Act, and the strongest advocates of this legislation will not deny that all rafts of existing and future legislation are going to have to be very carefully scrutinised to ensure compliance with human rights in order to avoid litigation. The key in this, and the most important clause in this Bill in my opinion, is the very last one, clause 23, which states, of course, that the actual coming to force on such day as the Council of Ministers may by order appoint, and this is the safeguard, I suggest; in the UK the Act comes in this October having been subject to at least a two-year wait during which time the opportunity has been taken to carefully scrutinise all those areas of legislation which the new Act is liable to impact, so that when it does come in they shall be ready for it. I suggest it is extremely important that we do the same and that the Attorney-General is going to have quite a lengthy process of looking at current legislation, current areas of difficulty, and quite rightly so. This is very much a case of hasten slowly. The principle is absolutely correct, it is long past time that the Isle of

Man courts were able to enforce these rights and freedoms to which this Island has been a party for nearly 50 years but we must have our wits about us and recognise the areas of likely involvement such as legal aid and a whole raft of other issues, Mr Speaker.

The Speaker: I call upon the mover to reply.

Mr Brown: Thank you, Mr Speaker. I thank members for their contributions and the points they have made, and I do wish to endeavour to respond to some of them because I think they are important, as is this legislation.

The hon. member for Garff who spoke last mentioned there will be a need for consideration of our existing legislation to amend it to comply with the Human Rights Bill, and of course he is right in the terms that it will be a responsibility on government and some would say it should now be because the convention applies to in fact consider when it is amending legislation or, as things arise, whether or not there is a need to ensure that our legislation that applies within our Island in fact complies with the rights under the convention. Those rights, I would remind members, are for our people whoever they are; that is the important thing to concentrate on, and I will come back to that when I respond to the hon. member for North Douglas.

So there is a lot of work to be done but it is ongoing: legislation is upgraded all the time, that is the role of this House, and new legislation coming in, and the point that we have a responsibility to be consciously aware in this House whether or not the Bill being promoted complies with our Human Rights Act is, I would have thought, a good thing and we should be doing anyway.

If I can come to the member for North Douglas, Mr Henderson, who raised the issue about his concern on legal aid, I did make it, I thought, very clear at the clauses stage and I would just re-emphasise again that of course legal aid is provided under other legislation, and that is a matter that is dealt with elsewhere, and I did make the point in a response to the hon. member for Onchan, Mr Karran, where I said that that issue is a separate issue, and whether or not the government believes there is a need to increase that level again is a matter for those responsible.

The issue certainly - I am sure the Chief Minister is noting it in terms of the issue that is raised, but I would just make a couple of points. The Isle of Man legal aid system is already more generous than the legal aid available anywhere else in the British Isles as far as I understand it. Secondly, the point about the grey area - the grey area will always exist and there is a difficulty for that because, unless you make everything free or you make everything available to people, the grey area will exist because we will draw a line, and all we will do is increase the level of where the grey area is. Now, whether that is right or wrong, that is a matter of political judgement and that is why we are here. And then we have to say whether or not we believe the level that has been determined is fair, and that is really all that we as legislators can do. And there will be people who fall outside that who naturally will say, 'But it is not fair', and when you hear the argument you can understand that when somebody may have to fund the whole bill themselves who are not that wealthy, but the implications are that it will tie up their resources for quite some time as against somebody who is certainly below a certain level who will get their legal aid funded so that they can take their case. It is a difficult balance, that is a responsibility that we have, and all I can say to the hon. members, I am sure

that the Chief Minister has heard the comments that you have made and that the issue certainly is one that will be passed on to those who actually recommend the legal aid level. What I would say of course is, as I said at the clauses stage, legal aid is available to our people, if this Act is passed and when it comes into force, to go to court to challenge whether or not the Isle of Man is complying with the provisions under the Act, as it will become.

The hon. member for Glenfaba, Mr Gilbey - I thank him for his support because I think we all know that he has concerns on this, as I think it is fair to say we all do; you are balancing up the rights and what are the implications of those rights, and the courts, of course, will determine that, and, as he says, there is a right of appeal to certain bodies, there is a right of petition and I accept all that, but in fact this goes further. This enacts rights which we do not have enacted in our own legislation. It is there by convention but it is not in our law, and I think that this is a major step forward and there are very few major steps forward in our history where people are given rights in a way like this, and those rights are there and then somebody has to judge it, and, if there is a problem, then the legislators of course have to determine whether or not they are content with those rights being there and there are all the implications that go from that.

I thank Mrs Hannan for her support, and again I know that she is one with a number who have over the years been concerned that the Isle of Man has not necessarily complied with the provisions of the convention and in fact I think it is fair to say some of us felt we went through a very difficult period when the Island refused to provide the right of petition for our people to petition the European court and that really had major implications, and thank goodness that was changed.

If I now come to the hon. member for North Douglas, Mr Houghton, who has expressed serious concerns, he used the words which I think are a little bit unfortunate, in terms that he sees this piece of legislation as being a criminal's charter. (**Mr Houghton:** Hear, hear.) All I can say to the hon. member - and I know he has a keen interest in the policing side of it, but again we as legislators have got considerable roles to play. It is about the rights of the police and the rights of the individuals -

Mr Houghton: It is not necessarily the police -

Mr Brown: - and the point is that a criminal is not a criminal until it has been proven they have actually committed an offence, and when they have committed that offence they then can be dealt with by the courts. This Bill takes nothing away from that. What this Bill does is ensure that the individuals which one day - and I hope it never happens - could be yourself, it could be your wife, it could be your children, who can be brought into custody and can be dealt with by those in authority, whoever those in authority may be, and what this legislation will do is ensure that those people, who may be our families, have rights. Now, if you sit and say that is the only thing we had in Manx law, then of course the hon. member may well be right, but of course we have Criminal Justice Acts; we are going through a Criminal Justice Bill which complies with the convention but certainly makes clear the rights of individuals who are brought into custody and goes through all what can and cannot be done and this Bill, and I think it is very important at this stage just to spell out the point that matters. In the legislation this is what we are giving to our people; this is the article that we are enacting in our law which, as I say, applies to us anyway but can now, if this Bill becomes law, be challenged here in the Isle of Man, and I not know how anyone can oppose the basic principles of legislation. It gives,

under article 2, the right to life; under article 3, prohibition of torture; under article 4, prohibition of slavery and forced labour; under article 5, right to liberty and security; article 6 is right to a fair trial; article 7, no punishment without law; article 8, right to respect for private and family life; article 9, freedom of thought, conscience and religion; article 10, freedom of expression; article 11, freedom of assembly and association; article 12, right to marry; article 14, prohibition of discrimination; article 16, restrictions on political activity of aliens, and just so that is clear, it is saying nothing in it restricts them, so it is making clear they have the right; article 17, prohibition of abuse of rights; article 18, limitation on use of restrictions on rights. These are the rights that we are enacting, they are the headings, and of course the detail of those rights and what people have are then spelt out under those articles.

To me, it seems very important that in considering this that it is clear. This is not a charter to give criminals a right to rule. The criminals can still be apprehended under the law. There are already provisions that restrict the activities of the police. We hear of them every day: they can only hold somebody for so long without going to a JP; even then they can only hold them so long without going to court. These are already in being; this is not going to alter that. If a person is guilty of an offence, the courts will determine that, but it is the duty and responsibility of those in authority, the police, to make the case, the Attorney-General to make the case, the lawyers to make the case, and the person has the right to be defended. What will happen is that if justice does its job, then those who have committed acts against society can be dealt with. The penalties - because this does not stop us inflicting penalties on people - are determined by this House in its legislation, and the courts then take their guidance from the law that we pass and we determine the maximum level of that penalty. So all these things are in place in hundreds of pieces of legislation the Isle of Man has enacted here as it does elsewhere, so I do not believe that this is what is really a danger. Yes, there will be implications from this legislation because the courts will then take into account any case put before them based on our law, as they now should do and do under the convention. What it will mean is an individual from the Isle of Man, whether it is a child, whether it is an adult, will not have the only option of going to Strasbourg to have their case heard. They will be able to have it heard here in the Isle of Man in an English-speaking jurisdiction, but still, if they wish, can exercise that right through the European Court at a later date.

So I hope that we will support this important piece of legislation. It is an important piece, it is a major step forward for the Isle of Man and, I believe, an important day for the Isle of Man, and the most important day will be when it is actually brought into force. It gives me great pleasure to move this Bill, have a third reading.

The Speaker: Hon. members, the motion is that the Human Rights Bill 2000 is read a third time. Those in favour please say aye; those against, no. The ayes have it. The ayes have it.

A division was called for and voting resulted as follows:

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

Against: Mr Houghton and Mrs Cannell - 2

The Speaker: Hon. members, the motion carries, 17 votes in favour and 2 votes against.

Protection from Harassment Bill – Clauses Considered – Third Reading Approved

The Speaker: Hon. members, we now move on to item 10 on the agenda, Protection from Harassment Bill for consideration of clauses. Hon. member for Ramsey, Mr Bell. Clause 1, sir.

Mr Bell: Thank you, Mr Speaker. Just briefly before I start on the clauses, there were two outstanding queries from the second reading which I would just very briefly like to respond to. The first of all was a point raised by the hon. member for Peel, Mrs Hannan, who asked in fact, will it apply to the harassment of tenants by landlords? The advice I have received is that, yes, it will provided it meets the criteria contained within the Bill.

Likewise the hon. member for Rushen, Sir Miles Walker, asked whether in fact it would apply to groups harassing individuals. I am assured again that, yes, it will in this case because the way the legislation is written it is in the same context as 'he or she' in the Bill. The singular also applies to the plural provided the criterion is met in the process, so if, for example, the group was harassing an individual on a regular basis, i.e. more than twice, then, yes it will fall within the remit of the Bill, so I hope that satisfies the queries of the two hon. members.

Mr Speaker, clause 1 of the Bill prohibits a person from pursuing a course of conduct which the person knows or ought to know amounts to harassment of another. A course of conduct must involve conduct on more than one occasion. A number of defences are included in the clause.

Sub-clause (1) prohibits a course of conduct which amounts to harassment of another if the person knows or ought to know that it amounts to harassment. The three elements of the prohibition are: (1) the course of conduct, this is defined in clause 7, sub-clause (2) as requiring conduct which includes speech on at least two occasions; (2) harassment of another; harassment is not defined in any defined manner because of the variety of conduct which might be adopted by stalkers and others in harassing their victims. Clause 7, sub-clause (1) includes within 'harassment' the causing of alarm or distress. The effect of the clause is to focus upon the effect of the harassment on the victim. And the third point is knowledge. It is not necessary to prove that the defendant intended to cause harassment. It is sufficient that the defendant knew or ought to have known that his actions would amount to harassment.

Sub-clause (2) sets out the test for determining the cases in which a person ought to know that his actions would amount to harassment. This is to be determined by the 'reasonable man' test - that is, whether a reasonable person in possession of the same information would think the course of conduct taken by the defendant amounted to harassment.

Sub-clause (3) provides defences for conduct which might otherwise be described as harassment. Such conduct is exempted from the provisions of the prohibition if: (1) the conduct is pursued for the purpose of preventing or detecting crime - for example, the police or customs; (2) the pursuit of conduct is permitted under an enactment or a rule of law - for example, the interception of communications, powers of entry et cetera; and (3) in particular circumstances the pursuit of the conduct was reasonable - for example, private investigators, journalists, debt collectors et cetera. However, this does not mean that all activities by such persons are exempted, only those which are reasonable in the particular circumstances. Mr Speaker, I beg to move clause 1.

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

The Speaker: Does the mover wish to say anything further?

Mr Bell: No, sir, I thank the hon. member for his seconding!

The Speaker: The motion is that clause 1 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2.

Mr Bell: Clause 2, Mr Speaker, deals with the consequences in criminal law of breaches of clause 1.

Sub-clause (1) makes it an offence for a person to pursue a course of conduct in breach of the prohibition in

clause 1.

Sub-clause (2) sets the maximum penalty for an offence under sub-clause (1) at six months' custody and/or a £5,000 fine. The offence is a summary offence which is dealt with in the High Bailiff's Court or a magistrates' court.

Sub-clause (3) amends section 27 of the Police Powers and Procedures Act 1998. The effect is to make an offence under this clause an arrestable offence. This will give the police the power to arrest an offender or a suspected offender without a justice's warrant. A court that deals with a person under this clause may make a restraining order under clause 5 to prevent further harassment. I beg to move clause 2, Mr Speaker.

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

The Speaker: The motion is that clause 2 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 3.

Mr Bell: Clause 3, Mr Speaker, creates a civil tort. In broad terms a tort is a name given to a right of action to seek damages in the High Court - for example, rights of action which arise in cases involving nuisance or negligence. The clause gives the High Court the power to award damages against the person who breaches the prohibition under clause 1. In addition, the court may grant an injunction to prevent further harassment by the offender. It is an offence for the defendant to breach the injunction to breach it without reasonable excuse.

Sub-clause (1) enables the victim of a course of conduct to make a claim in the High Court in respect to an actual or apprehended breach of the prohibition of harassment in clause 1.

Sub-clause (2) sets out the damages available under a claim made under sub-clause (1) of this clause. The damages will be monetary compensation which, quite apart from compensation for any actual damage, can include compensation in respect of anxiety and any financial loss caused by the harassment. Where there is a right for the High Court to grant damages, the court also has the power to grant an injunction ordering the person concerned to stop the particular activity complained of. The High Court will have the powers to grant an injunction either in addition to damages or, instead of damages, as the circumstances require. An applicant can ask the court to issue an injunction without asking for an award of damages.

Sub-clause (3) deals with cases where the High Court has granted an injunction and it is alleged by the plaintiff that the offender has breached the injunction. In such cases the plaintiff may apply to a deemster or the issue of a warrant to arrest the offender.

Sub-clause (4) requires an application for the issue of a warrant for the arrest of a person in breach of an injunction to be made by a deemster.

Sub-clause (5) requires the deemster before issuing the warrant to be satisfied that there are reasonable grounds for believing that there is a breach of the injunction. The application for the warrant must be substantiated on oath.

Sub-clause (6) makes it an offence for a person to do anything which is prohibited by an injunction. Normally the breach of an injunction is treated as a contempt of court, but under the proposed legislation it is made an offence so that the police investigative powers will assist to provide adequate protection for the victims.

Sub-clauses (7) and (8) prevent the possibility of double jeopardy, where a person who has been convicted of an offence under sub-clause (6) could be punishable for contempt of court in respect of the same breach.

Sub-clause (9) provides the penalties for an offence under sub-clause (6). On conviction of the Court of General Gaol Delivery the maximum penalty is five years' custody and/or an unlimited fine. On conviction before a High Bailiff or a Court of Summary Jurisdiction the maximum penalty is custody for six months and/or a fine of £5,000. Mr Speaker, I beg to move clause 3.

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

Mr Braidwood: Mr Speaker, I am very pleased to see this clause in the Bill. It will make it a lot easier for plaintiffs to obtain an injunction, which at the present time is a very costly exercise for them if they have to go for an injunction through an advocate and the courts and pay privately. Thank you, Mr Speaker.

The Speaker: Mover to reply.

Mr Bell: I thank the hon. member for his comments, Mr Speaker, and I would just also remind him, of course, that in these circumstances legal aid could be available for people who require it. I beg to move clause 3, Mr Speaker.

The Speaker: The motion is that clause 3 stand part of the Bill. Will those in favour please say aye those against; no. The ayes have it. The ayes have it. Clause 4.

Mr Bell: Clause 4, Mr Speaker, makes it an offence for a person to pursue a course of conduct which he knows, or ought to know, causes another to fear on at least two occasions that violence will be used against him. The clause includes a number of defences. A court that deals with a person under this clause may make a restraining order under clause 5 to prevent further harassment.

Sub-clause (1) creates a new offence where a person pursues a course of conduct where he knows or ought to know that the conduct will cause the other person to fear on at least two occasions that violence will be used against him. The three elements of the prohibition are: (1) the course of conduct defined in clause 7, sub-clause (2) as requiring conduct which includes speech on at least two occasions; (2) causing another to fear; the

victim must be caused to fear, on at least two occasions, that violence will be used against him. Violence is not defined and will be given its ordinary everyday meaning by the courts. And the third point is knowledge; it is not necessary to prove that the defendant intended to cause fear on the part of the other person. It is sufficient that the defendant knew or ought to have known that his actions would cause the other person to fear violence on those two or more occasions.

Sub-clause (2) sets out the test for determining the cases in which a person ought to know that his actions would amount to causing another to fear the use of violence. This is to be determined by the 'reasonable man' test - that is, whether a reasonable person in possession of the same information would think that the course of conduct taken by the defendant would cause the other to fear violence.

Sub-clause (3) provides defences for the conduct which puts another in fear of violence in contravention of sub-clause (1). Such conduct is exempted from the provisions of contravention if (1) the conduct is pursued for the purpose of preventing or detecting crime - again, for example, police or customs; (2) the pursuit of the conduct is permitted under an enactment or a rule of law - again the interception of communications or powers of entry are used as examples; (3) in the particular circumstances the pursuits of the conduct was reasonable; and (4) in self-defence, in defence of another or in defence of property.

Sub-clause (4) sets the maximum penalty for an offence under this clause. The maximum penalty is five years' custody and/or an unlimited fine on conviction by the Court of General Gaol Delivery or six months' custody or £5,000 fine on conviction by a Magistrates' or High Bailiff's Court. The penalty reflects the seriousness of the offence, which involves violent behaviour rather than harassment.

Sub-clause (5) enables the Court of General Gaol Delivery to regard conviction for an offence under clause 2 as an alternative to conviction of an offence under this clause. This can apply even where the alternative charge is not mentioned in the information setting out the charges.

Sub-clause (6) is a technical provision to ensure that the Court of General Gaol Delivery has full power to deal with alternative convictions for offences under clause 2. Offences under that clause are summary only and would not be triable in the Court of General Gaol Delivery except in the case of an alternative verdict under sub-clause (5) of this clause. Mr Speaker, I beg to move clause 4 stand part of the Bill.

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

Mr Cannell: Mr Speaker, I would just like the hon. mover to explain to me why in clause 4, sub-clause (1) the decision was made to only act upon a second time of violence being threatened. I do not doubt that the reason is one of proof, but I am sure that many people have read or have experienced, more unfortunately, personal instances where this could be threatened, and it is quite sufficient for a complaint to be registered upon the first time that that violence is actually threatened, or conduct which is unacceptable is threatened, and I just wondered why in fact it was necessary for a second time, at least a second time, to be included, a person whose course of conduct causes another to fear on at least two occasions, because I am sure there are plenty of instances where one would be more than sufficient for action to be contemplated.

The Speaker: Mover to reply.

Mr Bell: Yes, Mr Speaker, it is quite a simple point, that, really. The law already allows a prosecution for a single act of violence. The charge of assault is, in fact, putting someone in fear of violence, and I understand that if someone did this on a single occasion it would actually be contrary to section 56 of the Petty Sessions and Summary Jurisdiction Act 1927. The only difference is that for harassment to be proved it has to be done on a number of occasions; just a single one-off incident would not be sufficient to fall under the definition of harassment, but there is a provision within law at the moment, albeit attracting a lesser penalty, which does allow for someone to be prosecuted for a single offence. I beg to move, Mr Speaker.

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

Clause 5.

Mr Bell: Mr Speaker, clause 5 gives a new power to a court sentencing a person convicted of an offence under clause 2 or 4 of the Bill to make an order restraining him from pursuing further conduct against the victim, or any other person named in that order, which amounts to harassment or will cause fear of violence. The order may run for a specified period or until a further order is made and application may be made to vary or discharge the order. It is an offence for a defendant to breach an order without reasonable excuse.

The purpose of the power is to avoid the necessity of the victim following a conviction of the offender having to endure a second hearing in a civil court to gain an injunction to prevent further harassment.

Sub-clause (1) enables a court which convicts a person of harassment under clause 1 or putting another in fear of violence under clause 4 to make a restraining order under this clause. A restraining order is additional to any other penalty.

Sub-clause (2) enables the order to prohibit activities by the defendant. The things which the offender may not do must be set out in the order. The purpose of the restraining order is to prevent conduct which amounts to harassment or causes fear of violence.

Sub-clause (3) deals with the period of operation of a restraining order. It may have effect for as long as specified or until a further order is made.

Sub-clause (4) enables applications to be made by those concerned for the variation or discharge of a restraining order.

Sub-clause (5) makes it an offence to do anything which is prohibited by a restraining order unless there is reasonable excuse.

Sub-clause (6) provides the penalties for an offence under sub-clause (5). On conviction in the Court of General Gaol Delivery the maximum penalty is five years' custody and/or an unlimited fine. On conviction before a High Bailiff or a Court of Summary Jurisdiction the maximum penalty is custody for six months and/or a fine of £5,000. The penalty is consistent with that specified in clause 3, sub-clause (9). I beg to move that clause 5 stand part of the Bill, Mr Speaker.

Mr Shimmin: I beg to second and reserve my remarks, sir. The motion is that clause 5 stand part of the Bill. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clause 6.

Mr Bell: Clause 6 amends the Limitation Act 1984. That Act sets three years as the limitation period for action seeking compensation for personal injury. This clause extends that limitation period to six years in the case of claims resulting from harassment contrary to this Bill. I beg to move, Mr Speaker.

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

Mr Karran: Vainstyr Loayreyder, can I just ask the hon. mover about the cases of where it could be maliciously done? I am just a little bit concerned that six years is a long time to wait before coming back for compensation. It just concerns me: issues fade, details maybe get blurred at the edges. And I have got no problem with this piece of legislation; I am happy with it as far as the principle is concerned, but I am concerned, as I have said. One person's harassment is another person's bit of a joke, and I am just concerned that something could happen, you could go on getting into a new relationship and then the party that was supposed to be having the harassment starts doing the harassment through the courts. I am awfully worried about that. That is the only thing, and I just wondered why the extension on it, because most of these cases will more likely be to do with domestics, and when it is to deal with domestics, often reason and common sense go out of the window for a long time, and I am just concerned that if you are going to go back six years I think you could have a situation where somebody could be trying to get back at a partner at a later date, and I am just worried about that. I am all for the principle of this piece of legislation but I am worried about the fact of people being dragged into court for these things and, at the end of the day, if you have got yourself on your feet and the ex-partner has not, she has got the full power of legal aid to argue the case and you have got to go and then try and defend yourself without the luxury of having legal aid to fight your case, and six years seems an awfully long time to do it.

Mrs Hannan: I would just like to correct the assertion, Vainstyr Loayreyder, made by the last speaker that it was a man harassing a woman or a woman . . . It could be a woman harassing a man, it could be a man harassing a woman, it could be other people being harassed. It is not just one area.

The Speaker: The mover to reply.

Mr Bell: Mr Speaker, I take the point that the hon. member has raised and I have in fact raised it myself with the legal draftsman because I was puzzled first of all why there should be an extension. First of all, this Bill is pretty well, I think, with one or two minor exceptions, a straight replication of the UK legislation and the six years is included there, but the explanation I have had on this is that it is extremely unlikely that there will be any cases at all claimed after the three-year period, but the six years has been included for exceptional circumstances - for example, where someone has been sent to prison as a result of his actions for a number of years and the individual, the victim, has not been able to claim any compensation because that individual is in prison. That at least, in the very, very rare circumstances where it might happen, would give an individual who has been injured and who has been wronged by this legislation the opportunity at some stage within the six-year limit to claim some form of compensation for it, but I am assured that the expectation is that it will be an extremely rare

occasion where any claim for compensation will actually go beyond three years but it is to allow that extra period of time just for those very rare occasions. I hope that satisfies the hon. member, Mr Speaker.

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

Mr Bell: Clause 7 makes provision for the interpretation of expressions used in the Bill.

Sub-clause (1) extends the meaning of 'harassment' to include alarm and distress.

Sub-clause (2) declares that where a Bill refers to a 'course of conduct', this means conduct on at last two occasions.

And sub-clause (3) defines 'conduct' to include speech. I beg to move clause 7, Mr Speaker.

Mr Shimmin: I beg to second, sir.

Mr Karran: Vainstyr Loayreyder, again I am just concerned when we talk about harassment, have we got sufficient power within this Bill not to include people who politically harass people? Somebody decides to demonstrate outside my house against the incinerator or outside the House of Keys here on a repeated basis - will they be contravening this piece of legislation? I am sure that it sounds silly, but it is important that the judiciary know what this piece of legislation is for, and I am concerned, as I say, that you have defined harassment but people have different ideas of what harassment is and one person's harassment is a person who has sat in this House for 15 years having somebody, the next-door neighbour, parking the car in front of their house when they have not got a car themselves. To some people it is the end of the world; to other people the thresholds are totally different.

I am just concerned on the issue that this Bill cannot be used for those who do things for political reasons - they want to lobby or whatever. I know the hon. member for Rushen is nodding her head, but it is like the previous clause. We are dealing with people where sense often goes out of the window when we are talking about this piece of legislation and what I do not want is a situation where we have things dragged into a court, and that is the only thing that I am worried about. I will support the piece of legislation but I am concerned that this piece of legislation is in Hansard, that it is not for things like people lobbying you for political issues, because I think there is a danger that it could be quite easily classed as harassment.

The Speaker: Mr Bell to reply.

Mr Bell: Mr Speaker, I did identify a number of exemptions to this in clause 1, and political canvassing is actually one of those exemptions which are included in it, but all elements of interpretation of what harassment is have to stand up to the case of the reasonable man and whether a reasonable man in possession of the facts around that particular case would recognise that it was harassment or otherwise, so I think there are enough safeguards in this Bill to reassure people that it will not be used heavy-handedly. There is quite a clear, well-defined set of criteria that a harasser has to meet before any action will be taken against him. I cannot really comment at this stage if Mr Karran knocking on the same door 10 times during an election demanding a vote (*Laughter*) amounts to harassment or not, but again it would depend -

Mr Karran: Mental cruelty, people would say!

Mr Bell: - whether a man thought that was reasonable or not at the time! *(Laughter)* I think there are safeguards to cover the member's point in the exemptions, Mr Speaker, and I beg to move.

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

Mr Bell: Clause 8, Mr Speaker, makes provision for a short title and enables the Department of Home Affairs to bring the Bill into operation by appointed day order. Different provisions may be brought into operation on different dates. I beg to move, Mr Speaker.

Mr Shimmin: I beg to second, sir.

The Speaker: The motion is that clause 8 stand part of the Bill. Those in favour please say aye; those against, no. The ayes have it. The ayes have it. The clauses of the Protection from Harassment Bill 2000 have been completed. Hon. member for Ramsey, Mr Bell.

Mr Bell: Mr Speaker, I did give notice last week to hon. members that if they could find their way to support this Bill I would be inclined to move the suspension of standing orders today to enable the third reading to be taken. We have gone through now both the second reading and indeed the clauses stage today with, I think, unanimous support for the Bill by hon. members. It would give the Bill an outside change to get through another place before the end of the summer session if we were to be able to get the third reading through this morning. So, Mr Speaker, I would beg the indulgence of the House and move:

That standing order 158 be suspended to enable the third reading of the Bill to be taken.

Mr Shimmin: I beg to second, sir.

The Speaker: The motion, hon. members, is that standing order 158 is suspended to enable the third reading of the Bill. Those in favour please say aye; those against say no. The ayes have. The ayes have it. Mr Bell.

Mr Bell: Mr Speaker, last week I was very pleased that members gave their unanimous support for the second reading of this Bill, recognising that this is an important measure to give increased protection to the more vulnerable and isolated members of our society in particular. I am equally appreciative for the support the Bill has received this morning and of this House's willingness to allow the third reading.

As I have stated, harassment and stalking has become the fastest growing crime in the UK, and it is important that we act quickly to try and prevent a similar development in the Island. This Bill will make it an offence to pursue a course of action which amounts to harassment of a person or which causes a person to fear that violence will be used against him. The Bill creates a civil remedy under which an injunction restraining harassment may be sought. It also provides the criminal courts with the power to make an order preventing further harassment. A breach of either an injunction or a restraining order is a criminal offence.

This Bill is a close replication of the existing UK legislation, where it has been operating for some time. It is my intention to ensure that the effectiveness of this Bill will be closely monitored once implemented and, if it is felt necessary to strengthen it still further, an

amending Bill will be drafted as appropriate. But for the moment this Bill reflects measures which are working with some success elsewhere and enables us to introduce swiftly a measure which I believe will be welcomed throughout the Island.

Mr Speaker, I beg to move the third reading of the Protection from Harassment Bill.

Mr Shimmin: Mr Speaker, I am very pleased to second, sir.

Mr Karran: Vainstyr Loayreyder, I am happy to support the third reading of this Bill but I am still concerned that there are chances that this could be used the wrong way and I am just saying that it does concern me that you can go back six years. I understand what the hon. mover said about the person being in prison for a number of years but there is a great danger that you could have a situation where some people have split up, moved on, started a new life with somebody using this piece of legislation to go through the civil courts who has got a legal aid certificate against somebody. I know it is not easy. We have got to try and make it fair so that people can get justice whether you are rich or poor, but I am concerned that it seems a long time as far as I am concerned over that issue, because you are not dealing always with people who are rational when you are dealing with people who have been stalkers or ex-stalkers and have broken up in relationships, and I am concerned about that issue with this piece of legislation. I support the principle of the Bill but that does concern me in my opinion.

I am glad the hon. mover did clarify the point that if I go knocking on the door six times for a vote (*Laughter*) I am not classed as being able to be brought to the civil courts -

A Member: Shame! (*Laughter*)

Mr Karran: I am a little bit more relieved that that is the case, because the sentiment is good within this piece of legislation, it is just the practicalities, and I am just worried about that one issue of it going back so long that somebody could decide to take civil remedy years after the case. They see their ex-partner getting on their feet and this is one way of trying to pull the rug from under their feet. They are on legal aid, they can afford to go through all the judicial process because it does not really affect them, but the other person it does. I am concerned about that and that is the only thing I have got concerns about. I am sure you can never make legislation 101 per cent waterproof to make sure that it is never abused.

The Speaker: Mr Bell to reply.

Mr Bell: Thank you, Mr Speaker. As far as the hon. member's point is concerned, again I do understand where he is coming from on this but of course it will be very much for the courts to decide whether a late claim, certainly some five or six years after the event has taken place, is in itself frivolous and whether it can go any further, but we have tried to build in as many protections in this Bill to prevent that sort of further harassment taking place, and I am assured by the draftsman, certainly on the experience elsewhere, that the likelihood of claims coming in as late as six years after the event, will have to be in an extremely exceptional case, and the only one that has been quoted to me is the possibility of the original perpetrator perhaps having been in prison for a number of years and this is the first opportunity that the victim may have to claim some compensation at that point. It is unlikely that in the normal course of events any claim for compensation would actually run on beyond a few months or perhaps 12 months of the issue having taken place, but all through this Bill is the rider that the course of

action has to be reasonable, and it applies, I think, to the claims for compensation as well as the behaviour of the harasser.

Mr Speaker, I hope that answers the hon. member's point. I am extremely grateful for the support that hon. members have given to this Bill and particularly to enable me to bring forward the third reading of the Bill today. I am hopeful that with co-operation elsewhere we may just be able to get this on the statutes before the summer recess, and I think it will send out a message of reassurance to people throughout the Island that we are prepared to take positive action where we have identified problems. So, Mr Speaker, I sincerely thank hon. members for their support and beg to move the third reading of the Bill.

The Speaker: Hon. members, the motion is that the Protection from Harassment Bill 2000 is read a third time. Those in favour please say aye; those against, no. The Bill is read a third time.

Criminal Justice Bill – Consideration of Clauses Concluded

The Speaker: Hon. members, we now move further on the agenda to the Criminal Justice Bill. We have read the first 20 clauses and we move today to clause 21. The hon. member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Speaker. Once again, before I start the further clauses on the Criminal Justice Bill 2000 I would just like to make reference to a comment I made last week on clause 18(6). This relates to the statement that 'school premises' means land used for the purposes of a primary, junior or secondary school, et cetera. The hon. member for East Douglas did raise the point last week whether this covered the Isle of Man College. My understanding at the time was that it did cover all educational establishments. I have, though, taken further legal advice on this and am told that in fact it does not cover the Isle of Man College or other educational establishments. So I have arranged with the legal draftsman to draft an amendment for that particular clause which will in effect cover all educational establishments present and future, and I hope that that amendment will be moved in another place to enable that particular gap to be filled. So with that, Mr Speaker, I would like to move on to clause 21.

I apologise in advance for this clause. It is a very long and complicated clause, but what it means is the Theft Act 1981 is in effect amended to cover deception by electronic means. Clause 21 follows the provision of the Theft (Amendment) Act 1996 of Parliament, which was passed to implement a Law Commission report entitled 'Offences of Dishonesty: Money Transfers'. It introduces new section 15A. This section provides for a new offence of obtaining a money transfer by deception and applies to payments made by cheque, electronic transfer and the like.

Subsection (1) declares a person to be guilty of an offence if by any deception he dishonestly obtained a money transfer for himself or another. Deception is defined in a new section 15B, and 'money transfer' is described in section 15A(2).

Subsection (2) describes the circumstances in which a money transfer occurs. There are three factors: first, there must be a debit to one account, secondly a credit to another, and thirdly the credit must result from the debit or the debit must result from the credit - I told you this is a complicated Bill! *(Laughter)* The third requirement ensures that there is some

connection between both debit and credit. The subsection will cover automated transfers, clearing systems where the debit of a bank account and the credit of another are not actually directly connected but there is a net settlement between the banks or institutions concerned.

Subsection (3) defines references to credit and debit as being a credit and debit of an amount of money.

Subsection (4) clarifies certain issues, which you will be very pleased to hear! Firstly, the amount credited does not have to be the same as the amount debited. This covers cases where for some reason the two are different. It could be as simple as a clerical error. Secondly, the method of money transfer is immaterial. It could be by cheque, electronic transfer et cetera. Thirdly, delays in processing the debit and the credit are to be ignored. Delay could be caused by an administrative error - for example, the debiting or the crediting of the wrong account. Fourthly, intermediate transactions are not taken into account. Provided there is a debit and a credit and the credit results from the debit or vice versa, chains of credits and debits will not affect the ultimate position. Fifthly, the fact that an account is overdrawn at any time is to be left out of account. This clarification avoids technical arguments over whether there is a difference between obtaining by deception of funds transferred from or to an account which is in credit on the one hand and from or to an account which is overdrawn on the other.

Subsection (5) sets the penalty for an offence under the clause as a maximum term of custody for 10 years. Conviction must be before a Court of General Gaol Delivery.

New section 15B is supplementary to the new section 15A. Subsection (1) provides definitions for words 'deception' and 'account' and 'deposit'. 'Deception' will have the same meaning as appears elsewhere in the Theft Act - namely any deception, whether deliberate or reckless, by words or conduct as to fact or as to law including a deception as to the present intentions of the person using the deception or any other person. 'Account' is limited to accounts kept with banks or persons carrying on deposit-taking businesses. 'Deposit' means a loan of money to a person who carries on business of accepting deposits and where the money so loaned is repayable by the borrower or by another (a) on demand or otherwise, and (b) with or without interest or a premium or any consideration in money's worth.

Subsection (3) deals firstly with the cases of businesses which separate their activities into different organisations. For the purpose of determining whether such a business falls within subsection (2), all the organisations are regarded as a single organisation. 'Money' means any currency including the European currency unit.

Sub-clause (2) of clause 21 declares that the new section 15A offence does not have effect in relation to anything done before the day on which this clause comes into operation. This avoids a retrospect development which might render criminal any act which was not a crime when it was done.

Sub-clause (3) introduces a new section 24A in the Theft Act 1981. Until the House of Lords case referred to in respect of the new section 15A it was thought that a credit balance obtained from another account by deception would have been stolen goods for the purposes of the Theft Act and that the offence of handling stolen goods under that Act would apply to it. The House of Lords case raised a number of difficulties with that approach and therefore this new offence contained in section 24A is to be created. The new offence is committed only

when a credit is made to an account. It does not itself catch circumstances where there is dishonest handling of cash withdrawn from an account. Such conduct falls under the existing offence of handling stolen goods.

Subsection (1) of the new clause 24A contains the three principal elements of the new offence. Firstly, there must be wrongful credit to a person's account and he must know or believe that the credit is wrongful and, acting dishonestly, he fails to have the credit cancelled.

Subsection (2) requires the credit to be an amount of money.

Subsections (3) and (4) specify cases where a credit is wrongful. This would be where the credit is made to an account and is the credit element of a money transfer obtained by deception contrary to the new section 15A, or derives from theft, blackmail, stolen goods or an offence under the new section 15A.

Subsection (5). The question of whether the account is or is not overdrawn will be immaterial as with the new sections 15A and 15B.

Subsection (6) provides the penalty which will be custody for a term up to 10 years on conviction before a Court of General Gaol Delivery. Under other legislation the court does have the option to impose a fine without limit.

Subsections (7) and (8) confirm that the existing offence of handling stolen goods applies in respect of money dishonestly withdrawn from an account to which a wrongful credit has been made.

Subsection (9) provides definitions of account and money which are the same as in the new section 15B. And sub-clause (4) of clause 21 deals with the transitional effect of sub-clause (3). The new section 24A will apply only to wrongful credits made after it comes into force. The same transitional arrangement is not made for subsection (4) because different considerations apply. The Law Commission commented as follows: 'Since the obtaining of a money transfer by deception will not be an offence under the new section 15A if it is effected before the date on which the legislation comes into force, even a credit made after that date will not give rise to liability under the new section 24A on the ground that it derives from a transfer obtained by deception, if that transfer took place before that date. If A dishonestly obtains a money transfer by deception on 31st March, the legislation comes into force on 1st April and B accepts the transfer of the funds on 2nd April, B would not be guilty of an offence under section 24A because the transfer obtained by A was not an offence contrary to section 15A. B would, however, be guilty of an offence if the first transfer had been obtained by theft or blackmail because obtaining of a transfer in either of those ways is already an offence.

Sub-clause (5) inserts two new subsections in section 16 of the Theft Act 1981. That section contains the offence of obtaining services by deception. The new provisions make it clear that inducement to make a loan or cause a permitter loan to be made is obtaining services under subsection (5). Subsection (4) states that where a person is induced to confer a benefit or causes or permits a benefit, that is obtaining services.

Sub-clause (6) limits the operation of sub-clause (5) to anything done before the day on which the clause comes into operation. And I am pleased to say, Mr Speaker, I would like to move clause 21 be part of the Bill.

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

Mr Shimmin: Mr Speaker, the Court will have circulated an amendment in my name and refers to clause 21(5). The amendment is to omit the new subsection (4) inserted into the Theft Act. The reason for this is that there is an overlap with an existing provision, which is section 16(2) of the Theft Act 1981. While it is deemed this overlap will not have a prejudicial effect, legislative advice is that it is best to adjust the clause at this stage. The change will simply require the omission of the new subsection (4) and the renumbering as (4) of the new subsection (5), sir. I beg to move:

Page 16, lines 11 to 15; omit the new subsection (4) inserted into the Theft Act 1981 and re-number the new subsection (5) as subsection (4).

Mr Downie: I beg to second, Mr Speaker.

Mr Henderson: Mr Speaker, in speaking to the substantive clause and to support this Bill as I might, I was just wondering could the hon. mover give us some assurances - is this the way forward for his department's transparent working?

The Speaker: The mover of the amendment to reply.

Mr Shimmin: No, thank you, sir.

The Speaker: No, thank you. The mover of the Bill to reply.

Mr Bell: Thank you, Mr Speaker. I would obviously support the amendment brought in by my colleague Mr Shimmin, the member for West Douglas. Hon. members, in particular the member for North Douglas, may have guessed by now that the introduction of this particular clause was not actually initiated by my department but was actually passed on by the Attorney-General's department. I am sure the clause which I have just read is absolutely as transparent to the hon. member for North Douglas as it is to me, and I nevertheless beg to move clause 21.

The Speaker: The motion is that the amendment to clause 21 stand part of the clause. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it. I will now put the clause as amended, that clause 21 as amended stand part of the Bill. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clause 22.

Mr Bell: This clause, Mr Speaker, inserts a new section 29A in the Telecommunications Act of 1984. The new section is based on the Telecommunications Fraud Act of 1997 of Parliament which implemented the legislature recommendations made in the joint industry and government study group on mobile phone fraud and crime. It is intended to outlaw equipment used for the purpose of dishonestly obtaining a telecommunications service contrary to section 29 of the 1984 Act, which makes the fraudulent use of public telecommunications systems an offence.

The new section creates two new offences in subsections (2) and (4). A person is guilty of the first offence if he has in his custody or under his control anything which he intends to use to obtain a service dishonestly or which he intends dishonestly to allow others to use to obtain a service. He will also be guilty of the offence if he intends to use the thing or allows others to use it for a purpose connected with the dishonest obtaining of a service. A person is guilty of the second offence if he supplies or offers to supply anything knowing or believing that the person to whom it is supplied or offered intends to use it to obtain a service

dishonestly, or dishonestly to allow others to use it to obtain the service. He will also be guilty of the offence if he knows or believes that the person to whom the thing is supplied or offered intends to use it or allow others to use for a purpose connected with the dishonest obtaining of a service.

Subsection (5) provides a penalty for the offences on conviction before a High Bailiff or the magistrates. The maximum penalty is six months in custody or a fine of £5,000. On conviction before a Court of General Gaol Delivery the maximum penalty is five years' custody and/or an unlimited fine.

Subsection (6) makes it clear that reference to the use of a thing includes the use of data where the thing is used to record data. Paragraph (b) of the clause amends section 29(1)(b) of the Telecommunications Act of 1984. That section contains the offence of dishonestly obtaining a telecommunications service with intent to avoid payment. The penalty for the offence is increased from two to five years' custody. I beg to move that clause 22 stand part of the Bill.

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

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

Mr Bell: This clause, Mr Speaker, is based on section 161 of the Criminal Justice and Public Order Act of 1994. It amends the Data Protection Act of 1984, creating offences in connection with procuring the disclosure of data. Under the existing legislation information held on a computer and relating to a living individual may not be disclosed by a registered data user or his employee or agent to a person who is not described as a data user in the relevant entry in the register of data users, which is kept under the 1986 Act. It is an offence knowingly or recklessly to disclose personal data. So, for example, a bank employee who discloses personal data to someone not entitled to receive it commits an offence and if he was bribed to do so the person giving the bribe would also be an accomplice. However, no offence is committed under the present law if the person not entitled to receive the information deceives a registered data user or his employee or agent into thinking that he is covered by the relevant entry in the register - for example, where he pretends to be the person to whom the entry relates because the person deceived will not knowingly or recklessly contravene prohibition on disclosure in the Act. The new offence fills this gap in the Act.

New subsection (6) makes it an offence to procure the disclosure of personal data knowing or having reason to believe that the disclosure would be contrary to the restrictions in the Data Protection Act.

Subsection (7) makes it an offence to sell personal data which has been obtained in contravention of subsection (6). The offence will only apply if the person who sells the data was the person who procured the disclosure.

Subsection (8) contains a similar offence to subsection (7), except it applies to offers to sell personal data.

Subsection (9) declares that an offer to sell data includes advertisements indicating that personal data is or may be for sale.

Subsection (11) directs that in determining whether a disclosure is in contravention of subsections (2) or (3) of section 5 of the Data Protection Act of 1986 the exemption in section 33(5)(d) of that Act is not to be taken into account. The exemption deals with cases where the person making the disclosure has reasonable grounds to believe that the disclosure is to the data subject or a person acting on his behalf, the data subject or the person acting on his behalf has requested or consented to the disclosure, or the disclosure is by a data user or a person carrying on a computer bureau to his servant or agent for the purposes of the functions of the computer bureau. To retain the exemption in section 33(5) would undermine the basis of the offence, which might involve the deception of the person disclosing the data into believing that he was disclosing it, for example, to the data subject.

Sub-clauses (2) and (3) are consequential on the amendment made by sub-clause (1).

Sub-clause (2) takes account of the fact that new offences have been added to section 5 of the 1986 Act.

Sub-clause (3) allows the exemptions for the prevention and detection of crime and the assessment or collection of tax and duty to apply to the new offences inserted by this clause. I beg to move that clause 23 stand part of the Bill.

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

Mr Shimmin: Mr Speaker, regrettably there is a typographical error in this clause which I would ask the House to support: Page 18, line 28; for “and (3)” substitute “to (4)”. Thank you, sir.

Mr Downie: I beg to second, Mr Speaker.

The Speaker: Hon. members, we have the amendment to clause 23. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

The motion is that clause 23 as amended stand part of the Bill. Will those in favour please say aye; those against. The ayes have it. The ayes have it. Clause 24, sir.

Mr Bell: This clause, Mr Speaker, amends section 4 of the Criminal Justice Act of 1996, which contains a power for the police to direct trespassers to leave premises. The law presently requires there to be two or more persons on the premises before that power can be exercised.

Sub-paragraph (a) amends the 1996 provision to allow for the powers to be exercised where one person rather than two under the current law is present on the premises.

Sub-paragraph (b) replaces the existing subsection (3) - that is, power of arrest without warrant - with an updated power which is consistent with the Police Powers and Procedures Act of 1998. The powers of entry to effect an arrest under section 20 of the Police Powers and Procedures Act 1998 will apply for the purpose of arresting a person for an offence under section 4 of the Criminal Justice Act 1996. I beg to move that clause 24 stand part of the Bill.

Mr Downie: I beg to second, Mr Speaker, and in doing so could I ask the mover of the Bill just to confirm, really, that this new section dealing with trespass will now deal with the ridiculous situation that this Island faced last year when a person spent a considerable amount of time on Laxey Wheel at great expense to the taxpayer and loss to Manx National Heritage, and that same person also spent a considerable amount of time on the communications mast

at the rear of the police station, which also cost the Manx taxpayer, the police force and everybody else a considerable amount of time.

I welcome this particular section. I think that, whereas everybody in the Isle of Man is entitled to their rights and opportunity for protest, there are occasions when protesting goes a little bit too far and I think this clause moves it back into the right direction. Thank you.

Mr Karran: Vainstyr Loayreyder, could the mover just define 'premises'? Does this mean somebody walking, taking access to a beach from the road or do we actually talk about a physical building or such?

The other thing is that I think again it is about a proper balance. Whilst I understand the points of the hon. member for West Douglas - and they are very legitimate points - does it include people who decide to jump up trees, then, to protest about the development at the likes of Silverdale? Will those sort of people be covered or will they not be covered due to the fact that it is not private land to start off with? So I just would like to know that because I think the problem we have today is we have got far too much emphasis on private property in many respects from when I was a child and you could walk so many places without let or hindrance (**Mr Henderson:** Hear, hear.) and now we have a situation where we have this mentality that everywhere is private. At one time you could walk most places and you would not have the problem. I understand some members are saying that they can now. The situation is that the emphasis has changed now. I think a lot of places are a lot less accessible now because of this trend toward 'trespassers will be prosecuted'. I want to help the police, I want to help the hon. member for the Home Affairs Department but I do think there is a balance and I do wonder whether, again, legitimate protest over the likes of the trees at Silverdale could end up with a situation where they could be done under this piece of legislation.

The Speaker: The mover to reply.

Mr Bell: Thank you, Mr Speaker. The intent behind this clause is precisely as the hon. member for West Douglas has pointed out. It was brought in, really, to enable the police to deal with difficult and really silly situations such as the Island had to endure for several weeks in Laxey not so long ago. At that time it was identified that there was a gap in the provision in the law which really restricted the police as to what they could do in that particular situation, so this small amendment was brought in to deal with those situations.

As far as the points raised by the hon. member for Onchan are concerned, Mr Karran, I have to say that I agree entirely with his concerns about the erosion in some areas about the right of access which we have all enjoyed all our lives, and I would do nothing, and I am assured that this Bill does nothing, to actually inhibit that right of ramblage or freedom of access. It is really intended to be used in just those extreme circumstances. The definition of 'premises', if I remember rightly, is actually contained under the Criminal Justice Act of 1996. My understanding is that it actually only relates to the physical premises, but I would need to double-check that; I really cannot be absolutely sure. As the learned Secretary is not here today to help me out on that, I really cannot be categorical. So if the hon. member would like to bear with me on this I will get a definition of 'premises' for the third reading to explain to him what that covers. So I beg to move clause 24.

The Speaker: Hon. members, the motion is that clause 24 stand part of the Bill. Those in favour please say aye; those against say no. The ayes have it. The ayes have it. I move on now to clause 25 and schedule 4. Mr Bell.

Mr Bell: Mr Speaker, this clause introduces schedule 4 which makes provision in relation to conspiracy in the Island to undertake certain criminal acts outside the Island. Schedule 4 deals with conspiracy. This schedule is based on legislation in force under Acts of Parliament which relate to conspiracy to commit certain acts outside the Isle of Man. The provisions are very similar to those which appear in schedule 2 of this Bill. However, rather than sexual offences, the principal objective is to make it an offence to conspire in the Isle of Man to undertake corrupt practices outside the Isle of Man. The provisions will enable the full implementation of certain conventions on international corruption. All other offences necessary for such implementation are already in place in the Isle of Man in the Corruption Act of 1986.

Paragraph 4(1)(b) of the schedule does give the Department of Home Affairs the opportunity to extend the offences to which the schedule can apply. The power could be exercised in future to extend the schedule to conspiracies in the Isle of Man to commit certain types of financial crime outside of the Isle of Man. Orders under paragraph 4 will require Tynwald approval.

Paragraph 1. This paragraph applies section 330 of the Criminal Code of 1872 so that it applies to an agreed course of conduct to commit acts which, if done in the Isle of Man, would amount to an offence specified in or under paragraph 4(1) of the schedule - that is, scheduled offences. The offence must also be an offence in the place where it is intended to be committed. The paragraph sets out the conditions under which section 330 will apply. The circumstances which this provision deals with are those which occur where, for example, a person in the Isle of Man enters into an arrangement with persons outside the Isle of Man to undertake acts which amount to corrupt transactions outside of the Island. Section 330 of the Criminal Code of 1872 provides 'When two or more persons shall conspire either to commit any offence or to commit any act injurious to public order or for the perversion or obstruction of justice or the due administration of the law, such two or more persons are and shall be severally held to be guilty of misdemeanour and, being convicted thereof, shall be liable to imprisonment for any term not exceeding 10 years'. Subsection (1) applies that section if the conditions set out in the subsequent sub-paragraphs are satisfied.

Sub-Paragraph (2) requires the agreed course of conduct to involve an act or happening which is intended to take place outside the Island.

Subsection (3) requires the act or event to constitute an offence under the law of the other country or territory.

Paragraph (4) requires the agreement to fall within section 330 of the Criminal Code if all the elements of the offence were committed in the Isle of Man.

Sub-Paragraph (5) requires that a party to the agreement or his agent does something in the Island in relation to the agreement before its formation or a person becomes a party in the Island or a party or his agent acted in pursuance of the agreement in the Island. One of these requirements is essential to give proper connection between the agreement, the parties and the Isle of Man.

Sub-Paragraph (6) applies the offence of conspiracy under section 330 to the Criminal Code as if the scheduled offence in the other country or territory is an offence under the law of the Isle of Man. Paragraph 2 deals with the offence of incitement to commit an offence. Whereas conspiracy requires two or more co-conspirators, incitement can be committed by a single person. In general terms, then, incitement is influencing the mind of another to commit an offence. The offence itself will not have been committed at that stage. The offence arises under section 336 of the Criminal Code of 1872, which states: 'Whosoever shall solicit or endeavour to procure any other person to commit a felony or misdemeanour shall be guilty of a misdemeanour.' Felonies and misdemeanours are the more serious types of crimes, felonies being the most serious. This paragraph applies to incitement to commit a scheduled offence - that is to say, an offence involving a corrupt transaction or another offence, if any, specified in an order made by the Department of Home Affairs.

Sub-paragraph (1) sets out three criteria for the application of the paragraph. First, the act must be one which would amount to an offence of incitement if the ultimate offence had been committed in the Island; secondly, the ultimate offence was intended to take place outside the Isle of Man; and thirdly, the particular offence would also be an offence under the law of the other country or territory concerned.

Sub-paragraph (2) declares that the charge of incitement to commit the scheduled offence outside the Island is to be triable in the Island.

Sub-paragraph (3) specifies why communications of any sort are to be treated as done. A message which is sent or received in the Island is treated as done in the Island for the purpose of determining whether an incitement has taken place in the Island.

Paragraph 3, sub-paragraphs (1) and (2) are supplementary. This paragraph contains supplementary provisions for both paragraphs 2 and 3.

Sub-paragraph (1) deals with cases which, where the law in force in the other country or territory, are not under their law described as an offence but nonetheless attract punishment. Such an act is to be treated as an offence for the purpose of sub-paragraph (1)(a).

Sub-paragraph (2) crystallises defence and prosecution admissions at an early stage. This will avoid delays at the hearing if the court is attempting to determine whether a foreign country or territory has a similar offence. The procedure will be that the court will assume that there is an equivalent offence in the other country or territory unless the defence serves a notice that it is of the opinion that there is no equivalent offence. The notice must show the grounds for the opinion and must require the prosecution to show that there is an equivalent offence.

Sub-paragraph (3) defines the expression 'relevant conduct' by reference back to the agreed course of conduct in the case of conspiracy and, in the case of incitement, what the accused had in view.

Sub-paragraph (4) permits the court to allow the defence to require the prosecution to show that there is an equivalent offence in the other country or territory even where a notice under sub-paragraph (2) has not been served. This gives the court sufficient discretion to waive the notice where justice demands.

Sub-paragraph (5) applies the proceedings in the Court of General Gaol Delivery. The question of whether there is an equivalent offence under the law of another country is decided by the judge alone. This is because it will be a matter of law rather than a matter of fact. The issue will normally be proved by evidence from lawyers who are experts in the law of the other country.

Paragraph 6 makes it clear that British citizenship is irrelevant to the purposes of guilt, and sub-paragraphs (7) to (9) provide interpretive provisions for reference in other statutory provisions to conspiracy or incitement to commit scheduled offences. The effect is that references in other legislation to conspiracy or incitement to commit corrupt transactions in the Isle of Man are to be taken to include conspiracy to commit corrupt transactions out of the Isle of Man. The same will apply to any other offences specified by order made by the Department of Home Affairs under paragraph 4(1) of the schedule. Under paragraph 4(3) of the schedule it is made clear that it does not apply in respect of things done before the coming into force of the schedule. This prevents retrospective effect. I beg to move that clause 25 stand part of the Bill.

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

Mr Karran: Vainstyr Loayreyder, I would just like the hon. mover to clarify: is this provision actually in the United Kingdom? I am a little bit concerned. My concern is that here we have this conspiracy theory. A situation could arise where you legitimately take on the financial accounts of a third party in a country that then has a coup and then they are on the other side of the fence. Could the financial institution end up finding itself actually facing criminal charges over this? What I am concerned about is that I think we want a finance sector 110 per cent legitimate, but it does annoy me that when we have the biggest money-laundering racket adjoining this country in the City of London - it is well-known for being far worse than we will ever be - and I am just concerned where this piece of legislation actually came from, because I could see a situation where you could be doing legitimate financial work for an investment portfolio for individuals out in the Third World with an unstable currency or the likes and you could end up in a situation where one minute it is regarded as legitimate business because the government is in power and the next minute it is illegitimate business because the government is not in power, and I am just a little bit concerned that this schedule could not be used for fishing expeditions for authorities.

It would also be interesting to know whether, apart from whether this is in the United Kingdom, somebody who helps to prop up or helps to support a coup in a jurisdiction in wherever is committing a . . .? Is that a political thing or is that a criminal thing, that if they are, or their business is, supporting or helping to support a regime, prop up a regime, that we would regard as illegal by giving them financial support, financial services, would it be a criminal offence? I know it might sound rather far-fetched but I just wondered where this thing came in from as far as the need for this piece of legislation. Is this something which once again we see the United Kingdom Government wanting us to adhere to and yet they do not adhere to themselves? That is what I would just like to know.

The Speaker: The mover to reply.

Mr Bell: Mr Speaker, clause 25 deals with conspiracy. It is based very largely on legislation which is currently in force in the United Kingdom. That is really where the structure

of this piece of legislation comes from. I cannot really comment on the convoluted potential situations of coups in Africa or anywhere else, but the conspiracy element has to relate to something which was a criminal activity in the particular country at the time the transaction took place, so my understanding would be that, notwithstanding what came afterwards, if it was perfectly legal at the time the transaction took place, then that would be okay. There has to be a criminal intent at the time of the transacting of the business for it to actually contravene this legislation, but as to the impact on all the other possibilities of coups I really would not like to comment at this stage. I move that clause 25 stand part of the Bill.

The Speaker: Hon. members, the motion is that clause 25 and schedule 4 stand part of the Bill. Will those in favour please say aye; those against say no. The ayes have it. The ayes have it. Clause 26, sir.

Mr Bell: Thank you, Mr Speaker. Before I move clause 26, could I just bring it to the hon. member for Onchan's attention I have just now been given the definition of 'premises' which he asked for in clause 24, and it says ' "premises" means any land or building but does not include land forming part of a highway.' That is the legal definition so I hope that has answered his question.

Clause 26. This clause inserts new subsections in section 9 of the Criminal Law Act of 1981. That section creates the offence of attempting to commit an offence. The punishment is the same as if the principal offence had been committed. The new subsections clarify certain issues which have arisen in respect of attempts to commit offences.

New subsection (2) declares that it is an attempt where a person does an act which is more than merely preparatory to the commission of the offence. This wording is similar to that currently used in the United Kingdom. The Law Commission recommended against a specific definition of what may constitute an attempt and quoted the House of Lords' comment that no words, unless so general as to be virtually useless, can be devised which will fit the immense variety of possible cases.

Subsection (3) penalises anyone who carries out what would amount to the conduct required for an attempt to commit an offence but for the existence of any facts or circumstances which render the commission of the intended offence impossible. Thus a would-be thief who puts his hand in an empty pocket with the intention of stealing will be guilty of attempting to steal.

Subsection (4) deems a defendant to have the requisite intent for an attempt to commit an offence if, on the facts or circumstances of the particular case, as he believed them to be, he would be regarded as having that intent. I beg to move clause 26 stand part of the Bill.

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

The Speaker: The motion is, hon. members, that clause 26 stand part of the Bill. Those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clause 27, sir.

Mr Bell: Clause 27, Mr Speaker, introduces the new antisocial behaviour order, which is concerned with the prohibition of acts that cause harassment, alarm or distress. A High Bailiff's or Magistrates' Court may make an antisocial behaviour order in respect of a person where it is proved that the person has acted in a manner that has caused or was likely to cause harassment, alarm or distress to one or more persons not of his household, and that it

is necessary to protect persons from further antisocial acts by that person. The order may prohibit the person from doing acts specified in the order to the extent that such prohibition is necessary to afford the requisite protection. Breach of an antisocial behaviour order is punishment by a fine.

The order is analogous to an injunction and is limited to the extent that it is necessary to protect people in the area concerned from harassment, alarm or distress comprised as a two-stage process. First there is a civil stage where the perpetrator of the antisocial behaviour is ordered to cease the behaviour and not to recommence it for the duration of the order. Only if the person subject to the order breaches its terms does the second criminal stage of the process commence, and that person becomes potentially liable to imprisonment or a fine.

The provisions are based on section 1 of The Crime and Disorder Act 1998 of parliament. The procedure was particularly intended to protect persons who cannot afford or who may be afraid to apply for civil injunctions against perpetrators of antisocial behaviour and to protect such persons from having to be complainants in court against their neighbours.

So paragraph 1 enables an application for an antisocial behaviour order to be made by the Department of Local Government and the Environment, a local authority or the Chief Constable.

Sub-clause (2) requires consultation between the Department of Local Government and the Environment, the local authority concerned and the Chief Constable before making an application.

Sub-clause (3) enables applications to be dealt with by courts of summary jurisdiction and requires the application to be made by way of a complaint, which is the normal method of commencing proceedings in a Magistrates' or High Bailiff's Court.

Sub-clause (4) enables the court to make an antisocial behaviour order in respect of a person where it is proved that the person has acted in a manner that has caused, or was likely to cause, harassment, alarm or distress to one or more persons as himself and that it is necessary to protect persons in the relevant area from further antisocial acts by that person. In broad terms, a person acts in an antisocial manner when he or she does something which is not consistent with the responsibilities of a citizen who derives right and benefits from living in our society.

Sub-clause (5) requires the court to disregard any acts of the defendant which were in fact reasonable in the circumstances.

Sub-clause (6) permits the order to prohibit the person concerned from doing acts specified in the order to the extent that such prohibition is necessary to afford the requisite protection.

Sub-clause (7) permits an antisocial behaviour order to have effect for a period not exceeding three years.

Sub-clause (8) permits a court to make further antisocial behaviour orders in respect of a person who has been the subject of an anti-social behaviour order in the past.

Sub-clause (9) makes it an offence to breach an antisocial behaviour order. The penalties are, on conviction before a High Bailiff or magistrate, a maximum six months'

custody and/or a fine of £5,000; on conviction before a Court of General Gaol Delivery, a maximum of five years' custody or an unlimited fine. A person charged with the breach of an antisocial behaviour order will have a defence if he can satisfy the court that there was a reasonable excuse for doing what he did.

Sub-clause (11) rules out the possibility of a conditional discharge for a conviction of an offence under sub-clause (10). The person concerned will already have shown himself to be a person who does not comply with the conditions set by the court and a conditional discharge would not therefore be appropriate.

Sub-clause (12) defines the relevant authority for the purposes of the section. These are the persons and bodies that may make an application for an antisocial order under the clause. They are the Department of Local Government and the Environment, a local authority and the Chief Constable. Mr Speaker, I beg to move that clause 27 stand part of the Bill.

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

Mr Rodan: Mr Speaker, I beg to move an amendment to sub-clause (12) of clause 27 which would have the effect of including in the definition of a relevant authority the Department of Education. Clearly a clause that is concerned with sentencing of persons aged 10 or over would be of interest to the Department of Education, and the purpose of this amendment is to rectify that particular omission, sir. I beg to move:

Page 21, line 27; after "Environment," insert "the Department of Education,".

Mrs Crowe: I beg to second the amendment, Mr Speaker.

Mr Henderson: Mr Speaker, I rise to support this substantive clause being debated this morning. It has been a long time coming and I am fully supportive of this particular legislation because of the extreme problems, hopefully, it will now resolve. The only thing I would say is what I said on the second reading: that some of this is down to the local authorities to make an application for, and I would hope that the hon. minister can give us assurances, and that of his department, to ensure that local authorities are fully briefed as to the implications of this clause, what they may do, what they may not do and how they go about making an application under these orders as the responsible authority and that they do have powers invested in them to do so and not a case, as we have seen in the past, where there is a reluctance to come forward and use powers vested in them. So I would like the hon. minister to give us his assurances that they will be fully briefed and know that they can use these orders and should do so if there are problems within a certain area and not to be shy at coming forward but to be actively seen taking part in taking care of our community, as it were, and special reference to this because some anti-social behaviour can make the living standards and the quality of life in certain areas absolutely intolerable. So other than that, Mr Speaker - fully supportive.

Mr Gilbey: Mr Speaker, I strongly support this and the amendment to it. I quite accept that at this stage we could not alter it and I blame myself for not having noticed this or raised the point before, but I see that the age limit is 10. Now, unfortunately you could have appalling hooligans under that age, I regret to say. I wonder if we should not - it is easy to speak in retrospect - have had something making the parents responsible and saying that if they let children under 10 terrorise the neighbourhood, which sadly I think happens in the adjacent isles, they could be held responsible or alternatively, is there some other Act under which we

can deal with such a problem? I mean, one hopes it would never occur but sadly I think it has in the adjacent isles.

Mrs Hannan: Vainstyr Loayreyder, we are talking about a Criminal Justice Bill and what concerns me is that we are making criminals out of anyone from the age of 10 and doing that, it is all very well to give powers to various sections so that they can take action, the relevant authorities and all the rest of that, but if we are not putting anything in there to help people who have genuine difficulties, whether it be the parent, whether it be problems with neighbours or whatever, all we are doing is criminalising instead of trying to help and assist. It is all very well the member for Douglas North saying the local authority need guidance, they need to use this legislation, and that is all very well.

Mr Henderson: You come to Douglas, then!

Mrs Hannan: But people do have genuine difficulties. It may be neighbourly dispute so that the local authority is then put into the situation of trying to solve it; it might be parents having difficulty. I would hope that we can get round to the situation whereby we can introduce parenting assistance to people to help and assist them with their children. You might say that this is sounding like a nanny state or whatever, but in instances where this sort of help is put in early, then we do not get criminals later on in life and therefore I do think, instead of bringing forward criminal legislation which turns people into criminals, I think there should be other legislation also brought in whereby it helps with maybe mediation, with assisting parents, because what you have to think about is, it is all very well saying, 'What about Douglas?' or 'What about somewhere else?' but if these people are thrown out of their schools, they have got to be assisted some way or other. If the local authority has difficulties with tenants and they are thrown out from some way, somebody else has got to cope with that, and therefore I think a lot of work in this area needs to take place to help people with these antisocial orders instead of sort of ending up eventually, maybe, getting people who spend long periods of time in prison, and that should not be what we are looking for. Thank you, Vainstyr Loayreyder.

The Speaker: Hon. member for Garff, do you wish to respond to anything on the amendment?

Mr Rodan: No, sir, I have no wish to reply.

The Speaker: Mover to reply.

Mr Bell: Thank you, Mr Speaker. First of all I would support the amendment put forward by the hon. member for Garff, Mr Rodan. The antisocial behaviour order section is in fact based on, as I said, the Crime and Disorder Bill in the United Kingdom, and of course education is mostly under the responsibility of local authorities in the United Kingdom and that is why the oversight has taken place, so we are quite happy to allow that amendment to be introduced.

I thank the hon. member for North Douglas, Mr Henderson, for his support. I know he has mentioned this to me on a number of occasions, particularly with the problems he has on occasions in his own constituency. I would certainly hope that between my department and perhaps the Department of Local Government and the Environment we will ensure that local authorities are fully briefed of what their responsibilities are under this particular clause and I very much hope it will lead to quieter times in some areas on the Island. I would point out,

though, that this legislation itself is not just targeted for local authority housing, it could be to any housing community on the Island at all levels, so I very much hope that we will be able to apply this, not in a narrow sense of just singling out a certain type of tenant but looking at it right across the board, because there is no doubt at all that there are inter-neighbour disputes, there are problems with noise and likewise at all strata in society in the Island and not just sadly in the one area, so we will be sending out that message, that by all means local authorities keep their own estates in a well-behaved way but also to look at the wider issues.

The one point, though, about this is that it will protect the individual who, I think the hon. member says, at the moment is reluctant to come forward. It is not only the local authority that perhaps might be reluctant to come forward, but individuals who are on the receiving end of this are very often reluctant to come forward to the police or to courts to take action against someone for fear of reprisals, perhaps, at some later stage. This measure, if it is operated properly, should in fact remove the necessity for the individual making the complaint to be exposed in court and have to go through cross-examination et cetera et cetera, so we will have to see how that works.

The hon. member for Glenfaba, Mr Gilbey, is concerned about under-10s being involved and whether or not a provision making parents responsible should be included. We have not included anything at this stage but nevertheless, now that the education department are involved in looking at situations such as this, we may be able to work through the authority of the Department of Education in conjunction with the division of social services to perhaps be able to achieve the same end - perhaps not precisely what he is looking for but some steps in that direction.

The hon. member for Peel, Mrs Hannan, is concerned about criminalising young people, criminalising people particularly parents, maybe single parents who are struggling with the various problems, financial, social, whatever it might be, and I would agree wholeheartedly with her. The intention of this Bill is not to create criminals, it is to try and improve the quality of life of people living in the neighbourhood of certain individuals who are behaving in an antisocial manner. The first application of an antisocial behaviour order is on a civil basis, it is not criminalising the individual, and an antisocial behaviour order is issued in the hope that it will be, in effect, a warning to those individuals to desist from their behaviour and, provided they comply with the order in the first place, there is no reason for them to get in the criminal justice system later on.

The general point that the hon. member makes, that we should perhaps be doing more to encourage parenting, to help families overcome their particular problems, again, I would agree with. I think government is making some inroads into that area. I do believe we have a lot further to go through social services, through education, before we actually get to the ideal position, but it is not the intent of this clause to create criminals, it is to protect the peace and quiet and quality of life of all our citizens on the Island and, as I say, I only repeat that the first issue of an antisocial behaviour order is not criminalising the individual, it is simply a warning shot to get them to desist. So I beg to move clause 27, Mr Speaker.

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

The motion is now that clause 27 as amended stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it. Clause 28 and schedule 5, sir.

Mr Bell: Clause 28, Mr Speaker, deals with curfew orders. This section introduces schedule 5, which confers powers on criminal courts to impose curfew orders. Schedule 5 provides for the making of a curfew order as a sentence of the court. A curfew order requires the offender to remain for periods specified in the order at a place so specified. Different places or different periods may be specified by the order for different days, but the order is not to last more than six months and the period specified must not amount to less than two hours and no more than 12 hours in any one day.

There is an obligation imposed by the courts by sub-paragraph (3) to avoid conflict with the offenders of religious beliefs or with any community order applying to him - for example, community service, and interference with the times at which he works or attends school or college. Where a curfew order is made there must be a person made responsible for monitoring the whereabouts of the offender.

Sub-paragraph (4) requires that to be a person of a description specified in an order made by the Department of Home Affairs.

Sub-paragraph (5) imposes limitations on the courts. Curfew orders may only be made if arrangements are in place for monitoring the offender's whereabouts and the Department of Home Affairs has notified the court of that fact.

Sub-paragraph (6) requires the court to give an explanation of the curfew order to the offender in ordinary language. The offender must also have explained to him the consequences of a breach of that order and that the court has the power to review the order if necessary. An application for a review may be made by the responsible person or by the offender himself.

Sub-paragraph (7) imposes a further obligation on the court before making a curfew order: the court is obliged to obtain information about the place at which the person will be required to remain under the order. The court must consider that information and the attitude of the other persons at the premises who may be affected by the enforced presence of the offender. It is anticipated that this will normally be the family home.

Sub-paragraph (8) requires a copy of the curfew order to be given to the offender and the responsible person.

Sub-paragraph (9) enables the Department of Home Affairs to vary the period specified in sub-paragraph (2). An order under this paragraph is required by sub-paragraph (10) to receive the approval of Tynwald before it comes into operation.

Paragraph 2 deals with procedural requirements for curfew orders.

Sub-paragraph (1) imposes an obligation on courts to ensure that the sentence and orders are the most suitable for the offender, and the court must take into account the information about the offender which is before the court.

Sub-paragraph (2) deals with the restrictions on liberty which were imposed by curfew orders. The restrictions must be such as are commensurate with the seriousness of the offence and other offences associated with it. The court is obliged to take into account all the

information it has about the circumstances of the offences and other offences associated with it as are available to it. All aggravating or mitigating factors must also be taken into account.

Paragraph 3 deals with the enforcement of curfew orders.

Sub-paragraph (1) enables an application to be made for the issue of a summons or the issue of an arrest warrant where a person has failed to comply with the requirements of a curfew order.

Sub-paragraph (2): any summons or warrant will direct the offender to be brought before the High Bailiff or a Court of Magistrates.

Sub-paragraph (3): where a court is satisfied that a person has failed to comply with a curfew order and that there is no reasonable excuse for the failure, the court may impose a fine not exceeding £5,000, and if the curfew order was made by a summary court it may revoke the order and deal with the offender for the original offence. Alternatively, if the curfew order was made by a Court of General Gaol Delivery, then the summary court must refer the matter to a Court of General Gaol Delivery and can either order the person to be held in custody or to be released on bail pending appearance before that court.

Sub-paragraph (4) is a procedural provision which requires a summary court which refers a matter to the Court of General Gaol Delivery to notify the Chief Registrar by means of a certificate, certifying the failure to comply with the curfew order and such other information as may be desirable. The certificate will be evidence before the Court of General Gaol Delivery that the person failed to comply, although other evidence may be brought before the court where justice requires.

Sub-paragraph (5) makes provision for the powers of the Court of General Gaol Delivery in dealing with an offender who has failed to comply with the requirements of the curfew order. The maximum fine for the failure is £5,000, but in addition the court may revoke the order and deal with the offender for the original offence. The likelihood is that this will result in a much more severe penalty being imposed.

Sub-paragraph (6) ensures that there is a right of appeal for persons who are either sentenced by either a Court of Summary Jurisdiction or the Court of General Gaol Delivery following a failure to comply with the requirements of a curfew order.

Sub-paragraph (7) enables the Court of General Gaol Delivery to determine a question of whether a person has failed to comply with the requirements of a curfew order to be determined by a deemster without a jury.

Paragraph 4 deals with amendments to curfew orders. This paragraph will enable a court to review a curfew order while it is in force. Applications can be made by the offender or by the person responsible for monitoring compliance or where the offender is convicted of a further offence. The application is made to a Court of Summary Jurisdiction. If the court is satisfied that the curfew order should be revoked and that the offender should be dealt with in some other manner for the original offence, the summary court may deal with the offender for the original offence as if the person had just been convicted. Where the original curfew order was made by a Court of General Gaol Delivery, then the summary court must refer the matter to that court. Where there is reference to the Court of General Gaol Delivery, it must notify the Chief Registrar and send particulars of the case. Sub-paragraph (ii) permits the Court of

General Gaol Delivery, when dealing with a person who is already subject to a curfew order, to revoke the curfew order and deal with the offender as if he had just been convicted of the original offence. The Court of General Gaol Delivery has this power where it is convicting the offender for a further offence or the offender has been convicted by a summary court and sent to the Court of General Gaol Delivery for sentence or where there has been an application under paragraph 4 and the summary court has referred the matter to a Court of General Gaol Delivery.

Sub-paragraph (3) confirms that there is a right of appeal against a sentence imposed by a Summary Court or a Court of General Gaol Delivery in place of a curfew order. Sub-paragraph (4) obliges the Court of Summary Jurisdiction to ensure the presence of the offender either by summons or warrant. This applies only where the application is made by the person responsible for monitoring the curfew order.

Paragraph 5 confers powers on the Department of Home Affairs to make rules regulating for monitoring the whereabouts of persons subject to curfew orders and the functions of persons responsible for persons who are subject to those rules.

Paragraph 6 deals with interpretation.

Sub-paragraph (1) defines 'responsible person'. It is either a probation officer, where there is a probation order in force; otherwise it is the person responsible for monitoring the curfew under paragraph 1(4) of the schedule. Sub-paragraph (2) makes it clear that references to persons under the ages of 17 years are references to persons who are under that age on conviction. This is particularly relevant for paragraphs 7 and 8 of the schedule.

Sub-paragraph (3) confers jurisdiction to deal with the enforcement and amendment of curfew orders on juvenile courts where a juvenile, a person under 17 years of age, is the subject of the order.

Paragraph 7 deals with offenders under the age of 17 years and prevents curfew orders being made in respect of juvenile offenders unless the provisions of paragraph 8 have been brought into operation by means of an appointed day order. Paragraph 8(1) requires the responsible person to be notified to the court by the Department of Health and Social Security where there is a juvenile offender who is the subject of a curfew order.

Paragraph 8(2) requires a court to consider the family circumstances of a person who is under the age of 16 and the likely effect of a curfew order on those circumstances. Although in the majority of cases a person of 16 years of age would be living with his family, this may not always be the case. Paragraph 8(3) limits the maximum period of a curfew order to three months rather than six months as provided under paragraph 1(2)(a), and paragraph 8(4) will enable the Department of Home Affairs to impose additional restrictions or orders under this sub-paragraph and must receive Tynwald approval before they come into operation. Mr Speaker, I beg to move clause 28 stand part of the Bill.

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

The Speaker: Hon. members, I think this is now an appropriate time to adjourn for lunch, and the adjournment will be until 2.30 this afternoon. Thank you, hon. members.

The House adjourned at 1.04 p.m.

Death of Miss K E Cowin

The Speaker: Hon. members, before we continue with our business it is with regret that I have to advise you of the death early this morning of Miss Katherine Elizabeth Cowin, a former member of this House who was well-known under the name of Katie Cowin. Miss Cowin had a distinguished career in education. She was a journalist, she was a member for Douglas East from 1971 to 1976 and served on many of the boards of Tynwald. Her particular interest was education. She had a well-known reputation in the community in educational circumstances and I think it is with regret that we have to report her passing. Hon. members, you will receive a letter in due course advising you of the funeral arrangements, but in the meantime perhaps this House would consider it appropriate if we stood in silence, in memory of Miss Katie Cowin.

The House stood in silence.

Criminal Justice Bill – Consideration of Clauses Concluded

The Speaker: Now, hon. members, we had clause 28 and schedule 5 moved and seconded and I now call upon the hon. member for West Douglas, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. Clause 28 introduces schedule 5 and, just as a general reminder, this enables courts to impose curfew orders for any offence except those that have a fixed sentence by law, for example murder. The periods of curfew can be set between 2 and 12 hours each day for a maximum duration of six months and these can be reinforced by electronic monitoring. If I look at the three amendments in my name, these have been drawn to the department's attention by the legislative draftsman. The first one refers to community order and this is paragraph 1(3)(a). The term 'community order' is understandable, but its meaning is left to the court. It is intended for the purpose of this Bill that community service orders will mean: community service orders, probation orders, combination orders, attendance centre orders and supervision orders. It is deemed that it would help users of the statute to have the meaning set out as in the amendment. I beg to move:

Page 57: in paragraph 1(3)(a), for "other community order" substitute "community service order, probation order, combination order, attendance centre order or supervision order".

The second amendment is on the same page, page 57, in paragraph 1(6)(a), where the intention is to omit the words in brackets as it is deemed that these are not really necessary. I beg to move:

Page 57: in paragraph 1(6)(a) omit the words in brackets.

Thirdly, on page 61 in paragraphs 8(2) and 8(3), in reference to the ages, the present Bill states the different ages for making curfew orders are for seeking information on family circumstances and limiting the length of an order. This could be rationalised and it was considered there was little difference between the circumstances for a 16-year-old and a 17-year-old and therefore the advice is that the age should be standardised for all at 17. I beg to move the amendment standing in my name, sir:

Page 61: in paragraph 8(2) and (3) for "16" substitute "17".

Mr Houghton: Mr Speaker, I am very happy to second those amendments and, speaking generally on these curfew orders, hon. members will be aware of course that I

brought forward leave to introduce a Private Member's Bill to implement curfew orders on my own initiative as such. But I was quite happy to join forces with the Department of Home Affairs who wished to bring these orders and make much more of a wider-ranging issue - as has indeed now, of course, been brought in by amendment in addition to that - for the widest scope possible use of such orders that can be brought in by law. So I give this my fullest support, I am very happy to second those amendments and, as I say, I am quite certain that these will be a real success when they are brought into operation. Thank you, sir.

Mr Karran: Vainstyr Loayreyder, I have got nothing against the clause or the schedule. I think it is a very good idea. The only thing I would like to ask the mover is something which I find rather upsetting, when I see youngsters of 10 or 11 roaming around at midnight in Main Road in Onchan. Will there be any moves as far as maybe bringing some curfew orders in for parents, that they should be home to look after their kids? I know that might sound a bit of a neck from a bachelor, but I believe we do need to look at this issue. Kids are the responsibility of their parents. I find it incredible when you see young kids running around at midnight. Where are their parents? I just wonder whether there has been any sort of idea as far as extending this to parents who do not seem to realise that they have a responsibility to their offspring, to be around and to keep control of them?

The Speaker: Does the mover of the amendments wish to respond? I invite the mover of the clause.

Mr Bell: Thank you, Mr Speaker. I thank the hon. member for North Douglas for his support on this and I also thank him for the constructive way he has worked with the department to amalgamate his Private Member's Bill with what we were drafting at the same time. It does show that consultation between the various departments and individual members who have a specific interest can be quite constructive, and in this case I think we have ended up with a measure here which satisfies most of what the hon. member was seeking, whilst keeping in line with the general thrust of what the department was trying to achieve as well. So I think it was a very constructive relationship and I look forward to future collaboration.

As far as the hon. member for Onchan is concerned, I am sure we all share the same concern as he does over very young children running round the streets of the Island until later on at night, I have not, obviously, at this stage looked at providing or introducing curfew orders on parents to keep them at home. Perhaps this might be a measure for one of his Private Member's Bills that he turns out from time to time. But I think the issue is far wider and deeper than that, though. We need to ask frequently why children are allowed to be out on the streets in the first place and there are a number of instances, certainly that I have had experience of, where it is a tragic indictment of the Island but the streets in effect are a place of safety for some of these children because they wish to get away from home circumstances. So I do not think there is a simplistic answer that every child should be at home. There is often a reason for them actually being on the streets and, of course, if there are individual cases where there are persistent problems, then a place of safety order can be taken out - I think by the Social Services in co-operation with the police - to ensure that that child, if it is believed to be in some danger, can be taken into custody for its own safety and taken to a place of safety. There is, to a certain extent, a network available but as far as this curfew order extending to parents at this stage, no, we have not considered that. But that might be something that the hon. member might consider for the future.

I beg to move clause 28, Mr Speaker.

The Speaker: The motion is that the amendments stand part of clause 28. Will those in favour say aye; against, no. The ayes have it. The ayes have it.

The motion is that clause 28 as amended stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it. Clause 29 and schedule 6, Mr Bell.

Mr Bell: Clause 29, Mr Speaker, amends the provisions of the Criminal Justice Act 1963 which deal with the imposition of probation orders. Sub-clause (1) inserts a new subsection into section 2 of the Criminal Justice Act 1963. The new subsection enables a court, when imposing a probation order, to require compliance with the additional requirements set out in schedule 1A of the 1963 Act: that is, testing for drugs.

Sub-clause (2) introduces schedule 6 to the Bill, which inserts the new schedule 1A of the Criminal Justice Act 1963.

Schedule 6 actually deals with the additional requirements of probation orders. This schedule sets out the new schedule 1A, which is inserted into the Criminal Justice Act 1963. The new schedule will enable a court to require that a person on probation will be subject to testing for drugs during the term of the probation order. If the tests disclose that fresh drugs are present in the body or that the level of drugs in the body has not reduced since the last testing, that should be treated as a failure to comply with the probation order and may result in the probationer being returned to the court for further action.

Paragraph 1 limits the requirements of the schedule to circumstances where the court is satisfied that the particular offender is dependent on or has a propensity to misuse drugs. There is no definition of drugs; that is unnecessary and is left to the discretion of the court.

Paragraph 2 permits the court to include the testing requirements in a probation order. This will mean that during the whole or a part of the probation order, there will be periodic testing to ascertain the presence of drugs in the offender's body.

Paragraph 3 obliges the offender to supply samples for testing, in accordance with the terms of the order and at times and in circumstances determined by the probation officer.

Paragraph 4 requires the responsible probation officer to make arrangements for the taking of samples by qualified persons.

Paragraph 5 requires the court order to specify the frequency of testing and the drugs for which the tests are to be undertaken.

Paragraph 6 deals with cases where a test indicates that either drugs are present where there were none before or that there has been no reduction in the level of drugs present since the last test. In such cases that is a failure to comply with the requirements of the probation order. It will then be open for the responsible probation officer to refer the matter back to the court as a breach of the probation order and the court could deal with the offender for the original offence, as if the probation order had not been made. Mr Speaker, I beg to move clause 29.

Mr Brown: I beg to second.

Mr Shimmin: Mr Speaker, hon. members will be aware there are a number of amendments in my name and most of them are for clarification or typographical mistakes. However, this amendment is by far the most important one on the paper today under my name. It is essential that where a court imposes curfew orders that these are the subject of a probation order so that there is a means of monitoring the curfew. This was an oversight and it is important that subsection (4A) is replaced with the amendment standing in my name. I beg to move, sir:

Page 21; line 33: for subsection (4A) substitute -

“(4A) Without prejudice to the generality of subsections (3) and (4), a probation order may in addition -

a) require the person to remain for periods specified in the order at a place so specified, and paragraphs 1(3) to (8) and 2 of Schedule 5 to the Criminal Justice Act 2000 and rules made under paragraph 5 of that Schedule shall apply to such requirements as they apply to a curfew order;

(b) include the requirements which are authorised by Schedule 1A.”

Mrs Hannan: I beg to second.

The Speaker: Do you wish to respond?

Mr Bell: No, I am happy to support, Mr Speaker.

The Speaker: Hon. members, the motion is that the amendments to clause 29 stand part. Will those in favour say aye; those against say no. The ayes have it. The ayes have it.

The motion is that clause 29 as amended stand part of the Bill. Will those in favour say aye; those against, no. The ayes have. The ayes have it. Clause 30.

Mr Bell: Clause 30, Mr Speaker, makes two amendments. The first is to enable community service orders to be imposed in respect of persons who are of or over the age of 13, instead of persons who are of or over the age of 14 as at present. The second amendment replaces paragraph 4 of part I of schedule 3 to the Criminal Law Act 1981. The effect of the new provision is to require that the person supervising community service in respect of juveniles is to be a person nominated by the Department of Health and Social Security. The supervisor of persons over the age of 17 years is to be nominated by the Department of Home Affairs. At present the Department of Home Affairs nominates the responsible officer in all cases. Sub-clause (2) repeals the provision in the Criminal Law (Amendment) Act 1985 which amended the paragraph replaced by sub-clause (1)(b). I beg to move that clause 30 stand part of the Bill, Mr Speaker.

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

Mr Karran: Vainstyr Loayreyder, this amendment is to do with what I see as a potential abuse within the judiciary. As we all know, we have got problems with certain members of the judiciary who really are bringing the judiciary system into disrepute. I find it a bit of a front that we can have a situation where people can get community orders and could still go to prison as well. I believe that would be unacceptable. And whilst I would defend the right of the judiciary to their independence, I believe that we, as legislators, should put down clear guidelines. We

have alternatives. We have the prison or we have the probation and community service. They should not be allowed to be mixed together. I believe this amendment should be supported, in order to make sure that we have a clear understanding of the differences between the different forms of sentencing. I do hope this hon. House will support these proposals which are in front of you at this present time, Vainstyr Loayreyder.

The Speaker: Hon. members, I now call upon the mover of the clause to respond.

Mr Bell: Mr Speaker, there is just one comment I should make on this, just to clarify for members. All this amendment does is reduce the age from 14 to 13.

The Speaker: I am sorry, there is no amendment.

Mr Bell: I am sorry, all my clause does, the new amendment that is being introduced in clause 30, is reduce the age of those capable of being sentenced for community service orders from 14 to 13. This age group would be extremely unlikely ever to be considered for a prison sentence, so I think the hon. member for Onchan is, whilst perhaps well meaning in his own comments, in fact talking about a separate issue altogether. This is simply recognising that we have unruly 13-year-olds who need on occasions, sadly, to be punished as well and this is the purpose of the amendment in this clause, Mr Speaker.

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

Mr Bell: Clause 31, Mr Speaker, inserts a new section in the Summary Jurisdiction Act 1989. The clause provides an alternative mechanism to custody for dealing with fine defaulters. In such cases the court will have the option of ordering a fine defaulter to undertake community service. In the new section 95A, subsections (1) and (2) enable the court of summary jurisdiction to make a community service order where a person has been fined but has failed to pay the fine. The power is subject to the conditions set out in subsections (3) to (5).

Subsection (3) is the standard power for the court to defer the making of an order: for example the court might defer a community service order, provided that the defaulter pays off the fine by regular instalment payments. The power enables the Court to meet the circumstances and justice of individual cases.

Subsection (4) defines 'community service order'. It is defined by reference to the provisions of the Criminal Law Act 1981 under which a court may order a person to undertake supervised service.

Subsection (5) provides a table of minimum and maximum hours of community service to be served, when there have been defaults in payments of fines. The table specifies the minima as well as the maxima.

I beg to move that clause 31 stand part of the Bill, Mr Speaker.

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

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

Mr Bell: Clause 32 amends section 7(3)(b) of the Criminal Justice (Penalties) Act 1993 which deals with combination orders. That section enables the court to combine probation with a community service order. At present the maximum number of hours of unpaid work which a person may be ordered to undertake is 100 hours. This clause increases the maximum to 120 hours. I beg to move clause 32 stand part of the Bill.

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

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

Mr Bell: Clause 33 amends schedule 6 to the Criminal Law Act 1981 which deals with the power of a court to order a convicted person to pay compensation to those who have incurred a loss by reason of the offence. At present schedule 6 prevents compensation being ordered to the dependants of a person who has died as a consequence of a person's death, nor is such an order to be made in respect of injury, loss or damage due to a motor vehicle accident. Paragraph (a) of the clause repeals that limitation. Paragraph 5 of schedule 6 limits the maximum amount of compensation which may be awarded by a court of summary jurisdiction to £2,000. That figure was set in 1981 and an increase is long overdue. Paragraph (b) of the clause increases the maximum amount of compensation which a court of summary jurisdiction may award in these cases from £2,000 to £5,000, Mr Speaker. I beg to move clause 33 stand part of the Bill.

Mr Shimmin: I beg to second, sir.

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

Mr Bell: Clause 34 will enable the courts to order persons convicted of offences to make reparation to persons who have suffered from the commission of the offence or to make reparation to the community at large. Failure to comply with the order will be an offence. Sub-clause (1) declares the clause to apply where a person is convicted of an offence other than for one which the sentence is fixed by law. A sentence is fixed by law where there is only one sentence available to the courts. The principle example of this is punishment by a life sentence.

Sub-clause (2) enables the court to make a reparation order against a person it has convicted of an offence, to make reparation to the person affected by the offence or to the community at large.

Sub-clause (3) prevents the court making a reparation order if it has not been notified by the Department of Home Affairs that there are in place arrangements to implement the orders.

Sub-clause (4) specifies two cases where a court is not to make a reparation order. There must be no reparation order if the offender is to be detained in custody and, secondly, no reparation order should be made where a community service order is to be made, or a probation order combined with a community service order is to be made, or the offender is to be ordered to pay compensation to the victim or person affected by the offence.

Sub-clause (5) requires the consent of the offender to the making of a reparation order. The same limitations apply in relation to community service orders. Without such consent the reparation order would in effect constitute forced labour.

Sub-clause (6) limits reparation orders to work for not more than a total of 24 hours. In addition the person for whom the work is to be undertaken must give their consent.

Sub-clause (7): the requirements of the reparation order must mirror the seriousness of the offence or offences.

Sub-clause (8): the reparation order should, as far as practicable, not conflict with offenders' religious beliefs nor interfere with work or attendance at school or college.

Sub-clause (9) requires reparation to be supervised and to be made within three months from the date of the order.

Sub-clause (10) describes the person who must supervise the reparation required by a reparation order. For persons of or over 17 years of age it will be a person nominated by the Department of Home Affairs. For persons under that age it will be a person nominated by the Department of Health and Social Security.

Mr Speaker, I beg to move clause 34 stand part of the Bill.

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

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

Mr Bell: Clause 35, Mr Speaker, contains a number of supplemental provisions in support of reparation orders. Sub-clause (1) obliges the court to obtain a written report by a person nominated under clause 34(10) before making a reparation order. The report must indicate the type of work that is suitable and the attitude of the victim to the reparation.

Sub-clause (2) obliges the court to explain in ordinary language the effect of a reparation order and its requirements and the consequences for breach of the order and its requirements and sub-clause (3) makes it an offence to fail to comply with the requirements of a reparation order. The maximum penalty on summary conviction is six months' custody and/or a fine of £5,000.

I beg to move that clause 35 stand part of the Bill, Mr Speaker.

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

The Speaker: The motion is that clause 35 stand part of the Bill. Those in favour say aye; those against say no. The ayes have it. The ayes have it. Clause 36 and schedule 7.

Mr Bell: Clause 36, Mr Speaker, introduces schedule 7, which contains provisions to enable courts to order offenders to attend attendance centres for a specified number of hours. The schedule is based on provisions in the Criminal Justice Act 1982 of Parliament which deal with attendance centres.

Paragraph 1(1) enables the Department of Home Affairs to provide attendance centres.

Sub-paragraph (2) defines attendance centre. It is a place which offenders may be required to attend and receive occupation or instruction under supervision.

Sub-paragraph (3) enables the department to make rules for the regulation and management of attendance centres.

Sub-paragraph (4) enables the department to enter into arrangements with others for the use of the premises of that person to be used as an attendance centre.

Sub-paragraph (5) prevents rules made under sub-paragraph (3) coming into operation without the approval of Tynwald.

Paragraph 2 deals with attendance centre orders and enables a court which convicts a person of an offence to make an attendance centre order. The offence must be one which is otherwise punishable with custody, but not an offence for which there is a fixed sentence. The court must have been notified by the Department of Home Affairs that an attendance centre is available. The attendance centre order will specify the number of hours for which attendance is required.

Sub-paragraph (2) provides for the interpretation of sub-paragraph (1): the references to an offence punishable with custody are to be construed without regard to restrictions imposed on the imprisonment of young offenders. In effect, if an enactment provides for custody as a punishment for an offence, then that offence will fall within sub-paragraph (1), even where special rules apply for young offenders.

Sub-paragraph (3) provides for reference to attendance centre orders.

Sub-paragraph (4) limits the total number of hours that a person may be required to attend at an attendance centre to 12 hours.

Sub-paragraph (5) enables courts to make further attendance centre orders, where an offender is already subject to such an order. The subsequent order will not be limited by the existing order.

Sub-paragraph (6) requires the attendance centre to be reasonably accessible to the person concerned, having regard to his age, means of access and circumstances.

Sub-paragraph (7) requires the court to avoid, as far as practicable, conflict with the offender's religious beliefs or the requirements of other courts, and the offender's work, attendance at school or college.

Sub-paragraph (8): the first time of attendance at the attendance centre is to be specified in the order and subsequently the time shall be fixed by the officer in charge of the centre.

Sub-paragraph (10): the maximum that a person may be required to attend at an attendance centre is three hours on any one occasion, and must not be required to attend more than once on any day.

Sub-paragraph (11) obliges the clerk of the court which makes the attendance centre order to deliver a copy of the order to the person in charge of the attendance centre and to the offender.

Paragraph 3 deals with discharge and variation of attendance centre orders and sub-paragraphs (1) and (2) enable the offender, or the officer in charge of an attendance centre, to apply for a discharge of an attendance centre order. The application is made to either the Court of General Gaol Delivery or to the court of summary jurisdiction, depending which court made the original order. These are covered in sub-paragraphs (3) and (4).

Sub-paragraph (5) enables the court dealing with an application for discharge to impose, in place of the attendance centre order, any penalty which was available to it when ordering the original sentence.

Sub-paragraph (6) enables a court of summary jurisdiction to vary an attendance centre order on the application of the offender or the officer in charge of the attendance centre.

Sub-paragraph (7) enables the court to vary the date and hour of the first attendance at the attendance centre or to change the attendance centre.

Sub-paragraph (8) permits the court to deal with the application made by the officer in charge of the attendance centre, in the absence of the offender.

Sub-paragraph (9) imposes duties on the clerk to the court which makes an order, discharging or varying an attendance centre order, to notify the offender and the officers in charge of the relevant attendance centres.

Sub-paragraph (10) defines 'the relevant attendance centre'. It means a centre specified in the court order or, where there has been a variation, the replacement centre.

Sub-paragraph (11) deals with attendance centre orders which are made on appeal from the original sentencing court. In such cases, if the original court was a court of summary jurisdiction, the attendance centre order is treated as if made by that court. Likewise, orders made on appeals from the Court of General Gaol Delivery will be treated as if made by that court also.

Paragraph 4 deals with breaches of attendance centre orders or attendance centre rules. This paragraph deals with the powers of the court in cases where there has been a breach of attendance centre order, or of rules made by the department for the regulation and management of attendance centres.

Sub-paragraph (1) enables a justice of the peace to issue a summons or a warrant, to ensure the attendance of an offender before the court, where there is a complaint that the offender has failed to attend in accordance with the attendance centre order or has committed a serious breach of the attendance centre rules.

Sub-paragraph (2) provides the options open to the court where there is a failure or breach, about which there has been a complaint. Firstly, the court may continue the order and impose a fine of up to £1,000. Secondly, the court may deal with the offender for the original offence, but if the original attendance centre order was made by a Court of General Gaol Delivery, the summary court must commit a person in custody or on bail to appear before that court.

Sub-paragraph (3) declares a fine for a failure or breach, as mentioned in the complaint, is deemed to be a sum adjudged to be paid by a conviction. This ensures that it will be treated in the same way as fines payable on conviction for the purposes of collection and enforcement.

Sub-paragraph (4) requires a court of summary jurisdiction which refers a matter to the Court of General Gaol Delivery to certify particulars, if the offenders fail to attend or the breach of rules which he has committed. A certificate is admissible as evidence in the Court of General Gaol Delivery of the failure or of the breach.

Sub-paragraph (5) enables the Court of General Gaol Delivery, which is dealing with a failure or a breach, to deal with the offender for the offence in respect of which the attendance centre order was first made. The court may sentence the offender as if he had just been convicted.

Sub-paragraph (6) requires the courts to take into account the extent of compliance with the attendance centre order. Where the offender has wilfully and persistently failed to comply with the attendance centre order, the court may impose a custodial sentence, perhaps even if it would not have considered it appropriate in the first instance.

Sub-paragraph (7), where a Court of General Gaol Delivery or a court of summary jurisdiction exercises its power to sentence the offender in respect of the original offence, it must revoke the original order if it is still in force.

Sub-paragraph (8) enables the Court of General Gaol Delivery to determine whether or not there has been a failure to attend under an attendance centre order or there has been a breach of rules, in the absence of a jury.

Sub-paragraph (9) deals with the effect of the attendance centre orders made on appeal. If the appeal is from the court of summary jurisdiction, then the attendance centre order is treated as if made by a court of summary jurisdiction. If the appeal is from a Court of General Gaol Delivery, the attendance centre order is treated as if made by that court. Mr Speaker, I beg to move that clause 36 stand part of the Bill.

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

Mr Shimmin: Mr Speaker, I beg to move seven minor typographical mistakes that are being corrected in the amendment standing in my name:

Page 63: in paragraph 2(2), for "subsection" substitute "sub-paragraph".

Page 63: in paragraph 2(3), for "section" substitute "paragraph".

Page 64: in paragraph 2(10), for "section" substitute "paragraph".

Page 65: in paragraph 4(1)(b), for "section" substitute "paragraph".

Page 66: in paragraph 4(2), for "section" substitute "paragraph".

Page 66: in paragraph 4(4), for "3" substitute "(2)(b)".

Page 66: in paragraph 4(7), after "attendance" insert "centre".

Mr Downie: I rise to second, Mr Speaker.

The Speaker: The motion is that the amendments to clause 36 stand part of the clause. Those in favour say aye; against, no. The ayes have it. The ayes have it.

The clause as amended, clause 36 and schedule 7 as amended stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it. Clause 37, sir.

Mr Bell: Clause 37 is based on section 58 of the Crime and Disorder Act 1998, an Act of Parliament. This clause empowers a court to impose on sexual or violent offenders a sentence which includes an extended period of post-release supervision.

Sub-clause (1) specifies the circumstances in which the powers provided by this clause may be exercised by the courts. The court must be proposing to impose a custodial sentence, the offence concerned must be a sexual or violent offence - as defined in sub-clause (5) of this clause - and the court must be of the opinion that the normal period of release on licence from custody is not sufficient to prevent further offences and to secure his rehabilitation. The normal rules for release on licence are contained in the Custody Act 1993.

Sub-clause (2) enables the court to impose an extended sentence in circumstances mentioned in sub-clause (1). The extended sentence is a custodial sentence. The term of the sentence is the normal tariff applied by the court for the particular offence plus an extended licence period. During the extended licence period the offender will be subject to recall to the institution, if any of the conditions of the licence are broken.

Sub-clause (3) limits the extended licence period to 10 years in the case of a sexual offence and 5 years in the case of a violent offence.

Sub-clause (4) provides that in any event the aggregate extended sentence must not exceed the maximum term permitted for that offence. For example, offender A is convicted of a sexual offence which attracts a maximum penalty of 14 years. If, in the particular circumstances of the offence, the normal tariff would be seven years, the court will impose a seven-year custodial sentence plus, if the conditions of sub-clause (1) are complied with, a seven-year extension period. During that extended period the offender will be liable to recall to the institution for a breach of the licence conditions.

Sub-clause (5) provides definition for 'licence'. This is release from custody on licence in accordance with the Custody Act 1995. 'Sexual offence' means one of the serious sexual offences set out in paragraph 2(1) of this Bill and 'violent offence' is self-explanatory.

Mr Speaker, I beg to move that clause 37 stand part of the Bill.

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

The Speaker: The motion is that clause 37 stand part of the Bill. Those in favour please say aye; those against say no. The ayes have it. The ayes have it. Clause 38, sir.

Mr Bell: Clause 38 is based on section 59 of the Crime and Disorder Act 1998 of Parliament. It inserts a new paragraph 13A into schedule 2 of the Custody Act 1995. That schedule deals with the early release of detainees and, for this particular purpose, the release of detainees on licence. The new paragraph makes provision in connection with the early-release and post-release supervision of prisoners on whom an extended sentence has been passed under clause 37 of the Bill. Under this new paragraph the extension period of an extended sentence is not to be reckoned in calculating the date of release on licence of a prisoner serving such a sentence, but is to be determinative in establishing the duration of the licence period. And a prisoner serving an extended sentence, who would otherwise be released unconditionally, is instead to be released on licence for the duration of the extension period.

Sub-paragraph (1) explains that the paragraph applies to detainees serving extended sentences within the meaning of clause 37 of the Bill.

Sub-paragraph (2) has effect to require the date of release on licence of a detainee to be calculated without reference to the extension period. This means that the detainee will be

released on the same date as would have been the case if there had been no extension period.

Sub-paragraph (3) deals with cases where a detainee is released on licence. In those cases the extension period is then taken into account and the licence remains in force until the end of the extension period.

Sub-paragraph (4) applies where a detainee would be released unconditionally, without any licence or conditions. In such a case a person subject to an extended licence is not released unconditionally but is released on licence and the licence period remains in force until the end of the extension period.

Sub-paragraph (5) provides rules for determining the beginning of the extension period. In a case where the detainee was first released on licence, in accordance with sub-paragraph (3), an extension period begins on the expiry of the licence period applicable to the original custodial term. Where the detainee would have been released unconditionally and sub-paragraph (4) applies, the extension period begins on the date on which the detainee would have been released unconditionally.

Sub-paragraph (6) disapplies paragraphs 2(3) and 15 in respect of detainees to which the new paragraph 13A applies. Paragraph 2(3) deals with unconditional release at the end of licence period in respect of the original custodial term. It cannot apply in respect to the extended term.

Sub-paragraph (7) requires existing provisions relating to the early release of prisoners, on licence or otherwise, to take into account the extended sentence when determining whether a detainee is a long-term or a short-term detainee - who receive different treatment under schedule 2 of the Custody Act 1995.

Sub-paragraph (8) defines 'extension period' by reference to clause 37 of this Bill.

I beg to move that clause 38 stand part of the Bill, Mr Speaker.

Mr Shimmin: I beg to second, sir.

The Speaker: The motion is that clause 38 stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it. Clause 39, sir.

Mr Bell: This clause inserts a new paragraph 13B in schedule 2 of the Custody Act 1995. Again, this clause is based on section 60 of the Crime and Disorder Act 1998 of Parliament. This clause makes provision for the re-release of prisoners serving extended sentences, who have been recalled to prison while on licence, enabling the Parole Committee - acting in a judicial capacity - to order the detainee's release, where it is satisfied that he no longer poses a threat to the public.

Sub-paragraph (1) specifies the circumstances to which the paragraph applies. It applies to a detainee, serving an extended sentence, who has been released on licence. The paragraph is triggered if the person is recalled and his licence revoked. The licensee will thereupon return to detention.

Sub-paragraph (2) gives such a detainee a right to require the department to refer his case to the parole committee at any time.

Sub-paragraph (3) limits that right to, in effect, once every year.

Sub-paragraph (4) obliges the Parole Committee to direct the detainee's release, if it is satisfied that it is no longer necessary for the protection of the public. Unless the committee is so satisfied, it must not direct the release of the detainee.

Sub-paragraph (5) requires the Department of Home Affairs to comply with a direction of the Parole Committee to release a detainee.

Mr Speaker, I beg to move that clause 39 stand part of the Bill.

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

Mr Shimmin: Mr Speaker, this is the final amendment moved in my name today. May I apologise to yourself and the House for the number of amendments the department has brought forward and be grateful for your tolerance. This is a minor amendment which takes place to line 32 of page 27. The clause currently refers to 'prison' instead of 'an institution'. It was decided it could be left as it stands but it would be better being corrected, as this is the term used elsewhere in the Bill and referred to in the 1995 Custody Act. I beg to move:

Page 27; line 32: for "prison" substitute "an institution".

Mr Downie: I beg to second, Mr Speaker.

Mr Karran: Vainstyr Loayreyder, I am just a little bit concerned and I wonder whether the mover can just tell us the device, as far as this release of prisoners. What I am concerned about is, is it left in the hands of the politicians - I should say the department members - or is it a device which has more control from the judiciary? The reason why I ask this is we have seen in the adjacent island, where they are a very much larger nation than ourselves, the situation where certain people will never be released because of the political backlash if that were the case. The situation here would be a thousand times more intense for the Minister for Home Affairs, if he had to agree to these things. I know, at the end of the day, there is a Parole Committee but they will be there at the pleasure of the minister and I just want to know whether we have got any safeguards so that we do not get a situation where people could end up not getting released because of the adverse publicity. It would be a very brave man who was up for re-election to do so. And I just wondered, has any thought or device come up to try and ease that situation so that the issue can be dealt with without fear or favour, and whether the position at the present time would be sufficient with the Parole Board being there at the pleasure of the minister.

The Speaker: The minister to respond.

Mr Bell: I think the last two clauses are quite self-explanatory, Mr Speaker. The duty to decide on whether or not an extended sentence should be imposed lies fairly and squarely with the judiciary. The politicians and, certainly, the Department of Home Affairs and the minister, have absolutely no role to play in this at all. The decision on any extension of licence will be primarily dependent on the assessment of the potential threat, or degree of rehabilitation, of that particular prisoner at that time. If the judiciary feel that there has not been an effective rehabilitation and that a certain individual still poses a threat to the community, particularly in these two areas of sex offenders and serious acts of violence, then they have the power - not the minister, not the politicians - to extend this extension period.

And I would just simply point out, as far as the Parole Committee is concerned, this is on re-releasing of prisoners in clause 39, if they have been in a breach of their initial extension period. Sub-paragraph (5) requires that the Department of Home Affairs comply with a direction of the Parole Committee to release the detainee. So we have no choice in that. If someone is taken back because they have broken the terms of their licence, and the parole committee then feel that the person is suitable for re-release at some later stage, the Department of Home Affairs has no choice but to follow the direction of the Parole Committee and that person will be released at that stage. So the fear that the hon. member is concerned about will not apply in this case. It is completely out of the hands of the politicians. I beg to move.

The Speaker: Hon. members, the motion is that the amendment stand part of the clause. Those in favour say aye; against, no. The ayes have it. The ayes have it.

The motion is that clause 39 as amended stand part of the Bill. Those in favour say aye; those against, no. The ayes have it. The ayes have it. Clause 40, sir.

Mr Bell: Clause 40 inserts a new paragraph 2A into schedule 2 of the Custody Act 1995 to impose restrictions on the unconditional release of specified sex offenders. In such cases an early release will be release on licence, in place of the present unconditional release.

Sub-paragraph (1) of the new paragraph 2A overrules the provision for the unconditional release of prisoners as set out in paragraph 2 of schedule 2 of the Custody Act 1995. Detainees who are serving a sentence in respect of a sexual offence cannot be released unconditionally but only on licence.

Sub-paragraph (2) of the new paragraph 2A lists the offences which are to be treated as sexual offences for the purposes of sub-paragraph (1).

Mr Speaker, I beg to move that clause 40 stand part of the Bill.

Mr Shimmin: I beg to second, sir.

The Speaker: Hon. members, the motion is that clause 40 stand part of the Bill. Those in favour please say aye; those against say no. The ayes have it. The ayes have it. Clause 41, sir.

Mr Bell: Clause 41 inserts a new sub-paragraph into paragraph 8 of schedule 2 of the Custody Act 1995. The clause makes it clear that there is a power to enable the release of a detainee on licence, to be made on conditions which secure the electronic monitoring of the person's whereabouts, sub-paragraph (a); and the imposition of a curfew, sub-paragraph (b). I beg to move that clause 41 stand part of the Bill, Mr Speaker.

Mr Shimmin: I beg to second, sir.

The Speaker: The motion is that clause 41 stand part of the Bill. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clause 42, sir.

Mr Bell: Clause 42 inserts a new section in the Custody Act 1995. The new clause will enable samples to be taken from detainees to detect drugs or alcohol.

Subsection (1) of the new section 19A authorises any officer of an institution to require a detainee to provide samples for the purposes of ascertaining whether that person has any

drug or alcohol in his body. Custody rules made by the Department of Home Affairs will provide procedures for such circumstances. The officer is not permitted to require intimate samples as defined in subsection (2).

Subsection (2) defines 'drug' by reference to a list of controlled drugs under the Misuse of Drugs Act 1976. It also defines 'intimate sample' by reference to the Police Powers and Procedures Act 1998 which defines an intimate sample as a sample of blood, semen or any other tissue fluid, urine or pubic hair, a dental impression or a swab taken from a person's body orifice other than the mouth.

Mr Speaker, I beg to move clause 42 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 42 stand part of the Bill. Those in favour please say aye; those against say no. The ayes have it. The ayes have it. Clause 43, sir.

Mr Bell: Clause 43, Mr Speaker, deals with the confiscation of proceeds of crime.

Sub-clause (1) amends section 1 of the Criminal Justice Act 1990. That section deals with the confiscation of the proceeds of offences other than drug trafficking offences and in particular specifies the circumstances in which a court may make a confiscation order. At present confiscation orders may only be made if the benefit from crime is at least £10,000. The effect of the amendments in sub-clause (1) of this clause are to abolish the minimum amount of £10,000. This will mean that the court may order confiscation in cases where the benefit from crime is less than £10,000.

The amendment in sub-clause (2) is consequential on the removal of references to the minimum amount of £10,000.

Sub-clause (3) amends section 2A of that Act and is also consequential on the abolition of the minimum amount of £10,000.

Sub-clause (4) introduces a new power to undertake investigations into whether any person has benefited from any criminal conduct or into the extent or whereabouts of the proceeds of any criminal conduct.

The Drug Trafficking Act 1996 contains the same procedures for the confiscation of the proceeds of drug trafficking as are contained in the Criminal Justice Act 1990 for the confiscation of the proceeds of crime in general. The Drug Trafficking Act 1996 is more up to date in that it contains extra powers for investigation. It is intended that the Criminal Justice Act 1990 will be more thoroughly reviewed in the near future but, as a temporary amendment, the powers of investigation in sections 52 to 54 of the Drug Trafficking Act 1996 are applied by this new provision for the purpose of investigating the benefits of criminal conduct for crimes other than drug trafficking. Section 52 of the Drug Trafficking Act enables a constable to apply to a deemster for an order that material will be produced or that access will be given to it. Section 53 of that Act enables a constable to apply to a deemster for a warrant to enter and search premises for the purpose of investigations into whether a person has benefited from criminal conduct and section 54 of that Act includes definitions.

I beg to move clause 43 stand part of the Bill.

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

Mr Karran: Vainstyr Loayreyder, I am just a bit concerned at where does a thing end up being still in the ownership of the person who is supposed to have got it through ill-gotten gains? I am a bit concerned about this piece of legislation. The principle of it is very worthy, but you have the situation where the husband goes out thieving and they get money together, they buy a television. Does that mean then that that television can be taken away under this clause? Does the wife own half the television or does she not? The idea of going right down to any degree in order that people should not profit out of crime is a very worthy one and I think it is something that one would want to support, but I am a little bit concerned that we might be opening up a complete Pandora's box, as far as this is concerned. When does a thing not become in the sole ownership of the individual concerned? I can see a situation where the husband has been out and stolen a lot of money or whatever and purchased some of the contents of the property which he and his partner live in. Does that mean that they can take the stuff away and have it sold by coroner's auction unless she can prove that she has had some sort of financial input into those items for sale? I had members complaining before about the Court of Human Rights and I just worry that this situation could be open to a lot of abuse, I think, if we are not careful, especially against the section of the community who would not know what their rights are.

The Speaker: The mover to reply.

Mr Bell: Thank you, Mr Speaker. The clause in this Bill is very straightforward. It gives the courts, if it can be proven to them by the police, the powers to confiscate any proceeds of crime whether it be drug-related or, as in this case now, all crimes. If the criminal and his family have bought a house and furnished a house and bought a car and bought a holiday home on the proceeds of crime, and if the police can prove that that is the case, then those chattels are capable of being confiscated by the court. It is quite a simple exercise. I take the point the hon. member makes that it places an unfair burden, possibly, on the family of the criminal but the point is that this would not happen if the criminal had not stolen the goods in the first place. So it is a very simple exercise. The aim may well be, in the court's eyes, to return the value of the confiscated goods back to the person who lost the goods in the first place. So there are two sides to this particular exercise and the bottom line, quite simply, is crime does not pay.

I beg to move, Mr Speaker, clause 43 stand part of the Bill.

The Speaker: The motion is that clause 43 stand part of the Bill. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clause 44, sir.

Mr Bell: Clause 44, Mr Speaker, inserts a new section 14A in the Licensing and Registration of Vehicles Act 1985. Section 14 of that Act deals with the forgery et cetera of vehicle licences. The new section will give a constable the power to enter vehicles and seize licences. The constable may do that only if he has reasonable grounds to believe that the vehicle is exhibiting a vehicle licence which is forged or is otherwise the subject of an offence under section 14 of the 1985 Act. The vehicle must be on a public road. Where a licence has been seized under this new section, the keeper or user of the vehicle may be summoned before a court of summary jurisdiction to account for the presence of the licence on the

vehicle, unless the licence has been returned to the keeper or owner as a valid licence or a person is charged with an offence in relation to the licence.

Subsection (3) of the new section 14A enables the court to order the disposal of a seized vehicle licence and award such costs as justice requires.

I beg to move that clause 44 stand part of the Bill, Mr Speaker.

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

The Speaker: The motion is that clause 44 stand part of the Bill. Those in favour say aye; those against say no. The ayes have it. The ayes have it. Clause 45, sir.

Mr Bell: Clause 45 amends section 10 of the Computer Security Act 1992. The effect of the amendment is to ensure that law enforcement powers of the police and other enforcement agencies are not undermined, where there is an indication that consent to access to the data is withheld from them. Under the Computer Security Act 1992 it is an offence to access and run computer programmes without consent. The Computer Security Act 1992 as amended by this clause will not create an offence where proper access is gained by the police and other investigating authorities, even though the person controlling the system does not consent.

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

Mr Shimmin: I beg to second, sir.

The Speaker: The motion is that clause 45 stand part of the Bill. Those in favour say aye; those against say no. The ayes have it. The ayes have it. Clause 46, sir.

Mr Bell: This clause amends the Value Added Tax Act 1996 and the Customs and Excise Management Act 1986 to clarify the effect of the powers conferred on customs officers with respect to value added tax and excise fraud. The amendment makes it clear that customs officers can exercise their powers of access to information, in relation to VAT or excise duty offences in the United Kingdom or a member state of the European Community.

Sub-clause (1) inserts a new sub-paragraph (6) in paragraph 13 of schedule 12 to the Value Added Tax Act 1996. That paragraph deals with access to information in cases of VAT fraud. For the purposes of that exercise of the powers under the schedule, there has to be an offence in connection with VAT. The amendments make it clear that this means an offence in connection with VAT under the 1996 Act or any other legislation having effect in the Isle of Man, plus an offence under the Act of Parliament or any legislation of a member state of the European Community, provided that there would be an offence under Manx law if the same circumstances occurred in the Isle of Man.

Sub-clause (2) makes the same amendment in relation to excise duties as was made under sub-clause (1) in relation to VAT.

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

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

The Speaker: The motion is that clause 46 stand part of the Bill. Those in favour please say aye; those against say no. The ayes have it. The ayes have it. Clause 47, sir.

Mr Bell: Clause 47 amends the definition of 'police officer' in section 80 of the Licensing Act 1995. That definition currently excludes members of the special constabulary from the

definition of police officer. It has been found that this has limited the effective use of special constables in relation to licensed premises. In particular, special constables have not had a right to enter licensed premises to ensure compliance with the Licensing Act. I beg to move clause 47 stand part of the Bill.

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

The Speaker: The motion is that clause 47 stand part of the Bill. Those in favour say aye; those against say no. The ayes have it. The ayes have it. Clause 48, sir.

Mr Bell: Clause 48 amends the rules relating to the proof of convictions in court. Under the present law, evidence that a person other than the accused has been convicted of an offence is not admissible for the purpose of proving that that person committed the offence. The effect of the rule is that to prove the conviction it is necessary to prove that the person committed the offence, the conviction itself not being sufficient.

Sub-clause (1) permits the court to allow evidence of a conviction as evidence that the person concerned committed the particular offence. The sub-clause applies only in respect of persons other than the accused person and the principle applies in respect of any conviction before a court in the British Isles. A straightforward example of the operation of the principle would occur where a person is charged with handling goods which were stolen by another person. Evidence that the second person was convicted of stealing the goods will be admissible to prove that they were stolen.

Sub-clause (2) provides that the person convicted shall be taken to have committed the offence unless the contrary is proved. This creates what is sometimes known as a rebuttable presumption.

Sub-clause (3) deals with the position of the accused person. Where evidence is admissible on the fact that he has committed an offence, then the conviction for that offence shall be taken as proof that he committed the offence unless the contrary is proved. This provision will apply only if the commission of the offence is relevant to a matter in issue before the court and is not simply prejudicial evidence, such as that which shows a disposition to commit the kind of offence with which the person is charged.

Sub-clause (4) preserves the operation of any statute, making a conviction, finding a fact conclusive for the purpose of other proceedings. It is also provided that the admissibility of any conviction which would be admissible apart from the clause is not prejudiced.

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

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

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

Mr Bell: Clause 49, Mr Speaker. This clause, which supports clause 48, deals with the admissibility of evidence of documents for the purpose of identifying the facts on which a previous conviction is based.

Sub-clauses (1) and (2) would make admissible duly certified copies of documents to prove the facts of the offence, including a complaint, information or charge sheet which has

identified the facts on which a conviction was based. Without such factual details, it may be difficult to determine whether a previous conviction is or is not relevant. Oral evidence would also be admissible.

Sub-clause (3) provides that certain enactments, under which a conviction leading to probation or discharge is to be disregarded, shall not affect the admissibility of the conviction for evidential reasons. The enactments in question prevent the conviction from counting as part of a criminal record for the purpose of sentencing.

Sub-clause (4) limits the operation of clause 48 to subsisting convictions. Convictions quashed on appeal or for which a pardon has been granted are inadmissible and sub-clause (5) confirms the power of a court to exclude evidence at its discretion. There are many grounds for exclusion of evidence and it might occur where evidence is irrelevant or is prejudicial to a fair trial.

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

Mr Shimmin: I beg to second, sir.

Mr Karran: Vainstyr Loayreyder, I am just a little bit concerned. Could the mover tell us, if somebody commits a crime under 17, that this cannot be thrown up in his face at a later date, that it will be still the case that if somebody has a juvenile record, that record will stay confidential. Can the mover tell us what effects this clause will have, as far as our citizens are concerned, without the Rehabilitation of Offenders Bill? The fact that after so many years the thing is spent. Will we have a situation where our local people will end up being at a disadvantage to their UK counterparts, who will have their records spent as far as this is concerned? I think it is an important factor that we need to look at. I am all for making sure that criminals get what they deserve but I would like to think that people can change and I would hate to see a situation where we have people who did things in their youth, when they were stupid, having this thrown up in their faces. Also, I am concerned that our own people might be at a disadvantage with this clause and the previous clause because we do not have a Rehabilitation of Offenders Bill, and I just think we need to have that clarified some time.

The Speaker: The mover to reply.

Mr Bell: Mr Speaker, this clause 49 is really consequential amendments following on from 48. It has nothing to do with the rehabilitation of offenders. The hon. member is quite right that Manx people at the moment are at a serious disadvantage to their counterparts in the United Kingdom, where it comes to rehabilitation of what in the UK would be spent offences. All I can say to the hon. member is I am very hopeful that the Rehabilitation of Offenders Bill will in fact be before this branch at the next sitting of the Keys, before the start of the summer session for its first reading. So he will be able to pass his comments on rehabilitation, I hope, shortly after that.

I beg to move clause 49, Mr Speaker.

The Speaker: Hon. members, the motion is that clause 49 stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it. Clause 50, sir.

Mr Bell: Clause 50 amends section 1(f)(ii) of the Criminal Evidence Act 1946. As the law currently stands, an accused person is able to cast imputations on the character of the deceased victim of an alleged crime, without losing the shield that the law confers on an

accused person and which prevents cross-examination in respect of his own bad character. It is illogical in the sense that an attack on the character of a living prosecution witness would potentially lead to the loss of that protection. The amendment deals with the anomaly, and an attack on the character of a deceased victim of the alleged crime could lead to the loss of the charged person's protection.

This is a technical amendment, Mr Speaker, and I beg to move clause 50 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 50 stand part of the Bill. Those in favour please say aye; against say no. The ayes have it. The ayes have it. Clause 51, sir.

Mr Bell: Clause 51, Mr Speaker, amends section 70 of the Summary Jurisdiction Act 1989.

Paragraph (a) will enable a court to receive evidence in committal proceedings in the absence of the defendant. The court can only hear evidence in the absence of the accused, under this provision, if the accused has given his consent and is represented by an advocate and the court is satisfied that no prejudice is likely to be caused.

Paragraph (b) amends section 70 of the Summary Jurisdiction Act 1989 in respect of statements which are obtained outside the Isle of Man, as a result of a request from appropriate authorities inside the Isle of Man. The amendment will mean that written statements, obtained in accordance with the laws of other countries, need not be signed by the maker of the statement and need not contain the formal declarations which apply to statements taken in the Isle of Man. The amendment acknowledges the fact that legal systems outside the Isle of Man may have different methods of validating witness statements.

Again, Mr Speaker, this is a technical amendment and I beg to move clause 51 stand part of the Bill.

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

The Speaker: The motion is that clause 51 stand part of the Bill. Those in favour please say aye; those against say no. The ayes have it. The ayes have it. Clause 52, sir.

Mr Bell: Clause 52, Mr Speaker, amends section 84 of the Summary Jurisdiction Act 1989 and increases from 7 to 28 days the period during which a person may be remanded in custody after a first remand. The consent of the accused person is required for the purpose and the consent may subsequently be withdrawn, in which event arrangements must be made for the accused person to appear before the court as soon as is practicable after withdrawal of the consent. Where the section applies, magistrates who have already remanded the accused in custody once, and are proposing to do so again, will be entitled to remand him for more than the present permissible maximum of eight clear days. The new maximum will be 28 days or the period likely to elapse before the next effective hearing, whichever is the less. The rule that an unconvicted accused person may not be remanded in custody for more than eight clear days has become increasingly inconvenient. The standard procedures, where an accused is refused bail, is to remand him in custody for a week at a time until the parties are ready to proceed with either committal proceedings or summary trial. It is possible for a period of months to elapse between the first remand hearing and committal or trial. This can place

great burdens on the police and prison services in transporting the accused person to court each week.

Sub-clause (1) contains the power for a court of summary jurisdiction to remand a person in custody for a period exceeding eight days. There are three conditions: he must be an adult, he must consent and he must have been remanded previously for the same offence.

Sub-clause (2) limits remand in custody to a maximum period of 28 days and sub-clause (3) prevents a court exercising the power under this new section in the absence of the accused person.

Sub-clause (4) permits the accused person to withdraw his consent to the extended period of remand. He must give written notice of the withdrawal of consent to the person in charge of the institution in which he is detained and that person must cause the note to be delivered to the clerk of the court forthwith.

Sub-clause (5) obliges the clerk of the court to make arrangements for the accused person to appear before a court of summary jurisdiction as soon as is practicable after receipt of a note of withdrawal of consent. The person must appear before a court within 72 hours of the receipt of the notice by the clerk of the court.

Mr Speaker, I beg to move clause 52 stand part of the Bill.

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

The Speaker: The motion is, hon. members, that clause 52 stand part of the Bill. Those in favour please say aye; those against say no. The ayes have it. The ayes have it. Clause 53, sir.

Mr Bell: Clause 53 deals with remand for report after conviction.

Sub-clause (1) amends the Summary Jurisdiction Act 1989 to permit a court of summary jurisdiction to remand a person in custody for a period of up to six weeks for the purpose of obtaining social inquiry reports or medical reports. Currently the maximum period for such a remand is four weeks.

Sub-clause (2) amends the Criminal Justice Act 1993 to increase the period for which a Court of General Gaol Delivery may remand a person in custody for the same purpose.

I beg to move clause 53 stand part of the Bill, Mr Speaker.

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

The Speaker: Hon. members, the motion is that clause 53 stand part of the Bill. Those in favour please say aye; those against say no. The ayes have it. The ayes have it. Clause 54, sir.

Mr Bell: This clause inserts a new section 56A in the Criminal Jurisdiction Act 1993. The new clause will enable the Court of General Gaol Delivery to seal or stamp documents with the seal of the High Court. Documents containing the seal will have the same effect as if they were signed by a judge of the Court of General Gaol Delivery. At present, all documents issued by the court have to be signed by a judge.

Mr Speaker, I beg to move that clause 54 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 54 stand part of the Bill. Those in favour please say aye; those against say no. The ayes have it. The ayes have it. Clause 55.

Mr Bell: Mr Speaker, clause 55 abolishes the power of the Court of General Gaol Delivery to sentence a person to be whipped. The courts of summary jurisdiction do not have such a power and sub-clause (2) repeals the references in legislation to the sentence of whipping. Mr Speaker, I beg to move clause 55 stand part of the Bill.

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

Mr Houghton: Mr Speaker, nobody is surprised about me standing up about this clause, I am pretty sure, sir. But I do rise to firmly oppose the implementation of this clause within this Bill. I understand the progression of the Human Rights Bill, which itself deals with issues relating to corporal punishment, and the extraction of this form of punishment from the statute book will dovetail with that other Bill. I understand also that it is unlikely that the use of the birch will ever see light of day in the future. However, I do feel that the use of the birch should remain on statute. The world has gone soft, especially towards the serious criminal fraternity. And when I say serious offenders, I mean offenders who in particular commit offences against the person. Not, as the hon. minister stated during his second reading - whereby the birch in certain cases in the past was used on offenders - for minor theft et cetera. I would advocate the use of the birch on those who commit violence: assaults; actual bodily harm; grievous bodily harm; robbery, especially those who have robbed the elderly or the infirm - or in fact anyone.

The public deserves and must be protected by the legislature and the judiciary. Never mind pandering to Europe, who care not about us. Hon. members who choose to support this clause are abdicating their responsibilities to their constituents and other residents of this Isle. I look to all hon. members to vote against this clause. Thank you.

Mr Karran: Vainstyr Loayreyder, I think that it would be wrong if it goes out from this hon. House today that somehow these were the cases that would happen as far as birching is concerned. I first stood for this hon. House in 1981. Birching was the 'in' thing. I went to one house where the husband was unemployed, the son was just leaving school and was unemployed, there was no future - and all they were worried about was the birch. Now, I think it is wrong to give this impression that it was given out on an equal basis. If you came from Pulrose you were a thug; if you came from King William's College, it was youthful enthusiasm! *(Laughter)* I have never supported the birch for that reason. The people who generally pushed the birch the most were the ones who would use the old school tie and the family lawyers in order to make damn sure that their children never got birched. My argument was always the fact that if they were prepared to do it for the MHKs' kids and for the people in the know's kids, then fair enough - but that was never the case.

The idea that somehow we used to give it for pure violence is nonsense. We have only got to look at the statistics. We have had people actually given the birch because the mother was going into hospital to have another baby. Instead of the child going into care, the child was left out of care and birched, so that they did not have to pay any money out in social services. Admittedly that is 20 years ago - but that is not a long time ago, when you work out that that was the sort of thing that happened. I think it would be wrong to give the impression

today that if we kept it on the statute book. . . We are just window dressing. We have lost the argument as far as birching is concerned and I think that we should accept that it has gone. The issue of corporal punishment in schools is a different issue and I think people should not allow that to be mixed up with this. But on the issue of birching we have lost the argument and we should come clean with our constituents.

I remember the first requisition meeting I went to. There were nine of us. We had one of the sitting members wanting to retain the birch, the next one wanted to retain the birch and use the birch - by the time we got down to one of the ex-Mayors of Douglas, he wanted 16-foot barbed-wire fences around Jurby camp, ex-sergeant-majors, and he wanted to 'birch them, birch them, birch them.' Of course they whipped the emotion of the crowd to no end. *(Laughter)* I had to get up and and say, 'I'm sorry, but you're flogging a dead horse.' *(Laughter)* Now, admittedly it was the nearest thing to a public lynching Onchan has ever seen *(Laughter)* at the time!

I understand that the issue is very emotive but I think this hon. House has to accept that we cannot do this and it is too easy for political bravado, to try and make stands that are impossible to stand up for. I think we should come clean with our constituents and tell them we have lost the argument and we have to find more effective ways of dealing with criminals, in my opinion, Vainstyr Loayreyder.

Several Members: Hear, hear.

The Speaker: The mover to reply.

Mr Bell: Thank you, Mr Speaker. It does not come as a total surprise to me that the hon. member for North Douglas is hanging onto -

Mr Brown: He likes hanging, too. *(Laughter)*

Mr Bell: - the mythology of the birch. I would just say to hon. members, today really is an opportunity for this House to show some real maturity and leadership for the Island (**Mrs Hannan:** Hear, hear.) and to finally lance the mythology of the birch. The birch, hon. members, has not been used on the Isle of Man for nearly 30 years. It is not something which we have just lost in the last year or two, it is 30 years since it has been used. We have been carried along on this wave of rose-tinted expectation that at some stage we will be able to bring the birch back, and that is all we need to do and crime on the Isle of Man will disappear once and for all. We really, hon. members, need to be realistic and honest about this. This dream is utter nonsense. There is no way whatsoever that the Isle of Man can get the birch back and it is utterly and totally dishonest to ourselves and to our constituents outside if we continue to follow the populist line, saying that the birch is only around the corner and all we need is a more hard-line Minister of Home Affairs and everything will be fine again.

Mr Downie: Quite right. *(Laughter)*

Mr Bell: That will not happen. Perhaps after the next election the hon. member for North Douglas will be Minister for Home Affairs and then perhaps we will see a different ball game altogether.

Mr Houghton: By gosh, you will! *(Laughter)*

Mr North: He can head up the specials again, then.

Mr Bell: But I would just add a further dimension and it is a very serious one and it is one we should not lose sight of. The Isle of Man, like it or not - and we have worked hard enough to achieve it - is today a player on the international stage. We are trying to attract international business to the Isle of Man; we are trying to abide by international conventions; we have had representatives in New York talking to the United Nations' Human Rights Committee about various activities; we are doing our best to comply with international standards of behaviour. That is all very positive stuff. It has generated a huge increase in our economic activity on the Isle of Man and the quality of life that we enjoy here. But the one thing which is constantly thrown back at us is the fact that the Isle of Man is still a haven for birching and hanging homosexuals, and the Isle of Man has suffered enormously through this nonsense, this negative publicity over the last few years. We have done it, we have consciously cut off our noses to spite our face, knowing full well that we have not been able to do anything about these issues and yet we still doggedly decide to have it remaining on the statute. We are getting the worst of all worlds in the present situation. At a time when the Island badly needs to generate all the friends internationally that we possibly can, we are still sticking to having these negative elements in our social and criminal justice systems.

I think today is an opportunity for the Island to show some maturity and to show that we recognise, now we are going out to make friends, that it is unrealistic to hang onto all this panoply of the past. The birch, I do not believe ever did serve the purpose that a lot of people still dream of today. But it is this myth that we are manufacturing every time an election comes up: 'Let's bring back the birch.' I would say, hon. members, today please let us for once be honest with our constituents, be honest with people out there, tell them clearly that, though many of you in here I know would like to see the birch retained, we know full well it cannot be retained. By keeping it on the statute book, we are doing the Island a great disfavour when we are trying to generate friends at a time when there may be dark clouds on the horizon. We have enough international enemies waiting to pounce on us when they can, as it is.

Let us give leadership to the Island today, let us vote once and for all to remove the birching issue from the public debate altogether and, as the hon. member for Onchan says, let us address far more energy - as we are trying to do in the Department of Home Affairs - to providing more effective, up-to-date and acceptable measures to combat crime and to deliver to our people the safe environment which they all crave.

Mr Speaker, I beg to move that clause 55 stand part of the Bill.

The Speaker: Hon. members, the motion is that clause 55 stand part of the Bill. Those in favour please say aye; those against say no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Cretney, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 16

Against: Messrs Houghton, Henderson and Mrs Cannell - 3

Mr Downie: You are flogging a dead horse there, boys!

The Speaker: Hon. members, the motion carries, 16 votes in favour, 3 votes against. Clause 56, sir.

Mr Bell: Mr Speaker, this clause inserts a new definition in the Criminal Code 1872. For the first time there will be a statutory definition of 'felony'. The definition is quite straightforward and in future an offence will be a felony only if it is declared to be such by an Act of Tynwald. This means that all other offences will fall under the category of misdemeanour and summary offences. The word 'felony' is one of great antiquity, used - and still is - to denote the most serious forms of crime. Although much of the significance of the term is now of historical interest, the term does still have some legal significance in relation to certain offences under the Criminal Code 1872. Those are offences which involve giving assistance to others who commit offences. There are different provisions which apply to misdemeanours and felonies. It is therefore important to know whether any particular offence is, or is not a felony or a misdemeanour. The new definition will clarify that particular issue, pending a comprehensive review of the law relating to felonies and misdemeanours and the updating of the Criminal Code.

Mr Speaker, I beg to move that clause 56 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 56 stand part of the Bill. Those in favour please say aye; those against say no. The ayes have it. The ayes have it.

Now, hon. members, before we can take the final clause of the Bill, we have before us an application for three new clauses and under the new standing order 154(5), new clauses and new schedules are considered first on a motion that they be agreed in principle. Under standing order 154(6), if that motion is carried, a motion may be moved in the same sitting or subsequent sitting that the clause and schedule stand part of the Bill. Hon. members, in that case I call upon the hon. member for Onchan, Mr Karran, to move a motion in principle, his new clause, 'Unnatural acts: reduction in age of consent'.

Mr Karran: Vainstyr Loayreyder, I beg to move:

NEW CLAUSE (It is suggested that the new clause be inserted after clause 5)

"Unnatural acts: reduction in age of consent [c. 6]

[.] In the Sexual Offences Act 1992, in section 9 (unnatural offences) -

(a) in subsection (1)(a) (offence of buggery) for "21" substitute "18";

(b) in subsection (4)(a) (offence of gross indecency) for "21" substitute "18"."

Hon. members, I move this new clause, not because of the nonsense of trying to defend the age of consent for a small section of our community to be from the age of 21, when the age of majority is 18. But the fact is it will leave us at the present time almost in an undefendable position from external powers, as far as being forced to bring it down to 16. The reason I move this new clause is because it simply makes a nonsense of an important section within this Bill. If we are going to have a sex offenders' register in this Bill - which started out as a paedophile register - it should be as much about child abusers and should not be allowed to be blurred at the edges. We want a register that deals with child abusers, but the present law with the age of consent of homosexual sex at 21 allows them to be included. It demeans this piece of legislation in front of us here when we find that homosexual citizens in our country could be on the register for having sex with another male at the age of 18, 19 or 20. This

confuses the whole principle of what we are trying to do within this law and that is to protect children.

Let us act like a national government and pass the legislation that makes common sense prevail and not allow ourselves to be intimidated. We should stand up as national MHKs in our national parliament and say what is right and what is wrong, and having citizens in our country - persons who have sex with 18-year-old or 19-year-old consenting adults - included on a sex offenders' register which is mainly there for the protection of children is a nonsense and I hope this hon. House will support this proposal in front of us here now. I beg to move.

Mrs Hannan: Vainstyr Loayreyder, I beg to second. I support a reduction in the age of consent. I think it is beholden on us, seeing it is before us today, that we should support it because I think it is the right move forward at this particular time. To some extent I do not agree with some of the comments made by the mover of this because I believe that in time we should reduce the age to 16. We have only today passed the Human Rights Bill, and the Human Rights Bill deals with equality, and therefore I think what we should be doing is reducing the age, we should be looking at equality. But this is before us today and I would hope that all hon. members will support the new clause that is to be moved by the member for Onchan. Thank you.

Mr Downie: There could well be an argument in the need for this new clause but I would say to hon. members that at this stage, and bearing in mind what is happening in the United Kingdom with regard to this particular issue, this probably is not the best vehicle to bring about this change, a Criminal Justice Bill. Members will be aware that in lowering the age of consent in the United Kingdom, to their legislation was also added a whole framework of legislation which protected young people from a situation that could arise when people who were allegedly responsible for them were actually abusing them and - before, I think, we go into a debate about lowering the age of consent - I would just like to put my marker down by saying that I do not think that the Criminal Justice Bill, just by adding a clause in there, is the right way to go about this. You only have to read *Hansard* from the House of Commons and the House of Lords to see that they have been faced with a similar sort of dilemma to that the hon. member for Onchan has thrown up today.

As far as I am concerned, the situation as I see it is quite clear. Back in the last decade we took a decision here to comply with our obligations to the European Court of Human Rights and in voting for 21, my understanding is that we have complied with the obligation. I, personally, although I have gay people in my constituency and I am friendly with a good number of my constituents, I have yet to have anyone come to me and say, 'We need to lower the age of consent'. So without wanting to rubbish what the hon. member for Onchan is trying to do I think that this is not the time. I think we need to look at all the other aspects with regard to this particular issue.

Mrs Hannan: We have heard that before. It is always 'now is not the time'.

Mr Downie: We need to look at what safeguards the UK have introduced in their new Bill and, where possible, have the opportunity to debate it and then, at that time, I think possibly a new Bill should come before the House not dissimilar from what was introduced into the United Kingdom. So on this occasion, Mr Speaker, hon. members, I will not be supporting this new clause, for the reasons I have stated.

Mr Shimmin: Mr Speaker, it would not have been my choice that an issue of this public interest came before the House as a new clause to an extremely important Criminal Justice Bill. I regret that. I think that the opportunity was there previously. It could have been handled in a better way. However, legitimately it has been moved by the hon. member for Onchan and therefore we all have a decision to make.

As far as I am concerned, this would have applied had I been in the House previously. I cannot see any sustainable argument for retaining an age of 21. Therefore, on an issue like this I believe that, in the eyes of everybody in the world, at the age of 18 - from then on - a person is an adult, should be treated as an adult. I wish there had been an opportunity for the public and members to maybe consider this in more detail, preferably as a private member's Bill or something which was built into an actual Bill. It is here today. I cannot see any defence for retaining the arbitrary age of 21. I will therefore happily support my friend for Onchan, Mr Karran. I believe that in all senses 18 is an appropriate age and therefore I would urge members to support it.

Sir Miles Walker: Mr Speaker, I have no problem with this new clause. I think it is a principle and it is a principle we ought to be considering. I am sure the hon. member for West Douglas is absolutely right when he says that we fulfilled our commitment to the European Court of Human Rights when we put in the age of 21. I would suggest, though, that it is just a matter of time before this age limit of 18 is considered by the European Court of Human Rights and I have no doubt at all in my mind that when they do consider it, it will be suggested that 18 is the age that ought to be in legislation.

I think these issues are better dealt with sooner rather than later, and I would just suggest to hon. members that we should not get ourselves into the situation that we did when we considered this matter on the last occasion. As I say, the sooner we deal with these matters, the better. Otherwise we do get ourselves back into the proverbial corner and have difficulty with these issues in the small community that we are members of. I would ask members to consider this matter seriously and to face up to the facts as we know them, I believe: It is just a matter of time; we should be dealing with it now. I support the new clause, sir.

Mr Braidwood: Mr Speaker, I will be brief. I do believe hon. members have already decided and all the rhetoric in the world will not change their minds. This was a contentious issue when the Sexual Offences Bill was brought in front of this hon. House. At that time I was not a member of this hon. House but if I had been I would have supported clause 9. I agree with the hon. member for West Douglas, Mr Downie. I do not believe that the Criminal Justice Bill is the right vehicle to introduce this new clause but we have to be realistic in this day and age. The age of majority is 18 and I have no problem whatsoever in supporting this new clause, in lowering the age from 21 to 18. Thank you, sir.

Mr Corkill: Mr Speaker, obviously it is an emotive issue and members have longstanding views. As the previous member, who has just resumed his seat, said, perhaps members have already made their mind up. I certainly did not have a problem in voting for a change in the law, to change it to 21. It was not something that occupied my mind for too long at that time because I realised the obligation was there for the Isle of Man to comply, and so the parliamentary process did actually deliver that in the end - although as the hon. member for Rushen, Sir Miles, can well remember, it was a very difficult time and he has used the

expression about the Isle of Man being in a tight corner. But my view on the present situation is that we are not in that position, and maybe the case is being put forward that we are entering into a phase where that may well be the case once again.

What I would suggest is driving the debate elsewhere is equality, and equality means 16. That is where the debate is going to centre. The UK has already moved the age to 18. But the real debate that I see in another place is equalisation for heterosexual and homosexual sex - and even the seconder of today's new clause, the hon. member for Peel, Mrs Hannan, has made that point, that she sees this as the real issue. Now, what are we doing, then, in terms of talking the age of 18? Because it is not going to deliver, in my view, the answer that perhaps other people looking at the Island may wish to see. Therefore I do fully, I think, support the member for West Douglas, Mr Downie, in his statements that there is not the pressure at the moment. The issue is not resolved elsewhere. There is this wide disparity throughout Europe about the age of consent -

Mr Downie: Twelve, in Spain.

Mr Corkill: - from what is regarded as low. And so the Isle of Man is not out of line by having an age of 21.

Now, that does leave that gap for those people between the age of 18 and 21 who do feel adult enough to make their own minds up about their sexual orientation. So that gap is there and that is obviously one of the arguments for voting for the age of 18 today. But what I would say is that before too long the band of age group that we are going to be looking at is between 16 and 18, because what is driving this elsewhere is equalisation of age of consent. I think hon. members should be aware of that because voting for 18 today is not going to be the end of this discussion. It will come back and decisions will have to be made. So I do not believe that going forth with the age of 18 is a compromise which is going to satisfy the debate internationally. It is going to come back, anyway, and the age that is going to be on the table is going to be 16 - and I would say that perhaps then is the time to debate whether we need a change in the law from 21 to 16. Eighteen is in the middle and I do not believe delivers the arguments that both sides are actually putting forward. It is a compromise without a firm basis to it, because at the end of the day there are those people between 18 and 21 who are not catered for - and I admit that and it is difficult. But then we are going to have the 16 to 18-year-olds. So there are still going to be a certain number of people in our community who do not know, or do not feel comfortable with, the legal situation. Therefore I believe that this clause is premature in that respect.

It is not very long ago that leave to introduce a private member's Bill did not receive a seconder, as I remember correctly, and did not move forward.

Mrs Hannan: Yes, it did.

Mr Corkill: Did it move forward? Well, I apologise for misinterpreting that. But that Bill did not succeed and here we are, quite shortly after - and it does not seem too long to me since we actually changed the law to legalise homosexuality to the age of 21. I think, really, what we are being encouraged to do today is to seek a compromise which is not based on any reasoning, other than it seems to be satisfactory, a political solution, and I cannot support the clause, Mr Speaker.

Mr Rodan: Mr Speaker, the last hon. speaker is quite right when he says there is really no logical basis to go to 18 from 21, instead of going to 16 - but nor is there a logical basis to stay at 21. The argument has not been advanced as being one of equality and the mover, to his credit, did not use the equality argument today. Now, the seconder introduced the notion of equality but what this most emphatically is not about is a debate on the equality of age of consent because, if it were, there would be most likely an amendment to this, to say that the age should be 16. Personally, I would have preferred this debate - like other speakers - to have taken place in the context of an argument of the issues as a whole. I would have preferred that, I think, and to have heard the arguments and a little bit more about the arguments in the UK. Because the hon. member for Douglas West was correct to refer to the fact that additional legislation regarding safeguarding rights is being introduced. But actually that is not in the context of a reduction from 21 to 18, that is in the context of going from 18 to 16 - and that is where the particular controversy in the UK is at the moment. So it would have been interesting to hear those.

It would have been interesting to hear why the equality age should not have been rationalised at 17, as it is in Ireland, for heterosexual and homosexual groups. Seventeen, in Ireland. Why not down to the age of 12, as it is in Austria? Or 14, as it is in Holland? Why 16? It was not always 16 in the adjacent isle. It was 14 up to 100 years ago - I think I am correct in saying that - if not younger. So the logic of it being 16 or 17 or 18 or 21 - I am afraid that is not what the argument is about.

The argument is about the rate at which a society's views change - arguably, the rate at which views mature - and what is acceptable in terms of the *mores* of society at any particular time in its evolution. My point of view is the time is right that the Isle of Man will accept, society would accept, reduction to 18. We are not debating whether it would go to 16 and I have no doubt at all - as the hon. member for Rushen says - that argument will come sooner or later and then we can debate the logic of the matter. I think, Mr Speaker, the age of 18 will keep Isle of Man society going for a year or two yet.

Several Members: Hear, hear.

Mr Bell: Mr Speaker, like a number of members, I am a little bit disappointed that the hon. member has sought to bring forward a new clause at this late stage to the Bill, when the consultation on the Bill has been out for well over 12 months and, as I said earlier, other members have actually come to us to discuss the amalgamation of their various concerns within the Bill. I think that would have perhaps achieved what several members have alluded to today: in effect, the wider discussion of this issue. The point is this is just a technicality. The issue now is before this hon. House. We have to make a decision, one way or the other whether we wish to go with it or not.

I have to say, I am extremely impressed at the response which we had to clause 55 and the abolition of birching. I think that for the first time in my recollection in here we are starting to grow up and mature as a legislature. We have decided now we are going to recognise the realities of life and the international field in which we are playing, and the responsibilities to our people in the process, and approach these in a more mature and rational way than perhaps we have done to issues in the past. And I see this clause as being in exactly the same mould as the previous one, clause 55. It is a chance at long last for this legislature to show to the outside world and to our people that we are growing up, that we are now starting to put our

petty prejudices behind us and start looking at the world as it really is, not as we would like it to be. That is something, I have to say, which is long overdue and extremely welcome to people such as myself.

I have to say, also, I reflect very much on the comments made by the hon. member for Rushen, Sir Miles Walker, when he alluded briefly to the debate that took place in 1992 on the original decriminalisation of homosexuality. At that time it was probably one of the most unpleasant and bitter debates which took place - certainly during my time in here - which brought out the most horrendous homophobic prejudice that I have experienced. I am pleased already today that the tone of the language, if nothing else, is considerably more rational than it was in those days. Because if we were to believe the predictions which we had at that time, by now the civilisation which we used to enjoy in the Isle of Man would have collapsed completely and we would really be in the throes of Sodom and Gomorrah. I so far have not really seen much evidence of that.

And I think the fears which certain members have here today - again, these irrational fears - that if we simply adjust the age of consent from 21 to 18, we are somehow going to put this age group under pressure, in moral danger, is again totally deluding yourselves. I wonder how many members in here have actually talked to 18 and 21-year-olds to know how they feel about these issues because, it seems to me, if you listen to the debate which we have had so far, it has actually been a very academic debate. Not one member has actually mentioned the people themselves who are going to be affected by all this, these 18 to 21-year-olds who, at the moment, because of the structure of the Bill, because the age of consent is still at 21 - these people who wish naturally at that age to follow their own sexuality, to develop relations with other people - this legislature is consciously labelling as criminals. They are criminals if they are caught at the age of 20 having a relationship with someone of the same sex, and they can suffer severe penalties if that situation is brought to court.

In this day and age, hon. members, I ask you to consider: is that a rational act of leadership and responsibility from the elected members of this hon. House? Do we really want to make criminals of 20-year-old boys on the Island who simply want to follow their own sexual inclinations? That is what I ask. We have heard from several members, 'Oh, we are under no pressure at the moment. We do not have to do it. There is no European Court of Human Rights breathing down our neck. The Home Office isn't breathing down our neck.' That is absolutely true - but what has that got to do with it? Should we not wish, ourselves, to look after our own people, to say, 'Right, we accept that you are now at 18 in the age of majority, we will give you the same rights at least as your counterparts in the United Kingdom and elsewhere across Europe.' Have there been any instances, any evidence that anyone can bring forward here today to show that lowering the age of consent in the United Kingdom to 18 - if we use that as an example - has in any way undermined the moral code of the United Kingdom? Has it damaged the well-being of that age group, 18 to 21-year-olds? Not one of you has brought any evidence forward on that issue. All we hear: 'Well, the time isn't right. We are under no pressure. So let's dodge the issue again.'

I have to say, I am disappointed in the attitude of the hon. member for Onchan, Mr Corkill, who as Treasury minister I would have thought, again, with the issues in relation to birching would have been aware - in spite of the fact there being no pressure at this stage on the Island - that the Island's social and criminal justice system over the years and its

reluctance to accept the realities of modern life has been used against us. It has been used as a stick to beat us over the years and has undoubtedly damaged the Island's image in areas where we need to make friends at the moment.

Surely, hon. members, the time has come now, we can put all this petty prejudice, this pandering to a populist ideal. I do not believe - and I think one of the other members has mentioned this now - public opinion is as hard against this change now as it was 10 years ago when this debate first came up. I think politicians are lagging behind public opinion on this one and I think if we go ahead today and support the hon. member's resolution, we will find very little response out on the street at all. The response I think we will get is, 'Why did you take so long to do it?' It will be a total non-event, except for those few people who are caught in the 18 to 21-year-old age bracket who we are currently labelling as criminals. At last you will be able to release them, they will be able to lead a normal life, they will be able to follow their own sexual inclinations, follow their hormones, and hopefully they will be able to start, if they can, steady relationships with the people of their choice.

It is not for us to interfere in the personal relationships of our people. It is up to them to be able to grow and develop the way they wish themselves. We are holding that back. I would ask hon. members today, please let us start looking at this issue rationally, realistically, and look after the interest of the individuals themselves and forget about the concern that we may be shown up in the wrong light to some of our constituents. This is not a macho issue any more, it is a matter of looking after our own people, of decriminalising our youngsters and giving them a chance in life, and I would urge hon. members to give their full support to the hon. member's clause.

Mr Cannell: Mr Speaker, if there is one thing that I will do today, it is stand up and be counted. (**A Member:** Hear, hear.) I have never heard such a load of pious nonsense as from the preceding speaker and I reserve the right to make up my own mind, without trying to be courted on the basis that I am negating my international responsibilities. We are legislating for the people of the Isle of Man and I suggest to you that the people of the Isle of Man are not, as the previous speaker has alluded to, ready for great change - which is undoubtedly a platform for the next thing, for a reduction of the consent down to the age of 16.

The Isle of Man is a nation which stands on its morality. It still adheres to many of the original ideas which have stood it in good stead and I totally refute the idea that we should go along with what has been an absolute decline in morality of the British nation and further afield. All we have is minority interests banging the drum, trying to make out that if the standards which their minority views hold are not actually taken on by the great majority, then there will be the threat of great European law looming. There is no possibility; there are no guns ranged from Europe on this issue. We have every right to make up our mind and as for the constituents of Onchan, which Mr Corkill and myself represent and Mr Karran does from the opposite point of view, we reserve the individual right to speak for those constituents and for the betterment of the people of the Isle of Man.

As far as I am concerned, I heard from the hon. member about how I was wanting policing by nostalgia. Everything which is not a modern idea is denigrated. Well, this Isle of Man has run 20 or 30 years behind, and many is the time they have welcomed the opportunity to have said at that time, 'Thank heavens, we did not do that', when we see what a mess they have made of when they have gone along with these populist ideas. Sweep away all this New

Labour tripe and all that. What we actually need here is a continuation of decent Isle of Man morality standards. We have seen the decline of the family. We are seeing it here with the numbers of people we are forced to prop up in social security and social services purely because they cannot be bothered to adhere to the standards which we have known and enjoyed for hundreds of years. They go and act as if they have no responsibility to the state whatever. They see no problem whatever in conceiving children, with no idea of how they are going to have them paid for, and they seem to just say that they can continue to do whatever they like without any responsibility.

This member will stand up and oppose this with every possible vigour until the day we are being told, 'You have no option if you wish to stay in the international arena.' Then, perhaps - and only reluctantly, extremely reluctantly - would I go along with their views. but I am sick to death of being told that if we do not do this, we will be failing in our duty. We will be doing no such thing. No-one has told us to do it. It is just a notion. The next thing it will be 16 years of age for this and heaven knows how far down the line we will go. I say, 'enough is enough', and we are not going to pass this today.

The Speaker: The mover to reply.

Mr Karran: Vainstyr Loayreyder, it is very interesting (*Laughter*) that one represents the seat and maybe it will be a change, maybe it will be me that goes this time. I see them come and I see them go (*Laughter*) in this seat of mine now of Onchan.

Mr Corkill: Definitely your turn, Peter. (*Laughter*)

Mr Karran: But I am disappointed with the member. I think he is rewriting history as this is the last place that we actually sent people out to Australia for political actions. We have had gay Governors, we have had all sorts of things over the years (*Laughter and interjections*) and here we are trying to rewrite history that somehow we have always had the moral upground. Absolute nonsense. It is good political banter and I understand that the houses I know I will not get a vote from, these two will. The bottom line to my two colleagues is (*Laughter*) how do you defend homosexuals having to be 21 to be homosexual when the age of majority is 18?

The reason why I have brought this piece of legislation here before this House today is not because of the nonsense within this piece of legislation but the fact that we cannot defend it. It is blatant discrimination against a section of our community - and no matter how biased, how bigoted you are, you cannot say it is not discriminatory. I have to be careful here. I am not in favour of it at 16. I do not agree with it at 16, in my opinion, but I do not agree with the present system. It is undefendable to have an age of 21. We are trying to bring a sex offenders' register to protect our kids and we have got people on it for having sex with 19 and 20-year-old men.

It is nonsense. It might not win votes but we are a national parliament and today we have got to work out. I am disappointed that here we have somebody shouting about being a minister but we have got to wait until the mainland gives us pressure. We should do things if they are right. If they are wrong, they are wrong and if they are right, they are right and I will be perfectly honest with you, I am not keen on it at 16, I am totally opposed at 16 (*Laughter*) but I hope I do not lose the support of my members here. Now, I think my two colleagues have made their decision and, as the hon. member for East Douglas says, whatever I say they have made their position and I know where we will be on the next platform at the next election.

But going on to the hon. member for West Douglas, the issue is I was a bit disappointed, I want to protect kids just as much as him. This piece of legislation and the legislation he was talking about, lowering the age of consent from 18 to 16, is to do with minors and so there has to be the protection as far as that is concerned and I have no problem with that. And the reason why his gay constituents are not wanting any change in the law is because they know, you keep it at 21, you are in an undefendable position, you will be forced to bring it in at 16. No court, no self-respecting, fair-minded thinking person will be able to say, 'You're right Isle of Man, you know 21 was quite right. Even though your age of majority is 18 and you are an adult, you should have to wait another three years.' Nonsense, and the hon. member knows it is nonsense, and the reason his gay friends are not interested in having the age lowered to 18 is because they want it lowered to 16. So you go ahead and vote against my amendment and within the next five years you will open this Island up to the fact that it will be forced in at 16 - and I hope my seconder will still support me as far as this is concerned. If we do not change the law today, we are in an undefendable position and if you want to run away, Mr Downie, then fair enough.

Now, I agree - and I welcome his colleague's support - the reason I brought this along is because in this Bill we have a sex offenders' register and this is a legitimate amendment or a new clause to this Bill because it made a nonsense of the sex offenders' register. I want to have people who are a danger to our kids on that register, not every Tom, Dick and Harry as far as it is concerned - and this is what we have at the present time with the present age of consent. I am delighted that Mr Walker has supported this, as far as this is concerned. I think it is important because I think he will be more than likely in the same support as myself: I do not want to see it at 16. Mr Braidwood is quite right, maybe there is very little that one can say that will make anybody's mind change in this House. All I would say is that if we leave the age of 21, we are in an undefendable position. We can act like a national government and bite the bullet and get this issue resolved or we can run away. That is obviously up to this hon. House but do not hide behind the issue that this is not the proper way. We have had one chance. I do not want to be humiliated as a Manxman and be dragged into the Court of Human Rights and then have to be forced to bring it down to 16 because too many in here are worried about losing a few queer-bashers' votes at 21. I hope you do not humiliate the Manx nation and do that, and if I can do it as a bachelor, I am sure most in this hon. House can do it as married people.

I beg to move:

NEW CLAUSE (It is suggested that the new clause be inserted after clause 5)

"Unnatural acts: reduction in age of consent [c.6]

[.] In the Sexual Offences Act 1992, in section 9 (unnatural offences) -

- (a) in subsection (1)(a) (offence of buggery) for "21" substitute "18";*
- (b) in subsection (4)(a) (offence of gross indecency) for "21" substitute "18"."*

The Speaker: Hon. members, we have the motion that the new clause be agreed in principle. Those in favour say aye; those against say no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Rodan, North, Sir Miles Walker, Mrs Crowe, Mr Braidwood, Mrs Cannell, Mr Shimmin, Mrs Hannan, Messrs Bell, Karran, Gelling and the Speaker - 12

Against: Messrs Gilbey, Henderson, Downie, Corkill and Cannell - 5

The Speaker: Hon. members, the motion in principle carries, 12 votes for, 5 votes against. Now, hon. members, we must consider that the motion is carried. A motion may now be moved that this new clause is inserted after clause 5 of the Bill. Is there a motion?

Mr Karran: Vainstyr Loayreyder, I beg to formally move the motion standing there.

Mrs Hannan: I beg to second.

The Speaker: Right, hon. members, the motion is that the new clause is inserted after clause 5 and shall stand part of the Bill. Those in favour say aye; those against say no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Rodan, North, Sir Miles Walker, Mrs Crowe, Mr Braidwood, Mrs Cannell, Mr Shimmin, Mrs Hannan, Messrs Bell, Karran, Gelling and the Speaker - 12

Against: Messrs Gilbey, Henderson, Downie, Corkill and Cannell - 5

The Speaker: Hon. members, the motion carries, 12 votes in favour, 5 votes against. We now move to the next new clause which is the restriction on use of information obtained contrary to section 9A of the Theft Act 1981. The hon. member for Onchan.

Mr Karran: Vainstyr Loayreyder, I move this amendment to this piece of legislation to put in -

The Speaker: Hon. member, it is a new clause, not an amendment.

Mr Karran: Vainstyr Loayreyder, I move this new clause to amend a piece of legislation I put into the Criminal Justice Act 1996:

NEW CLAUSE (It is suggested that the new clause be inserted after clause 23)

“Restriction on use of information obtained contrary to s. 9A of Theft Act 1981.

[] After section 9A of Theft Act 1981 insert -

“9B. (1) Information which is obtained by means of surveillance device installed in contravention of section 9A shall not be disclosed by the person who first obtains the information or any person obtaining the information directly or indirectly from him without the consent of the person to whom the information relates.

Restriction on use of information obtained contrary to s. 9A

(2) Subsection (1) is subject to section 9C

(3) Subsection (1) does not apply in respect of information which has been disclosed to the public in any circumstances in which or for any purpose for which disclosure is not precluded by this section.

(4) *Any person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to custody for a term not exceeding 6 months or a fine not exceeding £5,000, or both.*

(5) *In proceedings against a person for an offence under subsection (4) it is a defence for him to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.*

9C. (1) *Section 9B does not preclude the disclosure of information -* *Exceptions from restrictions on disclosure*

(a) *with a view to the investigation of crime or the institution of or otherwise for the purposes of criminal proceedings in the Island;*

(b) *with a view to the institution of or otherwise for the purposes of any civil proceedings in the Island; or*

(c) *by order of a court in the Island.*

(2) *Section 9B does not preclude the disclosure of information to -*

(a) *the Attorney General or any officer in the Attorney General's Chambers;*

(b) *the Financial Supervision Commission or any officer or servant of the Commission; or*

(c) *the Insurance and Pensions Authority or any officer or servant of the Authority; or*

(d) *a constable.*

(3) *The Department of Home Affairs may by order amend subsections (1) and (2).*

(4) *An order under subsection (3) shall not come into operation unless it is approved by Tynwald."*

The reasons why I moved the previous amendment to the Theft Act 1991 was to say that people have a right to privacy and people using listening devices in other people's property is a matter of theft, theft of their privacy. I was glad to see this piece of legislation was supported. What I want to see today is this piece of legislation extended further, to show that the Island is in the vanguard as far as people's rights to privacy. It is a fact that I believe that people who obtain this information that is contrary to section 9A of the Theft Act 1981 should not be allowed to sell it or use it for public titillation. This amendment could be of great importance especially in regard to industrial espionage. This should be seen as further support not just to the privacy of individuals but also as far as companies on the Island are concerned who obtain information illegally, so they cannot use that information against the company or individual concerned. I do hope somebody will second it and have this issue debated, Vainstyr Loayreyder.

Mrs Hannan: I beg to second, Vainstyr Loayreyder.

The Speaker: Hon. members, the motion is that the new clause as moved be agreed in principle. Those in favour please say aye; those against, no. The noes have it.

A division was called and voting resulted as follows:

For: Mr North, Mrs Hannan, Mr Karran - 3

Against: Messrs Gilbey Rodan, Sir Miles Walker, Mrs Crowe, Messrs Henderson, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Bell, Corkill, Cannell, Gelling and the Speaker - 14

The Speaker: The motion on the principle fails to carry in the House, 3 votes in favour, 14 votes against. I now move to the next new clause submitted by the hon. member for Onchan, Mr Karran, and that is that the new clause be taken with the new schedule which introduces weekend custody orders. The hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, hon. members, I move this new clause because I believe the time has come to try and decrease the number of people who spend time in prison:

NEW CLAUSE (It is suggested that the new clause be inserted after clause 42)

“Sentence of “weekend custody”.

[] Schedule [] (which makes provision for the imposition of weekend custody on offenders) shall have effect.

NEW SCHEDULE

“Section []

SCHEDULE []

WEEKEND CUSTODY ORDERS

Weekend custody orders

1. (1) *Where a person is convicted by or before a court of an offence punishable with custody (not being an offence the sentence for which is fixed by law) the court may order him to attend at an institution where he will be detained in custody for such number of hours on Fridays, Saturdays and Sundays as may be specified in the order.*

(2) *The court shall not make an order under this paragraph (in this Schedule referred to as a “weekend custody order”) unless -*

(a) *it has been notified by the Department of Home Affairs that arrangements are in place at an institution for the reception of persons who are subject to weekend custody orders and such notice has not been withdrawn; and*

(b) *the court is satisfied that the institution to be specified in it is reasonably accessible to the person concerned, having regard to his age, the means of access available to him and any other circumstances.*

(3) *A “weekend custody order” may specify different periods for different days, but -*

- (a) *the aggregate number of hours shall not exceed 336; and*
- (b) *shall not include any time after 6 pm on any Sunday nor any time before 6 pm on any Friday; and*
- (c) *shall, as far as is practicable, be such as to avoid any interference with the times, if any, at which the person who is the subject of the order normally works or attends school or other educational establishment.*
- (4) *A weekend custody order shall -*
 - (a) *specify the times at which an offender shall be required to attend at the institution;*
 - (b) *the institution at which the offender is required to attend.*
- (5) *For the purposes of sub-paragraph(1), the reference to an offence punishable with custody shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders.*

Breaches of weekend custody orders

2. (1) *Where a weekend custody order is in force and it appears on complaint to a justice that the offender has failed to attend in accordance with the order, the justice may -*
- (a) *issue a summons requiring the offender to appear at the place and time specified in the summons before a court of summary jurisdiction; or*
 - (b) *if the information is in writing and substantiated on oath, may issue a warrant for the offender's arrest requiring him to be brought before such a court.*
- (2) *If it is proved to the satisfaction of the court of summary jurisdiction before which an offender appears or is brought under this paragraph that he has failed without reasonable excuse to attend in accordance with the order, that court may, without prejudice to the continuation of the order, impose on him a fine not exceeding £2,500 or -*
- (a) *if the weekend custody order was made by a court of summary jurisdiction, may deal with him, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made;*
 - (b) *if the order was made by the Court of General Gaol Delivery, may commit him in custody or release him on bail until he can be brought or appear before that Court.*
- (3) *A fine imposed under sub-paragraph (2) shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.*

(4) A court of summary jurisdiction which deals with an offender's case under sub-paragraph (2)(b) shall send to the Court of General Gaol Delivery a certificate signed by a justice of the peace giving particulars of the offender's failure to attend or, as the case may be, the breach of the rules which he has committed, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible as evidence of the failure or the breach before the Court of General Gaol Delivery.

(5) Where by virtue of sub-paragraph (2)(b) the offender is brought or appears before the Court of General Gaol Delivery and it is proved to the satisfaction of the court that he has failed without reasonable excuse to attend as mentioned in sub-paragraph (1)(a), that court may deal with him, for the offence in respect of which the order was made, in any manner in which it could have dealt with him for that offence if it had not made the order.

(6) In dealing with an offender under sub paragraph (2)(a) or (5), the court concerned -

- (a) shall take into account the extent to which the offender has complied with the requirements of the weekend custody order; and*
- (b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence.*

(7) Where a court deals with an offender under sub-paragraph (2)(a) or (5), it shall revoke the weekend custody order if it is still in force.

(8) In proceedings before the Court of General Gaol Delivery under this paragraph, any question whether there has been a failure to attend or a breach of the rules shall be determined by the court and not by the verdict of a jury.

(9) Where a weekend custody order has been made on appeal, for the purposes of this paragraph it shall be deemed -

- (a) if it was made on an appeal brought from a court of summary jurisdiction, to have been made by that court;*
- (b) if it was made on an appeal brought from the Court of General Gaol Delivery, to have been made by that Court,*

and, in relation to a weekend custody order made on appeal, sub-paragraph (2)(a) shall have effect as if the words "if the order had not been made" were omitted and sub-paragraph (5) shall have effect as if the words "if it had not made the order" were omitted."

As a former member of the Home Affairs Department I raised this issue many years ago. I am a big supporter of weekend custody orders. I find it incredible that someone who cannot hold their ale gets into trouble, ends up in prison for a month, when their wife is left with all the responsibilities of keeping the home and looking after the children. This situation is what I think is crazy, where persons cannot handle their ale. I think it would be far more beneficial to

society for them to be able to be put in prison at a weekend so that the rest of the week they can go out and work, keep their jobs and keep their station within society. I know that this is something that is novel, is not done in the United Kingdom - even though the home affairs minister in the United Kingdom has talked about this issue. It is used in Scandinavian countries. I believe it would be a far more sensible approach to have the flexibility as far as this new clause is concerned. This is only a piece of enabling legislation as far as I am concerned and as far as the drafting of this amendment is concerned. It would minimise lengths of sentences to the disruption of people who really it would be beneficial to put in at weekends so they can work in the week. Vainstyr Loayreyder, I hope this issue will be debated in this hon. House and I do hope somebody will second it.

Mrs Hannan: I beg to second it, Vainstyr Loayreyder. I do think that all these issues - different ways of custody, different ways of trying to amend people's activities - should be considered and as this is amending legislation I would hope that the House today can support it so that it can be used, if the Department of Home Affairs should ever feel that it is necessary and that they have got the facilities to retain someone in custody over weekends. And I believe when the new prison is ready and operating that facilities could be developed there so that weekend custody orders could be made and that people are assisted to rehabilitate. So I would hope that the House will support the member for Onchan's new clause today.

Mr Bell: Mr Speaker, I can totally understand the sentiments behind the move to introduce this new clause. I have a great deal of sympathy with the comments made by the hon. member and indeed by the previous speaker, the hon. member for Peel. It would obviously be more beneficial in less serious cases to keep as many people out of prison as possible and to try and direct them in a more rehabilitative process, rather than having them locked up in prison. But first of all I would suggest that if he had really thought through the contents of the Bill which we are discussing at the moment, we are doing just that. By introducing curfews or provision for curfews, by introducing the ability to tag individuals, they can be restricted either in the evenings or at weekends or in certain locations round the Island more effectively than having them in prison for 48 hours over the weekend. The idea behind both these measures was to enable minor offenders to avoid having to go to jail and to enable them to maintain their family life and, as far as possible, to maintain their work routine and limit them perhaps in their social activities. So in effect tagging and curfews would work and we hope it will be used that way by the judiciary, as a half-way house between community service and imprisonment. We have given a lot of thought to this and we believe that at least should be given a period of trial to see whether or not we can make it work.

The idea of weekend sentencing is something which I have had some discussions with the previous Attorney-General on at some length a year or three ago, recognising, as the hon. member says, that weekend sentencing does in fact take place in Sweden and certain Scandinavian countries but it is not as easy as it seems and particularly, given the current condition of the prison, it is hopelessly impractical to start thinking about weekend imprisonment in the present circumstances. We would find ourselves first of all, I am absolutely sure, given the attitude of the judiciary at the moment, experiencing quite the opposite to what he is trying to achieve with weekend imprisonment. All we will end up doing is actually end up sending more people to prison because it suddenly gives them an extra option for weekends. So we will end up with more people heading in the direction of prison rather

than fewer. That of course then is going to throw up the ridiculous situation, because of this serious overcrowding in the prison, where we will either have to release more people early from the longer term sentences, people who should be in prison, or, even more ridiculously, send people over to the United Kingdom, as we are having to do now, at great cost to the Manx taxpayer, simply to allow a group of individuals to come into the prison for weekends. That, I have to say, under the present circumstances is quite unworkable and quite unacceptable.

But I would also suggest to the hon. member, weekend imprisonment is not simply clocking in on Friday night and clocking out on Monday morning. The whole process of processing prisoners when they come into the building is massively disruptive to the prison regime: the registering of them, the searching of them, the arrangement for visitors, the whole staffing regime of the prison would need to change to deal with this. And the way a sentence is interpreted, although we are talking about a 48-hour prison sentence, almost certainly in this case it would mean that a prisoner would only be in over the Saturday night because the day of reception is considered one whole day of the sentence and the day of release is considered one whole day of the sentence. So if they are only sent to prison for weekends, they will actually only be bed-and-breakfasting in the hotel on the Saturday night and be released again at some stage on Sunday, and to pay for that we will have to bring in extra staff, extra supervisory arrangements within the prison. It will be costly. We will probably almost certainly have to take on extra staff to do it, to fit in with the rotas.

What I am coming to, I think, is that whilst I agree with the sentiments behind what the mover is saying, the practicalities of trying to introduce weekend sentencing, particularly at this moment, are such that it just cannot work. It would be massively disruptive, it would be massively expensive and it would actually, I believe, not be used in the way the hon. member has suggested. I think it will actually encourage the judiciary to send more people into prison rather than fewer. In the future, if in fact we are successful in getting the new prison and we can develop a regime up there which is more rehabilitative, we have the space to handle these extra people, then, I think, would be the time maybe to look at it as an option. Particularly if our present measures of tagging and curfews do not work, then I would support moves at some stage in the future to do that. But I would ask hon. members at the moment, please recognise the problems we have got in the prison, please do not make our life any more difficult than it is at present by supporting this move, and I would ask that it be rejected - for this moment, at least.

Mr Henderson: Mr Speaker, I thought we were here today to progress some far-ranging and positive legislation, the Criminal Justice Bill 2000, most of which I agree with and it is what I call far-thinking and addresses a lot of problems that are causing this community some major headaches at the minute. I am having a serious problem at the minute getting my head around this amendment that is before us now from the member for the Manx Labour Party and member for the Department of Health, where he is advocating imprisonment for people with drinking problems. I am astonished. How the heck can you ever cure somebody who has got a drinking problem by throwing them in jail in the weekend? I have just had to sit here for the past hour and be assailed by the ferocity of a debate for other amendments and we have got to go into the 21st century, we have got to send the right signals out, we cannot be pressurised into doing this and we cannot be pressurised into doing that, and then, God bless

us and save us, in the next breath he is up on his hind legs and he is telling us we are to imprison people who have got a drinking problem. There is no way on this earth I will support such absolute crass hypocrisy. The worst thing you can do to somebody who has got a drinking problem - and I should know, with 20 years' experience in the mental health service of treating these people - is throw them into jail and, by golly, they will have the biggest tag and sign over their head for their entire life. What a way to demolish a family, family values and everything else in one simple sweep of the pen. Absolutely outrageous! And the hon. member for Peel seconded it. What a cracker that is!

We have got the drugs and alcohol strategy on the move at last from the Council of Ministers, which recognises the serious issues before us and the community issues, and I think it is addressing the problem in a mature and proper sense rather than the immature issues that are being pushed out here before us now. I am sick to death this afternoon of being told we are being immature, the House has got to grow up, we have got to do this and we have got to do that. For goodness sake, I have been telling this hon. House now, since I have been elected, the problems that alcohol can cause. It is one of the most highly addictive substances that you are ever likely to come across. Its addiction builds up slowly and insidiously so the person who becomes addicted, they do not even realise it - and I can tell you, it is worse to detoxify off alcohol than it is off heroin, having helped people through detoxification programmes on many occasions. I just cannot believe it. It is unreal that we are being asked to approve this this afternoon. I hope every hon. member in this House comes to their common sense and throws this amendment out where it belongs, in the bin.

Sir Miles Walker: Mr Speaker, there are people with a drinking problem and I would agree with the hon. member who has just resumed his seat, the way to deal with them is not to put them into jail or not to pretend that a jail sentence will assist in any way at all. But there are stupid people who drink too much - who perhaps do not have a drinking problem - who can cause havoc on a Friday and a Saturday night, smashing off wing mirrors, doing all sorts of stupid things walking home from the pub, and I have to say that I think a weekend in clink would do them a large amount of good.

What surprised me when the minister was on his feet was that he explained to us the problem that this amendment would cause to the prison, to the people who are trying to operate it, to the staffing and all of that - I do not think he responded to the question of whether or not this is an appropriate punishment. Because it seems to me that there are people, and perhaps not very many of them, who could do with being put inside in their leisure time, which in turn would allow them to perhaps hold down their job, to keep earning money, to look after their families and so on. It seems to me that what is being suggested in this clause has a large element of common sense and on that basis I would like to support it. We should not be all one or all another, but where somebody has an idea where - and I use the same words again - stupid people who have had too much to drink and do damage to other people's property - and not in an isolated case but we know, don't we, that it happens weekend after weekend in the same vicinities and the chances are it is the same people - they need catching and dealing with. It seems to me, Mr Speaker, this is an appropriate way of dealing with it and I will support this clause.

Mr Shimmin: Mr Speaker, I was not going to comment upon this but, following the always influential words of the previous speaker, Sir Miles, I thought I had better just try and

redress a little bit of the balance and maybe give hon. members some assurances. I believe that the current Department of Home Affairs shares many of the views expressed by the mover and seconder of this particular new clause and that the number of people who are imprisoned on this Island for the wrong reasons is something that we are actively trying to oppose and work against. The Bill that we have passed through the majority of clauses last week and today does in many ways reflect that. I think the department is of the view that the idea of restricting the movements of the very sort of people Sir Miles is talking about, by restricting them to their home or to legitimate places where they can be, would actually have the similar effect without putting an unsustainable level of pressure upon the prison. There are many people for whom, yes, a level of discipline and restriction would be very beneficial. However, just the sheer logistics of the medical examinations of persons entering prison for a weekend are ones which we could not feasibly control and organise at this time. It is one where the minister has already alluded to his general support for it, also the fact that there is another Bill to come forward. I would urge members to turn this down today, allow the minister and the department to look at this issue in more detail so that you are furnished with all of the implications. I think that there is a genuine sincerity to agree with the principles but this, we believe, is not at the moment the best way forward, although well-intentioned. Thank you, Mr Speaker.

Mr Rodan: Mr Speaker, knowing the views of the hon. mover of this new clause as I do, I am quite surprised that he thinks it appropriate that certain categories of offenders should be put in custody, albeit weekend custody. Knowing of the way he favours constructive sentencing, the fact that custody should be a resort of last order, I am surprised that he sees circumstances whereby weekend custody is appropriate because surely the question to be asked first is why is weekend prison required? The purpose of prison and custody is surely for the protection of the public and if the public does not require protection and offenders are not perceived to be a risk to the public from Monday to Friday, why is the public being especially protected Saturday and Sunday? What is going on that requires protection on those days? Well, we have heard instances or illustrations of circumstances: drunken behaviour, people concerned with drink and the vandalism and so on. I would suggest that not only should prison be reserved exclusively for crime where the protection of the public is paramount and not only should we take on board the views, quite rightly expressed of the logistical problems but we should take note of the fact that this very legislation provides alternatives to custody that are constructive. If the aim is to remove certain persons from doing damage and running amok in society at weekends, we can do that, we do not need custody to do that. There are curfews, orders, there are provisions for tagging, there are community service sentences that could be passed. I think we could quite honestly have better methods of addressing this particular problem - of requiring to protect society at weekends - than custody at weekends, especially in this legislation where there are other alternatives proposed. I am a little surprised that it is the hon. member for Onchan who is proposing this particular change, knowing his views on prison reform and appropriate sentencing.

The Speaker: The hon. mover to reply.

Mr Karran: Vainstyr Loayreyder, the points of the hon. member for Garff are very valid. The reason why I put this is not as a matter of an alternative between community service or probation but putting somebody in prison for a whole month or putting them in for a month of

weekends, that was the alternative. I, personally, would not want to see a situation where this would be used. And, after listening to the hon. member, the minister, there might be a very legitimate argument, the fact that some in the judiciary are out of control. But this is a piece of enabling legislation and I think the hon. member is wrong to think that I want to put people in prison. Prison should be a last case scenario, we should try everything else - and I totally and utterly always support that, as one that has never been in the hanging, flogging brigade within this hon. House. But I do find, as a former member of the home affairs department - and admittedly we have seen in this Bill the new initiatives of tagging and that - it is crazy where you have people being put into gaol, for a month or six weeks generally, for an alcohol abuse offence, not because they have got an illness but because they cannot handle things, like Sir Miles said. I do not want to put them in - they need medical help. But what used to annoy me, as a former member of the home affairs department, is the fact that you would have a situation where the husband is put down for six weeks and then the wife the next day is on to me - what benefits she can get, how is she going to look after the kids, she does not drive. And in six weeks' time the problem is he has then got a prison sentence and he has got to apply for another job because he has lost his job. This is the only reason why I put this piece down, so I would hate the hon. member for Garff to think that I would want this being used as an alternative to community service or probation. And with the input of what the hon. minister has said, with the way some are in the judiciary, maybe he is right. It is a shame that he did not - it will come to haunt this House that they did not - support my amendment to clause 30.

As far as Mr Shimmin is concerned, I just thought that this piece of enabling legislation would be a rung on the ladder. A rung on the ladder which could be used. But he has a very valid point, there is another Bill coming up and I am happy to wait for another Bill to come up for it to be discussed. The problem has been in the past that there has been too much vested interest within the system for the staff and not enough for society. As far as the points of the member for Douglas North are concerned, I am afraid he has lost the plot. That is not the reason why I would want to put people in prison, because they have a drink problem. I find it so hard to believe. We are putting people in prison who are going to go to prison for months at a time. What I am saying is that it would be far more constructive for society for them to be able to stay in the workplace, stay as a partner with their wives to look after their kids, than to throw them in gaol for six weeks. We have to then sort out their social problem - and I must not be the only one in this hon. House who deals with this problem - and then they come out of prison, they have got a record, they have lost their job and people are a bit suspect of giving them a job. I had to deal with this case only last week where I had to put stuff in writing for someone to guarantee that the individual, who had a criminal record, was a fit and proper person as far as that is concerned. If the minister is saying that he is prepared to take it on board and look at it, I am happy to withdraw this amendment. But I am so tired of being on about this subject for 10 years - 15 years nearly. It should be looked at. It works effectively in the Scandinavian countries and it can work in the Isle of Man, if we had the will. Just because it has not been done because the adjacent island has not done it, it is not the answer for it not to be investigated properly, Vainstyr Loayreyder.

The Speaker: Hon. members, the motion before us is that this new clause be agreed in principle. Will those in favour please say aye; against, no. The noes have it. The noes have it. I now turn to the next new clause presented by the hon. member for Onchan: 'Causing

another to be infected by disease.' I invite the member for Onchan to put the motion that this clause be agreed in principle. Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to move:

NEW CLAUSE (It is suggested that the new clause be inserted after clause 7)

“Causing another to be infected by disease. [IV p. 160]

[] After section 35 of the Criminal Code 1872 insert -

*“35.A Whosoever shall, by any means whatsoever,
unlawfully and maliciously cause another person to be
infected by any disease shall be guilty of a
misdemeanour and being convicted thereof shall be
liable to imprisonment for a term not exceeding 5 years.”.*

*Causing another to be
infected with disease.*

This new clause is about, in my opinion, something that can cause as much grievous bodily harm as a person hitting somebody perpetually with a lump of three by two over the head and body. I find it is crazy that someone can maliciously infect someone with an incurable disease at the present time and it is not regarded as an offence. This is simply nonsense. The amendment is a compromise, in the fact that it will not be easy to enforce. It will hopefully only affect those who blatantly try to go out of their way to cause infection to others. I believe that it should be a criminal offence. Not to attack one victim of a disease over another, but when a victim knows that he has a serious disease and he knows that he could infect somebody, without taking proper precautions, that, in my opinion, is no less a criminal act as far as grievous bodily harm is concerned than infecting someone else knowingly. There are other ways of dealing with this issue. We could make more diseases notifiable but I do think that this would be counter-productive and would push the problem with certain diseases underground and, as the member for Health, I believe that we should be in the forefront as far as this is concerned. There are certain diseases, such as HIV infection, which have decimated countries. When you look at the African continent, where the average length of life expectancy has been halved in many countries because ignorance has been allowed to prevail, I do feel that we must start being proactive. I hope this new clause will at least get the issue debated and get it back into the arena where it belongs. We need to start looking more proactive, as far as cutting down unnecessary infections of many diseases. It does not just affect our citizens health but it costs us dearly, as a society who want to provide a first-class health service.

I do hope that people do not think that this is something madly revolutionary, it is not. This is far from the truth. The New Zealand criminal code contains a similar piece of legislation to this. The situation in many other European countries is they have similar legislation to this. Just because the United Kingdom has not done it, does not mean that it is wrong for us to do it. I hope that somebody will second this because I think it is important, it needs to be debated. I think it is a scandal if we have a situation where people can knowingly infect other people with noxious diseases and it is not a criminal offence. It is nonsense and I do hope that somebody will second this proposal in order to get it debated. I beg to move.

Mr Cretney: I am happy to second the proposal in order to get it debated, Mr Speaker. I believe firmly in the principle of what has been spoken of by the hon. mover today. We have seen examples of abuse in other countries and if we can get into our law some protection

again for those innocent parties in relationships or whatever, I think that would be a good thing.

Mr Cannell: Mr Speaker, my hon. colleague from Onchan will be amazed probably to know that I am in principle in favour of this. But I think it is short in some respects because I think I know what he is intending to do but 'infected by any disease' does not seem to actually ratify the matter, because you could have somebody who has a cold and they are infecting somebody with a disease. Surely you are not going to give them five years in gaol for that! *(Laughter)* And there are many other things which would also fall into the same category, so I think the hon. mover of the additional clause to the criminal code needs to think it out a bit more and define what actually he means. Is it sexual disease by intercourse or is it transmission of disease by blood transference, or what? Because, certainly, the clause as down here, 'infected by any disease', I could not possibly vote for it - and the thought that if you sneeze in here, you are going to be clapped in gaol for five years is preposterous.

Mr Downie: In a similar vein, Mr Speaker, the principle I do not have a problem with but I can see all sorts of commutations or problems arising if this goes through in this form today. Hepatitis is a disease which is easily transferred, even herpes can be transferred quite easily and, as the hon. member for Onchan said, it does not cover things like blood transfusions. I think perhaps this, again, is not the time. It is something I think that the department should look at and if they can come forward at some stage in the future and possibly indicate how the disease is to be transmitted. Whether, as the hon. member said, sexually or transmitted by a person who gives blood, knowing that he is carrying some sort of an infectious disease, to me that is tantamount to attempted murder. I think we are just two or three steps ahead of ourselves, as far as this particular section goes, and unless the mover can convince me otherwise, I do not think we should be supporting it today because I think it would present us with an absolute minefield as it is in its present form.

Mr Braidwood: Mr Speaker, again in principle I am in favour of the clause but I think, as other members have already mentioned, we need some clarification. When I first looked at this clause I thought it would be a sexually transmitted disease and then, when the hon. mover was on his feet, he mentioned an incurable disease and he mentioned HIV. Now, there are other sexually transmitted diseases as well, either through heterosexual sex or homosexual sex - syphilis, gonorrhoea or whatever - and, it has already been mentioned, there is also herpes and there are different types of diseases which can be transmitted. And I know the hon. mover has mentioned that in other jurisdictions there are laws and I know there have been court cases in the States where a woman who was infected with AIDS was trying to sleep with as many men as possible, to hopefully transmit the HIV virus. In principle, yes, I can support the clause but it does need a lot of clarification. If the hon. mover would even withdraw and offer to put it through in another Bill coming forward, so that there is clarification on the type of disease which is to be transmitted, I think it would help everybody in this hon. House.

Mr Bell: Mr Speaker, in a similar vein, I really support the views of the previous two speakers. I am sure there are few people in here who would have any objection to the general principle of what the hon. member is talking about but I have a number of concerns about it at the moment and I think this is one instance where, although I am not a great fan of it at all, I do think this particular issue is probably premature. It needs more thought given to it and, particularly as the member himself is the member in charge of health, I would feel more

comfortable supporting a clause to this end, had an informed paper come from the health offices to explain to us just how, in fact, this is intended to work.

Mr Downie: On the hoof.

Mr Bell: I do think it may well have been on the hoof and I wonder whether enough thought has been given to it at this stage because the purport of this Bill is wide open. It is to intentionally infect another with disease and, as has been said before, that covers a whole range of issues. You could have a wealthy maiden aunt who has delicate health and you may have a heavy dose of flu and if you give her the flu and she dies and you inherit all the money, does that come under the terms of the clause? It is a wide open clause this: it is not targeted, it is not specific, there is no real basis - other than it is bad to pass on a terminal illness, which we all agree with. But there is no clarity on that side, how it is going to work, and it is important that if we pass legislation, it has to be legislation which we know will work. Otherwise it simply discredits the whole legislative process, if we are passing laws here that will not be capable of practical implementation when we have actually approved them.

There is another issue which, again, I would like to hear the professionals' view on. The hon. member has made comment about HIV and the need, perhaps, to focus on HIV as opposed to some of these others. The contrary argument to that as well, of course, is that there is an urgent need still to encourage people who are infected with HIV to come forward, to register for treatment. The more you try to oppress it, the more you drive it underground, the more it is going to spread and the more danger ultimately there is going to be to society. I think, whilst not in any way taking away from the purpose that the mover is trying to achieve here, there is this aspect of it as well.

The point I am making, I think, is this is not a straightforward issue, it is not a black-and-white issue. There are a number of other major issues in this particular clause which need consideration and I would urge the hon. member, rather than to have to defeat it here today, to take it back - accepting that in a general sense this hon. House agrees with what he is trying to achieve but take it back - to think it through, to talk it through with his professionals, give us some better indication of how it is going to work on a practical basis. Then, perhaps, come back with a Health or DHSS-sponsored Bill - or indeed, if it is felt appropriate, to put it in criminal justice. As my hon. colleague in West Douglas has said, we are in the early stages of compiling the next Criminal Justice Bill, we would be happy to look at it there. But I do think, hon. members, this measure needs a bit more thought before it is put into statute, so we can be absolutely clear on what its impact is going to be. So I, certainly, at this stage, as the member for Ramsey, will be opposing it. As far as this Bill is concerned, really it is up to members as to whether they wish to include it or not.

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, the Crimes Act 1961 of New Zealand: 'infecting with disease - Everyone is liable to imprisonment for a term not exceeding 14 years who, wilfully and without lawful justification or excuse, causes or produces, in any other person any disease or sickness.' That is the criminal code as far as the New Zealand legislation. In mine it is 'unlawfully and maliciously cause'. To the hon. member, my hon. colleague Mr Cannell, the court would have to prove that you did it maliciously. And if Mr Bell's great-aunt is going to leave him a fortune, did have a heart condition, and he did manage to get himself with a bad

dose of flu and they could prove that he maliciously infected his great-aunt to inherit her millions, then that is a criminal offence - you are actually trying to do damage to another with the same effect as GBH, in my opinion. So this hon. House has to decide. I admit it is not in the United Kingdom. We can wait for the United Kingdom and we can wait until they do something. I think we should be proactive. I think it is an absurdity. I can remember as a member for Health between 1986 and 1991, there was another jurisdiction we went to see, where there was a young female who had HIV infection - and I do not want this new clause to be seen specifically for that because it is not, that is sort of worst-case scenario - and she was going to make sure as many other people could get it as possible. In my opinion, that is criminal. I would defend to the hilt that individual's right to have medical intervention. It more than likely would cost maybe £10,000 a year for such medical intervention to keep such individuals healthy. I would defend that in this hon. House. But what I will not defend is people who know they have got a disease, which can have such detrimental effects on the quality of life of others, being able to just infect people. It is wrong.

I understand the problems this hon. House has. It is me moving this amendment and of course the problem is the fact, that the usual cry will be, 'He's not researched it'. But I have been here for 15 years and I have been here long enough to talk to people. It would have been interesting to know whether the Attorney-General's department actually put up any rational argument, apart from the fact I am moving the amendment, for why this should not be included in this Bill. I believe it should be included in this Bill. I understand the problems that the minister has and others have with some of the judiciary but this is not there to put anybody in prison because they happen to have flu and unfortunately somebody has caught it off them willy-nilly. It is there for diseases where people know that if they take such action, they can infect somebody to a detrimental effect that can be far worse than me coming along and hitting you over the head and body with a lump of three by two and getting done for grievous bodily harm. *(Interjections and laughter)* I sometimes think that I am dealing with a bunch of planks as well! *(Laughter)*

I think this House should support the principle of having this in this Bill because it will have to go to another place. I think that there is an element that it has not been thought out by the executive, as far as this is concerned. I sympathise with the mover of the Bill in the fact that he did say that he has given us a year - but, as I have said before, we do not always have the luxury of having the opportunity to debate. I think this issue is worthy of support. I think it should be in the Bill. What I do not want to see is a situation where we start putting more diseases as notifiable diseases under the Public Health Act because the very thing the hon. member for Ramsey says will happen, will happen then and will push it further, and early intervention in some of these diseases is of paramount concern for the well-being of health and the long life of the poor victim that has the disease in the first place.

I hope this hon. House will support this amendment. It is nothing revolutionary. They have done it in New Zealand, as I say, in their criminal code of the Crimes Act 1961: 'Infecting with disease - everyone is liable to imprisonment for a term not exceeding 14 years who, wilfully without lawful justification or excuse, causes or produces, in any other person any disease or sickness.' My amendment says: 'whosoever shall, by any means whatsoever, unlawfully and maliciously cause another person to be infected by any disease shall be guilty of a misdemeanour and being convicted thereof shall be liable to imprisonment for a term not

exceeding 5 years'. I believe that the new clause of mine and the New Zealand criminal code are very similar and I do not think there will be the problems that people say. I do hope this hon. House. . . I see this as important, more important than any of the other new clauses I have put to this Bill as the member for Health.

The Speaker: Hon. members, the motion is that this new clause be agreed in principle. Will those in favour please say aye; those against say no. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Cretney and Karran - 2

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

The Speaker: The motion fails to carry with 2 votes in favour and 17 votes against. Now, hon. members, we come to the final clause of the Criminal Justice Bill. You will be aware that we now have a new clause 6 and subsequent clauses will be renumbered. I call upon the hon. member for Ramsey, Mr Bell: clause 57, which is now clause 58.

Mr Bell: Thank you, Mr Speaker. I am sure members are looking forward to this moment about as excitedly as I am. Clause 57 - which, as the hon. Mr Speaker says, will now be 58 - contains the short title and commencement. Sub-clause (1) provides a short title for the Act and sub-clause (2) enables the Department of Home Affairs to bring provisions of the Bill into operation by means of appointed day orders. It gives me very great pleasure to move that clause 58 stand part of the Bill.

Mr Shimmin: I beg to second, sir.

The Speaker: Hon. members, the motion is that clause 58 stand part of the Bill. Will those in favour please say aye; those against say no. The ayes have it. The ayes have it.

Procedural

The Speaker: Now, hon. members, I think it may well be an appropriate time to close the business for today, if that is the wish of the House.

Several Members: Hear, hear.

Mr Brown: Mr Speaker, if I may, sir. Conscious that our next sitting is our last sitting and conscious that the arrangements that are made on that day may well result in a short sitting and also -

The Speaker: Not necessarily, sir.

Mr Brown: No, but it may well be shorter, Mr Speaker, than our normal sitting. I think I would like to put it to the House that under standing order 7(2) that the House continue its business this evening to complete the items standing on the order paper. I beg to move.

Mr Corkill: I would like to second that proposal, Mr Speaker. I am sure that the next item, which is the second reading, my hon. colleague from Onchan will soon put that forward and, conscious of the time and summer coming on, I think we should make the most of our sittings.

Mrs Cannell: Mr Speaker, I speak against the motion to extend the business for today, in view of the fact that we have got road closures expected within approximately half-an-hour's time.

Mr Downie: They open again at 9 o'clock.

Mrs Cannell: A lot of hon. members live outside of the course, also inside the course. What I would say is that I am proposing to withdraw my item as the last item on the agenda and I am preparing the same for Tynwald Court on 20th June, sir, if that helps the situation.

Mr Brown: Mr Speaker, if I may, just for clarification, is that the member formally withdrawing her motion? Because I think in fairness the point I was considering was in fact the point that the member had tried to move the item earlier. It is an important item for all of us but if she is saying she is withdrawing it, then I am quite content that we finish the business.

Mrs Cannell: Mr Speaker, a point of clarification. In order to help hon. members because we are expecting road races this evening and we do have road closures, and in view of the lateness of the hour, I do not feel that we could justifiably do justice to the issue which I have on the agenda, which is extremely important. Therefore, it will be put on the agenda for Tynwald Court and I hope, sir, that hon. members will support the suspension of standing orders there - perhaps we may get the 16.

The Speaker: Hon. members, the motion, as I understand it, from the hon. member for East Douglas, Mrs Cannell, is that item 14 is now formally withdrawn from the House of Keys' agenda. It will not appear in the future, it is now formally withdrawn. Hon. members, we have a motion from the hon. member from Castletown that the House of Keys continue with the business. Will those in favour please say aye; those against say no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Henderson, Cretney, Shimmin, Downie, Bell, Corkill, Gelling and the Speaker - 14

Against: Messrs Houghton, Braidwood, Mrs Cannell, Messrs Karran and Cannell - 5

The Speaker: Hon. members, the motion to continue the business carries, 14 votes in favour, 5 votes against. Item number 12, the hon. member for Onchan, Mr Cannell.

Mr Cannell: Mr Speaker, the Bill which has been placed down in my name appears not to be one of great urgency and I would ask the hon. House to consider the courtesy of allowing me to hold the Bill over to the next convenient sitting.

Mr Houghton: Hear, hear.

The Speaker: Hon. members, is there a seconder to that motion?

Mr Houghton: I beg to second, yes. *(Laughter)*

The Speaker: Anybody wish to speak? Hon. members, the motion is that the Contracts (Rights of Third Parties) Bill be held over to the next sitting of this House. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it.

Court of the University of Liverpool – Member Appointed

The Speaker: We now move, hon. members, to item 13 on the agenda paper: appointment of one member to the Court of the University of Liverpool. Do I have a nomination?

Mr Gilbey: Hoping that 13 is not unlucky, could I propose Mr Braidwood?

Mr Cretney: And could I second it?

The Speaker: Any other nominations? We have the nomination of Mr Braidwood and therefore the House appoints Mr Braidwood to the Court of the University of Liverpool. Are we agreed?

Members: Agreed.

The Speaker: Thank you, hon. members. The House will now stand adjourned to Tuesday 20th June at 10.30 a.m. in the Tynwald chamber.

The House adjourned at 5.37 p.m.