

**REPORT OF PROCEEDINGS OF  
HOUSE OF KEYS**

**Douglas, Tuesday, 6th February 2001  
at 10.00 a.m.**

Present:

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

*The Chaplain took the prayers.*

**Apologies for Absence**

**The Speaker:** Hon. members, turning now to our order paper I have to say that the hon. member for Onchan, Mr Corkill, and the hon. member for Ramsey, Mr Singer, have both leave of absence.

**Crime — Sentencing Policy — Size of Proposed New Prison — Question by Mr Karran**

**The Speaker:** I turn now to the first question for oral answer, the hon. member for Onchan, Mr Karran.

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

- (1) *Has the Council of Ministers evaluated sentencing policy in the Isle of Man;*
- (2) *in particular, has the Council of Ministers sought to establish why the per capita percentage of custodial sentences in the Isle of Man is higher than that in England and Wales, given that the Manx rate of recorded crime is less than half that of England and Wales and the proportion of detected serious crime is less on the Island than in England and Wales; and*
- (3) *if not, on what basis has the Council of Ministers determined the optimum size of the proposed new Isle of Man prison?*

**The Speaker:** Chief Minister to reply.

**Mr Gelling:** Yes, Mr Speaker, it has long been established in the Isle of Man that sentencing policy is the province of the judiciary acting within the framework of sentencing options approved by Tynwald. Custodial sentences are one of the options and it is my impression from questions and debates that Tynwald has tended to favour more and longer custodial sentences (**Mr Houghton:** Hear, hear.) rather than the reverse. We have not endeavoured to establish reasons for our prison figures being relatively higher than those in England and Wales and whether or not the figures are truly comparable. If they are evidence of a judicial approach which favours prison, the attitudes in Tynwald, which must be seen as a reflection of the public view, may in fact be an influence. So far as the size of the proposed new prison is concerned, it should be noted that no final decision has been

taken on capacity. Clearly, however, given the recent history of overcrowding it would be foolish to plan for a smaller capacity than at present (**Mr Houghton:** Hear, hear.) and there should be some facility to cope with growth in line with population and indeed with seasonal variations.

**The Speaker:** Supplementary, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Chief Minister not agree that what this hon. House wants is not to be re-elected but to actually get the most effective way as far as dealing with the law and order issue on this Island? And would he not also agree that the fact is that in his proposals he is talking in the region of doubling the existing acceptable facility at the present time and how does he justify this position of his government?

**The Speaker:** Chief Minister to reply.

**Mr Gelling:** First of all, Mr Speaker, the justifiable situation with regard to a new prison, I think, is that we cannot accept the one that we have and to continue with it. So, therefore, a new prison is being proposed and, of course, we hope to build that new prison but what we must remember is that we have got about five prisons within a site. In other words, we have got to cope with all the different categories of prisoners so therefore each one of those modules has to be of a size that can cope with, perhaps, that one particular area at any one time. And, of course, the whole idea is to have it modular so that it can be built on at a later stage. But you must start off with a size and an area that will actually take that extension because the very thing we are suffering from now is that at our current site we have no further room to actually extend it even if we wished to, sir.

**The Speaker:** Supplementary, Mr Houghton.

**Mr Houghton:** Yes, thank you, Mr Speaker. I am very grateful for the hon. Chief Minister's opening remarks this morning on this question but can he confirm that in the interests of public safety those who commit offences against a person in particular will indeed face very long custodial sentences and would he confirm that he will not pander to those minority factions who wish to see liberalised sentencing in any way, sir?

**The Speaker:** Chief Minister to reply.

**Mr Gelling:** Well, of course, as I said in the opening answer, Mr Speaker, it is the judiciary who make the decisions as to whether in fact somebody goes to prison at all. It would be exceedingly dangerous if we as politicians started to interfere with that sentencing. However, we as members of Tynwald make the laws under which the judiciary operate and, as I have said, what is laid down - whether it be prison or whether it be fines - is in the hands of members. Now, as again I have said, on that particular site we have got to have different areas for different category of prisoner. Therefore, when we are building something like this we must be conscious that we are sometimes having to send prisoners off-Island. They have to be segregated from other categories, so therefore we must make sure that what we have on this site is the room to be able to build in the event of our prison numbers rising for whatever reason, even if it is, for arguments sake, seasonal which is again something else we have to consider, sir.

**The Speaker:** Supplementary, Mr Rimington.

**Mr Rimington:** Thank you, Mr Speaker. Could the hon. Chief Minister possibly comment on the views of Lord Wolfe who, speaking last week on the 10th anniversary of his report on prison reform, said that frequently one month will achieve anything that can be achieved by three months and three months will achieve anything that can be achieved by six months and so on? I do not know if the

Chief Minister would like to respond to the idea that we should not pander to the minority faction of 'hang them, flog them and lock them up forever' (**Members:** Hear, hear.) and consider a bit more seriously the proper role of prison in terms of rehabilitation and deterrent. (**Members:** Hear, hear.)

**The Speaker:** Chief Minister to reply.

**Mr Gelling:** Yes, Mr Speaker, we must indeed always have in our minds that we wish persons that have been put to prison to come out better than when they went in (**Mr Cretney:** Hear, hear.) and therefore that is the policy that we should be following. But, of course, we have had our early release scheme which I am thankful to say has worked very well indeed. Basically it is cutting the tail end of the sentence down and the re-occurrence of those prisoners that have been on early release coming back again have been very few. So that has proved in some ways the point that a taste of prison, whether it be one month or two months, often is all that is required. But also, if I could just take the opportunity in answer to the hon. member's question where he says about the report from that hon. gentleman: it was also very interesting to see that he was condemning the slopping out in prisons throughout Britain when I thought the Isle of Man was supposed to be the only one left, sir.

**The Speaker:** Supplementary, Mrs Hannan.

**Mrs Hannan:** Thank you, Vainstyr Loayreyder. Will the Chief Minister, in the interests of public safety, ensure that prisoners are assisted in prison to reform so that the public can be protected when they are then released and the prisoners are in a situation whereby they do have something to their hand other than crime?

**The Speaker:** Chief Minister.

**Mr Gelling:** Yes, as I have said to the question prior to the hon. member from Peel, we want prisoners to come out better than when they went in. I am afraid I would have to admit that at the moment we cannot do that. The prison that we have at the moment purely keeps them in prison and there is not a lot of room there to do anything with those prisoners to in fact give them further education, sport or whatever. But certainly we have found our referral scheme on the drugs strategy is working well. So therefore it is definitely that we want these people to reform and come out as better citizens than when they went in, sir.

**The Speaker:** I will take two final supplementaries, Mr Bell.

**Mr Bell:** Thank you, Mr Speaker. Would the Chief Minister agree that it has been the strategy of his government over the last four years to introduce alternative sentencing to prison. A number of issues which have been approved by this hon. House in the Criminal Justice Bill will in fact assist that for example tagging. Will the Chief Minister also agree that the whole strategy behind building a new prison is not simply to provide extra spaces for more prisoners, it is in fact to build in for the first time educational facilities, training facilities, exercise facilities and general rehabilitation, all things which are physically incapable of being incorporated in the Victoria Road prison? And finally would the hon. Chief Minister agree that the proposals which are put forward are put in the context of providing for the prison facilities to expand over the next 30 years and not necessarily a snapshot of what is applicable today?

**The Speaker:** Chief Minister.

**Mr Gelling:** Yes, in agreeing with the hon. questioner, the Minister for Home Affairs, Mr Speaker, I can confirm that these have been introduced and are working well. But there is a limit to what we can do and what we can introduce with the facilities we presently have. So that really is the situation:

we are very conscious of what the original questioner has asked, and why is the prison so large, but I would suggest to hon. members again that this prison will hopefully do for the same length of time as the original one has so therefore you must build in room to be able to increase if unfortunately that is what someone has to do in the future.

**The Speaker:** Final supplementary, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Chief Minister not agree that this question is about penal review not about the prison? Would he also not agree that the prison issue is lost? This House will follow your leadership and more than likely build this white elephant as far as that is concerned for a population which if it was in England and Wales would be something in the region of 250,000 people. And would the Chief Minister not agree that the situation is that you are not just talking about violent criminals, you are talking of people who do not fill out census forms, debt and other things that are ending up as a large part of the prison population.

**Mr Houghton:** They are not.

**Mr Karran:** And would the Chief Minister develop a backbone and have a penal review instead of just pandering to the different vested interests within this House and within the department where they want new plaques before we know what we really need as far as sorting out the penal review of the Island and law and order to keep the Island safe for our people?

**The Speaker:** Chief Minister to reply.

**Mr Gelling:** Yes, Mr Speaker, I am well aware of the hon. member for Onchan's thoughts on the situation with regard to people going to prison but, again, can I emphasise first of all, if they are indeed sentenced to prison, the very point that the hon. questioner has raised is the fact that why should someone who goes to prison for a far lesser crime be in the same building and the same conditions as someone that has to be more secure and hopefully that is what we can address. The penal review that the hon. member is speaking of, I would suggest again, is being done every time we in Tynwald or this House are discussing a Bill that ends up with a fine or a possible imprisonment. We are the ones who are setting those actual standards and those hurdles and, as I have said, as I looked through some of the Bills it has actually been the trend that we have been amending Bills to make it even more severe than perhaps was intended. So that is the general feel throughout Tynwald. I know that the hon. member for Onchan does not agree with that but I would hope that when we have the facilities available to us that we will be able to look after our prisoners and, as the hon. member for Peel has suggested, allow them whilst in prison to get better education and come out and be reformed and be far better citizens and live with those that do not get into crime and I think the whole Isle of Man could be a safer and a better place, Mr Speaker.

### **Employment (Sex Discrimination) Act 2000 — Codes of Practice — Question by Mrs Cannell**

**The Speaker:** Question number 2, the hon. member for Douglas East, Mrs Cannell, to ask the Chief Minister.

**Mrs Cannell:** Thank you, Mr Speaker, I beg leave to ask the Chief Minister:

*When does your government intend to table codes of practice under the Employment (Sex Discrimination) Act 2000?*

**The Speaker:** Chief Minister to reply.

**Mr Gelling:** Yes, Mr Speaker, the Employment Act 1991, as amended by the Sex Discrimination Act 2000, gives the Department of Trade and Industry powers to issue codes of practice for the purposes of providing guidance on the avoidance of discrimination and on the promotion of equality of opportunity between men and women in employment. Most provisions of the Sex Discrimination Act will come into force on October 17th of this year, which is 12 months after the Act was passed. With this in mind the Department of Trade and Industry successfully recruited a discrimination officer earlier last month. The function of that officer will be to advise employers and employees about the new Act. I am informed that the formulation of a code of practice is one of this officer's first priorities and that the process of consultation laid down in the Employment Act will commence as soon as practicably is possible, Mr Speaker.

**The Speaker:** Supplementary, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker. I am very pleased to hear the comments from the Chief Minister this morning bearing in mind the legislation was passed a year ago. But can he advise on whether or not it will be the officer employed for this purpose's responsibility to issue information packs to employers and workers? And does he accept that, bearing in mind the legislation did go through a year ago, there are very few employers and workers who appreciate that there are laws in place now to protect their positions? There seems to be, would the Chief Minister agree, a privileged few in this hon. House and elsewhere who actually know about the provisions of the legislation?

**The Speaker:** Chief Minister to reply.

**Mr Gelling:** Yes, Mr Speaker. If I remember correctly the Sex Discrimination Bill originally had a three-year period built in -

**Mrs Crowe:** Yes, three-year.

**Mr Gelling:** - so that employers and employees could get used to the Bill and understand it. That was amended on the floor of this House to one year or Legislative Council -

**Mrs Crowe:** Yes.

**Mr Gelling:** - the hon. minister beckons to me. So basically we are on track. That year is up, the discrimination officer has been employed and, in answer to the hon. questioner's second point about packs of information, that will be his job to consult, to make sure that when the codes come forward that consultation has in fact taken place. So the answer to the hon member is, yes, it would be his responsibility.

**The Speaker:** Final supplementary, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker. My final supplementary, can the Chief Minister advise on the appointment of this particular officer. Was it as an appointment from outside or from internal?

**The Speaker:** Chief Minister.

**Mr Gelling:** I am sorry, Mr Speaker, no, but I can indeed find out but I do not know whether it was internal. It would be an open opportunities position but how it was filled I am not sure, sir.

**The Speaker:** One final supplementary.

**Mr Shimmin:** Thank you, Mr Speaker. Can I just possibly assist the Chief Minister by saying, is it true that the appointment for this position, the advert went out the day after the Bill received Royal

Assent in October? It was an internal appointment from a person within the Education Department who has taken up the post this month and therefore we still aim to have all the codes of practice and everything done within what is a very difficult timetable but the officer will be there to assist all members and the public, sir.

**The Speaker:** Chief Minister.

**Mr Gelling:** I thank the hon. member for his very helpful question, Mr Speaker. *(Laughter)*

**Housing — Fixtures and Fittings Left by Previous Tenant — Guidance to Local Authorities —  
Question by Mr Henderson**

**The Speaker:** Question number 3, member for Douglas North, Mr Henderson, to ask the Minister for Local Government and the Environment.

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

*Does your department provide guidance to local authorities, when preparing their domestic property for re-letting, on appropriate action to be taken in respect of fixtures and fittings installed by a previous tenant?*

**The Speaker:** Minister for Local Government.

**Mr Gilbey:** Mr Speaker, local authorities are statutory bodies in their own right and as such have powers to exercise their functions. With regard to the reletting of properties and the appropriate action in respect of fixtures and fittings installed by a previous tenant, this is a matter that would be covered in the terms and conditions of the lease entered into by the previous tenant and the relevant local authority. However, the Department of Local Government would, if requested, be willing to provide guidance to local authorities in relation to such matters and occasionally does so. A part of the remit of the Housing Advisory Committee is to agree a uniform strategy among government and local authorities regarding housing issues. This includes the arrangements applicable for reletting of properties and the installation of fixtures and fittings by a previous tenant.

**The Speaker:** Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. I thank the hon. minister for some assurance in his response but is the minister aware of a longstanding practice which has existed for local authority properties whereby when they become vacant, at least in some areas, quite often any fixtures and fittings that may have been put in by the previous tenant can be taken out prior to relet even if these items are new and nothing is wrong with them?

**The Speaker:** Minister to reply.

**Mr Gilbey:** I personally think it is a great mistake that anything should be taken out if it is in good order. The department has become aware of recent rumours that the Douglas Corporation has been removing fixtures and fittings installed in some of its public sector properties by previous tenants and that the items may not have been accounted for. This is of course a potentially very serious matter which could involve criminal proceedings but more than just rumours would be required. I cannot say whether these rumours are true or not. All I can say is that undoubtedly, like the hon. member and members of the department and staff of the department, I have heard these stories. But those who have proof about such stories really have a duty to give that proof to the department -

**Mrs Crowe:** Yes.

**Mr Gilbey:** - because the department can take no action on mere rumours and hearsay. It needs proof positive.

**The Speaker:** Supplementary, Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. I am grateful to the hon. minister for his further assurances and for taking the seriousness for which this question is placed. Given the minister's consideration, will he further re-evaluate current policies in this respect in conjunction with local authorities to ensure appropriate and correct procedures are in place for the removal of fixtures and fittings from properties and that a register be kept of goods removed? Would he also agree that for other tenants watching such actions it is highly upsetting as they are unaware as to where the goods would be taken?

**The Speaker:** Minister to reply.

**Mr Gilbey:** I totally agree it is upsetting for people who leave good things to think of them being totally wasted. As I have said, a part of the remit of the Housing Advisory Committee is to agree a uniform strategy among government and local authorities regarding housing issues but I must stress that the local authorities are independent bodies. I think there is a considerable dichotomy that arises continually in this hon. House that with one hand some hon. members are saying we should control virtually everything they do, on the other hand other hon. members are saying they should be given more powers and left on their own. So there is undoubtedly a dichotomy. What I can assure the hon. member is that, with regard to the Department of Local Government's own public sector houses, the terms and conditions of a lease provide that an outgoing tenant must leave a property in at least the same condition as when they took it over. Therefore if an outgoing tenant installed fixtures and fittings during their tenure these can be left in situ or, if they are removed, the outgoing tenant must replace them with items of a satisfactory standard or provide the department with the necessary funding to do this. The housing maintenance officer has confirmed that the practice that has been alleged to take place certainly does not occur in respect of the department's own public sector houses. (**Mr Henderson:** Hear, hear.)

**The Speaker:** Supplementary, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the minister not assure this House that, in the middle of a housing crisis, we would be worrying about proposals here from the hon. member where we would end up getting more pen pushers when we need tradesmen as far as repairing houses are concerned? And can he assure this hon. House that, as a former worker at these, this is a long established practice, it is nothing new as far as this is concerned and will he assure this House that he will spend his efforts trying to resolve the housing crisis not just building new local authority houses to replace the existing ones but get on with the job that has been crying out to be done for the last nine years and not worry about these side issues which are not the real issue? Build more houses.

**The Speaker:** Minister to reply.

**Mr Gilbey:** I can assure the hon. gentleman that in order to bring in the controls over this matter that the hon. member who asked the original question is I think reasonably seeking, we do not need more of what the hon. member for Onchan mockingly calls 'pen pushers'.

**Mr Henderson:** Hear, hear.

**Mr Karran:** Who is going to do it?

**Mr Gilbey:** - it is purely a matter of ensuring that all concerned -

**Mr Karran:** More planted questions.

**Mr Gilbey:** - carry out a certain policy and we do not need more pen pushers, as he says, to do this.

**Mr Karran:** You would.

**Mr Gilbey:** What I can say is that our main efforts are -

**Mr Karran:** Nonsense.

**Mr Gilbey:** - based on providing more houses but we also have a duty, as we have undertaken to Tynwald, to try and get a uniform strategy amongst housing authorities regarding all matters that affect tenants because hon. members of this House have realised quite rightly that it is absurd that there should be completely different rules for people living in public sector houses on two different sides of the same road.

**The Speaker:** Final supplementary, Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. I thank the hon. minister again for his further assurances. Could he advise that if in fact the situation became so desperate that his department could actually enact sections of the Local Government Act if needs be? And further to that could he confirm that, in his negotiations or his department's negotiations from time to time when they do meet with local authorities, they could possibly raise this serious issue in a way forward to working out a revised policy?

**The Speaker:** Minister to reply.

**Mr Gilbey:** It will certainly be raised and I am sure there will be publicity as to the question today and that local authorities will note that. We could in the ultimate use legislative powers to force them to do things but personally I believe persuasion is the better course to take and I am sure my colleague in the department who heads the Housing Advisory Committee will strongly bring this to their attention. In fact it is really so obvious it should hardly need bringing to the attention of anyone that reasonable improvements that have been left in a house should be left there for the benefit of future tenants.

### **Marine Drive — Reopening to Traffic — Structural Engineer's Interim Report — Question by Mr Henderson**

**The Speaker:** Question number 4, the hon. member for Douglas North, Mr Henderson, to ask the Minister for Transport.

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

- (1) *Did the structural engineer's interim report to your department on the feasibility of re-opening Marine Drive to traffic contain preliminary guidelines and recommendations; and*
- (2) *if so, what were they?*

**The Speaker:** Minister for Transport.

**Mr Brown:** Mr Speaker, I can confirm that the department has only received a draft report. However, the draft report does contain guidelines and recommendations for works required in relation to our considerations in relation to the Marine Drive temporary opening. In answer to part (2) they are; first, rock protection netting should be applied to the rock faces above the roadway at both Wallberry and Horse Leap. This is to be carried out after the rock face has been scaled and trimmed back to remove loose materials; (2) erect a catch fence along the base of the rock at Wallberry; (3) set up a routine of inspection and reporting of the roadway and rock face; and (4) to provide a suitable structure to span the identified fault zone at Horse Leap. All these recommendations will be costed and will be taken into account in the decision-making process as to whether to re-open the Marine Drive on a temporary basis. Thank you, Mr Speaker.

**The Speaker:** Supplementary, Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. I thank the hon. minister for information from the report. Could he confirm or otherwise that this information is hinting that perhaps his department is now very desirous of opening this section of coastal roadway temporarily? And also could he confirm that such works would in fact destroy an area which is of some considerable natural beauty and natural heritage importance?

**The Speaker:** Minister to reply.

**Mr Brown:** Thank you, Mr Speaker. I would say the whole Island is of natural importance and therefore we have to balance up our environment with our requirements for, whether we like it or not, the car. As far as my department is concerned we will at the appropriate time make what we believe to be the right decision whether or not we re-open Marine Drive.

**The Speaker:** Mr Duggan.

**Mr Duggan:** Mr Speaker, could I ask the minister would it not be better to look at the possible way of having a one-way system on the Marine Drive? We would have a better chance possibly of re-opening it then.

**The Speaker:** Minister to reply.

**Mr Brown:** Thank you, Mr Speaker. As I have indicated both in this House and another place, the whole intention is to have a one-way system which will reverse at certain times and in fact that the Drive, if it is opened whilst works on the Old Castletown Road are being undertaken, will in fact only be open during certain hours of the day.

**Mr Speaker:** Mr Cannell, member for Onchan.

**Mr Cannell:** Yes, thank you, Mr Speaker, a supplementary if I may. Would the hon. minister not agree with me that the report which he has commissioned and received now shows only routine matters which everybody would be aware of would need doing if this carriageway is to be re-opened but if any large expenditure is to be contemplated that that be done with a view to keeping the Marine Drive open on a permanent basis even if it is one-way because the traffic problems in and out of Douglas are not likely to be totally resolved otherwise?

**The Speaker:** Minister to reply.

**Mr Brown:** Yes, Mr Speaker, I have tried, in all answers to these questions over the last months, to indicate to members that as far as I am concerned we are looking here at a temporary opening of Marine Drive. The department is also keen to determine the long-term future of the

Marine Drive and certainly I am one who would like to see it opened permanently two way. (**Mr Duggan:** Hear, hear.) However there will be implications to the taxpayer on doing that and naturally, of course, we would take into account the impact on the area.

**The Speaker:** Final supplementary, Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. Could the hon. minister confirm that, in his original answer he mentioned suitable span for Horses Leap which would indicate, that the road section there is not in fact suitable for even temporary traffic? Also could he indicate that if the Nunnery road is going to be one way traffic signals, then there is no reason to open the Marine Drive whatsoever? And my third supplementary is the fact that if people are going to come into Douglas the Old Castletown Road is the best way not a five mile detour round the Marine Drive, which is of no advantage.

**Mr Cretney:** It's lovely. Lovely view!

**The Speaker:** Minister to reply.

**Mr Brown:** Yes, thank you, Mr Speaker. As I have responsibility for highways I will do what I believe to be in the best interests of the Isle of Man, sir. (**Members:** Hear, hear.)

#### **Heavy Goods Vehicle Park, Douglas — Establishment — Question by Mr Houghton**

**The Speaker:** Question number 5, the hon. member for Douglas North, Mr Houghton.

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

*Do you plan to establish a heavy goods vehicle park in the outskirts of Douglas?*

**The Speaker:** Minister for Transport.

**Mr Brown:** Mr Speaker, my department has no plans to provide an off-street heavy goods vehicle park in the outskirts of Douglas or within Douglas for use by private operators.

**The Speaker:** Supplementary, Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker. May I press the hon. minister and ask him again, has he indeed undertaken a survey into the practicalities of using the car park situated above Port Soderick, the car park which is adjacent to the Marine Drive, and if he has not would he kindly do so with a view to assisting particularly those private owners of HGV vehicles who should be helped in any way possible, sir.

**The Speaker:** Minister to reply.

**Mr Brown:** Thank you, Mr Speaker. I understand that the department has undertaken a survey of whether or not it is practical to use the car park at Port Soderick. I would make the point that of course that road itself may not be that suitable for such heavy goods vehicles anyway. I would make it clear that my department sees the provision of such facilities as in the main being a local authority function with my department, as appropriate, providing grant assistance.

**The Speaker:** Supplementary, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the minister not agree that we could quite easily be looking at behind the Grandstand? Would he also not agree that the fact of the matter is that what we should be doing is making sure when there is a next Douglas Plan that the likes of this issue is put as one of the hit lists of issues -

**Mr Houghton:** Priority, priority.

**Mr Karran:** - that needs to be addressed in any future Douglas plan?

**The Speaker:** Minister to reply.

**Mr Brown:** Mr Speaker, any business has to make adequate provisions for its own facilities and haulage firms are no different. What I can say is that under Manx law it is illegal for heavy goods vehicles and vehicles over a certain size to park in residential areas at the weekends and in the weekdays between the hours, I think it is, of 6.00 p.m. and 8.00 a.m. in the morning. So it is already illegal and if people have problems with that they should report it to the police who can take appropriate action.

**The Speaker:** Two supplementaries, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker. Will the hon. minister concur with me that the Douglas Corporation looked at the possibility of providing heavy goods parking facilities at the rear of the Grandstand some years ago but this was actually ruled out of order because, not only would it be unsafe for the users of the Park, the pedestrians using the Park and the Grandstand site, but it was also proved to be most unsightly in such a prominent position.

**Mr Karran:** It is the same for the Port Soderick people.

**The Speaker:** Minister to reply.

**Mr Brown:** Yes, thank you, Mr Speaker. I am not aware of the point that the hon. member for East Douglas has made and I am sure she will have more knowledge being an ex-Douglas Corporation member than I have. I therefore accept the point that she has put forward. I would just make another point on this which the hon. member raised which of course is the problem of us being in an Island and having to cope with large wagons to ensure the Island is serviced properly in terms of its requirements. Somewhere we have to find places for these to be appropriately parked.

**The Speaker:** Final supplementary, Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker. Following on from the hon. member's just passed remarks there, should they not then provide a place to park these vehicles provided by the department, a secure compound? And may I ask if he would again review the situation please? Thank you.

**The Speaker:** Minister to reply.

**Mr Brown:** Mr Speaker, I do not see it my department's priority to provide large areas of vehicle parking for heavy goods vehicles because, to be quite honest, with the responsibilities and with the pressures on the department, I have to say, we would see that as being some way off. I also believe it is a matter for the private businesses either to come together or to individually provide adequate areas to park their vehicles off the highways. Every other business in the Isle of Man, or most other businesses in the Isle of Man, have to ensure that they make adequate provision for their own businesses so that they can actually provide what is necessary to enable them to operate it properly. I see this as being no different and, as I say, if necessary my department is willing certainly to consider an application for grant assistance from any local authority who may believe that they can provide an area that is suitable. The other point I would make is that I certainly think that if you are going to provide facilities like this we do not want one big large heavy goods area. What we need to do is try and - if I can use the term - tuck them away in small groupings. Some of the people

who already operate such businesses have in fact invested to make sure they have their vehicles off the highways. Therefore those who have not should be looking at a way of dealing with it.

**Student Teachers — Post-Graduate Certificate of Education Course —  
Refusal to Support by Training Grant — Question by Mr Houghton**

**The Speaker:** Question number 6, member for Douglas North, Mr Houghton.

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

*Why has your department refused to support Manx student teachers by way of a £6,000 training grant to undertake a postgraduate certificate of education course in the United Kingdom?*

**The Speaker:** Minister for Education.

**Mr Rodan:** Thank you, Mr Speaker. My department has not refused any such grant, for the reason that it was simply unnecessary to do so. The fact of the matter is that Manx students studying in England are eligible to apply for £6,000 training salary from the Department for Education and Employment in England for undertaking the PGCE course since the DFEE are willing to pay this grant to students regardless of country of origin as long as residentially qualified. My department's officers obtained this assurance from the Department for Education and Employment in England when the training grant was introduced, in order to make sure that Manx students would not be excluded. If they had been I would have ensured that they were supported to the same extent by Isle of Man funds.

**The Speaker:** Supplementary, Mr Houghton.

**Mr Houghton:** Yes, thank you, Mr Speaker, and I thank the hon. minister for his reply. But is he aware that this grant that can apply to Manx students in the UK, because it is being funded by the UK Government, is paid on the understanding that those Manx students must then teach in the United Kingdom schools and not therefore return to the Island? Does this not therefore fly in the face of his department as he has already an acute shortage in recruiting teachers to Island schools, sir?

**The Speaker:** Minister to reply.

**Mr Rodan:** Yes, Mr Speaker. If that had been the situation I would be as concerned as the hon. member. I can give a categorical assurance that we have had confirmation from the DFEE that if a student, on qualifying, intends to take up a post other than in England then they will not be required to repay the £6,000 training grant. We have also had written confirmation that indeed if someone qualifies and then for whatever reason decides not to become a teacher similarly they will not have to repay any training salary they have received. If the hon. member knows of an individual case that is presenting any particular difficulty over the regulations and how they apply in his or her case, I will be very pleased to look into it for him.

**The Speaker:** Final supplementary, Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker. I am very grateful for the hon. minister's reply this morning and assurances. Thank you.

**Douglas Bus Station — Demolition — Provision for Travellers — Question by Mrs Cannell**

**The Speaker:** Question number 7, the hon. member for Douglas East, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker, I beg leave to ask the Minister for Tourism and Leisure:

*What provision will be made for those persons using public transport when the Douglas bus station is demolished?*

**The Speaker:** Minister for Tourism and Leisure.

**Mr Cretney:** Mr Speaker, as hon. members will be aware, the Department of Local Government and the Environment are responsible for many properties in government ownership. This is the case with the existing bus station and for a number of years it has been made clear that this site would be suitable for redevelopment for a variety of purposes. My responsibilities presently include the public transport division of the Department of Tourism and Leisure which operates the Island's bus services. We have embarked on the largest ever programme of investment into public transport, a key part of which is the provision of adequate bus shelters Island-wide. By the end of the next financial year we will have completed our second phase of bus shelter provision which includes 30 shelters since taking on this responsibility in 1999 and a further 20 this coming year. I am acutely aware of the need for adequate bus shelter provision at the Lord Street site both in the interim and upon completion of any redevelopment. Discussions have taken place between my department, the Department of Transport and the site owner on behalf of government, the Department of Local Government and the Environment regarding this site. Nothing will happen on this site until adequate bus shelter provision for our customers has been put in place. If the hon. member's question refers to taxi rank provision, which of course also constitutes public transport, I have no information about this but would imagine that the Department of Local Government and the Environment who are preparing plans for the site would have.

**The Speaker:** Supplementary, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker. I am very appreciative of the hon. minister's assurances for the public. Will he acknowledge though that there is public concern at the moment because the site in question owned by the Department of Local Government and the Environment is subject to discussion regarding its development? The public are aware of that and will he appreciate that they are concerned as to what is going to be put in place. Equally, will the hon. minister please give us another assurance this morning that when discussions have resulted in a decision he will make public to the public using that particular site of what provisions will be made and that that will be done in good time and in plenty of time before the demolition of the actual bus station site?

**The Speaker:** Minister for Tourism and Leisure.

**Mr Cretney:** Yes, I accept there has been some uncertainty amongst some members of the public in relation to the ongoing discussions vis-a-vis the bus station site. In particular I think the Department of Local Government and the Environment were particularly helpful to Douglas Corporation for some time in the recent past when there was a difficulty at the market premises and for a time the Department of Local Government and the Environment made available the former air terminal for the market traders to continue their work. I know that there was further uncertainty when the newspaper shop proprietor moved out from the bus station site. I hope I have given sufficient lead to any members of the public who have remaining concerns about the importance which I attach to adequate bus shelter provision Island-wide and in particular in this particular location which I consider crucial to taking forward the public transport policy.

**The Speaker:** Hon. members, that brings the end of oral questions, there is one question for written answer which you have on your desks.

**Manx National Heritage — Sites Operated — Annual Income and Expenditure —  
Question by Mr Houghton for Written Answer**

**Question 8**

The hon. member for Douglas North, Mr Houghton, to ask the Chief Minister:

*With the exception of the House of Manannan, what is the annual income and expenditure in respect of each site operated by Manx National Heritage for each of the last five years?*

**Answer**

Manx National Heritage operates, protects and maintains over 100 sites of various kinds throughout the Isle of Man which are promoted collectively to the public as parts of 'The Story of Mann.'

These sites range from single stone monuments on hillsides around the countryside, unique collections of Celtic and Viking cross carvings protected at the parish churches, large areas of scenic landscape and formal 'museum' buildings in the major towns. Many of these sites are not staffed directly, no admission charge is made, and they are therefore not capable of generating income directly although they do need to be maintained.

The definition of 'sites' in the question therefore causes a little difficulty in providing precise income and expenditure figures on a site for site basis.

It is difficult to be precise, for example, when costing 'Cregneash' as a site, which now incorporates, as well as the national folk museum, over 300 acres of National Trust land, a number of statutory ancient monuments and a number of privately tenanted houses.

For some sites, considerable expenditure has been provided by charitable and other private funding. For example, the entire Braaid ancient monument site was purchased, fenced and interpreted through the private charitable funds of the Friends of Manx National Heritage, who have also made significant donations to the Rushen Abbey, Calf of Man and Sound sites operated by Manx National Heritage.

In addition, some centrally provided services are applied to all sites as need and opportunity demands. For example, admission tickets are often sold as part of a composite pass to a number of sites, point of sale being from one particular site or through the central service. Similarly, income gained from providing assistance and facilities to film crews working at various sites is billed centrally, rather than on a site by site basis. It is therefore impossible to allocate such income directly to a specific site.

It is assumed therefore that the question refers to formal 'museum sites' where staff are formally located and admission fees are applicable for access, excluding the House of Manannan. The figures given below therefore exclude the central services provided to all sites by Manx National Heritage and, as far as possible, identify specific revenue income and expenditure related to these specific sites for the last five complete financial years.



## **Bills for First Reading**

**The Speaker:** I now call upon the Secretary of the House.

**The Secretary:** The Road Traffic (Amendment) Bill, Mr Brown; The Criminal Justice (Extended Sentences) Bill, Mr Houghton; The Highways (Amendment) Bill, Mr Singer.

### **Online Gambling Regulation Bill 2001 — Second Reading Approved**

**The Speaker:** Hon. members, we now move on to item 12 on the Agenda, Online Gambling Regulation Bill for second reading, hon. Mr Bell.

**Mr Bell:** Mr Speaker, the Online Gambling Regulation Bill provides an important opportunity for the Island to benefit from a growing e-commerce market. The Isle of Man is currently amongst the leaders in the competition for this business and is in an advantageous position from which it can benefit by attracting the best of the industry to the Island by providing a well-regulated jurisdiction. The Bill will permit gambling on the internet and similar forms of online and interactive gaming to be regulated. Tight regulation is the key to the success for the companies providing services and for the Island itself. The Bill will provide a secure regulatory regime involving the newly named Gambling Control Commission, the Financial Supervision Commission, Data Protection, Customs and Excise and the Isle of Man Constabulary. Licence holders will only be permitted to offer games that are approved by regulation. Moreover not all games will necessarily be available to all licence holders. This will ensure each licence holder is competent to provide each game. The number of licences will initially be restricted to three to avoid over-burdening the new regulatory regime whilst it finds its feet. However the Council of Ministers is provided with the power to increase the number of licences if, as it likely, more licences are required. Companies will have to be registered in the Island, their designated officials will have to be resident here, the licence holders must maintain sufficient financial reserves. Regulation will protect players privacy, prohibit sales to minors and residents of jurisdictions where internet gambling is currently not permitted and, of course, prevent money laundering. There are also other player protections within the Bill such as contracts being enforceable in law, codes on advertising and accuracy of website claims and regulations governing the conduct, fairness and probity of gambling on the site. The regulator will also have the right of entry and powers to inspect software and all gaming transactions. The regulatory cost will be more than covered by the three substantial licence fees and in addition income will be derived from a percentage of gaming yield and from taxation of company profits. These figures have to be agreed, of course, by Treasury. In essence this Bill is an enabling provision and the technical detail of the Bill will be in subsequent regulations which will need to be approved by Tynwald. The Bill's emphasis is on regulation to attract only the best in the industry and protect the Island's reputation for probity. It will extend the Island's economic base and will bring an additional source of income into the Island without unduly increasing the demands in the employment market. The Bill will therefore ensure that the Isle of Man is a world class leader in the regulation of internet gambling. Mr Speaker, I beg to move the second reading of the Online Gambling Regulation Bill 2001.

**The Speaker:** Mr Cannell, member for Onchan.

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

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, could the minister inform this hon. House what sort of financial reserves are we talking about? Can he also tell us, with the recent demise of one gambling company on the Island, was the main reason for that the fact that we could not take bets from the UK as far as that is concerned? How far has the British Home Office vetted this piece of legislation? In some of the likes of this cancellation of a licence it talks about, 'by any court in any country or territory in the world, an offence punishable in that country or territory in the case of an adult by custody for an unlimited period or a term of 2 years or more.' I mean you get some countries in the world where if you would have insulted the Chief Minister you would more likely will get your head chopped off, never mind get two years. What sort of criteria are we talking about as far as this clause is concerned? I want to support the Bill and I do support the Bill I think anything that diversifies the economy is to be applauded and we want as many strings to our bow as possible. Does the hon. mover feel that this Bill may be is coming about after the horse has bolted as far as this issue is concerned? If he can just explain to me the issue of where were these bodies will be allowed to take bets from as far as that is concerned, Mr Speaker, I would be very interested.

**The Speaker:** Mrs Hannan.

**Mrs Hannan:** Thank you, Vainstyr Loayreyder, could I ask the mover of the legislation, it is going to cost another £220,000 under one of the provisional costs, what is the likely income from having this legislation? Presumably these funds are being lost at the moment so there must be something in the future to be gained by this sort of regulation. Could I also ask the minister, with the change in the UK's tax structure which encourages gambling companies to return onshore, will it make any difference to this legislation? I mean I know this is online gambling but, with the likes of Hills and people like that being encouraged to go back home from their offshore excursions, will this legislation indeed make any difference to this Online Gambling Regulation. I realise that it is a comprehensive enabling piece of legislation so it will need to be quite detailed in regulation and will there be consultation on that? Thank you, Mr Speaker.

**The Speaker:** Does anybody else wish to speak? I call upon the hon. mover to reply, Mr Bell.

**Mr Bell:** Thank you, Mr Speaker. I thank the two members who have spoken for their guarded support for it. The hon. member for Onchan, Mr Karran, has asked what will the requirement for financial reserves be. We are currently looking at a figure at around £2 million. These will all need to be firmed up though later on but that is the scale of the financial strength that we will be looking for in these operators. William Hill's departure is very regrettable. It is very disappointing that they have decided to go at this particular time, especially as we have gone to great lengths to formalise international telephone betting on the Island with the Betting Offices Bill. However, there is a specific reason for that, I understand, and that is the fact that we deliberately excluded in that Bill any operator accepting bets from the United Kingdom and as William Hill's customer base I understand is almost entirely UK based they felt the new legislation would not be beneficial to them and therefore they have consolidated their business in Ireland for the time being. Whether or not that remains the case we will have to see. The member has also raised the issue of cancellation of the licence. We obviously want to maintain and ensure the very highest standards of probity of anyone operating in this field. This is why we are initially limiting the number of licences to a very small number. It is a new territory for us and we want to learn to walk before we run too fast with these and therefore we are bringing the tightest possible controls on anyone who has a criminal record of any sort. We have put, I think it is, two years sentence in any jurisdiction at this stage but this is a situation which will be monitored very carefully because obviously we want to discourage anyone

who is any way criminally inclined to be associated with the Isle of Man and certainly to do with this business. The hon. member also finally questions whether or not this legislation is being introduced after the horse has bolted. I do not believe that is the case. We will be at the forefront worldwide legislatively with this particular move. We know there are a number of blue chip, very high quality, high profile companies interested in exploring this particular avenue of business but are anxious to be associated equally with a very well regulated jurisdiction such as the Isle of Man. We believe we can provide the right sort of framework to attract this sort of business to the Island. We will be making it exceptionally difficult for anyone to get a licence. They really will have to prove that they are top drawer otherwise we are not interested in them because obviously there are opportunities for this particular line of business to be abused and we want to make sure that we filter, as best as possible, the individuals dealing in this particular market. The hon. member for Peel questioned what is the likely income, well the costs themselves we estimate at the moment would be somewhere in the region of £220,000. That will be covered in its entirety by the three licence fees so we are talking of a licence fee of perhaps between £80,000 and £90,000 in the first instance. That will cover the initial cost and therefore the exercise itself ought to be self-financing. We will need to be buying in expertise - not necessarily employing them directly - but accountants, legal advice, all will need to be involved in this to make sure that it is policed and regulated as tightly as it possibly can. As far as the extra income is concerned, that really then is very much to Treasury. They will have to decide what the tax rates are likely to be applying to this and in fact how they do intend to apply that tax, whether it is tax on profits, tax on turnover or perhaps a combination of both. We will have a clearer idea of what that figure is once Treasury have had time to collect their thoughts on it. All I can say is that this is worldwide now a mushrooming business. There are billions of pounds worth of business being attracted through this particular channel and therefore, if we get our act together correctly, we stand to make a substantial addition to government revenue. The hon. member also makes reference and, quite rightly so, to the pending changes in betting and gaming legislation in the United Kingdom. We still have no knowledge of what that will contain. Whether in fact it actually even touches online gambling, we do not know at this stage. It has largely been generated by the move offshore of the betting offices. We have covered that, as I say, in our own Betting Offices Bill. Their aim, I understand, is to try and attract betting offices back onshore again from the various overseas jurisdictions that they have moved to and I think, from my knowledge of it at least so far, that will be the focus of their attentions. But whether they will extend that liberalisation, if you like, or at least change of approach to online gambling, I really cannot confirm or deny at this stage. But obviously any changes which take place in the future, this is an enabling provision, there will be a raft of regulations needed to come to Tynwald which will need Tynwald approval and I can assure the hon. member that there will be appropriate consultation while we are drawing those up. It will not be an easy task because it is new territory and therefore we need all the advice and help we can get to make sure we get it right. So, Mr Speaker, I thank the hon. members for their support and I beg to move the second reading.

**The Speaker:** Hon. members, the motion is that the Online Gambling Regulation Bill 2001 be read a second time. All those in favour please say aye; against, no. The ayes have it. The ayes have it.

### **Fair Trading (Amendment) Bill 2001 — Second Reading Approved**

**The Speaker:** Item 13, the Fair Trading (Amendment) Bill for second reading Mrs Crowe, member for Rushen.

**Mrs Crowe:** Thank you, Mr Speaker. As hon. members will note from the long title of this Bill, it consists of many different elements and both improves and enhances existing statutes and introduces completely new provisions which place considerable new responsibilities on the Office of Fair Trading. This Bill has been subject to extensive research by the office and wide consultation with interested parties. The first two clauses of the Bill amend the Fair Trading Act 1996 by introducing controls over pyramid selling schemes. When the 1996 Act was being drafted we had hoped to include pyramid selling provisions in the Bill but our research showed that the controls existing in the adjacent isle did not work very well and we decided not to follow their unsatisfactory lead. Since then their legislation has been amended and, having looked at it again and similar examples from elsewhere, we believe that the time is now right to introduce controls over pyramid selling. Pyramid selling schemes in their simplest forms are those where the participants are encouraged to introduce others into the scheme and their principle reward or benefit gained from investing in the scheme is through this recruitment rather than through the distribution of goods or services. These types of schemes will be outlawed and other trading schemes which have a similar element will have to comply with regulation. The regulations which cover matters such as advertisements and contracts are intended to ensure that the participants are treated fairly. Breaches of the regulations will be a criminal offence and the Office of Fair Trading will have the enforcement responsibility. Clause 3 of the Bill extends the scope of the anti-competitive practices controls found in the Fair Trading Act 1996. At present the legislation only controls anti-competitive practices carried on by associated business that have similar directors or other persons exercising controls over them, or are part of a corporate family tree. The new provisions remove this requirement for the businesses to be associated and the practices carried on by an independent person may now be investigated. Clauses 4 to 7 deal with unfair contract terms and replace existing provisions relating to the arbitration agreements in consumer contracts with much wider provisions limiting the effect of standard terms in consumer contracts which are unfair on the consumer because they have not been individually negotiated and cause a significant imbalance in the rights and obligations of contracting parties. Schedule 1 of the Bill provides an indicative list of terms which may be regarded as unfair by the Office of Fair Trading. The Office is given power to take action in respect of unfair terms by accepting undertakings from users of the term or by seeking a High Court injunction to prevent its further use. I know a number of members have already contacted the Office in respect of what they regard to be unfair contract terms and I am glad that these new provisions will at last provide a proper solution. Clauses 8, 9 and 10 improve the controls over contracts concluded as part of an unsolicited visit by amending the provisions currently found in the Consumer Protection Act 1991. Although the present provisions enable a consumer to withdraw from a contract resulting from an unsolicited visit to their home within seven days from the date of signing the contract and places an obligation on the supplier to provide a notice of cancellation, we have found several deficiencies in this legislation. Firstly, if a person associated with a trader makes the first contact, either by person or by telephone with the householder, and makes an arrangement for the trader to visit later, then there is no cooling off period and therefore no need to provide a notice of cancellation. Even where the contract is concluded as a result of an unsolicited visit, failure to provide the notice of cancellation only constitutes a civil breach and entitles the consumer to withdraw at any time but in most cases the consumer has already parted with their money before they realise they can cancel and is left having to sue the trader for the return of their monies. The new provisions overcome these deficiencies by disregarding these warm-up calls and furthermore makes it a criminal offence to fail to provide the notice of cancellation. We firmly believe that these new provisions will assist us in our efforts against fly-by-night traders and cowboy

builders and we welcome the additional enforcement responsibility. Clauses 11 to 15 of the Bill add a new Part to the Consumer Protection Act which deals specifically with distance selling. The legislation affords the consumer of goods or services additional protection when purchases are made remotely without any physical contact with the seller. All distance selling mediums are covered, from telephone, fax, post, to e-commerce. Information must be provided to aid the consumer in their choice of purchase including the name and address of the seller, the price and a full product description. We would ordinarily expect to find this kind of detail available and most legitimate businesses have realised that they must satisfy this requirement to gain consumers' trust. Failure on the part of the seller or supplier to give this information will result in a lengthening of the cancellation period during which the consumer can legitimately return their purchases and expect money to be refunded. Notice of the right to cancel must also be given and failure to provide this specific detail may result in a criminal offence. The cancellation period is afforded the purchaser in these cases as goods and services cannot be judged in the same manner as those from the high street, that is for quality and suitability. It must be noted that a common sense approach has been adopted from the outset with this legislation and cancellation is not permitted where goods are either customised to the purchaser's requirements, consumed immediately or highly perishable. The supplier can also specify within contractual terms that the consumer is responsible for the cost of returning goods on cancellation. Consequently the requirements are far from onerous for businesses. Improvements are also made to the law governing inertia selling or sending of unsolicited goods and services. The Unsolicited Goods and Services (Isle of Man) Act 1974 gives the recipient of unsolicited goods the right to dispose of them after 6 months if the seller fails to collect them after the given notice. This means that a consumer could have to look after goods for six months. We feel this places an unreasonable obligation upon them and so clause 16 of the Bill improves the consumer rights by giving the recipient the right to treat goods as his own immediately and without notice. It also makes it a criminal offence to demand payment or threaten legal or other action to recover payment. Clause 17 makes new provisions for the resolution of disputes between customers and suppliers of financial services by way of an ombudsman scheme through an amendment to the Financial Services Act 1988. This provision will set up alternative to the courts for private individuals who have unresolved complaints with financial firms, both product suppliers and intermediaries operating in or from the Island. All forms of suppliers of financial services will be covered by reference to the various pieces of financial legislation, including credit, banking and general insurance. The Office of Fair Trading will handle complaints in the first instance with a view to resolutions through mediation. The office will maintain a panel of adjudicators, one of whom will be appointed to determine each complaint that cannot be resolved through mediation. The adjudicators will have powers to require information and to make binding awards on both parties which can take the form of monetary awards up to £100,000 payable by the supplier and/or directors of the action. The Bill also allows the ombudsman scheme to dismiss complaints if they meet certain criteria, such as if they are vexatious or if they simply concern unpredictable investment performance. This provision will complete the first class system of financial regulation on the Island, with all the necessary consumer protection, and will further enhance the Island's reputation as a leading offshore financial centre. The Bill has also presented us with the opportunity to improve some of our working procedures and clause 18 removes some restrictions placed on our officers when co-operating with other government agencies such as the police, customs, DHSS, etc. Much of the information held by the office is gathered using the powers of enforcement under the Consumer Protection (Trades Description) Act 1970 and these same powers are also recited in several other statutes, such as trademarks, video recording and fair

trading. The present legislation provides no rights to disclose information gathered under these statutes and indeed our officers risk prosecution if they do disclose information, even to the police or to customs. To assist our officers and other enforcement agencies the Bill will enable officers to pass on information in certain limited circumstances and especially in connection with the investigation of criminal offences. The enforcement powers granted under the Trades Descriptions Act and used by the other statutes at the present time can only be exercised by Inspectors of Weights and Measures and although we currently have several qualified inspectors, we also have other staff who have been trained in certain matters and are well experienced in investigations who can perform a very useful function by doing much of the initial information - gathering to assist senior officers, provided they have some enforcement powers. Clause 19 of the Bill amends the various statutes by replacing the references to inspectors with the term 'duly authorised officer'. As I said at the beginning this Bill contains many different elements, some substantially new provisions, some minor improvements of existing legislation, but as a whole it is vitally important to the effective operation of the Office of Fair Trading and to the protection of the consumers in the Isle of Man. Mr Speaker, I beg to move that the Bill be read a second time.

**Mr Houghton:** I beg to second sir.

**The Speaker:** Does any member wish to speak? The member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I am glad to see that we are stepping in the right direction with a financial ombudsman. I think over the years of battling to try and get an ombudsman fully, at least it is a step in the right direction and maybe we will see something further proceed as far as that is concerned. I would like to ask the hon. Chairman of the Office of Fair Trading, do you think this Bill goes far enough as far as monopolies legislation is concerned? Has this Bill been manipulated from what the consumers outside are concerned about? I would just be interested to know whether the hon. mover has any observations about anything else that should have been put into this piece of legislation that is not in front of us today? Particularly the issue of monopolies in that specific case.

**The Speaker:** No other member wishes to speak? I call upon the mover to reply.

**Mrs Crowe:** Mr Speaker I thank the hon. member for his support of the financial ombudsman scheme which I feel will be most successful and, as he has expressed a view about monopolies and mergers, I believe there is a sub-committee looking into legislation in that respect at the present time. But we feel that this Bill, which is most diverse and complex, contains the legislation that the Office of Fair Trading requires at this time to act effectively for the consumers of the Isle of Man. Thank you Mr Speaker.

**The Speaker:** Hon. members, the motion is that the Fair Trading (Amendment) Bill 2001 be read a second time. All those in favour, please say aye; against no. The ayes have it. The ayes have it.

### **Fair Trading (Amendment) Bill — Standing Order 155 Suspended — Long Title Amended**

**Mr Quine:** Mr Speaker, sir, if I may at this point arise on a procedural point, I believe, and that is, sir, to seek a suspension of a standing order with a view to the long title of the Bill being changed. I am advised that this is the appropriate time at the conclusion of the second reading for me to make that move, sir. The position is, sir -

**The Speaker:** Wait. You want to suspend standing orders?

**Mr Quine:** Yes, if I may, sir, I would like to put a motion before the House for the suspension of the standing order.

**The Speaker:** That is correct.

**Mr Quine:** If I could do that at this juncture, which I am advised is the appropriate time to do it.

**The Speaker:** That is the correct procedure.

**Mr Quine:** Thank you, sir. Now, Mr Speaker, I have made known my intention to seek an amendment to the Fair Trading Act 1996 for some considerable time to address the problem of the powers which the Office of Fair Trading should have, in my view, in relation to the regulation of excessive prices and it is in relation to that matter, sir. I might say, sir, that this is a matter which I have discussed with the Office of Fair Trading and they are in agreement with me in principle. The position is that standing order 155 states 'that an amendment must be within the long title of the Bill.' This Bill having arrived, and having taken advice from the Law draftsman, I am advised that to move an amendment in relation to the matter of the regulation of excessive prices will need an amendment to the long title before it can be considered. So I would therefore like to move, sir, that Standing Order 155 be suspended so that I would be enabled move an amendment at this sitting to the long title of the Fair Trading Bill. I believe hon. members, sir, have before them, or at least they should have before them, in writing the words. It was circulated last week because it was on the business sheet for last week, the Fair Trading Bill, but I can read it out anyway because it is short and sharp and very concise. What I wish to move, sir, is

*that Standing Order 155 be suspended to enable an amendment to the long title of the Fair Trading (Amendment) Bill to be moved at this sitting.*

No more and no less. If hon. members favour me with their support for that, of course, I can go on and move the amendment to the long title and when we get to the clauses stage, deal with the amendment itself. So I think that would suffice at this point, sir.

**Mrs Crowe:** I have no problem in seconding that, Mr Speaker.

**The Speaker:** Hon. members the motion before you is:

*that Standing Order 155 be suspended to enable an amendment to the long title of the Fair Trading (Amendment) Bill to be moved at this sitting.*

Standing order 155 states "The preamble and title to the Bill shall be postponed until the clauses and schedules have been agreed to when the preamble and title shall be considered, and if necessary amended". All those in favour of suspension of standing order of 155. Those if in favour please say aye, against no. The ayes have it. The ayes have it. Hon. member.

### **Fair Trading (Amendment) Bill — Long Title Amended**

**Mr Quine:** Thank you, sir. The long title, sir, of the Bill as it stands deals with all the matters, of course, which have been very properly and fully outlined by the hon. Chairman of the Office of Fair Trading, but according to the law draftsman it does not embrace the matter of control of excessive prices. It is in that regard that I would like to move:

*In the long title of the Bill after "financial services" add "to provide for the control of goods and services".*

**The Speaker:** Mrs Crowe.

**Mrs Crowe:** I have a no problem in seconding that proposal at this present time, Mr Speaker. This is only an amendment to the long title and this, however, does not indicate in any way that I will be supporting any amendment until the office has given it due consideration, but at this time and possibly to circumvent a lengthy debate, I would suggest that I have no problem at all in an alteration to the long title. Thank you, Mr Speaker.

**The Speaker:** Chief Minister.

**Mr Gelling:** Mr Speaker, I am sorry. I have the documentation the hon. member is describing to us but the only question I would ask is, in changing the long title and then the amendment the hon. member perhaps is putting forward is not successful, does altering the long title then make the Bill inappropriate or not legal because it has been altered and the amendment has in fact not been carried, sir?

**The Speaker:** Can I ask the Counsel to the Speaker to give a legal reply?

**The Secretary:** Mr Speaker, hon. members, the purpose of amending the long title is to allow the amendment to be moved because it is a discipline of the legislature that members have to rescind the long title of the Bill and if you want to introduce an amendment which is outside it the discipline is that you have got to get the agreement of the House. But it does not follow that if the long title is broader than the contents that that invalidates the Bill in anyway. Although, I think, probably the purest draftsman might like to reverse the process, if the amendment fails, so that it is clear of what the Bill is about. It certainly would not invalidate the Bill. It is only if the matter was outside the long title it would cause problems of interpretation.

**The Speaker:** The member for Castletown.

**Mr Brown:** Thank you, Mr Speaker. It is quite difficult on the limited information that the hon. member has put to us on the principle which he is now trying to put before the House. I have to say that, whilst I had no problem at all in suspending and supporting suspension of standing orders, I hope this matter will be referred to the Standing Orders Committee of the House to bring fairness into the procedure because, whilst we have made certain amendments, it seems to me that this one is a bit out of 'clink' which is why we had to suspend standing orders. (**A Member:** Hear, hear.) There should be a proper procedure to allow, at some stage without the suspension of standing orders, a member to be able to seek in the normal way for that to happen because of course to suspend standing orders you need 16 votes and, whilst the House this morning has been happy, it could certainly be used to stop a member putting forward a case. So I hope the Standing Orders Committee will look at that soon with a view to amending and coming back to the House. As far as the issue itself is concerned, I have to say that I am extremely uneasy about it on the limited information. A Labour government in the United Kingdom tried to control prices and I think it is quite obvious in the '70s they totally failed and I think we do need to be very careful. If we have a free market, we have a free market and there is a balance there. I understand partly what the member may be saying but I have to say that he has not gone into enough detail in principle for me to say I can support the principle. I will be interested to see what he says when he winds up and if I do support the principle I have to say that it does not mean that I necessarily support any amendment. But I have to say, Mr Speaker, supporting the principle of changing the title to enable an amendment to be brought forward which brings into legislation what I think the hon. member is saying, I have to say I am likely to have great difficulty supporting that because it certainly failed in the United Kingdom and I do not want it here.

**The Speaker:** Hon. members, just to clear the air, the debate is on the change of the long title not what the amendment will or will not entail. It just gives the hon. member the right to bring the amendment. Nothing more, nothing less. There is no commitment, it just means the right to bring the amendment. The hon. member for Onchan, Mr Cannell.

**Mr Cannell:** Mr Speaker, you have cleared one or two of my concerns on that matter. Not for the first time, I sometimes feel that perhaps we are operating two schools of thought here, one where in fact the department advances its cause and one where the rest are able to come at them for a second go, as it were. But unless I have had a bout of amnesia and been residing on the moon for the past couple of weeks, I do not appear to have anything to support this information whatever and whilst I trust my hon. colleague implicitly to be doing the right thing on behalf, apparently, of consumers to control prices in what, I guess and that is all I am doing, in a certain area and which, if it is the area, I would probably support, I am in the dark about this and I do not care to be in the dark. I would prefer to actually have a little bit more to go at so that we are all singing from the same hymn sheet.

**The Speaker:** Mr Karran, member for Onchan.

**Mr Karran:** Vainstyr Loayreyder, I am glad that you cleared the point up. I actually welcome the proposal today, not because I welcome what the hon. member intends to move at the clauses stage of this Bill, but I believe it is right that we should allow the hon. member the opportunity to have an issue debated that he feels should be included in this piece of legislation. With the present long title not being flexible enough, I cannot see what the problem is. I believe that this hon. House should support the hon. member just to allow him, so that at the clauses stage we can see what his amendments are. We might not agree with them and I must congratulate the mover of the Bill in the fact of the mature way she has dealt with this issue. Instead of the generally petty situation we have in this hon. House where too many think that the Executive should have control over this Parliament. I think it is a day that one should be happy about with the fact that here we have a situation where an hon. member cannot put in these amendments in the existing Bill because of the long title. The flexibility is being given so that we can at least debate the issue. There is an old saying, 'There are none so blind as those who won't look' and I believe that at this present time we should all support the proposal but on the understanding that we have done this in the past, Vainstyr Loayreyder. It is not revolutionary, as far as changing the long title of a Bill in the past, but normally it is done for the Executive, instead of it being done for members of Parliament in this hon. House.

**The Speaker:** The member for Peel, Mrs Hannan.

**Mrs Hannan:** Thank you, Vainstyr Loayreyder. I am a little concerned about this. We do know that this is a government Bill. I mean the comments made by the previous speaker. I do not see why we cannot be adult about discussing Bills. He has a hang up about certain issues, but this particular legislation is - the long title is quite comprehensive, as it stands, and obviously what the member is trying to do to introduce does not come under that particular long title. It seems that there are many provisions under this. I do not know whether the mover of the legislation can speak again on it because of seconding but I would like to ask whether there has been full consultation on what is contained in the legislation as printed in the green book. I would also like to ask the mover who is going to move some amendments on control of prices of goods and services whether there has been consultation on that because this is not just a one way thing, you know. It is a two way thing and I think this is why the Office of Fair Trading changed its name. It was my understanding was that it was just not consumers but it was also to look on trade and it was trade on both sides and

therefore I am concerned that if there has been consultation on it, there has not on these amendments and where does that leave us?

**The Speaker:** The member for Glenfaba.

**Mr Gilbey:** Mr Speaker, I totally agree with the last hon. member, the hon. member for Peel. I think it is right that there should be a restriction to the contents of a Bill being covered by the long title, otherwise where do we begin or end? You could have a Bill on consumer affairs and someone could do an amendment about law and order. You could go on and on forever. In this particular case, a very major new policy is being suggested. This Bill, I am certain, has been subject to very substantial consultation at all levels with the public, internally in the department, with the Council of Ministers, etc., and I think it is totally wrong that we should even contemplate bringing in to it such a totally major change as to be generally controlling prices. It may be the right thing to do but, as the hon. member for Castletown has said, it has not worked in the adjacent isles although it has been tried, I think, by both political parties. I think Ted Heath tried to do it about 20 years ago and therefore to bring in something so totally fundamental in this way, I believe, is quite wrong and I particularly think we should consider people outside this hon. House. If such a major proposal is made, there should be at least a month or more time for consultation with the private sector, both consumers and producers and providers of services. That clearly is not practical in this case. If we delay this Bill for weeks and weeks, it probably will not become law before this House is dissolved and accordingly I think it would be most unwise to agree to this amendment. I think the Bill should be left. I would finally point out that if the hon. member wanted a mechanism to control prices, why did not he bring in his own private member's Bill to do this? After all on the agenda today we have at least two private member's Bills where members have brought in their own ideas and I suggest the hon. member for Ayre could have done just the same, rather than to interfere with this Bill which has been subject to very wide consultation.

**The Speaker:** The member for Douglas East, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker. I rise in support of amending the long title of the Bill. When you look at the existing long title, it has been described by the previous speaker as being comprehensive as it stands. It actually covers pyramid selling, anti-competitive practices, unfair contract terms and contracts which are concluded away from business premises, distance selling, provides a resolution to resolve disputes with respect to the supply of financial services and I think it is fitting that added to that, it should also provide for the control of goods and services. Equally, of course, depending on the wording of the amendment, it may or may not provide for the control of goods and services. Nevertheless, built in to primary legislation, it does give an option for this government and future governments to be able to bring about such regulations as may be deemed appropriate for the control of goods and services. I am surprised at some of the comments made by the previous speaker, who is talking about consultation. When we were talking about another provision within another Bill, of course, he did not favour consultation. I do not see a problem with further consultation, if it is deemed appropriate at this particular stage, but I think we all have to remind ourselves that we represent the people of the Isle of Man and those people are forever and have been forever, to my mind, complaining about the prices of this, the prices of that, the price of travel, the price of gas, the price of coal, the price of oil, the price of bread, fish, meat and so on. Now the fair trading department, of course, has been ridiculed in the past when it has been headed by previous chairmen; that the particular division is toothless, it does not have the necessary legislation to be able to look into assessing whether or not there are unfair prices and services

being charged for. This extending the title will enable amendments to be considered by this hon. House. Whether they vote in favour or whether they vote against, it will provide the opportunity for them to consider providing this division with important legislation, so they will not be ridiculed in the future about being toothless. I believe this is why the chairman has welcomed the amending of the long title, to be able to consider amendments. As regards consultation, I myself consulted with the officers of the fair trading division, who welcome amendments to the long title and welcome amendments being provided -

**Mrs Crowe:** No, no no.

**Mrs Cannell:** - to actually give them the extra powers. It does not pose any problems, I was told initially, and in fact, 'we welcome them.' Now those words were spoken directly to me by the senior officer and so I think it is appropriate that we consider them. I think it is befitting. It would not bother me one iota if this Bill was delayed a couple of weeks to consult, or a month to consult, if that is deemed appropriate.

**Mrs Crowe:** We have not got time.

**Mrs Cannell:** This reference also made to the UK legislation trying to do something similar back in the 1970s and it failed.

**The Speaker:** Hon. member we are debating the right to bring the amendment (**Members:** Hear, hear.) we are not debating any amendment. We are only debating the right for a person to bring an amendment (**Mr Cretney:** Hear, hear.) by altering the long title.

**Mrs Cannell:** Thank you, Mr Speaker, for putting me back on the right track. I support the right to amend the long title and I think any member who seriously represents his or her constituency and their concerns should also support the right to extend the long title. Thank you.

**The Speaker:** Mr Downie, the member for West Douglas.

**Mr Downie:** Thank you, Mr Speaker. I am brought to my feet because I firmly believe it is the right of any member to try to use standing orders or other means where he wishes, in this instance to amend the long title so that he can look at an amendment or a new clause which will in some way deal with this issue about what he feels is overcharging. My view, for what it is worth, is that trading standards should be and, in some ways, could be in a position to look at the situation regarding overcharging. As far as price fixing goes, members will be aware, we already have a system of price fixing in the Isle of Man. We do it with milk, we do it with Christmas poultry and a whole range of other produce which are advertised in the local paper and there is a price. So as far as I am concerned, I think we should not make any decision on this issue until the amendment or the new clause is before us and then it can be fully debated (**A Member:** Hear, hear.) and then at least we have had the opportunity to have all sides of the issue on the floor as it were and if it is vehemently opposed by trading standards, well then we will want to know the reason why.

**The Speaker:** I call upon the mover to reply. Mr Quine.

**Mr Quine:** Thank you, sir. I think unavoidably we have gone into what perhaps is the third stage of a three stage procedure. If I could just remind members of the situation that I have to follow. I have to follow it because it is the procedure that is before us. I have to address what is a relatively new situation for the reasons spelt out to me by the Attorney-General's chambers and I will read this out to you. 'I fear there is a problem with your suggested amendment, arising from the changes in standing orders recently approved by the House.' It flows from a recent amendment to the standing

order. 'The new standing order 154 provides as follows: 'An amendment must be within the long title of the Bill.' ' Now that is a change, it is a recent change and it was accepted, I am advised at the time that that change was made, that although it would be laying down a standard procedure, as with all matters laid down in standing orders, we can move and at the will of the House we can seek to suspend the standing order. So this is not a situation of my making, this is a situation which was consciously bought about by an amendment to the standing orders. Now if hon. members are not happy with that, I am sure the Standing Orders Committee would be pleased to revert to it, but I have to work to the standing order (**Mr Downie:** Hear, hear.) which is of course before us, sir. The burden has been on me first of all to seek the permission of this hon. House to suspend the standing order, which the House has very kindly given to me, and I am now moving forward simply to amend the long title of the Bill, just to amend the long title of the Bill to embrace this matter to provide control of prices of goods and services, as recommended by the law draftsman. I have had discussions with the Chairman of the Office of Fair Trading and our initial reaction was that the long title was so long and so all embracing that it seemed to cover everything. But I must be guided by the law draftsman. The law draftsman tells me that we need these few additional words put into the long title so I can move the amendment. If I get the House's approval to do that today, then quite clearly when we come to the clauses stage I will then be in a position to put before members, with a full explanation, precisely what I am proposing but I am not permitted to do that today. It is not a question of me not wanting to do it. I am not permitted to do it. May I say also, sir, I cannot of course give you the precise wording of the amendment because the law draftsman quite rightly says until I have got approval, he is not going to draft it. (**Mr Karran:** Hear, hear.) The question has been raised, of course, to ask the reason why I am seeking to amend this Bill as opposed to run with a private member's Bill. The reason is very simple; because it is the proper procedure. This Bill has been in the legislative programme, as we are all aware, for some considerable time and the hon. member for the Office of Fair Trading has done a sterling job to get it forward. Now if I had come forward here - I can just imagine it - and said, 'Right I want to run with a private member's Bill to amend the Fair Trading Bill,' the same people who are objecting to me today will be on their feet saying, 'I'm opposing this, there's a Bill coming along. Move your amendment when we get to the Bill.' (**Mr Karran:** Hear, hear.) Heads I win, tails you lose. So that is why we are here. It is the proper procedure that I am following. A Bill is in the programme and I am seeking to amend the Bill. What I could not foretell and the hon. Chairman of the Office of Fair Trading could not, of course, is that this would be the manner in which the long title would be cast and that, by legal interpretation, the aspect I am trying to address would be excluded. We have to get the Bill before I can assess that. So I do not think I am at fault anywhere along the line as far as that is concerned and in terms of consultation I have done my honest best to keep the Office of Fair Trading in the picture. I have had meetings with the Office of Fair Trading. I have had discussions, albeit brief discussions, with the Chairman of the Office of Fair Trading and they are aware of what I am trying to achieve and in principle, they support that. But the chairman quite properly says in terms of the amendment, she wants to see the amendment. She wants to see the amendment and I can understand that. It may not be when it is finally produced what the Office of Fair Trading would be supportive of. I will ask hon. members to give me approval simply to amend the long title so that it is sufficiently embracing for to cover the matter of the control of prices of goods and services and then at the appropriate juncture, I will bring forward an amendment, I will explain my amendment and it is a restrictive amendment. It is not an all embracing amendment. I have been around politics sufficiently long to realise that you do not take a large yard brush when you are trying to fine tune something such as this. I am fully aware of the sensitivity that lies behind an issue such as this. I am well read up on all

the previous government reports when this was discussed. I am not out of touch with the circumstances which influenced these matters and I think that would be in the amendment when you see it. But I do not have the freedom to address you today on the amendment. Mr Speaker, I would ask hon. members to lend their support so that the long title of the Bill can be amended as I have proposed. Thank you, sir.

**The Speaker:** Hon. members, the motion before you is that the long title of the Fair Trading Amendment Bill 2001 be amended in accordance with the amendment which has been circulated. All those in favour, please say aye; against no. The ayes have it. The ayes have it.

### **Interception of Communications Bill — Second Reading Approved**

**The Speaker:** Hon. members, we now move on to item 14, Interception of Communications Bill 2001, second reading, the hon. Mr Bell.

**Mr Bell:** Mr Speaker, this Bill is promoted by the Council of Ministers to replace and modernise the 1988 Interception of Communications Act with provisions taking into account recent developments in technology and to provide safeguards to reflect the obligations of public authorities under the European Convention on Human Rights. The 1988 Act allows for the issue of a warrant to intercept such communications as are sent to or from one or more addresses specified in the warrant, which does not permit the issue of a warrant in the context of modern technology. It also does not comply fully with article 8 of the European Convention on Human Rights which confers on every person the right to respect for his private life and family life, his home and his correspondence. These matters have been addressed in the United Kingdom by Parts 1, 4 and 5 of the Regulation of Investigatory Powers Act 2000 of Parliament, on which this Bill is based. However, it is very important to recognise that this Bill does not, and I emphasise does not, include provisions based on Parts 2 and 3 of the RIP Act which deal with more controversial matters such as surveillance and especially access to encrypted data. Part 1 of the Bill deals with the interception of communications and establishes that it is an offence to intercept a postal or telecom communication and causes it to be a civil wrong to intercept a private telecom communication, unless it is with lawful authority. It also restricts the issue of requests to overseas authorities for interception under a mutual assistance agreement and creates appropriate penalties for offences against these provisions. This section also authorises the Chief Minister and in his absence, the Minister of Home Affairs, to issue warrants authorising the interception of communications for certain limited purposes, especially for reasons of national security and preventing or detecting crime and ensuring what is authorised by the warrant is proportionate to the end to be achieved. This is an important qualification as the action must be proportionate if interference with a person's privacy is to be justified under article 8 of the European Convention on Human Rights. It also requires the Chief Minister to consult the Attorney-General before issuing a warrant, or as soon as possible afterwards. Clause 8 identifies the two different kinds of warrant. One, a warrant which identifies either a person to or from whom or a premises to or from which the communications to be intercepted are sent. The second point is that a warrant which under a special certificate signed by the Chief Minister allows telecommunications sent or received from outside the British Islands to be examined. Any warrant shall expire after three months, although it can be renewed for three monthly periods, if required. Clause 19 enables the Council of Ministers to issue codes of practice as to the exercise of interception functions and requires a draft code to be laid before Tynwald, which if approved would be brought into force by order requiring Tynwald approval. Part 2 regulates the acquisition and disclosure of communications data, that is information about communications, for

example, the persons to or from whom they are made, or the means or routes by which they are transmitted, as opposed to their contents. Clause 23 sets out the cases in which communications data can be obtained or disclosed, that is where the Chief Minister is satisfied that it is necessary on the grounds of national security, prevention of crime or disorder, or the detection of crime, economic protection, public safety, public health, tax collection, preventing death or injury in emergency and finally purposes specified in an order made by the Council of Ministers, which would need Tynwald approval. Clause 27 provides for the appointment of an independent commissioner to oversee the exercise of functions under the Bill. This continues the current arrangements which apply under the 1988 Act and enables the current incumbent, who is presently Deemster Cain, to remain in situ until the end of his term of office. The commissioner is to be appointed by the Governor, as at present, and is required to issue an annual report to the Governor in Council. Clause 29 introduces Schedule 1, which provides for the establishment of a tribunal to deal with complaints and disputes concerning the interception of communications. This will continue its already established role under the 1988 Act and also sets out the jurisdiction of the tribunal, which will be to deal with (a) any proceedings under the Human Rights Bill, for activities incompatible with the Human Rights Convention which concern the use of interception powers; (b) any complaint by a person who believes he has been subject to interception; and (c) any complaint by a person that he has suffered detriment as a result of any prohibition or restrictions in clause 16 on his relying on civil proceedings of intercepted material and related information; (d) any other proceedings which concern the use of interception power if allocated to the tribunal by order made by the Governor in Council. As I have said, Mr Speaker, this Bill is largely a re-enactment of the 1988 Interception of Communications Act brought up to date to allow for advancements in technology. It still contains the same level of protection for our community by way of a complaints tribunal and an independent commissioner and any orders varying the current position will need Tynwald approval. It is in many ways regrettable that we should ever need such legislation but we have to acknowledge that both communications and the criminal mind is growing ever more sophisticated and, if we are to effectively to protect our community, it is vital that the relevant authorities have adequate powers to combat that sophistication for the future. I hope hon. members will recognise that and support the second reading and so I beg to move, Mr Speaker.

**Mr Duggan:** I beg to second, Mr Speaker, sir.

**The Speaker:** Sir Miles Walker.

**Sir Miles Walker:** Thank you, Mr Speaker. I wonder if the hon. mover of this piece of legislation could tell me if I am right in my recollection that, in the present legislation, interception of communications is allowed in order to prevent or detect serious crime and in this piece of legislation, that word 'serious' is not there. I wonder then is it simply up to the Chief Minister; when he is approached by one office or another for the interception of communication, if he has to decide on his own whether or not this is the appropriate way of, in fact, preventing or detecting that piece of crime? It seems to me, if I am right, and it is serious crime, then it is probably easier to persuade the Chief Minister that the interception is required. It seems to me, Mr Speaker, to be an important point and I wonder if the hon. member could help me? I have to admit that I have not looked up the present legislation.

**The Speaker:** Mr Rimington.

**Mr Rimington:** Thank you, Mr Speaker. A few points of the hon. mover which I hope he will be able to clarify today or if not today in the near future. The first one being, in terms of the operation of

the Bill, it refers to private systems which are adjoining the public and are connected to the public system and therefore they are covered, as I read, within the terms of the Bill. But if a system is one hundred per cent private and has no connection to the public system, i.e., that might be an internal electronic system or it might be an internal voice system, is that within the scope of the Bill or is it outside the scope of the Bill? Certainly another one which comes to mind in terms of the Bill, it talks about everything being in the course of its transmission, in terms of interception. Now where you have got a system in a company which this Bill would refer to, i.e., because that would be legitimate for a person who has a right to control the operation or use of the system, that could be the employer or the designated person within that organisation. Does the employer or the designated person have the ability to read an employee's e-mails which are stored, as opposed to ones which are in transmission? There is just a question mark which may be you could clarify in that respect. One of the other areas of possible concern is the definition of what is called a public postal service, which obviously is in clause 1(a), a public postal service, and then clause 2 defines that public postal service. It then refers to it as being defined, obviously one which is 'the Isle of Man Post Office', which is, I think, fairly clear 'or offered or provided by any other person to, or to a substantial section of the public in the Isle of Man.' It is just a question really of what is 'substantial' and if something is less than substantial, then is it then not an offence to intercept. So, for example, if there was a courier service within confines of Douglas for the financial services sector and that, what was really, who it is aimed at, that might be a less than substantial service to the public and therefore it might not be an offence to intercept that which might or might not be the intent of the Bill. The section 4 which is the power to provide for lawful interception in relation to interception outside of the Island, i.e., that a person who is requesting that, who is outside of the Island, obviously has to have the proper authority within their area of jurisdiction but can that lead, or could that lead, to two things? One, that we are putting in interceptions for regimes that might be less than savoury and in those circumstances can we also then guarantee the rights of the individual, in that the circumstances for that interception are justified and that we have the mechanisms to know that they are justified, which is obviously a lot more easier when we are talking about something domestically or probably within the British Isles, but when we are dealing further beyond those sort of links, often it is not so clear and what mechanisms there may be to ensure that there is proper protection for the individual. I think in your moving of the second reading, you did allude to the matter of encrypted mail. One question that I did have down in section 12, which was the maintenance of interception capability, was the position of internet service providers and encrypted mail and obviously where or how that issue, which has been an issue in the adjacent isle, is going to be encompassed, if and when. The very last point, which relates to section 17, which is when we start looking at the actual use of those sections and that becomes part of legal proceedings. Would the defence have the right to know about the interceptions which have been undertaken in an investigation of that individual and could the content of those interceptions be used as evidence? I am sorry to give you that long list, hon. mover. Thank you.

**The Speaker:** Mr Karran, member for Onchan.

**Mr Karran:** Vainstyr Loayreyder, I have got a couple of points that I would like to make. Admittedly we changed the law on bugging some years ago so that it is treated as an act of burglary. I have forgotten under which piece of legislation I moved the amendment. So in some ways there are some safeguards, but what I am concerned about is when we talk about the interception of communications, is the Crown above this? The UK security services, are they above this piece of legislation? Is the UK Home Office above this piece of legislation? I go through the Bill. I take it that

anything to be extended to the Isle of Man under agreement, will it be by under clause 1, (4)(a), will it be by approval of Tynwald? I was interested, in clause 2, in the fact that when we talk about telecommunication services, many fire alarms and burglar alarms are all connected up into the telecommunication services. Will anything like that be able to be used as far as intercepting, using this as a way of bugging people? Can that be used as far as this is concerned? I know that it sounds rather far-fetched for the Isle of Man, but when you think you are dealing with corporate empires of millions and millions of pounds, as I say, inside information that is why we made it illegal. I do feel that whilst you could argue that that should be under something else, there is an argument that there we have devices that could be used for intercepting communications quite easily without actually using the telephone itself, but using. . . and I would hate to see a situation where the likes of fire alarms and burglar alarms can somehow be used to circumvent this piece of legislation. The other issues I would like to ask, on this Bill, is when we look at what is a reasonable political issue? I would be interested to know what the mover regards as reasonable political issues for an order for the capacity for interception. We have seen in the past in this hon. House, the way, in which we affected a minority in this hon. House. At the time we heard great cheers for the populist viewpoint to inflict anything on that section of the community. I think it is important as the mover to make sure that that does not happen. I agree with the hon. member for Rushen about crime and serious crime. I know that we have to be quite sure that we are not just accepting fishing trips. The pressure will be on, especially with the way this government seems to want to demote itself to a devolved parliament of the United Kingdom, when it has been around longer than the United Kingdom parliament. It worries me that it is important that we have to make sure that we have the right safeguards for our commerce and our business and our civil liberties within the Island, in my opinion. I believe on clause 23 (h), it does worry me as far as that is concerned. I am quite concerned about that. We see on clause 27 about the commissioner that the Governor shall appoint a fit and proper person to be the commissioner. Now the point is this, who is his loyalty to? We have seen enough in this hon. House with loyalty as far as senior staff are concerned. Is it to the protection of my constituents and my people's future well-being or is it for many in this hon. House a the UK mainland situation? I do feel that this issue needs to be addressed, of loyalty, as far as this commissioner is concerned. Will it be to the Chief Minister? One of the other issues is to do with clause 34 and it deals with the liability as far as the directors are concerned. What sort of fines are we talking about as far as this is concerned? The fact of the matter is that you can make substantial amounts of money out of information gained from ill-gotten sources. The other issue that I am concerned about is clause 38. It seems to define what the references of where the Crown has any rights and where it has any liabilities under this piece of legislation. I am very concerned about this and I do hope that this hon. House will take on board these legitimate concerns because I am sure that other people, maybe not inside this House but outside this House, will have concerns as far as that is concerned. I do not expect the hon. member to be able to answer all these points but I do think as we have got a fortnight he should be able to come back to this hon. House and actually give some sort of reassurance on these points. Otherwise one will be looking at amendments to the piece of legislation in front of us today, Vainstyr Loayreyder.

**The Speaker:** Hon. member for Middle, Mr North.

**Mr North:** Yes, Mr Speaker, I think I should try to clarify something here because I think the hon. member for Rushen, Mr Rimington, has raised some exceptionally good questions. I am sure that the minister will be able to answer but I think that one thing should be made absolutely clear now and this has been the big debate in the UK with the RIP Bill - that encrypted e-mails cannot be

intercepted. The authorities will not be able to obtain the private key to encryption at all. It is absolutely paramount that that is not possible and I will explain why there is no need because of existing legislation. For example, if a money launderer sends money from Timbuctu to a bank in the Isle of Man and it is encrypted with a private key that cannot be opened, the police, if that bank has to act on that, the bank has to open that encryption and it then has access to that information, the same as it would do now. There is absolutely no need to actually have access to private encryption. There is a public key and there is a private key and you get the total encryption which is secure and there is no way that this Bill will allow any access to that private key.

**The Speaker:** The member for Peel, Mrs Hannan.

**Mrs Hannan:** Thank you, Vainstyr Loayreyder. It is re-enacting legislation but could I just as the mover on the clause 23, where it relates to it says '... applies to disclosing communications data in the interests of national security.' I wonder whose national security this relates to? Because underneath - that is (a) - underneath at (c) it says '... in the interests of the economic well-being of the Island.' So I just wonder whose national security under (a) It spells it out under (c) where it is specific of the Island. I also share concern with regard to clause 23 (b) and also in relation to clause 23 (h) where it says that an order made by the Council of Ministers really can include just about anything. I would like to ask the mover if that is new so that it does actually broaden it out. There are a number of issues but I will come to those in the second reading. They relate to disclosures and defences under clause 18 and it relates to defences. Could I ask if there is defence say for doctors or the press or in these areas where there is communication and they use all sorts of different communication as spelt out in this document. Can their communications be intercepted and can the interception be broadened outside the aspects of this legislation? I mean, is it just anyone? Does it protect anybody's rights to privacy? I understand that we have now introduced the tribunal and that is obviously, from what it says in the legislation, to get round the European Convention on Human Rights. Surely the damage could be done by the time someone goes to a tribunal and someone might not even want to go to a tribunal. It might make it available to them but their privacy has already been breached. I understand why the legislation is introduced. It is obviously to protect us generally, the public, but we need to think about the interception of communications of individuals. The mover when moving this legislation talked about his rights. I presume her, she, does not have any rights? Thank you.

**The Speaker:** Chief Minister.

**Chief Minister:** Yes, Mr Speaker, I rise to support the second reading of this Interception of Communications Bill. I have listened very carefully to some of the contributions made by members and basically this is something that probably the person in my position is to be the one that operates through this and it has been of concern of late that with technology moving on it has created some difficulties. However, much of it is what is already there but has been brought up to date by modern communications. When I hear members speaking of private internal communications, upstairs, downstairs, it has no effect whatsoever on that at all. Basically some of the problems are, of course, the hand-held with an aerial that you can now roam away from your public telephone because that in turn goes through the public telephone. It is covered by this but it is very hard to distinguish the difference between that and say a mobile because they are both mobile but do you call the one you walk around the garden with that goes through your own telephone a mobile? The difficulty has been the interpretation since 1988 of technology as it has moved so quickly, is to get it up-to-date. I think also to give some members assurance if you look clause 23(4).

'The Chief Minister shall not grant an authorisation under sub-section (2) or give a notice under sub-section (3) unless he believes that obtaining the data in question by the conduct authorised or acquired by the authorisation or notice is proportionate to what is sought to be achieved by obtaining the data.' I think that is extremely important. In other words, if the police were to come down to my office with a request to intercept somebody's communications because they think their running around without a licence on the car, I am afraid they would not even come through the door with it because they know full well that unless they can prove to the Attorney General that the crime is serious enough, to the Chief Minister of the day, and that that proportion of information is because it is a huge crime, I am afraid it just does not happen. The number of interceptions is, of course, very, very small and a report every year has to go to the Deemster who looks it, looks at the information, to decide whether or not all the guidelines have in fact been taken consideration. All I can say to hon. members is this: I am quite sure that the mover will be able to cover a lot of the questions posed but then when we come to the next phase, of course, the detail can then be explained, but certainly it is not something that happens every day. It is not something that interferes with fire alarms and so on. It is purely interception of a known number and a known person and as I say it is very infrequently used thankfully but, however, it is there in the case of serious crime. I would ask hon. members to support the second reading of this Bill which basically, as I say, updates really the situation in regard to modern technology and the equipment in fact that is available today, Mr Speaker.

**The Speaker:** Mover to reply, Mr Bell.

**Mr Bell:** Thank you, Mr Speaker. I thank those members who have made a contribution to what is obviously a very sensitive issue and one which is somewhat complicated. I will do my best to answer the points which have been raised but if by any chance I do miss some of the points perhaps members could raise them with me privately and I will ensure that they will get the right answer. If I could start with the hon. member, Sir Miles Walker. I have to say I cannot remember myself the exact wording of the 1988 Act, but I am assured that both Bills have exactly the same implication. Ultimately, of course, as the hon. member, the Chief Minister, has said it will be down very much to the interpretation of the Chief Minister in consultation with the Attorney General of the day as to the level of seriousness and whether in fact an application for interception can take place. The hon. member for Rushen, Mr Rimington, again I think the Chief Minister has answered one or two of his points. My understanding is that totally private systems, internal systems, are exempt from this. It would not be concluded and likewise does the employer have the right to read stored e-mails. Again I understand that would not be appropriate, certainly not for the employer to be doing it. Any applications for interception in this Bill is purely to the Chief Minister of the day or failing him the Minister for Home Affairs of the day in consultation with the Attorney General so the ability for employers to spy on their employees would not come into this at all. There is absolutely no possibility of the design of this Bill being distorted in any way to ensure that would ever take place. The hon. member also asked what is a substantial public postal service. Obviously what we have grown up to understand as the postal service is now being diluted and broadened with private operators being involved in it. Again, it would be very much, as in a fair element of this legislation, for the Chief Minister of the day to decide the proportionality of what it is we are trying to achieve - The level of seriousness of the offence or alleged offence of the crime, the threat to national security whatever it might be. It would be very much for the Chief Minister to decide whether it would be appropriate for surveillance to take place. Again, I suppose I am repeating myself in a way, the hon. member says how would we handle interception from outside the Island, particularly requests from what he calls and we would all understand, as unsavoury regimes in some respects. Again, any

request from the outside, as I understand it, would have to be part or as a result of the Island having entered into a mutual assistance agreement with that particular country. These would take place particularly on criminal activities and once again the final decision would rest with the Chief Minister of the day as to in fact whether or not this was a serious request for interception which would be appropriate to the spirit of the legislation as we have drafted it at present. The hon. member also mentions the issue of encrypted mail and I think my hon. colleague from Middle, Mr North, has given the reassurance on that matter. Encrypted transmissions will not be included by this Bill. It has been in the UK, I understand, and it has caused problems in the UK. We have deliberately excluded it from this Bill. This is an issue which I think needs looking at separately because it has much wider implications than just one of interception. It could have some influence on the whole development of e-commerce on the Island and I think this requires a much deeper and longer study before we actually come forward with any recommendations on this particular issue. I can give the hon. member categoric assurance that encrypted transmissions will not be included. The final point, I think, that the hon. member made was would the defence have the right to know about interceptions in a fraud case. My understanding is that would not necessarily be the case. It would depend, I think, on the sensitivity of the case but ordinarily it would not be brought forward as evidence. The hon. member for Onchan again has raised a number of interesting points, particularly initially relating to national security and he asks are the UK security services above the controls on the Island? National security, I would believe in this particular instance, would apply not only to the Isle of Man but to the British Isles generally. Again, it would be very much down to the Chief Minister of the day as to how he interprets any application that comes in. National security is, I guess, a broad area of possible activity for this legislation but it would be very much down to the Chief Minister and again in consultation with the Attorney General as to whether any approvals are made. Again I can really just emphasise the words of the Chief Minister when he says that although this sounds draconian, it covers a wide range of areas of activity. There are in practicable terms very, very few interceptions ever approved by a Chief Minister in any 12 month period. We are not going to see a sudden change in the approach to this. It is only in matters of the most serious, usually criminal activity, that an interception would be approved by a Chief Minister and the same would apply to national security. The hon. member refers to whether fire and burglar alarms would be included in this. I have to say that he has lost me on this one completely. This is nothing to do with fire and burglar alarms, it is to do with methods of transmission, electronic transmission. The hon. member also makes reference to reasonable political issues. I guess he is asking again in what issues would the Chief Minister of the day consider, to be appropriate to issue a interception order. I can only again repeat the phrase which is interjected to safeguard excessive zeal on the part of the Chief Minister and that is that, whatever interception takes place, it has to be proportionate to the end to be achieved. It has to be put into context. The Chief Minister will not have the ability to approve willy-nilly any application which comes to him because ultimately all the approvals the Chief Minister will have given in any 12 month period will be subject to a review by the Commissioner at the end of the period. The Commissioner is independent. He is appointed by the Governor, not by the Council of Ministers, and, therefore, he has the ability to oversee all the interceptions approved during that previous year and he will be able to make comment in his report at the end of it whether in fact a Chief Minister has been over zealous at the time of the decisions being taken. The final point, I think, really that the member has made, going back to the usual arguments, where is the Governor's loyalty when appointing the Commissioner? I am sure that the hon. member would be the first member on his feet if the Council of Ministers were to approve the Commissioner. This is not a new provision at all. It is one that is already in being. It was included in the 1988 Act and this is just continuing the procedures

which we have had for a great many years, as probably the best way at this stage of finding a method of appointing a Commissioner totally outside and independent of the Council of Ministers because if the Council of Ministers, and in particular the Chief Minister, had any part to play in that - if the Council of Ministers appointed the Commissioner - obviously the whole process would be tainted and the ability for that Commissioner to appear as well as act independently would be compromised. I understand where the hon. member is coming from on that particular issue but there is good reason for that. This is one area where you do need to be above politics if you are going to have an independent individual there. I thank the hon. member for Middle, Mr North, for explaining the situation again on encryption. I know he has raised this matter with me and it is a matter that we are all concerned about and as I say we will not take any precipitous action on this. We want to spend a fair degree of time considering the implications. The hon. member, Mrs Hannan, again mentions national security. I think I have answered that. Can the list of interceptions that we mention in the Bill be broadened out? Yes it can, but it can only be done so, firstly, on the recommendation of the Council of Ministers and ultimately with the approval of Tynwald. So there is no possibility of new categories being slipped in without members being aware of it and giving their approval for it. The other point, I think, she has made which has not been touched is is there a defence for doctors or the press or, I guess, legal representatives. Again, my understanding is that it is down very much to the individual interpretation of the Chief Minister as to the seriousness of the application which has been applied for. One final point. The hon. member mentions that if someone has been wrongfully bugged that the damage will be done by the time it gets to the tribunal. That may well be the case but I think the individual then will have right of compensation if in fact there is a wrong having been done to him as a result of action taken under an order. She mentions the independent tribunal which I think I touched on. Finally, Mr Speaker, I would just like to thank the hon. member, the Chief Minister, Mr Gelling, for his helpful comments on the number of points which have been issued by members. I fully appreciate that members do feel uneasy about certain aspects of this legislation. It is something had I not been wearing this hat I would be equally uncomfortable with! But I recognise that given the state of society these days, unfortunately, we do need these powers. There are occasions, regrettable though they may be, that do crop up where extra assistance must be given to the police or to the appropriate authorities in defence of the wider community and I would ask hon. members to look at it in that context and support the second reading of this Bill.

**The Speaker:** Hon. members, the motion is that the Interception of Communications Bill 2001 be read a second time. All those in favour please say aye; against, no. The ayes have it.

### **Halifax International Bill — Second Reading Approved**

**The Speaker:** Item 15, Halifax International Bill for second reading, Sir Miles Walker.

**Sir Miles Walker:** Thank you, Mr Speaker. The purpose of this Bill is to allow for the reorganisation for the Isle of Man operations of two subsidiaries of Halifax PLC. Halifax International (Isle of Man) Limited, a Manx company and Halifax International Limited, a Jersey company operating through a branch in the Isle of Man. The Halifax group has a long established presence on the Island through a branch of the UK parent and the Isle of Man's subsidiary's high street banking operations as well as through the Clerical Medical Group of companies. In total there are some 208 people employed by the group on the island. Total deposits and funds under management or administration within the Isle of Man operations of the group are in excess of £5.2 billion. The Bill is the consequence of a commercial decision to merge the group's banking

operations in the Isle of Man and Jersey into a single company with a presence in both islands. Among the reasons for this decision are that will enable the group to utilise its capital more efficiently and permit a single management structure and sophisticated computer systems to be operated across both islands. The integration of the businesses is expected to secure the continued presence of the group on the Island, to improve customer service and to give account holders in the Isle of Man and elsewhere a wider range of financial products and services from which to choose. There is no public act of Tynwald which deals with bank mergers. The main current legal techniques for effecting such mergers involve using consensual arrangements, companies' legislation providing for amalgamations and reconstructions and private acts of Tynwald. The recognised way to unite two banking undertakings is to transfer one to the other. The need to have a Bill in these circumstances derives from the fact that the bank may not transfer a customer's money to another body without the consent of that customer. Therefore, to unite the Manx company with the Jersey company would require the written consent of all account holders of the Manx company. Given the large number of customers and relationships which the Manx company has, being in excess of 13,000 of which some 6,000 are Manx residents, consensual arrangements are considered to be impractical. The companies legislation cannot be used because it only applies to Manx companies. A private act of Tynwald is, therefore, considered the most appropriate means of achieving the merger, eliminating as it does much of the expense and risk associated with the consensual techniques to which I have just referred. This proposed method of dealing with the merger has been put to the Financial Supervision Commission and they have raised no objection. Members will see from the Bill that it is clause 4 that provides for the transfer of the undertakings and the rest of the clauses are mainly supplemental. As indicated, following the re-organisation the banking business of the Halifax group will be conducted in the Isle of Man by a branch of Halifax International Limited which is a Jersey company. However, this will not result in any disadvantages for the group's customers on the Island. There will continue to be a high profile operation in the centre of Douglas which will trade under the name of Halifax International and customers will therefore enjoy at least the same facilities in this regard as at present. The operations will be subject to detailed banking regulation both here and in Jersey and in particular customers' deposits in the Isle of Man will still be protected under the terms of the Financial Supervision Commission's Depositors' Compensation Scheme. In addition, it is envisaged that in due course the combined company will be able to offer full internet banking and other additional services and products, such as tracker and bond products that are currently not available to customers of the Manx company. Our hon. members may well ask why the decision was taken to merge the Manx company with the Jersey entity rather than vice versa. There are a number of reasons. Research undertaken for the group has suggested that, for much of the customer base of the international operations, Jersey is presently more widely known than the Island, although the Isle of Man is seen as a strong and strengthening brand. The group already has a significant number of Manx companies as a result of the Clerical Medical operations and it was felt that some diversification would be desirable. However, the group is not in any way less committed to the Isle of Man than to Jersey. That commitment is demonstrated, among other things, by the employee numbers here being significantly higher than in Jersey and the managing director of the combined company together with the finance and technology specialists being resident here in the Island.

**Sir Miles Walker:** Given the many advantages that the Isle of Man enjoys, it is expected that there will be considerable opportunities for the business on the Island to be expanded even further and this should over a period of time result in additional employment opportunities for Manx workers

at a number of different levels. For the avoidance of any doubt I can confirm there will be no redundancies and none of the local employees will be disadvantaged in any way as a result of the transfer of their employment. The only real thing that will change will be the identity of their employer. The independent union of Halifax staff has been advised and confirmed that they have no objection to the proposals. Hon. members, this Island has developed an almost unparalleled reputation as an international finance centre which is well regulated but will also facilitate the legitimate commercial requirements of the institutions that establish themselves here. The Halifax group of companies, which directly and indirectly to Manx tax receipts, is a major international financial concern. It is also extremely important to the domestic market. I would example by reference to the Halifax mortgages represent some 23 per cent of total residential mortgage lending on the Isle of Man. Accordingly, Mr Speaker, I would ask the House to give this Bill's second reading its whole hearted endorsement and to support a group which makes an invaluable contribution to the Manx economy. I beg to move the second reading of this Bill.

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

**The Speaker:** Mr Shimmin.

**Mr Shimmin:** Thank you, Mr Speaker. I would not say I welcome this Bill but certainly it will get my support. It seems an adult and sensible business arrangement. I am brought to my feet really just to raise a question with the hon. mover's comments in regard to the justification for Halifax's ongoing commitment to the Isle of Man where I think he mentioned the evidenced of the higher employee ratio on the Isle of Man compared to that in Jersey. I just wonder whether that is cited as being a necessarily beneficial thing to the economy of the Isle of Man, where we appear to have larger numbers of staff, yet without the consequential benefit of the main deposit base and the decision makers within the organisation. It just seems slightly strange to have that evidenced as being a positive, where I think in some ways we could look at that as maybe the back end and the wrong end of the business. I just wonder if he has any comments to make, sir.

**The Speaker:** Mr Cannell, member for Onchan.

**Mr Cannell:** Mr Speaker. I welcome the provisions of this but I do he some reservations from a previous merger which became before this honourable Court and the ramifications of which are still being felt. Before I set off on that though, I too reiterate the hon. member for West Douglas's comments. It is disappointing that it is perceived that, although we hear that the island has an unparalleled finance centre status, the decision has been taken that apparently Jersey is more renowned than the Isle of Man. I think that we should do something about that. We do have a Government Press Officer and I think any endeavours that he can make in that regard to rectify the situation should be deployed with maximum possible verve. I do not think, having spent a considerable amount of time recently in the Channel Islands they have got anything but as I have mentioned before in this hon. House or in another place, they appear to have a supreme confidence in their own ability. One might say if you were being uncharitable which of course I would not dream of being, that in fact it borders on arrogance but whatever it does it has achieved the right effect, because in fact Jersey all the time come along with the notion that they are superior to the Isle of Man. We have recently been hearing of course both Jersey and Guernsey have both been studying our system of running governments and have decided to go along very closely to what we have had here and still enjoy which is the Ministerial system. So, we cannot be doing everything wrong. On this specific Bill, I rise because I have had a number of complaints voiced to me, and I also include myself as a personal involver in this, regarding the previous merger of the Lloyd's and TSB groups.

The Lloyds/TSB merger, from what I can gather, was tried out as an experiment for operation in the Isle of Man and a number of years later, I think it is probably the third year it is far from anything but a merger as regards the interests of the customers. The two are almost as apart now as once they were. There is no integration on the computerisation and I would hope that this Bill which seeks to provide the merger of two banks will enjoy a lot greater success because in fact, in the case of the Lloyds/TSB merger, the attempts to amalgamate the very fine computerisation of the Trustees Savings Bank of which I have been a member since its days in Finch Road 40 years ago they set up a very fine computerised banking system known as the 'Speedbank' until Lloyds tried to hook their computer into it last week and fouled the whole thing up and ended up with a number of customers being suspended from the service and despite protestations to the management they have failed to regularise this over a period of a couple of weeks. When you wish to move some money from one account to another you find that it is taking just the same amount of time as when a chap used to personally take your money down in a Gladstone bag to the other branch as used to be the vogue. You can remember a certain gentleman in Onchan leaving Martin's Bank on a motorbike and sidecar within the entire takings for the day, and taking the exact same route down to head office every day at 3.05 p.m. Imagine that nowadays. I do hope that the hon. mover of the Bill will be able to give me this assurance I might also like to use the opportunity, with your leave to say that I hope that when companies such as Halifax are considering enjoying what I presume is not just a benefit to us - and I am staggered at the amount of money which was cited as being the deposit base there - billions of pounds! - I hope that they will attempt to try to rectify something which grigs people in the Island which is this constant inattendance to schemes which they offer to customers in the United Kingdom and which they do not offer to people in the Isle of Man. All these benefit schemes which are frequently touted in national advertisements in the papers and on television nearly always carry 'Not available in the Isle of Man'. Well, they cannot have it both ways. If they wish to use the Isle of Man - and welcome they are and come in even more, let us have the benefit of the taxation of their operation here - they should give a little bit to the people who are also the small fry of this Island by allowing some of their schemes which gives benefits to the UK to be employed in the Isle of Man and I would go further to say that the item to which I am being specific is where Sir Miles mentioned about mortgages being utilised by Halifax . This brings me to the question, which I have raised before will do again in a couple of weeks elsewhere regarding the equity which is available to people to raise money on their houses. That is an example of the scheme where it is in fact denied to Isle of Man people because they say that there is different legislation applying. All I am urging to sum it up is that a little bit be given back if they wish to use our hallowed organisations to put through their business, give to the Isle of Man people some of the benefits of these schemes which are at present denied to the Isle of Man customer.

**The Speaker:** Sir Miles Walker to respond.

**Sir Miles Walker:** Yes, thank you, Mr Speaker. Can I thank the two members who have made contributions to the debate. The hon. member, Mr Shimmin when he began his remarks said he does not really welcome this piece of legislation but was prepared to support it. I have to say that I have the same view. On a personal note and listening to the proposals made by the company I understand how the hon. member feels. I did though try to make the point, Mr Speaker, that I believe it is, well certainly my responsibility and I hope the responsibility of many others to facilitate company decisions where they are felt to be in the interest of that company and so in the long term in the interests of the Island. I understand the decision of the company to diversify its activities. CMI has been established in the Isle of Man for a very many years and has been, I believe, a large

advantage to the Isle of Man economy in terms of employment, in terms of tax and all the rest of it in terms of profile indeed. The hon. member, Mr Shimmin, remarked on the point that I made about high employment numbers in the Isle of Man rather than in Jersey. Again I understand the point that he is making at this moment in time but we must not forget that CMI has been substantial employers even when the employment scenario was not as it is now and when people were looking for jobs. Every job that CMI made in those days was welcomed and I believe that their investment in the Isle of Man will continue to be welcomed and the employment prospects for the very many, almost 300, people that are employed by that group. If those employment prospects improve because of this legislation, then I feel certain that we are doing the right thing. Mr Cannell again made the same point again as Mr Shimmin about welcoming the legislation, but certainly accepts the need of it from the company's point of view and is prepared to support it and I thank him for that. Again, indeed, it sort of stuck in my throat when presented the brief for this Bill and reading the comment that Jersey is presently more widely known than the Island. But on reading it again I have to say it is right. There is no doubt at all when I have been off this island promoting it we start if you like on a hind leg as compared to Jersey. Jersey has after all been in the offshore business for probably 40 year longer than this Island and I think we need to accept that but after saying that over the last 14 years in particular, this Isle of Man has made tremendous strides, and at least now when we go away perhaps further than the United Kingdom but even sometimes in the south of the United Kingdom, we do not have to start with trying to explain where the Isle of Man is as a starting point. It is widely accepted now, the position of the Isle of Man geographically, that it has a very good off-shore finance sector, there are a lot of very good businesses within that sector who are away promoting those wares on a daily basis and again I am pleased doing my job within Treasury to support their efforts. Jersey may think they are superior. Well, they may think they are superior. I do not think that they are superior but more important than that statement occasionally the customers think that they are superior and I do not think that there is any doubting that and it says to me that we have all got a job of work to do, a job of work to do in promoting this Island, raising its profile, attracting good business here and disregarding bad business. I believe this is not the responsibility of any single one of us but it is a responsibility of us all. The hon. member also went on to talk about Lloyds TSB and the merger, saying there is no integration and no benefit to the customer. I am afraid, Mr Speaker, I have no comment that I can really make on his comments except to say that the managing director of the Halifax is here present in the public gallery and I have no doubt that he is taking on board the comments that have been made and perhaps the failings of other mergers and will ensure to his best endeavours that the same thing will not happen here. I am not certain that this legislation is meant to directly or benefit the customer. It is meant to be seamless as far as the customer is concerned and his service is meant to carry on as if there has been no change. After those few remarks, Mr Speaker, I beg to move the second reading of this Bill, sir.

**The Speaker:** Hon. members, the motion before the House is that the Halifax International Bill 2001 be read a second time. All those in favour please say aye; against, no. The ayes have it.

**Sir Miles Walker:** I am sorry, Mr Speaker, but I am likely to be off the Island over the next couple of weeks on government business and I wonder could I ask leave of this House that the hon. member of Onchan, Mr Corkill, take charge of this Bill for the purpose of the second reading clauses stage and the third reading.

**The Speaker:** Is that agreed, hon. members?

*It was agreed.*

**Sir Miles Walker:** Thank you very much.

**Online Gambling Regulation Bill — Standing Order 153 Suspended —  
Consideration of Clauses Commenced**

**The Speaker:** The hon. member for Ramsey, Mr Bell.

**Mr Bell:** Thank you, Mr Speaker. If I can crave the indulgence of the House for a moment to test the House if not the House's patience. We have a large number of very important Bills coming up in the next few weeks and we are rapidly running out of time, so I wonder whether hon. members consider my proposal to suspend Standing Order 153 to enable the clauses of the Online Gambling Regulation Bill to be taken today to take the pressure off what is undoubtedly going to be an exceptionally busy few weeks while we try to complete the passage of our legislation prior to the conclusion of this term of office. I would simply propose

*that Standing Order 153 be suspended to enable the clauses of the Bill to be considered at this sitting.*

**Mr Houghton:** I beg to second, sir. Any member wish to speak?

**The Speaker:** Hon. members, the motion is that Standing Order 153 be suspended to enable the clauses stage of the Online Gambling Regulation Bill 2001 to be taken now. Those in favour please say aye; against no. The ayes have it.

*A division was called for and voting resulted as follows:*

*In the Keys -*

*For: Messrs Gilbey, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Houghton, Cretney, Duggan, Braidwood, Shimmin, Downie, Bell, Cannell, Gelling and the Speaker - 17*

*Against: Messrs Brown, Henderson, Mrs Cannell and Mrs Hannan - 4*

**The Speaker:** Hon. members, the suspension of Standing Orders is approved, 17 votes in favour and 4 against. I call upon the hon. Mr Bell.

**Mr Bell:** Thank you, Mr Speaker. This is a relatively short Bill so I will try to expedite it as quickly as I can. Clause 1 defines online gambling and conducting online gambling. Online gambling involves any gaming, betting or lottery operated by means of a telecommunication and conducting it involves organizing it or maintaining a server by means of which it is operated, but with the exemption for a telecom or internet provider who is not associated with a gambling operator. So clause 1 defines online gambling as one of those above classes of gambling involving a telecommunication. That is (a) gaming where a player enters or takes any step, (b) betting where a bet is negotiated or received and (c) a lottery where a participant requires a chance by means of telecommunication. Clause (2) defines the conducting of internet gambling. The conduct of online gambling is illegal unless it is licensed under clause 2: (a) organising, managing or promoting online gaming or lotteries (b) carrying on a business involving online betting and (c) maintaining a server in the Isle of Man by means of which online gambling is run. Sub-clause (3) provides an exemption for a telecom or internet service provider who merely handles telecommunications, except where it is on behalf of a person with whom he is associated. This is to prevent a gambling operator abroad running an operation through the Isle of Man by means of a tame service provider located here. Sub-clause (4) defines terms in subsection (3) by reference to other legislation. I beg to move, that clause 1 stand part of the Bill.

**Mr Duggan:** I beg to second, sir.

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

**Mr Bell:** Clause 2 makes it an offence to conduct online gambling unless it is exempted under clause 3 or licensed under clause 4. It also makes it an offence for an operator to permit a person under eighteen or a person located in a country which is prescribed to take part in online gambling. Therefore, clause 1 makes it an offence for a person to conduct online gambling unless he or a company of which he is a director or employee holds a licence under clause 4. Therefore, clause 2 makes it an offence for an operator of online gambling to allow (a) a minor (that is a person under 18 or (b) a person located in a country which is prescribed to take part in online gambling so that if the Isle of Man Government agrees with a foreign country to assist it to prevent its residents taking part in online gambling such an agreement can be given effect. Sub-clause (3) gives a defence of due diligence in a prosecution for an offence under sub-clause 2. Regulations under clause 21(1) can specify steps to be taken to ensure that the prohibition in (2) is contravened. I beg to move clause 2 stand part of the Bill.

**Mr Duggan:** I beg to second, sir.

**Mr Speaker:** The member for Peel.

**Mrs Hannan:** Thank you, Vainstyr Loayreyder. How would somebody operating online gambling know if a minor was gambling. I mean they are not seeing them. They are down the line and how would they know? How would anyone policing this know that there was a minor and that they were contravening the law?

**The Speaker:** Minister to reply.

**Mr Bell:** My understanding, Mr Speaker, is that those participants in online gambling will have to open an account with the company first of all and will need to provide references to prove probity of the individual joining. It will not be for anyone simply to log on and gamble. They have to have a direct link to the management company before they will be accepted as a client. We will obviously be bringing in further regulations later on to control this but within those regulations, I think, sufficient safeguards will be given.

**The Speaker:** Hon. members, the motion is that clause 2 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it.

**The Speaker:** Clause 3, Mr Bell.

**Mr Bell:** This clause lists certain activities which constitute online gambling but for which a licence under clause 4 is not required because they are regulated or exempt from regulation under other legislation. These cover (a) being effected by a licensed bookmaker at a licensed betting office, for example telephone betting on credit, (b) lotteries which are permitted under Part III of the Gaming, Betting and Lotteries Act 1988, (c) gaming of a kind by regulation under the Casino Act 1986 at a licensed casino, (d) a futures contract or similar contract relating to investments which technically involve a bet or a wager, (e) an insurance policy which is technically a wager on an event insured against and (f) any other activity which is prescribed specified for the purpose in regulations under clause 21(1). I beg to move that clause 3 stand part of the Bill, Mr Speaker.

**Mr Duggan:** I second it, sir.

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

**The Speaker:** Clause 4, sir, please.

**Mr Bell:** This clause provides for the Department of Home Affairs in its discretion to grant licenses for the operation of online gambling. Initially, the number of licenses will be limited to three. Sub-clause (1) enables the Department of Home Affairs to grant licences to conduct online gambling. A licence may only be granted to a company limited by shares, not by guarantee, and incorporated in the Isle of Man. Regulations under clause 21(1)(a) will list the kind of online gambling which may be licensed by licences and a licence may authorise the conduct of either (a) any kind of online gambling listed within the regulations or (b) one or more of those kinds of gambling specified in the licence. Sub-clause (2) lays down the criteria for granting licences. The department must satisfy itself that (a) the licensee company is controlled by honest people, (b) its operations are managed by honest people and (c) it has the resources to run the kind of gambling in question. Sub-clause (3) requires the department to consult various authorities before granting a licence. Sub-clause (4) makes it clear that the department is not required to give reasons for refusing to grant a licence. The scheme of the Bill is to give the department an absolute discretion on the grant of licences without any appeal but subjected to a degree of judicial scrutiny on decisions on renewal or cancellation. Sub-clause (5) limits the number of licences to three at any time and limits any licensee to one licence only. Sub-clause (6) enables the Council of Ministers to vary the permitted number of licences under sub-clause (5)(a) by order, but a reduction in the permitted number cannot affect any existing licence or prevent its renewal. Sub-clause (7) requires an order under sub-clause (6) to be approved by Tynwald. I beg to move clause 4 stand part of the Bill.

**Mr Duggan:** I second, Mr Speaker.

**The Speaker:** Mr North, member for Middle.

**Mr North:** Mr Speaker, I would just like to reiterate something here that I think should be put on the record, that this particular Bill and our ability to be able to handle this is only because we are recognised as the best regulated off-shore centre in the world. The Financial Supervision Commission, the Gaming Control, Data protection and Chief Constable, will ensure that we will only get the blue chip operators on the Island under this legislation. So I think the Isle of Man should look at this, that because of our regulation we are able to do this Bill. With many, many other jurisdictions throughout the world I dread to think how it could be handled if it did not have the right regulation.

**The Speaker:** Mr Bell to reply.

**Mr Bell:** I thank the hon. member for his comments, Mr Speaker, and would endorse everything that he has said.

**Mrs Cannell:** Mr Speaker, I would like to raise a question on this particular clause.

**The Speaker:** Right, with the consent of the mover.

**Mrs Cannell:** Mr Speaker, I shall just be very brief. It is in relation to sub-clause (4). The department shall not be required to give reasons for refusing a licence. Is that appropriate in this situation? I mean there is no form of redress in here in terms of the refusal for a licence. I would have thought that it is reasonable to actually provide an explanation and how would this dovetail with human rights legislation.

**The Speaker:** Nobody else wish to speak? I will ask the mover to reply a second time.

**Mr Bell:** Thank you, Mr Speaker. I think given the nature of the business and the type of people we may well find washing up on our shores as a result of it, it is entirely appropriate that the department, on this particular item, has absolute discretion on the issue of licences. It may well be party to sensitive information, which it may not wish to make public in these circumstances which would convince it that a certain applicant would not be an appropriate person to hold a licence. The situation changes where a licence is already issued and where there is a move to cancel the licence then obviously human rights side comes into it. We do have to provide reasons and there is an appeal system to counter it. I think initially it is absolutely right given the nature of the business that we have the absolute discretion where cancellation is concerned and the rights of the individuals, who possibly have already made a major investment in this particular operation, it is equal right that they should have a method of appeal.

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

### **Procedural**

**The Speaker:** Now, hon. members, I seek your guidance. It is 1 o'clock, there are a further 22 clauses in this Bill. There is a presentation, I understand, over the lunch period. Is it the wish of the House that the House now adjourn and sit again at 2.30 p.m.?

**Members:** Agreed.

**The Speaker:** Hon. members, the House now stands adjourned until 2.30 this afternoon.

### **Online Gambling Regulation Bill — Consideration of Clauses Concluded**

**The Speaker:** Hon. members, we will now continue with the Online Gambling Regulation Bill and we now move to clause 5. The hon. member, Mr Bell.

**Mr Bell:** Thank you, Mr Speaker. Clause 5 provides for application fees, licence fees and a new excise duty on online gambling. Sub-clause (1) requires an applicant for an online gambling licence to pay an application fee to the Treasury. The fee will be prescribed by an order made by the Treasury. Sub-clause (2) requires the licensee to pay a fee to the Treasury on the grant of a licence and annually thereafter. The fee will be prescribed by an order made by the Treasury. Sub-clause (3) requires a licensee to pay to the Treasury a new excise duty called 'online gambling duty' which will be a percentage prescribed by order made by the Treasury of the gross gaming yield. The time and the manner of payment will also be prescribed by an order made by the Treasury. Sub-clause (4) defines the gross gaming yield on which the duty will be calculated as (a) the total of all bets, stakes, et cetera paid by punters less (b) the value of all winnings and prizes paid in the relevant period. Sub-clause (5) provides that the value of prizes or winnings paid otherwise than in sterling, for example, holidays or goods, are to be calculated in a manner provided for in an order made by the Treasury. Sub-clause (6) provides enforcement provisions of the Customs and Excise Management Act 1986 to the collection of online gambling duty. Sub-clause (7) provides for anything which is to be prescribed under this clause to be prescribed by an order made by the Treasury and sub-clause (8) requires an order under (7) to be approved by Tynwald. Mr Speaker, I beg to move clause 5 stand part of the Bill.

**Mr Duggan:** I beg to second, Mr Speaker, sir.

**The Speaker:** The motion is that clause 5 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 6, sir.

**Mr Bell:** Clause 6 enables conditions to be attached to a licence for online gambling, makes certain conditions mandatory and makes breach of a condition an offence. Sub-clause (1) provides that the authorisation to conduct online gambling, which is conferred by a licence under clause 4, is subject to any conditions specified in the licence. Sub-clause (2) requires the licence to contain conditions to ensure that the licensee maintains sufficient resources to pay out any winnings or prizes due under the authorised gambling: (a) it is to provide guarantees or other security and maintain deposits or reserves as required by the licence and (b) if it calls on any guarantee et cetera, it is to notify the commissioners, that is the Isle of Man Gambling Control Commissioners, who are required by clause 11 to police online gambling, and (c) it is to comply with any directions of the commissioners as to the provision of new guarantees et cetera. Sub-clause (3) makes breach of any licence condition an offence. I beg to move clause 6 stand part of the Bill, Mr Speaker.

**Mr Duggan:** I beg to second, sir.

**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 it. The ayes have it. Clause 7, sir.

**Mr Bell:** Clause 7 provides for online gambling licences to run for up to five years, subject to the surrender or cancellation, and enables licences to be surrendered. Sub-clause (1) provides for online gambling licences to run for up to five years subject to surrender or cancellation. Sub-clause (2) enables a licensee to surrender its licence and sub-clause (3) makes it clear that where a licence is surrendered or expires that it does not effect liability for anything which previously happened. I beg to move clause 7 stand part of the Bill, Mr Speaker.

**Mr Duggan:** Second, sir.

**The Speaker:** The motion is clause 7 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 8, sir.

**Mr Bell:** Clause 8, provides for the applications for renewal of licences and provides for a licence to continue if an application for renewal is pending when it expires. Sub-clause (1) enables a licensee to apply before a licence expires for its renewal. Sub-clause (2) provides that where an application for renewal of a licence is made it continues in force after its expiry until (a) the application is determined or (b), if it is refused, until the time of appeal expires. Sub-clause (3) applies clauses 4 to 7 to renewal applications. As an appeal may be brought against refusal to renew, the department must give reasons for refusal. I beg to move clause 8 stand part of the Bill, Mr Speaker.

**Mr Duggan:** Second, Mr Speaker.

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

**Mr Bell:** Clause 9 enables the department to vary a licence on application or of its own motion or transfer a licence on application. Sub-clause (1) enables the department to vary a licence by changing the kinds of online gambling which may be conducted under it, either on application by the licensee or of its own motion. Sub-clause (2) enables the department to vary a licence by altering or cancelling a licence condition, either on application by the licensee or of its own motion. Sub-clause (3) provides that where the department makes a variation under sub-clause (1) or (2) of its own

motion, its operation is suspended until the time for appeal expires or, if an appeal under clause 19 against the variation is made, until the appeal is abandoned or determined. Sub-clause (4) enables the department to transfer a licence on application by the licensee. Sub-clause (5) requires a transfer under clause 4 to be endorsed on the licence. Sub-clause (6) applies provisions of clause 4 to transfers of licence so that the department is to take the same considerations into account, consult the same persons and ensure that one person does not hold more than one licence and sub-clause (7) provides for fees for applications for variations and transfers by applying relevant provisions of clause 5. I beg to move that clause 9 stand part of the Bill, Mr Speaker.

**Mr Duggan:** I second, Mr Speaker, sir.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I have not done sufficient research on this Bill with the fact that we suspended standing orders, but one of the issues that I raised at second reading stage was the issue of when we talk about variation or transfer of a licence, will you be able to vary a licence so that it can take bets from the United Kingdom or anywhere else or will there be some sort of blanket restriction put on through the Brits as far as this is concerned and agreed with by the government in this Island? Could the hon. member maybe tell us whether that is the case? I would be very interested in that. If the mover could tell us that I would be very appreciative.

**The Speaker:** Mr Bell to respond.

**Mr Bell:** Yes, Mr Speaker. Variations really can apply to two areas. Variations can include a variation in the type of game played. The licence is not a blanket licence for all online gaming games. We can select which ones would be appropriate for any particular application so it may well be that we feel it desirable to drop roulette or whatever it might be off one of the applications or put blackjack on or whatever it might be. So we will have the ability to be flexible on that. Equally the variation may include the countries which we can deal with because there may be local legislation which would prohibit online gambling. We would not wish to offend international agreements on that basis so we would recognise and respect the requirements of a local jurisdiction. So it may well be that a variation could be put on that bets would not be acceptable from one particular jurisdiction. So those would be the two main variations, Mr Speaker.

**The Speaker:** The motion is that clause 9 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 10, sir.

**Mr Bell:** Clause 10 requires a licensee to have at least one resident designated official approved by the commissioners. Sub-clause (1) provides that a licence or a transfer of a licence does not come into force until at least one designated official has been approved by the commissioners. Sub-clause (2) explains what it means by designated official. He is a resident director of the licensee who is nominated for that purpose by the licensee. Sub-clause (3) lays down the criteria for approval of a designated official. He must be honest and competent and the commissioners are to withdraw approval if they cease to be satisfied on these questions. Sub-clause (4) requires the licensee to apply for approval of a new designated official if (a) the commissioners withdraw their approval under sub-clause (3) or (b) the designated official dies, becomes non-resident or ceases to be a director and there is no other approved designated official in post. Sub-clause (5) provides for the automatic suspension of the licence if (a) the licensee fails to apply under sub-clause (5) within six weeks or (b) an application under sub-clause (5) is refused and the commissioners do not give an extension of time for a further application. Sub-clause (6)

requires the name and address of every designated official to be endorsed on the licence and sub-clause (7) makes every designated official liable equally with the licensee for any offence or any other matter under the Bill and provides that where anything is to happen on the conviction of the licensee the same is to happen on the conviction of a designated official. So, Mr Speaker, I beg to move that clause 10 stand part of the Bill.

**Mr Duggan:** I second, sir.

**The Speaker:** Mr Cretney, South Douglas.

**Mr Cretney:** Yes, I would just like to say how supportive I am of this particular aspect of the Bill. I do believe that in the past there have been occasions when this Island unknowingly or incorrectly has been brought into some disrepute because of the fact that there are not people accountable on the Island for the actions of people who use the Isle of Man and I do believe that this is a measure which should receive the support of the House.

**The Speaker:** Mr Karran, member for Onchan.

**Mr Karran:** Vainstyr Loayreyder, again as I say with the fact that I have not really had much time as far as this, but what I am concerned about in this piece of legislation is the minister very kindly told us that the insurance liability will be about £2 million for any operation and it is all right talking about having resident directors and designated officials in this country, but what happens about the beneficial owner? Does the beneficial owner have to be within the jurisdiction. Could the profits be going out and then if there is a shortfall as far as any gambling situation is concerned, should the beneficial owner have to be resident within the jurisdiction of the Manx courts in order to protect if there is any shortfall as far as anybody not getting paid out as far as this is concerned?

**The Speaker:** The minister to reply.

**Mr Bell:** Mr Speaker, one of the primary concerns we have had in constructing this legislation in the first place was to recognise that there is considerable potential for abuse within this legislation but also to counter that to ensure that there is the maximum amount of accountability as we can possibly introduce and that is why we are bringing in the demands of clause 10. The requirement is that a designated official, someone who is directly accountable, has to be resident on the Isle of Man. We have not made the requirement that the beneficial owner be required to live on the Isle of Man. The beneficial owner may be a limited company based in the United Kingdom or some other part of the world. At this stage we have no idea. We have had a huge amount of interest from all round the world. All the main countries have been in touch with the department over the last few weeks, so there is no way of telling at this stage where the beneficial ownership of the licence, should they be granted, would actually end up. It would be unduly restricting, I think, if we were to insist that the entire enterprise be based on the Isle of Man. I think that is unrealistic in much the same way as most of the other businesses which operate on the Island are not owned and controlled locally. In terms of monitoring the financial creditworthiness of the enterprise, we are looking for a figure somewhere in the region of £2 million - that could be varied - of assets to back up any licence application. The reason why we are charging such a high fee for the licence application in the first place is to cover the costs of employing or buying in professional expertise to monitor very carefully, on a daily basis, the performance of these three licensees. We believe that in a very short period of time we will have a sufficiently robust and effective monitoring and regulatory regime in place so that ultimately when these licences are granted they will be watched and scrutinised as closely as we could possibly make it. As I said in my presentation earlier, it is our

intention only to open discussions with companies and individuals of the very highest probity. Likewise the contacts we have had over the last few months have been from companies looking specifically for a highly regarded well-regulated offshore regime and the Isle of Man is considered consistently in the top drawer of those regimes and therefore the attraction is mutual, I think. So I hope that answers the question that the hon. member has put forward.

**The Speaker:** Hon. members, the motion is that clause 10 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 11, sir.

**Mr Bell:** This clause requires the Isle of Man Gaming Control Commission to police all online gambling. Sub-clause (1) gives the commissioners the general duty to supervise online gambling conducted in the Isle of Man, to investigate applicants et cetera and to ensure that all fees are paid. The object is to ensure fair dealing and compliance with the legislation. Sub-clause (2) requires the Department of Home Affairs to provide suitable staff for the commissioners for this purpose: (a) outside experts and (b) civil servants. Sub-clause (3) requires the terms of appointment of experts under sub-clause (2)(a) to be subject to Treasury approval. Sub-clause (4) places the Treasury, including the Assessor and Customs and Excise and the police, under an obligation to supply the commissioners and the department with information about licensees, applicants and their directors and staff. Sub-clause (5) enables the Treasury, again including the Assessor and Customs and Excise and the police, to volunteer information to the commissioners and to the department for the purpose of their functions under the Bill. Sub-clause (6) enables the commissioners and the department to volunteer information to the Treasury, including Customs and Excise, for the purpose of collecting online gambling duty and sub-clause (7) makes it clear that information may be disclosed under sub-clauses (4) to (6) despite any prohibition or restriction on disclosure. I beg to move, Mr Speaker, that clause 11 stand part of the Bill.

**Mr Duggan:** Second, Mr Speaker.

**The Speaker:** The motion is that clause 11 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 12, sir.

**Mr Bell:** Clause 12 requires licensees to notify the commissioners about changes in ownership, financial resources and convictions and gives them power to control the appointment of directors of licences. Sub-clause (1) places obligations on the licensee (a) to notify the commissioners of any change in ownership of over five per cent of relevant share capital, (b) where required, to give the commissioners information about its financial resources and (c) to notify the commissioners of any conviction within clause 13(3) of the licensee of a designated official. Non-compliance is an offence under clause 3. Sub-clause (2) prohibits any appointment of a director of a licensee without the commissioners' approval. They must be satisfied as to his honesty. Non-compliance is an offence under clause 3 and sub-clause (3) makes non-compliance with sub-clauses (1) and (2) an offence. Mr Speaker, I beg to move clause 12 stand part of the Bill.

**Mr Duggan:** I second, sir.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I just would like to know how they are going to be able to monitor five per cent and relevant share capital in (a) in the fact that if it is in a company how would you find out that if a company, if you have 80 per cent as an undesirable individual in a company that then takes 5 or 6 per cent into your company, how will you actually find out as far as this issue of

trying to keep less desirable people out of this sort of industry. I would just be interested to know how you intend to find out. If you end up with a company with more than a 5 per cent increase being bought into a company that has got a licence and it is held through several other companies, I very much doubt you are going to be able to honour this sort of commitment unless you are not going to have them in companies.

**The Speaker:** Mr Bell to reply.

**Mr Bell:** Ownership of the licence, Mr Speaker, will have to be transparent. We will not be issuing licences to companies who are owned by a string of further companies through a series of offshore islands around the world. We will want quite clear identification as to who the owner is, who the beneficial owner is and who the shareholders are and we will be, as I explained previously, employing professional staff, accountants and, if needs be, lawyers to support the Gambling Commission on this and if we discover a licensee is in breach of his agreement, that transfers have taken place without the commission being notified, then there is a real chance that the licensee will lose the licence altogether. So there are fairly stringent penalties for failure to observe the requirement of this legislation.

**The Speaker:** The motion is that clause 12 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 13, sir.

**Mr Bell:** This clause gives the commissioners various powers to suspend or cancel a licence to secure compliance with the requirements of the Bill. Sub-clause (1) obliges the commissioners to cancel a licence if the licensee ceases to be qualified under clause 4. That is (a) is not controlled by honest people, with reference to the previous question, (b) its operations are not managed by honest people and (c) it has not the resources to run the kind of gambling in question. An appeal under clause 19 lies against cancellation. Sub-clause (2) enables the commissioners to suspend a licence for a specified period or until a specified condition is fulfilled or cancel a licence in any of the cases listed in sub-clauses (3) to (5). An appeal under clause 19 lies against cancellation or suspension. Sub-clause (3) sets out the first case where the licensee or a designated official is convicted (a) in the Isle of Man of an offence relating to gambling or (b) in the Isle of Man, United Kingdom, Channel Islands or the Republic of Ireland of an indictable offence or (c) anywhere in the world of an offence carrying imprisonment for two years or over. Sub-clause (4) sets out the second case where the licensee has (a) failed to pay any fee or duty under clause 5 and (b) failed to comply with a licence condition, (c) contravened clause 12, sub-clauses (1) or (2) or any provision of regulations under clause 21, (d) failed to comply with a direction of the commissioners under clause 6(2), relating to finances, or clause 15, relating to management or advertising, and (e) failed to comply with a money laundering code of practice or (f) ceased to operate online gambling. Sub-clause (5) sets out the third case where the licensee has failed to satisfy the commissioners that it has sufficient financial resources. Sub-clause (6) enables the commissioners to suspend a licence pending compliance with the direction under clause 6(2), finances, or clause 15, management advertising et cetera. An appeal under clause 19 lies against suspension. Sub-clause (7) enables the commissioners to suspend a licence pending compliance with a requirement to produce records et cetera under clause 16. Again an appeal under clause 19 lies against suspension and sub-clause (8) enables a suspension to operate immediately or after a specified period. Mr Speaker, I beg to move that clause 13 stand part of the Bill.

**Mr Duggan:** I beg to second, sir.

**The Speaker:** Mr Karran, Onchan.

**Mr Karran:** Vainstyr Loayreyder, I am just a bit concerned with this clause as well and again I have not been to the AGs to find out, but what does concern me is: if the minister could explain, I thought that you were always keen on having no discrimination as far as any EU State is concerned and yet in (b) you talk of any courts in the British Islands or in the Republic of Ireland. Would that contravene the discrimination as far as not treating all EU citizens on the same basis as far as the courts are concerned. I was just intrigued to know. I cannot understand why it was 'British Islands and the Republic of Ireland', why it was not just the British Isles which would have covered the lot. The other issue, which just shows you the sort of colonial situation we have got, is again as I raised in the second reading stage - and I am sorry to have to take this House's time up again - the issue of a period of two years or more. Well it depends on where you are in the world for what you would do. I know maybe with some members in this hon. House if you dropped litter you would end up in prison for two years (*Interjections*) but it is a serious issue and I do think in this hon. House these things should not be just nodded through. This does concern me as far as that is concerned, when I listen to some of the newer members in this hon. House who have not worked out their role as far as this House is concerned. I do feel that the issue of why we have got courts in the British Islands and the Republic of Ireland on a different level to the rest of the EU, I would be interested to know.

**The Speaker:** Mr Bell to respond.

**Mr Bell:** Mr Speaker, I am assured that the arrangements in sub-clause (3) do not conflict with any of the concerns that the hon. member has about differential treatment, but I understand it is to do with nationality. In fact the hon. Secretary could perhaps explain the interpretation.

**The Speaker:** With the leave of the House perhaps. . .

**Members:** Hear, hear. (*Interjections*)

**The Speaker:** Hon. members, please.

**The Secretary:** I can offer an *ex tempore* explanation. Discrimination under EU law is on grounds of nationality rather than jurisdiction, so the simplest way of putting it is if you had a German national called Fritz and an Irish national called Seamus, it would not matter which of them was convicted in an Irish court it would still be an indictable offence or which of them was convicted, let us say, in a court in Indonesia it would still be two years. So it is not discriminating on nationality it is just courts in different jurisdictions, the level of sentence differs, but if of any nationality you are convicted in any of those jurisdictions the result would be the same. It is not discrimination on grounds of nationality.

**The Speaker:** Mr Bell.

**Mr Bell:** Yes, I hope that goes some way to explain the hon. member's concern. If the member is still concerned after the clauses stage, I will be glad to try and enlighten him still further. So I beg to move that clause 13 stand part of the Bill, Mr Speaker.

**The Speaker:** The motion is that clause 13 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 14, sir.

**Mr Bell:** Clause 14 sets out the effect of cancellation or suspension. Sub-clause (1) makes it clear that, where a licence is cancelled or suspended, that does not effect liability for anything which previously happened. Sub-clause (2) provides that suspension does not effect liability to pay any fee

or duty under clause 5 and sub-clause (3) provides that, except as above, a licence is ineffective while suspended until the commissioners give the licensee notice declaring that the suspension has ended or the court lifts the suspension on an appeal under clause 19. I beg to move clause 14 stand part of the Bill, Mr Speaker.

**Mr Duggan:** I second, sir.

**The Speaker:** The motion is clause 14 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 15, sir.

**Mr Bell:** Clause 15 gives the commissioners power to control the management of a licensee and also advertising of online gambling with power to issue advertising codes of practice. Sub-clause (1) enables the commissioners to give a direction to a licensee that a director or other manager of the licensee be removed if they think he is unsuitable to act as such. An appeal under clause 19 lies against such a direction. Sub-clause (2) provides that such a direction, even when complied with, remains in force as a direction not to appoint the person concerned as a director or manager until it is withdrawn by a further notice. Sub-clause (3) enables the commissioners to give a licensee directions as to what must or must not be included in any advertising or any communication to punters to ensure that the gambling is fairly and properly conducted and sub-clause (4) enables the commissioners to issue codes of practice as to advertisements and communications relating to online gambling. Where they do so a direction under clause 3 may incorporate such a code. I beg to move that clause 15 stand part of the Bill, Mr Speaker.

**Mr Duggan:** I second, Mr Speaker.

**The Speaker:** The member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I would just like to ask, when we talk about advertising in this clause, what happens if in another country they decide that they want a ban on advertising? how does that effect us as far as that is concerned? Does it mean that something online is advertising a gambling facility? Obviously if it is received in the United Kingdom or wherever, there is nothing the UK Government can do as far as this legislation is concerned. What I am interested to know, as far as advertising is concerned; is are there any restrictions being put on by the United Kingdom Government as far as advertising is concerned? I do not understand the online gambling or online. All I want to know as a legislator in this hon. House, since we have suspended standing orders, is how do we get affected as far as advertising is concerned if there is a carpet ban in the United Kingdom. They cannot turn around to an operator working in the Isle of Man that is putting these signals out saying that you cannot advertise as far as that is concerned. I would also like - and maybe this is not the clause to use but I will try it - is the fact of whether gambling debts for these companies will be enforceable as far as other jurisdictions are concerned. I know we changed the law on that some time ago, but will that have any effect as far as the companies' getting their money that is due to them is concerned?

**The Speaker:** Mr Bell to reply.

**Mr Bell:** Yes, Mr Speaker, as far as the advertising goes the controls which we would enforce under this particular clause relate to what can or cannot go in an advertisement emanating from the Isle of Man. Whether or not it is acceptable in the United Kingdom or Holland or Singapore or whatever will be entirely down to local jurisdiction and the legislation which applies to that area. Some may be willing to take it others may not, that is a battle which the company will obviously have

to fight on its own right. We will simply be ensuring that the information which is given in any advertising would be factually correct and in no way bring the Island into disrepute in the process. As far as the gambling debts, it has got nothing at all to do with this clause but they are enforceable. So I beg to move.

**The Speaker:** The motion is that clause 15 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 16, sir.

**Mr Bell:** Clause 16 gives persons authorised by the commissioners powers of entry, inspection et cetera in order to police online gambling. Sub-clause (1) gives an authorised person for the purpose of enabling the commissioners to police online gambling under clause 11 power (a) to enter the premises, (b) to require the production of documents and records and take copies and (c) to require any person to enable him to inspect a computer programme. For failure to comply with the requirement under (b) or (c) there are further penalties. Sub-clause (2) gives the authorised person rights ancillary to those in (1)(b) and (c) of access to any computer and to require any person to assist him to operate the computer. Sub-clause (3) obliges an authorised person to produce his credentials if asked to do so and enables him to take other persons and equipment with him if needed. Sub-clause (4) makes it an offence for anyone (a) to obstruct the exercise of powers under this clause, (b) to fail to comply with the requirement under (1) or (2), (c) to fail to provide information or produce a document, (d) knowingly or recklessly to provide false or misleading information and (e) knowingly to recklessly produce a false or misleading document. Sub-clause (5) gives a JP power to issue a warrant authorising entry and search a premises, by force if required. The need for a warrant must be justified on oath. Sub-clause (6) provides for such a warrant to remain in force for seven days only and sub-clause (7) is a saving for legal professional privilege, that is protecting communications between advocate and client. Sub-clause (8) defines 'authorised person' as a person authorised by the commissioners or a constable. Finally, sub-clause (9) makes unauthorised disclosure of information gained as a result of the exercise of these powers an offence. Mr Speaker, I beg to move clause 16 stand part of the Bill.

**Mr Duggan:** I second, Mr Speaker, sir.

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

**Mr Bell:** Clause 17 gives the High Court power on the commissioners' application to an order requiring a person to disclose the beneficial ownership of shares in a licensee with power in default to vest the shares in the Treasury. These powers are similar to those which already exist in the Casino Act 1986. Sub-clause (1) enables a High Court on the commissioners' application to order the holder of a relevant share in the licensee, that is a share with voting rights, any official of the licensee and any person appearing to have an interest in the share to tell the commissioners who the beneficial owner of the share is. Sub-clause (2) enables the court on the commissioners' application to transfer the share to Treasury if an order under (1) is not obeyed. Sub-clause (3) enables the court to subpoena any person to give evidence and produce documents on an application under (2) and sub-clause (4) enables the court to revoke an order under sub-clause (2) to re-vest the share in the person in whom it would have been vested apart from the order provided it is satisfied that the commissioners have been told who is the beneficial owner of the share. Sub-clause (5) defines 'beneficial owner' in relation to a share vested in an unquoted company as the individual who is the ultimate owner of that company. Mr Speaker, I beg to move clause 17 stand part of the Bill.

**Mr Duggan:** I beg to second, sir.

**The Speaker:** The motion is that clause 17 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 18, sir.

**Mr Bell:** This clause specifies the penalties for offences under the Bill, restricts private prosecutions and makes provision for offences by bodies corporate. Sub-clause (1) specifies the penalties for most offences under the Bill. They are triable either way and carry up to two years sentence and/or an unlimited fine. Sub-clause (2) specifies lower penalties for offences under clause 16 (2) which relates to obstructing authorised officers which are summary offences and carry up to six months and/or a fine of £5,000. Sub-clause (3) restricts private prosecutions for such offences by requiring the Attorney-General's consent to any prosecution. Sub-clause (4) is a standard form provision under which a director or other official of a company responsible for a contravention by the company is liable to be prosecuted in the same way as the company. Sub-clause (5) extends sub-clause (4) to cover members of bodies such as local authorities and sub-clause (6) extends the usual time limit for prosecutions for summary offences, usually six months from the date of the offence, to two years from that date. Mr Speaker, I beg to move clause 18 stand part of the Bill.

**Mr Duggan:** I beg to second, sir.

**The Speaker:** Mrs Crowe.

**Mrs Crowe:** Thank you, Mr Speaker. I know at this stage that we cannot place an amendment but I would ask the mover of the Bill if perhaps he would look at the fine. I mean we are talking about what could be large amounts of money being gambled and yet we have as a fine the sum of £5,000. Now under legislation that we enforce, retailers on this Island can be fined up to £20,000 for selling a video to an underage child so it just made me wonder whether this was not a rather small fine for the type of conviction that could be enforced.

**The Speaker:** Mr Bell to reply.

**Mr Bell:** Yes, the hon. member is right in reference to sub-clause (2). Sub-clause (2) specifies lower penalties for offences under clause 16, that is the £5,000 fine maximum is for a minor offence, or relatively minor offence, of obstructing authorised officers. All other offences carry a sentence of up to two years imprisonment or an unlimited fine. So we already have the facility there to have it open-ended if required to reflect the seriousness of the offence. The £5,000 really only applies to the minor offences.

**The Speaker:** The motion is that clause 18 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 19, Mr Bell, sir.

**Mr Bell:** Clause 19 enables a licensee to appeal to the High Court against a refusal to renew his licence or its variation, cancellation or suspension by the Department of Home Affairs. Sub-clause (1) gives a licensee rights of appeal to the High Court against a refusal to renew the variation of licence or of a licence condition or its suspension or cancellation and sub-clause (2) sets out the High Court's powers on an appeal under sub-clause (1). It can vary or reverse the department's decision on the ground that (a) it made an error in law, that is it acted outside its powers, (b) it got its facts wrong and (c) it acted unreasonably. I beg to move clause 19 stand part of the Bill, Mr Speaker.

**Mr Duggan:** I beg to second, sir.

**The Speaker:** The motion is clause 19 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 20, sir.

**Mr Bell:** Clause 20, Mr Speaker, prevents a licence being assigned by the licensee. I beg to move clause 20.

**Mr Duggan:** I second, sir.

**The Speaker:** The motion is clause 20 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 21, sir.

**Mr Bell:** Mr Speaker, clause 21 gives the Department of Home Affairs and the Treasury powers to make regulations supplementing the Bill in various ways. Sub-clause (1) gives the department power to make regulations to do various things: (a) prescribing anything which is to be prescribed, (b) lay down rules for online gambling of any kind, (c) require the rules to be notified to participants, (d) prescribe the way in which commissioners staff are to act and the facilities to be provided for them, (e) regulate membership and other fees which punters may be charged, (f) require any local staff of a licensee, apart from designated officials and management, to be approved by the commissioners, (g) require punters to be able to limit their stakes or losses, (h) require the effect of any change in such a limit to be delayed, (i) regulate advertising of online gambling, (j) require stakes, winnings et cetera to be paid in a prescribed way, that is by a credit account, (k) requiring operators to take specific steps to verify a punter's age or identity, (l) require operators to take specific steps to preserve a punter's privacy. Sub-clause (2) gives the Treasury power to make regulations as to how online gambling duty is to be accounted for and the records to be kept for the purpose. Sub-clause (3) makes special provision where a kind of gambling is specified in a licence and is subsequently removed from the list prescribed under clause 4 (1). The change will not affect the licence or any renewal of it but the department will be able to remove it from the licence under clause 9 (1). Sub-clause (4) enables regulations under (1) and (2) to provide that a specified contravention is a summary offence. The penalty for such an offence will be specified in the regulations but cannot exceed six months and/or £5,000 and sub-clause (5) provides that regulations will be subject to annulment, that is they are to be laid before Tynwald which may resolve to annul them at that or the next sitting. Mr Speaker, I beg to move that clause 21 stand part of the Bill.

**Mr Duggan:** I second, sir.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I would just like to know the observations of the mover of the Bill as far as the regulations are concerned. I was wondering whether we should be considering what we did with the likes of the Banking Acts where you have so much in to some sort of depositors' fund. I just wondered whether there was any facility within this legislation that we might work towards having some sort of system for the situation where a company that has one of these licences, if it does go bust, it can honour its gambling debts through some sort of management fund through the operators, a percentage going into that fund. I just wondered whether there is anything going to be in these regulations as far as that is concerned. I mean I have got no problem with the idea of this legislation, I think it is a great idea. Some of us were asking about this sort of legislation 12 years ago, not to do with internet banking but to do with online gambling as far as getting money from people outside this jurisdiction. But the fact is what we do not need is a situation where we get a bad name. I welcome the proposal by the hon. mover that there is £2 million in

reserves of each company but I am concerned that have we thought about that? will there be anything in primary law to facilitate that sort of move if it was something that was decided at a later date? It is all right members in this House smirking about this issue. I remember these smirks when we had to sit around with the SIB situation and we all had problems and then we decided to do something. What I am trying to do is just for once try to think ahead like we should be trying to do and I hope that the hon. mover takes on board what I am saying in a serious manner as well.

**The Speaker:** Mr Downie.

**Mr Downie:** Thank you, Mr Speaker. I am brought to my feet by the remarks made by the previous speaker. You would think from the tone of the debate that there was not a mechanism in place at the moment to have a bet. I am sure that the hon. member, if he had gone into the subject a little more deeply, would have realised that there are certain rules which relate to telephone betting, which really is not dissimilar from what we are suggesting could be this form of modern type of betting. There will have to be an account, a password given and other guarantees. Now William Hill's and all these other big companies, they are not going to put their reputation at risk and in fact if you follow what goes on in the gambling world when a large bet does come in, quite often it is laid off amongst all the other various organisations involved. So I think to set up a fund in the Isle of Man to deal with a bad debt, as it were, my opinion is that would not be necessary. I think the worst thing that could happen if a person does put a bet on in good faith and it is accepted and the bookmaker refuses to pay out for whatever reason, it is his personal reputation that is in jeopardy and in fact the type of people who bet on a regular basis, or would probably take advantage of online betting, would very soon get the message that there was somebody out there who could not be trusted. So I think in trying to encourage this type of business into the Island we have to make sure that we do not really put too many obstacles in our way. I think that given the way these betting syndicates work they will not want and they will do whatever they can in their power to prevent any scandal being attached to online betting because it is something new and those who are keen to get it established, the bigger bookmakers companies, will want to make sure that it has all the safeguards in there and the customers are protected and in fact their business does not become common knowledge in other places. So I have no problem supporting this clause.

**The Speaker:** Mr Bell to reply.

**Mr Bell:** Yes, can I first of all in the first order thank the hon. member for West Douglas for his support. He is absolutely right in what he says and, really, has confirmed what I have been trying to say all the way through this Bill - that we will have a regulatory and supervisory regime in place which will be intended to act with such thoroughness that the situation as identified by the hon. member ought not to come about. We have not considered, I must admit, a sort of reserve fund from the licensees because we believe that the regulation which we will be putting into place demanding substantial reserves behind each licence - and we are talking about £2 million per licence at the moment - that £2 million is a variable figure, if it is found that that is inadequate then we can certainly look at revising that - that that in itself should be enough. The whole thrust of this legislation today, particularly in issuing only three licences initially, is to enable us to set up adequate supervisory structure to hopefully avoid the situation that the hon. member refers to. If in fact a licensee refuses to pay out or there are some financial irregularities of that sort which are identified the commission will have the power to suspend or to cancel that licence, and immediately too, albeit subject to appeal. So there is a very strong incentive from that position alone not to renege on any of the commitments that the company is expected to make. But once again I would just reiterate

what my hon. friend from West Douglas was saying, it is our intention simply to try to recruit into the Island blue chip companies only. We are not interested in one-off people coming in off the street virtually. No matter how wealthy they may be, we would wish to see the company be an already well established business with its own already established reputation to protect. We believe that in itself will give adequate protection to the Island and indeed to any punters who may well partake of this facility. On the face of it at the moment, we are quite satisfied and Treasury are quite satisfied with the form of regulation and feeling of comfort, I suppose really, that is available for those people who indulge in this particular pastime. If we do find problems further down the road, as I say we have the option of extending the requirement to increase the £2 million to a more appropriate figure but we believe that the facilities we have in place at the moment are adequate.

**The Speaker:** Hon. members, the motion is that clause 21 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 22 and schedule, sir.

**Mr Bell:** This clause exempts licensed online gambling from other controls in order to prevent duplication. Sub-clause (1) amends the enactments listed in the schedule so as to exempt licensed online gambling from other controls. Paragraph 1 relates to the Pool Betting (Isle of Man) Act 1961 which requires a pool betting promoter to be registered with the commissioners. The new section 5(1)(a) exempts pool betting authorised by licence under clause 14. Paragraph 2 deals with the Casino Act, section 18 (1), which prohibits the use of the word 'casino' as part of the title of business premises except the licensed casino. New section 18 (1A) exempts an online casino authorised by licence under clause 4. Paragraph 3 sub-clause (1) of the 1998 Act, section 7(1) prohibits any advertising of gaming. The new section 7 sub-clause (4)(a) exempts gambling authorised by licence under clause 4 and sub-clause (2)(8) exempts casino gaming and amusement with prizes machines from the controls on gambling in subsections (2) to (6). New paragraph (c) exempts gaming authorised by a licence under clause 4. Sub-clause (3) section 11 (1) imposes a general prohibition on the use of premises for taking bets and in section 11 (2) exempts licensed betting offices et cetera. New paragraph (d) exempts betting authorised by a licence under clause 4. Sub-clause (4) of that Act section 14 (1) prohibits anyone but a licensed bookmaker taking bets. New section 14 (1A) exempts betting authorised by licence under clause 4. Subsection (5) section 23 (1) prohibits pool betting except on a race course and in subsection (23) (3) exempts pool betting carried on by post by a registered operator. New paragraph (b) exempts pool betting authorised by a licence under clause 4. Sub-clause (6) section 26 sub-clause (1)(a) and (c) prohibits betting with minors. New section 26 sub-clause (4) gives it an offence for online betting authorised by a licence under clause 4 and sub-clause (7) section 29 sub-clause (1) prohibits various activities connected with the operation and promotion of lotteries and section 29 sub-clause (2) provides various exemptions. New paragraph (a) and (b) exempts activities connected with lotteries authorised by licence under clause 4. Sub-clause (2) gives a special exemption for online lotteries authorised by licence under clause 4 from the general prohibition of lotteries under the 1988 Act section 28. I beg to move that clause 22 and the schedule be part of the Bill, Mr Speaker.

**Mr Duggan:** I second, Mr Speaker.

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

**Mr Bell:** Clause 23, Mr Speaker, makes online gaming and betting contracts enforceable at law as an exception to the general rule in the 1988 Act, section 40. I beg to move that clause 23 stand part of the Bill.

**Mr Duggan:** I beg to second, sir.

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

**Mr Bell:** Clause 24 makes special provision for notices to be served on a licensee under the Bill. They may be served at an address for service specified in the licence or any other address in the Isle of Man notified by the licensee to the commissioners. I beg to move clause 24, Mr Speaker.

**Mr Duggan:** I second, sir.

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

**Mr Bell:** Clause 25, Mr Speaker, simply defines various terms used in the Bill. I beg to move.

**Mr Duggan:** I second, sir.

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

**Mr Bell:** Clause 26, Mr Speaker, gives the Bill its short title and it should be noted that there is no commencement provision so the Bill will come into force on the day Royal Assent is announced to Tynwald. I beg to move clause 26 stand part of the Bill, Mr Speaker.

**Mr Duggan:** I rise to second, Mr Speaker.

**The Speaker:** The motion is that clause 26 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. The Bill is now read a second time.

#### **Leave of Absence — Mr Speaker — Agreed**

That completes the business for today, hon. members, except for one personal request. I ask leave of absence from the sitting of the House on 27th February as I have been invited to attend a meeting of the Anglo-Irish Parliamentary Body in Ireland. Do I have your permission?

**Members:** Agreed.

**The Speaker:** Thank you, very much.

**Mr Houghton:** I'll come with you.

**Mr Cannell:** As long as you do not come back! *(Laughter)*

**The Speaker:** Hon. members, the House will now stand adjourned to a sitting of this House on Tuesday 13th February.

*The House adjourned at 3.27 p.m.*