

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 14th November 2000
at 10.00 a.m.**

Present:

The Speaker (Hon J D Q Cannan) (Michael); Mr L I Singer and 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); Messrs P Karran and 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); Sir Miles Walker CBE LLD (hc), 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, I have granted leave of absence this morning to the Chief Minister and the Treasury minister who are off-Island on government business and to the hon. members for Castletown, Mr Brown, Douglas West, Mr Downie, Ayre, Mr Quine, Ramsey, Mr Singer and Middle, Mr North, who at various times have sought leave of absence to attend funerals and other government business.

**Buses — Withdrawal of Mountain Road Express Service —
Question by Mr Singer**

The Speaker: Hon. members, we will now turn to the question paper. Question number 1, the hon. member for Ramsey, Mr Singer to ask the Minister for Tourism. Mr Singer.

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

- (1) *Why has your department withdrawn the 5.38 p.m. express bus service from Douglas to Ramsey via the Mountain Road; and*
- (2) *before the service was withdrawn -*
 - (a) *what was the scope of the public consultation; and*
 - (b) *what public notice was given?*

The Speaker: The Minister for Tourism to reply.

Mr Cretney: Thank you, Mr Speaker. Following the reinstatement of the 5.38 p.m. express bus service from Douglas to Ramsey at the end of June 2000 my department took the opportunity to review the service in light of the high operating costs of this journey, such service being operated by overtime worked by drivers due to staff rosters and other service commitments. It was a conclusion of that review that negotiations should take place with Tours (Isle of Man) who operate a similar service at a similar journey time to explore the possible use of Isle of Man Transport tickets on their routes, the benefit of this approach being that the public service could be maintained, as I promised in June, whilst at the same time reducing Isle of Man Transport operational costs. The discussions between

my department and Tours took place and were successful to the extent that the change to the service was effected from Monday, 6th November 2000 after a one-week period of notice.

No formal public consultation exercise took place, given that the revised arrangements caused minimal disruption to our customers. However, notices were displayed on all buses travelling on all routes for one week prior to the change.

Finally, if I could, Mr Speaker, in response to a question from the hon. member for Rushen, Mr Rimington, at a sitting of the House of Keys on October 31st I made reference to costs involved in meeting statutory Isle of Man requirements for three new buses recently ordered. Although at the time I stated quite correctly that there was no cost involved in meeting such statutory obligations there is, however, a cost of £3,900 for the spray painting of three buses. This is obviously not something required to meet any legal requirements. Thank you, Mr Speaker.

The Speaker: A supplementary. Mr Singer.

Mr Singer: Thank you, Mr Speaker. Can the minister tell me: in view of the fact that in the past his department vehemently opposed any applications by Tours (Isle of Man) to run public services, why has he had a change of heart and is he now encouraging Tours (Isle of Man) to run express services across the whole of the Island and is he now looking at a partnership with Tours (Isle of Man) rather than opposing every single application that they make?

The Speaker: The minister to reply.

Mr Cretney: Mr Speaker, I do not think it is appropriate for me to tell or to advise Tours (Isle of Man) what their business operations should be. The approach of the Isle of Man Department of Tourism through its passenger transport division is, as stated by the hon. member, that there was concern that when we introduced the express routes there would be a diminution of service. I think time has proved that to be the case.

The Speaker: A final supplementary. Mr Singer.

Mr Singer: Thank you. The hon. minister obviously does believe that the alternative offered is suitable, but is it not a fact that Tours (Isle of Man) do not run a bus over the mountain but go through Maughold at a different time on a different route and that the people who use the 5.38 are not happy at this and that they were given just seven days' notice and were not allowed even to comment on what is a public service?

The Speaker: The minister to reply.

Mr Cretney: Mr Speaker, the last time there was a proposed alteration to this service I felt that the consultation which had been offered was not appropriate. I had a number of telephone calls from people in Ramsey, in particular, in relation to this matter. This time I have not had one phone call; there has not been one phone call to the office. It is my opinion, therefore, that there is little concern. However, this situation will be monitored and I do consider that the service which is being offered by Tours is an appropriate service. The timescale which it takes is very little different than that which is offered by the government service and, as I have said, we are going to monitor it as time progresses.

The Speaker: I will allow another supplementary. Mr Bell.

Mr Bell: Just a short question, Mr Speaker. Could the hon. minister confirm that the capacity available under the new arrangements will be at least of the same level as the Isle of Man Road Services which have now been ceased?

The Speaker: The minister to reply.

Mr Cretney: Yes, not only the capacity, Mr Speaker, but I do believe the fact that we have this arrangement with the ticketing offers the customers an improvement on what existed presently.

Rockmount House — DoT Plans — Question by Mr Karran

The Speaker: Question number 2. Mr Karran, the member for Onchan.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Minister for Transport:

What are your department's plans for Rockmount House and its adjacent land?

The Speaker: The Minister for Transport to reply.

Mr Brown: Thank you, Mr Speaker. I have recently agreed that Rockmount House should be demolished and, as previously advised, we propose to utilise the land at Rockmount to quarry gabbro rock. My department has executed a licence with the Department of Trade and Industry to enable exploratory works to be undertaken on the Rockmount estate. Thank you.

The Speaker: A supplementary. Mr Karran.

Mr Karran: Vainstyr Loayreyder, can the minister then inform this hon. House before we demolish the house, will we check there are minerals under that site to start off with? And also, can I also ask the hon. minister, will he give us some time period of when he intends to start quarrying in this area?

The Speaker: The minister to reply.

Mr Brown: Yes, Mr Speaker. The decision to demolish Rockmount House is taken in the best interests of the overall operational view of the department for this area, also taking into account the condition of the property. Whilst being a big house its condition is not very good. As for when we hope to quarry at this site, certainly my department is very conscious of recent decisions that have been made and my first and foremost priority is to secure stone on the Island to enable us to carry out our statutory duties, which are to maintain the highways of the Isle of Man.

The Speaker: A supplementary. Mr Karran.

Mr Karran: Vainstyr Loayreyder, a supplementary. Would the minister not agree that what we are seeing here today are the actions of somebody who, in terms, has spat the dummy out as far as this whole affair is concerned because of the recent court case? And would the minister not also agree that it is an absolute scandal if this building, if there are not the minerals under this land, to be knocked down when there are facilities like youth hostels and the like that are needed in this country and we are just knocking this down because, once again, vanity if more important than sanity, Mr Speaker?

The Speaker: The minister to reply.

Mr Brown: Yes, Mr Speaker, first I would say I cannot comment on the recent court case as that matter is still potentially subject to further judgment by the courts. What I would say is that my first and foremost priority as Minister for Transport is to secure gabbro to enable us to maintain the highways of the Isle of Man and, if at all possible, without importing at greater cost such stone. As far as the use of the property is concerned, all I can say is that the property itself would require substantial investment to bring it up to reasonable standard and we estimate that that could possibly be somewhere in the region of £400,000.

The Speaker: A final supplementary. Mr Karran.

Mr Karran: Vainstyr Loayreyder, a supplementary for the minister. Would the minister be prepared to go back to the Council of Ministers and see whether we could at least discuss whether the likes of it could be used for the provision of a youth hostel in this Island, and would the minister not also agree that obviously, if the government held the lease on the youth hostel, that would stop any problems as far as future planning is concerned, and would he agree that that is the reason why we bought this property in the first place - to stop any objections to planning? So would it not be better not to just knock it down willy-nilly and actually investigate whether it could be used for the likes of a provision for a youth hostel or even to try and ease the accommodation crisis we have for maybe one of the social areas of where there is need for housing?

The Speaker: The minister to reply.

Mr Brown: Mr Speaker, Rockmount was purchased for one specific reason, and that was to secure stone in an area where we know gabbro rock is available to us, and it was purchased as securing long-term stone for the Isle of Man. Circumstances have changed somewhat and therefore I believe, rightly, my department has a duty to see whether or not we need to progress with bringing this stone forward at this stage.

As for as making the property available for different purposes that the hon. member is hinting, about housing et cetera, I would indicate to the hon. member that if we were in a position that we had to spend something in the region of £400,000 to do up this property, that would allow us to build somewhere in the region of six new public sector houses, which would be far more use to the Isle of Man, or could provide grant assistance for up to 16 first-time buyers, and if you weigh that up then clearly I do not think there is any competition. So we have an old property, it is in poor repair and was from the date we took it over, there seems to be no use for it, certainly as far as we are concerned we are endeavouring to proceed with our options on Rockmount and therefore the property, which has no real use for us, is seen to be of no use and therefore we have agreed that it should be demolished.

The Speaker: I will relent and let Mr Karran have one final supplementary.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that the reason you bought that property was because it stopped the lawyer there from being able to object to any future development of the quarry, and would the minister also revisit his maths as far as local authority housing is concerned, which was not an alternative for the development, in the fact that it costs somewhere in the region of £100,000 as far as local authority housing is concerned at the present time to replace them? That is something that has been recognised as a bare minimum as far as that is concerned. Will he at least bring it back to the Council of Ministers to discuss whether there is a use, either by social services, a youth hostel or whatever in order that this building is not just knocked down in order to cover up another one of the inconsistencies of this administration?

The Speaker: A final answer, minister.

Mr Brown: Yes, thank you, Mr Speaker. Certainly no inconsistency from my side, and it is all right the rhetoric we hear from the hon. member for Onchan, which we are used to. I would say, though, that it was absolutely clear, in answer to a question from the hon. member, Mr Karran, when he asked a question in this House on 27th October 1998. The question was about Rockmount and I answered it by saying, 'The cost of purchasing the property of Rockmount, Poortown, German and adjoining lands were £650,000.' In answer to part (2) of the question 'By purchasing Rockmount and

the adjoining lands my department has secured a valuable and strategically important natural resource, which has the ability to provide the Island with a quality road stone which could meet the Island's needs for a period of 20 to 30 years.' Mr Speaker, circumstances have somewhat changed since that time. There is still uncertainty as to securing our stone, and my first priority to the people of the Isle of Man as Minister for Transport is to secure stone at the best value I can for the taxpayer.

The Speaker: Hon. members, that completes oral questions. You will have questions 3, 4, 5, 6 and 7 for written answer on your desks.

Treasury — Staff of Income Tax Division — Question by Mr Henderson for Written Answer

Question 3

The hon. member for Douglas North, Mr Henderson, to ask the Minister for the Treasury:

- (1) *In each of the years 1985, 1995, 1997, 1998 and 1999 -*
 - (a) *how many officers in the income tax division exercised their rights under the grievance procedures in the Isle of Man Civil Service regulations; and*
 - (b) *how many officers in the division resigned; and*
- (2) *how many line managers in the division have a recognised professional qualification in human resources management?*

Answer

- (1) I cannot answer for the year 1985 as there are no records to refer to and in any event the grievance procedures were not in operation then.
 - (a) For the years 1995, 1997, 1998 and 1999 there were no claims.
 - (b) only officers who have actually resigned from the civil service have been counted and not where they have left the division on promotion or sideways to go to other government departments (as the division is not an employer, they cannot 'resign' from the division.)

1995	7 officers left including 1 retirement
1997	5 officers left
1998	12 officers left including 1 retirement
1999	7 officers left including 1 retirement
- (2) The reference to 'a recognised professional qualification' has been taken to mean that the qualification is 'institute-related' and that the officers had the chance to join a professional institute on passing the examination.

Assuming this to be the case then we have one officer who holds a Certificate in Training and Development and is an Associate Member of the Chartered Institute of Personnel (formerly the Institute of Training and Development.) The certificate is the first stage towards a professional qualification.

All our line managers, when appointed to executive officer grade, attend the management of staff and resources course (1 week), which is run by the Personnel Office. The division has also put in additional external assistance at both executive officer and higher executive officer level to develop managerial skills.

Isle of Man Transport — Bus Drivers — Question by Mr Singer for Written Answer

Question 4

The hon. member for Ramsey, Mr Singer, to ask the Minister for Tourism and Leisure:

- (1) *How many established posts for bus drivers are there in the public transport division;*
- (2) *how many of these posts are filled at present;*
- (3) *of the filled posts how many of the postholders require work permits;*
- (4) *in the past 12 months -*
 - (a) *how many persons appointed to these posts required work permits;*
 - (b) *how many such persons did not require work permits; and*
 - (c) *how many applicants who did not require work permits were not appointed;*
- (5) *do you have a waiting list of applicants for these posts and, if so, how many of the applicants hold either an HGV or a PSV licence;*
- (6) *does your department employ persons who are qualified as PSV instructors; and*
- (7) *is it the policy of your department to offer training to applicants for these posts who are Manx workers to enable them to obtain a PSV licence?*

Answer

There are 101 established posts for bus drivers in Isle of Man Transport, all of which are currently filled.

In the last 12 months four persons appointed to these posts required work permits. Eight persons appointed did not require a work permit.

One applicant who did not require a work permit was not appointed.

My department does not hold a waiting list of applicants for bus driver posts of persons holding either a HGV or PSV licence. Neither does it employ a currently qualified PSV instructor.

I can confirm that it is the policy of my department to provide the opportunity of training to Manx workers to enable them to obtain a PSV licence.

Marine Drive — Reopening — Legal and Insurance Implications — Question by Mr Henderson for Written Answer

Question 5

The hon. member for Douglas North, Mr Henderson, to ask the Minister for Transport:

In its evaluation of the engineering feasibility of a controlled opening of the Marine Drive to vehicular traffic, is your department also commissioning a comprehensive risk appraisal of opening the drive, together with a full evaluation of the legal and insurance implications of doing so?

Answer

As I have advised in answer to questions from the hon. member Mr Henderson in Tynwald Court on 17th October 2000 and in the House of Keys on 31st October 2000, my department has commissioned a report into the temporary reopening of Marine Drive. The report was undertaken by an independent company, Scott Wilson Kirkpatrick & Co. Limited from the United Kingdom, and their report is of October 2000.

Part of their report specifically covered the risk and an assessment of the risk in relation to the highway which is presently closed to traffic, for its temporary reopening.

Scott Wilson Kirkpatrick & Co. Limited have confirmed that they are, subject to the department following their recommendations laid out in their report of October 2000, satisfied that the Marine Drive can be opened to the public for a period of up to 12 months to light traffic on a single-lane flow basis.

The use of the Marine Drive is subject, as I advised the hon. member Mr Henderson in Tynwald Court on 17th October 2000, to the department undertaking six cored holes on the section of highway at Wallberry and three cored holes at Horse Leap. Once the results from these cored holes are known then decisions can be made in relation to the use of the highway at these areas and whether it is feasible to temporarily open Marine Drive.

Other recommendations made by Scott Wilson Kirkpatrick & Co. Limited are as follows:

- (1) The carriageway to be inspected weekly (more regularly in adverse weather) by a suitable highway engineer.
- (2) an expert geotechnical reappraisal of the road condition should be undertaken after six months as a matter of course.

I can confirm that the works undertaken to date in relation to the proposed temporary reopening of Marine Drive would not be sufficient for the assessment of risk relating to a permanent road reopening of the Marine Drive.

Therefore, my department is satisfied that the risk assessment undertaken recently in relation to the temporary reopening of Marine Drive is adequate and that no further risk assessment is required.

With reference to the legal and insurance implications of reopening Marine Drive on a temporary basis, my department would not consciously do anything illegal and will as normal comply with any legal requirements placed on the department in relation to opening a highway for public use.

The department has provided government insurers with a copy of the Scott Wilson Kirkpatrick & Co. Limited report. The report was forwarded to government insurers on 6th October 2000 and we await their detailed response.

My department is aware that, in relation to any works it undertakes, we have a duty to minimise the risk of third party property damage, theft or bodily injury.

Again as I advised in Tynwald Court on 17th October 2000 when responding to a question from the hon. member, Mr Henderson, and I quote, 'I am not going to jeopardise the safety of the individual member of the public driving along Marine Drive if there is any chance of an unacceptable danger level, hence why we got the risk assessment. . .'

I can confirm that the department will comply with the recommendations of the Scott Wilson Kirkpatrick & Co. Limited report.

Hospitals Complaints Committee — Question by Mr Houghton for Written Answer

Question 6

The hon. member for Douglas North, Mr Houghton, to ask a member for Health and Social Security:

- (1) *What are the terms of reference of the Hospitals Complaints Committee;*
- (2) *who has been appointed to the committee;*
- (3) *does the committee have a medically qualified adviser to assist the committee in its investigation of complaints;*
- (4) *if so -*
 - (a) *who is the adviser;*
 - (b) *what are the adviser's qualifications; and*
 - (c) *what is the formal relationship between the adviser and the chief administrative medical officer?*

Answer

It is assumed the hon. member is referring to the lay independent appeal panel which has been constituted in accordance with the recently circulated NHS complaints procedure for hospital and community health services. If this assumption is correct then I can advise the initial role of the panel in determining a complaint that has not been resolved by local resolution, is outlined in sections 21 and 22 of the complaints procedure. However, the panel's actual terms of reference are only determined by the chairman once he has decided that a panel should be convened. The terms of reference will set out clearly what the issues are that the chairman believes the panel should investigate. (See section 23.3 of the complaints procedure.) As each individual case is unique, the terms of reference will differ each time.

Turning to the membership of the lay appeal panel, the following individuals have agreed to be appointed:

Mr Mike Coleman	(Chairman/Member)
Mrs Bernie McKinney	(Chairman/Member)
Mrs Pauline Corlett	(Member)
Mr Harry Galbraith	(")

Mrs Margaret Kennaugh (")

Miss Brenda Clucas (")

For further information the hon. member might, however, find it helpful to refer to sections 29 and 30 of the procedure.

In relation to the part 3 of the hon. member's question, it is confirmed that if independent medical advice is required by the panel, the department will appoint one or more independent clinical assessors (to use the correct terminology) from the relevant lists held by the NHS Executive in the North-West of England in order to assist the panel. The assessors are not members of the panel and are therefore not involved in the decision-making processes of the panel.

Appointments will be made having regard to the clinical specialty or specialities involved in the complaint, the availability of individual assessors and confirmation of their complete independence of all parties involved with the complaint.

Turning to the final part of the hon. member's question, and as identified above, there is no single adviser to the panel, and as such it is not possible to provide details of names and qualifications, as requested.

There will be no formal relationship between any assessor and the chief administrative medical officer (CAMO) to ensure the complete independence of the panel's deliberations. The only role the CAMO has in the procedure is under section 25 where the chairman of the panel can seek initial medical or other clinical advice from the CAMO when deciding upon whether or not to convene a panel.

Fireworks — Legislation to Limit Availability — Question by Mr Henderson

Question 7

The hon. member for Douglas North, Mr Henderson, to ask the Chairman of the Office of Fair Trading:

Has your office given further consideration to introducing legislation to limit the period during which fireworks may be sold or offered for sale?

Answer

As I have previously stated in the Keys, provided a retailer holds a current licence for the safe storage of his fireworks he may lawfully sell those fireworks at any time throughout the period for which he is licensed. This may be three months or up to 12 months. In the current year we have issued 26 three-month licences and seven 12-month licences.

It is also worth noting that the manufacturers of fireworks voluntarily hold back the distribution of their new stocks of fireworks to the retailers until approximately three weeks before 5th November.

I believe the above period of three weeks before the event is reasonable to allow for the controlled distribution of the fireworks and provides the retailers with a reasonable length of time to sell their stock.

The Office of Fair Trading has introduced regulations that require fireworks to be made to an acceptable safety standard and organised training courses for persons

operating public displays; there are restrictions on the sale of fireworks to persons over 18 years of age and controls over persons throwing them in a public place.

We have publicised in the media the safe use of fireworks and held public presentations in conjunction with the fire service on the dangers of improper use of fireworks and bonfires. All retailers have been provided with warning notices, advice on our recently introduced proof of age cards and how to avoid selling to persons under 18 years of age. The retailers have conscientiously followed that advice and through monitoring of their activities I am confident that sales of fireworks have only been made to those persons over 18, but what happens to those fireworks once they have left the retailer is outside our control.

We have received just four complaints during recent weeks about fireworks being let off in advance of 5th November and we understand that the police have also received complaints about the indiscriminate use of fireworks. We have asked the police for details of how many complaints have been received and a meeting is being arranged to discuss future initiatives to reduce these complaints in the near future.

The consideration of further legislation to limit the period during which fireworks may be sold or offered for sale will therefore be dependent on the outcome from that meeting.

Rehabilitation of Offenders Bill — Third Reading Approved

The Speaker: We will now move on to item 8 on the order paper, the Rehabilitation of Offenders Bill for third reading. Mr Bell.

Mr Bell: Thank you, Mr Speaker. The Rehabilitation of Offenders Bill is an important and much needed reform of the criminal justice system, in that within separate criteria, conviction for an offence attracting a sentence not exceeding 30 months can be considered spent after a certain period of time and on condition that no further offences are committed during the rehabilitation period.

This will particularly assist people who have committed relatively minor offences while still young and which nevertheless have attracted a criminal record. In many cases this has left the individual severely disadvantaged in the labour market, even if that person has kept out of trouble subsequently and displayed exemplary social behaviour.

The passage of this Bill will clearly demonstrate that whilst we are determined to crack down on crime and habitual criminals, we also recognise that many crimes are committed through immaturity and under special circumstances and, as such, the offender deserves a second chance. Not only will this help the individual rebuild his life, it could also prevent him from drifting into a more regular life of crime with a cost to both state and society.

It will also put Manx offenders on a par with their UK counterparts when applying for employment, as currently UK offenders can benefit from the rehabilitation legislation in the UK while Manx offenders have to declare all previous convictions.

We have taken notice of the alleged deficiencies of the 1992 Bill, which ultimately failed to gain the support of this House. In particular, we have tried to avoid the creation of a legal fiction. I believe that this Bill achieves the same as in certain circumstances spent offences can be referred to in the courts, particularly in cases dealing with the welfare of minors. My department has consulted widely on this issue and we feel that this Bill has achieved a fair balance of the views expressed.

The only real point which was raised at the previous stages related to disclosure. Clause 3 of the Bill makes it an offence to publish or broadcast any matter imputing that a rehabilitated person has committed or been charged with an offence in respect of a spent conviction. A fine of £2,500 is liable on summary conviction.

The concern raised by the hon. member for Ayre, Mr Quine, was in connection with spent information being disclosed inadvertently by way of gossip. He has suggested that this clause should be amended by limiting the offence to knowingly or wilfully disclosing the relevant information. I have had further discussions with both my officers and the legal draftsman to reconsider this point, and the advice which I have received is that if such an amendment were to be approved it would become almost impossible for a prosecution to succeed. However, under the proposed legislation, for a prosecution to take place the prosecution would have to take into account the seriousness of the offence and whether or not it was prejudicial to the individual concerned by way of having some tangible practical effect - for example, the loss of employment. I am assured that the proposed legislation would have virtually no impact on the type of individual Mr Quine refers to, which is simply concerned with gossip rather than malicious intent.

Mr Speaker, as I have said, this is a further reform of the criminal justice system designed to give hope and a second chance to those who wish to be rehabilitated back into society and make a fresh start for themselves and for their families. It is long overdue and I beg to move the third reading of the Rehabilitation of Offenders Bill.

Mr Duggan: I beg to second, Mr Speaker.

The Speaker: Mr Quine, the member for Ayre.

Mr Quine: Thank you, Mr Speaker. I have listened with interest to the explanation that the hon. mover has made in relation to the point that I raised at the earlier sitting. It does not relieve my concern; I think the point being made is that there will be few prosecutions and they would, in point of fact, be prosecutions which would have to relate to matters of some substance and perhaps some wilfulness. That in itself tends to indicate that what I proposed is the proper way to do it, and that is to qualify the offence in that way. However, I think we have to look at the Bill as a whole, and in doing that I am quite prepared to support the third reading, but I do wish the record to show that I do not believe that there is an adequate facility within the legislation to make known to a member of the public that a conviction is spent, and in the absence of that facility it is quite possible that we will have members of the public quite innocently breaching this law. Now, if that is the case, surely we either have to change the law to build in these particular ingredients of doing it unlawfully and wilfully or you have to build into the law a mechanism by which they can ascertain whether or not a conviction is spent. Now, we have done neither: we are saying we are not going to build in the issues of whether it has been done wilfully or unlawfully, we are not going to build that sort of qualification in; on the other hand we are not going to do anything to provide a mechanism by which the man in the street will be able to verify whether or not a conviction is spent. I think there is an inherent flaw in this legislation but, having put it on record, I am quite content to let the Bill run. Thank you, Mr Speaker.

The Speaker: The member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. Once again I rise to give my wholehearted support to this Bill and particularly the third reading. As the minister said, it is long overdue and will enable residents who have a conviction from the Manx courts hanging over them to now have a level playing field with their UK counterparts who have a similar conviction and which is now spent under the UK

legislation when applying for jobs and, as I said at the second reading, the majority of offences were committed when they were in their late teens, early twenties. They are now married, settled down with families and they should not have a conviction besmirching their character for ever. Thank you, Mr Speaker.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I am happy to support this today. I am only sorry that we never managed to get it through in 1992 (**Mrs Hannan:** Hear, hear.) when we tried to get it through. It is all right other members talking about the protection and scaremongering; this sort of legislation works well in the United Kingdom. The people from the United Kingdom have had the benefit of this legislation when they are applying for jobs in our country with the fact that there was no way we could verify anything because of this type of legislation being in the adjacent isle, so I think that the only sadness today is it should have come in a lot sooner as far as I am concerned and I am only sorry that it has taken so long to get it back here, and I am glad to see it has had a far smoother passage than it did do when we first brought it up, with the trouble that we had sitting on committees for years to try and get this piece of legislation on the statute book to give the same equal playing field to our own people as what is happening to the incomers that are applying for the same jobs as our own locals.

The Speaker: The minister to reply.

Mr Bell: Thank you, Mr Speaker. I can fully understand the position taken by Mr Quine. It is something that has obviously taxed us as well, but I am assured, as I explained in my introduction, that his fundamental concerns, really, are unjustified and will be shown to be so once the Bill actually gets into law and we see the practical effect of it. I am confident in the advice I have been given, but I am quite sure that if the worst case, as predicted by the hon. member for Ayre, does materialise, then there is nothing to stop this court or my department bringing in amended legislation to redress the situation. But, as I say, I am confident in the advice I have been given; whilst recognising the potential problems in the Bill I am assured that the reality will be somewhat different.

Can I thank Mr Braidwood for his continued support and Mr Karran again. Really in both cases I would agree with them that it is unfortunate that it has taken so long to get this Bill to the House. It is regrettable it did not succeed in 1992 when it first came in. It may have made a significant difference to the lives of a number of people on the Island had they been able to live without the conviction hanging over them. I do believe, though, that the attitudes of Manx society have changed a lot over the last few years and they are more understanding and willing to accept now that people do deserve a second chance in life. None of us are perfect and this Bill seeks to achieve just that, Mr Speaker, so I beg to move the third reading.

The Speaker: Hon. members, the motion is that the Rehabilitation of Offenders Bill 2000 be read a third time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

National Health Service Bill — Consideration of Clauses Concluded

The Speaker: We now move to item 9 on the order paper, the National Health Service Bill 2000, and we move to clause 38, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, this clause imposes a new obligation on the department to set up a statutory complaints procedure. It requires the department to make regulations to set up a statutory complaints procedure for persons provided with services under part 2 of the primary health

services and part 3 of the hospital specialist services, specifying the publicity that has to be given to the procedure.

I have circulated a copy of the complaints procedure to hon. members last week. At the end of the day these are not part of the primary law, but they will be part of regulations, and what we are hoping to do in the very near future is to see how these regulations work as a pre-runner to actually formally moving the proper regulations in another place at a later date, and if there are amendments needed then we will do so. I beg to move clause 38.

The Speaker: Mr Cannell.

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

The Speaker: Mr Quine.

Mr Quine: Thank you, Mr Speaker. I think we all recognise, of course, that clause 38 is an enabling provision. However, at the same time we have had advance notice of what it is intended to give birth to, albeit initially on an administrative basis and then subsequently by way of secondary legislation, but I think it is very relevant at this juncture that we consider some of the principles which emerge from the complaints procedure, because those principles, if they are to be corrected, may require amendment to primary legislation. Having said that, sir, I appreciate it would have been advantageous, of course, to have had an opportunity to discuss some of these principles with the department to try to get them sorted out before we reached this stage. Well, with respect to the department I think that we have reached this position is of their making, because way back in August I wrote to the department and asked them to address these principles and I am afraid I have not had as much as the courtesy of a reply. What we have had is a letter dealing with the Bill and in terms of the 2¹/₂ pages of matters of what I consider to be principle we have not had a response to that at all.

Clause 38 relates to the complaints in respect of both part 2 and part 3 of the Bill, part 2, of course, being the matter of primary health services and part 3 hospital specialist service. We have in the offing, albeit on an administrative basis, a new complaints procedure for part 3. We do not appear to have a complaints procedure for part 2. There may be an existing procedure in being, but I do not see in what we have in front of us a procedure particular to part 2, and indeed that point is made in the paper circulated by the department. So I would like him to tell us what is envisaged in relation to the primary health services: are we going to stay with what we have got or is there another complaints procedure somewhere in draft that is going to be produced for us.

Now, with regard to the new complaints procedure as it relates to hospital and specialist services, I believe that the principle which represents the underlying weakness is that there has been a failure to take account of the relationship between the department and the service providers. The so-called independent procedures are to be administered by the department with whom the actual providers have either an employer/employee relationship or a contractual relationship, and I think that that is a fundamental issue that should be determined in approaching this procedure from the very outset.

I also find it wholly unacceptable that there is going to be a complaints manager who shall have the right to determine whether or not a complaint is frivolous or vexatious. I would suggest that the least that is required is a referral of those issues, any issue of that sort, to the Attorney-General. Just put yourself in this situation: you are in dispute with the department concerning a complaint and a member of the department - not anybody with political responsibility, not anybody directly responsible

in that sense - is going to decide whether it is frivolous or vexatious and say, 'Yes, you can proceed with your complaint' or, 'No, you cannot proceed with your complaint.' Now, I could refer you to references in legislation where that sort of thing is a matter for the Attorney-General; why should that not be the case in this particular situation? And yet - and this is an inconsistency that underlies the same principle - what one will note is that the complaints manager, whereas he may reject an acceptance of the complaint out of time, in respect of that matter there is an appeal to an independent chairman. So we do not even have a consistent application and these principles, I believe, maybe have to be changed round and addressed through the primary legislation. To my mind it cuts across natural justice that we should have a complaints supervisor from in-house. I think that is wrong, and particularly when you look at the mix of duties which is intended to be attached to this individual. He is not only going to supervise the system; he is going to have certain investigative duties; he is going to have a role to give advice to complainants but it does not stop there. The same person is going to have a responsibility to advise the staff; the person is going to be supervising. It does not stand scrutiny. You have got one person who is supposed to be held up to be impartial and to deal with complaints and he is going to be dealing with both sides. I think there is a danger inherent in this.

An appeal procedure, to be credible in relation to health service complaints, I would suggest, has to end up beyond the department. What is proposed here - and I think this is important -

The Speaker: The regulations, hon. members.

Mr Quine: No, I am speaking to the principle, sir, because these principles may well have to be addressed by way of amendment to the section to which I am speaking. I appreciate I am not addressing the secondary legislation.

The concept of this independent chairman - he is going to be appointed by the department. I do not see how that person can be considered to be independent; I find that quite wrong.

We have also a confusion of thought in relation to the roles of this independent chairman, and here this surely must be -

The Speaker: I am sorry, hon. member, but with respect we are debating clause 38 which is section (a) about 'regulations shall provide for' and section (b) 'steps to be taken by the department for publicising the arrangements under paragraph (a)'. We are not into the detail of regulations which are not before us.

Mr Quine: I appreciate your direction, sir. I am certainly not addressing the detail. If I were, I assure you I would be going into much greater detail. I have simply extracted a number of principles, but I am quite happy to be guided by you on this matter. I will simply say this: I think it is a great shame that we have a debate on a matter as important as the health services Bill and we have a matter relating to the complaints procedure in which there are a number of important principles which, if they are not in secondary legislation in a satisfactory form, can be addressed with primary legislation. I believe that they should be legitimately matters for debate at this hearing. I am prepared to be guided by you but I shall certainly vote against this clause and I shall certainly take it to the public, because I think this is manifestly wrong.

The Speaker: The member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I welcome the complaints procedure. In the section that is before us today it does say that there should be a complaints procedure for parts 2 and 3, or part 2 or part 3. So I would have thought that by providing just one of the complaints procedures

for us, I suppose that is just saying that this is possible to do it this way, but I would have thought that if one complaints procedure is being worked through, could the mover tell us whether the complaints procedure for part 2 is also being worked through and would it be possible for the mover to also provide that the complaints procedure, as we received it in the House last week, be laid before or even approved by Tynwald? I think this would give an added facility for discussion, debate and also, as the second part of this clause relates, that it would publicise the arrangements, and therefore I would ask the mover of the legislation if he would consider doing that under the legislation.

But I welcome the complaints procedure. I do think it is a step forward for the provision of care. The majority of people who receive care under the health services actually have no complaint at all but sometimes it does go wrong and it can be down to the fault of us humans. We have faults in many areas and I see that this is another area where, yes, we are faulty but not in every case that goes before the National Health Service, but if it was laid before Tynwald or to be discussed by Tynwald, I think that would give an added power to the regulations.

The Speaker: The member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. At the end of last week's sitting I think that the members voted not to proceed. One of the reasons not to proceed any further last week was that we had only just been given the complaints procedure to actually look through, and somehow I feel that whilst we are discussing clause 38 we are somehow making a judgement, having read these, as to the correctness of the procedure as presented to us. Now, I feel therefore that, having seen the procedure and having looked through it and seen its weaknesses, in supporting this clause one is seen to be endorsing the complaints procedure as has already been adopted by the department, and therefore this new procedure in my view, having read through it, is very much biased against the complainant and the right of a fair hearing by the way it is being constructed. Therefore, like the hon. member for Ayre, I cannot but vote against this clause because the procedure has already been introduced, it will only come before us as far as we know as regulations as a part of the full regulations and therefore we will have to adopt it all or throw it all out, and therefore in principle, not accepting this complaints procedure as has been presented to us, I have no alternative but to vote against this clause.

The Speaker: Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. I really want to repeat what I have said before previously in the debate, which is to emphasise that this is primary legislation that we are discussing and we should not really be looking in too great detail at the procedure itself. I would like to add, though, having read the procedure now many times, that the procedure is actually comprehensive, it is not biased against the complainant, it does give a very good procedure and is far superior to any procedure which I was involved with in times past. I think my only criticism of the whole affair is that maybe it has taken so long to bring it forward to be put into operation, and obviously as one of those years ago we were asking for that to come forward a long time ago. But now it is here, has been brought forward; it is very comprehensive, far more comprehensive than anything else I have seen before, and I especially welcome it and, yes, I think it will be important that during the coming year then that procedure is open to discussion and we look to refine that procedure when no doubt any procedure that is put in place always has weaknesses and those obviously will have to be addressed.

I would mention really that we seem to be in a situation of moving goalposts. Some time ago the main criticism was the lack of this procedure and that it was not coming forward, and that was the

great outcry, but now when we do have a procedure which has come forward which is comprehensive, which is very good, then there is nothing left to complain about except we will have to go and try and tear up the detail of the procedure and find little things wrong in it which really are not of substance.

Mr Quine: You will find out!

Mr Rimington: I will find out, no doubt, sir. So, Mr Speaker, I would like to say that we should pass this clause and that the department, I am sure, will welcome constructive comments from hon. members in the times to come on how that procedure can be improved.

The Speaker: Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. As you have already said yourself, of course, we are debating only clause 38 as printed on the paper. It is, of course, tempting for anybody to try to get in by analysing the paper, and last week I think I said that there indeed was short notice of its contents, but that will come at another stage of this debate. Whatever we have got has got to be a sight better than nothing, because that is all I have heard is, 'Where is this procedure? We wish to know it.' There may be shortcomings. They may be identified before the procedure commences. It may take some time for that procedure to actually be tested to see if it would be found wanting in any regard, and I do not think the department would be too proud to say that it would be reviewed at a certain stage and, if there were problems with it, then it could be refined. But at the end of the day what we are doing here is to ask the hon. House to approve the provision of regulations, not the regulations themselves, and there will, of course, be a backstop for that because the regulations will ultimately be placed before Tynwald.

I know that the hon. member for Ayre has said then that the only opportunity then will be to reject them or consider them and throw them out entirely or take them on entirely, rather like the planning debates, but that will be for the prerogative of Tynwald Court. It will all be laid out. There will be ample opportunity for debate and I urge that the hon. members support this clause 38 in this department's National Health Service Bill which will give us the opportunity to give them the chance to look at what is proposed in its final form, sir.

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I have concerns about this particular clause because it is my belief that the so-called proposed regulations should have far preceded consideration of this clause and indeed the rest of the clauses in this particular Bill. We did receive only last week during the debate the department's proposals in relation to complaints procedures et cetera - hardly sufficient time in which to read, study and make constructive comment to the department before reaching this clause at clauses stage, and I think that is the principle which my hon. colleagues for Ramsey and Ayre are concerned about, and I have to share that concern.

Equally, the regulations, I believe, should precede under consultation for a period of time with hon. members so that hon. members can have an input into those regulations before they come forward for consideration, approval or dismissal. I think it is fundamentally wrong when presented with these issues that you have a choice: you vote for or against. You are between a rock and a hard place, because in the regulations there are some good elements and there are some very sceptical elements also, and so I would appreciate it if the hon. member were to go back and consult with his minister in terms of giving us in this House a period of time in which to actually make constructive criticism to the regulations on how we see them being put perhaps in a more impartial and fair manner

for the adoption of the department. But equally, going back to 38(b), it reads that 'the steps to be taken by the Department for publicising the arrangements made under paragraph (a)' - a little disappointed there that there is not a bit more meat in terms of what steps should be taken by the department, and I take on board the comments by the member for Rushen in terms of 'You do not set things in stone in primary legislation' but, with due respect, when we have considered primary legislation before in terms of the publication of changes or provisions laid down in a Bill, quite comprehensive steps have been included in primary legislation before in terms of how it should be publicised, how often it should be publicised, and where members of the public can obtain information on them, and that has actually been included in primary legislation before during my short term in this House.

But I am quite encouraged by the comments made by the hon. member for Onchan in terms of the procedures having to be tested and possibly reviewed and possibly refined. That is all well and good, but I would have thought it would be rather more proactive for this House to have the opportunity to have input into the regulations before they are finally printed and brought forward for adoption, and I would ask the hon. member if he could please arrange and ensure that that is done, that we are given an opportunity to refine the regulations and let the department know of what our views are in respect of them. Thank you.

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, I think it is important to realise that these regulations are laid before Tynwald and are subject: if they are voted against they are annulled and under the clause as it stands we have to make regulations for a complaints procedure. I criticised a short time ago ministers spitting the dummy out over issues, and I think some members in this House have to be careful that they are not spitting the dummy out over the fact that at the present time this is making enabling legislation in order to put an obligation on the department to have what they are going to do if they vote against this. There is no obligation on the department at all as far as this is concerned.

I would say to the hon. member for Ayre that I think he wants to reconsider that point before doing that. The reason why I have not touched the GPs procedure - and he has a very valid point there - is that I want this working right before we do away with the existing procedure as far as GPs are concerned, because at the moment I think the GPs procedure works reasonably well if we do not have the croneyism where we have the worthy list of where we put somebody on it that is virtually ready to be put onto some sort of life support unit. If we put the sort of people on it that are going to have an input and going to be active as far as that is concerned, then that system works well. It is when we put people on it that are not there but just to pick up an attendance allowance. So consequently at the present time I think we have good lay input into that procedure but that procedure, will be done away with and will all come under the one procedure once it has got up and running as far as that is concerned.

I have a lot of sympathy with what the hon. member has to say as far as the complaints procedure, and it was a great debate whether it should be approved, and that is an argument that is valid within this hon. House - no problem with that, but I do hope the hon. member does not throw the cause out because that will then mean there is no obligation on the department and, like the hon. member for Peel, I do welcome this proposal because it has been an absolute battle to try and get this sort of situation and to make sure we get people there that are going to be there that are going to be proactive in order that they see what is going on. I think, if you look at the membership of the panel, we have got a very cross-section of former nurses to people who have had long battles with the

government in their families. So I actually think that the membership will prove not to be the pussy cat that the hon. member for Ayre thinks it will be and it will actually be a tiger that my department and division will have to keep conscious of their actions in order to make sure that we do keep our first-class health service.

The hon. member for Peel is quite right. At the present time the input will be in Tynwald if there is a problem as far as these regulations are concerned, and the fact is that I want them to see the regulations. I hope the regulations will be circulated. Well, I hope to see these regulations in before the next general election because I want to make sure, whilst I have got some rick on the situation, that there will be these procedures. We have got people complaining that have been picked for this body ready to go, waiting to get trained up in order to do so. So I would see it as a priority and I hope the hon. member will give me three or four months and, if the situation is that we have not got them in, then he can ask the question as far as that is concerned.

As far as Mr Singer is concerned, I do hope that he reconsiders his position because I think it would be naivety to vote against the clause because what we are then having is nothing at all as far as this is concerned. I think this hon. House would be right to vote for it.

As far as the points that the hon. member for East Douglas has raised, obviously I want consultation. We want this to work; we want a first-class health service. It is not just the APG members in this hon. House that want it; believe it or not, we use the National Health Service as well, and I hope that this hon. House will support. I thank my hon. department colleagues for their support. I beg to move, Vainstyr Loayreyder.

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

A division was called for and voting resulted as follows:

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

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

The Speaker: Hon. members, the motion carries, 17 votes in favour, 5 votes against. Clause 39, sir.

Mr Karran: Vainstyr Loayreyder, this clause enables the health services to be made available to non-residents, visitors, people coming to the Island for treatment subject to any conditions which may be laid down by regulations. I beg to move.

The Speaker: Mr Cannell.

Mr Cannell: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion is clause 39 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 40, sir.

Mr Karran: Vainstyr Loayreyder, this clause introduces a new power to make provisions for the regulation of medical related professions by order subject to Tynwald approval. I beg to move.

The Speaker: Mr Cannell.

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

The Speaker: The motion is clause 40 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 41 and schedule 2, sir.

Mr Karran: Vainstyr Loayreyder, this clause preserves the present arrangements for consultation with certain professionals, which will be named bodies. Schedule 2 enables regulations to amend schedule 2 to take account of any change of names of bodies to add new professions and representative bodies to provide for consultation with any different body. Vainstyr Loayreyder, I beg to move.

The Speaker: Mr Rimington.

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

The Speaker: Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. An amendment is proposed which is being circulated, clause 41 and schedule 2, which takes account of a recent change of name of the Pharmacists Association and organisations in the Isle of Man.

Page 27, in column 2, for "Isle of Man Association of Pharmacists" substitute "Isle of Man Pharmacy Contractors Association".

The Speaker: Mr Rimington.

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

The Speaker: Mr Rodan.

Mr Rodan: I beg to second, sir.

The Speaker: Hon. members, the motion is that the amendment to clause 41, schedule 2, be part of the Bill. Those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it. I now put the clause and schedule as amended. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 42, sir.

Mr Karran: Vainstyr Loayreyder, this clause sets out the procedure for regulations under the Bill and enables regulations reproducing the corresponding UK regulations to be backdated. I beg to move.

The Speaker: Mr Cannell.

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

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

Mr Karran: Clause 43, Vainstyr Loayreyder. This clause defines various terms used in the Bill. It is for drafting provisions. I beg to move.

The Speaker: Mr Cannell.

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

The Speaker: The motion is that clause 43 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 44 and schedules 4 and 5, Mr Karran.

Mr Karran: Vainstyr Loayreyder, this clause and schedules 3, 4 and 5 make provisions of consequential amendments and repeals for enabling regulations to make further provisions. I beg to move.

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

The Speaker: Mr Cannell.

Mr Cannell: Yes, sir, two amendments on this clause, if I may please, previously circulated. Clause 44, schedule 3, amends the application of the new Bill to the following list of trusts: the Ramsey and District Cottage Hospital Welfare Fund Trustees; the Ramsey and District Cottage Hospital Endowment Fund Trustees; the League of Friends of Ramsey and District Cottage Hospital; the League of Friends of Nobles Hospital, and the Henry Bloom Noble Health Care Trust and it might be opportune, sir, to thank them for the services which they provide in this regard. Clause 37, which we have already considered with its schedule 1, allows the department to hold gifts. The related schedule 1 has been included in the Bill to allow the department to make use of trust assets which could not otherwise be accessed by irrelevant or untraceable trustees, and I am sure hon. members will have had some experience of this in other regards to worthy causes which have run their course but which were very fine establishments at the time but unfortunately have been overtaken by events. Meetings have been held with the representative of the active trust which I have outlined and they have all taken advantage to apply for exemption from these provisions. I beg to move the amendment, sir:

Page 29, for paragraph 7 substitute -

“7. (1) The Noble’s Hospital Act 1909, so far as it had effect immediately before the commencement of this Act as an instrument establishing or regulating any charitable trust, shall continue to have effect as such, and may be varied or revoked by the High Court in the exercise of any of its powers under the Charities Act 1962 or of its inherent jurisdiction relating to charities.

(2) Subject to the exercise of any of those powers -

- (a) the repeal by this Act of the said Act of 1909 does not affect the incorporation of the Hospital Trustees effected by that Act;*
- (b) the repeal by this Act of the National Health Services (Isle of Man) Act 1963 does not affect any powers of the Department under section 3(2) of that Act (appointment of trustees) in relation to the said Trustees.”*

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

The Speaker: Mr Singer.

Mr Singer: Thank you. Could I briefly thank the hon. Mr Cannell for his comments - I am chairman of the League of Friends of the Ramsey Cottage Hospital -

A Member: Ah!

Mr Singer: - and I want to thank him, never mind, 'Ah,' - listen to what I have got to say before you make comments. *(Interjections)*

The Speaker: Hon. member!

Mr Singer: Can I thank them for the courtesy they gave the League of Friends initially in meeting them when there was a concern about the lack of exemption and for the way that they thought about it and did in fact give the exemption to the League of Friends, who are very much appreciative of the support that the department gave them.

The Speaker: Mr Quine.

Mr Quine: I will not be moving the amendment, sir; it relates to an amendment that is already not been approved, it has fallen, so there is no point.

The Speaker: Mr Cannell. Schedule 4.

Mr Cannell: Yes, sir. Clause 44, schedule 4 refers to account of the creation of a new committee of the General Medical Council made by order under the United Kingdom Health Act 1999 regarding the regulation of the medical profession. There is a detailed explanation. I do not know whether members would wish me to go through that or not. It is available in the amendment previously circulated. Suffice to say this is a tidying-up operation again, as the previous schedule. I beg to move, sir:

Page 31, paragraph 8, in the new subsection (3)(d), for '42' substitute '41A'.

Mrs Crowe: I beg to second, please, Mr Speaker.

The Speaker: Right, hon. members, I will now invite Mr Cannell to reply to his amendment to schedule 3.

Mr Cannell: Well, other than to thank the thanker, as it were, sir, and, as I say, repeating that much good work remains to be done and has been done in the past by the trustees and leagues et cetera that I have outlined, and I thank the hon. member for Ramsey, Mr Singer, for his remarks on behalf of one of those, sir.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I just wish to move. Obviously the hon. member for Ramsey knows that he is pushing against an open door as far as the health services is concerned. The situation is that we value the trusts; they have been an important part as far as the health service is concerned in the past. It is good to see that this hon. House has the commitment that the state wants to provide what once had to be expected from charity. We recognise that and we recognise that for all the trusts. I beg to move.

The Speaker: Hon. members, we now put the amendments in the name of Mr Cannell, schedule 3 and schedule 4 stand part of clause 44. Those in favour of the amendments please say aye; against, no. The ayes have it. The ayes have it. I now put clause 44, as amended, stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 45, sir.

Mr Karran: Vainstyr Loayreyder, this clause gives the Bill its short title, provides that it comes into force on the appointed day or days.

Sub-clause (1) gives the Bill its short title.

Sub-clause (2) provides the department to bring the Act into force by one or more appointed day orders. I beg to move.

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

The Speaker: Hon. members, the motion is that clause 45 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. They ayes have it. That completes the clauses stage of the National Health Service Bill.

Adoption (Amendment) Bill — Clauses Considered

The Speaker: We now move on to item 10 on the order paper, Adoption (Amendment) Bill for consideration of clauses. Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. The Bill is based on the United Kingdom Adoption (Intercountry Aspects) Act 1999 and is in no way to be confused with the general adoption procedure of the Isle of Man, which will be addressed very shortly in the Children and Young Persons Bill. This Bill amends the Adoption Act of 1984 in respect of intercountry adoptions. It also enables the ratification by the United Kingdom of a new convention on intercountry adoption to be extended to the Isle of Man. The convention will be implemented mainly by the dreaded regulations. It introduces sanctions to deal with unacceptable practices in intercountry adoption and it removes a difficulty affecting Manx couples seeking to adopt children from the United Kingdom.

Clause 1 enables the Department of Health and Social Security, by the making of regulations, to implement the 1993 Hague Convention with respect to intercountry adoptions. The convention is included as schedule 1 of the Bill. It also establishes that the Department of Health and Social Security will be the body responsible for the operation of the convention and the department is to be responsible for the appointment of approved adoption societies, now referred to as accredited bodies, who will actually undertake the necessary work of adoption. All intercountry adoption as defined in the Act will therefore be subject to a process which is set out in regulations by the Department of Health and Social Security, which will be responsible for the operation of this convention and will appoint the adoption agencies to carry out adoptions as described in the Bill. I beg to move that clause 1 stand part of the Bill.

The Speaker: Mr Rimington.

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

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 Cannell: Mr Speaker, this clause enables a convention adoption made in a foreign country to be recognised as a full adoption in Manx law. It also makes provision for the recognition of another kind of adoption available in certain countries and known as 'simple adoption'. Adoption laws in the British Isles, including the Isle of Man, recognise that when a child is adopted all legal ties with the natural parent are severed, and this creates a new legal relationship between children and their adoptive parents. That is known as a full adoption but not all convention countries completely sever legal ties with natural parents. However, all adoptions from convention adoptions which come before Manx courts will henceforth, providing this measure goes through all its legislative stages, be regarded as full adoption procedures unless it could be shown to courts that it would be more favourable to the child to sever the ties with the natural parents to only a limited extent. This might be where not to take away from the child any rights to the income by inheritance. I am sure hon. members would agree that that is a worthy provision. I beg to move clause 2 stand part of the Bill.

The Speaker: Mr Rimington.

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

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

Mr Cannell: Thank you, Mr Speaker. This clause implements article 24 of the convention referred to under which the recognition of an adoption may be refused in a contracting state only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child. It gives the High Court the authority to annul a convention adoption on the grounds that the particular adoption was contrary to public policy. The effect of this is that a particular convention adoption will cease to have effect on the Island. With this exception, the validity of all other convention adoptions cannot be challenged by Manx courts. The clause also, though, provides that decisions made in a court in a convention country or in the United Kingdom or the Channel Islands would be recognised by the Isle of Man. I think it is extremely unlikely, sir, that this provision would be called upon, but nevertheless I am advised it should be included, so I formally move clause 3 stand part of the Bill.

The Speaker: Mr Rimington.

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

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

Mr Cannell: Mr Speaker, clause 4 inserts new definitions in the 1984 Act dealing with convention matters, sets the text of the convention out as a new schedule in the 1984 Act known as schedule 2A. The clause inserts new definitions, as I have said, and the three sub-clauses are to achieve this objective. I formally move clause 4 stand part of the Bill.

Mr Houghton: I beg to second, sir.

The Speaker: The motion is that clause 4 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 5, sir.

Mr Cannell: Thank you, Mr Speaker. This clause provides for the approval of adoption societies, who may wish to act as adoption agencies in relation to either adoptions which are not intercountry adoptions or all adoptions including intercountry adoptions - a technical measure, sir. I formally move clause 5 stand part of the Bill.

The Speaker: Mr Rimington.

Mr Rimington: Thank you, sir. I beg to second and reserve my remarks.

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

Mr Cannell: Mr Speaker, this clause provides that where a child from abroad is to be adopted in the Isle of Man and the arrangements for adoption are made by an agency either here or abroad or the adopters are related to the child, then he must have had his home with the adopters for six months - and we use the male example here - that is, instead of the usual 13 weeks. The child adopted in the Island from abroad and where the arrangements are made by an adoption agency or the adopters are related to him must have lived with them for six months rather than 13 weeks as previously required - three months, in other words; twelve months in all in other cases. A new subsection (4) is inserted as section 2 of the 1984 Act to achieve this. It may be opportune, Mr Speaker, to enlarge very briefly on this to say that experience has shown that the longer time is preferable. I formally move, sir that clause 6 stand part of the Bill.

The Speaker: Mr Rimington.

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

The Speaker: The motion is that clause 6 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Hon. mover, in moving clause 4 did I hear you correctly that we move schedule 1 as well?

Mr Cannell: Yes, I certainly referred to it in the introduction. Perhaps formally I did not say it when I moved the clause; if you wish me to rectify it then I will do so.

The Speaker: I do, sir.

Mr Cannell: May I then formally move, sir, that clause 4 and schedule 1 stand part of the Bill.

Mr Rimington: I beg to second, sir.

The Speaker: The motion is - we have already approved clause 4 - that schedule 1 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 7, sir.

Mr Cannell: This clause, Mr Speaker, makes amendments to the procedures for registering adoptions.

Sub-clause (1) requires the Chief Registrar by an amendment to section 38 (1) of the 1984 Act, to make such entries into the adopted children's register as may be required under schedule 1 of the 1984 Act.

Sub-clause (2) amends schedule 1 of the 1984 Act to remove the requirement to mark entries in the adopted children's register as a convention order. It also substitutes a new paragraph 3 in schedule 1 of the 1984 Act which requires the Chief Registrar to enter into the adopted children's register an adoption order made under the convention or an order made overseas which meets the criteria set out in those regulations. It also sets out the form and content of applications for registration and by whom they can be made. It also requires a relevant entry in the register of births to be marked as adopted or re-adopted and the country in which the adoption took place, and that should be included. So I formally move, sir, that clause 7 stand part of the Bill.

The Speaker: Mr Rimington.

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

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

Mr Cannell: This makes minor amendments to the 1984 Act to make it clear that in intercountry adoptions home circumstances assessment reports must be prepared by or on behalf of an adoption agency and that, where an agency has made arrangements for the adoption of a child from overseas, that placement will be treated as having been made by the agency even though it is not directly involved in those first stages which take place in the child's country of origin.

The clause inserts two new subsections. In section 58 of the 1984 Act, new subsection (4) establishes the need to carry out an assessment to identify if the person is suitable to adopt a child or not. New subsection (5) extends the reference to a child placed with any persons by adoption agencies in the case of children from abroad to include references to children placed for adoption by those persons under the law of the foreign country in particular. I formally move clause 8 stand part of the Bill, sir.

The Speaker: Mr Rimington.

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

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

Mr Cannell: Clause 9, Mr Speaker, makes it an offence for a person other than a parent, guardian or relative to bring to the Isle of Man for the purposes of adoption a child habitually resident outside the British Isles unless they comply with the requirements to be prescribed in the regulations, and I am sure we have all heard of examples of this in recent times and the practice does seem to be on the increase, but such practices, of course, are quite illegal. The purpose of this amendment is to deter those who bring such children to the Isle of Man for the purposes of adoption without authority and who fail to make the presence of the child known to the DHSS so that the department can subsequently visit the child who, under section 22 of the 1984 Act, becomes a protected child as described and would be visited on a regular basis so that the department and others might be satisfied about safety and welfare concerns.

The clause inserts a new section 44A in the 1984 Act. Subsection (1) makes it a criminal offence for a person habitually resident in the British Isles to bring to the Isle of Man a child for the purposes of adoption unless that person complies with the requirements as prescribed.

Subsection (2) excludes those requirements in the case of a parent, guardian or close relative of the child.

Subsection (3) specifies the penalties for an offence under (1).

Subsection (4) - proceedings for a summary offence under this section may be brought within six months of the date in which sufficient evidence came to the prosecutor's knowledge or within three years of the offence, whichever is the sooner, and the detail of that, of course, is that it allows a suitable time for investigations to be carried out and for the circumstances of any adoption which appears to be out of order to be fully explored, sir. I formally move clause 9 stand part of the Bill.

The Speaker: Mr Rimington.

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

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

Mr Cannell: Clause 10 removes the difficulty affecting applications by Manx couples wishing to adopt children from the United Kingdom by enabling the Manx High Court to recognise orders made by courts in the United Kingdom freeing a child for adoption and thus removing the need for the natural parents' consent to be sought again. The clause amends section 5 of the 1984 Act, which requires consent of each natural parent or guardian to the adoption of a child unless the court dispenses with consent on certain grounds. They might be, for example, that the parent could not be found, withholds consent unreasonably or has abandoned or seriously ill-treated the child in question. Such consent is not required when there is in force a freeing order made in the United Kingdom, and I think we would welcome, hon. members, that the Manx courts would enjoy this opportunity to exercise that judgment, sir. I formally move clause 10 stand part of the Bill.

The Speaker: Mr Rimington.

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

The Speaker: The motion is that clause 10 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 11, schedules 2 and 3, sir.

Mr Cannell: Yes, Mr Speaker. This introduces those schedules which make minor and consequential amendments and repeals of the 1984 Act mainly to remove references to the 1965 Hague Convention which were never brought into force. I formally move that clause 11 and schedules 2 and 3 do stand part of the Bill.

The Speaker: Mr Rimington.

Mr Rimington: I beg to second, sir.

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

Mr Cannell: Yes, sir, finally, this clause give the Bill its short title. It defines the term '1984 Act' and it provides for the Bill to come into force on a day appointed by the Department of Health and Social Security which will enable regulations to be made under section 6A, with reference to clause 1, 44A, reference clause 9, and schedule 1, paragraph 3, reference to clause 7.

I thank hon. members for their indulgence in this technical matter, which will in fact greatly aid the department in its adoption services, vis-à-vis intercountry adoptions, tidies up many of the obstacles which have been presented for a number of years and, more importantly, protects children in their very vulnerable and traumatic transference between countries. I formally move, sir, that clause 12 stand part of the Bill.

The Speaker: Mr Rimington.

Mr Rimington: I beg to second, sir.

The Speaker: Hon. members, the motion is that clause 12 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. That completes the clauses stage of the Adoption (Amendment) Bill.

Residence Bill — Second Reading — Debate Commenced

The Speaker: We now move to the next item on the order paper, which is item 11, Residence Bill. Mr Cretney.

Mr Cretney: Thank you, Mr Speaker. There has been a residence Bill in government's legislative programme for a number of years and, as a topic for policy discussion, management of population has a lengthy history. A reserve power to manage the growth of population has always been considered to be an important component in the government's long-term strategy for the future development of the Island. This strategy envisages the continued expansion of the economy with greater diversity and improved productivity without the quality of life being undermined. Some growth in population must be expected as part of this strategy, but the ability for government to more effectively manage the situation by placing restrictions on excessive population growth as a means of combating overheating and other negative impacts is necessary as a safeguard.

Apart from significant decreases between 1921 and 1931, and 1951 and 1961, the Island's population has increased steadily since the first census more than 160 years ago. In 1821 the

population was 40,081 persons. In 1986 it was 64,282. At the present time it is estimated that our population is 74,900, and a census is due next year.

We are also aware that there has been a strong relationship between economic growth and population growth in that periods of decline in population are periods when the economy has had difficulties. Overall our population, though, has been in natural decline in that each year deaths exceed births. In a 20-year period between 1976 to 1996, deaths exceeded births by over 4,000. In that same period the total population rose by nearly 10,000, the difference being immigration, so we know that the actual size of the population is growing and that growth is due to immigration, which latterly has been related to economic development rather than the previous policy of simply attracting retired people.

But whilst actual numbers and changing numbers are important, they should not be looked at in isolation as population densities are also important. With its current population, the Isle of Man has a population density of 339 persons per square mile. This figures is virtually the same is for China, but the range is enormous when compared with other countries, from the very low densities of Australia and Canada to the very high densities of Hong Kong and Monaco. The United Kingdom is of particular interest. Overall the United Kingdom has a population density of 626 persons per square mile, nearly twice that of the Isle of Man. England has a density three times as great as the Island and Scotland has a population density of only half that of the Island. If the Island, therefore, was to accept the same population density as England, the result would be a population of 216,000 persons. If we were to have the density of Scotland, then we would need to reduce the population to 37,000.

The examples of Jersey and Guernsey are also very interesting in our forward planning where we must learn from the experience of others. Jersey has a population of 88,915, over 45 square miles; that is six times the density of the Isle of Man; and Guernsey, a population of 64,080 over 24 square miles - eight times our density.

In looking at bringing forward legislation to manage the growth of the Island's population, it is useful to look at population projections. Statistics show that the annual average increase in the population during the last 25 years has been about 780 persons immigrating each year into the Island. If immigration continues in this way, it could be estimated that the Island will have a population of about 82,000 in 2010. This is, of course, based on times of decline as well as growth, and clearly we have been most fortunate to enjoy economic growth over the last 15 consecutive years.

One other question which is frequently raised in regard to population management is whether or not there should be an overall population limit for the Island. A population figure of 75,000 did achieve a considerable but not wholly justifiable significance over 15 years ago and was regularly referred to as either a target or a limit. It was used in the preparation of the Island's development plan of 1981 so that the plan in this form catered for a population of 75,000, but the figure was arbitrary in that it was not related to any agreed population density. It does not reflect directly the capacity of existing infrastructures and it said nothing about the composition of the population. In 1988, when the Social Issues Committee discussed the figure of 75,000, it decided that the composition and structure of the population and the rate of growth were as as important as sheer numbers in affecting the quality of life and concluded that any overall population target figure could only be a limited planning tool.

Mr Speaker, there are a number of difficulties with a fixed population limit. Because of the free flow of persons into and out of the Island it is not possible to know at any one time the exact population. Births and deaths are beyond government regulation, although we do have an impact now

and again, and an excess of births over deaths might breach a pre-determined limit. Furthermore, it is difficult to imagine a situation where a particular population figure is reached and further access to the Island would be absolutely denied. The idea of a queue of prospective new residents waiting for existing residents to emigrate or die so they might take their place in the Island is, I am sure, not a very attractive one for any of us.

But perhaps the best way in which I can highlight the difficulties of having a fixed population limit is the situation for returning Manx persons. However strictly the limits are drawn in defining those persons with Manx connections who would have an automatic right to return and live on the Island, there will always be a reservoir of several thousand persons with a right of return, which would breach any total population barrier chosen if that right were exercised on a large scale, and one of the fundamental principles of this Bill is to ensure the quality of life enjoyed by Manx people must continue to be available to Manx people.

The need to manage the growth of population resulting from the Island's economic development was first recognised in government's 1987 policy document. As a result, the Social Issues Committee of the Council of Ministers was charged with the responsibility for considering this issue and produced a consultation document in 1988 and a report to Tynwald in 1989, which gave the green light to the preparation of legislation. There have been a number of hold-ups along the way. In particular, there was the Barr Montrose legal case which went to the European Court of Justice and which raised some points of principle in relation to our Control of Employment Act and which, by implication, questioned the basis of our proposals for residency control. Government had to wait for that to be resolved. There have also been extensive consultations necessary with the Home Office where we have had to persuade the United Kingdom government that what was being proposed would not cut across existing immigration law or our European Union protocol 3 obligations, or our obligations under the Convention of Human Rights. Such assurances have been sought and have been given.

A further consultation document was published in 1998 to try and alleviate some of the bureaucracy and intrusiveness of the original proposals. Such matters have taken time and unfortunately other priorities have, at times, crowded out work on this Bill which we are, today, now in a position to consider.

The two main issues which have been examined throughout consideration of this matter were, firstly, whether there was a need to put in place a mechanism for managing population growth, and, if so, what means of population management should be considered. At the outset of the Social Issues Committee inquiries into population management the committee was already aware that there were a number of public control mechanisms which to a degree restricted population movements into the Island. However, none of the existing controls had been designed to provide a comprehensive regime for managing population growth and were regarded by the committee during its consideration as insufficient. Without wishing to labour the point, I feel it would be useful to identify these existing controls and explain why they were considered inappropriate.

Firstly, there are the Immigration Acts which are an essential first barrier in limiting the possibility of the Island being overwhelmed by immigration by foreign nationals. However, for immigration purposes the Isle of Man is regarded as part of the United Kingdom. Anyone entitled to enter the United Kingdom is therefore entitled to enter the Isle of Man and, whilst the United Kingdom as a whole is able to absorb, each year, a sizeable number of immigrants, if a significant number should choose to seek to live on the Island there might well be adverse social consequences. The Immigration Acts alone are in any event wholly inadequate in themselves as a mechanism for

managing population growth. However rigorously the Acts are applied, they cannot deny access to the Island to persons from the Common Travel Area, which is made up of the United Kingdom, Ireland, the Channel Islands and the Isle of Man and has a population in excess of 55 million. All persons in the Common Travel Area can move freely within that area and so the Immigration Acts can not be used to prevent persons from the Common Travel Area, where most of our new residents come from, moving to the Island.

There is also the European Economic Area, which is the European Union plus two other countries, and that has a total population of more than 360 million persons. Under the Immigration Acts we are not empowered to prevent entry to the Island of citizens of the European Economic Area, so there are about 350 million and 400 million people who have a right of entry into the Isle of Man and whose entry cannot be inhibited by the Immigration Act. (*Interjection*) So I think hon. members will understand that there is ample scope for excessive immigration into the Island regardless of the effects of the Immigration Act.

The second existing control mechanisms considered were the Control of Employment Acts, more commonly known as work permits. These had two particular limitations as a management of population mechanism: first of all, the Acts only apply to new residents seeking employment; secondly, the Acts offer no means of controlling the establishment of expansion of business or the increase in the working population that results. Clearly, therefore, the work permit regime cannot be used to limit the influx of population.

The third of the existing mechanisms considered was the residential restrictions on benefits and services. New residents are not automatically entitled to supplementary benefit, job seeker's allowance, family income supplement or public sector housing, but these restrictions are unfocused and have only an incidental effect on population. They cannot serve as a primary mechanism for controlling the size of the Island's population growth. The committee, therefore, concluded that the existing mechanisms for managing population growth were not in themselves sufficient for the sort of situation which the Council of Ministers was contemplating and that there was no existing means of responding effectively to a rapid influx of population which served to undermine the quality of life of the population of the Isle of Man.

Various alternatives to the Residence Bill were considered. These included the mechanisms used in Jersey and Guernsey, which were rejected as being excessive. The use of an existing database such as national insurance records or the voters lists were also studied. However, national insurance records are not allocated to various categories of resident on the Island; in addition, there are also residents with United Kingdom rather than Manx national insurance records. Whilst the committee did feel that it might be possible to overcome these difficulties, the main problem using the national insurance numbers system would be to find a suitable sanction and a method of policing the system. To attempt to deny social security benefits would be ineffective against those who did not need the benefits. Also, such denial would contravene the reciprocal agreement with the United Kingdom.

The voters list also included various anomalies and inaccuracy in establishing a true record of the population of voting age. In addition, there was no suitable sanction or method of policing, as I hardly feel that to be prevented from voting would be a punishment. Some recent turnouts at elections, I believe, would support me. But these processes are at best only information systems which do not offer a means of managing population. In addition, they do not offer an accurate record of the population.

The conclusion reached after looking at the alternative measures available was that none met the need, so that there was no option but to create a mechanism to manage population growth. The mechanism proposed by the committee is contained in the Residence Bill which is before us today and is based on residency and accommodation.

This Bill is not a huge piece of legislation; it is in part an enabling measure, and much will depend on what is written into the regulations and directions which can be made under the legislation. Before moving into the details, though, I feel I should put on record that it is recognised that this legislation is bureaucratic and intrusive. However, the way to have a mechanism to manage population growth is not to come forward at a time of crisis to try and react but to have available a Bill and suitable regulations carefully thought out, ready as part of our forward planning.

Secondly there may be an assumption in the minds of the public that this is a piece of legislation which will impact only on new residents and that it will apply to them and not to us, but that is not the way it has been drawn up. It will apply to all residents. It will need to manage the overall population growth, and that is another reason why it was conceived as a piece of forward planning. The basis of the Bill is residency; it does not prevent entry into the Island; it does not deal with employment or property ownership. It simply provides that in order to take up residency on the Island or to change residence the person doing so will need to prove to the person providing the accommodation that they are registered as a person entitled to reside here.

To avoid loopholes, 'residential accommodation' will be widely defined to include premises, vehicles, vessels or any part of any premises, vehicles or vessels and any other place used for the purposes of human habitation. 'Reside' means ordinarily resident and the Bill is intended to apply to all persons living permanently on the Island and to all forms of accommodation.

There are three groups of people who will be entitled to residence: exempt persons, who will be persons who are ordinarily resident on the Island when the Act takes effect so that if you live here when the Act is brought in you will have the right to continue to live here. Also exempt will be anyone who is on the Island in full-time education. Next, there will be those persons who are registered unconditionally. Unconditional registration will be granted as of right without any conditions being attached to any person with existing residence or close association with the Isle of Man. Anyone entitled to unconditional registration will apply for it and it will be automatically granted. The third category will be persons with conditional registration who apply for registration and are granted it at the discretion of the authorities, subject to conditions. Upon registration a certificate of registration, whether unconditional or conditional, will be issued. In the case of an unconditional registration the certificate will last until there is a change in any personal details and, for a conditional registration, until the expiration or cessation of the conditions or the person ceases to reside on the Island, whichever takes place first.

It is proposed that the legislation will grant rights of appeal against initial decisions relevant to registration. With the exception of certain categories, for example tourists, an individual who wishes to reside in any residential accommodation will need to produce to the person providing such accommodation, either as a vendor, landlord or otherwise, a valid certificate of registration in respect of the persons who are intending to reside in the accommodation. The provider of the accommodation, whether as a vendor, landlord or otherwise, will have a responsibility to ensure as far as possible the accommodation is only provided to those persons identified on the certificate, and, if the person's registration is conditional, that the accommodation is not provided in breach of any conditions. Since the certificate of registration merely requires to be produced if a person desires to

commence residence in accommodation, a person will not require to be registered so long as he or she continues to reside in his or her existing accommodation. If and when a person decides to change accommodation it will be necessary for him or her to then register. In the fullness of time it is anticipated that all persons legally resident on the Island will be registered.

If we can now look at the groups of individuals who will be entitled to unconditional registration, these will be exempt persons who change accommodation; they continue to be exempt as long as they remain in the same accommodation as at the time the Act came into force. However, when they change their residence they cease to be exempt but they will be entitled to unconditional registration so their right to reside on the Island continues.

The other group entitled to unconditional registration will be those new residents who come to live in the Island after the Act comes into being and who have Manx connections. These will include: persons born on the Island, persons who have established their permanent home on the Island in advance of residence, persons who have been ordinarily resident on the Island previously for not less than 10 years in total, persons married to or the children of a person having one of the other qualifications. These people will all have a continuing right to reside on the Island. Their residency will not be impeded by the new legislation but they will need to establish their rights through the registration process.

Then there will be those persons who will qualify for conditional registration. At this stage the Bill does not identify the terms of conditional registration, but it is intended that the criteria would be capable of variation over time to give the flexibility necessary for government to be able to respond to changing circumstances. It will, however, very much depend on what is in the regulations. Under the provisions of the Bill it is proposed that the Council of Ministers will have responsibility for the implementation of policy in relation to the management of population growth, and so Council will from time to time fix the parameters and build them into regulations and directions. The regulations will then need to be approved by Tynwald Court and directions will need to be laid before Tynwald Court.

When the Social Issues Committee reported originally on the management of population it did so using the concept of gateways. It envisaged residency on the Island being secured through one of a number of gateways which could be widened or narrowed according to the circumstances. The Bill does not refer to gateways. Concepts initially discussed by the committee to indicate the sort of criteria which might be included in regulations, apart from having connections with the Isle of Man which would be, in effect, a permanently open gateway, included three additional gateways.

First of all, an economic contribution gateway was envisaged which the Social Issues Committee thought most new resident applications for residence registration would use. Economic contribution could be in the form of skills, capital or entrepreneurship or other appropriate means. In addition, the committee recognised that there were likely to be individual cases where humanitarian circumstances would justify granting registration and therefore identified the humanitarian gateway.

Finally the committee foresaw the possibility of granting registration to individuals with a record of achievement in a creative, sporting or other similar capacity which would help enrich Island life and would be known as social criteria. The criteria can only be indicative; the actual criteria would be set out in regulations and directions.

In order to achieve registration, an applicant would have to apply to the registrar who would be appointed by the Civil Service Commission. The registrar would maintain the register of individuals qualified to reside on the Island. Applications for registration would be in a prescribed form together

with prescribed information and documents. Where the registrar refused an application to register or an application to vary conditions or other particulars, or indeed where the applicant was unhappy with the conditions imposed, the applicant may seek a review of the registrar's decision to a tribunal consisting of the High Bailiff and two persons appointed by the Council of Ministers for a three-year term. There is a facility to appoint deputy members and to rescind the appointment of members. Ordinarily the hearings of the tribunal would be in public.

As I mentioned earlier, having received a certificate of registration a prospective resident must produce it to the provider of the accommodation in which they propose to reside, or to that person's agent. If a person resided on the Island without a certificate they would commit an offence. The provider of accommodation is also under a duty to require the certificate to be produced. If they provide the accommodation without satisfying themselves that the person is registered they too commit an offence. The Bill provides for a number of offences with penalties which can amount to fines of up to £5000, imprisonment not exceeding six months or a fine and imprisonment, or deportation if the person concerned is not entitled to residence or a court can order the cancellation of a conditional registration if there is a breach of the conditions. And if false or reckless information has been supplied in order to obtain a conditional or unconditional registration, then the court can order the cancellation of the registration.

I think it is important to emphasise at this stage that the Residence Bill would not affect the Immigration Act; it would be a separate piece of legislation. Someone wanting to come to live on the Island who was subject to the Immigration Act would need to satisfy both Acts before they could take up residence. The Bill proposes a few amendments to the Control of Employment Acts and it is envisaged that the two pieces of legislation would work in parallel in the first instance. The operation of the economic gateway under the Residence Bill would provide a management mechanism for those coming to reside and work on the Island, but there would continue to be a need to regulate, by means of work permits, those workers who work for short periods on the Island without establishing residence so residual control of employment provisions would remain. We also need to recognise that there would be no incentive for people to de-register when they leave the Island; they would tend, therefore, not to de-register so that at any point in time there would be likely to be quite a number of persons registered who in fact are not resident.

In coming to a conclusion I think it is important that I refer to my earlier comments that this Bill is seen by the Council of Ministers as forward planning. It is also worth saying that there is a danger, in opening up the public debate on the Residence Bill, that a message will go out that the Isle of Man is closing its doors to new development, Certainly the Island's competitors are likely to present the Bill in that way. The Council of Ministers is anxious that this should not be the message that goes out, and the debate should reflect the forward planning aspect, which I suggest is the correct responsible way forward and will be welcomed by the majority of those who care for our Island and its future. Mr Speaker, I beg to move the second reading.

Sir Miles Walker: Mr Speaker, I am pleased to second and reserve my remarks, sir.

The Speaker: Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker. I rise to seek leave from the house to adjourn this debate under standing orders, sir, due to the fact of the absence of the Chief Minister and his number two, the Treasury minister. I know that I speak on behalf of a number of members in the House this morning where I would very much value what the Chief Minister has to say on this subject, and it is for

that reason that I would like to move this measure, sir. Really, the way I see it is this Bill is so important (**A Member:** Hear, hear.) and, with every great bit of respect to the hon. mover of this Bill, this Bill should have been moved by the Chief Minister himself. I beg to move.

Mr Duggan: I second that, Mr Speaker.

The Speaker: It has now been seconded by Mr Duggan, we are now in an adjournment debate, hon. members, and you will have five minutes maximum. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I rise to support the adjournment for the very reasons that my hon. friend and colleague for North Douglas, Mr Houghton, has put forward, I could not make it more eloquently. This is very important. (**A Member:** Hear, hear.) It is of national strategic importance and we need the key figures of the Isle of Man Government here, I feel, to be present.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I think this is nonsense in my opinion, (**Members:** Hear, hear.) absolute nonsense. If anything I know the establishment has silenced me to a certain degree by giving it to my hon. colleague in the party as far as my concerns, but if anything should be done it should have been here 10 years ago, (*Interjections*) this piece of legislation, and I think that the fact that whether the Chief Minister is here or not and my hon. colleague from Onchan is here is immaterial. I think we should be getting on and getting something done. As much as I might not think much of the Bill, I have to say that something to debate is far better than having nothing to debate. I mean, we have been waiting 10 years, 12 years for this day to come (*Interjection*) and I think this hon. House should get on with it and let us debate it and let us get it to the clauses, because the clauses are the important thing. We know where the Chief Minister stands as far as residency control. If he was in his car now he would be in reverse as far as that is concerned. (*Laughter*) We know where most of this House is as far as residency control, but at least let us get on with debating the issue and let us see this Bill and get down to the clauses stage, where the real action will be taking place, and making sure that the proper teeth are in there so that it cannot be permanently be put in reverse. I hope this hon. House will support the mover and let us get this Bill debated today, not left for another week or a fortnight.

The Speaker: Member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I agree with the member that has just resumed his seat. This legislation would not be before the House unless it was supported by the Chief Minister and the Minister for the Treasury. I know the member for Onchan says that he would be in reverse; I think some of us, even if we support the legislation, would be in reverse at this particular time. What the legislation says is that if we pass it and if it is ever needed to be used, which might be like tomorrow, it is there and that it could be used and I do not see any reason for holding it up today. We are forever told that the legislation before the House, and somebody has not moved it, and this legislation is now before us, we want to get on with it, we can look at it today, we can look at it the next time the House sits to go through the clauses stage, and I think it is right and proper. It has been through the Council of Ministers; it is supported by the Council of Ministers. It actually says 'Approved by the Council of Ministers for introduction in the House of Keys, June 2000'. It just so happens that this week the Chief Minister and the Treasury minister are away on government business. Let us in their absence get on with it.

A Member: Hear, hear.

The Speaker: Mr Cretney, speaking to the adjournment.

Mr Cretney: Yes, thank you, Mr Speaker. I also would wish to proceed with the Bill today. I cannot remember any piece of legislation which has had more consultation and has appeared in more policy documents than this. It is about time we got on with it, and I am sorry, to the hon. member for North Douglas that you only have number eight or number nine, but I am the one who volunteered to take it because I am a strong supporter of this and I think it is something we should have in place as a piece of forward planning to protect the Island which we all say we are interested in. Let us get on with the job we are elected to do.

Several Members: Hear, hear.

The Speaker: Member for Rushen, Sir Miles Walker.

Sir Miles Walker: Yes, thank you, Mr Speaker. I also agree that we should be getting on with this Bill. It is a piece of legislation that I have been supportive of for a long time. I do think it unfortunate that the Chief Minister and Treasury minister are not here but that is a matter of fact, that is the situation we face, and I do not think it is a reason for deferring or adjourning the subject. There will be plenty of time during the clauses stage and the third reading for those two individuals, if they so desire, to make their views known. I would have liked to have this legislation here 10 years ago as well, but the hon. mover who presented this piece of legislation to us a few minutes ago spelled out very clearly the reasons why it was not possible so to do, and I hope members will reflect on the words of the hon. mover, sir.

The Speaker: Mr Houghton to reply.

Mr Houghton: Yes, thank you, Mr Speaker. Very briefly, I have taken consideration of everybody's points. I do not wish to delay the Bill for any other reason than I just want to hear what the Chief Minister has to say, and it is here down on *Hansard* forever, and in addition his number two colleague. It is vitally important that this Bill is debated. The Chief Minister in his wisdom was not at the presentation that members had; he is not here today. That is not his fault, we understand all that, but the thing is by just holding this Bill up for another couple of weeks will not make a jot of difference. I would just like to hear what the number one politician of the Isle of Man has to say about this before consideration, and I just ask of that, sir. I beg to move.

Mr Cannell: Mr Speaker on a point of order, could you confirm, please, that there would be no obligation on the Chief Minister or the Treasury minister to contribute to the debate even if they were here?

Mr Houghton: No, indeed.

The Speaker: That is correct, sir. Hon. members, the motion is that item 11 on your order paper be adjourned for further second reading until the next sitting of this House. Those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Houghton, Henderson, Duggan and Singer - 4

Against: Messrs Gilbey, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Brown, Cretney, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Bell, Karran, Cannell and the Speaker - 18

The Speaker: Hon. members, the adjournment motion fails to carry - 4 votes in favour, 18 votes against. We will now continue the debate of the second reading of the Residency Bill. Mr Cannell.

Mr Cannell: Yes, Mr Speaker. I attended a presentation on the Residency Bill, or Residence Bill as it should be more properly known, and I obtained the answer to a number of the questions I put, but I hope that the product of having members' briefings does not in any way inhibit anybody from repeating the questions, or indeed putting any further questions that they wish to have, on the matter concerned.

I do not have any difficulty whatever in accepting the broad principles of the Bill. I am a little perplexed as to why people should say it should have been in 10 years ago, because they did not then explain how many of those 10 years would have elapsed since the provisions of the intended legislation would actually have been utilised, or whether it would only have been coming in now, in which case no time has been lost at all, providing it goes through.

I am not that keen on having everybody on the Isle of Man accountable. I think they are accountable enough as they are already, and I think the only thing we do not actually have at the moment is either an identity card to be carried or, in fact, an ear tagging.

But it is, as we have heard from the hon. mover, an enabling measure only. He also admitted - and I found that rather pleasing to hear a minister admitting - the Bill that he is moving is 'bureaucratic and intrusive', because, if there is one thing we want to warn everybody against, it is actually over-bureaucracy.

It is the provisions of clauses 2 and 3 which concern me. The first one is 'Unconditional registration' and the second is 'Conditional registration'. More of concern is the unconditional registration to me, because I do not think that the provisions of it actually need to catch up the persons who are named in there. I think their registration is well known. I think it is an insult to the resident population that the second they have to move house they have to provide a certificate to prove that they are qualified under the provisions of the Bill, or the Act as it will be then, and I do not see any need whatever for unconditional registration for the, I am afraid to say now, minority of the people of the Isle of Man. Nothing grieves me more than to say we are an ethnic minority in our own land, but in fact that appears to be the case.

Now, we have a figure of 75,000 population being talked of and, as I have said once before, I remember interviewing on Manx Radio the hon. member first Chief Minister of the time, Sir Miles, and hit a magical figure for the Island, which was a fishing exercise of course, of 100,000. And he and everybody else blanched, which was the intention of doing it, and in fact everybody said 75,000 in this Island would be more than enough. It was a ceiling figure then. It is an evocative figure because it is a round up, of course, of 25s. But we are at that point now, so what is this Bill going to serve if in fact it is not aiming at any target whatever but rather a subjective judgement? Who will decide when the measure is brought in? I think he said it would be the Council of Ministers, but in fact are the Council of Ministers going to be sufficiently briefed by the members who represent the public? I know most of them do as well because they are elected MHKs, but will they carry the confidence of the public to decide when judgement day shall come? I suggest that there should be a better backstop for the implementation of it, although I appreciate, of course that any move to enable the measures would be put before Tynwald and presumably would be put subject to ratification.

But the notion of unconditional registration, including in 2 (1)(a) 'an individual who was resident in the Island immediately before the commencement of this section', worries me intensely because,

unless I hear to the contrary, that appears to be anybody who is there on the appointed day. That cannot help but leave the door open for a rush into the Isle of Man to beat the day. Is that what we want? I doubt it. I know that we would not actually have the millions which were being mentioned about as being able to move freely between the countries - it is nonsense - but nevertheless it is certainly possible, as I have indicated before, that in fact many, many more people could come to the Isle of Man and take up the benefits which are undoubtedly considerably better here than are elsewhere, even if they are approved former refugees who have entered Britain on the premise of being accepted as political asylum seekers or indeed those who have not been formally accepted into Britain who make their way there, and I was told at the presentation they would be chased out.

Only the other day I read in my newspaper that in fact half a million people have been lost in Britain. They do not know where they are; they came in by various methods and the Home Office do not know where they are. Some could soon find that this is not such a bad place to make their way to, so would they then become unconditionally registered because they happen to be here on the day that the Act comes in? I think that is not what we are looking for out of this measure. 'An individual who, immediately before the commencement, was not resident in the Island but who, at any time before the commencement. . .' had established his permanent home' or 'an individual who was born in, and whose birth was registered in, the Island'. On clause 2 (1) (c), no quibble whatever.

Full-time education is also mentioned as a qualification. That, of course, as well opens up all manner of decrees as to what that might entail. You can be full-time educated for a week. You do not need to say 'I am here for three years on a university course.' If you move to the Isle of Man you could be fully educated for a one-week course. I know it is small matters, but the Manx public are calling upon this hon. House of Keys to make sure that their interests are preserved, and, as I said in another place, it is not all that far until they will be making their voice heard, in 12 months' time, to say 'We accept the prosperity of the finance sector of the Isle of Man but not at any price,' and this is an ideal opportunity to limit the amount of input we have so as the Manx persons are not disadvantaged. I am sure my hon. colleague to my left here, Mr Karran, will have similar things to say in that he will say, 'I told you so, so many years ago, and now you have' what he deems as 'a housing crisis.' I do not go quite as far as that, but it is difficult.

But then moving to clause 3, 'Conditional registration,' we have a raft of people who might be allowed in under this legislation, and then the extraordinary set of circumstances in which the gateways are employed. Economic contribution - are we going to say that all other laws shall be set aside - it does not matter what you do providing you put the money in? Welcome to Jersey - that is what they did and look at the mess they are in.

Mr Cretney: Well, we are not following their example.

Mr Cannell: So the economic contribution - who is going to decide it, what will it be, and in fact how will it be decided what an economic contribution actually means? The product of pouring a load of money in certainly does not always guarantee that someone is making a contribution. Someone can come along, as we have seen certain unscrupulous gentlemen in Britain, and pour millions of pounds into organisations, such as the Labour Party, probably the Conservative Party as well, and even other organisations within Britain - football clubs, for example - but that does not necessarily enrich their being. Humanitarian cases - do not have much problem with that because that would probably satisfy my interest in that and I am sure that, there would be due regard made of what genuinely is humanitarian. I think you would have to have that, because in fact there will always be

people who are caught up on that basis providing it is exercised on the basis of other people who are qualified.

The third of the gateways which the hon. mover has said and which of course we were rightly presented with the information about is a record of achievement which might or might not enrich Island life. I would not like to be the person to judge whether someone who is a good golfer or is a motor car driver or anything else of that nature, or in fact someone who is very good in the arts or something like that, might play a part in Island life, because in fact we have seen quite a number of people who have come to the Isle of Man and in fact they have done nothing else but upset everybody in the Isle of Man, and you do not need to be a genius to remember one important gentleman who thought he could take the place over, made a fair little contribution to our income tax returns, I do not doubt, but decided that he was virtually running the Isle of Man. In fact, he has departed now. And of course we also think of another world class sportsman who in fact went on to become world champion. It was very nice to have the gentleman here in the Isle of Man and certainly he played an important contribution, but, there again, not all people tow the line such as he and we have a number of rogues amongst us, I regret to say, who are destroying the Island lifestyle by buying up property with the view of speculating.

Mr Houghton: Furman Close in Onchan.

Mr Cannell: They are doing all manner of things to destroy the very fabric of Island life and they are inciting others to do it, which is even worse. So a very, very stout degree of reserve would need to be made before someone just says he is a certain individual who has achieved greatness in sports, arts or other fields.

But it is the principle of the Bill which I am quite happy to support with those reservations, because I think, as my hon. colleague and others have said during that brief adjournment debate we had there - and in fact I also concur with Sir Miles that the absence of the Chief Minister and the Treasury Minister is regrettable but I do not doubt it is fully legitimate. They are on government business, I am sure you, sir, as Speaker, satisfied yourself in that regard. But in fact, as I remarked briefly on what I termed to be a point of order, if the Chief Minister and the Treasury Minister were here, you can lead the horses to the water but you cannot make them drink. They would sit here and they may well reserve their remarks to the clauses stage or indeed right through. But you cannot doubt that this is the most exhaustive piece of legislation probably to come before this House for a considerable time, and I am sure there is a rye grain for the hon. member for Rushen, Sir Miles, who like our incinerator debate, can hardly believe that I am standing here speaking to it when in fact I was sitting on the press benches reporting about it at least 10 years ago, I would think considerably more.

The principles are welcome, but please, sir, let us make sure that we do not fall down the trap of saying that our Manx population are to be ignored on the basis of the fact that all have to be registered, all have to be accounted for and you have to move 10 houses down the street and provide your certificate of registration. If we are not on the books enough through the DHSS, income tax, the Post Office, heaven knows what else already, for the Manx people as we have known them, those who would be unconditionally registered, to be able to shift their house down the street, then I think it is a pretty poor thing. But in general I think it is to be welcomed, sir.

The Speaker: Mr Brown, member for Castletown.

Mr Brown: Thank you, Mr Speaker. I think that the House needs to be clear and, very importantly, the public need to be clear of the implications of enacting this legislation. There has been

criticism of the time it has taken to get a Bill before the House. The issue of residency controls, some sort of a control, Manx recognition or whatever has been an issue going back to the 1970s and maybe even before that, so it is not a new issue. There is a considerable difficulty in the Isle of Man, which is not a sovereign state, trying to find a way in which it can actually provide some form of influence on the control of people coming here to live without offending its immigration controls, which are part of the Common Travel Area, which of course, in common, with other countries relates to the likes - for our situation anyway - of the United Kingdom.

The hon. mover made it clear: he said this Bill is 'bureaucratic and intrusive'. I would say this Bill is very bureaucratic and very intrusive, because it is, and the hon. member for Onchan has referred to the situation in clause 2 and how it will affect the people who are born in the Isle of Man and there is no doubt that, if this legislation is actually brought into effect, over time any man, woman and child in the Isle of Man will end up being registered. There will be no option because the law will allow that every time they move, if they have never moved they do not register, but when they move they will have to register, so the implications to the people we represent, both Manx and non-Manx, people who live here now, are that eventually, if this legislation comes into enactment and they move, they will have to register, albeit unconditionally, but they will have to register and that is where the bureaucracy comes into it where we do not have that problem now. But the point is that the legislation cannot work without that, and the Island has to make its mind up and this House has to make its mind up what it wants; it cannot have it both ways.

It has to have a system that controls and is effective if that is what the House wants, and if that is what members believe they are reflecting from the population they represent. The main difference of this legislation is that it will affect Manx-born residents and those who do not, at present, require a work permit, because any one who comes here to live now and does not require a work permit is free to do so. So at the moment the only control we have is on those who require a work permit. This Bill will broaden it out and it will affect everybody, and I think we have to get that message over loud and clear, because the people of the Isle of Man have a right to know that this legislation will affect them. That is the important bit - *this legislation will affect them*. So it is very easy to be jumping up and down saying 'lack of housing, control housing, control the economy.' The point is that this is a means of control, and control means, to be effective, everybody is affected.

It is interesting that we keep hearing the 75,000 figure and 'Oh, where did that come from?' Well, my understanding, from what I remember, is it came from Governor Bromet; at the time, the Island was very poor, had a population of about 50,000 to 54,000 people, nearly all its people were leaving the Isle of Man as soon as they left school, and why did he pick 75,000? Because he said, as I understand it and, from what I heard - because I was a bit young at the time - what he said was, looking back on it, something like, if the Isle of Man was going to be viable and have a viable population and business sector, it needed a population of around 75,000. That is, as I recall, what I have heard of what he said. So it is not a magic figure. It was not really determined. Nobody sat down and said, 'What is the figure?' And this fallacy - and it is a fallacy - that we hear being said time and time again, that the Isle of Man does not know how many people are here at any time, it has no definite population control - I doubt if there is a country in the world that has a definitive population control figure. I doubt if there is a country in the world that knows how many people at any one time are living in their country. So we are not unique; we are in a travel-free area and therefore we do not know how many people are always here, but like every other western country, we have every five

years and then every 10 years a census to determine what the population of the Isle of Man is at that time. And that gives us a more definitive census to know where we are.

The 75,000 has been used for the last 30, 40 years to plan development for the Island: the size of its hospital, the size of its water infrastructure, the size of its electricity, the size of. . . , so that is not unique and, if you have to update that figure, that might happen. But one thing is sure: whether or not this legislation comes in, again the people outside need to know. It does not mean we will hit a figure and it will stop; this legislation will still allow people in, and if our economy is still doing well and we need certain professions this Bill will allow those people in, because the Isle of Man will assess 'We need those people in our community to help ensure the Isle of Man is successful and can sustain what it has' and so on and so on.

I have always found that the time that we are under pressure is when two things happen: too many people coming in too fast and lack of housing, and we have heard recently the lack of housing is a new issue; it is not. The feed into housing takes a long time; the slowing down of housing development happens over a period of time, and those issues are matters where everybody plays a part, from the government to those who object to development, to those who just do not want any change at all, and to those who want change, because at the end of the the day it is getting that balance right if the Isle of Man is to provide housing for the people we represent, and government has a lead role in that and certainly had a very active programme up until, I think, certainly the mid to late 1990s. And we are being criticised for it, by the way, because they were seen to be building too many houses, but what they were doing was trying to meet the demand they could see coming based on the figures that were there.

So there are all sorts of things will be thrown into this to stir up the need for the legislation and how it is and so on. The real issue, though, that matters to the people of the Isle of Man, as far as I am concerned, is - and to the House who is going to pass this legislation or is considering passing it - is a main issue that, if it comes into law and if it is enacted, will be very bureaucratic, it will be very intrusive and it will affect every man, woman and child on this Island eventually. They will all have to register, and it is no use members coming back in some years time saying, 'I do not agree that people who are born here have to register'; that is what the law is going to say, that is what you are being asked to enact, and you have got to make your mind up when you are taking this Bill through the House today, and next sitting for the clauses, that that is what you want. And all I would say is that if you drop clause 2 the legislation will be absolutely useless, and of course clause 2 is where it affects every man, woman and child born on the Island or not who live here now -

A Member: Why?

Mr Brown: -and that is what you need to have, because without clause 2 you do not know where they are and you do not know whether or not they came in and had any registration at all, and if anybody can think of a better way out of it, then I think that is fine, but it will need a lot of thought, and the reason this Bill has taken so long to get before the House is because it is so complicated, it is not easy and because the government, rightly, has undertaken a considerable consultative exercise with the people of the Isle of Man trying to get them to understand the implications of enacting such legislation. So it is a major step, a very important decision and one the House, I am sure, will not take lightly.

The Speaker: Member for Middle, Mr North.

Mr North: Mr Speaker, I have been a supporter of this legislation for a long time; in fact, I just pulled out my file from the cabinet this morning at home, went through and found the first letter on it was dated 31st December 1988 from myself to the then Chief Minister, and the recommendation number 1 was to create a register of all new residents, largely through the estate agents and, as suggested in the consultative document, eventually register everyone as and when they move accommodation. Now, this is, as the mover of the Bill has said, enabling legislation and I do not see any problem in that particular side of it. As some members have already said, the problem is going to be in the detail and in the regulations.

Now, the bureaucratic side - I am not convinced, and I certainly accept that, yes, as and when we introduce the regulations, some of those regulations will be intrusive. But if I had been born on the Isle of Man, which I unfortunately was not, I would want to protect (**A Member:** Hear, hear.) the Isle of Man. I would want to make sure for future generations of people who were born here and who live here now that the quality of life on the Isle of Man is protected. Surely that is absolutely paramount? Now, if you accept that, when this legislation comes in and as it is proposed, people living on the Isle of Man now, whether you were born here or not, do not have to do anything. You do not have to do anything at all. It is only when, at some future time, you happen to move house that you have to actually do anything because you are automatically, if you are living here and in residence here, complying with the Act and you will be registered. I do not see a major problem with that. As and when you actually move house, surely that can be done - as you do now, you use the advocate, you go through the lawyer with the deeds and as long as he can see that you have been resident in the Isle of Man at the time that this Act comes in, I do not really see a problem with that, because they will accept that you were a resident of the Isle of Man.

One of the problems we have in terms of the increase in the population - and this has been something that has certainly been discussed, and it is a very difficult one to actually legislate against and certainly when we get the regulations in - what do you actually do? There are two scenarios. If we did not have any legislation at all and, let us say, one particular area of the world suddenly had major problems and you had an increase in population with people who were entitled to come and live within Europe, particularly the British Isles, how would you stop 500 people actually coming to live on the Isle of Man? You could not at all. I am not saying that that might happen, but there are certainly areas of the world where that could occur at any time. So if we have the legislation then, if untoward instances actually come in, we can actually watch it and introduce a slow-down on the number. Surely, though, with our quality of life on the Isle of Man, it is the productivity of the existing population that is vital so that we do not have to keep importing people.

Over the years the government on the Isle of Man has been very good at encouraging grants and loans, largely through the Department of Trade and Industry and in some instances other departments; they have largely been responsible for automating a lot of manufacturing on the Island, manufacturing where the companies have grown 15-20 per cent per year, but the number of employees within that factory has not grown, so we have had productivities. I believe we are going to have to, in the future, examine the productivity on the Island so that we utilise the existing population far more than we do now so that we do not have to keep importing people into our Island. For instance - and we need to, I believe, look at this - why should people within government have to retire at the age of 60 if they do not want to (**Several Members:** Hear, hear.) It is all sorts of things like that that we should be looking at to make sure that the productivity on the Island is far better than it is. There are endless possibilities for us to look at and make sure that the demand for jobs on the Island

is not as high as it is now. We can still get the growth if we manage the economy; it is not down to numbers of people coming in how far you can grow, it is down to productivity, and I do not believe we have actually looked at productivity enough over the past few years, and there are many areas we can look at in terms of increasing productivity.

Now, if hon. members would excuse me just going on a little, the hon. member for Ayre has had to leave the House to go to a funeral but he did want to speak in this debate and I would just like to make a few points on his behalf, if I may, in addition to what I have already said, because he does accept the need for this residency control but he does not believe that it is forward planning and he was looking to its early introduction, which I think the majority of us in this House would certainly agree with. He certainly accepts that a system of control must apply to all. He has concerns about the passive procedure, and he did leave a note here that he has a concern - and I think the hon. mover of the Bill might look at this - in terms of clause 5 where two members are appointed by the Council of Ministers; he is concerned about the human rights aspect of that where the Council of Ministers would be ultimately responsible for the Bill but the Council of Ministers is appointing those two members, and that is a question mark he has. Also there is the rescinding of the deputy chairman; there is no provision for the deputy within the Bill. I think those are the main points I hope I have covered. I could not possibly speak as eloquently on the subject as the hon. member for Ayre, but he is certainly supportive of the Bill and I hope that hon. members will excuse me going on for an additional two minutes just to make his representations.

The Speaker: Mr Shimmin, Douglas West.

Mr Shimmin: Thank you, Mr Speaker. I would just like to draw to the attention of the House that the Social Issues Committee, who is looking at this, was made up of the chair, Mrs Christian of the Council, Mr Lowey, hon. member for Castletown, Mr Brown, who has already spoken, myself and, in its formation after the last election, Dr Mann, whose place was then retaken by Minister for Education Mr Rodan.

For over two years on that committee, supported by the Attorney-General and the Chief Secretary, we debated once again the Bill which is before you today. We went out for wide public consultation and, as members are aware from the briefing paper, there were 66 responses and some of those responses went to numerous pages of detailed evaluation of the Bill as it was then drafted. After another 12 months of deliberation on those, you have now the Bill in green form before you today.

I raise these issues, really, because what we have before us may be an imperfect Bill, it may be a Bill which does not satisfy all of the wishes and aspirations, certainly from my own point of view, members' point of view and the public, but what we do have is a piece of enabling legislation which, if we tinker with it, I would believe it is likely will be going off to committee once again and it will be buried for years to come. Now, the very people who are pushing actively for the residency Bill to be brought forward are the ones who are likely to come forward with a number of amendments, which is perfectly legitimate, and I say this not to deter them from doing so, but to be aware that the complexity of this Bill is one which is going to mean, after some several years of collective evaluation and public consultation, the chances of individual members coming forward with one or two amendments which will not have a consequential knock-on effect is unlikely.

I think, therefore, that any hon. members who are going to look at this Bill and believe that there are changes necessary I would urge to please consider discussing with the Attorney-General or the

legislative draftspeople the implications for the rest of the Bill. I know that throughout those meetings none of the committee members as fully satisfied with the final outcome, but it is what it is: it is a step forward. I believe it is unfortunate that it is in election year, because I do not believe there will be sufficient scrutiny of some of the issues within this Bill because it is enabling. I think there is a willingness for most people to support it and it will then be left to the next House to then determine the regulations and the implementation or not as appropriate.

So I think we are in a position where we will look at this Bill. I believe there is a willingness to accept it, flaws and all. I think there will be a reluctance on the mover of the Bill to sanction too many amendments, but that is his right and every individual member's right but, as the member for Castletown pointed out, the people who we represent must be aware that this is not the panacea, this is not the salvation and solution to all of the concerns about residency control.

The cost and the implementation of this will be considerable, and as soon as it is enacted it will be negligent on the part of the Council of Ministers to fail to at least make some provisional inroads into the formation of the format of this legislation. So, even though it is intended it may sit on the shelf, there are going to be costs and it is going to be one where members in this House like the principle, do not like some of the details, we are not in a position to cherry-pick; if we want to have any serious residency Bill this is the best one you are going to get in front of you for the next few years.

I accept and will support the second reading. I will accept and support the clauses stage of this Bill because I think it is a necessary way forward; I think there is an expectation on us, but I do so realising that it is far from perfect and far from satisfying my aspirations, but that is not through the lack of trying. I feel myself somewhat fortunate, having spent about three years on this Bill. I am somewhat ahead of the frustration that many members will be feeling now. I have gone through the frustration and now into an acceptance mode whereby this is the best we are going to get; please support it.

The Speaker: Sir Miles Walker.

Sir Miles Walker: Thank you, Mr Speaker. Mr Speaker there is regular criticism of this House copying or using, as a draft for its own legislation, legislation from other places, and that is mainly the United Kingdom, but there is a deal of strength in that. There is legislation that can be seen to have worked in other places; there is legislation that has a great deal of exploration behind it before it has in fact reached someone else's statute book, and we, I believe, quite sensibly copy much of that legislation.

The fact that we have been 12 years or so considering this sort of legislation in principle I think proves how difficult it is for a small community such as this to think up reliable, workable and practical legislation for ourselves. I think that has happened in this case and I would compliment all those people that have been involved throughout all those years, and there have been many many groups of people considering the principle of this legislation. And it is interesting to see that the main thrust behind the legislation that is before us today has not differed very much from that that was anticipated, say, 10 years ago. Of course, there have been some changes but in the main the basis of this piece of legislation is the same.

I was pleased to second this Bill because members know I have been involved for a long time. I was the one who first raised the issue back in 1988, who presented the report to Tynwald in 1989 where, even at that time, there were suggestions from some hon. members that it was much too late, and here we are 10 years later and we have that same criticism.

Now, I said that I was disappointed we did not have this legislation in place 10 years ago and I think the hon. member Mr Cannell raised a very real point: why be disappointed if it would not have been implemented? It seems to me that it would have been more comfortable for us to implement this sort of legislation 10 years ago because now there is a danger of it being perceived as a panic measure, because the Isle of Man's economy is bustling along, because there are certain pressure points at the moment, and I believe there is a great danger in being perceived as a panic measure. I think we could have avoided that had we got this piece of legislation in place years ago, but that was not to be and it is no use reflecting too much on that.

I think it was the hon. member Mr North, when he was speaking, who said that he thought the majority of members would like to see it implemented sooner rather than later. I would like to make my stance known on that. I think we should avoid putting this piece of legislation into being as long as we possibly can. I have to say I do not look forward to living in a community that is governed by committee. I know what it is like in Guernsey, I know what it is like in Jersey and I do not particularly want to see some of those situations that they have down there reflected here. The hon. member said that there were other instruments of control that we had, but they were blunt instruments; they were not very clever. I would prefer us trying to use those existing blunt instruments, albeit not comprehensive, in an effort to stave off, in fact, the implementation of this legislation.

Again, the mover of the piece of legislation said that composition is as important as numbers. I have to say I think composition or structure of our community is more important, in fact, than the numbers, and if the numbers of our community grow by people who are born here on the Island, who love this place who want to come back here to work after education and want to return here after periods of working in other places, then those people should be welcomed. (**Several Members:** Hear, hear.) What would concern me and why I think we should have this sort of legislation available to us is if there is ever a danger of us getting back into the situation we have faced in the middle-1980s, where we had almost 25 per cent of our population over retirement age and not working, and at that stage - and it was as a result of government policy and I certainly accept that - there was a great danger that those who were working could not support those that were not working, and I would hate us to get into that situation ever again.

Furthermore, it seems to me that the only real pressure point we have at the moment, with our economy bustling along as it is, is housing, and it is true to say that the response to the pressure for housing takes some time. But we knew that this pressure for housing was building up and we did not do anything about it. (**A Member:** Hear, hear.) And some members will say, 'Well, the same thing happened to you back in 1986/87' and so it did, but there was a very fundamental difference: at that stage we were following four or five years of deep, dull, miserable recession (**Mr Cretney:** Hear, hear.) where there was not a house builder left in business and there were 2,000 empty houses on the market ready to fill. That was the difference, and when those 2,000 houses that were for sale were filled there still was not a house builder and there were still no planning consents, and so there was a leading time. We did not have that problem this time. We should have been able to foresee the problem that was growing and we did not and it is not those people out there's fault; it is our fault. (**Mr Cretney:** Hear, hear.)

I was talking to a young couple last night who want to make their future here. They have got two young children who have not got anywhere to go: no local authority house; no relationship between the local authority and the Department of Local Government. Every address on the very useful list of addresses from social services - every single one of those could not take anybody. The Manx Housing

Trust cannot take them. What a mess! And that is just one couple, and they know we have got one, but boy, wasn't it good a year ago or 18 months ago where we as MHKs did not have that situation to face? What do we say to our people? 'Hang on it in, go and live with relatives. You never know, Port Erin Commissioners next week may have somewhere, or the Department of Local Government might have somewhere in reach'? It is, I find, terribly difficult, but I come back to the Bill -

The Speaker: Thank you.

Sir Miles Walker: - and I am sorry. I was making the point that I believe the only real pressure point within our community at the moment, with the economic growth we are facing, is on housing, and it is a situation we should be able to sort out.

I think this legislation is important. I want to see it in place. I see it as a back stop, and I say a very back stop, because it seems to me that it is important we keep the economy going, and we know there is a relationship between the economy and our population; we know that, and I think the minister, Mr North, was right when he said we have to look for more productivity, but the pressure for that productivity will come from the people who are employing, who are in business, who have to respond to the pressures that are created round about them, and, yes, he said industry had responded to the issue of productivity and, I would suggest to him, so has the finance industry, but it will have to continue so to do.

This legislation is important. I support it; I support the way it is written. I know there will be some problems. It would be lovely to find a way to exempt people who have been residents here for ever, or for a long long time. Like the hon. member for Castletown, I do not believe that possible, because I believe it is of paramount importance, when legislation like this is put into place, that the people it is aimed at governing, rationing, do not get into a situation of having bought a house and then having to be evicted or having to have that house sold over their head and them actually marched down and put on the aeroplane and sent away. That situation has got to be avoided, and I do not think it can be avoided by any other way than having everybody register who wants to move into new accommodation, otherwise you are going to have a situation of the vendor saying, 'Well, I thought he was a resident.' or, 'His name is Cowin and it sounds Manx and I thought they'd been here forever,' and in fact they had only got off the boat two months ago. I think you have to avoid the situation happening where you actually are forcibly removing people from houses that they have bought, albeit illegitimately, forcing a sale of a house and putting them on the boat home, and it is those sort of issues that will happen in due course, and it is those sort of issues that I would seek to avoid. That is why I say this legislation is important, important as a back stop, but in my view it is not one that we should implement at all haste because of one or two pressures that are facing our community at the moment. Thank you, Mr Speaker.

The Speaker: Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, there are a couple of good points that have come up in the debate. I think the point of the hon. member for West Douglas is a very valid one in that it is the best that we are going to get. As a person who had a meeting last week with the Attorney-General I conceded the fact that if I would have had my way we would have been looking at something like the Bermudan legislation, which is a lot harsher. I think, as far as the Bill is concerned, the question of well-meaningness cannot be questioned. I feel that maybe I am out of touch with reality, either I am or this House is, because when we look back and we look at the Gallop reports in the past and we find out what the sort of numbers that people thought - 61 per cent responded to the last Gallop report, of

which 27 per cent considered it to be too high at the present time, and when I look at the report in 1991 that was done, something in the region of three to one were in favour of us bringing in something now, and maybe the answer is that, as much as I do not like government by referendum, maybe we should have a referendum on when we bring residency in. We are there to look after our people. Obviously we have got to do what we believe is best whilst we are in this job, but I just think that we are listening to the debate today, that somehow people are not wanting some sort of control. I must be representing a different section of the community if that is the case.

I have listened to Mr Walker and I know the hon. member for Rushen's viewpoint. I believe that he was in reverse. I believe that his administration did everything in its power to make sure that we did not get any sort of residency mechanism in this Island. I believe that what he will not be telling us, when he is talking about the adjacent island, is he talks about the problems of housing. What about the problems of the third of a billion pounds worth of infrastructure that we are needing to pay out for? Will his friends next door come along and say, 'Oh yes, you're a nice little Island next door, we'll give you the money for that' if our economy gets destroyed in the process? Of course not. We have to protect this Island in my opinion and we are not doing so at the present time, and I believe that this cosy arrangement that the hon. member has with, 'Oh, the Brits will look after us well' - well, let us look at our history as far as that is concerned. This country has been used as a doormat in the past and we have hidden the history as far as this Island is concerned, and it will be used again as a doormat if we do not have the leadership, the vision and the backbone to stand up and protect the people of the Isle of Man, and I feel that his idea that we do not need to do anything about this legislation. . . We do need to do something about this legislation.

I will support this legislation on the understanding that it is implemented, because I see it as a political sop, but at least it is a start to start looking at the real reality of the situation. We had the Minister for Industry here talking about maybe increasing the age of retirement - very valid point - and whether we give too many holidays, maybe that is another way of looking at trying to lessen the demand for new jobs. These issues are points that can be looked at, but at the end of the day the bottom line is this doormat mentality that we have in this House as far as what we should not be saying is, 'Come on in, boys, we don't mind if they're back office jobs' and they will more likely disappear off to India in another five or 10 years' time, which is the big problem that we have at the moment. And I know some of my hon. colleagues here look clueless as far as that is concerned, but at the end of the day what we need to be doing in this economy is trying to organise it so that we go for quality and not quantity, and that is the problem we have got at the moment, and that is the problem that we have got because of our in-built doormat mentality in this hon. House because of years of 'Oh, well let's just let everybody walk all over us.' The fact of the matter is that the people in the Treasury have not got that on board they have no feeling as far as the pulse of what needs to be. . . We want good economic growth that is sustainable and here for the long term, not here today and gone tomorrow and leave us with a population who have nowhere else to go and we end up with a billion pounds worth of infrastructure renewal over the next 30 or 40 years for that implementation. That is what we have got to sort out today and that is the problem that the Walker administration - they may have done some very good things and they should be applauded for those good things, but they did a lot of things that they ran away from and this administration has run away from them equally.

The issue of housing was brought up as to why we need population control. We need to look at whether we should be restricting certain parts of the housing market without bringing this piece of

legislation in as far as I am concerned. I find it scandalous that the Treasury here does its wringing of its hands about the housing situation when it is in his power, he could make it much less advantageous to tax rental income to a higher degree. This is what we need to be effecting as far as that is concerned.

The hon. member for Rushen's input into this debate does not fill me with confidence because I see this as a political sop today as far as the residency Bill. I do not think it is going anywhere. I will support it because there is nothing else here on the table and I will be moving amendments to the Bill even though I hear the scare tactics of the member for West Douglas about how we will have the whole Bill thrown out or sent to a committee. I will not be supporting any moves to send this to a committee because, as I say, it will either have to stand or it will have to fall as far as that is concerned.

My colleague in Onchan here says we have talked about it for 10 or 12 years; we have talked about it since I put a motion down in another place and we have tried to get something sorted out. It is all right trying to be all things to all people. I hope that we will see in this House that we pin our colours. . . and that we are going to seriously look at the population problems in this Island. We need a mechanism, and having a situation where we have, 'Oh, well, we'll leave a bit longer' is going to hurt and it is going to hurt our own people to a certain degree, but if that is the price we pay to try and make sure that we do not leave a legacy of financial ruin for future generations or a situation where we have an economy where we have got so many people in the Island doing jobs that we do not need in the Island because of the fact that we have got this open-door situation it is not the answer, in my opinion. The quality of life is important as well and the quality of life in this country has gone down for an awful lot of people. It has gone up for quite a few people but go and tell that to the people who cannot afford a roof over their heads. (**A Member:** Hear, hear.) You cannot get on a council waiting list because they have been aided and abetted by government departments to gerrymander the waiting lists. Go and tell them what the reality is where people cannot get on lists now that they could have done in the same circumstances only five years ago.

I hope that this Bill will be brought in sooner rather than later, and I say that we had three or four attempts at amending the work permit legislation in order to get it right, and I believe that it will take two or three times of this existing Bill to get it right and I believe it should come in. I would like to know the hon. mover will clarify the points that certain people have raised such as on education, how long does it cover, does it cover the point of a couple of weeks in education or what? Will he support the fact that maybe there should be an amendment in the Bill to allow for the fact that if an individual member of Tynwald brings in the order and it is passed by Tynwald, then they have to come back with the regulations within a prescribed time? I think that is another issue that needs to be looked at.

I also feel that there are other links: health should be an issue on people coming into the Island, and that should be something that should be allowed for within the primary legislation. Whether they want to bring it in - that is fair enough. At the moment we have no problems, we have a reciprocal agreement with Britain, but the day may come when we do not have a reciprocal agreement with Britain and that will have severe effects on the Island as far as that is concerned.

I would also like the hon. member to consider the amendments, the first two, I have given him as far as the issue of whether we should be putting all persons on a two-year probationary period before giving them residency, because it will be a lot easier then; if they break the residency then, the courts will have the opportunity then to do so, because we have to pin our colours to the mast, and it is all right the likes of certain members saying, 'Oh, it will be awful if somebody comes in here and

fraudulently buys a property that we have to throw them out. Oh, it's a shame.' What annoys me in this hon. Court is that it is a different law if you have got money, and if you have not got money you are treated a different way. 'Youthful enthusiasm' if you are a vandal from King Bill's, 'a thug' if you come from Pully or a council estate, and that is what annoys me with the members in this hon. Court; what we see here from the likes of our former Chief Minister is this situation of, 'Oh, well, it would be awful if they've got a few bob.'

Sir Miles Walker: I seek to avoid that situation.

Mr Karran: I believe that what comes out of this debate today is maybe we should have a referendum at the next general election as far as whether we bring in residency controls or not because, quite frankly, after listening to this debate up to now I feel that maybe that is the only way to find out whether I am wrong or you are wrong in this hon. House, because I believe that this is the number one priority of the people of this Island at the present time. It is no use members whining and saying, 'Oh, isn't it awful that we're a minority now?' and 'Isn't that sad?' We need to be bringing in a legislative package in order to solve this problem, and I believe that this Bill is maybe only a gesture but it is a gesture in the right direction as far as this is concerned, and I want to see this Bill brought in as soon as it gets Royal Assent.

May I just say: the input from the hon. member for Castletown about not being a sovereign state - that is a matter of opinion and it is a matter of this hon. House, and I find it sad that when he wants to trot around calling himself a minister in one hand and wants all the delusions of being a minister we are then allowing ourselves to demean ourselves to say we are not a sovereign state -

The Speaker: Hon. member, we are discussing a residency Bill.

Mr Karran: Vainstyr Loayreyder, I totally agree with you but the fact is that the hon. member was arguing the point that we could not do anything else because we were not a sovereign nation. We are only not a sovereign nation because of the members in this hon. House, and our history of having a bigger neighbour that could give us a good kicking. *(Laughter)*

The Speaker: Hon. members, I think this is now an appropriate time to adjourn for lunch. The first speaker to speak after lunch will be Mr Rodan at 2.30. Thank you, hon. members.

The Court adjourned at 1.02 p.m.

Residence Bill — Debate Concluded — Second Reading Approved

The Speaker: I call upon Mr Rodan, the member for Garff.

Mr Rodan: Thank you, Mr Speaker. On this legislation I take the view that any community is quite entitled to protect its own interests and if that community has jurisdiction over its affairs it is entitled to do to the limit of that jurisdiction and if that community is small as the Isle of Man is or is an Island as the Isle of Man is it is perfectly entitled to protect the birthright of its own people having regard to the fact that any claim on territorial expansion by definition as an island is non-existent.

Now, it may not have escaped notice that I myself am not a Manxman -

Mrs Crowe: Never! *(Interjection)*

Mr Rodan: - and I am sure that many who reside here who are in the same position will agree that this community and the people of this Island are fully entitled to protect the long-term interests of the Isle of Man and the Manx people. After all, those of us who have come here by choice and those

who would seek to come here, whether they be businessmen or for any other reason to live or work, well understand that wherever they go they are likely to face controls, be obliged to jump hurdles if necessary, be obliged to pass through gateways or immigration procedures of all sorts that would not be peculiar to the Isle of Man but that would be typical of any jurisdiction in which they sought to relocate. So there is nothing unusual about this proposed legislation or anything untoward or anything objectionable in principle at all.

I think where matters do get complicated is of course the constitutional relationship and the limits to the jurisdiction in question as to the steps that can legitimately take because if the Isle of Man were a sovereign state it could, like any other sovereign state, determine, draw up, immigration legislation, having regard of course to any international obligations under human rights, for example, but it could do this. Now, as the mover has described, that option is not open to the Isle of Man because the immigration situation falls within the sphere of UK immigration legislation and controls. So that avenue is not open.

Nonetheless there are restrictions that can be brought in and indeed have been brought in by other territories in parallel situations to those of the Isle of Man which go a great deal further than what is being proposed in this legislation or under the regulations that are envisaged, as far as we can understand them, under this legislation, and I have in mind places like the Channel Islands which have adopted their own model of control which is the housing market, which is a very blunt instrument, I would suggest.

The hon. member for Onchan, Mr Karran, made reference to I think he said the very harsh Bermuda legislation, and that is an interesting example because that territory is the largest of the British dependent territories left in as much as it falls under the Foreign Office. UK immigration legislation is the governing framework. Nonetheless within that they have developed and have had for some 40 years a very intrusive and restricted form of immigration control, a sub-division of British citizenship called national status, and unless one has status one is not entitled to reside without going through annual work permit applications, is not entitled to vote, not entitled to buy property and generally have very few secure rights at all and the fact that one's children can be born there makes not a scrap of difference; that confers no extra rights. So that is a place where they have imposed very, very tight controls and controls that are being tightened all the time in response to their particular needs, to the extent that people who have resided for 20 years are being obliged to leave.

Now, that, I think, illustrates purely for illustrative purposes what could happen in a situation, particularly where land is in short supply and the space to accommodate people is extremely restricted, and that is not the model of course that is being proposed here. It is a model that works but would not be the model, I suggest, that the Isle of Man should follow. There are no perfect models in this situation but what has been, I think, drawn up here is, while an imperfect model, nonetheless one that is workable.

Now, the problem of course is not so much this Bill, this legislation, but the regulations and the devil will be in the detail of those regulations because, as others have pointed out, this Bill is purely enabling, setting up the framework of registering residents in a house, flat or whatever, and it is that framework which will then make possible the gateways, as we have heard, and the controls to be brought in as a political requirement in response to future circumstances.

This Bill before us today is not itself going to do what a lot of people in the community believe it will do or expect it will do and I feel that in this House that is understood but we should not try to

convey the impression that enacting this legislation will introduce the sort of controls that many believe are appropriate to be introduced today and of course the difficulty comes when one seeks to draw up the controls because we have heard that this whole business is to be a management tool for to control the management of population growth and is one of the levers of government to enable government to govern effectively. It is perfectly legitimate. Unfortunately, I do not think it is going to be the sort of management tool that even government believes or hopes it to be because it is quite hard to envisage the circumstances when one would want to introduce it, for example, and keep economic growth going. It is one thing to introduce controls where the people involved are not those involved with the driving or the growth of the economy, which is what we have today, and those who would advocate controls being brought in today have to appreciate that immigration today almost exclusively is by those whom the Island's economy requires to have economic growth or to support the services that are demanded as a consequence of that growth. We are not in the days of restricting people coming to retire to the Isle of Man, as other hon. members have referred to has been the situation in years gone by. In those circumstances one can see the relevance and can see the sort of controls that could be drawn up. Immigration concerned with people that the Island desperately needs and continues to need is very much more difficult and this, I think, will be the problem.

Now, I know, having served on the committee, the Social Issues Committee, just what a difficult enough job that committee had in debating and drawing up the framework that is before us today, the framework of registering residents, and it was difficult because the members of the committee had to have regard to fairness, to natural justice, to the rights of individuals and dependants and indeed defining those those dependants were, have regard to human rights legislation, and the mover will no doubt in his summing up, in his reply, address the question to the degree to which the human rights convention has been acknowledged in this legislation, but that was difficult: two and a half years actually to draw up the framework. How much more difficult will it be to draw up the regulations on determining who will actually pass through the gateways and who will be the people to which permission will be given to live and take up residence in the Isle of Man. I do not think any of us have the answers as to the people that will pass through those gateways. Certainly the circumstances of today make it very difficult for me just to see how those regulations will be drawn up. Drawn up they will have to be. This Act requires them to be drawn up at the appropriate time. The necessary political judgement will be made in the future as to how wide or narrow those gateways should be, but I certainly do not envy the job of those charged with determining the regulations.

The Speaker: Does any other member wish to speak? In which case I will invite the mover to reply.

Mr Cretney: Yes, thank you very much, Mr Speaker. It is not my intention to respond individually to all the points which were made by hon. members, simply to say that I will read with interest the *Hansard* remarks which all hon. members have made because I do not believe I am in a position to comprehensively answer all the questions which have been raised during the debate today, but I will read them and I will make sure that appropriate responses are made before I proceed.

I would first of all like to thank all hon. members who have taken the opportunity to speak at the second reading stage of this important Bill. I think a lively debate and discussion is something we should all value and we are all fortunate, on behalf of those we represent, to participate in this important feature of our democratic process. We are equally fortunate to live in a beautiful Island with its quality of life we refer to often and for the last 15 years to be able to play our part in the consistent economic growth and unprecedented job opportunities for our own people and those who have come

to join with us in our various communities around the Island, and those people often highlight to those of us Manx born and work with us in the promotion of the value of our culture and heritage. (**Mrs Crowe:** Hear, hear.)

Now, I came into this House in April 1985 when there were 2,000 people unemployed and things were very much different. I am told also that things were even more difficult in periods before that over the century when many Manx-born people had to leave the Island to find employment, and work here that did exist was often very seasonal and often poorly paid. It is from that background that at each election I have stood at I have indicated the need to have some ability to manage population growth, because of the potential detrimental effects of not being able to do so.

Most of us wish to see the economy continue to develop and in so doing we should be seeking to maximise job opportunities - and this was a point which the hon. member for Middle, Mr North, made and with which I entirely agree - for all sectors of our population rather than taking the simpler alternative of always having to import new people for the workforces we need. In this we need to ensure that our own people are appropriately skilled and we do not impose false age barriers if people wish to continue to work. I think that is a good thing, that if people wish to, we should provide that opportunity, and I think we also should recognise that when the economy does continue to develop, hopefully - and I am sure it will be, even though I am totally illiterate when it comes to these things - much of it will be e-business, and that does not necessarily bring with it increasing population figures.

I try to be open and honest in my work on behalf of the people of the Island and it is for that reason I did indicate that this Bill is considered to be bureaucratic and intrusive. There is no point in getting away from that, it is a matter of fact. It does, however, meet our international obligations with regard to human rights and it does, importantly I believe, provide the opportunity to avoid the detrimental effects of population increase over and beyond what is considered right for the Island by Tynwald on behalf of the people. This therefore in my opinion would constitute a measure of security for those Manx born who would only require to register if and when they moved their place of residence but who may choose to register anyway, and I believe they may consider this procedure to be a price worth paying, whilst recognising it to be somewhat burdensome, and with that I am addressing the point of the hon. member for Onchan, Mr Cannell. I accept that it is intrusive. We have accepted from day one that this is a measure which would apply to all people, Manx people the same as those who come to join with us.

However, if we do value the Isle of Man and if we do value the quality of life, which we all say we do every time at elections anyway and perhaps in between, then we have to accept that there has to be a mechanism available, when it is considered appropriate, to manage that situation, and I take on board in terms of timing the points that the former Chief Minister, Sir Miles Walker for Rushen, makes in terms of the delays which have been outwith the control of any of us who wish to proceed because if matters are before another forum you have to wait until there is an adjudication in respect of those before you can go forward.

So here we are, we are at the place where we are now. This is the second reading of this Bill. As has been stated by the last speaker, the devil will be in the detail of the regulations and those charged with the responsibility of drawing up those regulations will have an awesome task. There is no doubt about that. I do not think I have tried to pretend in any way otherwise.

The hon. member for Onchan, Mr Karran, referred to a referendum and I think we have a referendum once every five years and in fact it is something that the hon. member sometimes refers

to, that we are charged with responsibility on behalf of those who we represent to do what is best for the Isle of Man and the people who live here, and clearly if the House and the Legislative Council consider that this is a matter which they want to take through the second reading, they want to look at the clauses, then it goes upstairs and then on to Tynwald, then the regulations will not be drawn up the next day. The regulations, if they are going to be properly formulated, will take time to produce and so I think it is inevitable that this will still be a subject for discussion next November for those people who decide to stand for election. I think it is inevitable that those regulations will take quite some time to formulate and it may be at that time that all those of us who decide to contest an election will get a feel from those we seek to represent as to whether they believe the regulations should be brought forward and the mechanism should be brought forward sooner or later, and I think that is a useful discipline, something I think most of us enjoy really, secretly we enjoy elections because you get a proper feedback and then if they are not happy with you they will let you know.

In the 1970s members will be aware government tried with some success, and I use the word 'success' not carefully because I do not believe it was a success, to attract wealthy new residents to the Island because this is again referring to the point raised by the hon. member for Onchan, Mr Cannell, in relation to the Jersey situation and millionaires and all that type of thing. What was proposed by the Social Issues Committee in terms of gateways was completely different than the Jersey model in as much as economic contribution could be from a number of different forms and not simply just because somebody is a millionaire they would be welcome. I personally think an Island full of millionaires would be divisive and it is not what I would want to see here. However, we have to recognise that a number of people have joined with us because of the new policy of attracting economically active people in the last several years who have contributed to the Isle of Man and who have helped with us to take things forward and I think generally that has been a good thing. Clearly because of that infrastructure improvements have had to come along in terms of schools and drainage and housing, all those kinds of things, but it must be much more preferable to deal with those challenges rather than deal with the challenges of 2,000 people unemployed that we had not all that long ago.

We must learn from the experience of others such as Jersey and Guernsey whose populations are much more dense than ours - *(Laughter)*

Mrs Crowe: In some cases!

Mr Cretney: Well, it is right. Six or eight times, because we all talk about comparisons and I think it is probably more appropriate to have the comparison of Jersey and Guernsey rather than China really, but China was in the script so I went along with it. I do not think we have a great deal to do with it but it was in the script. But Jersey and Guernsey are examples which we should look at and we should say, 'Right, we need to learn from that and we need to make sure what we have got for our people is better', and that is what we are trying to do.

There was one other point I did want to address. Again it was Mr Cannell in relation to the education. My understanding of the situation is that those who are in full-time education, for example if you were to use an example of the Port Erin Hospitality School, just to use that as an example, they are here on a temporary basis, so they would not be considered to be ordinarily resident on the Island, so they would not on day one automatically become residents of the Isle of Man. I hope that is the point you were trying to make. If it is not, then, as I say, I will refer to *Hansard* and I will more accurately answer your questions before I go on if the House is prepared to give me the opportunity to go on to the clauses at the next stage.

I accept everything that was said in relation to the difficulties with this Bill, but I do not think we should be put off by that. I think we should continue, we should go through clause by clause, if you give me the opportunity by supporting the second reading which I ask you to do today. I beg to move, Mr Speaker.

The Speaker: Right, hon. members, the motion before the House is that the Residence Bill be read a second time. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Mr Shimmin, Mrs Hannan, Messrs Singer, Bell, Cannell and the Speaker - 18

Against: None

The Speaker: Hon. members, the Bill is read a second time, 18 votes in favour and no votes against.

Matrimonial Proceedings Bill — Second Reading Approved

The Speaker: And now, with the permission of the House, I will invite Mrs Hannan to proceed with the second reading of the Matrimonial Proceedings Bill, as Mr Downie has leave of absence till later this afternoon. Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. This Bill has three objects: (1) to introduce pension sharing into the armoury of financial orders which the High Court can make on granting a decree of divorce or nullity of marriage; (2) to consolidate the legislation relating to such financial orders which has been considerably amended since 1976; and (3) to introduce new enabling powers under which financial orders made on divorce or nullity of marriage in any part of the United Kingdom or any of the Channel Islands may be enforced in the Isle of Man, subject to reciprocal provision being made in the law of the jurisdiction in question for enforcement of Manx orders there.

This Matrimonial Proceedings Bill amends some legislation and introduces pension sharing. As a spouse's pension rights are nowadays a large part of his or her assets the courts have for many years sought to take them into account in reaching a fair division of the parties' property and income on divorce. However, since it is difficult to quantify a pension which will become payable at a future date perhaps many years off and since pension rights are essentially personal and non-transferable the results have been unsatisfactory. The Law Reform Act 1997, following the UK Pensions Act 1995, sought to improve this situation by allowing the court to earmark for one spouse a share of the other's future pension by means of a pension adjustment order.

However, these powers have been little used and have certain disadvantages. They do not allow a clean break and they leave one spouse vulnerable if the other dies first, bringing the pension to an end. Parts III and IV of the UK Welfare Reform and Pensions Act 1999 include the new provision for pension sharing or pension splitting which was foreshadowed in the white paper 'Pension Rights on Divorce 1997'.

The main purpose is to allow pension rights to be treated like other assets so that a proportion or the whole of their value may be transferred from one spouse to the other as part of an overall financial settlement. Unlike the earmarking provision which does not apply to state pensions, pension sharing

will apply to occupational pensions, both private sector and public sector, personal persons and state pensions such as SERPS but not the basic state retirement pension. Transfer rights will belong to the transferee and will no longer depend on the circumstances of the other spouse.

The court's powers will be available not only on a divorce granted in the Isle of Man but also following a foreign divorce. Note that they do not replace the earmarking provision of the Law Reform Act 1997 which will continue to be available.

The Bill deals only with the powers of a court to make pension sharing orders - part III of the 1999 Act - not with the implementation of those orders by pension trustees or managers or by the DHSS in the case of state scheme rights - part IV of the 1999 Act. The latter provision will be applied to the Island by order of the DHSS under the Pension Schemes Act 1995.

An opportunity is being taken to consolidate the one measure. Part II of the Judicature (Matrimonial Causes) Act 1976 as amended will deal with the courts powers on granting a divorce in the Isle of Man - part 1 of the Bill - and part 3 of the Matrimonial Proceedings Act 1986 as amended which deals with the courts' powers to make financial orders after a foreign divorce - part 3 of the Bill.

There is a reciprocal enforcement measure and the major loophole in any machinery for settling financial arrangements on divorce is the lack of a provision of enforcement or financial orders outside the jurisdiction in which they are made. The exception is orders for periodical payments of maintenance which are enforceable under the Maintenance Orders (Reciprocal Enforcement) Act 1995 and corresponding legislation in the United Kingdom and Channel Islands. So, for example, if the parties are divorced in the Manx court but have their matrimonial home in England, an order by the Manx court for the sale or transfer of the house is not enforceable in England. The reverse also applies of course.

The same situation will obtain in the case of a pension sharing order if a spouse's pension fund is located in a different jurisdiction from that where the divorce is granted.

Part 2 of the Bill accordingly gives the Council of Ministers power to make an order under which financial orders made on divorce in any part of the United Kingdom or any of the Channel Islands will be enforceable in the Isle of Man provided that reciprocal provision is made in the relevant jurisdiction for the enforcement of financial orders there.

There are a number of Acts that will be amended and added to by this amendment legislation which introduces pension sharing.

I beg to move the Matrimonial Proceedings Bill 2000 is given a second reading. Thank you.

Mr Brown: I beg to second and reserve my remarks.

The Speaker: Sir Miles Walker.

Sir Miles Walker: Thank you, Mr Speaker. This Bill is called the Matrimonial Proceedings Bill and it appears to me that all the way through it it refers to those people who have been married, who are separating, divorcing, judicial separation and so on. It is a fact of life these days - well, it would appear anyway - that fewer and fewer people are becoming married formally, in the formal sense. A lot of people have long-term relationships and I guess when those long-term relationships come to an end, as indeed some of them do, there has to be some formal splitting of assets and so on. I just wonder whether this Bill in respect of those people has any effect at all or whether proceedings in respect of those people who are not married will in some way reflect what is being put into law in this

sort of legislation, whether the courts, when making these decisions, will reflect on legislation that is being put into place for married people.

I would just be interested if the hon. mover could give us some information of why we are dealing particularly with people who are married and the splitting of their assets as compared to people who are living together, have long-term relationships and so on. I think it is a matter that is pertinent, sir, to modern-day society.

The Speaker: The member for Onchan, Mr Cannell.

Mr Cannell: Yes, thank you, Mr Speaker. I was interested in this Bill because I think it is a milestone, as the hon. Sir Miles has just said, if that is not too much of a pun, because it reflects the changes which he has briefly alluded to.

Some time ago we had - within our lifetimes, I mean - traditional marriages where, if and when husbands and wives separated which was extremely unusual, the other half of the party was generally left to fend for themselves, for whatever reason, and there was no chasing up by child protection agencies for monies due for dependants or anything else, the women just got on with it, or occasionally, as it was even then, the men, put up with their conditions, acted stoically and knew that was it and they were on their tod. There were not many handouts either to help them, but they got on with it.

Then came a much more recent situation where the spouses went from the marriage, whichever half of the spouse decided to go, but they did recognise their responsibilities. They said, 'If I'm going, I know I have to do the best by my wife and my children for their incomes' and that went along satisfactorily for a while.

But then we came to a comparatively recent development, which is alleged to be a liberated society which we have today, where virtually anything goes and people enter into marriage discussing the likelihood of the financial arrangements for when they split, not if they split, when they split. They actually write it down in what I believe is called a prenuptial agreement where the finances are actually carved up before they ever get near the altar, if indeed an altar they go to rather than Palm Beach or whatever they care to do, but the finances then are split.

But somewhere along the way came what I perceive - and I do not mean here to be flippant - an arrangement where the position of the male in the household appeared to be jeopardised, where the male of the party seemed to be the person who had to stump up no matter what the situation was, and in these days of equality, as we are frequently hearing, this, I hope, is no longer the case and I hope the provisions of this extensive Bill reflect that position because if we are going to have true equality, then that is what it must be, because I still hear of situations where males are left vulnerable for finance. A wife gets a new man, clears off, usually takes the children, but not always, and the husband then is left to give over a maintenance for his former wife and a contribution to the children. He was completely innocent in the proceedings and in actual fact he is forced to pay a considerable amount for a failed marriage which may not have been or may have been little of his own making. This is a very unenviable position to be in and even the more so in one instance I know of where a husband and wife adopted a child and the wife then went, taking the adopted child with her, and the husband left behind still has to pay for the whole shooting match. Now, that cannot be right.

So I hope to hear from the hon. mover of the Bill here, because I think she is keen on the equality situation, that a male in marriages situations here will not be prejudiced by any of the

pensions provisions which happen within this Bill, because it is all right if a woman has few earnings as the marriage dissolves, or the partnership as it will now be also, because that is recognising the rights now that it is not just legitimately married people, it is partnerships as well, if that female left behind has little prospect of earning any further pension or any further moneys from any sources, then it is fine to make sure that she is protected, but if the woman or occasionally the man actually is of an age where a career still stretches out, then I hope to hear that the provisions of the Bill will take that into account, because it is well possible for someone who gets divorced, separated or whatever they do these days to have another 40 years of working life left in them, because you see in the paper, to my intense sorrow, married 1998 and divorced in 2000, so someone who is 20 at 1998 could well have an entire working career in which to acquire pension rights and should not rely upon the opposite half of the partnership to acquire those. The men are frequently, in these cases recently, the innocent party, where the women are saying, 'Well, I'm sorry, but you have to stump up your pension rights here', and the man is left with no possibility whatever of having the wherewithal to actually commence a new marital career, because by the time a man or occasionally a woman has paid for all the debts which are due as a result of that split, which can entail the provision for two, three, sometimes four children under 16, he has not got a lot of money left when he starts to consider that he might remarry or form another association with a female, which of course for the female concerned is almost certainly someone who has not been previously married, that is the way of things, and they have every expectation that their husband who they are going to take on, knowing he has been married before or has been in a partnership, actually has been in that but could not reasonably be expected to actually have no money, because he is, for want of a better word, being screwed for the money for the previous relationship. I know the pun, but it is exactly right, that is what is happening. Women are going, taking the children and expecting the husband to pick up the tab to the extent where the husband has no money whatever to enter into a second relationship.

So, fine to protect, I am all for it, it is a call back to the days just after the war when many, many women would like to have got out of marriage and a few men but mostly women, for whatever reason - husband drunk, out of work, beating her up, all manner, the usual social things - but had no opportunity whatever to bail out of that, because they knew darned well at the time they would be left virtually penniless -

Mr Cretney: Maybe.

Mr Cannell: - but now thank goodness we are a little bit more tolerant in that regard. But, please, Mr Speaker, hear me urge that it is not just a case of women getting their pensionable rights: it can leave men extremely vulnerable in such situations.

Mr Cretney: Come back, John Corrin, all is forgiven!

The Speaker: The member for Onchan, Mr Karran.

Mr Karran: Well, that might have been an advert for a battered husband's refuge maybe on the Island. I am sure that that is the case, but I think the reason for this piece of legislation, and I am sure the hon. mover will be telling us, is that the fact is in reality it is virtually unheard of in that case, it is the other way round where you find that what happens is that the wife gives up a career, does a family, then she gets into the forties and fifties and then she is traded in for a newer model (*Laughter*)

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Mr Brown: I can tell you're not married!

Mr Karran: - and that is the reality of the situation and she is left destitute, and I think that today the statement of the previous speaker in one way he is good in the fact that it just shows today that we do not have the situation where people are tied into horrendous relationships, my childhood when we could see people living round where we lived, that were tied into terrible relationships where they could not go anywhere because they did not have a right, and I know in my lifetime in this hon. House that it was not that long ago when we could not even put court orders on common law husbands and husbands to keep them away from the domestic property.

So I think there are only two issues I have got that I am concerned about, Vainstyr Loayreyder. One is the bankruptcy clause on clause 29. I am just concerned that at the present time the legislation is that if the house is in joint names and one goes bankrupt and the other one does not the court cannot enforce the selling of the house, the half selling of the house at the present time. I would like the hon. mover, for the clauses stage, to look into this, that this clause cannot be used as a Trojan horse in order that the family home of individuals can be lost, because I know that I have had experiences as far as when there have been bankruptcies and people's houses have almost been lost and at the moment that is not the case.

The other thing I would like to ask is what are the provisions as far as legal aid is concerned? And I do say, as I have said before, the problem with our court system is you have either got to be very, very rich or very, very poor in order to use the court system and you do get the situation where people are in that black area and cannot really afford to use it, and I think that is about the only time I could have some sympathy with my hon. colleague, that you could end up with a situation where you cannot fight the divorce proceedings because you are not poor enough to get legal aid and you are not rich enough to be able to afford to fight through the legal system because you have not got those sorts of resources to do so, and I know this piece of legislation is only party to that and the real issue is the legal aid position.

It is not very often I would agree with the adjacent island, but I do feel that we should be following that and where people put the work in of keeping a home and providing the kids with a home I believe that there is a responsibility if then they do split up and I think the wife, or the house parent as it is now called, has a right.

I would also just like to say that the reason why these situations do not equate to people that are not married is that we have not brought in any legislation that the hon. member for Rushen was on about, partnership laws, and maybe that is something that the hon. member might want to bring in at a later date, where people who want to register a partnership can do so. I know they do it in certain European countries, but at the present time marriage is a legal entity that people enter into and that is why I believe that each person of that marriage has a responsibility to the other. If there is no legal entity as far as their bond is concerned, then there is no liability. I think it is a good move as far as this Bill is concerned.

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

Mrs Cannell: Thank you, Mr Speaker. I rise to my feet to support the Bill that is before us for all the reasons and provisions that are actually laid down within it. I have to say, though, I am a little bit startled by some of the comments by one of the first speakers, Mr Cannell, for Onchan, in respect of he seemed to be assuming that most of the blame for divorces these days or for the financial burden on the husband is as a consequence of the relationship with the female, but I have to say that in a marriage, when a marriage breaks down, if there are children, they are dependants of both the man

and the woman and I think it is quite right and proper that the man should have to pay for his responsibility. A child is for life, it is not just for Christmas.

But what I would like to ask is just on clause 40. This is in respect of enforcement of Manx orders in the UK and Channel Islands. Do we not have provision or could we not consider that provision to be extended elsewhere? There are situations that happen from time to time, not very often, but when they do happen they are heartbreaking where perhaps when a marriage breaks down and the divorce is going through and there is a challenge for the rights of who should look after the children where children are involved, on the odd occasion the one partner that feels that they will not get the consent of the court for looking after the children sometimes escapes with those children to other jurisdictions unlawfully and illegally, and I appreciate there are problems, but I just wonder whether or not we have actually looked into that.

The only other query I would have, and it has been covered to some degree by the previous speaker, is in respect of common law relationships. I would just like to ask the hon. mover of the Bill. I know this is in terms of the Matrimonial Proceedings Bill and that is after the legal contract has been made between man and wife, but I am wondering in law as it stands at the moment, can one expect if a common law relationship breaks down that all the same things have applied, where there is a home that is shared by the couple and children have been born into the relationship, whether or not in those situations they could look towards this legislation for some sort of help and guidance and assistance and would it have any standing in the courts?

But other than that I welcome this legislation and I wish it a clean passage. Thank you.

The Speaker: Does any other member wish to speak? I call upon the mover to reply. Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. In response to the comments that have been made, I thank everyone for their comments. I suppose we should have comments from every aspect when we are dealing with legislation.

The member for Rushen, talked about divorce, separation and nullified marriages and, yes, there are long-term relationships. Relationships do break down, whether people are married or not, and I think this is why we have got this legislation, that it does relate not just to pension sharing, but also relates to children and there are a number of aspects within the legislation which actually introduces through the Child Custody Act 1987 new provisions and there are a number of clauses - 34, 35, 36, 37, 38, 39 and 40 - which all come under the Child Custody Act, so it does allow for pension sharing and making provision for children under this particular legislation.

Now, if somebody has had a long-term relationship I think it is for the court to decide whether that relationship is of any length so that they can apply for the court to be dealt with under this legislation. Most of the clauses in the early part are just re-enactments, but with the pension sharing provision introduced. So most of the legislation is just re-enacted legislation.

If members look at 41 which does relate to financial relief after filing for divorce, if I could just mention it in passing, it really is left to the court to decide whether the application of this legislation is correct or not and it would be the same for any other divorce. The court would have to decide whether there was a case to be made or not under this legislation.

I think someone mentioned that they could be married one or two years and then I think that there would not be the case to be made then unless there were children of the marriage and individual

circumstances then would be taken into account. So it depends on the marriage and on the relationship and how long it has been. If somebody has lived together for, say, 40 years and the marriage breaks up, then obviously the court would take that into account, but they would have to apply to the court.

Then we move on to Mr Cannell, who thinks that it is just women that are at fault. I was quite safe in moving the legislation to be quite clear that it related to either of the spouses of the relationship, of the marriage. It could be that someone has a very good job and has a pension and the other person might work part-time and therefore the court would take that into account and it need not necessarily be the man who has got the full-time job, who has got the very good pension, it could be the woman who has got the full-time job, who has got a very good pension. So it does relate to and the part that people play within a marriage.

But as the member for Onchan suggests that the male is always jeopardised, he has always got to stump up, as I have said, it is equality, but again it is back to the court to decide what the rights are and also to take it into account responsibilities on both sides, faults, whatever, and I do not think it bodes well for the member for saying that men are screwed. I really do not think that that is a term that should be used in relation to legislation that we are taking through the House.

I would have thought to enter into a marital relationship one does freely and fairly and is not forced with a gun to their head. So I would hope that members would refrain from attacking women who are always in the wrong, as the member suggested. Men are quite often in the wrong, women are in the wrong in some relationships and people are helped and assisted to work through some of these problems that they have in relationships, but it is not just one side or the other.

In relation to that, then Mr Karran went on to say about trading new for old. Legal aid, I think, comes back down to the courts, whether you have to apply in the same way, whether it is available or not, because very small sums are available for divorce and for settling some of these difficulties. So I am not sure, but I will make enquiries for the next reading.

We do not have partnership laws and I will, in relation to the member for Rushen, clarify that position with regard to partnerships, non-married relationships, because I might not be absolutely right about that.

I thank Mrs Cannell for her support. Again when we come back to common law relationships this particular legislation does deal with provision for children. It does place a different responsibility on relationships within marriages. The member for Onchan also talked about financial arrangements prior to marriage and, yes, that does happen from time to time. That does not say that that sort of arrangement would not go before the court even in a situation such as this because that is why we have the court to decide these sorts of issues.

But I would hope, Vainstyr Loayreyder, that this legislation will be given a second reading and I will come back on those one or two issues at the clauses stage. I beg to move.

The Speaker: Right, hon. members, the motion is that the Matrimonial Proceedings Bill be read a second time. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it.

Procedural

The Speaker: Item 12, the Food (Emergency Provisions) (Amendment) Bill - Mr Downie did have leave this afternoon and if he was not back in time the Bill for second reading would be held over to the next sitting of this House.

Hon. members, that completes our agenda for today, but I must make one small request, I think. Hon. members, I must ask you to improve your timekeeping. This House reassembles at 2.30 p.m. precisely after the lunch break and again I regret to say this afternoon there was a lack of a quorum. Hon. members will also have received a letter from the President of Tynwald requesting members be seated on time after the lunch break next Tuesday.

Hon. members, the House will now stand adjourned until Tuesday next at 10.30 a.m. in the Tynwald chamber.

The House adjourned at 3.27 p.m.