

**REPORT OF PROCEEDINGS OF
THE HOUSE OF KEYS**

**Douglas, Tuesday, 26th June 2001
at 10.00 a.m.**

Present:

The Speaker (the 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); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Mr J P Shimmin and Hon A F Downie (Douglas West); Hon J A Brown (Castletown); Hon D J Gelling (Malew and Santon); Sir Miles Walker CBE LLD (hc) and Mrs P M Crowe and Mr J Rimington (Rushen); with Mr R B M Quayle, Acting Secretary of the House.

The Chaplain took the prayers.

Procedural

The Speaker: Hon. members, we now turn to our order paper, questions for oral answer, and I give notice to hon. members that I have received a request from the hon. member for Rushen, Mr Rimington, that under standing order 43(4) he will seek permission to submit the following question for oral answer by the hon. Minister for the Treasury. The Minister for the Treasury, I understand, has been given notice, and at the end of oral questions on the order paper I will invite the member for Rushen to submit his question in accordance with standing order 43(4).

Douglas Water Retention Scheme — Question by Mr Singer

The Speaker: Hon. members, question number 1. The hon. member for Ramsey, Mr Singer, to ask the Minister for Transport.

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

- (1) *Are you satisfied that in regard to the Douglas Water Retention Scheme -*
 - (a) *the pontoons are adequate and suitably positioned;*
 - (b) *adequate refuelling and fresh water facilities are available to visiting yachtsmen; and*
- (2) *is the flapgate giving rise to any environmental problems?*

The Speaker: The minister to reply.

Mr Brown: Thank you, Mr Speaker. In answer to part 1(a) of the question, the first phase of pontoons and associated walkway have been constructed by a very experienced supplier of such equipment, who has designed and installed similar pontoons worldwide. Their advice and expertise were fully utilised to ensure that the pontoon berths provided in Douglas met current industry standards with respect to the length of the individual fingers and also the available manoeuvring space for vessels moored on them and in adjacent areas of the harbour. The supplier based his design on the *Code of Practice for the Construction and Operation of Marinas and Yacht Harbours* published by the Yacht Harbour Association. The pontoons and connections were designed and independently proven to perform to British Standard 6349 part 6, Design of Inshore Moorings and Floating Structures. The individual fingers are therefore sized at three quarters of the length of those vessels for which they are designed. There is a mixture of berths of differing lengths based on the best estimates of my department. This has resulted in 32 berths for vessels of up to 8 metres overall length on pontoons of a length of 6 metres, 28

berths for vessels up to 10 metres overall length on pontoons of length 7.5 metres, and finally there are 8 berths for vessels of up to 12 metres overall length on pontoons of a length of 9 metres. Further, the layout of the walkway and pontoons is a direct result of the experience of the supplier and takes into account the relatively narrow harbour in which the berths are constructed. The design provides for adequate fairway width on either side of the berths and also permits the necessary quayside berths for those vessels not requiring a pontoon berth.

In answer to 1(b) of the question, fuel is available from Manx Petroleums during normal working hours. Department fuel and effluent facilities are expected to be available for next season. The delay is due to the need to incorporate the design for shore-side facilities within the overall plans for the redevelopment of the North Quay. Water and electricity supplies to the pontoons should be available around the end of June. This facility has been delayed due to the MEA being unable to connect the electricity supply to date. The equipment suppliers will then need to return to commission the water and power points. Water and power points for the remainder of the inner harbour are presently under review.

In answer to part 2 of the question, so far as my department is aware, the flapgate is not giving rise to any environmental problems. Thank you, Mr Speaker.

The Speaker: A supplementary. Mr Singer.

Mr Singer: Thank you, Mr Speaker. Could I thank the hon. minister for his detailed answer. Could I ask him: on the refuelling, is he aware that yachting magazines indicate that refuelling is available and consequently visiting boat owners do not stock up before their journey here? And is he aware that there have been difficulties in that the yacht owners have had to go and plead with Manx Petroleums to give them even a small amount of fuel? Perhaps he could answer that for me and why the fuelling facilities have been so delayed. I do not think I heard him answer that. I apologise if he did answer that.

The Speaker: The minister to reply.

Mr Brown: Yes, Mr Speaker, I did respond to the issue of the refuelling where I said, in answer to part 1(b) of the question, that fuel is available from Manx Petroleums during normal working hours and that the department fuel and effluent facilities are expected to be available for next season. The delay is due to the need to incorporate the design for shore-side facilities within the overall plans for the redevelopment of the North Quay. So that, I hope, responds to that issue. As far as a yachting magazine stating that there are refuelling facilities available is concerned, of course that is correct. What they may not have done - and I have not seen the article, and certainly my department has no influence over the editorial of the article - is made it clear that that is only, at this stage, during working hours, and I would hope that they would make it clear in their next article that that is the case. Certainly, anybody who contacts our department will be made aware that the fuelling facilities are only available on the basis that I have stated, sir.

The Speaker: A supplementary. Mr Cannell, member for Onchan.

Mr Cannell: Thank you, Mr Speaker. Would the hon. minister please ensure that due regard is given within this scheme to traffic flows before agreement is reached to open the bridge at busy times, a process which appears to take about 20 minutes, the flows particularly including those from the Battery Pier and the employment at Midocean?

The Speaker: The minister to reply.

Mr Brown: Yes, thank you, Mr Speaker. Of course, I made it clear when I brought this motion to Tynwald that there would be some disruption to traffic due to the bridge having to operate because of the tidal conditions. However, the department does have automatic signs to redirect traffic along the quayside to North Quay if they do not wish to wait. The hon. member did

raise with me a concern of a recent incident. I did raise that with the department, and that is due to the temporary works that are being undertaken on South Quay, where the flow of traffic meant that people could only cross the bridge. Unfortunately, at that stage, somebody wished to depart from the harbour, the bridge was lifted and that happened to coincide with people departing work for lunch. I have asked our people to try, as far as possible, to ensure that that does not happen while the reconstruction works at South Quay go on.

The Speaker: A supplementary. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Could the hon. minister answer what mitigation, in respect of conservation issues, has been taken into account with this flap? In particular, would he give an agreement to circulate that information if he cannot answer now, and in special relation to migratory fish, where the project has given the impression of the river being effectively blocked off from time to time?

The Speaker: The minister to reply.

Mr Brown: Yes, Mr Speaker. My department was in full consultation with the Department of Agriculture, Fisheries and Forestry, of which the hon. member is a member, prior to us submitting our planning application. A fish pass was included into the design at considerable expense to the taxpayer, and as far as we are concerned, and certainly based on the advice from the Department of Agriculture, there is no problem in what we have provided and the migratory fish are able to cope with the bridge flap being there.

The Speaker: A supplementary. Mrs Crowe.

Mrs Crowe: Thank you, Mr Speaker. Would the minister agree that this scheme in Douglas and the debacle in Ramsey, which was supported and promoted by both members for Ramsey, are an error of judgement and that the correct and only place for a marina on the Isle of Man is Port St Mary? (*Interjections*) And would the minister agree that he would review the various schemes that are now being promoted in harbours around the Island and give priority to the only place (**A Member:** Shame!) that the government's own survey suggested was the only place for a marina on the Island - a 24-hour access marina - and that is Port St Mary?

The Speaker: Hon. member, that supplementary has no relevance to the question on the order paper. Minister, do you wish to reply?

Mr Brown: Yes, I would just like to clarify, Mr Speaker, the point that, firstly, I do not agree with the hon. member's statement that the project in Douglas has been a mistake. I would say that certainly my department, when it published its report in March of 1997, made it absolutely clear that the only 24-hour access marina that could be provided within the Isle of Man was Port St Mary and that my department fully supported that. However, my department also supports ensuring, as far as possible, that we make effective use of the existing harbours throughout the Island, which cost a lot of money for us to maintain and look after, by providing float berths for those who wish them in Ramsey, possibly in Peel and in Douglas, as well as then supplementing what we hope will be the main marina in Port St Mary, for which there is financial provision made in the policy document. And my department is endeavouring to be in a position to make public the outline design of its scheme before the end of this year, that is the year 2001.

The Speaker: A final supplementary, Mr Singer, on the Douglas Water Retention Scheme.

Mr Singer: Thank you, Mr Speaker. Can I ask the hon. minister: is there a problem of silting up due to the flapgate, and if so, how will this be tackled? And if there is likely to be this problem, how will this affect the boats moored at the pontoons and how often will this desilting need to take place? And what did the environmental study say about this problem?

The Speaker: The minister to reply.

Mr Brown: Yes, Mr Speaker. Silting up of a harbour is a natural phenomenon in that where you have got a river it drags down materials that are then deposited, on many occasions, in the harbour area; that again was made clear to Tynwald before Tynwald approved the expenditure on this bridge and flapgate. Certainly my department will have to maintain this harbour like it maintains every other harbour, and I am not aware of any problem in relation to the operation of the bridge caused due to the silting up of the gate itself. I would remind hon. members that since the bridge has been in being and since the flapgate has been in being, it has been, for a period of time, laid down on the surface bed of the harbour whilst other works were undertaken in terms of the construction of the South Quay, and there were no problems identified then. The area was cleared and the gate put back into full operation. The flapgate does go down when the tide comes in so that people have free access in and out of Douglas Harbour, so it has every day, twice-a-day ongoing operation of the flapgate, which in itself, with the movement of the tides, should be adequate to keep it reasonably clear.

**IRIS Scheme — Damage to Private Properties —
Adequacy of Contractors' Indemnity Insurance — Question by Mr Houghton**

The Speaker: Question number 2. The hon. member for Douglas North, Mr Houghton, to ask the Minister for Transport.

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

Do your department's contractors have adequate indemnity insurance to satisfy legitimate claims for compensation in respect of damage to private properties caused by the construction of the IRIS infrastructure and, if not, why not?

The Speaker: The Minister for Transport to respond.

Mr Brown: Thank you, Mr Speaker. All contractors engaged by my department on the IRIS works enter into a binding contract with the department. The conditions of contract that apply are the ICE 6th edition, agreed by the Institute of Civil Engineers and the Federation of Civil Engineering Contractors. Clause 22 of the ICE Conditions of Contract requires the contractor to indemnify against all losses and claims in respect of loss or damage to any property. Before the contract is awarded, the contractor has to submit details of his insurance policies to the engineer in order that the engineer can be satisfied that the contractor has adequate indemnity insurance in place. Thank you.

The Speaker: A supplementary. Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker. Can the hon. minister provide a legitimate reason therefore why homeowners whose properties have been damaged by vibrations during extremely deep excavations, running to the tune of many thousands of pounds, have to further suffer from the actions of hardnosed contractors and their insurers, whose behaviour is bringing disrepute on the government and onto this hon. House and are causing those homeowners to run up legal fees running into many thousands of pounds, with little or no result? What is the minister prepared to do for those who are already affected and for those future homeowners who are faced with similar disastrous circumstances, sir?

The Speaker: The minister to reply.

Mr Brown: Yes, thank you, Mr Speaker. I think the hon. member is slightly mixed-up on this issue. The contracts that he is referring to, of course, were contracts undertaken by local authorities, and certainly in my town, in Castletown, where we have had a problem with this, as the MHK for Castletown, I have been involved in providing advice to one of the persons who are so affected.

The Speaker: A supplementary. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Could the minister for the department provide any details of any claims made by homeowners who have had their property seriously damaged by vibrations? And, in particular, could he provide details of any claims which have been settled by the constructors themselves or would he be willing to furnish this House at some appropriate time with such information?

The Speaker: The minister to reply.

Mr Brown: Mr Speaker, my department has no contract, as the Department of Transport, with the contractors. The contract is between the local authority and the contractors. I am fully aware of the situations in Castletown that have arisen due to works that have been undertaken by the Castletown Town Commissioners and their contractors acting on their behalf. My understanding is, because of my involvement, that there is an insurance indemnity there and the argument is with the insurance company, certainly, who are being reluctant to pay out for different reasons. As I say, I have been involved in advising and trying to support one of my constituents who has a problem in this area, and I have to say that I am concerned about the action and the stance being taken by the insurance company. I do not agree with them.

The Speaker: A further supplementary. Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker. I welcome the hon. member's answer to the last question, but will he bring urgent measures forward now, on behalf of those local authorities, for those homeowners who have already been seriously affected, together with those who may be affected in the future, whereby government will intervene and bring immediate procedures on an independent basis which will result in the repair or replacement of damage caused to private property as a result of the IRIS project to the complete satisfaction of the aggrieved homeowners? And will he undertake to resolve this very serious matter in a satisfactory manner at no cost, whether legal or otherwise, to those homeowners? I would be very grateful, sir.

The Speaker: The minister to reply.

Mr Brown: Yes, Mr Speaker. No matter what our sympathies are in this issue - and the hon. member is a member of the Department of Local Government and the Environment, which on the same basis funds local authority housing as we fund and did fund up to the Sewerage Act coming into being, works that are undertaken by a local authority as a drainage authority, which were the IRIS works and the tanks - there is a contractual issue here and, whatever my views are, government has no role directly to play in this. Indirectly, of course, my department, through its chief executive, has endeavoured to encourage the contractor to encourage the contractor's insurers to take a more responsible attitude in this matter and to deal with the issue fairly. As I say, I am quite concerned, and my view is that the insurers are not dealing with this matter fairly.

The Speaker: A supplementary. Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Bearing in mind that as of 21st June 2001 you yourself, Minister, had not had the courtesy to visit or communicate with these people, and bearing in mind that they are constituents of your own -

Mr Brown: Which people?

Mrs Cannell: - would you now not agree with me that it is incumbent on you to represent these people, to go down and visit the damage to the property and to do your level best to get the situation resolved?

The Speaker: The minister to reply.

Mr Brown: Yes, thank you, Mr Speaker, and I do thank the hon. member for East Douglas for her valuable advice to me. What I would say to the hon. member is: first of all, which

constituent? As far as Mr and Mrs Mansell are concerned, I have been involved in providing advice and support for quite a considerable time now. I have had discussions with the Castletown Town Commissioners in an endeavour to encourage them to take a far more active role in this. So, from that point of view, I hope that explains that one to the hon. member. As far as Mr and Mrs James from Queen Street in Castletown are concerned, I can again advise the hon. member - because she would not be aware of this - that Mr James came to see me well over a year ago, when this problem first arose, to advise me of the problem. I said that for any advice or support they required, by all means to contact me and I would do anything I could to assist them. The advice from Mr James was that he said 'No'; he just wanted to bring it to my attention and if they needed my help they would certainly revert back to me. To date they have not. I hope that explains it to the hon. member for East Douglas so there is no misunderstanding.

The Speaker: I will take three more supplementaries on this subject: Mr Karran, Mr Quine and Mr Houghton. Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that at the end of the day it is government that picks up the tab? (**A Member:** Hear, hear.) Would the minister not agree that it is not just in Castletown but there are problems, I believe, in Peel with properties that have had problems as far as this is concerned? Would he not consider looking at some sort of arbitration system?

Mrs Crowe: Insurance ombudsman.

Mr Karran: Would he not agree that the problem we have, especially with his department, is the bully-boy tactics of pushing up the ante by having to use the legal system so you end up having to almost mortgage your house (**Mr Houghton:** Hear, hear.) in order to get justice? With the present legal system, you either have to be very, very rich or very, very poor to be able to sue anybody in this country, because the people in the middle cannot afford to use the system. Would the minister consider going back to the Council of Ministers not just with this point but with other issues? When dealing with the government there should be some independent arbitration system -

Mrs Crowe: There is.

Mr Karran: - instead of having a situation with £200 an hour minimum having to be paid out to lawyers in order for you to get justice for the damage that is done, not just in IRIS but in other things as well.

Mrs Crowe: There is an insurance ombudsman.

The Speaker: The minister to reply.

Mr Brown: Yes, thank you, Mr Speaker. One could be forgiven for thinking that the hon. member who has just spoken is chairman of a water authority where there are, on occasions, claims made against his board. (*Mr Karran interjecting*) Can I say to the hon. member that he knows only too well - or at least I hope he does, after the time he has been in this House - how contracts work between those who are the people who give out the contract and the contractor. The liability, whether we like it or not in this case, is a liability that falls on the contractor. The contractor is insured, therefore there is no liability or cost that falls onto the taxpayer. Quite - (**Mr Karran:** Morally.) The hon. member does not even know enough about this to make those statements. What I can say, as I have said earlier, is that I have been involved with Mr and Mrs Mansell on the situation that they have in Castletown, and I disagree with the insurers. However, as I understand it, there are still negotiations going on between their lawyers and, whether we like it or not, if somebody digs in and they say they are not going to pay it, unfortunately you have to revert to legal action, and I have to say that whether that is an individual or government is a

separate issue. I would also make the point and again re-emphasise to members that the Department of Transport is not directly involved in these contracts.

The Speaker: A supplementary. Mr Quine.

Mr Quine: Thank you, Mr Speaker. Does the nub of this problem not revolve on the terms and the conditions of insurance which both central government and local government take out? And is it not a fact that because of the terms of the insurance, government and local government both virtually abandon their responsibilities (**A Member:** Hear, hear.) - their moral responsibilities at least - in these situations and hide behind the insurance companies (**Mr Houghton:** Hear, hear.)? And would it not be more to the point if central government were to look afresh at its insurance policies and the terms of those policies and have in place realistic policies (**Mr Houghton:** Hear, hear.) rather than policies which allow these companies to avoid their obligations?

Mr Houghton: Hear, hear. (*Mr Karran interjecting*)

The Speaker: The minister to reply.

Mr Brown: Mr Speaker, the government has insurance. This is not a claim against the government; this is a claim by a third party against the contractor and ultimately against the local authority, in this case the Castletown Town Commissioners. Government's insurers are not involved in any way whatsoever with this claim. What we have is a dispute from the insurance company for the contractor, and the contractor has insurance as required by Treasury, as required by every department of government, including the Department of Local Government and the Environment, which the hon. member for Ayre is a member of. If he has a concern - and I would be pleased to hear it - about why government's insurance may not be effective enough, (*Mr Quine interjecting*) then, yes, I am sure that the Treasury will review that, but I have to say, in this instance, that the one that is being raised on the floor today is a dispute with a contractor who undertook a contract for the Castletown Town Commissioners, not a contract that was undertaken for government.

The Speaker: A question to Mrs Crowe: is your supplementary relevant to the question on the order paper, Mrs Crowe?

Mrs Crowe: Indeed it is, Mr Speaker.

The Speaker: Right. A supplementary, Mrs Crowe.

Mrs Crowe: As always, Minister, could I ask: has this matter been referred to the insurance ombudsman? It seems to me that it would be a case that needs to be settled in this manner.

The Speaker: The minister to reply.

Mr Brown: Yes. I am in receipt of a copy of a letter which every member of this hon. House had from Mrs Mansell, dated 8th June 2001. The copy letter is to the Association of British Insurers, Consumer Information Department, 51 Gresham Street, London, EC2 7HQ, where she explains the ongoing concerns that she has and the problems that they have experienced. I am not aware of any response back from that letter of 8th June, but again I would say, as I have said, that I do not agree with the stance being undertaken by the insurance company in this case. I think they are wrong.

Mrs Crowe: Refer it to the ombudsman.

The Speaker: A final supplementary. Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. May I ask the hon. member: has he actually been and visited each of these two properties that has been discussed this morning? And also, going back to his own words where he confirms that both these homeowners have themselves been

unfairly treated, would he undertake now to intervene on behalf of his department in government to get this matter sorted out once and for all before the issue escalates with other homeowners as the IRIS scheme progresses, sir?

The Speaker: The minister to reply.

Mr Brown: Mr Speaker, not being a party to these proceedings, my department has endeavoured to encourage agreement to be brought forward in relation to both these cases where property has been damaged. I have been invited on a number of occasions to visit Mr and Mrs Mansell's home, and I have done that. As I say, in relation to Mr and Mrs James, Mr James did call into the shop when I was in one Saturday morning and did advise me of the situation, and there is an open invitation: I am more than happy to go and see my constituents if they wish me to. I do not need lessons on how to do it.

General Practitioners — Emergency Referrals to Consultants — Question by Mr Singer

The Speaker: Question number 3. The member for Ramsey, Mr Singer, to ask the member for Health and Social Security, Mr Karran.

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

Under the terms of their National Health Service contract, can a consultant on call decline to see a patient referred as an emergency by a general practitioner?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, consultants' contracts are set out in broad terms under that doctors are employed in the National Health Service. Contracts do not, and indeed cannot, direct working practices, which are the responsibility of the individual practitioners. Decisions on whether a patient needs to be seen are usually taken by the consultant in conjunction with the referring general practitioner. In all cases, it is the consultant who determines clinical grounds, using his knowledge and experience, and what course of action is required for the individual cases, Vainstyr Loayreyder.

The Speaker: A supplementary. Mr Singer.

Mr Singer: Could I ask the hon. member: if a Manx resident has had a private operation off the Island and goes to see a doctor at a hospital with a problem which may or may not be related to that operation, and the doctor needs immediate help from an on-call consultant with a required speciality, can that consultant, under the terms of their NHS contract, refuse to see that patient on the excuse, 'They are not my patient'?

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, I had a discussion with the hon. member some time ago and got criticised for daring to have a go at some of the consultants. The situation is that the consultants are totally in control as far as this is concerned. The only action I can take is that I can maybe take a formal complaint against them, and I am hoping that in the very near future there will be a formal complaints procedure. I believe that the situation is that morally the consultant should see the individual patient. The problem that we have had over several years is that of certain consultants trying to intimidate us not to do waiting-list initiatives, and I think the hon. member has a legitimate concern, but I have to say that the individual has to decide which side of the fence he is on as far as this is concerned. I believe that it is scandalous that that sort of situation could arise, but it has arisen in the past, and there is very little one can do at the present time.

The Speaker: A supplementary. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. If that dreadful revelation is true then, would the hon. member give an undertaking to this House, and to the public of this Isle of Man, that he will investigate to see if such a situation has arisen, and if it did, whether it is in breach of any particular terms and conditions of that particular consultant's contract and also if it is - it surely must be - in breach of the code of professional conduct for medical professionals if nothing else?

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, I was not talking about emergency referrals, but I am talking in general about the fact that we have had problems in the past when we have sent initiatives across. When I was a member of the department in the 1980s, we had initiatives where we had to encourage the department to stay firm with that initiative. As far as an emergency referral is concerned, I do not believe that a consultant would do that intentionally, but the consultants will tell you, whenever you become members of the Department of Health and Social Security, that if you have initiatives in the United Kingdom then they are set adrift to go back to the United Kingdom. That is a sad situation. It is no use my hon. friend from North Douglas trying to hype it up. That has been the reality for years, and I think that my hon. colleague, a former member of the health services, can reveal that as being the fact as far as that is concerned. It is not a great revelation; it is the reality of what has been in the past. It might not have been what people in this hon. House would like to say, but I think the situation is that this House needs to decide where it stands as far as this issue is concerned. It cannot criticise my civil servants and the members of the department when the situation is that we can only operate in a very restrictive way.

The Speaker: A supplementary. Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. Is the member aware that some patients referred to see a consultant never see a consultant at the hospital at all to gain the experience of that consultant and the advice that that consultant might give, so is it any wonder that patients look to be referred to a specialist centre where they do see consultants?

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, I think the issue that we have got to remember as far as the health service is concerned is that it is specialising more and more. The days of general surgeons are becoming extinct in the United Kingdom. Our hospital is something that we can be proud of as far as the width of work that it does try to take and the variety of work is concerned, as it would only do a small fraction of the work that it is doing if it was in the United Kingdom or in one of the other larger islands in some other country. The situation is that you are not always guaranteed to get a consultant when you are referred to the adjacent island; often you will get his number two or his number three in the adjacent island as well. So I think it would be wrong to try and make out that that practice only happens in our hospital; it does not. There should be less of an excuse with the resources that you, as members of this hon. House put into the health service for that to happen, but I think it would be wrong to give the impression that just because you are sent to a specialist area you are always guaranteed to see that consultant, especially on subsequent appointments to that hospital in the adjacent isle.

The Speaker: Another supplementary. Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder, but is the member aware that even not seeing a consultant here, some people are referred to the UK? They are never seen by the consultant. Does the member consider that that is the appropriate way for the health service in the Isle of Man to operate and then send patients to the United Kingdom for a second opinion?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, if I have got the position right about some GPs sending people across the water straight away -

Mrs Hannan: No, the hospital.

Mr Karran: - the hospital sending people across the water, what we must make sure is that we get the right advice. We have to be fair on that point of the fact that they cannot be an expert on everything as far as different medical conditions are concerned. There will be things that they are not, and I believe that that is good that they send people away; we need to send people away. I would rather people send one of our patients away to a hospital with a specialisation in a particular form of medical complaints than tinker around over here for several months and then maybe lose the most optimum time in order to get the medical intervention that individual has for the best prognosis

A Member: Hear, hear.

Mrs Hannan: Could I ask a further supplementary, Vainstyr Loayreyder?

The Speaker: You have had two already, hon. member.

Mrs Hannan: I realise that; I did not know there was a quota. Why do we employ consultants here if they are not going to see patients before they are referred to the United Kingdom?

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, obviously I do not know the specific cases, and if the likes of the hon. member, like the hon. member for Ramsey, want to come and talk to us at the health division at Crookall House, we will be happy to discuss individual cases. I have to say that I am alarmed if somebody had emergency referral and was not seen, but I am not surprised at the practice of people being seen in the adjacent isle. As far as the member for Peel is concerned, I do feel that it is their clinical judgement; if they feel that they are not up to sorting out the problems, I think it is good that they are sending people off to people who were more expert in that field. My complaint would be about them not sending people off quickly enough in order that they can get the right medical intervention in the first place. And I think that we have to accept that consultants cannot be experts in everything, just as we cannot all be experts on everything in this hon. House. (*Interjections*) I believe that you do have to send - it is their right to do so - and I would not discourage them from sending people. If they feel that they cannot give them the medical intervention and they would have a better prognosis, then I think they are acting responsibly as far as that is concerned.

The Speaker: A supplementary. Mr Singer.

Mr Singer: Thank you, Mr Speaker. In his reply to my supplementary, the hon. member referred to a case that I had spoken to him about some time ago, and can I tell him that in this case it is the same consultant who is doing exactly the same thing - and I am very tempted to name him today, but I will not. What action can and will your department and the Isle of Man Medical Society take against what appears to be a neglect of duty, especially when that consultant has sworn the Hippocratic oath and not, as it seems in this case, the hypocritical oath?

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, I would think that this consultant would be rather foolish in that scenario; he would leave himself open and should err on the side of caution. At the end of the day, we have got a problem - there is a balance between suing the way the American system has gone - and I do believe that people have to be very careful, even in the medical profession, as far as that is concerned. All I can say is that I will be happy to take up the case. We have got a

complaints procedure - it has been something of an ordeal to get it going - that will be announced shortly as far as the hospital is concerned, but I will be happy to discuss the issue further with the hon. member, not naming individuals in this hon. House as they do not have the opportunity to defend themselves.

Accommodation Payments — Maximum Assistance Payable — Question by Mr Henderson

The Speaker: Question number 4. The hon. member for Douglas North, Mr Henderson, to ask the member of the Department of Health and Social Security, Mr Cannell.

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

What is the maximum assistance payable to someone who meets all the criteria for accommodation payments?

The Speaker: Sorry, Mr Rimington to respond.

Mr Rimington: Thank you, Mr Speaker. I presume the hon. member is referring to the amounts prescribed for housing costs for calculating the amount of benefit a person may be able to receive on a claim under the Income Support Regulations. There are various amounts prescribed, depending upon the housing status of the individual claimant and his family circumstances. For example, a claimant who is living in a house for which someone else had responsibility for the rent or mortgage - say an 18-year-old son living at home with his parents - would not receive any amount specifically for housing costs. His entitlement to income support would comprise solely a personal allowance of £65.45 per week. A claimant who has responsibility for the housing costs of the home in which he or she lives would have an amount of between £70 and £85 per week brought into the benefit assessment in respect of those costs, depending upon the extent to which he or she had child dependants. This amount is subject to deductions where the payment of rent is inclusive of heating, lighting, cooking or hot water. A further reduction would be appropriate if any part of the home is occupied by non-dependants. In addition to the amount allowed for housing costs, where the owner-occupier is responsible for either the maintenance or insuring of the property, an amount of £7.80 per week is included in the benefit assessment. For a boarder - that is, normally a person living in a guest house, hotel, hostel or similar establishment - the benefit assessment would include an amount equal to the board and lodging charge plus an amount for personal expenses, subject to an overall maximum equal to £109.15 per week for a single claimant and £172.45 per week for the couple. And just to note that all the above allowances I have just described apply equally to income-based job seeker's allowance, and the allowances, or 'prescribed amounts' as they would be called, also apply to family income supplement.

The Speaker: A supplementary. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I thank the hon. member for his response and furnishing that information, but would he agree with me that £350-odd a month for a person responsible for a home, and indeed £400 a month for a boarder in, say, digs, does not really reflect the ongoing housing situation at the minute and the ever-increasing costs?

The Speaker: Mr Rimington to respond.

Mr Rimington: Thank you, Mr Speaker. We do appreciate in the department the changing nature of the property market. Prior to changing the rates for housing costs in the recent uprating, the department did undertake a survey of people on income support and their housing costs. We specifically looked at those in the private sector and in two categories, one being old-age pensioners who received income support. We were trying to get a case-load of 100 and we were unable to get a case-load of 100 in that case for old-age pensioners, and also for people who were not old age pensioners we only just got a case-load of 100 to do an analysis from.

That analysis showed that the amounts of rents being paid by those individuals in the private sector nearly corresponded to the rates which we have now applied as of April this year, so the department does feel confident that the rates that we have applied - which is a significant rise on previous years - do represent the reality in the housing market. I do accept - before the hon. member jumps to his feet - that there are always going to be cases where there are exceptions, and it is unfortunate, but the regulations cannot always meet those exceptions.

The Speaker: A supplementary. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I will, indeed, jump to my feet for the people of this Island and would ask the hon. member again: I am thankful for his further commitments and for the upratings, but would he agree with me that really, in the private sector, a minimum rent in habitable accommodation is somewhere in the region of £600 a month or so? And would he further agree with me that his department needs to undertake a further review of things, possibly more quickly than they realise, due to the ever-changing circumstances, and that indeed the social divide in some cases is becoming greater and greater?

The Speaker: Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. The department always does keep a watch on the figures. I would like to remind the member that the details and costs that I have outlined to him in my original answer are printed in appendix 3 of the memorandum which is circulated to members every April or every March prior to the Benefit Uprating Order, which takes place in another place. That order is there to be challenged and questioned at that time -

Mr Henderson: Which we do.

Mr Rimington: - and I do not remember the hon. member raising these issues -

Mr Henderson: I do.

Mr Rimington: - at that point. That is the appropriate place for such action to be taken, because in this House I represent the Social Security Division of the DHSS and, as such, I represent the government and, as such, I represent the policy of Tynwald as expressed by the members. It is not for me to comment on whether those individual items might be fair or unfair or reasonable or not; that is a question for Tynwald to decide as policy.

The Speaker: A supplementary. Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the member not agree that it is too simplistic to say that we have to uprate the benefits system in order to resolve this issue? The issue is about supply and demand and about this House not being in bed with the people who have got the cartel as far as the developable land is concerned. And would he not agree that the answer has to be that the supply and demand has to be addressed, not giving a free-for-all for the Rachmans in this Island that we have seen up to now? Would he also not agree that if we had managed - to support my private member's Bill - which he did support - we would have had 170-odd houses being built at the present time? They would have been finished within less than a year to help ease the present crisis as far as the rental market is concerned, because the rental market depends on the crisis for the exploitation of people, and the Social Security Division should not be fuelling that situation.

The Speaker: Mr Rimington to reply.

Mr Rimington: Thank you, Mr Speaker. I am afraid my brief does not give me sufficient information to respond to you fully, but I am in broad agreement with what the hon. member has just said. The last point, though, was relevant: that it is not the position of the department to fuel the situation. I think members will be aware of the situation in the adjacent isle a few years back, when housing benefit was introduced and private rents rocketed to the upper level of what could

be paid out under housing benefit. Therefore, the levels which were paid by the state actually fuelled the housing market, and we were mindful in our deliberations that we should not be doing the same thing on this Island.

The Speaker: Two more supplementaries, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I do not represent government on my feet in this place; I represent the people. (**Several Members:** Hear, hear.) Would the hon. member for Social Security agree with me that there is, in fact, an anomaly in the system when assessing, or 'pitching' if you like, the level of assistance to those who meet all of the right criteria for accommodation payments? It is pitched against the cost to a local authority tenant paying a local authority rent, and that has always been the situation, and then that is where the anomaly lies. Would he further agree that, being pitched at that level, they are not at a real-life level for the population? And further, when he goes back to his minister to report, could he ask her: in terms of the regulations, do they afford any flexibility to be able to provide more help as and when really needed by people who are faced with exorbitant rents and who are having to rely on the state to live?

The Speaker: Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. May I take the last point first? Unfortunately, no, the regulations are prescribed by us in another place, and the officers of the department do not have the discretion to apply flexibility in those situations.

In relation to the possible question of an anomaly - i.e. that the level of support that we were prepared to give in terms of rent is based on local authority rents - there is an element of truth in that, but in fact it is really not so, because local authority rents are not possibly up to date - and I will look to the hon. member for Glenfaba to indicate - and are in the region of the £40s, I believe, at this present time, and certainly not up into the £70s and £80s, which are the levels of rent that we are prepared to help out for people in the private sector. And if I just may repeat that when we did our case-load analysis, which was looking at rents paid at the beginning of this year - and I know they may have moved, but I do not think they have moved that significantly in the previous six months - we actually based that on what people who were claiming income support were paying in the private sector, knowing, obviously, that most of our income support claimants do tend to be in local authority housing or in broadly public sector housing. We did make that analysis, and on the basis of that analysis we are confident that we have pitched it at the right level and very few people are being disadvantaged by that level.

The Speaker: A final supplementary. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Would the hon. member Mr Rimington agree with me that my question is entirely correctly placed, otherwise it would be struck from the question paper, which it is not, and that it is every member's duty to raise and highlight issues in accordance with standing orders, and that, in fact, there are plights on this Island of certain hard-up folks and families who desperately do need an urgent review from his department?

Mr Houghton: Hear, hear.

The Speaker: Mr Rimington to reply.

Mr Rimington: Thank you, Mr Speaker. Yes, I do accept that it is the right of every member to raise these issues and ask these questions, and that is right and proper. Perhaps I was suggesting that it ought to be addressed in other ways as well, (*Mr Henderson interjecting*) in looking at the overall rates of benefits and the overall policy that we have in our welfare system rather than necessarily cherry-picking on individual items week by week. And yes, I accept that there will always be people who do not match the net of welfare regulations, and that is always the case in probably every country that has similar social security systems. We do help where

we can, and that is the object of our officers. There are other agencies outside of the Division of Social Security which may also offer help as well, and we cannot provide all aspects of help from our highly-regulated division. Thank you.

Emergency Accommodation — DHSS Policy — Question by Mr Henderson

The Speaker: Question number 5. The hon. member for Douglas North, Mr Henderson, to ask a member for Health and Social Security, Mr Rimington.

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

What is your department's policy towards people or families who require urgent accommodation?

The Speaker: Sorry, Mr Cannell to reply.

Mr Cannell: Thank you, Mr Speaker. There is no general legal responsibility in the Isle of Man to rehouse homeless people. The Department of Health and Social Security is not a housing authority and consequently is unable to allocate housing to people with accommodation problems. The help that is given by the Social Services Division, which I have the honour to represent today, is therefore generally to liaise with the various established housing agencies, including the Department of Local Government and the Environment, the Douglas Corporation and other various local authorities, where individuals or families fulfil the criteria to be able to go on to housing waiting-lists, which are generally 10 years of residence in that particular area, acting on behalf of the person in putting forward their case. It should be noted that most local authorities have long waiting-lists. In other situations, the Social Services Division can liaise with the private sector in attempts to find accommodation; this is also difficult. Recently, there has been a significant reduction in the amount of privately rented accommodation available. This has therefore reduced the ability of Social Services to help people with housing difficulties. The department also has contact with the Manx Community Housing Trust, which provides help and advice to people with accommodation problems. They have a number of housing units for homeless people but, again, because of long waiting-lists for local authority houses, tend to be full all of the time.

The Speaker: A supplementary. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I thank the hon. member for his response there and positive remarks to what I see as an ever-increasing situation of urgency, but could he advise or respond: what does his department - or what *can* his department - do in the event where a family or a single-parent family is in the process of being evicted? Is his department able to make emergency payments to effect emergency accommodation? I understand that the Department of Local Government and the Environment are the ones with housing in usual circumstances, but I am talking about the unusual circumstances in an emergency situation.

The Speaker: Mr Cannell to reply.

Mr Cannell: Yes, Mr Speaker, I am pleased to say that I can confirm that we in the Isle of Man are not yet in a position of condoning people being forced onto the streets, and in every circumstance where individuals might be placed in such a situation, particularly where children are involved, the department will go to the nth degree to make sure that they are accommodated if necessary and, after due diligent examination, they are found to have no alternative. There are often cases where it is necessary to house people in what might be termed to be 'luxurious' accommodation, but that is really only a stopgap to get them through the situation while their individual case-loads are examined.

Procedural

The Speaker: Hon. members, before I move to question number 6, I must advise you that at 11 o'clock Question Time comes to an end. Mr Rimington.

Mr Rimington: Mr Speaker, may I move that we suspend standing orders to allow questions to be finished?

Mr Cretney: I rise to second, Mr Speaker.

The Speaker: The motion before the House is that standing orders be suspended to allow the question paper to be completed. All those in favour please say - Sorry, Mr Cannell?

Mr Cannell: Yes, I must draw a certain irony about the situation, Mr Speaker; it is only in recent times we have heard about the alleged unpreparedness of members to take on certain aspects of the work of this hon. House, and here today we have the potentiality of being foisted with a question of which we have no advance notice.

Several Members: Hear, hear.

A Member: Hear, hear. Well said.

The Speaker: Hon. members, the motion before the House is that Question Time be extended to complete the question paper and the questions submitted under standing order 43(4). All 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, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Houghton, Henderson, Cretney, Duggan, Braidwood, Shimmin, Singer, Bell, Karran, Corkill, Gelling and the Speaker - 19

Against: Mr Brown, Mrs Hannan and Mr Cannell - 3

The Speaker: Hon. members, Question Time will continue, with 19 votes in favour and 3 votes against.

Emergency Accommodation — Action by DHSS — Question by Mr Henderson

The Speaker: Question number 6. The hon. member for Douglas North, Mr Henderson, to ask the Minister for Local Government and the Environment.

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

What action can be taken by your department to meet urgent housing accommodation needs of respectively single people, couples, single- and two-parent families?

The Speaker: The Minister for Local Government to reply.

Mr Gilbey: Mr Speaker, the hon. member's question covers a range of situations, and it may be helpful if I were to explain the usual procedure when an approach is made for urgent housing. Where there are exceptional circumstances, applicants who qualify for public sector housing should apply to the housing authority in whichever area they have the necessary residential qualification. If the authority is unable to provide suitable housing, the applicant is then referred to the Department of Local Government and the Environment. Because of the demand for public sector housing, the department is not able to retain empty properties as cover for such eventualities. The department would then liaise with other authorities to determine if a suitable property was empty or likely to become empty within a short time. Indeed, at the present time, no less than 10 properties owned by the department have been allocated to other authorities on a temporary basis to assist with particular situations. Where there are no available empty properties, the applicant may be referred to the Manx Housing Trust, which has

several properties and can often help in such situations. The department has provided properties to the trust to meet urgent need, and the department works closely with the trust and provides financial support to enable the trust to purchase additional properties from time to time. When suitable accommodation is not readily available, the applicant may be referred to the Department of Health and Social Security, which, in certain circumstances, may be able to provide financial assistance for housing accommodation in the ways referred to in the answer to earlier questions.

The department, with the agreement of other housing authorities, will soon introduce standard criteria for the acceptance of people on all public sector waiting-lists, and specific provision has been included for emergency housing situations. The allocation of properties will be based on objective criteria in accordance with a points system. This system will introduce greater fairness without removing the exercise of discretion by housing authorities, and again specific provision has been included to deal with emergency situations.

Mr Speaker, the department has a clear policy of providing additional housing, to include at least 80 first-time buyer units and 80 elderly persons' units each year, which will enable public sector properties to be freed up for the use of families. The department is also hoping to introduce a scheme to provide a level of assistance to enable single persons aged between 25 and 39 to rent private sector accommodation. Indeed, the department has prepared a draft scheme and discussions are currently taking place with the Treasury, whose concurrence will, of course, be required, to agree the best way of helping such people to afford suitable homes.

Specifically with regard to the hon. member's question, it should be noted that applicants for emergency housing are considered on the basis of their qualification for inclusion on the public sector housing lists; therefore, couples with and without children, and single parents, would be considered. Single people on low incomes would be referred to the DHSS to seek financial assistance towards obtaining private sector accommodation. Applications from single people in employment would not be considered; however, the proposed private sector rent assistance scheme may apply to them in the future, depending on the level of income.

I feel sure that the hon. member is aware of the policy objectives currently being progressed following the housing policy reviews. Until those objectives can be fully achieved, I can assure hon. members that the department will continue to provide whatever assistance it can and try to introduce any short-term measures to alleviate any particularly urgent situations.

The Speaker: A supplementary. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I appreciate the hon. minister's response, certainly in relation to the new initiatives that are under consideration, which are entirely welcome, but would he not agree with me that there is more still to do? And would he agree that the social divide in some cases is becoming greater and that more properties are urgently required to be purchased by organisations such as the Manx Housing Trust?

The Speaker: The minister to reply.

Mr Gilbey: Indeed, Mr Speaker, I totally agree that there is more to be done, and the department, with my colleagues, the hon. member for Ayre and the hon. member for North Douglas, Mr Houghton, is doing its utmost to expedite the work to provide more houses of every type, but particularly affordable housing. I totally accept that it is not acceptable for there to be the shortage of affordable housing which there now is, but, as I have said before, most regrettably one cannot just get houses coming out of the ground immediately; it does take time. But I can assure him that the Estates and Housing Directorate of the department is working flat out and, as I have mentioned before, very often their minutes run into 20 pages of points they are working on to provide more houses.

The Speaker: A supplementary. Mr North, the hon. member for Middle. Mr North.

Mr North: Thank you, Mr Speaker. I am delighted to hear the information we have just been given by the hon. minister. I would just ask how quickly the rent assistance scheme can be introduced, and I would also ask: what realistic means - and I repeat: *realistic* means - to acquire accommodation are available to persons under 40 who qualify for public housing but are generally excluded from any allocation?

The Speaker: The minister to reply.

Mr Gilbey: Regarding how quickly the rent assistance scheme can be brought in, the department would like to bring in a scheme as fast as possible, but, as I explained, it is at the moment the subject of consultation with the Treasury. The Treasury minister himself has been most helpful regarding this and, of course, once Treasury concurrence is obtained, it will be a matter for the Council of Ministers to approve it, and then it will have to be approved by Tynwald. So, we are doing our best with that and I hope that it will be agreed to. Like all new schemes, no-one will think it perfect, but I hope that it will be a step in the right direction, and initially it will be a pilot scheme so we can assess how successful it is. If it is successful, we will go on with it; if it is not, we will try and find something better.

The Speaker: A supplementary. Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that, whilst this House applauds the recent initiatives that have been done with the likes of the Manx Housing Community Trust, the reality is that it is 45? A single person to get accommodation with us has got more chance of winning the British lottery or being reincarnated twice before getting a house as a single person, unless . . . And I think this House is being misled if it believes that we are even interested in single people.

Secondly, would the minister not agree that, because of the housing crisis, couples without children have little or no chance of getting a house? Their best chance is to grow old more quickly and get into old people's accommodation. And would he not agree to assure this House that what we do not need to do is pump prime the Rackmans in this Island by pushing loads of money into their pockets, either by social security or by the Treasury, through this scheme? We need to get more houses that are built not for the speculation market but for Isle of Man workers and are built there in perpetuity for Isle of Man workers and cannot be rented out for more than a Council rent so they are owned by owner-occupiers and so we can get people out of Council houses who would like to get out of Council houses but who cannot at the present time and should not be used as an excuse for the housing crisis, as too many in this hon. House do.

The Speaker: The minister to reply.

Mr Gilbey: Mr Speaker, first of all I do agree that at the present time it is very difficult for single people in certain circumstances, depending on their incomes, to get accommodation, and that is precisely why the department is proposing the rent assistance scheme to which I have referred. Therefore it is totally erroneous to talk in extravagant language about the department not caring. *(Mr Karran interjecting)* The department cares a great deal, and that is why my colleague, the hon. member for Ayre, Mr Quine, has worked so hard with our officers **(A Member: Hear, hear.)** to bring forward this scheme. We would not be doing that if we did not care. We do care very much.

A Member: He caused it.

Mr Gilbey: It is no good saying he caused it or complaining about the past; what matters is what we are doing now. **(A Member: Hear, hear.)** It is no good jobbing backwards. Since I have been appointed and worked as a team with my colleagues, we have worked flat out to do these things and we are doing them. It is no good keeping jobbing backwards to what may or may not have happened in the past.

Now, again, I do agree with the hon. member for Onchan that we have to be very careful indeed that what we do does not lead to an inflation in house prices or rentals, and we were very conscious of that when we brought in the house purchase assistance scheme. There was indeed a fear when that came in that it would have this adverse effect of putting up house prices, but I am glad to say that it has not; we have now got some 200 people interested in or benefiting from that scheme. In the same way, we hope that the rent assistance scheme will not put up rents - it is set out in a way that should not put them up - but again, as I have said, it is a pilot scheme, and if it does not work well, we will alter it. If it does work well, we would hope to continue with it.

The Speaker: A supplementary. Mr Singer.

Mr Singer: Thank you. Could I ask the hon. minister: how will this rent assistance scheme help a person with a child? One of the great difficulties - no doubt, I should imagine the minister will agree - is that when a person does find accommodation and they go for that accommodation, the person who owns the accommodation says, 'I am sorry; no children.' (**A Member:** Hear, hear.) Now, such a person with a child, who is left without a home for whatever reason and needs immediate and urgent help, does not seem to be covered, Minister, by any of the present schemes, especially if they happen to be in low-paid work. So, could the minister perhaps tell me how the department can help these sort of people who are desperate and do not seem to come within any category that has been mentioned today?

The Speaker: The minister to reply.

Mr Gilbey: Mr Speaker, the new scheme is intended for single persons aged between 25 and 40. Regarding persons with children, they actually get considerable priority on all public sector housing lists, because, quite rightly, we believe socially that the greatest responsibility is towards the children, and therefore people with children are very, very high indeed, right at the front of the allocations of public sector housing, and I believe that is totally right from the point of view of the children.

Mr Singer: I will tell them to ring you, then.

The Speaker: A supplementary. Mr Quine and then Mr Henderson. Mr Quine.

Mr Quine: Thank you, Mr Speaker. With regard to Mr Karran, the hon. member for Onchan's, concern about couples - a quite legitimate concern - can the minister confirm that the department has identified two sites for housing associations and that a planning application is being lodged for one of those sites in the very near future?

Mr Houghton: Hear, hear.

The Speaker: The minister to reply.

Mr Gilbey: Indeed, and the department is working very hard on bringing housing associations into operation. It is yet another strand of the many strands that we have under consideration to provide more houses.

The Speaker: A supplementary. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. In focusing on my question, I would ask the hon. minister if he would give further consideration to, or further assessment to, families and single persons requiring urgent accommodation and if he could initiate an assessment of the current need, certainly in a meeting with hon. colleagues from the Department of Health and Social Security, so that we can have a full and up-dated picture of where we are at currently, Mr Speaker.

The Speaker: The minister to reply.

Mr Gilbey: Well, the department is constantly in touch with the DHSS, and has been for many months, particularly regarding the rent assistance scheme, and we shall continue to be.

The Speaker: A final supplementary. Mr Cretney, this subject has gone on quite some time. Mr Cretney.

Mr Cretney: Yes, thank you, Mr Speaker. Could I ask the minister: would he agree with me that one of the key elements to providing urgent housing accommodation for those in need is by the provision of adequate sheltered accommodation to free up underutilised housing units, and the sooner a real drive towards that can be achieved the better?

The Speaker: The minister to reply.

Mr Gilbey: Could I say that I totally agree with the hon. member on that, and I am most grateful to him for giving me the opportunity to once more stress that one of our major objectives is to provide more sheltered accommodation for elderly people, not only for the reason he says - because it frees houses for families - but also because it enables older members of our community to remain living in the communities of which they have already formed part. That is why I am so delighted that we have got the very successful bungalows at Magher Vay, and as far as I am concerned I would like to see more similar units set up in various places throughout the Island so that all our older people can stay in the areas where they have lived the earlier part of their lives.

Mr Cretney: Hear, hear.

Sentencing of Serial Sex Abuser — Question by Mr Henderson

The Speaker: Hon. members, we now move to question number 7. The hon. member for Douglas North, Mr Henderson.

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

Do you consider that the recent sentencing of a serial sex abuser to a custodial sentence of six years and nine months, as reported in the Manx press on the week of 28th May, was reasonable and in the interest of public safety?

The Speaker: The Minister for Home Affairs to respond. Mr Bell.

Mr Bell: Mr Speaker, it is the remit of the judiciary to decide on appropriate sentences and not the prerogative of politicians. I find it interesting that the hon. member has made reference to having derived his information from reports in the Manx press. The deemster, when considering sentence, would have access to, and take into account, a large amount of information which neither the press nor hon. members would be privy to, including risk assessments on the offender. I am not privy to that information either and therefore I am not in a position to present an informed answer to the question. I can, however, confirm that I am not aware of any intention on the part of the Attorney-General to request a review of the sentence.

The Speaker: A supplementary. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Could the hon. minister, if he cannot give us much of an answer this morning, confirm that it is the duty of this House and another place to direct and inform policies and supply frameworks for people to work from, including the judiciary, and in the best interests of this community? (**Mr Houghton:** Hear, hear.) And could he also confirm that, in the particular case I was concerned with, this particular nasty individual could be released in as little as four years to recommence committing those crimes all over again?

The Speaker: The minister to reply. Mr Bell.

Mr Bell: Yes, Mr Speaker. The hon. member is well aware that it is the duty and responsibility of this particular chamber to frame the legislation and, indeed, the penalties in

relation to certain criminal offences. It is also, though, the responsibility of the judiciary to interpret those options which this chamber gives them to ascertain what would be an appropriate level of sentence. The judiciary, I am absolutely sure, listen very carefully to what this hon. chamber says, but sentencing also, in many cases, is guided by precedent created in the United Kingdom on certain similar offences, and therefore a combination of both these factors tends to influence the decision of the judiciary on any particular case.

As far as the final part of the question is concerned, it is possible that, given good behaviour and if indeed the parole board feels satisfied with the individual's move towards rehabilitation, the individual, as the hon. member for North Douglas knows, could be released after 50 per cent of the sentence.

The Speaker: A supplementary. Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker. May I ask the hon. Minister for Home Affairs: is this not yet another example whereby serious offenders committing those offences should be faced with a sentence fixed by law, as would come through this hon. House and another place? Would he not agree with that?

The Speaker: The minister.

Mr Bell: Mr Speaker, this sentence is fixed by law. It is part of the sentencing options which have been agreed by this hon. chamber and is being interpreted by the judiciary.

The Speaker: A supplementary. Mr Cretney.

Mr Cretney: Could I ask the minister: would he agree with me that the laws which he has been good enough to bring in in the last period of this administration, in terms of the sex offenders register et cetera, will at least, when this prisoner is eventually released, provide some comfort for members of the community in terms of their safety?

The Speaker: The minister to reply.

Mr Bell: Yes, Mr Speaker. I believe that I have done as much as anyone to try and bring in fresh legislation to protect the community from sex offenders. The sex offenders register was approved in the Criminal Justice Act, which was given Royal Assent earlier this year. We are planning to bring it into operation by October, and all sex offenders will be expected to register on that sex offenders register and will be subject to ongoing, long-term supervision. We have also, as part of that, introduced extended supervisory orders, which again will give the police and probation service extra powers to supervise any individuals who are released. I would also point out, though, that although people are released as a result of the Custody Act which was passed by this hon. chamber, often after 50 per cent of the time spent in prison, they are released on licence, and if there is any further offence during that licence period, they will automatically be reincarcerated in the prison.

The Speaker: A supplementary. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Would the hon. minister agree with me that incarcerating somebody for a few years is hardly what could be termed 'rehabilitation' and, on the release, sex offender fiends will be completely frustrated and there is a high incidence of reoffence? And could he also confirm that it is well recognised that many of these conditions are untreatable and that mandatory 20 year sentences or some sort of hospital custodial (**Mr Houghton:** Hear, hear.) sentences are the only way forward to protect our community?

Mr Houghton: Preventative detention.

The Speaker: The minister to reply.

Mr Bell: Certainly, Mr Speaker, I understand, on the advice that has been given to me, that there is frequently a situation where these offenders do reoffend, but it is in the hands of this hon. chamber as to what sentences are being set for individual criminal offences. That has been the case, and that is what the judiciary has been working to in this particular instance.

The Speaker: A supplementary. Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Can the hon. minister advise whether or not this particular offender and others such as he will be receiving some form of treatment and psychiatric counselling et cetera, and whether that will be closely monitored? And further, can the hon. minister advise whether or not his unfortunate victims, the children who have been affected by these horrendous actions, will also be receiving victim support and counselling?

The Speaker: The minister to reply.

Mr Bell: Mr Speaker, we are working towards all prisoners in the Isle of Man Prison receiving rehabilitative counselling, advice or psychiatric help. The sex offenders, in particular, are subject to ongoing assessment and treatment and support while they are in prison, obviously to work towards, as best we possibly can, a rehabilitative situation when they are released afterwards. In many cases, this has worked very well, and a number of our sex offenders over the years have been released without further damage to the community. I am not saying, though, that we are achieving our ultimate aim at the moment. We will be able to improve the system considerably when we get a new prison built with proper modern facilities, health facilities, education facilities and other rehabilitative services provided within the prison. Physically, we have difficulty at the moment, as the hon. member is well aware, with the limitations of the building that we are working in.

As far as the second part of the question, about victim support, is concerned, the hon. member is aware that I myself set up the victim support scheme on the Isle of Man because I agree wholeheartedly that the victims need as much support as, if not more support than, the offenders. We have done our best to achieve that, and the victim support scheme is working very successfully. (**Mr Houghton:** Hear, hear.) So, all victims of criminal activity, at whatever level, will have the services of the victim support scheme available for them.

The Speaker: A final supplementary. Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that we must not have 'justice by headlines'? And would the hon. minister not also agree that this question highlights the concerns of many in this legislature about the ability of the Attorney-General's department to reopen cases in the first place? Would he also not agree that it would be well for him to inform this House with a report of what is being done with these perverted individuals so that members can see what sort of treatment and facilities are available at his prison at the present time? The answer has to be to try the treatment and sort these people out. It is too easy having a Dutch auction as far as being more extreme than the next person is concerned, Vainstyr Loayreyder.

The Speaker: The minister to reply.

Mr Bell: Mr Speaker, if I can respond to the last part of the hon. member's question first: I agree with him wholeheartedly that this is an exceptionally serious case we are dealing with. We are talking about blighted young lives, who perhaps in many cases will be affected for all their lives by what has gone on, and it is wholly inappropriate for political advantage to be taken on this situation by way of headline chasing and trying to up the ante on the sentencing policy. This is not the way a mature chamber should be dealing with such a serious offence. We have to look at mechanisms which will protect the community to the very best of our ability, whilst at the same time providing a rehabilitative treatment service, which hopefully will impact considerably on the behaviour of those people who are convicted, to ensure that the threat to the community is removed in the future. (**Mrs Crowe:** Hear, hear.)

It is the sole responsibility of the Attorney-General to challenge any sentence, and that has happened on one or two occasions. It does not happen very frequently, but it is really totally in the hands of the Attorney-General as to whether he believes a sentence has been unduly lenient, and it is for him to take appropriate action. I am assured, in this particular case, that the Attorney has looked at the papers and that he believes that, whilst it may be slightly on the lenient side of normal, it is within the accepted parameters of sentencing policy for this particular sentence to be given in this particular case. There are a number of other circumstances which I believe influence the assessment of sentencing duration; in this case, I understand the charges were admitted at the outset, therefore relieving the horrendous experience which would be possibly imposed on the children by having to give evidence or certainly going through further interrogation. It is issues like that which are borne in mind, I believe, when a sentence period is decided on, not only in this case but indeed in all similar cases. I have stated that treatment to the best of our ability, in very, very restricted and difficult circumstances, is provided in the prison for sex offenders, and if the hon. member would like further information, I would be glad to give it to him.

The Speaker: Hon. members, that completes question number 7.

Customs and Excise (Amendment) Bill 2001 — Question by Mr Rimington

The Speaker: I now move to question number 8, which I have given permission for under standing order 43(4), and I call upon the hon. member Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. I beg leave to ask the hon. Minister for Treasury, as circulated to members:

Can the Minister for the Treasury provide the clarification, as promised to members at the sitting of the Keys on Thursday 21st June 2001, regarding the meaning of the definition of 'crime', 'criminal proceedings', 'criminal investigations' et cetera as given in section 174D(a) and (b) of the Customs and Excise (Amendment) Bill 2001; in particular does 'criminal offence' mean, where it takes place outside the Island, either a 'double offence' i.e. conduct constituting a crime in any county or territory outside the Island where that conduct also corresponds to a criminal offence in the Island or conduct constituting a crime in any country or territory outside the Island whether or not such conduct constitutes a crime in the Island?

The Speaker: The Minister for the Treasury to reply.

Mr Corkill: Mr Speaker, I would like to thank the hon. member for his 20 minutes' notice of this question. I would like to thank him for his letter of yesterday's date, which I received this morning, and I would like to thank the hon. member for perhaps what is a new experience for the listening public, which is an opportunity to listen in on legislative process as opposed to just Question Time, because this question relates to legislation that was considered and approved by this House a week ago. But, joking apart, Mr Speaker, I do thank the hon. member for the opportunity given to allow me to perhaps give some clarity to a situation which I did my best to allude to last week, but obviously the hon. member for Rushen, Mr Rimington, still has uncertainties.

I have circulated to hon. members this morning, as indeed I said I would a week ago, a memorandum concerning this exchange of information provision in the Bill, and I apologise to members for not getting it to them sooner than this morning, but Treasury is rather busy at this time of year and there were certain legal clearances required in the preparation of the letter. Anyway, the letter is with members this morning and so, bearing in mind that the hon. member has raised the question orally in public, I would like to take the opportunity to perhaps just read a part of this letter for the record.

The core of the question is whether the offence needs to be a crime in the Island, and the answer simply is that it may be an offence in the Island or it may be an offence in any other

country or territory, but I would like to qualify that statement by saying that there are at least two points to bear in mind when relating to this exchange of information provision, because the debate last week did centre upon whether it was appropriate to exchange information if indeed it was not an offence in the Isle of Man. The law we passed last week is clear that, in fact, under certain circumstances the Customs and Excise Division can exchange information, even though it may not be perhaps technically an offence here in the Isle of Man. The points to bear in mind are that the new section 174(a) only permits the Collector of Customs and Excise to authorise the release of information which is connected with an assigned matter, that is a customs and excise matter, and at last week's sitting we did approve the new list of assigned matters. So, it is not a carte blanche for the release of any and all information that might be available. For example, if information relating to direct taxation was available, then this would not be covered by section 174(a). There are likely to be situations where what is involved is not technically an offence in the Isle of Man but it may be so serious and possibly with potentially damaging implications for the standing of the Island that for customs and excise not to be able to co-operate would probably be rather absurd.

I would also make the point that the power to release information is a discretionary power; it is not mandatory on the collector to authorise the release. The collector and his officers will be mindful of any potential misuse of the facility being attempted by overseas agencies, for example by mounting what would be 'fishing expeditions'. Where the collector is unhappy with a request for assistance, he may call for further information before authorising it. He may also seek advice from the Attorney-General's Chambers or elsewhere if there is any doubt about the alleged crime or crimes, particularly where the alleged crime is not a customs and excise offence with an equivalent in the Island law. There will also be procedures; information would only be released by the intelligence and investigation units of the Customs and Excise Division, and on the authority of the collector. The units concerned are highly trained in the receipt and handling of sensitive material and aware of the implications of such legal aspects as the duty of confidentiality attached to material held and the question of the human rights of the individual involved. There are going to be formal guidelines for the staff involved, and these will particularly detail how requests involving apparent or alleged crimes in other jurisdictions that would not constitute customs and excise offences in the Island should be dealt with.

So, for the sake of clarity, I thank the hon. member for his question. The answer quite simply is that the way the law is written does allow for the exchange of information to other jurisdictions and territories where it is potentially not an offence in the Isle of Man, but I hope with those qualifying statements members will understand that the protection is still there for the good name of the Island and for the confidentiality which is required for bona fide business, the type of business which we would wish to encourage on this Island. This legislation is an important part of the raft of legislation that this government has put through over the last few years in its pursuit of all-crimes money laundering, and I would commend that members continue to support the Bill as written, Mr Speaker.

The Speaker: A supplementary. Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. First of all, could the hon. Minister for the Treasury confirm that I sent him a fax at approximately 9.30 last Friday morning, reiterating my concern and what I saw as the possible necessary amendment that would need to take place if it was to match the briefing he gave in the sitting of the Keys last Thursday, and that prior to seeing the hon. Minister for the Treasury at 9.30 this morning, I had had no response from the Treasury? Could the hon. minister confirm that when the clauses stage was reopened last Thursday, the mover of the amendment and the hon. Minister for the Treasury were both clearly under the impression that it related to double offences? The hon. minister read from his brief and he used the word 'and' and made that clear, and the amendment was discussed on that basis. Could the hon. Minister for the Treasury, in the light of that, consider whether it would be proper or not

to reconsider that amendment and how the Minister for the Treasury may redress the situation that has arisen?

The Speaker: Mr Corkill to reply.

Mr Corkill: Well, I am sorry, Mr Speaker, I am not aware of a fax from the hon. member and I cannot explain that. The first I have come across this move today is this morning but, that aside, the issue is quite clear about what the clause actually means, and I thought last week - bearing in mind we had had three full days of Tynwald, followed by this special sitting of Keys, and everybody was tired and so, until I inspect *Hansard*, I cannot recall exactly what words were said - I had made it clear. If I did not, then this opportunity today, in fact, does that, because an example which I am aware of is that with the development of on-line gambling in the Isle of Man jurisdiction, there may well be situations where an offence is committed in another jurisdiction which technically will not be an offence here in the Isle of Man. Bearing in mind the potential that on-line gambling can produce with regard to attempts for organised money laundering, I am cognisant of the fact that we should do our utmost to prevent that situation developing, and I am quite anxious that this legislation receives Royal Assent before the end of this parliamentary session of five years. So, I am sorry if we have not communicated properly - the hon. member Mr Rimington and the Treasury - but, having said that, I think the outcome today is that the exchange of information provision and what it entails is quite clear to members. The Bill is being considered by another place at this very moment, Mr Speaker.

The Speaker: Mr Quine.

Mr Quine: Would the minister agree that in the light of the more elaborate explanation - let me put it that way - of the law embodied in this Bill that has now been provided to us, it would, in fact, have been prudent for the government, and in particular with the Treasury's lead, to have supported the amendment which I put forward last week? In support of that suggestion to the minister, I note that in his explanatory memorandum to us he makes it quite clear that the customs and excise, albeit on a discretionary basis, will be expected to seek advice from the Attorney-General, which, of course, was the whole nub of my amendment, albeit discretionary and mine would have been mandatory. Would he agree with me that perhaps had we approached this piece of legislation in following the normal format where there would have been time to obtain clarity on these matters, the amendment which was rejected, led by the government last week, could well now be part of that Bill?

The Speaker: Minister to reply. Mr Corkill.

Mr Corkill: Well, in fact we are re-debating the only amendment that was moved to this Bill, which was the hon. member for Ayre's amendment and which was a serious attempt to introduce the Attorney-General into the legislation as a mechanism whereby all information to be released would have to go through his eyes, as it were. I made the point a week ago that in the Criminal Justice Bill that we passed as a chamber only some months ago, the Criminal Justice 2000 Bill changed the provision in the 1991, I think it was, Criminal Justice Bill to remove that situation with regard to the Attorney-General, and I pointed out that if we were to reintroduce it in this Bill, we would have an inconsistency in our legislative platform.

There is also another issue with regard to the operations of customs and excise, whereby by having to compulsorily refer to the Attorney-General, as would have been the case under Mr Quine's amendment, there could well be a delay in the exchange of information, because there are times when, bearing in mind the speed with which money laundering can go around the globe in this day and age, that speed is a very important aspect of the way in which information is exchanged; not the reckless but the speedy exchange of information is sometimes what traps potential or actual people creating criminal offences.

So, there were two issues as to why we fought against Mr Quine's amendment: one was to keep the consistency and the second was to ensure there was no delay in respect of the customs and excise duties, and the Attorney-General would have introduced a delay - not a deliberate delay - just by the very process of having to refer to him. Can I say to hon. members that the collector and the officers in this particular area of customs and excise are very well-versed anyway in the way that this type of information can be exchanged for the greater good not just of our community but of other communities who are also trying to stamp out money laundering, Mr Speaker.

A Member: Hear, hear.

The Speaker: Now, hon. members, this is a question seeking clarification; you have the question before you. It is not a debate on the legislative process. I would be grateful if members would confine their supplementaries to the question that is before them. Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that none of us wants to be involved with money laundering as far as the economy is concerned, but regarding the issue of the piece of legislation, what confidence can we have if our own Chief Secretary could not tell the Chief Minister about UK decisions over the Edwards report? What hope have we got of getting our customs officers not to be intimidated by UK authorities to give out information that they should not be giving out in the first place? I think that is the issue that concerns me about this piece of legislation, Vainstyr Loayreyder.

The Speaker: Minister to reply.

Mr Corkill: Mr Speaker, I think anyone who has met our customs and excise officers would realise that they are the very last people (**Mrs Crowe:** Absolutely.) in terms of our government employment who would become intimidated. They are not that type of -

Mrs Crowe: They are professional officers.

Mr Corkill: - professional person. They carry out their duties as per the law, the law which we set in this hon. House. Now, with regard to pressure from the UK, I think in this assigned matter which we are talking about of customs and excise issues, we are a partner in an agreement with the customs and excise of Her Majesty in the United Kingdom, and we act as one customs area. Therefore, we cannot be part of an agreement but holding back in a one-way fashion; information is exchanged two ways. And so there is a slight difference in this area compared to other fiscal matters where we are completely separate. For the benefit of members, the Customs and Excise Agreement is just that; it is not something that the Isle of Man is compelled to be part of. It is an agreement by two parties - by the United Kingdom Government and ourselves - but, as genuine partners in this arrangement, we have, I would suggest, a duty to play to the rules and exchange information with each other at the appropriate times, and that is what this Bill, in part, is about. With regard to exchanging other types of information, I have already explained in my answer, Mr Speaker, that they will not come under the powers of the customs and excise unless they are in that list of assigned matters.

The Speaker: A final supplementary. Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. Would the hon. minister accept that I rang the Treasury last Friday morning and asked them for the right number for a fax to get to the minister, and although it may not have arrived at your desk, sir, would you accept that when speaking to a senior member of your department yesterday, she was quite well aware of the terms that I had used in that fax?

Secondly, would the hon. minister, in dealing with inconsistencies, recognise in the Criminal Justice Act where the requirement for the Attorney-General has been removed, but in the Criminal Justice Act it relates to what you might call 'double offences', and therefore it is we

who, ahead of the United Kingdom, are introducing the inconsistency into law without it being part of the brief given to this House?

The Speaker: Minister to reply.

Mr Corkill: Yes, Mr Speaker. With regard to the fax, I do not doubt that the hon. member sent it, so I hope the hon. member does not think from my response that I doubt his word; I do not.

With regard to the double offence, he is correct. It is in the briefing paper that I have explained to members and that I have circulated to members this morning that it is very much the intention of the UK Government to introduce a similar equivalent provision in the very near future, and so, within a few months, there will be parity in this legislative process between the UK and ourselves. I am quite pleased to be able to actually state publicly that in terms of our fight against money laundering, perhaps in this situation we are just half a step ahead of the United Kingdom, which is surely good news, Mr Speaker.

The Speaker: Hon. members, that brings to an end today's extended Question Time, which has gone on for 1 hour and 50 minutes. You have before you the two questions for written answer; you have the answers on your desks.

Customs Officers — Overtime Payments — Question by Mr Houghton for Written Answer

Question 9

The hon. member for Douglas North (Mr Houghton) to ask the Minister for the Treasury:

During each of the last three financial years -

- (1) *On how many occasions have customs officers undertaken duties at the sea terminal and Ronaldsway Airport on*
 - (a) *weekdays;*
 - (b) *Sundays and bank holidays; and*
- (2) *what has been the cost of overtime payments to these staff?*

Answer

Attendance at the airports and seaports on the Island by the Customs and Excise Division is usually varied and dependent upon the risk. Officers will attend for reasons of demand, collection of intelligence and information or to carry out any of their wide-ranging and varied duties. For the performance of routine tasks, attendance at, say, the airport can be as little as twice a week by a single officer. However, when operational work is required, a team of people, some of whom may be placed covertly, can be situated there for much longer periods. Operations such as these can take place at the airport or at any port on the Island. The officers are highly mobile and, because of this, existing management systems concentrate on recording what an officer does rather than where he or she is situated. To gather the necessary information in the first part of the question accurately would therefore take not only a disproportionate amount of time but also could undermine ongoing activities at our ports and airports.

Moving on to point (2) of the question, the work that customs and excise performs outside of normal working hours is now funded in two ways. As it relates to its anti-drug and anti-alcohol activities, funding is made separately through the provision of the Chief Minister's strategy. An annual allowance is paid to selected officers who make themselves available for work outside normal hours, and this allowance has been in operation since February 2000. Such work might be for an evening coastal patrol in the Blue Ranger, or officers might be called from home at short notice to meet a suspect vessel. The size of payment that the allowance affords varies

according to a balance between the working hours and hours on standby that an officer is asked to make himself or herself available. Customs' managers seek to obtain value for money and sustain staff morale by the payment of the allowance, which was introduced to increase efficiency and with the concurrence of their staff. Other officers performing overtime who are not in receipt of the allowance are paid overtime subject to the normal civil service regulations. The amounts paid to officers in respect of all customs overtime for the years in question are as follows: 1998/99 - £10,330; 1999/2000 - £19,350; 2000/01 - £4,512. These amounts include giving seminars in the evening, exhibiting at shows and similar events.

More recently, many have noticed that there has been a greater overt presence of my uniformed customs officers at the airport and seaport. Principally, they have been in attendance at the request of the Department of Agriculture, Forestry and Fisheries to assist officers in their fight against the foot-and-mouth epidemic. My division began to assist them in this matter at the beginning of March this year. Details of the attendance of customs officers at the airport and seaport in these circumstances are not controversial, and the information in relation to these activities, both in normal hours and outside working hours, can be provided and is as follows. The latest figures available up to and including the week ending 15th June 2001 show that the total time assisting during normal working hours is 364 hours. During the same period, officers were credited with 723 hours of overtime. This equates to an overtime payment of just under £8,000 shared between 20 officers. The equivalent of 362 hours of the allowance was also exhausted.

I should perhaps point out that because of the requirement for customs attendance in assisting DAFF to deal with the foot-and-mouth threat, it has been necessary to pay some staff already receiving the allowance overtime payments to ensure that other operational needs can be met in the future. At all times during the threat of this epidemic, I am satisfied that customs and excise management has sought to balance divisional needs with the needs of others.

Hyperbaric Chamber — Patient Numbers, Operators and Closures — Question by Mr Singer for Written Answer

Question 10

The hon. member for Ramsey (Mr Singer) to ask the Minister for Health and Social Security:

- (1) *How many patients have been referred to the hyperbaric chamber for National Health Service treatment in the last twelve months;*
- (2) *how many National Health Service patients have been referred to the chamber because of carbon monoxide poisoning;*
- (3) *when the normal chamber operator is absent, who operates the facility; and*
- (4) *for how many weeks has the chamber been closed during the last twelve months?*

Answer

- (1) The latest figures made available to the department by the Kevin Gray Memorial Charity are for the period 1st January to 31st December 2000, and show that 86 patients were referred for treatment of conditions included in the criteria approved under the National Health Service.
- (2) During the last calendar year, three patients were treated at the hyperbaric chamber as a result of carbon monoxide poisoning.
- (3) The department provides a grant to the charity as a contribution to the costs of the hyperbaric chamber, the operation of which is the sole responsibility of the Kevin Gray Memorial Charity. The department understands that the charity endeavours to arrange

for a locum operator to be present when the usual chamber operator is absent on leave.

- (4) The department is not involved in the operation of the hyperbaric chamber. However, it is understood that since its opening the facility has rarely been unavailable for operational purposes.

Misuse of Drugs (Cannabis) Bill — Select Committee Report Received

The Speaker: I now move to the final item on our order paper: that the report of the Select Committee of the House of Keys on the Misuse of Drugs (Cannabis) Bill be received. Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would hope that this hon. House would accept this report. Obviously, it is a compromise report with the different elements relating to this piece of legislation. One hopes that the judiciary will recognise the comments that are in the report from the side that I believe that chronically ill people who have little or no other choice of any medical intervention working effectively should not be turned into criminals. But at the end of the day we have run out of parliamentary time. I do hope that whoever is fortunate enough to be a member of this hon. House after the next general election will pick up this proposal and run with it again. I believe that the issue of the Royal Assent has been allowed to cloud the issue of this report, so when we hear people saying that it is not an issue, it is an issue. It is very disappointing that I know of a couple of people who are forced to associate with the scumbags who provide the drugs for our young people simply because of the fact that we are not brave enough to get on and legislate as far as this is concerned. I understand the arguments of the registration of medicines and the fact that there is an element of risk, but if you are a person in absolute agony with a disease that has little or no effective change or effect of relieving those symptoms, I think that if they are prepared to accept a disclaimer that we cannot be liable, then I think this should have been allowed.

But, Vainstyr Loayreyder, it has been a very interesting report and a very interesting select committee. I am sorry that we have not been back with primary legislation, but I do hope that in the next House someone will pick this up and bite the bullet. The law is wrong as far as this is concerned; cannabis should be allowed to be used for profoundly ill people with certain medical conditions. I beg to move.

The Speaker: Mr Rodan.

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

The Speaker: Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I do not mind supporting the sentiments behind the initiative that has put this report here before us today, being in the medical field myself for nearly 20 years, because of the incredible worth of opiate-based drugs as painkilling agents and even drugs based on cocaine, which no doubt everyone has had here in the form of dental treatment, or cocaine derivatives. And now the generation of synthetic pain relief drugs are all based on those kinds of illicit drugs. Certainly, I strongly feel that there are strong therapeutic properties within cannabis that my hon. colleague is trying to highlight to this hon. House today, and I have no problem with that. We should be utilising every opportunity available to us, and certainly in the medical field, to ensure that the best therapies are available to patients in order to relieve their suffering. I am sure the good work is going on and, as indicated in the report, much research has been undertaken and progressed, and I am sure that will come to a solution to this issue and an acceptable product which will help people, especially with MS. That is fine, and I fully support that for medical reasons.

However, I have to take issue with my hon. colleague, as member for the Department of Health and Social Security, and I have to launch an attack into the scenario that has been

painted to us this morning - and on other occasions when this debate has been presented - where we have a scenario of people writhing on the floor in agony at the behest of scumbag drug dealers. Now, I have to say that if anybody in this community lying on the floor writhing in agony is not being adequately treated by their GP, that is a very important and fundamental issue that has not come out in this debate. It has been continually bandied about, and if that is the case, I would send the strongest message that an MHK can possibly send out - and certainly, as I say, I am basing this on my small medical background - that the GP is the first line of contact in the community, and if someone is experiencing that much discomfort, they can visit their home, assess the situation and they are qualified to prescribe the appropriate pain relief and other kinds of drugs that may be needed or the most up to date drugs that would help relieve the situation. If they are not prepared to do that for whatever reason, then there is a serious flaw in our community medical response to these issues. I find it quite frightening, actually, that the hon. member has pointed this point out - people writhing in agony at home and there is nothing they can do except resort to using cannabis and having to access these 'scumbags', as he calls them which they undoubtedly are.

But the point is that the medical situation needs to be addressed, and it is not addressed, as far as I can see, in this report. There needs to be a review in his department of the community services on offer, especially to people with MS, because I have some friends who do suffer from this, and it is an appalling situation. Now, we need to get to the bottom of that one, and I am highlighting it here this morning to ensure that we do. If needs be I will revisit this situation, because I am absolutely astonished to find this situation when we have got specialists in pain relief working on this Island - we have even got Macmillan nurses, if it comes to that - who can all be brought in to help. If there are other types of suffering, or stress and anxiety that goes with it, and depression and all the rest of it, there is help for all those situations, and it needs to be a team effort and a multi-disciplinary approach. That should be happening; if it is not, in the instances that the hon. member has pointed out, then I am truly astonished. There should not be anybody in this society who is left to writhe in agony on the floor. That is unacceptable.

Now, I am not knocking the issue of progressing cannabis as a therapeutic aid - far from it - but what I need to do is address this particular issue, which is urgent. The hon. member must give this House an assurance this morning that he is going to ask for that review to take place in his own department to ensure that an adequate multi-disciplinary team approach is used to help these people, because it is just too awful to think about. I want his assurances that he will look into this for us and come back if necessary and circulate some sort of paper for us to show what is available, because it is frightening people at the minute out there when they hear these kinds of comments. Thank you, Mr Speaker.

Mr Speaker: Mr Singer.

Mr Singer: Thank you, Mr Speaker. The mover of the report called it a 'compromise report'. My first impression, on reading the report, was that it was fair, that it was balanced and that it did reflect the present situation, in that scientific investigation of the use of cannabis is not quite at the stage where it can be hailed as a major advance in pain relief. Therefore, claims which are made are anecdotal, and until the United Kingdom licenses the use of cannabis, or cannabis derivatives, we can find ourselves in a very difficult legal position. Whilst I am using the word 'anecdotal', I fully accept that some people feel they get considerable relief from the use of the crude product. However, cannabis is illegal, and those claims do not make it legal.

It does seem, from reports that I heard last week, that the scientific investigations may well be coming to fruition in the next couple of years and that cannabinoids may well be licensed for medical use. I heard last week that the firm GE Pharmaceuticals, who were mentioned in our previous debates and were authorised to investigate the potential use of cannabis derivatives,

recently went out to the finance sector to try to raise £17 million; in fact, they raised £25 million, which was a great confidence booster to their research.

The original intention of the Bill presented by the hon. member for Onchan, Mr Karran, was to legalise the use of cannabis or cannabis resin. Prescribing in the crude form, however, would have been difficult to police, as there would have been numerous loopholes to allow illegal use. The way forward is to be able to treat the patient with the pain-relieving cannabinoids, whilst removing all the compounds which cause the hallucinogenic effects and remembering, of course, that the smoking of cannabis offers the same dangers as those inflicted to cigarette smokers. It was mentioned in previous debates that there are, in fact, unlicensed products on the market, derivatives of cannabis, that can be prescribed for patients by a medical practitioner on a named basis. That option is there now, and I am not sure why they are not used more. The advantage of a properly licensed cannabis product is that it will have been fully tested for its efficiency, it will be standardised and therefore have an optimum recommended dosage, and it will also be monitored for any undesirable side effects, all these being essential elements of a medical treatment.

The difficulty that we, as laypersons, have in making a reasoned judgement is that we receive expert evidence on this and so many items, and that evidence is often diametrically opposed, and it is difficult to make a judgement as to those facts. For example, I read recently that cannabis users have a five times greater chance of developing heart trouble than non-users. No doubt next week someone will tell us the opposite. Claims are made that users of cannabis are more likely to advance onto the harder drugs; others say that is untrue. And it is also said that one in five drivers involved in road accidents are under the influence of an illegal drug, yet there is no easy roadside test to determine if that is the cause of the accident. These opposing views, in my view, confirm the need for full scientific investigation of a drug to be used medically to prove the efficacy and to identify the potential risks. I have no difficulty in the recommendation in the claim of mitigating circumstances at the present time if a known sufferer is using cannabis for relief of severe pain symptoms and if a consultant, rather than the person's GP, who may be understandably too close to the case, can confirm the patient's medical condition. But the only decision must be that of the medical practitioner and, if necessary, a judgement then made in the courts.

In all this discussion, there is a great danger to our society if, by inadequate control, we permit or turn a blind eye to the use of illegal drugs, and I would not endorse the police being expected to make medical judgements for which they are patently not qualified, nor being instructed at any time to turn that blind eye. Possession of cannabis is an offence, and we cannot be perceived to be stepping back from that - we would be accused of going soft, particularly on the drug dealers. So, I do support the findings of the select committee, and I do hope that advances will be made quickly, so much so that this House can review the position before too long. Thank you, Mr Speaker.

The Speaker: Chief Minister.

Mr Gelling: Yes, thank you, Mr Speaker. I am brought to my feet because I go along with the recommendation within the report, and perhaps I picked up the mover incorrectly, but he was giving me the impression that the reason that this, perhaps, had this recommendation was because we were running out of administrative time to get legislation before us. Now, it quite clearly says that the committee recommends that the House should reconsider the matter as soon as the outcome of what the hon. member from Ramsey has just been describing. Now, that is fine, but I would like the hon. member, perhaps in the summing up, to confirm that that is the point; no matter about running out of time and the beginning of the next legislative period, it is a case of waiting for the medical research and the reports to come forward, which is certainly

what is embodied in the report, Mr Speaker. So, that was the only point. I think the enthusiasm of the member, because we know his own thoughts, was perhaps that this should happen before the medical advice is available, and I think that is a point we should make clear.

The Speaker: Mrs Hannan, member for Peel.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I am concerned by the content of this report, because I thought the select committee going to look at this would have come back with something a little more positive than suggesting that the Island's judicial authorities should exercise a degree of discretion in the pursuit of criminal charges. And I would have thought that we are the place here, in the same as the question that was answered by the Minister for Home Affairs this morning, as we set the laws, and it is up to the judiciary to carry out the penalties if somebody is found guilty. Therefore, I think it is a hypocritical approach from a select committee of this hon. House to come back with a comment such as that. I think that if the committee would have wanted that sort of defence to be used, then they should have suggested a defence Bill come before the House at the next sitting, and I would have thought that that should have been the approach so that someone being in possession of drugs for this sort of purpose could use as a defence the reason why he has this substance in his or her possession.

The other question I would like to ask - obviously this committee has looked at it and I could not find it - is on a comment on page 3, paragraph 2.3, where it says, 'The committee also reminds that merely permitting the use of a drug for pain relief purposes might well open the doors to substantial abuse as it is easy to argue the use for medicinal purposes without at present any means of proving that it is being used for that purpose alone or that its use is effective. Furthermore, there is firm evidence to suggest that its use for pain relief purposes can easily become addictive, as indeed can the use of any drugs.' I am not sure whether the committee actually found that cannabis is addictive, and maybe the mover can actually clarify that. Is it because the amount that is needed for the relief of pain. . . And it is not just pain; it is bladder problems, or spasticity in the case of multiple sclerosis. So, there are a number of issues here which I am concerned about.

I am also concerned, I have got to say, about the comments made by the member for Douglas North when he suggested that, if there was a problem with pain, these people could turn to other areas and there was pain relief. He also mentioned opiates. We know that opiates, if it is not for terminal cases, can form an addiction, and it can be very difficult to get off an addiction, even when used for pain relief.

Mr Henderson: Improve your quality of life, though.

Mrs Hannan: But also, many drugs that are dispensed and prescribed are addictive, and over the years they have caused horrendous problems. They are perfectly legal drugs, but they have caused horrendous problems for people living in the community who have not intended to become addicted to these prescribed drugs but, in actual fact, they have, and they have caused tremendous problems over the years for everyone concerned. So, it is not an easy thing just to say, 'Oh there is somewhere else that we can turn to.' Opiates are addictive and synthetic drugs - opiates - are addictive; we know that because of the addiction that takes place. We also know that alcohol, while a legal drug, also has many health problems. You only had to watch the programme on George Best last night to know the horrendous problems that he has had with addiction to alcohol and the tremendous health problems that he has suffered and is continuing to suffer.

A Member: Self-inflicted.

Mrs Hannan: The member for Douglas West says, 'Self-inflicted.' That is all very well. We all know of young men who think that they can overcome alcohol. Rodney Marsh was saying about George Best, 'It was his choice', but he was in a difficult situation, relied on alcohol, and

had all sorts of pressures. If you had watched the programme, you would have seen all the sorts of pressures that he was under.

But there are also people here who smoke, and there are problems connected with smoking, which is, again, a legal drug. There are a huge number of deaths from that, and I am concerned that we have a drug here which has only been illegal since 1970 and which cannot be used. The member for Ramsey is suggesting that these huge pharmaceutical companies obviously see that there is big business out there for cannabis and are investing huge sums of money, because they know that they, in the future, with research in this area and being licensed to by the British Government, are going to be using this very complex, very effective drug. You can go back many years and you could say that aspirin should not have been used. And aspirin is quite a dangerous drug, really - it is available over the counter, it is a dangerous drug and people do not realise that it is a dangerous drug, but it is so effective. It again is a herbal drug, but again big business, the pharmaceuticals, capitalism and all the rest of it have used it to create millions and millions of pounds in the past.

I support the use of cannabis for medicinal purposes, and I would hope that, should people be found in possession while using it to find relief, they will be treated, as the member for Onchan has suggested in this report, but I cannot see it. I just hope that they are, because I do know from the representations I have had made to me that it does have an effect on bladder problems, and it does have an affect on spasticity and pain relief, and I would have hoped that this committee could have recognised that fact in these particular areas where these people suffer and where no other drug causes that relief; (**Mr Karran:** Hear, hear.) no other drug does, even if it suggested by the member for Douglas North. Yes, there is pain relief, but it is in other areas and not in this particular area, multiple sclerosis. I have nursed people with multiple sclerosis, and spasticity is a horrendous thing, not only for the people who have multiple sclerosis but also for the people looking after them, and the bladder problems also are a horrendous problem for people to have to deal with. I would have hoped that the committee could have come forward with a little more compassion to say, 'Yes, we recognise that this is the way to approach it until these sort of things are considered by research', but there again we are into big business, we are into capitalism, jumping onto this bandwagon where . . . Well, we only have two of them in the Court at the moment who operate under the legalise drugs issue, but this is a drug that can be used, and it is the actual approach to it that I find very difficult to deal with, because I do support the relief for these people. So, I would have hoped that the mover could have come forward with a defence Bill if the medical people were saying that this could not be approached or could not be considered until the research has been carried out in the UK. They do have vested interests, and it is these vested interests which have encouraged this drug to be obviously illegal since the 1970s, and nobody has been prepared to look at the effectiveness of this particular drug.

Yes, there are synthetic drugs made of the cannabis, but you have to get people to recognise that it is there and it can be used and also that it is the right part of the plant which causes that relief because, as I said before, it is a very complex drug that is to be used, and I think it is probably the whole of the complex. I do not approve, actually, of smoking it. There was a comment in here about inhaling it for its effectiveness, and this is the research that is going on, and I just wonder how people can actually judge the amount of the drug that is being inhaled and that is actually being consumed by the body - presumably because they do readings afterwards to see what sort of readings actually give the relief. But again it could be the whole of the drug which is considered for that. We have had articles in the past about people growing their own and using that because it is pure and it has not been adulterated, and that is another area where maybe the defence could be as long as they are not dealing in it. It is an extremely complex issue. It is the same, I suppose you could say, as they found in the United States when they banned drinking and about all the illicit clubs that were set up within that, but there are

clubs that are set up in various places - they are compassionate clubs - in Canada especially, where people would register and where they can actually obtain the drug for their own use because of their health situations. There are all these issues which I feel should be dealt with, because it is not just a case of wanting to deal with people - the term that the member used was 'scumbags', and they might be - but there are other people, I am sure, who actually maybe would get it from those sorts of people to give to people who do get this relief. And so certain communities have dealt with this in a compassionate way with these compassionate clubs, and the only one that comes to mind at the moment is the one in Canada, which was brought up by a constituent's relative, who explained how it worked.

So, in the meantime the report is received - because that is all it is, so it means nothing except that we have received it - and it lies on the table, with a wish that the judiciary look on this in a sympathetic way. We have not looked at small personal use in a sympathetic way, and I think even when people maybe use it as a defence and in mitigation for having it, maybe it too will not be looked at. So, I am disappointed with the report that is before us today, because it does not give help and relief to the people that would actually have been relieved by some of this. And I am not saying that smoking cannabis is something that I support; there are other ways of ingesting it, as it said in here about infusing it, so there are other ways that can be looked at which, in fact, do not cause problems.

The other thing I would mention before I finish is that there was a phone-in this morning on BBC Radio 5 about this particular issue, and there was an argument between people who used it as to whether they became addicted to it or not. The point was made by one person who was addicted to it, or at least two others who had not been addicted to it after long use of it, that it might have been the impurities or the type that was used that caused the problem, and I think this is another issue which I feel should be considered for the protection of people who do actually use this drug, and maybe that is the research that is needed so that people do not become addicted to it because of the type of cannabis that they are actually using.

I would reiterate myself again that there are other drugs that we become addicted to, other drugs that we have to use, and that we use vital resources of our health services to put right the wrongs that have been caused, both alcohol and tobacco. But we sit here, quite prettily, considering that that is perfectly acceptable. At every sporting event that happens, people say, 'Oh, you are going off to have a few pints. Are you going off to . . .' They are sporting people and yet they are going to, as soon as they finished, participate in alcohol. This seems to be the norm within our community, and I think it is something that we should really try to get away from. How else can we expect our young people not to become addicted to these sorts of substances? So, I think it is beholden on us all to actually help wherever these addictions occur and wherever these sorts of attractions occur. We do not have to all the time turn to alcohol or turn to tobacco, which causes huge problems for our community. Thank you, Vainstyr Loayreyder.

The Speaker: Member for West Douglas, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. I think it is appropriate that we discuss this today. I think that the report is not a major surprise to any of us; it is certainly what I would have expected. It heightens the profile of the issue, and I am grateful to the member for Onchan, Mr Karran, for bringing this forward almost a year ago today. It is something which, I believe, we have to start engaging a more realistic debate upon, and it splits into two areas; the one we are focusing on today in the report is the medical use, and certainly the recommendations of the report would imply that medical research is being carried out and therefore it would be inappropriate for the Isle of Man to go it alone without full access to that information. But it does widen it out on to the social attitude towards cannabis and the fear amongst many members, both within this House and the public, about the effects of cannabis on our communities, and there is no doubt that, both on the medical and the political or public view, opinion is split. We

have a situation where, in Europe, the relationship with cannabis and the use of it is evolving. At the moment two members of the European Union are tolerating it as social use, and I believe that in the future there will be an increasing debate as to whether that should be expanded elsewhere.

Only last week, hidden away late at night on Channel 4, there was a series of programmes on the cannabis laws in the United Kingdom, and for those members who did not see it, I think the library may well have a copy of those programmes. It looked at the UK drug laws that do not work, and there was a debate and there were arguments put forward on both sides. One of the issues there was that the research into the long-term effects of drug use, particularly cannabis, is not yet available; it is becoming available, but the research had not been there and, as the former member for Peel has just said, it is one whereby the purity has changed and the use has changed. But I think that we, as a House, must acknowledge that in the future this is going to be an issue not just that we have to look at medically but also socially. That is because we are here as representatives of the people and must understand what is happening in our community, like in other communities. The outcome of the debate last week, which was hardly scientific but used scientific arguments to try and persuade the public, ended up with 65 per cent of a large, random audience believing that the present laws do not work. And there was evidence given as to the reasons why they felt that it was inappropriate that cannabis has this stigma attached to it, whereas the arguments put forward again by the previous speaker regarding alcohol and tobacco are ones whereby there is a hypocrisy within the community regarding the actual long-term medical effects on our community of different types of drug use.

In the report, it does talk about the possible addiction, and this debate and others could argue for a long time as to whether it is physically addictive or psychologically addictive. There certainly seems little doubt that the use of cannabis can be psychologically addictive, and that is one whereby the young people on our Island have access to and will continue to experiment with cannabis. Part of the attraction put forward by some was the very nature that it is illicit and illegal and therefore they would find some mechanism of pushing the boundaries. I do not support the use of cannabis and legalising of cannabis; I believe, like the former speaker, that it is only a matter of time before the medical bodies will find mechanisms whereby we can allow it for medical use, and that would appear totally reasonable when we consider other illegal drugs that have a legitimate medicinal use and we accept that and have accepted it for many years.

Why cannabis should be any different from the opiates previously discussed seems to be a nonsense. It is one where we cannot be seen, as legislators, to be misinterpreted on softening of attitude towards drugs. A year ago I made the point that I think it was right that the hon. member for Onchan, Mr Karran, is the one who brought this forward, because he has been vehemently opposed to softening of the laws on drugs, but we do need to debate it. There has been reference to alcohol and the issue of the programme last night on George Best, and one of the interesting factors there was that his mother, an alcoholic, died at the age of 54 with alcohol-related disease. Now, we are getting into a generation where, although many members in this chamber are too old to have really seen the full impact of the cannabis explosion in the 1970s as users of that drug, many of the parents who are raising teenage adolescent children at the moment, and indeed young adults in our community, have a totally different attitude towards the use of cannabis, and what we are doing is failing to really appreciate the extensive social use of illicit drugs and the public's attitude towards them. I believe that many people who will hopefully be voting in November for the first time have a totally different attitude towards this issue than many of us do. I think that we have to at least understand their position. It does not mean by any means that we should agree with it all the time, but I do think we need to engage in the debate of why people, particularly young people, choose this as a course of action. Now, I believe that the first step will inevitably be on medicinal use, and I would support that. I think the timing is not yet there, but I would expect that this House, when considering research in two or

three years' time, will find the debate on cannabis use for medicinal purposes, and then the spill-off from that is the social use, and will have to become more informed so that we have an open mind to it rather than what, I believe, in this chamber at present, and historically, has been a very closed mind to actually understand what is happening in society.

Ten years ago, as a teacher, I was appalled that there was such a failure to recognise what was happening with the young people on this Island, and that is ten years ago. I remember listening to hon. members who had a session with students from the secondary schools to discuss their attitude towards cannabis particularly, but drugs in general; what happened was that all of the secondary schools picked some of their hand-picked, best A-level students and sent them down to the Millennium Room, gave them a nice buffet, and very politely generally chatted about drugs. Some of the hon. members there were absolutely horrified that each of those students could walk out of the Millennium Room and would know how to get hold of illegal drugs on this Island, and that is eight to ten years ago and those were hand-picked A-level students. If we consider that time has moved on, it is a part of society, both on the Island and elsewhere, and to ignore it makes us negligent. I hope that this report is received; that means nothing, but at least it maintains the debate that we have to engage in with our people to see what their attitude is towards these issues, sir.

The Speaker: Mr Rodan.

Mr Rodan: Thank you, Mr Speaker. The debate has somewhat strayed from the purpose of this report. This, just to remind the House, was a select committee set up to examine a Bill, to examine a piece of legislation, the purpose of which was to provide a legal defence to any prosecution for possession of cannabis on the basis that it was being used for medicinal purposes; that is what the original Bill sought to do. Now, we have had, as one might expect, a broader debate on the legalisation of cannabis and social policy and drug use in general, but I think it is very important to come back to the actual report and what was in the minds of the committee when they drew up the report.

In my opinion - and I think the other two members of the committee would agree - a very measured approach was taken to this question, a combination, I think, of compassion and realism, because, in examining this question of legal defence, the apparent omission of which has given such surprise to the hon. member for Peel when, in fact, it was the basis of the report, it became very obvious that there was a dilemma before the committee, and the dilemma was this: that there is ample anecdotal evidence that consumption of raw cannabis in its raw state, smoked in some cases, in many cases provided medical relief and pain relief, particularly to multiple sclerosis sufferers, and the premise of the legislation was that in those circumstances it should be possible for the courts to accept a legal defence for that particular use. But however sympathetic one might have been to the purposes of the Bill - and I believe that is why the House referred it to a committee, because they had sympathy with the intent of the Bill - it became very apparent early on that there were practical difficulties with the legislation, not least in what it was that the courts would deem as being the medicinal product for which there would be this legal defence.

The House of Lords Select Committee in the UK and the UK Government have all looked at this question, and it is very clear that whatever anecdotal evidence does exist, it would be wrong for a legal defence and it would be impractical to pass any legislation in the absence of a pharmaceutical product being available of which the safety, the efficacy and the quality had been medically established. So, in other words, even if a doctor were minded to make available - whatever the law said on its illegality - cannabis, there is no pharmaceutically acceptable form available for consumption by patients of which the quality and the safety has been established. And that is the very reason that two clinical trials are taking place at the precise moment and, as hon. member for Ramsey, Mr Singer, indicated, it may yet be another two years before those

trials establish whether there is a proven link between pain relief and cannabis and whether those trials establish the appropriate form in which the drug should be made available. Were an exception to be made at this stage, short of those clinical trials taking place, we would have set a precedent in that this would be the first medical substance, the first drug, brought on to the market before its safety and efficiency had been established. All prospective new medicines have to go through a process of establishing safety and efficacy, and it would be premature, therefore, to treat cannabis in any different way.

One of the issues that the hon. member for Peel raised was the addictive qualities and certainly, when one looks at the evidence that was before the committee, there is a body of evidence that points to both psychological addiction and physical addiction, and it is precisely because of this evidence that we need those medical trials to establish the appropriate dose and to establish that necessary balance between undesirable side effects, such as addiction, and the workability of the drug. So again, in fact, it will be when the clinical trials have concluded that we will have the answers to those questions.

Given that we moved very rapidly, in looking at this question, on from the matter of legal defence - which was what prompted this inquiry - to the practical aspects, and having established that, like it or not, there was very little we could do by way of recommending legislation until those trials had been concluded, we were brought back to this question of legal defence and, while we had to divert from looking at that because of the practicalities of a drug being available, we felt that nonetheless it would be useful to make an observation. And that is all we did - we made an observation that noted that the use of cannabis by sufferers of chronic conditions did produce relief, whether misguided or not, and that that should be taken into account by judicial authorities. We went no more, quite deliberately, beyond making that observation, because the line of enquiry on which we had set out, which was legal defence, which was the purpose of the Bill, came up at a very early stage against this major hurdle and stumbling-block, which was the unavailability of a medicinal product whose safety and efficiency had been tested.

The Speaker: Mr Quine.

Mr Quine: Thank you, Mr Speaker. I think this is very fair; I am very happy with this report. As a whole, I do not have any problem at all with it, but I am just concerned, not so much with what is said in 5.5, but with what may be read into 5.5. I mean, 5.5 - I am sure hon. members will have it before them - says, 'Pending such reconsideration, the committee expresses the hope that where the use of cannabis by sufferers from chronic conditions can be genuinely attributed, whether misguided or not, the relief of pain in a chronic medical condition, the Island's judicial authority shall exercise a degree of discretion in the pursuit of criminal charges.' Now, of course, I accept that it is current practice for the judiciary to take into account all circumstances, including personal circumstances, in determining the appropriate way to dispose of a case that comes before them. I have no difficulty with that. That has always been the case and that certainly, I would envisage, will always remain the case. But the one concern I have is that more may be read into this condition than what, perhaps, was the intention of the members of the committee, because it could be read as asking the judiciary to go beyond their current practice and go to a point where they consciously look upon cases of cannabis in a different light to that in which they would look upon other cases and say, 'Ah, the legislators have conveyed a message. They want us to treat these cases differently. They want us to be more lenient in these cases where there is a connection between the charge and the use of cannabis in relation to the relief of a medical condition.' I would ask the hon. member, when he sums up, to make it quite clear that it is not the intention of the select committee to try to convey to the judiciary a different message than what is the current and proper practice of a court in dealing with a case, and that it is not the intent of the select committee to pull the cases involving cannabis out of the pile and say that that should be looked at quite differently from the way that the judiciary look at other cases,

which is a perfectly proper form. As I say, it is perfectly correct for the judiciary to look at all the circumstances, and if they had a case before them which involved the use of cannabis and there was reliable, credible evidence that it was being used in relation to a medical condition, it would be quite proper for the judiciary to take account of that in the manner in which they disposed of that case. But it is another matter to say that they should deal with it as a special case; that, I think, is not the message that we should send out.

And the other reason that I would make that point is because if that is the way it is read, it will not stop with the judiciary; the police will read into that that they are not expected to bring these cases before the judiciary and that they in turn are expected to, perhaps, turn a blind eye to these cases. Now, that is a very, very dangerous path upon which the police could enter. And this is not something that is remote; I am sure you have all read about the new dictum from the UK Home Secretary in relation to the treatment of drug offences over there, where, in my view, he has given quite the wrong message. He has intimated that there is going to be an order of priority in the way that they deal with drug cases. Now, that is a very dangerous path to follow. These messages, no matter how well intentioned, can be misread, and they can be misread in such a way as to undermine our very coherent and very proper strategy in dealing with the drug problem.

So, I would just ask the hon. member to give us some reassurance that it is not the intention of the select committee to give a new message to the judiciary that they should go beyond the established practice of dealing with these matters that come before them and deal with it as something over and above other cases, and to make it quite clear that it is not intended that this should rub off on to the police and that they are asked to take a lesser view of these offences just because of a minority of cases where there is stronger justification for dealing with them leniently. So, that is the one concern I have. It is not what is so much said in the recommendation; it is that the message that might be drawn from that recommendation could be the wrong message.

The Speaker: Hon. member for Douglas West, Mr Downie.

Mr Downie: Yes, just briefly, Mr Speaker. I would rather like to be associated with some of the remarks that were made by the previous speaker, the hon. member for Ayre, Mr Quine. I think it is very important that we do send the proper signals out.

Anybody who has been studying what is going on with cannabis lately will see that there would appear to be less dependence on this particular type of drug than there has been for some time and, in fact, I read a very interesting article in the newspaper the other day which estimates that, on any evening of the week, at least 750,000 amphetamine tablets are taken by people who go into discos, (a) because it is cheaper than alcohol; (b) it is much more environmentally friendly - you have not got this horrible old joint to smoke; and (c) it is very, very hard to detect. And with the changing patterns in drug abuse - and I did watch some of the programme the other night about George Best - I firmly believe that there are people who are in a sad situation like the very famous footballer, but we have to protect some of these people from themselves, and this is why we have legislation to control this type of drug. I am sure some would agree that if alcohol had just been invented, it would only be available on prescription. But sadly, this is why I think it is such a difficult problem to deal with.

I am well known in this House to be anti-drugs, but on this occasion I am quite prepared to go along with the report. I honestly feel that if proper supervised field trials are given to cannabis and it may well prove to be a useful drug in the control of pain and prescribed under certain medical conditions, I would accept that, because I think that we should not shut the door to technology. But what does give me cause for concern is that cannabis, and cannabis resin, is well known to be extremely addictive, and there is another school of thought now which states quite categorically that if you have a form of cancer and you do take cannabis to try and control

the pain or to get some psychological relief from your condition, it will actually accelerate that condition - that has been emphatically proved in lots of research now.

So, I would congratulate the members of the committee who worked on the report. It is well put together, but I do think that we would definitely be sending the wrong signals out if we even implied to the judiciary and to the police that we were going soft. I think we have got to stick together on this, and the best example is just across the way, where, as far as I am concerned, their standards in the UK, their social standards, their law and order standards and particularly where there is drug-related crime where you have got ghettos now and no-go areas and drug barons, are ruining the quality of life in Great Britain. The way we are going on, we are the poor men of Europe anyway, as far as I am concerned, but the trauma and grief that drug abuse is bringing into the United Kingdom, I think, is absolutely horrendous, and I think some of us here are very privileged that, although we have drug addiction and a drug problem on this Island, it fades into insignificance when you see what is going on in some of the towns and cities in the United Kingdom and, as far as I am concerned, we need to get the message out here that we are not having it. Thank you.

The Speaker: Can I call upon the hon. member, Mr Karran, to reply?

It was agreed.

Mr Karran: Vainstyr Loayreyder, I would like to say that no-one wants to be soft on drugs as far as the Island is concerned and as far as entertainment value is concerned. I think that the previous speaker, the hon. member for Douglas West, talks about alcohol, but we have seen the situation where we have actually freed up the licensing laws, which the hon. member for Peel was complaining about, and I think we have to realise . . . I think it is alright talking about situations, but it seems that, in recent articles, we are not only talking about cannabis speeding up cancer, but if you take your vitamin C tablets, you are speeding it up. So where do you actually stop as far as this is concerned?

I think the hon. member for Ayre is well-meaning in his point, coming from a seasoned campaigner like himself, but I think he is out of touch with reality (**Two Members:** Hear, hear.) as far as the situation in our country at the moment is concerned. I would ask him: would he prefer to have the situation where I have somebody who is facing the court procedures at the present time - who is up actually, in the near future - where his wife has lost the earner of the family's income, because he was self-employed, suffers from MS and has all the problems of caring for this individual when he has severe attacks? Is it good for the police to raid their house with young children there, to have a situation where they see their sick father is then made out to be a criminal when most people would recognise that the situation is that it has been the most effective way of using it? I do not complain about the police doing their job - they were doing the right thing as far as that is concerned - but what sort of image does that give to the children, let alone all the hassle it gives to the wife, who has got all the worries of trying to fight with my good friend in the DHSS for the benefits to make sure that she can have a decent standard of living? I mean, only the fact that we managed to rebel long enough with the bunker in Markwell House. . . They could not even afford the taxi fare to go to the airport because of the crazy system that was trying to be forced on the health services from the Social Security Division. Now, I ask my good friend: is that where we need to put the resources?

When I went into our caf  the other day in Onchan, I had one of my volunteers say, 'We had that poor girl in again. She is only about 12. She had one eye looking directly up, one eye looking directly down, complete spaced out.' Now, which is the priority as far as the police force is concerned? I suggest the scumbags who have fed that kid with those drugs, that is where the priority is, and I know that whilst the hon. member is well-meaning out there, he needs to get on the streets of the promenade on a Friday night. I think that the priority has to be, if you are asking me and any fair-minded person, that whilst there should be zero tolerance as far as drugs are

concerned and as far as cannabis is concerned, I have to say that I would not see the staking out of an individual who has got a medical condition as the priority; the priority is to get the ones who fed that kid, who went into that café and went off somewhere else because she went somewhere else. That is the priority, and I do feel that, yes, I do hope there is a message. I do not want the absurdity of the situation where we ended up circumventing money from child abuse cases to have a number of police officers put onto things that were not a priority, in my opinion and in most logically-thinking people's opinion; then we ended up with eight on one operation where there was only half of a policeman on the drug squad at the time.

Since I first raised this issue of drug abuse 15 years ago, it has changed out of all recognition, but I do feel that this House must be strong on prioritising all resources on hitting the real people that need to be hit as far as drugs are concerned. And, yes, if it means catching the one that that sold the 12-year-old the pill, or going after somebody who we all know who is medically ill and staking out their house, then, yes, I would see the priority is there, and I would hope the police would see the priority is there. That is not going soft on drugs, in my opinion.

I think that the hon. member for North Douglas again is well-meaning, and we all understand about pain relief and how we send them away to the United Kingdom, but at the end of the day there are conditions and, without actually taking them completely out of the system of complete reality, it is very difficult to control the pain of individuals. I can only talk about the experiences that I have had from individuals in this country who told me they have tried everything and the wife says the best thing to do is to put them in a hot bath and smoke a roll of cannabis, and if that is the way to try and ease that person's problem and there is no other way, I do not think it is right in society to make that person a criminal. And it is all right the simplistic way of 'If there is not a medical licence for this. . .' At the end of the day, this issue is about two things: one is big drug companies with big profits, and I think that that was the point that the hon. member for Peel was trying to get over; and the other issue is that cannabis would have been legalised 40 years ago if there had been a suitable amount of tax put on it, if we are being honest about it. But we do not want to legalise cannabis for recreational purposes; what we want to do is say that unfortunately this is a compromise report, a compromise between what I would like to see and what other people would like to see. And I would just hope that the hon. members, when they look at it from these simplistic ways. . . The fact of the matter is that there are conditions which are very difficult to get pain relief from, and obviously that is not an insult to the health services today; that is a problem. I remember speaking to somebody many years ago who was virtually quadriplegic at this point, and she said, 'But I am very lucky, because my MS does not give me the acute pain that some of my fellow sufferers have that I know of.' It is not an indictment on the health services or a quick slap to try and have a go at me as the member for health; it is a fact of life. It is about putting rungs on the ladder of trying to get something that is effective.

The hon. Chief Minister expressed concerns. I believe that the real reason why we have got this report more than anything is that, yes, there is an argument about a medical licence, but there are many things that are handed out today by homeopaths and because they are not an illegal substance, they have not got a medical licence but they are used. I believe that the big problem we have got is the Royal Assent issue as much as anything, and I can understand that, but it is an important thing.

I appreciate the support the hon. member for Peel gave, and it is interesting to hear of the fringe treatments like hyperbaric medicine. One of the best things that I get from MS sufferers is that they talk about bladder control with hyperbaric medicine, and I have actually heard that bladder control can be very good as far as cannabis is concerned - they are all things that can help.

I thank the member for West Douglas for his viewpoints over the issue, and I do say, yet again, that I do not see why the use of cannabis for medical reasons, prescribed by a registered practitioner for acceptable medical conditions, should weaken the case. It should strengthen the case for not legalising it for social reasons because, at the end of the day, we are forcing people to go down the road, and I believe we should have good law, not bad law. It is the old saying of not judging your fellow man in his condition but putting yourself in his position. If I had a wife who had a disease like MS and we could do nothing for her to relieve the symptoms, I would be very, very tempted to go out and get her the cannabis, and I believe it would be a bad law to make me a criminal, and I suggest that if many in this hon. House were in the same situation . . . We should not be making very sick people into criminals, having to deal with the very same people who are pushing drugs to our kids, and I believe also that we should not have a situation where people who have loved ones who are in that position will be forced to go out to become criminals because their loved ones are in that situation, and that is what happening at the present time.

My first connection with this proposal was purely by chance. I happened to be staying with some very good friends of mine who do not live in this country. One is a nurse, one is a retired policeman and a horrendous row broke out because the wife has got MS, as I say, and said she was going to try cannabis because nothing else had worked up to now. He said, 'No, you are not, love. I am not getting you any. I just suggest . . .' And it went away. And, as I say, I came back and about a year later I had somebody on the phone crying because they had MS and they were using cannabis and they could not get out at the time to do so. And I know of three people in this country who are law-abiding citizens, who are not criminals and who do not want to break the law but who find themselves in this situation. And I ask you: in all honesty, if your wife or your husband was in that situation, what would you do? I do not want to be seen as wanting to legalise cannabis but, as the member for health, when you see the manipulation of the multi-national drug companies and the like, I do feel that if you have got a condition that has no other medical treatment that is effective, then I believe that it would not be unreasonable. I believe we have a valuable compromise as far as this is concerned in this report. I hope this hon. House will accept this report and not see it as going soft and will not see that the issue . . . Our young kids are getting these drugs, and that is the priority.

I must just mention one other thing that I have already written about: the fact that cannabis is being messed with, I am led to believe. I have written to the police force about this, and I do hope that the media do put this out to young people that they must be very careful when they are dealing with the likes of cannabis on this Island, because they are not getting cannabis; there are cases where they are mixing stuff in with it (*Interjection*) to make it more addictive. At least if we had sick people who could come and get the pure stuff, they would not be mixing with this stuff, and I do feel, Vainstyr Loayreyder, that this hon. House should support this report as a compromise.

The Speaker: Hon. members, the motion before the House is that the report of the Select Committee of the House of Keys on the Misuse of Drugs (Cannabis) Bill be received. All those in favour please say aye; against, no. The ayes have it. The ayes have it.

Procedural

The Speaker: Hon. members, that concludes the final business of this House of this parliament, and I do not expect there will be an assembly in this chamber until after the general election in November, so I take this opportunity to wish all of you who are seeking re-election best wishes for success, and I also wish to thank all of you for assisting me in ensuring the business of the House is conducted in a smooth and efficient manner.

David North MHK — Tribute by the Speaker

The Speaker: The hon. member for Middle, David North, has advised me he will not be seeking re-election, so I wish to place on record his exceptional contribution to the good government of the Isle of Man. (**Members:** Hear, hear.) David North was elected for Middle in 1988. His talents and business experience, both on the Island and overseas, were quickly recognised, and within 18 months of his election to this House he was appointed the Minister for Agriculture, Fisheries and Forestry. Following the general election in 1991, he was appointed Minister for Highways, Ports and Properties, which was renamed the Department of Transport. Then, following the general election in 1996, David was appointed Minister for Trade and Industry. He will best be remembered, I believe, for his worldwide promotion of the Island's successful international shipping register. So I am confident hon. members join me in thanking David North for his services and wish him success and happiness in his continuing business career. (**Members:** Hear, hear.)

Hon. members, the House now stands adjourned until the meeting of Tynwald at St. John's on 5th July, and in the meantime it will give me much pleasure if members will join me for luncheon in the Millenium Room. Thank you, hon. members.

Several Members: Hear, hear.

The House adjourned at 1.04 p.m.