

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

**Douglas, Tuesday, 29th May 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); 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.

Apologies for Absence

The Speaker: Hon. members, I have apologies for absence this morning from the hon. member for Middle, Mr North, who is away on government business.

Mount Murray Development – Planning Control – Question by Mr Karran

The Speaker: We will now turn to our order paper, questions for oral answer. Question number 1, the hon. member for Onchan, Mr Karran, to ask the Chief Minister:

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

In the light of the conclusions of the Crowe report into planning and development and other matters at Mount Murray and since no agency of government now appears to have any influence on that site due to the previous failures of the planning department, is your Council satisfied that

- (1) unauthorised and ultra vires decisions taken by officials have been identified and appropriate action taken against those officials;*
- (2) such a catalogue of errors could not take place again; and*
- (3) planning control can be re-established over further development at the Mount Murray site?*

The Speaker: The Chief Minister to reply.

Mr Gelling: Yes, thank you, Mr Speaker. In reply to the hon. member for Onchan I can advise firstly that the basic premise on which the question is based is perhaps incorrect. All of the laws and orders relating to planning control, building regulations, tree preservation and statutory undertakings continue to apply to the development site at Mount Murray as they apply elsewhere on the Island.

Now, all of the fundamental decisions in respect of this development were taken not by officials but by various Planning Committees and ministers within the Department of Local Government and the Environment, but in any case disciplinary action under the Civil Service Regulations is a matter for consideration by individual departments and, if appropriate, the Civil Service Commission.

The circumstances attaching to the proposals for development at Mount Murray were unusual and complex and are unlikely to reoccur, but in addition the recommendations made by

Professor Crowe in his report have been or are being implemented. I am therefore confident that in so far as there were flaws in administration, they will not be repeated, sir.

The Speaker: A supplementary, Mr Karran.

Mr Karran: Vainstyr Loayreyder, could the Chief Minister then explain that the same tree preservation legislation is operating in the Mount Murray site as everywhere else, as I think there seems to be a vast difference between there and other areas, and would the Chief Minister not agree that there seems to be too much courtesy around this issue where there is a major advantageous financial reward over this whole affair to certain individuals, and will you be considering asking the police to investigate whether there were any pecuniary enticements as far as this is concerned, as I think that it is important that this House is seen that we are not allowing a situation for this issue, which is a major scandal, to be covered up and a repeat could happen again?

The Speaker: The Chief Minister to reply to the series of supplementaries.

Mr Gelling: Yes, Mr Speaker. Basically on the trees and the tree preservation and the forestry regulations and orders and the planning, this was definitely an area where Professor Crowe outlined the problems that existed, and as I have said, that is something that now is being looked into and hopefully will be rectified as to the law and which takes precedent over the other.

Basically, the trouble is of course that once a tree is down a tree is down. There is very little one can do to try to recover the tree except plant another small one, and of course, as we know, the forestry officer has decided that the best way to recover the site at Mount Murray is to wait for the development to finish and then have a proper forestry scheme to replace those which have been lost, but of course that will take many years in the future to come to fruition.

Now, the hon. member is suggesting perhaps there were enticements; to whom he has not suggested. However, Professor Crowe has been quite clear in what he has said in his report and that is one area where certainly he did not find any requirement or any need to actually ask the police to investigate, as he did suggest other areas of government investigate their areas of concern.

The Speaker: A supplementary, Mr Karran.

Mr Karran: Vainstyr Loayreyder, a supplementary. Would the Chief Minister not agree that the situation is that there are people that I know that have been on the Planning Committee whose names and integrity have been blackened, who are innocent as far as this is concerned, and why won't his government investigate when we have such powerful procedures that are delegated, particularly now, to non-elected, non-accountable staff? Why are you not investigating and asking the police to investigate? Because there is an awful lot of money being made out of this site and it has made a complete farce out of our planning system, and I think we need to learn from the mistakes instead of trying to sweep them under the carpet.

The Speaker: The Chief Minister.

Mr Gelling: Yes, Mr Speaker, we do not wish to sweep anything under the carpet, sir, and I think it is again quite clear in the report where there was maladministration and that the information that should have gone forward to certain planning committees did not go forward. These are areas, as I say, that the department concerned are certainly now investigating, and as I have already stated, these things should never happen again.

However, to investigate as to whether people have made a lot of money out of certain areas at Mount Murray, that is something again I am not aware of. However, we have certainly learnt from the experience of Mount Murray and if we do not make sure that such a thing does not happen again we will be extremely foolish.

The Speaker: A final supplementary, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister make sure that this situation does not affect other landowners who would like to try to develop international golf courses and the likes on the Island, from being affected as far as this whole fiasco is concerned?

Would he also not agree that it seems unfair to dezone areas that were available for the possibility of a good hotel with a decent golf course, as has been taken out of the Braddan plan, namely at Castleward? I do hope that his government is not going to allow this fiasco to affect planning as far as the possibility of this could be possibly future development.

The Speaker: The Chief Minister.

Mr Gelling: Quite an intricate question, Mr Speaker, and if I can start, I think, at the back and come forward, basically the Braddan plan, which the hon. member has alluded to, of course is out for consultation at this time, so therefore it is not the end product, so I would suggest that perhaps we will have to wait and see what the outcome of that plan will be.

However, there is a difference in making sure things that have happened do not happen again and being cautious and I suppose you could say that certainly people will be cautious to make sure that such events do not happen again, but I would certainly hope that it will not signal to everyone that such a thing should not happen, a project such as he has described is put back just because of an experience we have had elsewhere, because I think that would be wrong.

Census Results – Publication – Question by Mr Karran

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

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

When will the results of the census be published and, in particular, the total resident population?

The Speaker: The Chief Minister to reply.

Mr Gelling: Yes, Mr Speaker, it is anticipated that the first volume of the census report will be laid before Tynwald at the October sitting. Now, this volume will contain basic information from the 2001 census database and will include the figure for the total resident population.

In addition, however, it has been our practice in the past to release a provisional total population figure based on an initial assessment of the data, and this figure hopefully will become available towards the end of the summer and probably by about early September.

The Speaker: A supplementary, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister not agree that it is important that we do get a true picture of the census and thanking him for his assurance that we are going to have those figures out so the people of this country can see what the real population is in this country, and would he also be prepared to maybe release the sort of information, namely the likes of the amount of patients on doctors' lists, just to see how close they are, as there were great differences as far as this is concerned with the previous census number where there were 4,000-plus more on doctors' lists than there was claimed to be living in the Island, and I am sure there were not 4,000 corpses on their lists?

A Member: That is your responsibility.

The Speaker: The Chief Minister to respond.

Mr Gelling: Right, Mr Speaker, now, basically we are getting into the intricate details of the census which my colleague the Minister for the Treasury would be in a better position to answer, but of course there are reasons why the census figures and the doctors' lists are different,

because of course if people move away from the Island they do not call for their notes until they go to the doctor for the first time in wherever they have gone, so therefore there will always be a discrepancy, I would suggest, in the number of actual patients and the number who were on the doctors' list.

However, what I am saying is, because of the interest of the people of the Island and the interest of members, because October is getting very close to the election, whatever details we can in a provisional state release at the end of the summer, early September, we certainly will be doing so.

Restaurant and Cafe Hygiene – DoLGE Policy – Question by Mr Henderson

The Speaker: Question number 3, 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 is your department's policy on restaurant and cafe hygiene and does it operate a programme of regular unannounced health and hygiene checks?

The Speaker: The minister to reply.

Mr Gilbey: Mr Speaker, the Department of Local Government and the Environment's commercial section operates a regular programme of unannounced inspections of all food premises, including restaurants and cafes, for the purposes of identifying contraventions of the Food Act 1996 and the Health and Safety at Work Etc Act 1974.

The inspections are carried out on the basis of a risk assessment which is undertaken in accordance with code of practice number 9 food hygiene inspections. This code of practice, issued under the provisions of the UK Food Safety Act 1990, has been adopted by the department.

The risk assessment classifies premises to identify a minimum frequency of inspection, based on a points range given during the initial inspection. Restaurants and cafes are then visited routinely in accordance with the frequency determined by their classification.

The Speaker: A supplementary, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Could I ask the hon. minister is he aware that the majority of cooked food outlets in cafes and restaurants and so forth are in fact in the main shopping areas throughout the Island towns and as a result are frequented by a large number of the public and also our visiting trade, and would he care to comment on the minimum number of visits that he just indicated in as much as this may not be appropriate or would he agree that it needs to be reassessed in the light of the importance of these establishments?

The Speaker: The minister to reply.

Mr Gilbey: Well, of course I think we are all aware, Mr Speaker, that a large number of such outlets are in town centres et cetera. I think the best thing is for me to explain the basis of the risk assessments.

The risk assessments identify (a) potential hazards based on the type of food and method of handling, the method of processing, the number of customers at risk; (b) compliance with food hygiene and safety and the state of repair of the structure of the premises; (c) confidence in the management and its control systems. Taking these matters into account, the premises are classified according to the score they attain and then there is a whole schedule of categories with the points range and the minimum frequencies of inspection.

Restaurants and cafes usually fall into either category (a) or (b) and category (a) is an inspection with a minimum frequency of every six months and (b) at least every year.

The code of practice is currently under review by the Food Standards Agency in the UK and of course additional inspections to food premises are made in response to any complaints which the department's environmental health section receives and which it feels merit investigation.

The Speaker: A supplementary, Mr Singer.

Mr Singer: Thank you, Mr Speaker. Could I ask the hon. minister, in order to reduce risk does your department run any voluntary educational courses for food handlers in the manufacturing and retail premises, and if not, do you not think that this would reduce much of the poor practice taking place and be very helpful, obviously, to the customers and to the people themselves who are handling the food?

The Speaker: The minister to reply.

Mr Gilbey: Certainly, Mr Speaker, for years the Department of Local Government and the Environment has run courses and actually given awards for units which come up to certain standards.

I think the hon. member's supplementary question suggests that low standards are widespread. I do not think there is any proof about this at all and I think we should accept that standards of most places in the Isle of Man regarding catering, as regarding most other things, are high and acceptable and it is only a minority of bad operators who sometimes have to be dealt with.

The Speaker: Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I thank the minister for his further reassurances on this important issue, but sticking to the point of the importance with the majority of cafes and restaurants being in the main population centres, therefore would the minister agree with me that those are the establishments that the public are most likely to use if they so wish to eat out, and our visiting trade, and indeed have no choice if they do wish to eat out and therefore would he consider that the category (a) situation of a six-monthly check might not be appropriate in those more frequented establishments and would he agree that a review of the local situation would be a good idea and increase these minimum visits?

The Speaker: The minister to reply.

Mr Gilbey: I see no reason whatsoever to increase the minimum visits. As I have said, the code of practice is under review by the Food Standards Agency in the adjacent isles. If they have new suggestions we shall look at them.

The hon. member seems to keep suggesting that there are mistakes being made by a number of catering establishments. I think if he has proof of this he should let his colleague, the hon. member for North Douglas, Mr Houghton, know of this, or officers of the department, and they will take it up, but I think these suggestions of low standards are not justified by any information which the department has, but if he or other members have information which shows there are low standards the department would be very pleased to receive that information.

The Speaker: A final supplementary, Mr Singer.

Mr Singer: Thank you. First of all could I ask the hon. minister to withdraw his comment that he thought that I said that standards were low. I never said such a thing, so perhaps he would like to withdraw that to start off with, and secondly, does he not think therefore, and he does not seem to think, that we can be improving standards at all stages, particularly when new

people are coming into the trade? Perhaps he would like to tell me or certainly let me have the information, how many courses his department have run over the last 12 months and how many people have attended, so that might give us some guide as to how important his department find this food hygiene.

The Speaker: The minister to reply.

Mr Gilbey: Certainly I am not going to withdraw anything, Mr Speaker, because the hon. member's question had the clear innuendo that there was a big problem regarding this, and I think all too often we make statements which can undermine public confidence, not only the confidence of our own residents, but at this time a confidence which is very important and that is of our visitors and I think we should be very careful to make it clear that we do not have low standards, we have very high standards in this and most other things.

Now, regarding the courses, I did not come prepared to answer how many courses that we arrange because that is not actually part of the question. However, I can say that I know that over the last 10 years there have been courses because when I had the honour to serve in a department some 10 years ago there were courses and awards being given, but I am certain that the hon. member for North Douglas, Mr Houghton, will be very pleased to give detailed information to the hon. member regarding the number of courses, but we do regard them as satisfactory, and I would also say that the number of courses alone is not a sign of the importance we put on this matter, it is our total policy regarding food hygiene and food health which we regard as extremely important.

Rodent Extermination Service – Question by Mr Henderson

The Speaker: Question number 4, 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:

Does your department's rodent extermination service extend to agricultural land suffering infestation, and, if so -

- (1) what poison is used and how is it distributed;*
- (2) is the area inspected at regular intervals following the placing of such poison; and*
- (3) what are the side-effects on any animals or birds which may come into contact with or consume a poisoned rodent?*

The Speaker: The minister to reply.

Mr Gilbey: Mr Speaker, the department's pest control section has been treating agricultural land for many years, usually at the request of the landowner or occupier where the tenant manages land.

The position that is currently being used by the department is Deadline ready-to-use anticoagulant bait, approved under the Control of Pesticides Regulations 1986 as supplied to the UK. Deadline is manufactured by and purchased directly from Rentokil in the UK. Deadline longtail and mouse bait is a whole wheat impregnated with 0.005 per cent bromadiolone, a second generation anticoagulant which, when consumed by rodents, reduces the clotting abilities of the blood so that internal and external haemorrhages occur.

The department's six pest control officers are fully trained in the handling and laying of rodenticide and are instructed and are familiar with their duties and responsibilities on the health and safety legislation.

The department carries out pest control treatment to eradicate rodents on agricultural land upon request by the landowner. Rodenticide is placed directly into active long tail holes and the hole is then covered over. After the initial treatment a minimum of two follow-up treatments are necessary to ensure that all rodents receive a lethal dose, known as the saturation technique, as sub-lethal doses may lead to rodenticide resistance. Follow-up treatments are also necessary to remove and bury any rodent corpses discovered and to remove any surplus rodenticide that has not been eaten by the rodents.

The side-effects of secondary poisoning where the predator animal consumes a poisoned rodent are difficult to assess definitely. The main reasons for this are as follows. Firstly, the physiology of each species can be very different and therefore the effect the rodenticides have will also vary considerably. For instance, the same quantity of rodenticide may be a lethal dose to a barn owl but not to a kestrel. Similarly there is no definitive dose that can be prescribed for a rodent, which is why the saturation technique described previously is adopted to ensure that the lethal dose is delivered, both for humane reasons and to prevent resistance to the poison.

Secondly, the risks of secondary poisoning relate to the non-target species present and whether they are predominantly scavengers. Consequently it is more likely that they will pick up poisoned carcasses or weak individuals that are dying or predators that kill animals that have ingested poison but not yet died.

Thirdly, the department is not aware of any particular problems caused by secondary poisoning and is of the opinion that the effect is much less than would be the case if long tails were left uncontrolled to eat eggs and young birds.

The Speaker: A supplementary, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I thank the hon. minister for his lengthy and detailed answer, but I have to agree with the minister that of course rodent control is very important. What I am interested in is the side-effects which the hon. minister could not allude to, and specifically, could the hon. minister elaborate if he can as to whether a rodent which has ingested this particular poison, that poison becomes inactive after that rodent has died, and is he aware that there are dangers to family pets and so on if they eat such bodies, and also would his department be prepared to examine the side-effects whereby if a rare bird such as a peregrine falcon ate one of these particular rodents, would that cause that particular rare and protected bird to die? Thank you, Mr Speaker.

The Speaker: The minister to reply.

Mr Gilbey: Well, as I have said, Mr Speaker, there is no certainty as to the effect of poison on various species of birds or animals. Furthermore, of course, it all depends how big a dose they receive and all kinds of other things. But I think the hon. member is a member of the Department of Agriculture, Fisheries and Forestry and he will be aware that his department, together with our department and the safety inspectorate, are working to develop a certified training course for farmers in pest control with a view to providing free bait to those who attend the course and maintain safety practices in dealing with the problem.

Basically, all our practices, those of our inspectors and those that we shall include in the training for farmers, include steps to try and stop other species being poisoned, but I think we have to be blunt: you can never be sure that this will not happen. But I am sure that hon. members will agree that the most important thing is that we keep control of and hopefully gradually reduce the long tail population of this Island which is far too big and which could well do with being reduced. I should also mention that long tails are a particular threat in the spreading of foot-and-mouth disease if we were unfortunate enough to get that plague on this Island.

The Speaker: A supplementary, Mr Downie.

Mr Downie: Thank you, Mr Speaker. I would just like to ask the minister if he would agree that the secret to efficient and proper rodent extermination lies really in the hands of properly trained operatives who are fully aware of all the wildlife implications and at the present time it would be totally wrong to allow access to a lot of the chemicals and materials used for the extermination of rodents, and that would present us with even more problems than we have at the moment in trying to eradicate rodents which have a harmful effect on this Island.

The Speaker: The minister to reply.

Mr Gilbey: As the hon. minister is well aware the idea would be that farmers would only be supplied with these baits if they had undertaken a suitable course.

The Speaker: A final supplementary, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Could the hon. minister agree with me that I am not questioning the fact of rodent control - I believe that is a necessity and very important for this Island - and I am not questioning the training? That is also important for this Island. What I am concerned about is that one particular issue with poisoning a large area with rodent infestation is the side-effect of that poison to another animal which may consume that body. Could the minister agree that if he has not got the technical scientific data there, he would agree to circulate that to members of this House at another more appropriate time so that we may be able to assess ourselves the likelihood of the danger to protected and rare species of our Island's natural heritage?

The Speaker: The minister to reply.

Mr Gilbey: I think the answer to this, as I have said, Mr Speaker, for the reasons that I have tried to explain but obviously not clearly enough, is that it all depends on the circumstances. So there is no fixed scale or anything, but I think I could put it the other way. Obviously the hon. member is worried that other species are being poisoned. Perhaps he could give our officers or me or his hon. colleague information that he has regarding this or fears that he has, so we can investigate it.

State Retirement Pension – Civil Servants – Question by Mrs Cannell

The Speaker: Question number 5, hon. member for Douglas East, Mrs Cannell, to ask the member for Health and Social Security.

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

When can a former civil servant expect to receive their state retirement pension, bearing in mind the compulsory age of retirement of 60 years for members of the civil service?

The Speaker: Mr Rimington to respond.

Mr Rimington: Thank you, Mr Speaker. The state retirement pension is payable on the basis of national insurance contribution conditions being satisfied and on attainment of the state pension age. That age is 65 for a man and 60 for a woman. Between 6th April 2010 and 5th April 2020, state pension age for a woman is being extended in monthly steps, so that from 6th April 2020 onwards, it will be equalised at age 65 for both men and women. Mr Speaker, there is no retirement condition to qualify for a state pension, so the age at which an individual actually retires from work is a matter for him or her to decide and not a matter for the Social Security Division of this department.

The Speaker: A supplementary, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Is it acceptable to the hon. member and the department that a civil servant, when retiring at age 60, may have to claim benefit until they attain the age of 65 when the state pension becomes payable? Is that a satisfactory situation to be in?

The Speaker: Mr Rimington to reply.

Mr Rimington: Thank you, Mr Speaker. Although I am not the person with special cognisance of the terms and conditions of the civil service, I do understand that what was previously a compulsory retirement is now no longer so and that retirement is not necessarily at 60 and can be decided upon by the individual concerned and by the appropriate department. But, in terms of the actual question, if a member of the civil service retires at the age of 60, then they have their occupational pension, they have their civil service pension, to rely on in the intervening years, if they are a man to the age of 65. If they so wish, and there is no obligation to do so, they can find employment in those intervening years to boost their income until the state pension age of 65. So if on the occasion that such an individual does not have a sufficient occupational pension, perhaps for reasons of not actually having worked for a sufficient length of time to acquire such pension rights, and that person is unable to find other employment, and that person in general has insufficient income to live on, then obviously the Social Security Division has a range of benefits, et cetera to ensure that person is sufficiently catered for.

The Speaker: A supplementary, Mr Cannell.

Mr Cannell: Yes, thank you, Mr Speaker. Would the hon. member for Social Security not agree with me that the retirement age at 60 is not the exclusive preserve of the civil service and that those who enter that valuable occupation are well aware of the terms and conditions which apply to that and indeed the Civil Service Commission, although not the preserve of the hon. member, does now, I am sure he would agree, make it quite clear that there is a flexible opportunity for retirement which can be discussed?

The Speaker: Mr Rimington to reply.

Mr Rimington: Thank you, Mr Speaker. Yes, I would just like to concur with the comments by way of a question by the hon. member for Onchan, Mr Cannell, in that there are opportunities and people take employment knowing the situation that they are in.

The Speaker: Supplementary, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Does the hon. member agree with me, or is he aware, in view of the comments made to my original question, that a member of the Civil Service must first receive their line manager's agreement before a request to stay on working longer can even be considered? Does he think that is fair? Further, is he aware that civil servants who will be attaining the age of 60 in a year to two years time have been advised that they must go and that there is no flexibility afforded to them? If he is concerned about the issues which I have raised with him, will he please take it up with his minister together with the Civil Service Commission?

The Speaker: I doubt whether this question is within the terms of the question but you may wish to answer.

Mr Rimington: Thank you, Mr Speaker. I was probably going to make the point that you most correctly made that my responsibilities are for the state pension and not for the Civil Service and the pensions thereof. Although I have tried to be helpful in the answer earlier, in terms of what takes place in the Civil Service, it is not my area of expertise and such matters ought to be addressed to the appropriate person. (**Members:** Hear, hear.)

New Hospital – Electrical Work – Compatibility with British Standard Requirements – Question by Mr Houghton

The Speaker: Question number 6, the hon. member for Douglas North, Mr Houghton, to ask the member for Health and Social Security.

Mr Houghton: Thank you, Mr Speaker, I beg to ask the Member for Health and Social Security:

Is your department completely satisfied that all existing electrical work undertaken at the new hospital has been carried out by qualified electrical technicians and that the materials used are compatible with British Standard requirements for public buildings?

The Speaker: Member for Health to reply.

Mr Karran: Vainstyr Loayreyder, the answer is yes, based on the following assurances that the department have received from the design and construction team and that the staff involved with the electrical installation works have got the appropriate grade. The department has received assurances from the design team that the specific materials used in the electrical installation comply with and meet the requirements of the relevant British standards, including the latest, i.e. wiring regulations.

The Speaker: Supplementary, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. Can the member make any comment therefore on why his department's design and construction team do not seem to be aware of the identity of those individuals who are currently undertaking technical electrical work? How are they going to account for sub-standard work which may come to light in the future sir?

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, we have letters on file saying that the standard of installation of the electrical infrastructure is consistently of a high standard. That is from one of our commissioning team. At the end of the day, as I have said on many issues relating to the health services, I need facts and proof as far as these things are concerned, in order to be able to then argue it. It is very difficult to pin things down when it is in jelly form. It is hearsay and that is the problem I have, Vainstyr Loayreyder. If the hon. member has facts, I would be very happy to see them.

The Speaker: Mr Henderson, supplementary.

Mr Henderson: Thank you, Mr Speaker. Could the hon. member agree to solidify his jelly a bit more, perhaps, and reconsider his negotiations and talks with the various staff he met with the other week, off site, and they may be able to give him the information he seeks.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, the issue that the hon. member talks about was to do with terms and conditions of employment. It was not to do with the standards of work on the site. What I have asked for and what I think is important, is that we do not allow a situation in this hon. House - we need the facts. We have got a commissioning team, a design team that have put pen to paper and have said that they are happy. There has been an issue that was raised about persons not being suitably qualified with regard to doing the basic electrical work, but the situation is that if they are under the right supervision, then there should not be any problem. Just like when we used to do the basic shuttering work, it was not always done by a qualified joiner. But I do think it is important that if there are facts that the hon. member has and wants to give us, our door is open, Vainstyr Loayreyder.

The Speaker: Mr Rimington, supplementary.

Mr Rimington: Thank you, Mr Speaker. Does the hon. member with responsibility for health sometimes wonder if there is a contradiction in his responsibilities, that he is answering questions on minute detail on building work, instead of on the provision of health services?

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, I would defend the right of every individual member in this House to ask questions (**A Member:** Hear, hear.) As far as I am concerned what one member sees as trivia is an important issue to others even though, I have to be honest with you, I do have a bit of sympathy with what the hon. member for Rushen is saying on these issues. The door is open at Crookall House. I know that many in this hon. House may be frightened to go in the door in case they might up with a job as member for Health, but I can assure you that we will let you out. If there is a problem as far as any issue on Health Services, a good MHK picks everybody else's brains and if there is a problem, the door is open up there.

Nursing – Agency Nurses – Payment – Question by Mr Houghton

The Speaker: Question number 7, member for Douglas North, Mr Houghton, to ask the member for Health and Social Security. Mr Houghton.

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

How does your department account for the payment of agency nurses and how do these agencies charge the department for the provision of ad hoc services?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I can advise the hon. member that the department's accounts for the payment of agency nurses is in the same way as other creditors for goods and services. The agency with whom the nurse is affiliated invoices the hospital for the work undertaken, Vainstyr Loayreyder.

The Speaker: A supplementary, Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker. Can the member confirm whether agency nurses are paid at a higher rate than his department pays? If that is so, does he not agree that the system is unfair and is he not therefore surprised that nurses would rather work for an agency than be employed by his department sir?

The Speaker: Mr Karran to respond.

Mr Karran: Vainstyr Loayreyder, I think the hon. member is quite right. There is a large difference between working as an agency nurse and working for the Health Services and obviously it is in the department's interest to get as many people to work on the books in the hospital. There are issues why in some cases that is not possible. There are other issues which the next question has some bearing on but members have to remember of course that when they are getting this agency payment, there is no long term commitment from the department as far as pension provisions, sick pay and other issues which are part of the equation. So it would depend on what sort of level the hon. member allows for sickness benefit and also the fact of the loss of any right to pension.

The Speaker: A final supplementary, Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker. In view of the hon. member for the department's concerns, therefore, would he set up an enquiry into this anomaly and publish the findings, together with any recommendations, of such an enquiry panel that they may make before the nursing service goes into further decline, sir?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, again, as I have said before, I am quite happy if the individual would like to have a meeting with me and the divisional head of the Health Services and we can discuss any of his concerns, like any other member in this hon. House. I would be a little bit concerned about the nursing decline I think sometimes. . . I am not happy, I have to be honest with you, I would like to see the hospital a lot happier place, but it seems to be a modern trend in most workplaces that people are not as satisfied as they used to be. I think the issue has to be raised that we are talking about less than 5% of the total annual nursing salary costs at the present time when we talk about agency nurses, but it is an issue that needs to be looked at. But I must clarify that the difference, there has to be a large recognition with regards to pension rights, sickness rights and holiday rights which are all out of the equation when they are getting this pay.

Nursing – Rotation of Staff – Question by Mr Braidwood

The Speaker: Question number 8, the hon. member for Douglas East, Mr Braidwood, to ask the member for Health and Social Security.

Mr Braidwood: Thank you Mr Speaker. I beg to ask the Member for Health and Social Security:

During the last few years has your department introduced greater flexibility into the organisation of internal rotation arrangements for nursing staff employed in Island hospitals?

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, the department has encouraged the practice of internal rotation for some time in the nursing profession. The movement of staff between day shifts and night shifts and through various areas of the hospital has been seen as good practice for many years. It is a way of supporting nurses in their professional development, ensuring that they have the opportunities to experience the whole range of activities which contribute to patient care. However, in recent times the department has recognised that a more flexible approach is needed to be adopted to ensure that patients and staff needs are matched with those individual nurses, thus allowing a change between the work and home-life balance. The hospital service has adopted a more flexible approach. The department recognises the flexible, caring approach to this subject so that they can accommodate different aspirations of the work/life balance and create a richer balance of skills and experience. As a result nurses are encouraged to discuss their personal needs with nurse managers where possible, where we can accommodate their requirements. If there is a problem, Vainstyr Loayreyder, this is an issue that we have been keen to try and address for some time and I thought we had sorted it out. But if the hon. member has specific concerns, obviously not in this chamber, I would be more than interested to see where the problems are.

The Speaker: A supplementary, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I thank the hon. member for Health for his reply but in a similar question on 27th October 1998, he was saying that the management were flexible. Could he advise what flexible approach have the management made to recruit staff who have left to start families and would like to return to the nursing profession but cannot because they either want just day duty or just night duties?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I believe that you will find that the position should have changed out of all recognition from being forced to do day duties or night duties. The only issue now that has any effect, or should have any effect, is the issue that they have every so often to do day duties in order to keep up their standards for patient care. But I think you should find that the situation has improved out of all recognition. If it has not improved out of all recognition, then I

am disappointed that we have to take a question in this hon. House about this issue, because it should have been sorted out long ago.

The Speaker: Mr Henderson, supplementary.

Mr Henderson: Thank you, Mr Speaker. Would the hon. member agree with me that this was one of the most important issues raised at a nurses meeting which filled out the Postgraduate Medical Centre in 1998 and could he confirm that the flexibility he speaks about now would mean that if a nurse or a member of staff was finding night duty difficult, or day duty or one or the other. . . that they could be exempted from internal rotation and would he also agree that some night staff can indeed continue to do permanent night duty and keep their professional updating topped up as and when needed? And that this myth of having to do this rotation per se is just that, a myth?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, as far as this internal rotation and the issue is concerned, I know of staff who are on permanent nights. As far as I am aware, there is not a problem, but I think it is important that members of this hon. House, if they have got a problem, the first port of call, where it is an individual issue, not a national issue, an individual issue, is to the Health Services. If there are wards where there is a problem, then I would like to know about these wards. I cannot deal with issues if I am not informed of them. I try to make sure that I am as flexible and as approachable as possible. If individual members have got concerns, then I would like to hear them, because I do not want to be classed as a bad employer via Markwell House.

The Speaker: Mr Braidwood, a supplementary.

Mr Braidwood: Thank you, Mr Speaker. The hon. member for Health has mentioned the more flexible approach to internal rotation, but could he advise this hon. House through the Joint Consultative Committee if creche facilities are to be introduced which would also help the recruitment of nurses?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I have argued for creche facilities, I want creche facilities. I believe that it is a good facility to have. I wanted one on the hospital site, but I am told by my professionals that there is no need for creche facilities. I am told by my people they do not want creche facilities. One of the issues that they said would be of benefit was maybe some sort of summer club for the children. There was little interest, but some interest in the issue of an after school facility, but there was no interest as far as. . . There was a document, as far as I am aware, circulated asking the nursing staff about creche facilities because I actually agree with the hon. member. I think it is important for other areas because it must be very, very difficult for parents with young children. It is nearly impossible if you have got babies to be able to go back to work. It is all well and good saying that mothers should be at home, but when we do nothing about the housing crisis (*Laughter*), mothers have no choice but to go out to work in order to pay off mortgages that are at an extortionate rate.

Small Industrial Units – Encouragement of Town-Based Workshops Etc to Relocate – Question by Mrs Cannell

The Speaker: Question number 9, hon. member for Douglas East, Mrs Cannell, to ask the Minister for Trade and Industry. Mr Shimmin will reply in the minister's absence. Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker, I beg to ask the Minister for Trade and Industry:

Have you considered the provision of small industrial units at an economical rent to encourage town-based commercial workshops, garages etc, to relocate out of Douglas residential areas?

The Speaker: Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. As hon. members may be aware, the department has been involved in several developments of small industrial units over the years, both on its own and through support for others. These developments have been undertaken to encourage industrial development and diversification and have also recognised the need to encourage regional economic activity. The department recognises the need to address the problems highlighted by the question and while we sympathise with those affected by these problems, I have to make it clear that our remit has never been to encourage the relocation of businesses for reasons to do with either environmental improvement or urban regeneration, which are fundamentally planning issues. I am advised that the Department of Local Government and the Environment is looking at ways of encouraging the relocation of commercial activities as part of the current policy round and this seems to the department, in the first instance, to be the correct and most appropriate way of tackling the issue.

The Speaker: A supplementary, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Would the hon. member for the Department of Trade and Industry agree with me that there is a clear conflict in terms of persons wishing to operate their industrial businesses without complaint and hindrance and residents wishing to live in peace and that the mix at present, with the likes of mechanical, electrical, woodwork and mini-meat plants, interlaced within residential areas is a recipe for disaster and continued conflict? The problem is getting worse and would it not be helpful for the hon. member to agree with me that such relocation opportunities ought to be afforded by the Department of Trade and Industry working with other departments to achieve this aim, a carrot and stick approach, working together?

The Speaker: Mr Shimmin to reply.

Mr Shimmin: Thank you, Mr Speaker. I think all hon. members are aware that this does cause problems in small localised areas where these undertakings do take place. The department has no funding available for these sort of activities but I would agree with the member that discussion and dialogue between the various government authorities involved would benefit to try and tackle a problem which is only going to increase in the future would be worthwhile. I would propose that following further discussion of this with the member, I will be taking back to the department to engage in further consultations, not only with the Department of Local Government and the Environment, but also those Government departments who have large land banks within their own authorities and areas in which case we could possibly identify areas. There will always be a difficulty however. If we were to use this as means of financially encouraging people to go outside of their existing premises, then we would have to look at the commercial competition element that this would introduce.

The Speaker: A supplementary, Mr Bell.

Mr Bell: Thank you, Mr Speaker. Mr Speaker, the hon. member referred in his answer to the DTI's policy of stimulating regional economic activity. Could the hon. member give us some indications of what steps the Department of Trade and Industry have taken to encourage small businesses, perhaps to relocate in areas such as Ramsey, where the commercial buildings tax allowances are now available and would be appropriate for a number of Douglas commercial enterprises to remove to.

The Speaker: Mr Shimmin.

Mr Shimmin: Yes, Mr Speaker. Certainly the department have been involved in considerable amounts of work in the Ramsey shipyard area as well as other developments in Jurby and the brickyard site in Peel. The difficulty arises that although the department understands this problem, and it does seek to help the businesses looking for suitable premises whether they fall under the remit or not, in many cases this help cannot be financial. We use the officers' knowledge and experience of building land availability but until such times as a scheme is available for actually funding these opportunities and making it a priority within the department, we at present are unable to financially assist certain activities, sir.

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I would just like to ask the hon. member if he will, when taking it back to his department and taking up discussion with myself and I dare say other hon. members of this House, that he also takes it up with Treasury at the various earliest opportunity (**A Member:** Hear, hear.) so that Treasury can also look at a possible financial package and help constructively with the matter and may I, sir, just put on record my appreciation of the member's helpfulness this morning and his genuine concern over the matter (**A Member:** Hear, hear.) I thank him.

The Speaker: Mr Shimmin to reply.

Mr Shimmin: Despite rumours, Mr Speaker, I have not joined the APG, however I thank the hon. member for her comments. (*Laughter*) I would agree however, Mr Speaker, that it is the department's view that if the Department of Local Government and the Environment are pursuing these sort of policies and they do result in the need for additional funding, then obviously discussions with Treasury would be forthcoming from either DLGE or DTI or a joint approach, sir. I think it is necessary that, should any costs be included in any new policies, that Tynwald in turn fully understand the cost implications when considering any scheme. Thank you, sir.

The Speaker: A supplementary, Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. Would the hon. member not confirm, although he has to a small degree already done so, further that there are two obstacles to the possibility of relocation and these are not only as the hon. member for East Douglas has said, but mainly based on the total inability of such small companies and small operations to actually obtain suitable finance to be able to relocate and to be shut of some very unsuitable premises within town locations but also that it hits the more serious blockage frequently of trying to get some planning for the preferred locations.

The Speaker: Mr Shimmin.

Mr Shimmin: Yes, Mr Speaker, we are all aware of the difficulties to residents in these areas and also, likewise, the difficulties for the small business operations. Many of these to relocate would find it very difficult financially to do so. When the DTI do undertake the development of industrial units, the subsequent rental arrangements with tenants are dealt with on a commercial basis. This is related to the capital costs of the project. That means that currently any progress that the department makes are not necessarily any cheaper than units provided by the private sector. As the value of land within urban areas, where residential units currently exists, has developed, certainly the carrot and stick referred to by the member for East Douglas, Mrs Cannell, is one which is going to be a potentially expensive and difficult challenge for the departments and indeed, ultimately, Tynwald, to see whether they will authorise monies for such operations. There is the need for urban regeneration to free up some of these areas. However, we do need to identify the land and, as with housing, make it affordable, sir.

The Speaker: A supplementary, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the member not agree that the time has come for some sort of inter-departmental approach, firstly on planning over this issue and the fact that we should be trying to get our industrial facilities away from South Quay like some have raised with DoLGE a number of years ago; the likes of the issue of sites such as in my former constituency of Middle in Union Mills where government has facilities lying empty and unused for years where it should be used and maybe to help small business; and on the third aspect on making sure that the Business Premises Act 1953 is totally reviewed because it is absolutely out of date and is not worth a carrot as far as protecting legitimate businesses in this? Would he maybe consider his department looking at trying to get all the other departments to do their job in order that we get joined up government?

The Speaker: Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. An oft repeated claim or request for government departments to work together. Certainly we all attempt to do so and if the solution was easy it would have been found by now. Certain areas that the previous speaker has commented upon are already being actively progressed by the Department of Local Government and the Environment in my understanding. It is an anomaly when areas are seen to be lying empty that could be utilised for such purposes. The difficulty does however come through the planning process of identifying areas of land which are not often met with fierce opposition from local residents on different grounds than possibly within their area for commercial or industrial base but are areas that they do not see wish to be developed in that way with all the ensuing associated movements of vehicles, noise et cetera. I am sure that the planning authority are fully aware of the difficulties and would love to solve this difficulty. I do believe that there is ground for the departments of government to work together more closely. We will endeavour to do so. However, I think it is necessary for this House and another place to realise that anything which we propose will have a financial implication and also as I have mentioned will have an impact upon the commercial competitiveness if we were to encourage businesses at subsidised rentals to move out from their current locations. We have to make it attractive for them but we also have to ensure that they are not then unfairly competitive with other jurisdictions of work in the same area, sir.

Standing Order 43(3) Suspended to Allow Completion of Question Paper

The Speaker: That completes question number 9. In accordance with standing orders Question Time comes to an end at 11 o'clock. However, I invite the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker I move that standing order 43(3) be suspended to allow the question paper to be completed especially as one of the questions is mine.

Mr Cretney: I am delighted to second on the basis that one of the questions I am about to answer is mine.

The Speaker: Hon. members, the motion before the House is that standing order 43(3) be suspended to allow the question paper to be completed. All those in favour please say aye; against, no. The ayes have it. The ayes have it.

Villa Marina Refurbishment – Electrical Contract – Question by Mr Houghton

The Speaker: Question number 10, the hon. member for Douglas North, Mr Houghton, to ask the Minister for Tourism and Leisure.

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

With regard to the refurbishment of the Villa Marina -

- (1) *has the electrical contract been awarded to a local contractor; if not*
- (2) *did any local contractors tender for the work;*
- (3) *does the contract stipulate that materials must be purchased through local suppliers and if not, why not?*

The Speaker: The minister to reply.

Mr Cretney: Thank you, Mr Speaker. At this stage in the process no contracts have been awarded by my department in respect of the main Villa Marina refurbishment scheme. As hon. members will be aware before any contract is awarded for a government capital project, the project and the related expenditure has to be approved by Tynwald. I intend to do this at the July sitting. I can advise that the project has progressed to tender stage in accordance with governments capital procedure notes which form a directive within the financial regulations issued by the Treasury. In accordance with those procedures the electrical sub-contract which has a value of just under £1 million will be let on a named domestic basis. Applications were invited for inclusion on a select tender list by advert in late 2000 and early 2001. A total of nine contractors were initially considered of which four were Isle of Man companies. As the process of selection progressed two of these contractors, one local and one from the UK withdrew their interest. All of the remaining applicants were assessed by the design team in order to ascertain their experience and resources to undertake a job of this scale and complexity. As a result of the selection process the design team recommended six companies for inclusion on the select tender list. Two of these were local companies and four from the UK. This recommendation was accepted by my department. Again in accordance with the standard procedures, the six companies were invited to submit tenders. However, during the tender period one of the two local companies decided to withdraw because of the heavy work commitments it had already entered into. As a result my department received only five tenders one of which contained a substantial error and was later withdrawn by the tenderer. The lowest of the four valid tenders was received from an off-Island contractor. The one local contractor who returned a tender submitted a price £80,000 more expensive than that. If I can then turn to the final part of the question, the whole issue of local supplies is addressed in the report of the Council of Ministers on the review of the administration of government's construction contracts issued in January 1993. This provides amongst other things that contractors shall wherever possible ensure that local labour, tradesmen and services are employed and that quotations are obtained from local suppliers and/or producers for all goods and materials. All tenderers have committed themselves formally to compliance with that recommendation along with the rest of the report and, in addition, at a post-tender interview the lowest tenderer reaffirmed compliance. In addition to this the contractor has specifically agreed in writing in his tender that, and I quote, 'We undertake to give preference wherever reasonable to local Isle of Man labour, tradesmen and services and to use materials from Isle of Man based producers and/or suppliers provided that they comply with the specification and are readily available at competitive prices.'

The Speaker: Mr Houghton, a supplementary.

Mr Houghton: Yes, thank you, Mr Speaker, and I thank the hon. minister for his comprehensive reply but can he state whether he is in agreement that in this case a substantial local contractor was denied such an important contract for a mere £80,000 which will undoubtedly have a consequential effect on post-contractual obligations and can he also give an assurance that he will follow up that as much material as possible will be purchased from Isle of Man suppliers, sir?

The Speaker: The minister to reply.

Mr Cretney: Yes, in respect to the final part of the supplementary, Mr Speaker, I am delighted to confirm that we will be seeking to ensure that the contractor obtains as much from

the Isle of Man as is possible. It is in everybody's interest for that to happen here. (**A Member:** Hear, hear.) In relation to the first part, I do not consider that £80,000 is a 'mere £80,000'. £80,000 is a lot of taxpayers' money and I think at the end of the day we have an obligation to be aware of that.

Education – Introduction of AS Level Examinations – Views of Department, Teachers and Students – Question by Mr Singer

The Speaker: Question number 11, the hon. member for Ramsey, Mr Singer, to ask the Minister for Education.

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

In relation to the introduction of the 'AS'-level examinations during this academic year, what are the views of -

(1) your department;

(2) the teachers; and

(3) the students?

The Speaker: The Minister for Education.

Mr Rodan: Thank you, Mr Speaker, and I thank the hon. member for his question. The introduction of the advanced subsidiary or AS-level examinations in September last year brought in perhaps the biggest change in post-16 education since the introduction of A-levels in the 1950s. It may be helpful for members to be aware of the reasons for the introduction of this advanced subsidiary level. It encourages 16 to 19-year-old students to study a wider range of subjects, giving breadth and balance to their study package. It encourages young people to stay in education, in fact to go into sixth form study. It provides a one year sixth form course for some students and together with the new UCAS tariff which is the university points system the advanced subsidiaries will improve access to higher education for some students and encourage life long learning. In seeking to achieve these benefits the advanced subsidiary level has introduced a totally new qualification. It forms the first half of an A-level but is also a stand-alone qualification, the standard of which lies between GCSE and A-level. It is this new standard, somewhere between the two existing qualifications, that has made the introduction of the AS-level difficult and has often resulted in a high workload for the students. I can personally vouch for that as that is the situation in my own family at the present time, as I know it is with the families of other hon. members of this House. I believe that the views of the department, the teachers and the students on the increase in workload for AS-level students is identical. Our year 12 students this year have had greater demands placed on them than any previous group. This has happened throughout England and Wales as well as in the Isle of Man. The students are following more subjects than in previous years, typically four AS-levels rather than 3 A-levels, often in addition to general studies and the new key skills awards. Because the AS is a totally new qualification it is quite impossible for teachers to judge the standard of the new examinations despite a considerable inset programme that has been organised to support teachers. Indeed it is only when the examining boards have awarded grades to large numbers of students this summer that the new AS standard will begin to become clear. As a result teachers have, perhaps understandably, erred on the side of caution sometimes asking students to work at full A-level standard in more subjects than in previous years. These are teething problems that appear to be inevitable when introducing a qualification that is entirely new. When the standard of the new qualification becomes clear, teachers will feel more confident about teaching to that standard and the workload placed on students will, I suspect, then become more reasonable. In the meantime members of this House will, I am sure, recognise the hard work put in by our teachers in delivering the new courses and should congratulate our young people who have risen to the challenge of this new qualification and who

have been working so hard. This hard work is of course not wasted. We and they can be confident that their efforts will pay real dividends in terms of their achievement in the months and indeed years ahead. As to the reference to increasing the number of university entrants, it does remain the aim of the Department of Education to promote life long learning for the people of the Isle of Man. Education is vital to the future of this Island, its people and its economy. The AS-level can help to open doors to further and higher education for numbers of students. The new UCAS points system for entry into higher education credits AS-levels as equal to half of a full A-level and is expected to be used by perhaps 70 per cent of universities when it comes into force in time for university entrants in 2002. Again this is a development that is welcomed by the department, teachers and students.

The Speaker: A supplementary, Mr Singer.

Mr Singer: Can I thank the hon. minister for his detailed answer, Mr Speaker, but concerns have been expressed to me from parents and pupils that they feel that the, if I can use the term, 'middle of the road students' are feeling rather demoralised at this switch to such an intensive examination regime which does not give time for the pupils to mature from GCSE to this level of examination over a period of time nor does it allow the extra-curricular activities and work normally undertaken by A-level students. Is this a concern that is equally felt by the department and the head teachers?

The Speaker: The minister to reply.

Mr Rodan: Yes, Mr Speaker, I think I do share the concerns of the hon. member in respect of the time that is of necessity being devoted to these exams and he is correct to say that extra-curricular activity as well as study leave has been severely curtailed but these were features of the fifth form in years past. I am sure when this system settles down there will be more scope reintroduced for those activities and as far as 'middle of the road students' is concerned I do take his point. Of course, previous experience has shown that those students have often not been able to cope with full A-level course and a number have dropped out if you will or left after lower sixth. Now, these changes actually will mean that they will, instead of simply dropping out, have an opportunity to have an AS-level under their belt and it may be appropriate for those students with this, which will be recognised by a large number of higher education institutions in fact, instead of dropping out to get on to higher education and perhaps get on to foundation courses at degree level thanks to these AS-levels but otherwise, Mr Speaker, I take the point the hon. member makes.

The Speaker: A final supplementary, Mr Singer.

Mr Singer: In view of what the hon. minister has just said, would he therefore feel that the drop out rate will be no greater than it was under the previous A-level examinations because the comments that have been made to me is that - from the pupils this is - is they feel more pupils are going to be looking for work because they feel they cannot undertake this intensive examination so perhaps the hon. minister could comment on that? Can I ask him also are there any other recognised boards whose examinations are acceptable for university entrance and whose syllabus is perhaps more balanced than the present AS such as the International Baccalaureate and are you assessing a change at all to another examination board?

The Speaker: The minister to reply.

Mr Rodan: Thank you, Mr Speaker. I do not think it is possible with any certainty to say what likely drop out rates will be. I hope they will be minimal, obviously, and whatever grade is achieved at AS-level will count towards university points system so unlike previous years there will actually be something that students can run with if they are determined to go into higher education. As to other examination boards, the Isle of Man has traditionally used for example the Northern Examination Board and the hon. member refers to the International Baccalaureate.

Now this particular sixth form examination, which is a two year course, has been on the go for a number of years and I am aware is being increasingly recognised by universities. I personally am prepared to keep an open mind on the International Baccalaureate. I am sure the hon. member will appreciate that introducing rapid change is not a desirable thing for teachers or students and with the rapid change of the AS-levels we perhaps just need to pause and reflect. But I am prepared to have an open mind as I know that many within education see that the breadth that the International Baccalaureate offers students is very suitable to certain groups of students - the inclusion for example of, along with maths, two languages. No doubt a number of students in the Isle of Man would benefit from the IB. The hon. member and the House will probably be aware that King William's College has made the decision, from September next year, to have the IB as their sixth form examination and the Department of Education will follow with close interest how that works out. I would also advise that starting this year at least one or possibly two Isle of Man students will have an opportunity to study the IB because of the revival of the scholarship to Atlantic College in Wales where the IB is the preferred method of examination. Thank you, Mr Speaker.

Sub-Post Offices – Permission for Sale of Discounted Bulk Purchases of Postage Stamps – Question by Mr Houghton

The Speaker: Question number 12, the hon. member for Douglas North Mr Houghton to ask the Chairman of the Post Office.

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

Will you permit the sale of discounted bulk purchases of postage stamps through the sub-post office network?

The Speaker: The Chairman of the Post Office, Mr Shimmin, to reply.

Mr Shimmin: Thank you, Mr Speaker. The Post Office has operated a scheme since 1996 where retailers who have registered with them can purchase postage stamps at a discount of five per cent for resale in their businesses. To qualify to join the scheme a retailer must sell stationery, greetings cards or post cards as part of their business and we currently have 50 such retailers registered. The scheme permits for a retailer to choose which post office they prefer to transact business at and if the quantities being purchased are sufficiently large the retailer can apply for credit terms. Approximately £70,000 worth of postage is sold per annum under this scheme. Thirty-three per cent of this business is carried out over sub-post office counters with the post master receiving full credit for the transaction in his or her salary calculation. This is the only scheme in place that offers postage stamps on sale at a discount and no stamps are sold below face value to consumers for use directly for postal services. However, we are aware that obviously postage stamps are available on the open market at a discount and are used by some organisations. The post office does have a further scheme that provides discount for bulk postings by clients who have credit facilities and who use franked services. The discount structure is published and is based on the volume of mail posted and the level of pre-sortation carried out by the customer. The clients taking advantage of this scheme tend to be corporate bodies and each case is managed by the post office account management team. These customers are serviced directly by the post operation and are not transactions that would be appropriate to be carried out at any of the retail units.

The Speaker: A supplementary, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker, and I thank the hon. Chairman of the Post Office for his comprehensive reply this morning. However, in view of serious concerns with regard to the diminishing numbers of transactions undertaken at post offices which is having a detrimental effect on sub-post masters' remuneration, if a future scheme is developed and worked up by the post office will it be extended to the sub-post office network, sir?

The Speaker: Mr Shimmin.

Mr Shimmin: Yes, Mr Speaker. As we have no proposals to do this at present, certainly if that were to come on to the agenda then we would discuss that matter that the hon. member has just spoken about. I would take this opportunity of pointing out that the post office has agreed a substantial amount of investment in the sub-post office network throughout the Island and we would hope that this would encourage a more positive outlook from members of the public to actually use these facilities (**Mr Houghton:** Hear, hear.) and I would urge in full agreement with the diminution of the finances received by individual sub-post offices that anything any hon. members or the public can do to utilise them more fully would actually be a benefit. So anything which attracts business into these areas we would try and support, sir. (**A Member:** Hear, hear.)

The Speaker: A supplementary, Mr Bell.

Mr Bell: Thank you, Mr Speaker. Could the hon. Chairman of the Post Office comment as to whether or not any future discount scheme worked up by the Post Office would also be available to patrons of the North Ramsey sub-post office and could he tell us in fact when it is the intention of the Post Office to reopen North Ramsey post office so the people of Ramsey can take some full benefit of this scheme which is obviously very beneficial to other parts of the Island?

The Speaker: Mr Shimmin to reply.

Mr Shimmin: I thank the hon. member for Ramsey and his colleague for maintaining the issue of North Ramsey sub-post office. It is one which we hope to be interviewing within the next two weeks for that post and provided that an adequate candidate can be found then it would be reopened as soon as possible. Were that to be the case then obviously any transactions which were to be done for the remaining network would include North Ramsey, sir.

Druidale Farm – Proposed Use of Buildings – Question by Mr Karran

The Speaker: Final question, number 13, the hon. member for Douglas North, Mr Houghton to ask the Chairman of the Water Authority, Mr Karran.

Mr Houghton: Yes thank you, Mr Speaker. I beg leave to ask the Chairman of the Water Authority:

What is the proposed use of the farm house and outbuildings at Druidale Farm, Michael?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, the land is on a short lease with a young farmer at the present time. The farm house has been offered to all government departments. We are waiting to hear from different government departments as far as the possible renting of this facility. The issues that have been addressed from youth hostels to a unit for social services or even for a farm house for a young farmer would be a good one but obviously that would depend on the different departments of government recognising the fact that, obviously, the Water Authority is a statutory board and it has not got it hand in the big pot of government as far as finances are concerned. So until there is actually a lease signed by a government department the future of the house is still open to negotiation if the hon. member has issues that he would like to see the house being used for.

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker, I welcome the hon. member's reply for such potential users of that property. Could he just state what social services have shown an interest in this for the potential use for service providers for their division, sir?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, the social services have been very keen as far as this issue is concerned. Obviously the issue of foot and mouth has delayed the uptake as far as this facility is concerned. At the present time they are the only government department that seems to be interested. We would have been interested to see it used for other activities but they are the only department that are interested at the moment.

The Speaker: A supplementary, Mr Quine.

Mr Quine: Thank you, Mr Speaker. From what the chairman has said he appears to recognise the importance of coupling together or keeping together the farm house, the outbuildings and the agricultural land and retaining that as a viable entity. Could I ask the chairman, therefore, has he had any discussions with the Department of Agriculture, Forestry and Fisheries with a view to achieving this objective and making Druidale available as a viable farming entity for an existing Manx farm worker to enter farming in his own right. Have there been any discussions between yourself and DAFF to achieve that objective?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I can get people to take on the land. The problem is that we bought this property in order to secure what is produced on this land in order to protect the most important strategic water supply for the Island. We can actually get people to farm the land to our criteria without having to provide the accommodation. As we are a commercial board, it would be quite unrealistic for us to have a £250,000 capital outlay for maybe £100 a week, if we are lucky, for that farm house. The issue of whether it could be used for a local farmer is an issue that is dear to my heart and in fact his neighbour, the hon. member for Middle, I have supported his proposal for many years as far as we should be buying land for putting the next generation of farmers in because it simply is uneconomic for somebody who has not inherited a farm or won the lottery to be able to go into farming. I believe the state has a responsibility. But the Department of Agriculture and Fisheries are not interested in purchasing this farm for that facility. At the present time the only people that are interested is the DHSS but our door is open.

The Speaker: Mr Downie.

Mr Downie: Thank you, Mr Speaker. Would the hon. member not agree that one of the main reasons for the Water Authority in acquiring this property, this substantial property, was to apply some protection to the water quality and therefore there are severe constraints for agriculture? And could I ask the member that, given the extremely buoyant property market which exists at the moment, would it not make sense to sell off the property and have it reverted to a residence and in a further supplementary, could the member explain to the House today how this property fits with the present policy of the DHSS, bearing in mind that they are already expending millions of pounds in other properties to deal with problem children and problems with delinquency and is he not taking a major risk in seeking to provide services miles and miles away from any other properties or back-up from police or fire brigade or anyone else?

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, I would have liked to have seen the house bought by the hon. questioner's department as far as that is concerned. I do not see it as being in the interest of it just being sold off to some yuppie as far as that is concerned. There is enough done as far as government is concerned with knocking down perfectly good buildings in other areas that would have made perfectly good youth hostels or something for the community. But the issue as far as the DHSS is concerned, that is the reason why I am not prepared to sell the property for them to purchase it at the present time. We want to see a track record as far as that is concerned. Obviously we are one government, even if we are only a small strand of government, and I think we have to allow the DHSS the opportunity and the Social Services the opportunity to

build up a track record before any possible purchase of the site from my authority to the DHSS, but it does lend itself for such a facility in my opinion.

The Speaker: A further supplementary, Mr Quine.

Mr Quine: Thank you, Mr Speaker. Could the chairman confirm that it is perfectly practical for to regulate the nature of farming by a condition of lease in terms of securing the integrity of your water supply and secondly would he agree with me that given the nature and the location of the farmhouse that if this is not coupled to the land and used for agricultural purposes the greatest possibility, the greatest likelihood, is it will become the home of another landed gentry and that is not going to be in the interest of the farming community or this Island as a whole?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, the hon. member is right that we would put restrictions on. We have got people in the agricultural industry at the moment leasing our land. I must say that one thing in the defence of the Department of Agriculture is the amended 1969 Act will help a lot of people, not just us in that industry. I totally agree with him. I do not want to see it just some sort of yuppie pad as far as I am concerned. I would have liked to have seen a young farmer taking this as part of government's commitment for a farm for the future of agriculture, but at the end of the day it is like all the other issues. I am a rated authority. I get people complaining to me that I should be dealing with the acidity of the fish and the cost of money to the authority when it is not an authority's responsibility as far as fisheries is concerned. I have claims that I have to do other issues like fluoride which will have an effect on the cost of the proposed filtration plants when really the real issue that is being addressed is more an accountancy issue of the less cost and less bills from dentists more than the issue of public health is concerned. At the end of the day my authority has got an open door. The door is open. At the moment the only people who have shown any interest is the Social Services Department. If we can get a lease signed up sooner rather than later we would be very happy to go ahead with it, but if the member for Ayre can get the other government departments maybe to look at the possibility of using this as a starter unit for a farmer starting off in the industry we would be happy to do so. But I cannot as a rateable authority allow a quarter of a million pound facility to yield £100 rent at the present time. That would be irresponsible for my authority to do so.

The Speaker: I am not allowing this to become a complete debate. Mr Cannell.

Mr Cannell: Yes, thank you, Mr Speaker, a supplementary if I may. Would not the hon. Chairman of the Water Authority, who coincidentally of course is a valued colleague on the DHSS, not agree that there is substantial evidence that the clients who we have to actually deal with as social services, can be shown to be extremely beneficial from having the use of a facility such as is proposed to be leased by my division?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I hope that we can get a lease signed sooner rather than later. There was a problem with the chief executive telling us that he did not want the facility. The Director of Social Services clarified that that was not the case and I am hoping that a negotiation for a lease will be speedily resolved as far as that is concerned.

The Speaker: I will take three more supplementaries, Mr Houghton, Mrs Cannell and Mr Corkill. Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker. The hon. member mentioned that he operates a commercial board. Will the farm therefore go out to public tender when he finalises his arrangements with either Social Services or another provider, sir?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, it will go out to tender. The land will go out to tender with the out-buildings with the restrictions that have been mentioned by the hon. member for Ayre as far as safeguarding the quality of the water in the reservoir that adjoins this property.

The Speaker: Mrs Cannell, a supplementary.

Mrs Cannell: Thank you, Mr Speaker. Prior to this issue actually going out to tender and bearing in mind the hon. member has said that his preferred use would be for as continuation as a farm and farm land, will he visit the Department of Agriculture, Forestry and Fisheries again please. I believe their door is open also, but if both doors are open and nobody is prepared to meet in the middle then the situation will not get resolved. Will he first go back to the Department of Agriculture, Forestry and Fisheries? Will the Department of Agriculture, Forestry and Fisheries go the Water Authority and please try and resolve this situation for the betterment of all?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I have no problem with this facility being used by Social Services. We offered this facility to all government departments. The Department of Agriculture, Forestry and Fisheries did not think it was feasible or economically a priority in order to purchase the land so that we could do some deal where they owned the house, we owned the land and we got the restrictions on the land we wanted and we got the rent from the land and they got the rent of £100 a week for their quarter of a million pound capital outlay. I cannot justify allowing that facility to be done at the expense of the ratepayers. It is up to government to do that facility if they want that, but at the present time I am happy to discuss the issue with the minister again if he wants, but we have got a suitable client hopefully to go in there by the DHSS as far as that is concerned, but we would like some speedy resolve as far as the issue at the present time.

The Speaker: A final supplementary, the Minister for the Treasury, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker. Will the Chairman of the Water Authority please confirm that Treasury indeed did give concurrence to the purchase of Druidale Farm and that the case put forward at that time was that the Water Authority were concerned that intensive farming may strike up once again in the farm, thereby threatening the aspect of pollution into the water and that was the purpose for the concurrence being given? Will the member also confirm that if something is not resolved fairly shortly with regard to the future use or disposal of the property that he runs the risk of a property becoming derelict, something which the hon. member so often criticises other departments about?

The Speaker: Mr Karran to reply.

Mr Karran: Vainstyr Loayreyder, there has been the issue of the foot-and-mouth. I can assure the hon. member that we will not give the precise locations of the building to the DoT in order it will not get knocked down when it is a perfectly good building to do so, Vainstyr Loayreyder. *(Laughter)*

The Speaker: Hon. members, that brings to the end the oral questions.

**Secretary of the House of Keys – Appointment of Malachy Cornwell-Kelly –
Motion by the Speaker – Approved**

The Speaker: We now move to item 14 on the order paper:

That in accordance with Standing Order 15 of the House of Keys, Malachy Cornwell-Kelly of 95 Dartford Road, Sevenoaks, Kent be appointed Secretary of the House of Keys with effect from 1st October 2001, the appointment to continue during pleasure.

In accordance with standing order 15 of this House, a person be appointed to act as Secretary who shall hold office during pleasure. Tynwald Management Committee interviewed a

short list of five candidates for the position of Clerk of Tynwald, Secretary of the House of Keys and Counsel to the Speaker and so on behalf of the committee I have much pleasure in recommending to this House that Malachy Cornwell-Kelly be appointed Secretary of the House and Counsel to the Speaker. Mr Malachy Cornwell-Kelly was born in 1947 and his nationality is British. He is a law graduate of Kings College, London, and the College of Law, London. After serving his articles of clerkship he joined Her Majesty's Customs and Excise Solicitors Office where he remained for five years. He then transferred into private law practice and then worked for a period with the Law Society of England and Wales. In 1988 Mr Cornwell-Kelly became Parliamentary Commissioner for Administration, the Ombudsman, Director of Investigations, dealing with complaints against Customs and Excise, the Inland Revenue and the Department of Trade and Industry. After being there for a period of five years he returned to private law practice until the present time. Mr Cornwell-Kelly is currently a member of the Law Society's Revenue Law Committee. A member of the VAT and Duties Tribunal. A member of the Special Commissioners of the Income Tax. He is retained by the European Court of Justice as a freelance translator for the English Translation Division as he has a fluent reading and speaking knowledge of French. The committee and I personally believe Mr Cornwell-Kelly has the right combination of academic and professional qualifications to prove an able and distinguished officer of this legislature and so it is with great pleasure I recommend to this House the appointment of Malachy Cornwell-Kelly to be its Secretary and Counsel to the Speaker. The Chief Minister.

Mr Gelling: Yes, Mr Speaker, I have pleasure in seconding the motion standing at item 14 on our order paper today. There was, as you have already described, a line-up of candidates, a strong line-up, and the successful applicant, subject to the House's support is a gentleman with vast experience in many of the disciplines which I am quite sure will be extremely useful to him in the post of Secretary of the House of Keys and we will all as members get the benefit of that experience. I believe Mr Malachy Cornwell-Kelly will be a good appointment and I certainly would recommend the motion to hon. members this morning, Mr Speaker.

The Speaker: The motion is before the House. Will those in favour please say aye; against, no. The House's decision is unanimous that Mr Malachy Cornwell-Kelly be appointed its Secretary and Counsel to the Speaker. Thank you, hon. members.

Statutory Boards (Amendment) Bill – Consideration of Council Amendment – Amendment Approved

The Speaker: Hon. members, we now move to item 15 on our agenda, the Statutory Boards (Amendment) Bill for consideration of Council amendment and, in the absence of the hon. Minister for Trade and Industry, I call upon Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. This is a short amendment. It has been brought to our attention under drafting advice that there is a need for a technical amendment which has been successful in the Legislative Council. It repeals consequentially the whole of the Council of Minister's Act 1990, schedule 1, paragraph 16 instead of only paragraph 16, subsection (1). Paragraph 16 amended section 3 of the Statutory Boards Act 1987 and the entire paragraph is now redundant since clause 1, as amended, replaces the whole of section 3 instead of only section 3(1). I beg to move, sir.

The Speaker: Mrs Crowe.

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

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like the hon. member to just clarify what this amendment does to this hon. House before we just nod it through. I think people should know that.

The Speaker: Mr Shimmin to reply.

Mr Shimmin: Thank you, Mr Speaker. Having been given this brief only on Friday of last week, I have not got the information specific to the hon. member although I do believe it was circulated prior to that. It is one where the minister being unable to do it, took the Bill through. It is one where it is on drafting advice from the legislative draftsman. I am quite happy following this up with the individual member, but as the time of the year is running late I would appreciate members' trust that on legal advice and with the Legislative Council having moved this amendment I feel sure that we can support it today, sir.

The Speaker: Hon. members, the motion is that the amendment made by the Legislative Council be approved. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Hon. members, that completes all that is on the order paper.

Customs and Excise Etc (Amendment) Bill – Motion for Permission under Standing Order 37(4) for Consideration of Clauses – Approved – Motion for Suspension of Standing Order 153(1) to Allow Consideration of Clauses – Approved – Clauses Considered

The Speaker: However, the hon. member for Onchan, the Minister for the Treasury wrote to me seeking my permission that he put to the House that he is able to proceed with the Customs and Excise (Amendment) Bill. I have written to all members, a copy of my letter, and I now invite Mr Corkill.

Mrs Hannan: Mr Speaker, I would just like to know the place in democracy within this Bill. It is being raised on a letter, but no-one in the public arena actually knows that this Bill is going to be read again at this sitting and I just wondered where the public interest came into this. Normally we have an order paper, which is available to all members and the public, to know what we are doing in this hon. House and it would seem that in raising this through a letter does not actually inform the public.

The Speaker: I can advise the hon. member that a copy of this letter to you and to all members was faxed to all sections of the media last Friday when I sent this letter. So all sections of the media are aware that Mr Corkill is going to raise this matter. Mr Corkill is also entitled to raise it under standing orders, if that is the wish of the House.

Mrs Hannan: The point I was making, Vainstyr Loayreyder, is not just the press and the media, it is the public and I thought we were here to represent the public taking legislation through this House and to inform the public what we were doing prior to us doing it.

The Speaker: As your Speaker, hon. member, I have done my best to advise the public through the media. It is for this House to determine, after Mr Corkill has put his case, whether the matter should be progressed. Mr Corkill.

Mr Corkill: Thank you, Mr Speaker, I beg to move -

that permission be granted under Standing Order 37(4) for consideration to be given to the clauses of the Bill.

I do realise that I am craving indulgence as it were of the House in what I am about to propose. All hon. members will be aware that the legislative programme is drawing to a close from the point of view of the work of this House. It is the Treasury's hope that we will be able to promote our Bill, the Customs and Excise Bill through this House so that it will then receive a fair chance of passage in the Legislative Council, that is in another place, if we are successful in that cause here in the House of Keys. I also have to apologise, I think, that I am still getting used to standing order 153(1) which imposes a weeks gap between the second reading and the clauses and I have to say that has caught me out on more than one occasion and therefore I apologise for not being appreciative perhaps of our standing orders, but at this point what I would formally wish to do, sir, to give this Bill a chance of passage in this House, is to suspend

standing order 153(1) under the permission in standing order 37(4) so that I can progress with the clauses stage at today's sitting. I beg to move, sir.

The Speaker: Hon. members, I am taking the two items on standing orders as a separate motion. The first motion will be permission under standing order 37(4). So your first motion, hon. member, is 37(4) Does anybody wish to second that?

Mr Gelling: Yes, Mr Speaker. I wish to second that and I take on board what the hon. member for Peel is saying. However, I think the opportunity actually was missed last week to have progressed this particular Bill because, as the hon. Treasury minister has explained, it is just taking a little bit of getting used to, this fortnight's gap and I must admit I was quite surprised to find it not on the agenda, or the order paper, for this sitting and I think it would be a great shame for us to miss the opportunity to keep this alive, to get it through. We have only got this week and next week and therefore for this very unusual situation, Mr Speaker, I have pleasure in seconding that motion.

The Speaker: Just a point, hon. member, there is no sitting next week. The next sitting of this hon. House is 26th June. Mr Cannell.

Mr Cannell: Yes, Mr Speaker, I am not going to oppose the potential passage of this Bill through the House today but I do think that we should take note of what has happened to previous legislation. We are now coming to the closure of this hon. House's session for this particular five year period and in the past few weeks we have . . . I know within the bounds of legitimacy, but we have played ducks and drakes with the passage of legislation by utilising standing orders. I would not go as far as my hon. colleague, for Onchan, Mr Karran, in saying that only those who have the big guns behind them would succeed in this matter but I would be wrong if I did not refer to what happened to a Bill which was before this hon. House recently, which was actually ruled out *sine die* because it was unable to be progressed for time. Although I voted in favour of that - it was an inevitability which is why I did it - I do think that the Bills should come up to the House in the correct way that most of the rest do the rest of the time and particularly I cannot other than agree with the hon. member for Peel that the public does have a right to know what business its elected representatives are considering. Not least, Mr Speaker, is this idea of having the gap for the tabling of any amendments which are required, because clearly we had quite a debate on whether that was going to happen and, although I voted in favour of that also, it clearly just is not working and therefore we are now going to return to the system previously where we ignore just about everything to get a Bill on. Now I am not arguing against the Bill. It is a technical Bill in the main and we can see the wisdom if we are going to be a recognisable authority in world finance, then we have to have these Bills passed through without obstacle, but I just would not like the opportunity to go by without registering that it is not easy for members and the public to actually keep pace where the Bills are, as I say, within the rules all right, jumped about from one agenda to another. So without opposing it I would like just to have made that point and I do not know, now, how anybody will have the opportunity to put amendments to it if they so desire without reverting to the previous system. Perhaps you could enlighten me, but I presume now that we are able, if this suspension is granted, to actually table amendments if we so desire on the hoof, as we did for everything else up to fairly recently.

The Speaker: Mr Rodan.

Mr Rodan: Thank you, Mr Speaker. I would just like to lend my support to the request of the hon. member for Onchan to seek permission under standing order 37(4) to permit this legislation to be further considered today. When one considers that the prime purpose of this place is to progress legislation, then given the uncongested nature of today's order paper I believe we have a duty to be as helpful as possible, given the fact there is only today and one more sitting of this House left. What the hon. member is asking for is reasonable. One acknowledges the conflict over the issue of amendments to clauses that has been raised, but

nonetheless I think a reasonable person would concur with this request, given that our duty as legislators can be carried out today as the hon. member wishes.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I was not going to say anything, but the last speaker has incensed me as far as this is concerned in the fact that we are here to process well thought out legislation. I get so annoyed when I hear that here we are we bring these things in. We have to almost get the legal draftsman in a half nelson to draft our legislation, kick down the doors in the Attorney General's Department when we are not a member of the executive. I just hope that they will review this standing order which has been brought in to help the executive and now they have fallen on their own sword as far as this to try and stop the well thought out process as far as individual members wanting to make sure that they process good legislation in this House. I will not object today. I am concerned about a number of issues as far as this legislation is concerned but I will support the proposal. But I do get annoyed when I have these . . . as I have said . . . a previous member that made the soul's conversion with the light on the road to Damascus or wherever it was, an everyday event. Here we have another member who now as a minister saying 'Oh, well, this is all right boys, we can suspend standing orders as far as this is concerned because it is the executive.' This House is not part of the executive, it is part of the legislative process and I just think that people should think long and hard. I was not going to say anything as I know I am always accused of whingeing on about the executive as far as this is concerned but it is interesting to see that this device that was put to stop the input of members, because it is a job and a half to get amendments drawn up by the Attorney-General's Department - they have actually fell on their own sword as far as it is concerned that have done this, I feel I have no choice really but to support it even though it could quite easily have been put on the next agenda and we could go through the clauses and do the third reading at that point. I am concerned about it, I have got concerns, but I have not, unfortunately, had time to try and get any Attorney-General's staff in a half nelson or try and break down the door in order to get an amendment as far as this is concerned I am not sure I need them, but I would have needed time in order to discuss the issues that I am concerned about being put into primary law. Once again with the executive's refusal to stand up over the Royal Assent issue, we are putting stuff into primary law that I feel I am concerned is new as far as information is concerned. No problem with stopping criminals but what I am not prepared to do is allow this Island to become another County Council of the United Kingdom when it has never been part of the United Kingdom and when the people wanted to be part of the United Kingdom to get some money out of it, they did not want us.

The Speaker: The member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. My concern remains that we are being asked to consider detailed legislation which is technical and of a technical nature but has not been brought to the attention of the public through an agenda paper, through an order paper. It does concern me: a letter going to the press I do not think is satisfactory. As the member who has just resumed his seat has said, we are not a local authority, we are the parliament of the Isle of Man and therefore I believe that anything that we have time to discuss should actually be on a supplementary order paper if it falls without the standing orders and so the standing orders are raised on a supplementary agenda and so we know exactly what we are voting for and also that the public know and it has been drawn to their attention. My understanding would be that a new supplementary order would be posted to all of the people that receive our standing orders and therefore the people of interest, as well as the media. I do not know if it has been mentioned on the media I have not heard it mentioned on the media. There has not been a paper produced since last Friday and therefore it is very doubtful whether the public know that this is even being suggested. As I say it is of a technical nature but I am concerned for the future security of this House and its members, not necessarily the legislation that is going through, but that the proper

procedures are carried out and I believe that if this letter was sent out on Friday there was time enough to produce an order paper and for that order paper to be circulated to the people that receive the order paper, along with ourselves, so that we would have something to debate as a supplementary order paper. It is possible I will not vote against anything on this legislation, that is not the legislation that concerns me it is the procedures. Thank you, Vainstyr Loayreyder.

The Speaker: Sir Miles Walker.

Sir Miles Walker: Thank you, Mr Speaker. I have some sympathy, some support for the view that there should have been a supplementary order paper with this issue on it. However, sir, there has not been and perhaps we learn as we go along and it is something the Standing Orders Committee may like to refer to in due course. I really get to my feet, Mr Speaker, in response to what I consider to be the outrageous statements once again made by the member for Onchan, Mr Karran. The recommendation that there should be a delay between the second reading and the clauses stage to allow a properly organised list of amendments to be brought forward, to be considered by this House, was made by the Standing Orders Committee. It was not recommended by the executive. It was made by the Standing Orders Committee because they genuinely considered it was sensible for members to have some decent notice of amendments to legislation, the paramount purpose of being here. We should have reasonable notice to consider those amendments. Now that recommendation from the Standing Orders Committee was carried by the majority of members of this House and from time to time, as is happening today, if members do not like it, if there is a reason, a good reason to suspend standing orders, then that suspension should be considered and voted on. Rules are for the guidance of wise men and that is what standing orders are. They are our rules of procedure and from time to time it is sensible that they be suspended, Mr Speaker, (*Interjection*) and that is what we are being asked to do today and it seems to me sensible and I am going to go with it.

The Speaker: Hon. members, the motion before the House is that permission be granted under standing order 37(4) for this matter to be debated. If this is approved then standing order suspension will be sought. So first of all we are voting on standing order 37(4) which requires a simple majority. Will those in favour please say aye; against, no. The ayes have it

A division was called for and voting resulted as follows:

For: Messrs Quine, Rodan, Sir Miles Walker, Messrs Houghton, Henderson, Braidwood, Shimmin, Downie, Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 14

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

The Speaker: Hon. members, the motion carries, 14 votes in favour and 3 against. For the guidance of members, members can only vote when they are seated in their place. They cannot vote from the lobby. Hon. members, I now call upon Mr Corkill to move the suspension of standing order 153(1).

Mr Corkill: Thank you, Mr Speaker. I beg to move -

that Standing Order 153(1) be suspended to permit clauses to be considered.

I have listened to each and every contribution with regard to my request today and it was with somewhat of a heavy heart that I asked the House to consider my request. I have to work within the standing orders like everybody else does and that is what I am seeking to do, but I am in charge of a Bill which I think is a good Bill and I am giving it the best chance I can by the procedure that I am trying to implement, with the agreement of hon. members. I will not say very much, only I think other Bills have been referred to, the nature of standing orders and whether they are appropriate or not has been referred to. That is not a matter for me today at all. My concern is merely with promoting this Bill. Can I say with regard to the public, this green Bill has been around for some little time. It has also been advertised for want of a better word, on

previous order papers, so it is not in any way a surprise in terms of the public domain. It is well known that this Bill is in circulation and is on its passage through this House. With that, Mr Speaker, I beg to move standing order 153(1) be suspended to enable the clauses stages of this Bill, sir.

The Speaker: The Chief Minister.

Mr Gelling: I beg to second, Mr Speaker.

The Speaker: Hon. members, . . . Mr Karran.

Mr Karran: Vainstyr Loayreyder, before I vote for suspension of standing orders, I would like to know from the mover the issue of why we need this in primary law. I would like to know from the mover before we suspend standing orders, the human rights issues as far as this Bill about self-incrimination as far as it is concerned. I would like to know on 174B(b) when it talks about criminal proceedings, because I think it is important that we know before I give my vote to get the 16 votes, what criteria the criminal proceedings will be based on. It says in it whether it should be 'on the Island or elsewhere', but will it be under the classification as far as a criminal act in this country is concerned, as far as that is concerned. I would like to know that information before giving my vote on whether suspension of standing orders should be given. It talks about the Data Protection Act of 1986. Can he just make sure whether it means that that makes that piece of legislation superfluous as far as this piece of legislation is concerned. The issue of 'no obligation of secrecy is imposed by statute or otherwise prevents disclosure to the Treasury'. What I am interested to know is that is this a device being used for international business affairs in this country that we are allowing ourselves to put into primary law for fishing trips by the UK as far as that is concerned. I think we need to know these issues before we allow the suspension of standing orders in order that we are not allowing ourselves to sign away yet more issues into primary law that makes me impotent like the rest of you in this hon. House if we find out that we have given away powers to the adjacent island that will come back to haunt us. We need to know that information as far as exchange of information is concerned. I think also on the issue of the European Communities (Isle of Man) Act of 1973, I have read this Bill and I could not understand what the implications of that is concerned. They might be very virtuous as far as this is concerned, but when this has been to the UK Home Office before it has come to this hon. House, it is important that we know what we are rubber stamping as far as that is concerned. I just think we need to know the restrictions that are on as far as this is concerned. I mean it talks about Acts of Parliament and restrictions of the United Kingdom. I need to know what effects that has on us before passing this piece of legislation and suspending standing orders, because I know once you get suspension of standing orders, the block vote does come in. It is all right the hon. member for Rushen with his rose glinted glasses saying about the Standing Orders Committee. We all know the majority of them are part of the executive, or vested interests with the executive as far as that is concerned. (*Interjections*)

The Speaker: Mr Quine.

Mr Quine: Yes, it might help I think if the mover, before we vote on this particular standing order, could indicate to us in relation to the provisions of this Bill, to what extent are these provisions and indeed the requirements of this Bill dictated by our relationship with the European Community and secondly to what extent are they dictated by our Customs and Excise Agreement, our reciprocal arrangements under that agreement, because it may be that what we are discussing about here in terms of some of these provisions are matters where we really do not have much discretion.

The Speaker: Hon. members, the motion before the House is that standing order 153(1) be used to suspend standing orders so that the Customs and Excise (Amendment) Bill,

clauses, can be debated. Will those in favour please say aye; Oh, sorry. I beg your pardon. The minister to reply.

Mr Corkill: Yes, I would like to reply, Mr Speaker.

The Speaker: Yes, sorry.

Mr Corkill: I do apologise -

The Speaker: I apologise for that.

Mr Corkill: - for the procedure that I have launched this House into with regard to trying to promote this Bill. I think I am in danger perhaps of debating the clauses in advance of actually doing the clauses if I answer the hon. member's questions. Can I say that fundamentally this is enabling legislation (**A Member:** Hear, hear.) so that with regard to the UK and EU issues it will enable us to import in the way that we do many other things to do with VAT and EU matters with regard to our indirect taxes, it will enable us to apply them in Island law. So it is enabling legislation. The Bill promotes changes to primary legislation because it is actually amending VAT legislation, which is already in primary law. So there is no other way of changing or amending or expanding that legislation without doing it in primary law. With regard to the Customs and Excise Agreement, that is not a legislative issue. It is an agreement between two parties. This legislation will enable us to import, if the Isle of Man agrees, some of the directives and issues that the EU and the UK come up with. I beg to move, sir.

A Member: Hear, hear.

The Speaker: Right. The motion is that standing order 153(1) be suspended. Will 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, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Henderson, Duggan, Braidwood, Shimmin, Downie, Bell, Corkill, Cannell, Gelling and the Speaker - 17

Against: Mrs Cannell, Mrs Hannan, Messrs Singer and Karran - 4

The Speaker: Hon. members, standing orders are suspended, 17 votes in favour and 4 votes against. We now take the clauses of the Customs and Excise Et Cetera (Amendment) Bill 2001. Clause 1, sir.

Mr Corkill: Mr Speaker, can I reiterate my thanks to the House for allowing this Bill passage today. Section 174B, disclosure of information by the Customs Service, allows the Customs and Excise Division of the Treasury to disclose information for the purpose of criminal investigation being carried out in the Island or elsewhere, for the purpose of criminal proceedings in the Island or elsewhere or to enable or assist specific authorities in performing functions laid to them.

Subsection (1) provides that the section applies to information and documents held by the Treasury, the Collector of Customs and Excise or any officer of that division which relate to an assigned matter. An assigned matter is one that falls within the scope of the definition in section 184 of the Customs and Excise Management Act, 1986 or specified as being such in another statute and being one for which the Treasury's Customs and Excise Division is responsible and being one which attracts certain general powers and penalties under customs and excise law. Assigned matters include matters concerned with customs duties, excise duties, VAT, import and export controls, licensing and prohibitions. It should be noted that clause 2 of the Bill seeks to amend section 184 of the 1986 Act so as to more adequately define the term 'assigned matters.'

Subsection (2) provides that obligation to secrecy imposed by a statute or otherwise prevents the disclosure of the information or documents referred to in subsection (1) for the following purposes (a) for the purpose of a criminal investigation being carried out in the Island or elsewhere; (b) for the purpose of criminal proceedings in the Island or elsewhere; or (c) to enable or assist specified authorities in performing functions laid to them. The term used to describe the authorities to which information may be disclosed is an enforcing authority. This term is defined in section 174D.

Subsection (3) requires the authority of the Collector of Customs and Excise for any disclosures made under section 174B.

Subsection (4) provides that information or documents disclosed to another agency or authority by virtue of subsection (2) shall not be passed on by the recipient agency or authority without the consent of the Collector and for one of the purposes mentioned in subsection (2).

Subsection (5) provides that the consent of the Collector for information passed on by Customs and Excise under the terms of subsection (4) may be either specific or general in extent.

Subsection (6) provides that section 174B is not to be taken to permit the disclosure of information to or by Customs and Excise if such disclosure is prohibited by the Data Protection Act 1986. So in answer to the hon. member's question earlier, the Data Protection is superior in its status.

Subsection (7) defines information or documents held on behalf of the Treasury or the Collector, as including those held by a person who supplies services to either of them and are held in connection with the provision of such services. This provision covers situations where an outside person or body is acting on behalf of the Treasury or the collector. The information or documents that they hold insofar as it relates to the service they are providing to the Treasury or Collector is subject to the same rules as that actually held by the Treasury or Collector.

Subsection (8) provides that nothing in section 174B is to be taken to prejudice any other power that allows the disclosure of information or documents. This ensures that pre-existing legislative provisions, such as in income tax and social security legislation, that allow for the disclosure of information to Customs and Excise are not compromised by the new provisions. Mr Speaker, that is the new section 174B.

The new section 174C allows an enforcing authority to disclose information to the Customs and Excise Division in order to enable or assist the division in relation to an assigned matter.

Subsection (1) provides that section 174C applies to any information held by or on behalf of an enforcing authority. The enforcing authority is defined in section 174D.

Subsection (2) provides that no obligation to secrecy or otherwise shall prevent the disclosure of information or documents by the enforcing authority to Customs and Excise in order to enable the Treasury, the division or an officer of Customs and Excise to discharge their functions in relation to any assigned matter. An assigned matter is one that falls within the scope of the definition in section 184 of the Customs and Excise Management Act 1986 or specified in another statute and being one for which the Treasury's Customs and Excise Division is responsible and being one which attracts certain general powers and penalties under Customs and Excise Law. Assigned matters include matters concerned with customs duties, excise duties, VAT, import and export controls, licensing and prohibitions. It should be noted that clause 2 of the Bill seeks to amend section 184 of the 1986 Act so as to more adequately define the term 'assigned matters.'

Subsection (3) provides that where information is provided to the Customs and Excise Division by an enforcing authority, then it can only be disclosed by the division to another agency or authority for the purpose of an assigned matter and with the consent of the enforcing authority that provided the information.

Subsection (4) allows that consent to disclosures provided for by subsection (3) may be either general or specific in their extent.

Subsection (5) provides that nothing in section 174C authorises disclosures that would be prohibited by the Data Protection Act 1984.

Subsection (6) provides that references in subsection (1) to information held on behalf of an enforcing authority includes relevant information held by a person who provides services to that authority and which is held in connection with those services.

Subsection (7) provides that the provisions of section 174C are not intended to compromise any pre-existing legislation allowing for the disclosure of information to Customs and Excise.

With regard to the proposed new section 174D, these are matters supplementary to sections 174B and 174C. This section defines some terms used in the preceding sections and lists those agencies and bodies which are enforcing authorities for the purposes of sections 174B and 174C. For the purposes of section 174, sub-paragraph (2), a crime is defined as being conduct which would constitute a criminal offence or offences and if committed outside the Island would be such if committed in the Island. The terms 'criminal investigation' and 'criminal proceedings' in section 174B, sub-paragraph (2) are to be interpreted accordingly.

The enforcing authorities are listed as being the Financial Supervision Commission, the Insurance and Pensions Authority, the police, the Isle of Man Office of Fair Trading, the Gaming Control Commissioners and any other person who may be prescribed in an order made by the Treasury. The named agencies and bodies have all consented to their inclusion in this Bill. The police means the Chief Constable and members of the police force in the Isle of Man. Other pre-existing legislation allows for exchanges of information with the Income Tax Division and the DHSS.

Mr Speaker, I beg to move clause 1 stand part of the Bill.

The Speaker: Mr Braidwood.

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

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like to ask, the issue of human rights, if the individual has not broken any laws in this country and you force him to give information to another jurisdiction where he could be prosecuted, what effects does that have on the position as far as the Manx authorities are concerned? Will we end up with a situation where we could be sued on the grounds that we forced the individual to incriminate himself to a body outside the jurisdiction of the Manx courts as far as that is concerned?

I am relieved to hear on the issue that any criminal proceedings whether instituted in the Island or elsewhere that I am taking it that it has to be a criminal offence that is taking place under what would be a criminal offence in this country as far as that is concerned. We have skirted around why we need these amendment being put into primary law. Again the issue will come up that if we need to have any flexibility the situation is, if we want to change law once it is here, you have got the battle as far as the Royal Assent issue is concerned because of the majority in this House. I thank him for the issue that the Data Protection is not circumvented by this piece of legislation as far as that is concerned.

In 174C, the obligation as far as security imposed by statute or otherwise prevents the disclosure to the Treasury, what I am interested in is the issue of us becoming the policeman for everybody else as far as it is concerned. What effect will this piece of legislation have for people to find that information through British authorities, maybe with the EU or other bodies, in order to find out the private affairs of companies within the Isle of Man? I am interested to know what is going to happen as far as that is concerned, because I am very concerned, especially when I look at 174D about using this piece of legislation for purely fishing trips into the affairs of legitimate businesses in the Isle of Man. What assurances can we have? We have been given no details as far as the reason in primary law this is being put forward. What assurances can we have that this clause will not come back to haunt us in the fact that we will be able to give strategically important information on the guise of a criminal investigation which is something that some of the European members countries are very keen on doing? We have had situations in the past in other countries where they have tried to use the guise of criminal activities to try and attain commercial information on businesses that work out of this country on the basis that they can get that information to then look at their own affairs that are not even in the United Kingdom but in other countries of the EU. I would be interested, if there is any chance of the hon. mover being able to answer these points, especially the human rights point of whether we end up with a situation where we can end of being sued because we have given information on an individual, or forced an individual to penalise himself, to turn himself in to another jurisdiction, I would be interested to know before this House just nods this piece of legislation through.

The Speaker: Mr Quine.

Mr Quine: Yes, thank you, Mr Speaker. My concerns are in part in line with those expressed by the previous speaker. What 174B appears to be saying is that in respect in respect of existing obligations to maintain secrecy in regard to certain information, that it can be lifted or it can be disregarded in certain circumstances and there appear to be four circumstances there where it can be disregarded. One of course relates to criminal investigation, whether in the Island or elsewhere, and the second relates to criminal proceedings whether in the Island or elsewhere, and the third one, of course, in effect relates to both (a) and (b) and says that where you are bringing either the action in relation to (a) or (b) to an end it would be appropriate again, if you wish to disregard the matter of the statutory secrecy provided for in the existing legislation, and then (d) which seems to be a very widely cast one and in some ways unclear. It says 'Enabling or assisting an enforcing authority to discharge its functions'. Now that is very widely cast indeed and unlike (a) and (b), it is not specific - (a) and (b) make it quite clear that it is whether in the Island or elsewhere, (d) does not use the words 'whether in the Island or elsewhere'. I suppose we are left to assume, perhaps erroneously in my view, that this is limited to enforcing authorities within the Island's jurisdiction and I suspect that is not in fact what the intention is. 'Enabling or assisting an enforcing authority to discharge its functions' - now are we talking about an enforcing authority which comes within the Manx jurisdiction or are we talking about an enforcing authority which, by virtue of omission of the specific wording, could relate to an enforcing authority in another jurisdiction? I think we need to be clear on that.

Moving on, of course, when we seek for clarification as to what is embraced by criminal investigation and what is embraced by general proceedings, leaving aside of course that there are no precise parameters drawn around (d) but just dealing for the moment with (a) and (b), criminal investigation and criminal proceedings, we then have to look at the proposed 174D to see what a crime means and to see what a criminal investigation means. I think the intent is that it covers a situation where either the investigation or the crime relate to a set of circumstances which, whether it be here or in the other jurisdiction, certainly would be embraced by an existing crime here in the Island. I think that is what the intention is because it says here in (a), 'constitutes one or more criminal offences inside the Island or out', then goes on to say, 'is or corresponds to any conduct which if it all took place in the Island', again very

imprecise, 'would constitute one or more criminal offences' and a 'criminal investigation' means 'investigation of any crime including an investigation of any alleged or suspected crime and investigation of where the crime has been committed'. There are a number of, I would suggest, matters there which lend themselves to very wide or very narrow interpretation and my concern is firstly that it appears to me that we are not precise enough, and secondly that in relation to 174(2)(d), unless that is constrained to the Island and Island enforcement agencies, then I think we have a real problem with this provision.

The final comment I would make is this, Sir, if we are to have a piece of legislation such as this, which is going to depend very heavily on an interpretation of certain circumstances and as to whether or not those circumstances constitute a criminal investigation or constitute a criminal offence, including the relating of circumstances in another jurisdiction to what may be a crime in our territory, then I think the least we should be looking for in relation to this section is a provision that it should be exercised only with the prior authority of the Attorney-General. I would have thought that was an absolute minimum requirement. This demonstrates, of course, the problem we appear to have got ourselves in because here, at no notice, we are now into clauses stage I mean, with time to study this in the normal course of events, I think I would be included to either, well first to have taken further advice on this from the Attorney-General's chambers, but I would certainly in the light of that be contemplating whether or not an amendment should be made to require that the exercise of these provisions should only be with the Attorney General's prior approval which is what, of course, we have in other pieces of legislation. At this stage I am certainly not prepared to either get the advice at this juncture or to consider an amendment, and I must of course rely upon the mover of the Bill to try to satisfy my concerns before all of that, but I think this could be a situation where, if we are to forge on with these clauses, we may have to seek, at third reading, again, further suspension of Standing Orders in order to effect some corrections to this. But I wait for the response of the mover and provide him with an opportunity to satisfy my concerns in the first instance.

The Speaker: Mrs Crowe.

Mrs Crowe: Thank you, Mr Speaker. I may or may not be helpful to the mover I hope I am being helpful. I think this legislation forms part of the practicalities of, if you like, joined-up government in a way. The previous speaker was referring to the enforcing authorities and they are clearly listed in 174D and they are all Isle of Man authorities: the Financial Supervision Commission, the Insurance and Pensions Authority, the Chief Constable and members of the Force, the Isle of Man Office of Fair Trading, and the Isle of Man Gaming Control - all Isle of Man sited enforcing authorities. In way of practical terms this is a piece of legislation that other enforcing agencies have, of course, been asking for. It makes a nonsense of criminal law when we have the likes of the Office of Fair Trading prosecuting criminals selling counterfeit products from a market-stall, if you like, and the officers prosecuting find that they have got a van full of illegally imported cigarettes but because of our lack of the exchange of information and the lack of formal gateways, that formal gateway would not be there to pass on the information to the proper authority for taking a criminal prosecution. I believe that is what the substance of this enabling legislation is about and it is something that has been requested, that we need to be able to formally exchange information on criminal cases with other authorities, and that applies to the Financial Supervision Commission as it would do to the Office of Fair Trading perhaps if there was something identified through the Financial Services Ombudsman that may well be a criminal offence. There needs to be a mechanism to be able to pass on that information and I do believe this is what the whole of this clause is about. I hope that may be helpful to the mover of the Bill. It is a clause of a practical nature that is necessary at this present time.

The Speaker: Treasury Minister to respond.

Mr Corkill: Thank you, Mr Speaker, and I thank hon. members for their comments.

As far as I am aware this legislation is compliant with human rights legislation. With the regard to the hon. member, my colleague from Onchan, Mr Karran's comments, can I just reiterate that this is not going to enable fishing expeditions for outside jurisdictions to look at, as I think he put it, strategic information, but I would make the point that on a regular basis we already, on an automatic basis, exchange information with the UK and the European Union with regard to overall data for trade statistics and trade purposes, because we are part of the European Union Single Market effectively through the United Kingdom agreement that we have. So we have a duty and an obligation in those respects, and we already do that. So exchange of information is not something new that this Bill is trying to introduce but, of course, where this Bill does concentrate on is criminality, and I would hope that after all the strides and steps forward that we have made in recent years with all-crimes anti-money laundering legislation, that in fact this fits alongside that piece of legislation.

With regard to hon. member for Ayre, Mr Quine, who specifically referred to (d) in the Bill on line 11 and 12 of this new 174B, he thinks that that is widely drafted or words to that effect. 'Enabling or assisting an enforcing authority to discharge its functions'. I think the hon. member for Rushen, Mrs Crowe, has answered the question with regard to the definition of enforcing authority which comes later in the Bill under 174D, later in the clause, and they are all on-Island entities, the enforcing authority, and I think, and I hope, that puts hon. members' worries to rest, although it does say 'Any other person who is prescribed for the purpose of this definition by an order made by the Treasury.' Of course that order would have to be scrutinised. All the (a) to (e) over the page are actually on-Island enforcing authorities.

So the point then I think the hon. member made was the definition of crime, who interprets it, and the hon. member has then gone on to talk about the Attorney General's involvement. This Bill, the responsibility lies with the Collector of Customs and Excise. He is the key to all this proposed legislation. Of course he does have ready access to the Attorney-General's opinion, but dealing with matters to do with other money laundering legislation it is the Attorney-General who is written into the statute. There is a difference and the hon. member has highlighted it, but can I say that the Collector of Customs and Excise, whoever that person may be, is very experienced in the matters relating to this particular area which is very often technical, so in fact we will have the best of both worlds in as much as we will have the Collector of Customs and Excise along with the Attorney-General's advice before any information is exchanged. That may not satisfy the hon. member's query, he may actually prefer to have the Attorney-General written into the legislation I cannot do anything about that at this stage but I certainly have confidence in the Collector having seen how he has worked over the last few years with regard to the interface with enforcing authorities in other jurisdictions and the requests that come in on a daily basis, some of them perhaps fishing trips, but most of them in the pursuit of criminality, and that is what this Bill is overall intended to do - to strengthen our arm against illegal acts.

With regard to the hon. member - I mentioned this in the opening comments in terms of whether this was a criminal act off the Island and the human rights aspect. The fact is it has to be considered as a criminal act within the Island as well and that is in line with other legislation that we have. It may be a criminal act elsewhere but if it is not a criminal act here then that would not be included but if it is, then that information, in my view quite rightly, can be transferred. I hope that actually raises the points, I thank the hon. member for Rushen for clearing up the matter on enforcing authorities and I do hope hon. members can support the Bill as written.

The Speaker: Hon. members, the motion is that clause 1 stand part of the Bill. All those in favour, please say aye; against, no.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Houghton, Braidwood, Downie, Corkill, Cannell, Gelling and the Speaker - 12

Against: Messrs Quine, Henderson, Karran - 3

The Speaker: Hon. members, the motion carries, 12 votes in favour and 3 votes against. Clause 2, sir.

Mr Corkill: Mr Speaker, this clause replaces the definition of assigned matters in section 184(1) of the Customs and Excise Management Act 1986 with a more comprehensive one, one that seeks to cover all the matters that should or may be treated as assigned matters. 'Assigned matters' means matters that the Treasury is responsible for but for which it assigns that responsibility to its Customs and Excise Division. The term attracts various general powers and penalties in the 1986 Act and is conferred on matters by section 184(1) by being described as such in other statutes or occasionally are held to be such by decisions of the courts. The definition in the 1986 Act has been found to be quite restrictive and does not provide an adequate description of the types of matters which should rightfully be considered assigned matters. In this way it opens the way to doubts and/or challenges to the role and powers of the customs and excise service in the Island. The intention of this amendment to this primary law is therefore to remove any doubt. The equivalent provision in the United Kingdom's Customs and Excise Management Act 1979 is far more broadly drafted and the amendment to the Manx Act seeks to provide a similar breadth whilst recognising the somewhat different position and status of the Customs and Excise Division in comparison to Her Majesty's Customs and Excise in the United Kingdom. The wording to be replaced in the 1986 Act reads as follows, 'Assigned matter' means - any matter in relation to which the Treasury is for the time being required to perform any duties in pursuance of any statutory provision relating to customs and excise or the prohibition or restriction in the import or export of goods or to value added tax'. Mr Speaker, the details of each sub-paragraph in my briefing notes are the same as what is in the Act, and rather than read out the actual Bill, I simply beg to move clause 2 be part of the Bill, sir.

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

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would like to know on sub clause (i) and (ii) to do with the United Nations and the European Communities (Isle of Man) Act 1973 what it does actually mean. I mean I do not want to be propping up money-laundering, illegal activities, but I also do not want to allow the Island to be used as a doormat. There are issues on the United Nations in my opinion that I would like to know, that will it have to still have the Tynwald approval? Personally speaking, what annoys me as far as the United Nations Act 1946 is concerned, is that the situation of where the crass hypocrisy. . . We have a situation that the British government, the government that is supposed to look after our foreign affairs turns a blind eye to the Tibetans who are today's Jews of the '30s or '40s who have been absolutely decimated and murdered by the Chinese government, but because it is not politically expedient they turn a blind eye to that situation. What I want to know, and I do not want to see the Isle of Man being used to sanction - break on international issues, but I also do not want to see a situation where we are tied hook, line and sinker, to the United Kingdom's government who talk double-talk as far as human rights and the arms industry is concerned, and I just want this House not to tie future Houses into a situation in primary law where we are just allowing ourselves to nod things through. I just would like to say that on the European Communities' piece of legislation, the issue which concerns me and it comes from the previous one and the hon. member for Rushen, Mrs Crowe, was on about the FSC and other Manx agencies - but what I am concerned about is what we define as criminal activities. . . We have to have vacuum sealed meat and things like this to the nth degree as far as, in that law, when you can have meat lying open to the flies, the dogs urinating in certain parts of Europe, but that piece of legislation is not adhered to in the whole of the EU. What concerns me is that you could have court orders coming from some far flung district court making representation through the United Kingdom for information

and we are tying ourselves, in primary law, as far as this is concerned. I do feel that in this clause we need to know what exactly we are agreeing to as far as (i) and (ii) in particular of this clause are concerned to do with the United Nations and European Communities laws. I think it could come back and haunt future Houses in this parliament as far as this is concerned. At the dying stages of this House, once again we are given the bums rush. We have got to throw this through as far as this piece of legislation is concerned, without us knowing about it. That is what I am worried about, Vainstyr Loayreyder, I am very concerned about it and I do feel that the likes of United Nations' sanctions used to have to have a vote within Tynwald. Does this have any effect on us, especially when we see the total and utter inconsistencies of the way the world players play? There is one law for small democratic nations like us and there is another law for the big boys as far as it is concerned.

The Speaker: The Minister to reply.

Mr Corkill: Yes, Mr Speaker. The hon. member is showing a concern about the parliamentary control within this Island and quite right to give this Bill that scrutiny, sir. Can I just say that in this clause, with regard to paragraph (a), it merely replicates what is already in legislation. Paragraph (b) is there to ensure that there is no doubt as to the following matters being assigned matters, and when I say the following matters I will read them out, sir: falling under Section 1 of the Customs and Excise Act of 1993 it includes 'matters relating to United Nations sanctions' and I would hope that all hon. members, as we have seen orders going through Tynwald, would not wish this Island to be used technically as a back door to avoid United Nations sanctions, particularly where it comes to arms and that type of trade. With regard to the moral stance of the adjacent Islands with regard to the arms industry, that is not a matter for me to debate today but I understand the hon. member's feeling about world events and also his concerns that perhaps other jurisdiction even within the EU do not apply their own directives to the level that perhaps the British culture does do that. But I think with regard to (a) under B, we are talking about United Nations sanctions not EU matters but it also does relate to sanctions imposed by the EU and having effect in or adopted by the Island. When it says 'Having effect in or adopted', we had a situation some months ago where we were unable to bring an order to Tynwald to enact a sanction that the world at large had produced because our legislation was inadequate and this piece of legislation, this Bill, will help us. It is enabling us to bring things to the attention of Tynwald for their approval and I would hope it will gain hon. members' support. So it relates to United Nations sanctions, EU sanctions having effect in or adopted by the Island, matters relating to UK legislation that deals with Customs and Excise matters for import/export, matters relating to any community instrument that is applied in the Island, and when I say is applied in the Island I mean that we apply under our agreement; matters relating to any applied UK legislation that implements or gives effect to a community instrument that deals with excise duties, matters relating to UK legislation that is applied in the Island and which is concerned with prohibitions or restrictions on the supply of services or the buying or selling of goods, which new provision is being added to section 1 of the 1993 Act by this Bill and is intended to permit the application in the Island of new UK legislation, and here I emphasise relating to strategic export controls, intangible exports, that is export by electronic means, arms brokers and technical assistance, a world I think that the Isle of Man does well to steer well clear of. I hope I can give members assurance to support this clause. I beg to move, sir.

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

Clause 3, sir.

Mr Corkill: Mr Speaker, this clause amends section 1 of the 1993 Act and inserts a new section 3A. The intention is to ensure that the powers in the Act to apply United Kingdom legislation apply equally to measures concerned with the export of goods and services by

intangible means and to developments in strategic export control legislation relating to the things that I mentioned before.

Subsection (1) provides that the Customs and Excise Act 1993 is to be amended in accordance with the provisions in clause 3.

Subsection (2) amends section 1(3) of the 1993 Act. New paragraphs (da) and (db) are added to section 1(3) which allow for the application in the Island of any UK legislation which is concerned with the supply of services in the United Kingdom or elsewhere and the buying or selling of goods in the United Kingdom or elsewhere. The intention of these new paragraphs is to allow for the application of measures concerned with these issues that I have mentioned previously. They will deal with changes to strategic export law in the near future. The changes will enable the Island to apply measures proposed in the Export Control and Non-proliferation Bill 2001 of the United Kingdom Parliament as well as those measures already being adopted by the EU as regards controls on the export of dual use items and that is items which have both a civil and a military application and in particular items connected with the development or manufacture of weapons of mass destruction. The amendments will allow the Island to continue to comply with the requirements placed on the Island by the Customs and Excise Agreement 1979.

Mr Speaker, the items in this clause are easily laid out, easily understood, and I simply beg to move clause 3, sir.

The Speaker: Mr Braidwood.

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

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, before we just nod this through: I do not want to use the Isle of Man to circumvent arms deals to bad regimes or whatever but I also do not want to accept the fact that this is not a devolved part of the United Kingdom. We are today what we have got to do is look at everything that is put in to primary law and scrutinise it better than just allowing it to go through on the nod. What annoys me more than anything about this situation is when one has asked questions about a piece of UK legislation, an 1898 Prison Goods Act which has never been enforced in the adjacent island, which dealt with legislation of where forced labour camps produced produce where they would be banned out of the United Kingdom. They have done the Nelson's touch to it, as this government has done, and what concerns me again is the fact that here we are, signing away our flexibility and our intervention as far as how we feel as far as this legislation is concerned. That is what worries me. It is not the principle that I want to go and give arms to Saddam or want to give arms to Rwanda or whatever. All I am wanting to do is make sure that we are not putting in primary law a system that will then say, 'Well sorry, we shrugged our shoulders, we passed it in the Customs and Excise (Amendment) Bill 2001, we have no ability, no flexibility.' Just because at the moment they have done something good for the United Kingdom's Government or something bad for the United Kingdom's Government we have just got to nod it through. I do feel that this House is not allowing this piece of legislation the scrutiny that it deserves when we are bringing this piece of legislation in. It is important that we do. Nobody wants to bring in launderers or circumvent regimes but what I do not also want is a situation where we are just tagged along on the shirt tails of this piece of legislation so that we can say nothing about the situation. As I have said in previous clauses where the British Government has done nothing about the genocide of the Tibetan people, they turned a blind eye to these Timorians for 20-odd years and the situation is that here we are, we have just got to pass this piece of legislation today and just blindly say, 'Oh, well, it's the mainland', well it is not the mainland, this is the mainland. That is the adjacent island as far as I am concerned.

The Speaker: The minister to respond.

Mr Corkill: Mr Speaker, we are in a changing world. There have been developments elsewhere and we need to amend our legislation so that we can actually apply some of those changes in Island law. That is what this Bill is about. In the year 2000, the EU passed a regulation, Council Regulation 1334 2000/EC and it established a community regime for the control of exports of dual use items and technology and I have referred to that those are having a civil and a military application. Of particular concern was those using the development and manufacture of weapons of mass destruction and high technology computer and communications equipment. Prior to the 2000 regulation, dual use controls applied only to goods and their physical export. The regulation extended control to exports by intangible means. The United Kingdom made the Dual-use Items (Export Control) Regulations 2000 to give effect to the Council regulation. In the Island it was found that customs law here which would normally be used to apply such provisions could not be used to apply those elements of the regulations concerned with intangibles as these are classified as services and the existing legislation did not allow the Treasury to apply such by order. At the time an alternative method was found to give effect to the new provisions in the Island by means of the European Communities (Isle of Man) Act 1973 but the situation did highlight an area of concern and this clause is intended to put that record straight, Mr Speaker. I beg to move.

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

Mr Corkill: Mr Speaker, this relates to the short title and commencement of the Bill and I beg to move.

The Speaker: Mr Braidwood.

Mr Braidwood: I beg to second, Mr Speaker, and may I add that it is a very important piece of legislation. The hon. member for Onchan keeps putting in fishing expeditions; I think he has been throwing in a lot of red herrings, to be truthful, during the clauses stage of this Bill. As the minister has adequately explained, it is enabling legislation and, as explained by the hon. member for Rushen, it also opens the gateways for the customs and excise. Thank you very much, sir.

The Speaker: Minister, anything to say?

Mr Corkill: No, I beg to move clause 4, sir.

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

Education Bill – Conference with Council – Statement by Minister

The Speaker: That brings to the end the order paper that we have before us. There is one item that I think members should in the interests of the House know, the progress of the committee on the Education Bill with the Legislative Council. Perhaps the Minister for Education can tell us briefly at what stage the discussion is.

Mr Rodan: With your permission, Mr Speaker, I would like to make a statement to the House about the progress of the Education Bill and the conference and I can do that now if you wish or if it was after the lunch time adjournment if you wish.

The Speaker: There is no further business on the order paper, hon. member. If you give a brief statement as to the situation of the conference with the Legislative Council, a brief statement.

Mr Rodan: Thank you, Mr Speaker, for the opportunity to make a statement. The House will be aware that it is currently in disagreement with Legislative Council over clause 12 of the

Education Bill which states that religious education must be wholly or mainly of a broadly Christian character. Legislative Council passed an amendment to omit the word 'broadly', an amendment to which this House did not agree. As a result a conference was held last Tuesday between the two branches in accordance with standing orders and I am grateful to the hon. member for Peel, Mrs Hannan, and the hon. member for Douglas North, Mr Henderson, in assisting me to present the case at that conference. I would advise that both sides listened to the other's point of view but did not move to an agreed position and therefore it was decided that each side should consider its position further. In support of the House's position that it wishes to resist any alteration to the Bill I have taken the liberty of writing to every member of this House and of the other place to further explain the Department of Education's position. Rather than read out that statement which is on the desks of hon. members, I would simply then advise that the present position is that the Legislative Council have not advised by message today that they are minded to withdraw their amendment and therefore the matter must still be considered ongoing and therefore I would expect and hope that a final report could be made to this House at the next and final sitting of this parliamentary session. Thank you, Mr Speaker.

The Speaker: Mr Gilbey.

Mr Gilbey: Mr Speaker, can I ask a question of the hon. minister. This is a very important Bill as a whole. I think I am right in saying it is the first Education Bill for many years. Are we in danger of the whole of this Bill lapsing because we cannot reach agreement on this small point? If we are it seems to me personally that this is a very small point in relation to the importance of the whole Bill and I think it would be quite irresponsible to let such a major Bill collapse on these grounds and I would like to hear about this and for this hon. House to have an opportunity to decide whether they would prefer the Bill to collapse or to fight on this one point because are we in time even to come to a decision on this at the next sitting of this hon. House at the end of June or has a decision got to be made now?

The Speaker: I will take question and answer. Answer to that one, Mr Rodan, minister.

Mr Rodan: Thank you, Mr Speaker. The hon. member for Glenfaba would be incorrect in his assertion that this is a small point. If it was a small point the danger would be that the Bill is in danger of collapse over such a small point and that would be unacceptable. However, as I have tried to explain, the Department of Education does not believe it is a small point. If it were it would not justify the collapse of the Bill but in fact although the removal of one word may seem like a small point it is actually a very fundamental change to the Bill that would follow and I have sought to explain this in the paper. Therefore, in response to the hon. member, I believe we should not give way on this point, it is not a small point. It is a point of fundamental principle. Both branches, I am sure, are fully aware of the consequences of not reaching agreement but I am reasonably confident that the other place will see the merits in coming to this House's point of view and not allow the Bill to collapse, sir.

The Speaker: Mrs Hannan.

Mrs Hannan: I believe, Vainstyr Loayreyder, that we should await the response from the Legislative Council (**Mr Brown:** Hear, hear.). We have had a meeting with Legislative Council and we are waiting for their response and I do not think we should get carried away by saying the Bill is going to fall. We have not yet had a response from the Legislative Council which I believe that we should be getting fairly soon. The committee had to report back to Legislative Council, they have done that today, so I would hope that at least the House of Keys can await on that response. (**Mr Brown:** Hear, hear.)

The Speaker: If there are no -

Mr Gilbey: I would like to ask a further point, Mr Speaker. It is the question of the timetable. If we were in a normal circumstance where there was no time bar on this matter, it might be

quite all right we could wait till the autumn, wait till this time next year. But can I ask from the timetable, if we only come to a decision at the end of the month, which is our last sitting, I presume on that day it will be the last sitting of another place, we cannot force them to meet again as I understand it with a special meeting, is there not a real danger, and I think we should be told definitely, is it not possible that the whole of this Bill could be lost?

The Speaker: The minister to reply.

Mr Rodan: I have been advised, Mr Speaker, that the situation is that the Legislative Council if they were not to reach agreement with this House's point of view would be entitled to seek a further conference and I would very readily agree to such a conference with the members that this House agreed last time with a view to seeking a final agreement so that at the next sitting the final say on the matter would be reported to this House and that would be the end of the matter, sir.

The Speaker: Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. Just a point of clarification. Could we not resume our sitting at half past two and ask if any decision has been made in the Legislative Council this morning?

Mr Houghton: The Bishop is not in.

Mr Henderson: The Bishop is away.

The Speaker: Mr Brown.

Mr Brown: Yes, Mr Speaker. We will get the decision from the Legislative Council when they are ready and we should await that decision and we can deal with it at the next sitting of the House.

The Speaker: In that case, hon. members, that brings us to the end.

Council of Ministers Bill – Motion for Permission Under Standing Order 37(4) for Resumption of Debate on Clauses – Procedural

Mr Rodan: Mr Speaker, I rise to my feet because it would be my wish to seek the indulgence of the House to seek permission under standing order 37(4) for consideration of a matter not on today's order paper which in fact is the resumption of the Council of Ministers Bill. I am very happy to give a full explanation in support of seeking the House's permission and I would be pleased to do so now but the timing of the sitting of course is in your hands. I am very happy to continue at this time, sir, if you wish.

The Speaker: Hon. members, there is some dilemma. This House would normally adjourn either at the close of proceedings now or for lunch. A member has quite properly brought to the attention of the House under standing order 37(4) - 'No business except that mentioned in the order paper shall be considered unless by permission of a resolution of the House supported by a quorum.' - the member has quite rightly put that motion to the House. The member as would apply to all members has the right to have his motion debated.

Mr Brown: Mr Speaker, I would refer you to standing orders 69 and 70, sir. I think this motion before us is in conflict with those standing orders.

The Speaker: I am legally advised that by sine die you can bring it back at any time. That is the professional legal opinion of the Secretary of the House and the interpretation of the standing order. Therefore, I have no alternative but to advise the House that we will adjourn for lunch and in accordance -

Mr Brown: Could I seek further clarification, Mr Speaker, sir.

The Speaker: Yes.

Mr Brown: On standing order 69 and standing order 70 and I would ask the Clerk to actually explain why the matter being dealt with *sine die* how under standing order 69 and 70 that that matter can be brought back to this House especially standing order 70 which states and I quote, 'No resolution shall be rescinded except by a vote of at least 16 members and after not less than 24 hours of previous notice of the motion to rescind has been given to the House.' I would, sir, because this matter is important, I would ask for the Clerk to actually explain to us as the House exactly how standing orders 69 and 70 do not apply in this matter, a matter that this House dealt with only last week.

The Speaker: I invite the Secretary of the House to give his legal opinion.

The Secretary: With your permission, Mr Speaker, this is not seeking to rescind an earlier motion. The motion considered by the House at its last sitting was to adjourn the debate on the Bill *sine die*. Any motion for adjournment there can be a motion to resume the debate at any stage. A motion to resume the debate is not rescinding a motion for adjournment. They are two entirely separate matters and the House is at liberty at any stage in my opinion to resume its debate once there has been an adjournment *sine die*.

Mr Brown: So could I again just ask the Clerk if I may, Mr Speaker, because this is a matter of importance and certainly I wish to know whether or not we set a precedent: the hon. mover has put forward a motion to the House under standing order 37(4), I understand it, without the House having any notice whatsoever or the public through a supplementary agenda item and I would ask the hon. Clerk if he could just clarify exactly why that is? If I can just say we have had no letter of advice that this was going to be brought forward, all we have had is a motion put in front of us not a matter of public importance or anything just put before us without any notice. I would like a clarification, sir.

The Speaker: I will invite the Secretary of the House to clarify standing order 37 but I do not intend that this House shall endlessly debate the standing orders. It would be better to adjourn for lunch and carry the debate on afterwards.

Mr Brown: I am only seeking clarification, Mr Speaker.

The Speaker: The Secretary of the House.

The Secretary: Again with your permission, Mr Speaker, my understanding is that standing order 37(4) is designed specifically for instances like this where a matter has to be brought forward that has not appeared on an order paper and the House has the option under standing order 37(4) of deciding whether it wishes to consider that business or not. It is specifically designed for situations like this.

The Speaker: Therefore, hon. members, we have had -

Mr Rimington: Vote.

The Speaker: Pardon?

Mr Rimington: Vote.

The Speaker: Vote on what, sir?

Mr Rimington: Whether to accept it or not.

The Speaker: Pardon?

Mr Rimington: Mr Speaker, I am not a master of standing orders and no doubt you will advise me to sit down *et cetera* but can this matter not be resolved quickly by a simple vote?

The Speaker: The hon. member has in accordance with standing orders which would apply to any hon. member of this House called to place a motion before the House. That motion can either be debated now without lunch or can be debated after lunch. If there are a large

number of members who wish to speak then I suggest, and I am but the servant of the House, that we adjourn for lunch. If there are to be no speeches then perhaps the matter can be simply put to the vote. But if I can have an indication of the number of members who would like to speak to the motion that the standing order be suspended to allow the debate.

Mr Duggan: Just vote, sir.

The Speaker: Hon. members, how many members wish to speak? One, two, three, four, five. Hon. members, the House will adjourn until 2.30. Thank you, hon. members.

The House adjourned at 1.20 p.m.

Education Bill – Message from Council

The Speaker: Hon. members, further to our discussion immediately before lunch you will now have on your desk a letter from the President of the Legislative Council advising the outcome of the matter concerning the Education Bill. It is really a matter for members to note and I am sure you are pleased at the outcome.

Council of Ministers Bill – Motion for Permission Under Standing Order 37(4) for Resumption of Debate on Clauses – Motion Lost

The Speaker: Hon. members, the next item is a motion by the hon. member for Garff under Standing Order 37(4) for the consideration of further business. Member for Garff.

Mr Rodan: Yes, thank you, Mr Speaker. I would wish to explain why I am seeking permission under Standing Order 37(4) to have the House consider a motion in my name which is -

that permission be granted under Standing Order 37(4) for a motion to resume debate on the clauses of the Bill.

The reason for seeking permission, sir, is this. Members will recall that last Tuesday, during the debate, at the clauses stage of the Council of Ministers Bill, that the hon. member for Castletown moved that further consideration of the Bill be adjourned sine die and that motion indeed carried. It would be my intention, if permission is given under 37(4), to move that the consideration of the Council of Ministers Bill be further resumed at today's sitting. The House will recall that the mover of the adjournment last week, and indeed others, made much of the fact of lack of parliamentary time that was left for the Bill in view of the large number of amendments. It was stated that the Bill was going nowhere and I believe, Mr Speaker, that last week many members took the view, understandably, that the parliamentary programme was so congested that adjournment was the only sensible action in the circumstances. But of course, since then, hon. members will have been perhaps surprised to note on receiving today's order paper at the end of last week that there was virtually no legislative business to conduct at this sitting. In my view therefore, a window of opportunity has arisen to indeed carry out our prime role of considering legislation and I believe that in the circumstances the responsible thing to do would be to resume the clauses stage today. It may well be that the House will complete the clauses today and therefore could move to a third reading on the 26th June. In my view the House would then have done its duty by this legislation. It may also be that if the large number of amendments in the House's view continues to present a logistical problem, and this was certainly strongly implied last week, that the House might wish to consider setting up a committee of the House to examine those amendments and report back at the next sitting on the 26th June. I believe such a committee would have, in the four weeks available, time to look in depth at the amendments and make recommendations to the House at the next sitting, thus allowing clauses to be dealt with expeditiously at that time, and indeed if the House was minded the third reading could possibly be held at that sitting also. I am in the hands of the House but would simply ask those members who voted last week to adjourn this Bill because of little time

left to seriously reconsider. You may, sir, wish to confirm that technically there would still be time today and at the next sitting to ensure the passage of this legislation through this House if that was the House's will, and therefore I would beg to have the permission of the House to move the resolution in relation to resumption of the debate in the Council of Ministers Bill.

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

The Speaker: Mr Gilbey.

Mr Gilbey: May I say, Mr Speaker, that I find this quite appalling. I make no bones of the fact that I do not support this Bill and never will I think it is the most dangerous Bill but that is not what we are discussing now. We are discussing whether we should resume consideration of it. I had certainly thought that after the resolution that was passed at our last sitting of this hon. House it had sunk without trace and now suddenly, rather like the alleged Loch Ness monster, it has reappeared. I can never remember, and I have spoken to one other member with long service, something being foisted on this hon. House in this way without any notice at all. It appears, though I find it extraordinary, that what is posed in front of us is in line with standing orders. If it is I think standing orders need altering. But quite apart from that, I certainly cannot remember anything being put forward like this. Suddenly right at the end of a sitting with nothing on the agenda, a motion like this appears. For one thing, it seems to me quite different to the way that the hon. Treasury minister behaved. When he wanted to get something considered belatedly, he had a letter written round, he apologised to the House for suggesting it, et cetera, and he realised the inconvenience that it might cause. But this is pushed before us with no notice. There could have been a supplementary agenda, there could have been a letter advising us, but neither of those courtesies were expressed to us and I find it most unfortunate the way it has been done. When you consider actually what is being suggested, it is suggested that without notice we suddenly start redebating the clauses. Well, without having any notice of this I for one did not bring the appropriate papers with me. I see that someone has had the efficiency, no doubt it is our very efficient acting Secretary, to produce the amendments here, but nevertheless there are other things members want. One would like a copy of the Bill. Mine is in my files at home, I have notes there about the whole thing. It seems to me totally wrong that we should suddenly be expected to start discussing the clauses of this Bill, on which people on both sides have very strong views, without being given any warning at all, without being able to bring our notes and papers with us, and for that reason I think it is totally inappropriate. And also if we are going to do it for this Bill, what precedent are we setting for the future? Is everyone going to be able to do this kind of thing and suddenly produce resolutions without even a letter, without a supplementary agenda, et cetera? It may be alright in the case of national crisis - and I think perhaps that is one occasion where something similar did happen when we had an oil tanker drivers strike many years ago - but I cannot think that it is right for us to get into this way of doing this and therefore I strongly oppose this resolution, Mr Speaker, for the reasons I have said: one, because we have not been treated with proper courtesy which I think we should have been, two, because we have not been given an opportunity to bring our papers with us, and three, because I think it produces a most dangerous precedent.

The Speaker: Before I call Sir Miles Walker, I want to emphasise that the debate is being conducted strictly in accordance with Standing Orders. Sir Miles Walker.

Sir Miles Walker: Thank you, Mr Speaker. When this Bill was deferred sine die, I heard the hon. member for Garff congratulate the hon. member for Castletown that he had taken the opportunity, or found a procedure to adjourn the Bill, and I suppose in the same way the hon. member for Garff could be congratulated for getting this issue back on the floor of this particular House. But, Mr Speaker, I rise to say really that I am quite disappointed, disappointed firstly that the Bill is back because I do not, as hon. members know, agree with its contents, but I am also disappointed that we have a procedure, and I accept the procedure being followed, but we have

a procedure which allows this situation to happen. We have a Bill which is probably the most important Bill to pass in front of us since the last general election, in my view. It is a Bill which fundamentally alters the constitution of the Isle of Man, of the Chief Minister, of the Council of Ministers, and so the House of Keys and Tynwald. It is important, and I know committees have sat, and I know it has been the subject of debate over a long period, but last week or whenever it was, it only seems like last week when this thing was adjourned sine die. Like Mr Gilbey I thought that is the end of it for now. Now I am not silly enough to believe that these constitution issues are ever over and neither should they be. Constitutional situations, in my view, evolve over a period of time and are amended and so on quite rightly. But we thought, I thought, a number of members thought that this was gone. The hon. member, Mr Gilbey, has just made the point that, not expecting it to be on our agenda today, I happen to have my papers, I have not looked at them I have to say since this issue was discussed on the last occasion. I believe it is just the wrong way to deal with legislation as important as this. It is finding its way onto the desk of us members of the House of Keys without any notice and we are expected to stand up and debate it sensibly and at some length and I really do not think that any of us, except perhaps the hon. member for Garff and whoever else he discussed this move with, have had the opportunity to refresh, to read through or anything. I have to say I think it is wrong and as far as I am concerned I will vote against every procedural issue that comes up in order that we do not face this particular Bill today. (**A Member:** Hear, hear.)

The Speaker: Mr Cannell.

Mr Cannell: Yes, thank you, Mr Speaker. I think it is the bitter bit really. I also would not go anywhere near supporting the Bill's measures itself as I have already indicated, but the fact remains that a legitimate procedure has been used to bring this to the floor again, and that is no less legitimate than the move, uncharitable persons might call 'stunt', that was used to kill it off last week. It is no different and in fact when we talk of courtesies it is no less a courtesy to put it back on than it was to withdraw it from members, because if members have done the homework that we are hearing about is necessary to do it and see it through today, then presumably the members who have done that homework in readiness for the debate to start with were denied that by the Bill being pulled last week. It is the use, and I stand in awe at the way it is done, I do not have that knowledge yet, I wonder whether I ever will, to be able to manipulate the entire House of Keys or Tynwald Court to revert these motions. I did, and I have spoken about it since, see one of my resolutions amended where one word survived, but that is the proper use of the legitimate procedures and I really do not think that the hon. member for Castletown who had the Bill adjourned sine die, and I think most would acknowledge has a very good working perception of the Standing Orders, can grumble if the same book is used to restore the measure -

Mrs Crowe: He hasn't grumbled.

Mr Cannell: - back to public attention. Now I appreciate that people have not got their notes, but in actual fact I have been home to get my Bill today and I do know what I was intending to speak about on the clauses I am not sure that also is an argument. It might be, but it is not a discourtesy if in fact it is within the rules. That is all I am arguing about, it is within the rules. Now you might argue from now on we are going to have to bring every Bill and all its accompanying notes with us each time because this actually could become the vogue, but so be it, there is nothing wrong with what the hon. member for Garff is trying to do and he knows this will not be swinging me about it. I also voted in favour of it being adjourned, and I know people went out saying that was the end of that and running the flag up, those were opposed to it I was not amongst them. It was not that I thought that in fact the Bill had been killed off. In fact I deprecated to a certain degree the way we did not have the chance to debate the clauses because that is the proper way the thing should have been ruled out. It should have either been chucked out for the clauses or in fact the whole thing should have run out of time, it should have run to its time.

But it was tempting, I must say, and I regret it, a few things I have slipped up on and that was one of them. I am sorry I did not vote against adjourning it sine die because I think it should have stood its chance, take its chance with members. Also there is another point to bear in mind, we also hear here about the procedures of bringing resolutions on and off the agenda. It is no different if people make arrangements whether they are going to be in attendance in the Court. They could well be primed up to do something and find on the very day it finally comes on that they are not able to attend. Conversely there has been plenty of opportunities where Bills have been on the narrow vote and other members have returned to swing it, but that is what it is about. I wish I had the command of the Standing Orders, and I shall certainly be doing my best to get better at it, to be able to say, 'I tell you what we'll do, we'll fox Tony Brown and will bring it back on by this method'. It must have been a concerted decision and I am sure even the hon. member for Castletown would applaud it and say, 'Nice one!' It is no different, no different whatever. So as far as we are concerned here, we are talking about whether to permit it and I am in favour of it.

The Speaker: Mrs Hannan.

Mrs Hannan: I objected to the way that the previous Bill was brought before us in this House, Vainstyr Loayreyder, that is the Customs and Excise, because I believe it was not done in the proper manner I believe it did not give the public notice of what we were doing and as we are a public forum then I believe that the public should have notice of what we are doing. The public do not have notice of this Bill either. It is all very well to say that this Bill, the issues should be addressed, they should be voted on - and I note the comments made by the previous speaker - but in saying that the issues that are in this Bill to a great extent have been debated, I think by each House certainly that I have been in and before that there was not a Council of Ministers anyway. On each occasion it has been debated it has been debated before in this House, so the issue that is before us, which is a very serious issue, has been debated on a number of occasions. If members say that they are now going to continue to debate the issues that are here I would, to a certain extent, welcome some of those issues being debated, certainly my amendments because I think that we should lay down rules on certain issues for inclusion, men as well as women, women as well as men, and there are these issues which I would seriously like to be addressed, but the issue that concerns me is that we spend the rest of this sitting debating this issue, the rest of June 26th debating it, we do not get to the final conclusion on this Bill, and therefore it does die with the House. The actual content of the Bill cause me huge areas of concern. Some members it does not, but I think it will be detrimental to the way that the Chief Minister is elected I think it will also be detrimental to how the Chief Minister, whoever that person is, appoints ministers. Not everybody holds that view but I am seriously concerned about if that should happen. I think it is because some members do not understand a parliament and the procedures that are laid down. All I am saying is, while there are issues which I would like to see debated it is not necessarily some of the issues which are going to be concluded with this Bill or with its amendments, and therefore I have a great deal of concern with regard to the contents of the Bill and also with the contents of some of the amendments. It is all very well for the member for Onchan to say that he did not have a copy of his Bill but he had been home to get it. Some of us, yes, could have gone home to get it, but probably because it was finished late might not have got back in time to discuss this legislation. It is all very well living in Douglas and being able to get home for notes and minutes and Bills and that sort of thing. Alright you can get a spare copy here, but if you have made notes on it, you have got information which is contained from the last - I just happen to have mine with me because I know what the member said when he was on his way out, 'I will be bringing it back'. So of course he will be bringing it back, and you do not know when he will be bringing it back, and of course he is bringing it back today, so I actually have my copy with me, so I did not have to go home and get mine. It is just the point made by the member for Onchan when he said, Oh he went home to get his, we all cannot go home for our copies, we all cannot go home for notes. All

I am saying is that some of us actually use our Bills and so we have notes and notes contained in it as well to be used during the movement of the Bill, and therefore while it is, as has been said, OK under Standing Orders, my concern is that we are a public area moving what might be deemed to be any other business. To my mind we are not just the Women's Institute moving any other business: what we are is we are a parliament debating law and therefore I think we should treat it with more respect than just raising something like this. I could understand it if the mover was saying, I am moving this today with the intention of bringing it back at the next sitting. I could understand that because then members are aware, the public will then be aware and everything is, as far as I can see, above board. My concern was with the previous Bill, the Customs and Excise Bill. I still have my concerns with regard to that because I believe that what we should be doing is public and what has happened today is that it is not public, Vainstyr Loayreyder.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like to say that as far as I am concerned I voted for keeping the debate going the last time, I said I did not agree with the Bill but I did do that. I believe that we lost it legitimately as far that is concerned, and I think this House has to be very careful. But I do think that the establishment needs to take note when it suspends Standing Orders for its own ends, that this is the sort of situation that can arise, where the issue of good order within this House can be brought into question. I voted against the proposal of the hon. member for Castletown at the last opportunity because I believed it was wrong for that to happen, but I also feel that it is wrong for this House to resurrect something afterwards. I think it is important that we keep to the core issue of what we have got in front of us, before us now, and not allow personalities of one getting up-manship over another to cloud the issue of what we are debating as far as the suspension of standing orders, and that does concern me on this issue. I think we should really be considering the issue, not the personalities behind the different issues, but I do hope that the establishment in this hon. House just realises that they have got to play fair in the future as far as this is concerned. (**A Member:** Hear, hear.)

The Speaker: Mrs Crowe.

Mrs Crowe: Mr Speaker, I have no problem with the procedural games, if you like, at all but we did hear from the mover of the Bill at the last reading, I think he actually said, I think it was with tongue in cheek, 'With fair wind it stood a chance of getting through the legislative programme'. Now I would like to know are we standing here or are we going to indeed be debating all afternoon and perhaps at the next sitting, a Bill which has no likelihood of going through its legislative process. It would be most unlikely if the Legislative Council did not put an amendment to this Bill in which case the Bill would fall, and I would just like to know if that is correct because it just seems to me that it is a nonsense to be carrying on with a debate without seeking to suspend Standing Orders, to continue a debate on a Bill which in every practical way has no, well I do not believe but I would be pleased to hear from the mover, if with fair wind as he put it last time, this Bill could actually get through its legislative process, and looking towards the Legislative Council who I believe would be bound to amend it in some way.

The Speaker: Can I ask the mover to respond.

Mr Rodan: Yes, thank you, Mr Speaker. I would like to thank everyone who has made comment on this whether they are for the Bill or against, and I have noted with interest the views on the use of procedures. Can I say to the hon. member for Glenfaba, Mr Gilbey, who considers it, I think he used the word, appalling that the Bill has been foisted on the House in this way without notice, can I just point out that many of us were fully geared up for debate last week on the clauses which, chances would be, would still be taking place today at this sitting, and therefore the question of notice I just wonder if that is a little bit over-stated in that I accept that, and I acknowledge, that there was no letter sent round or, as the hon. member would have

wished the courtesy of a supplementary agenda, but I see nothing improper in seeking to make a case under the rules of this House as other members have alluded to, perfectly proper. No notice was given to me of the adjournment last week or to any other member of this House who had prepared a debate on the clauses and therefore I would just be a little bit careful about that particular argument. It was a surprise to me actually to see the order paper that I, like many others, had expected the Bill to be consigned effectively to oblivion, which of course was the prime object in the view of certain members, because of the lack of parliamentary time. It was a surprise to me to see that there is in today's order paper just such a window of opportunity of parliamentary time and therefore it is perfectly legitimate to seek to use that time in pursuit of legislation. Legislation which was only adjourned as recently as last week, many of us having been persuaded that it was going to lack parliamentary time, perfectly proper in my view to seek to bring it back today and one or two members, whatever their views on the legislation, have acknowledged this point. I thank Sir Miles Walker for his fairness in the legitimacy of this exercise and the opportunity to bring it back today. I think I would say to those who have said, well the trouble is it is not in the public domain, the public were not expecting it, did not know it was going to be on today's agenda, we have not been able to prepare ourselves properly for debate today . . . I would just say, 'Let's be grown-up about this'; the Bill has been in the public domain for a long time. It required three public sittings for it to get through its second reading stage. We as parliamentarians I suggest should abide by the good boy scout's motto, 'Be prepared', be prepared for anything (*Interjections*) and be prepared for the use of Standing Orders in the pursuit of legislation I thank Mr Cannell for his acknowledging the legitimate use of procedures I can assure him - he used the word a concerted decision - I thought about this since receiving the agenda and I have not been party to a particular plot (*Laughter*) to bring this back I have employed my reading of Standing Orders and I know the way the wind lies in this House. I do not know whether I will succeed in persuading the House to resume debate or not but I feel to use the phrase I used last week that I am willing to test it and there might be a fair wind behind that proposition (**Members:** Hear, hear.) but I really do not know. I thank the hon. member for Peel, Mrs Hannan. She raised concerns of course which were more to do with the content of the Bill and the nature of amendments and very good reason I would suggest to her for her to throw her weight behind bringing the Bill back to actually test some of these amendments. As I said, it may be in the course of resumed debate that the House would prefer to dispose of those amendments by a committee to examine them. If it is felt that lack of parliamentary time or debating on the floor will not do justice to the amendments, perhaps the four weeks or the three weeks that is left for a committee of three or five members of the House to really focus in on the amendments and report back next session, next month, could in fact curtail what would have been otherwise a long non-productive debate. The hon. member for Onchan, Mr Karran: it is a perfectly legitimate point of view. Having voted against adjourning debate last week, this week he is of the view it would be wrong to resurrect such debate. Well, that is a particular point of view that he has reached and I am sure he has good reason for it but I would simply ask him that if he saw merit last week in allowing debate to continue and allowing the clauses and amendments to be subject to testing in this parliamentary forum, I would urge him that really the passage of a week does not really alter the argument for that to happen. The hon. member for Rushen, Mrs Crowe, asked where is this Bill going and implies really going nowhere because of the likelihood of Legislative Council amendments. Well I would be totally amazed, Mr Speaker, if there were not amendments from another place, particularly if one or two of the amendments were to pass, which is the point of tabling them I suspect, but I would simply make the point that we must. . . I am not necessarily expecting this Bill to get Royal Assent but what I would ask the House is for this House to do its legislative duty and to get it through this branch in the time that is left, and then what happens to it at Legislative Council is for them to decide. It is technically feasible to get the Bill through this House to Legislative Council who may wish to progress it in the session they have left or they may not. So I would say

to the hon. member, Mrs Crowe, make up your own mind as will all members, I would simply ask for this Bill to be given a hearing and for the possible mechanisms available actually to speed up the date, that is committees of this House, perhaps to be thought of as well, and I would therefore, Mr Speaker, seek the permission of the House to move resumption of the debate on the Council of Ministers Bill.

The Speaker: Hon. members, just to give clarification, in particular to the hon. member for Rushen, Mrs Crowe, if it is the wish of this House to complete at this sitting and the next sitting, or by this sitting and an extension to this sitting if it is the wish of the House to complete the clauses and the third reading, then so be it, the Bill will go to the Legislative Council. If there are no amendments, the Bill will stand. If there are amendments the Bill will come back to the new House after the election for all three readings, for all three readings. But it will not be dead. Hon. members, the motion before you is that in accordance with Standing Order 37(4) the business of the House proceed. Those in favour, please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Quine, Rodan, Houghton, Henderson, Duggan, Mrs Cannell, Messrs Downie, Singer, Cannell and the Speaker - 10

Against: Mr Gilbey, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Brown, Braidwood, Shimmin, Mrs Hannan, Messrs Bell, Karran, Corkill and Gelling - 12

The Speaker: Hon. members, the result of that motion is that it fails. There were 10 votes in favour and 12 votes against. That therefore brings to the end today's business and the House will now stand adjourned until 10.30am, Tynwald Chamber on Tuesday, June 19th.

The House adjourned at 3.08 p.m.