

**REPORT OF PROCEEDINGS OF  
HOUSE OF KEYS**

**Douglas, Tuesday, 30th January 2001  
at 10.00 a.m.**

Present:

The Speaker (Hon J D Q Cannan) (Michael); Mr L I Singer and Hon A R Bell (Ramsey); Mr R E Quine OBE (Ayre); Mrs H Hannan (Peel); Hon W A Gilbey (Glenfaba); Hon S C Rodan (Garff); 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), Mrs P M Crowe and Mr J Rimington (Rushen); with Prof T StJ N Bates, Secretary of the House.

*The Chaplain took the prayers.*

**Genetically Modified Organisms — Government Policy — Question by Mr Karran**

**The Speaker:** Hon. members, turning to our order paper, question number 1, I call upon the hon. member for Onchan, Mr Karran.

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

- (1) *What is the policy of your government on the importation of genetically modified organisms into the Isle of Man; and*
- (2) *what measures will your government take to resist any EU policy which would require such importation into the Island to be permitted?*

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

**Mr Gelling:** Mr Speaker, the Isle of Man Government's policy on the importation of genetically modified organisms into the Island is set out in the Genetically Modified Organisms Bill 2000 which features on our order paper today. The consideration of the Bill will provide an opportunity to establish whether the House endorses that government's policy.

As regards the importation of genetically modified organisms, this will be prohibited under the Bill subject to the defence that (1) the presence of the material could not reasonably be known, or (2) the organism in question is one the marketing of which is permitted by virtue of any instrument of the European Community with any member state of that European Community, sir.

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

**Mr Karran:** Vainstyr Loayreyder, would the Chief Minister not agree that this parliament is not a devolved parliament of Westminster and would he also not agree that it is wrong for his Attorney-General's Department to refuse to draw up amendments that members of this parliament want as far as their rights as a member of this hon. House, and would he also not agree that the people of the Isle of Man would like to see some sort of derogation as far as this

issue is concerned for the Isle of Man, and where is this government going to be on that subject - or is it just a white flag to Westminster and the British Home Office as usual?

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

**Mr Gelling:** Mr Speaker, first of all, of course, we are not a devolved part of the United Kingdom. Also I am rather disturbed when the hon. member says that the Attorney-General's Department refused to draw up amendments. I would suggest, perhaps, that the legal draftsman might very well have said to the hon. member, 'Of course this particular amendment might very well not allow this Bill to get Royal Assent because it actually interferes with some of our international agreements.' I would suggest that perhaps it might have altered our protocol 3, which is the free movement of goods and agricultural products throughout Europe, so basically I think we will find that, when we get into this Bill, that is the situation: anything that has a free movement throughout Europe obviously has a free movement through the Isle of Man. So I am disappointed to hear that the Attorney-General's Department would not draw up those amendments and perhaps not have said to the hon. member the reasons why perhaps those amendments would not be suitable, sir.

**The Speaker:** Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. Would the hon. Chief Minister not agree that if there was such a circumstance whereby a G M plant was included on the EU common catalogue, it would have been rigorously scientifically assessed and deemed safe for both human health and safety and the environment?

**The Speaker:** The Chief Minister.

**Mr Gelling:** I cannot but agree with the hon. member, who I think is taking the Bill later on on this order paper. Of course it is the fact that all of these are scientifically examined and they are only circulating throughout Europe because they have been deemed to be safe, but basically - the questioner has said, 'What is our policy?' - our policy certainly is not to allow the Isle of Man to be used as a back door, Mr Speaker.

**Mr Henderson:** Hear, hear.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Chief Minister not agree that if there were legitimate concerns made by the parliament of the Isle of Man about public health, why won't his government go for a derogation regarding these new products which are being brought into the Island? Why can't we go for a derogation? We should be doing our own legislation and doing what we think is right for our own people.

**The Speaker:** The Chief Minister.

**Mr Gelling:** Mr Speaker, I would again suggest to the hon. member that if there is proof that something is circulating of the nature that he describes, we would be taking that to, first of all, the Home Office and other places if we felt that it was actually harmful. I do not perhaps know where the hon. questioner is coming from and whether he knows of such a product or such a plant, but certainly I think that should be made known to our agricultural department so that the necessary action can be taken, Mr Speaker.

**The Speaker:** A final supplementary, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Chief Minister - and admittedly hindsight it is a great thing - not agree that if we had been a little bit more slower on blindly following the UK on issues over standards of how they treat animal feed and things like this, maybe the Isle of Man would be free from mad cow disease and other diseases like that and, why can't we lead instead of always blindly following, Chief Minister?

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

**Mr Gelling:** Mr Speaker, I cannot even agree with the hon. questioner this morning on that particular incident, because the Isle of Man was actually way ahead of the United Kingdom (**Mrs Crowe:** Hear, hear.) in that particular situation -

**Mr Karran:** Rubbish!

**Mr Gelling:** - and I would suggest that we are way ahead of the United Kingdom in this particular area.

**Mr Henderson:** Hear, hear.

**Mr Karran:** We have still got it!

#### **National Insurance Contribution — Question by Mr Henderson**

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

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

*Can you confirm that a national insurance class 4 contribution assessment in respect of a self-employed person for the year 2000-2001 is based on a 1999-2000 return?*

**The Speaker:** The Minister for the Treasury to reply.

**Mr Corkill:** Thank you, Mr Speaker. The hon. member is correct if the basis of assessment to income tax on the profits for the self-employed person is the income of the preceding year, but incorrect if the basis of assessment is the profits of the current year.

If I can just expand on that, class 4 national insurance contributions are payable by virtue of sections 15 and 16 of the Social Security (Contributions and Benefits) Act of 1992. Subject to specified exemptions and exceptions, the income tax division is required to raise a charge to class 4 on the annual profits or gains immediately derived from the carrying on or exercise of one or more trades, professions or vocations being profits or gains chargeable to income tax as being the income of a self-employed earner for any year of assessment. The charge has to be raised in the same manner as any income tax assessments made under the Income Tax Acts in respect of those profits or gains in raising the charge. All the provisions of the Income Tax Act shall apply, including provisions as to assessment and collection.

This means that the Assessor is required to use the profits or gains brought into charge for income tax purposes as the measure for raising a class 4 assessment. Consequently the basis of assessment for income tax will determine the basis for class 4. If that basis is the preceding year's profit, which will be the case for a person who has been self-employed for a number of years, then that will be used to determine the class 4 assessment, but if this basis is the profit of the current year, for example on the commencement of self-employment, the class 4 assessment will also be based on current year profits. So, Mr Speaker, I can confirm that the hon. member is correct for most cases but not all.

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

**Mr Henderson:** Thank you, Mr Speaker. I thank the Treasury Minister for agreeing with the issue that I am trying to highlight, which is indeed self-employed persons who have worked for several years. I would invite the Treasury minister to comment further and perhaps give us an answer to my further queries: does he think it is fair if an assessment to all intents and purposes actually takes into account the year previous and, in special reference to class 4 payments, when the new changes to class 4 only came in last year so a new assessment would be based on the year previous when class 4 changes had not actually been made? And further to that, would the Treasury minister be able to give any comment on the issue of real-time assessments or a commitment whereby his division would be working towards real-time assessments in the future?

**The Speaker:** I hope the Treasury minister will be able to answer the questions.

**Mr Corkill:** I will do my best, Mr Speaker. With regard to how the class 4 charge is assessed, I think my original answer has stated that the Assessor has no choice in the way that the charge is assessed, but of course a problem may occur perhaps if an individual's income or profit falls from one year to the next. His class 4 is assessed on the previous year and I can well imagine that in certain circumstances that may well cause a difficulty. What I would like to point out is that as part of the taxation strategy approved by Tynwald it is intended to simplify a number of areas and this does include a current year basis of assessment, so once this is introduced all class 4 charges raised will be based on the profits for that year and not, as normally the case, the previous year. I do hope that that would alleviate problems which arise in this particular area.

With regard to class 4 I would point out that there is a reciprocal nature to this with the UK in relation to contributions and benefits and therefore the rates applied are part of that reciprocity.

**The Speaker:** A final supplementary, Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. I thank the Treasury minister for those welcome assurances. Could he give an undertaking to this House that perhaps his division could look into the class 4 payment issue further so that it could perhaps be paid on a monthly basis or a six-monthly basis rather than the year end big bill situation?

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

**Mr Corkill:** Thank you, Mr Speaker. There is no straightforward monthly schedule of payments in the system but, having spoken to the Assessor and the Income tax division of the Treasury, I can confirm that they are more than ready to accept stage payments, and these can be arranged on an individual basis if people contact the division. If there are difficulties in making the payments. The income tax division is always accommodating and tries to help people in that respect, but I would emphasise that the amount does have to be paid at the end of the day.

### **Post Offices — Arrangement to Pay Fines — Question by Mr Houghton**

**The Speaker:** Question number 3, the hon. member for Douglas North, Mr Houghton.

**Mr Houghton:** Yes, thank you, Mr Speaker. I beg leave to ask the Minister for the Treasury:

*Have you considered an arrangement whereby fines could be paid at post offices?*

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

**Mr Corkill:** Mr Speaker, responsibility for the collection of fines is not confined to just one office. The General Registry is responsible for the collection of most fines, but the enforcement of warrants for unpaid fines is the responsibility of the police. Fixed penalty fines are also issued by the Department of Transport in respect of offences committed around the harbours and at the airport. The Department of Transport retains responsibility for collecting these fines, but again the enforcement of warrants for unpaid fines is the responsibility of the police.

The General Registry is the body responsible for collecting the majority of fines issued. It is shortly to introduce Axiom which is a new computerised accounting system. As you would expect, a considerable amount of resources, time, effort and money have actually been invested in the development of this system, and hopefully this will meet the needs of the General Registry.

The system has not been developed to account for fines being collected at post offices. The possibility of the public being able to pay fines at their local post office could further improve service to the general public, so I would therefore suggest that I am prepared to request that all the parties who would be involved in such an initiative should meet together and actually discuss the feasibility of fines being payable through post offices. Any such discussions would also include the internal audit division of the Treasury, as at the end of the day I must be certain that proper accountability is maintained.

**The Speaker:** Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker. Will the minister be aware, of course, the current situation for paying fines, usually by cash, is causing unnecessary inconvenience to many people who experience great difficulties and extra expense, especially those who live outside Douglas, so does he not agree in this day and age, with the growing number of fixed penalty fines being issued, that payments could be and should be arranged at post office counters notwithstanding the bureaucracy that he has just stated within his reply, sir?

**The Speaker:** The Minister for the Treasury.

**Mr Corkill:** With regard to the bureaucracy comment, Mr Speaker, the General Registry has a duty and a system to ensure accountability in this area. What I have suggested is that some meetings take place with a view to discussing the possibility of using post offices as collection points. If this will allow a better, more efficient collection of fines, then maybe there is a way forward. I do not wish to commit more than this at the moment, Mr Speaker, because there may be problems which we are not aware of. That is the intention of getting all the parties together to discuss the issue. I am concerned at the level of unpaid fines (**Mr Houghton:** Hear, hear.) which remain to be collected. This is a matter of enforcement for the police and we have been in contact with the police in terms of improving that situation.

### **Steam and Electric Railways — Destruction of Rolling Stock — Question by Mr Karran**

**The Speaker:** Question number 4, the hon. member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I beg to ask the Minister for Tourism and Leisure:

(1) *Will you confirm that two of the vintage coaches of the Isle of Man Steam Railway, (numbers F41 and F70) have been destroyed in recent weeks;*

(2) *are there any plans for the further destruction or dismemberment of any of the rolling stock of either the Isle of Man Railways or the Manx Electric Railway; and*

(3) *what is your department's policy in connection with the preservation of the historic integrity of of the Island's unique vintage transport systems?*

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

**Mr Cretney:** Mr Speaker, I can confirm that Isle of Man Steam Railway coaches numbers F41 and F70 have been dismantled. Coach F41 was dismantled within the past two weeks because of its hazardous condition. This coach has not been used operationally for at least the past 15 years. Previous maintenance had included the use of poor materials which have ultimately led to a significant deterioration in its structure, including wet rot which put the condition of the coach beyond repair. Coach F70 was dismantled in September 2000 for the same reasons. In both cases the carriage under frames have been retained and are either in current use or will be used in the future. Other items such as door handles, locks, fittings and original mouldings have also been salvaged for future use.

It is always with reluctance that decisions are made to dispose of items of our vintage transport heritage. These decisions are not made lightly and are only taken after much consideration. It must be said that in this case there are other examples of these particular coaches within the current fleet.

With regard to the second part of the question, there are currently no plans to dismantle any other items of rolling stock of either the Isle of Man Steam Railway or Manx Electric Railway.

In connection with the third part of the question, Mr Speaker, my department is committed to the ongoing operation of its vintage transport systems both as a means of transportation as well as for its obvious tourism and heritage benefits. Out of service items of rolling stock will be assessed in terms of importance and desirability to retain provided that they are capable of future restoration and do not end up as low-value replicas. I am a firm believer in our nation's heritage and I can assure hon. members that, wherever possible, items of real value capable of restoration at some stage will be saved for the nation. There is, however, no point in retaining items of rolling stock which are beyond saving and tend only to clutter up much needed space in the railway workshops and at other sites.

It must also be added at this stage that the key departmental policy is to keep the current core fleet operating in a safe manner in accordance with the requirements of the railways inspector.

As regards the preservation of out-of-service rolling stock, space will be made available at the former Homefield bus garage to at least minimise further deterioration by storing them in a weatherproof environment. As stated previously, a condition assessment can then be made on each item to establish its future status.

In summing up, I would confirm to the hon. member that the department is acutely aware of its responsibility in terms of its stewardship of the Island's unique transport systems. I would personally confirm that no irrecoverable action will be taken regarding future disposal of items of rolling stock until proper assessments have been undertaken leading to correct decisions.

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

**Mr Karran:** Vainstyr Loayreyder, would the minister try and make sure that interested parties are informed about any dismantling or destroying of any of the vintage rolling stock in future? Would the minister also not agree that this House recognises that you will need new modern carriages and there will be a need for the upgrading of stock? But at the end of the day we must not allow the destruction of any of these priceless irreplaceable and unique pieces of railway heritage to be destroyed, because it is not in our interest. There has been far too much destroyed in the past.

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

**Mr Cretney:** Yes, in response to the first part of the question, Mr Speaker, it has always been that the way I like to do things is to involve parties with a mutual or shared interest in what we are trying to do with regard to Isle of Man Railways together with any other aspect of my department's activities.

With regard to these particular items of infrastructure, a meeting did take place in May/June last year with interested parties, and I believe it was acknowledged that there were further examples of this particular category of item which we already had.

In response to the second part, it was not a decision of my department. The decision was taken by the railways inspector, which is the Department of Local Government and the Environment appointment. He has referred to coaches F41 and F70 specifically because of the hazard they present because of their advanced deterioration and danger of collapse. It was a railways inspector's recommendation that these items be dismantled. They were undoubtedly beyond repair or restoration and can only have been represented as a replica with no historic integrity. Both carriages suffered from wet rot, which could have spread to other carriages.

I think what I am trying to say, Mr Speaker, is that in line with the track renewal programme, which we have now embarked upon, sadly for too long part of the railway infrastructure itself, the carriages, had been neglected. We are trying now to reverse that situation and I seek all hon. members' support in so doing.

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

**Mr Henderson:** Thank you, Mr Speaker. Would the hon. minister not agree that his preservation programme for our rare vintage railway rolling stock is nothing but a shambles and that hiding them away in a shed on Salisbury Street is not going to be the answer? Could he confirm for this House today that the two carriages I have been especially interested in for the last 18 months are not coming under the same condition as we have just heard, and would he further agree that it is a scandal that railway carriages should be allowed to rot for years in this way in the first place?

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

**Mr Cretney:** Yes, thank you, Mr Speaker. Yes, I believe it is a scandal that parts of our historic heritage have been allowed to rot in this way over years. However, I have been the minister for five years only and the damage which has caused this - I said in the response to the original questioner that these had not been used in any way for at least the last 15 years, so you cannot blame me for everything, hon. member.

In terms of a sham, no, I do not agree it is a sham. I believe that the support I have been able to obtain from Treasury in terms of both the railway lines, where long overdue work needed

doing: the poles on the Manx Electric Railway line, for example, and the work which we are doing in terms of the railway infrastructure. For example, we are reboiling *Loch* this year; we are working in co-operation with one of the voluntary organisations in that regard. I think we are doing a good job. We have a long way to go in catching up and I acknowledge that.

### **Ayres — Cessation of Refuse Tipping — Question by Mr Singer**

**The Speaker:** Question number 5, the hon. member for Ramsey, Mr Singer.

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

*Will you give an undertaking that tipping will completely cease at the Ayres from December 2003?*

**The Speaker:** The Minister for Local Government and the Environment to reply.

**Mr Gilbey:** Mr Speaker, under the terms of the planning consent for Wright's Pit East there is a condition requiring that landfill with waste materials must stop no later than 31st December 2003. The Department of Local Government and the Environment has no intention of tipping beyond that date, but it is committed to a large-scale restoration process of their filled land sites which must be completed by 31st December 2004. This is also a condition of the planning consent which the department will fully honour.

The department has recently submitted a planning application to extend the previously granted planning permission for landfill in Wright's Pit North until 31st December 2003. If this is granted, it should provide us with adequate landfill until the end of that year, by which time landfill activities will have moved away from that area. However, if delays are forced onto the department in respect of the integrated energy from waste plant and its provision of an alternative landfill site, the department may of necessity, in the national interest, be forced to extend these dates.

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

**Mr Singer:** Thank you, Mr Speaker. Accepting that the hon. minister's answer is given in good faith and understanding the caveat at the end of it, can he understand the doubts in the minds of the people of Ramsey and the north who over 12 years have been promised several times by the department that tipping would last only a short time and cease, that independent inspectors have given permission with reluctance as long as they were the final permissions, yet several further permissions have been sought and short-term tipping is going on until at least 2003, a 14-years time span? Therefore what sureties can the minister put in place to prevent a future minister wishing to continue to tip in the gravel extraction sites of the Ayres or raise the present tip levels?

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

**Mr Gilbey:** I cannot give any assurances for my successors, Mr Speaker, as every hon. member knows. All I can say is that it is a policy of the department, my colleagues in the department, myself, the Council of Ministers and this hon. House and another place that an integrated energy from waste plant should be constructed as soon as possible, and I hope that will happen. The department will do everything in its power to see it does happen, and I hope, therefore, that the hon. member, Mr Singer, and his colleagues from the north of the Island will

support us in every way in getting this new facility built and completed and operational as soon as possible.

I can certainly understand the concern of the hon. member's constituents about the terrible delays that have happened over the last 12 years, but I hope that, thanks to the firm decisions made in another place recently, there will not be further delays, but I should point out to him that anyone who attempts to delay the energy from waste plant and our other plans for dealing with waste could well lead to the kind of problems that he and his constituents fear.

**The Speaker:** The member for Ayre, Mr Quine.

**Mr Quine:** Thank you, Mr Speaker. Can the minister confirm that any possible extension of tipping at Wright's Pit East after December 2003 can only arise if there is spare capacity which is highly improbable? And secondly, can he confirm that there are no other sites at the Ayres in prospect at this time?

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

**Mr Gilbey:** I can certainly confirm that obviously one cannot tip anywhere where there is not room to tip. Regarding any other site, I do not know if he means in addition to Wright's Pit North and Wright's Pit East. If he does mean that, and he is signifying he does, of course he is totally right.

**The Speaker:** Mr Singer, the member for Ramsey.

**Mr Singer:** Thank you. I thank the minister for his answers. Does the minister remember, though, during the discussion in another place about the incinerator that he actually said there will be no more tipping in the north and therefore he elicited support for the incinerator? Am I right in that he is now saying to me that what he said is not as straightforward because tipping may well not stop in the north and, other than the Wright's pits, is it not possible that somebody, or the department, would seek to tip in the gravel pits, prepare those and tip there in the north in the future, and therefore what he has said is that the traffic nuisances and dangers could well continue in the future?

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

**Mr Gilbey:** The first thing I should make it clear, Mr Speaker, is that I never make any promises because I have seen too many people make promises which, for reasons of no fault of their own, cannot be honoured. All I can say is what is the policy of the department, its members, the Council of Ministers and Tynwald, and that is that we have an integrated energy from waste plant as fast as we possibly can, and when that is operational there will certainly be no question of tipping in the north. As my hon. colleague for Ayre, Mr Quine, has pointed out very clearly, apart from any wish to extend planning permissions, which would only happen as a last resort, there is the actual limitation of the amount that can be tipped because there are no other areas appropriate apart from Wright's Pit East and Wright's Pit North and there is absolutely no question whatsoever of looking at other gravel pits or areas in the north of the Island. Indeed, from the point of view of proximity, which is a vital one in waste disposal, it is the intention that the future landfilling facilities that will be required for inert waste and possibly the clinker from the incinerator should be in the southern part or middle part of the Island and not in the north, because obviously you do not want to carry things further than you need, and this is a vital part of the argument of proximity for environmental benefit.

**The Speaker:** I do not intend to allow this to become a waste disposal debate and will allow two more supplementaries. Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, a supplementary. Would the minister not agree that if we look back on our history the north has had it for the last 12 years, Pulrose had it for generations when I grew up, and Ballasalla when people down there were growing up? Would the minister make an undertaking that the true facts as far as the capacity in this area are made fully aware to the hon. House, which is a lot longer than has been given, and will he assure this House that there will be no manipulation to try and justify his department's white elephant as far as this energy from waste plant is concerned -

**Mrs Crowe:** Nonsense!

**Mr Karran:** - from us being forced into a crisis situation where the planning is put in too late to vary it and we are forced into a situation where we have to support even more expenditure on this uneconomic and unviable project by his department that he is proposing at the bottom of Richmond Hill?

**The Speaker:** Minister to respond.

**Mr Gilbey:** I should point out that this project which he lambastes so was approved by an enormous majority of the members of Tynwald. (**Mr Brown:** Hear, hear.) I should also point out that the problems that he postulates are not likely to arise unless he and other people deliberately keep on delaying and trying to sabotage the policy that Tynwald has so clearly agreed.

**The Speaker:** A final supplementary, Mrs Cannell, Douglas East.

**Mrs Cannell:** Thank you, Mr Speaker. Can the hon. minister indicate then, please, for members what his department's contingency plan is? Bearing in mind that their preferred option for the waste from energy plant is still a long, long way to go and is still subject to planning, what is his department's contingency plan if that does not get its approval?

**The Speaker:** Minister to reply.

**Mr Gilbey:** I think I can only point out to that, Mr Speaker, that outline approval has been given and it is only a matter of detailed planning approval. We do not see a contingency in which we will not get detailed approval, because there is no doubt that even if an inspector asked for some amendments to detailed approval, those amendments could be made. I think one must point out that it is in the national interest that this facility, which Tynwald has agreed to and which we are committed to financially, should proceed, and continued attempts to sabotage and delay it are only quite contrary to the national interest and the interests of the people we represent.

**Mrs Crowe:** Hear, hear.

### **Public Sector Housing — Rapid Availability — Question by Mr Henderson**

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

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

*What does your department intend to do to assist local authorities to make public sector housing available as quickly as possible?*

**The Speaker:** Minister for Local Government and the Environment to reply.

**Mr Gilbey:** Mr Speaker, under the terms of the Housing Act 1955 it is an obligation of local authorities - and here I quote from the Act, although the wording is a bit old-fashioned - 'to consider the housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation, and for that purpose to review the information which has been brought to their notice either as a result of inspections and surveys carried out under section 1 of this Act or otherwise, and as often as occasion arises or within three months after notice has been given to them by the department to prepare and submit to the department proposals for the provision of new houses.'

The department's officers have regular dialogue with local authorities who are housing authorities and agree with them programmes for the development of new housing in their areas. These programmes are then included in the annual policy and budget documents submitted to Tynwald for approval. The majority of local authority housing schemes are undertaken with 100 per cent deficiency payment support by the department and in the current pink book 2000-2001 the total value of such projects is over £92<sup>1</sup>/<sub>2</sub> million. Approximately 80 per cent of this programme is for the provision of new housing units.

As hon. members are aware, the department is committed to a programme for the construction of up to 80 public sector housing units per annum over the next five years and has been actively seeking from local authorities proposals which would assist in meeting this target.

In progressing projects which are included in the housing programme the local authorities are required to follow guidelines for the progression of local authority petitions and the government's own capital procedures. In order to assist local authorities to manage the progression of such schemes, the department staff are available to provide administrative and technical advice and guidance. On certain major projects such as the Lower Pulrose redevelopment in Douglas, senior managers from the department are included in the project teams in order to provide the necessary support to achieve a satisfactory outcome.

In addition to the above advice and guidance, the department has on occasion assisted local authorities in the purchase of land and other property to enable housing projects to proceed, and this has happened recently in Castletown, Onchan and Ramsey.

I can assure hon. members that in pursuit of its housing policies and objectives the department has provided, is providing and will continue to provide financial support, advice and guidance to local housing authorities to provide new housing.

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

**Mr Henderson:** Thank you, Mr Speaker. I thank the hon. minister for his supportive comments and reassurances to the community but, in the light of a circulated answer to my written answer, it is indicated on that there are 106 empty public sector dwellings at the minute, 51 of them are as a result of houses becoming vacant following tenants leaving, and would the hon. minister agree that although the figure is a lot better than it was when we started the empty homes issue, further resources are required and further help and support to local

authorities to bring this figure down even further, considering we do have a housing crisis at the minute?

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

**Mr Gilbey:** I certainly agree that more help is required, Mr Speaker; certainly I agree with the hon. member that we want to stop there being empty houses anywhere if we possibly can in the private or the public sector. But if he looks at the list that has been circulated, of the 106 houses that are empty, 55 are awaiting capital works or probably having capital works done to them and 51 are having a change of tenancy. I am afraid it is unavoidable that some houses will on occasion be empty for improvement works to be done to them, for maintenance to be done to them and for changes of tenants. However, the department is completely wedded to reducing this number to the minimum that is humanly possible, but I think we have got to be realistic. Again I am not going to pull the wool over hon. members or the public's eyes and say we will never have any public sector houses empty, because everyone knows that there will always be a minimum number which are unavoidably empty.

I would also say the department is moving ahead very fast with the hon. member's very good idea of having a committee to look at empty properties generally under the chairmanship of his colleague, the hon. member sitting next to him, Mr Houghton, the other member for North Douglas, and we hope to have a report from that committee with some interesting ideas in the very near future.

**The Speaker:** A supplementary, member for Douglas South, Mr Duggan.

**Mr Duggan:** Thank you, Mr Speaker. As the minister has touched on Lower Pulrose, which I am very pleased is getting rebuilt, and the houses have been demolished and new ones going up, would the minister take time to look round Lower Pulrose and see all the boarded-up houses? There are at least 20 and some councillors have already been on about it, and my colleague here, Mr Cretney, raised it too. There are about 20 houses at least so we are losing a considerable amount of rent. You, Mr Gilbey, are meeting a deficiency on this. On top of that we have got people in poor accommodation, damp premises, paying £80 to £100 a week. Something needs to be done with Douglas Corporation to look at these boarded-up houses (**Mr Henderson:** Hear, hear.) and get some action, because you are losing, sir, and the people are losing outside.

**The Speaker:** Minister to reply.

**Mr Gilbey:** I do not know about these particular houses but I suspect they -

**Mr Duggan:** I will take you around.

**Mr Gilbey:** I am not saying they are not there, I said I do not know about the situation which has caused their present position, but I suspect they have been condemned as not being suitable or are very soon going to be demolished and the tenants have been put somewhere else. I am sure they are the next phase of the Pulrose development.

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

**Mr Karran:** Vainstyr Loayreyder, a supplementary. Would the minister revisit the answer to the written question that only 25 were empty and two were empty in Onchan? I think that must be wrong. I think the hon. member needs to visit it. Would the minister not also agree that one

of the reasons why these houses are empty in Lower Pulrose is to do with public health reasons as the workers are refusing to go in to renovate them because of safety, and would he not also agree it is unreasonable to expect people to live in houses that other people regard as not safe to work in?

**The Speaker:** Minister to reply.

**Mr Gilbey:** I totally agree and I am most grateful to the hon. member for explaining obliquely to the House why these houses are not occupied now. Certainly, if they are not safe for workers to go in and so on it seems to me not surprising. He seems to be suggesting that the figures for Onchan are wrong. All I can say is that -

**Mr Karran:** And Douglas.

**Mr Gilbey:** - the Department of Local Government have to rely on what they are told by local authorities, and if that is what Onchan said we have to accept it. We cannot be expected to go around double-checking on simple advice on matters like this that we are given. He mentioned 25 empty properties, I cannot see on the circulated list with the written answer any reference to 25 anywhere. (*Mr Karran interjecting*) He may have just heard me say 55 were awaiting capital works, which is the figure shown on the list.

**The Speaker:** A supplementary, Mr Cannell, Onchan.

**Mr Karran:** Six and nineteen makes twenty-five.

**Mr Cannell:** Thank you, Mr Speaker. Would not the hon. minister agree with me that the availability of local authority housing could be considerably enhanced if a proper survey of those who require such accommodation and the terms in which they were constructed were to be undertaken which would patently show that there are many people occupying such premises who in fact have no need to do so whatever?

**The Speaker:** Minister to reply.

**Mr Gilbey:** Well, I am certainly not going into a debate on this matter; it is a matter which is the subject of great contention. I know that some people will say that there should be all kinds of means tests and goodness knows what else regarding public sector tenants. Other people violently disagree and I am certainly not going into a debate about this now, which is not covered anywhere that I can see on either of the questions.

**The Speaker:** A final supplementary, Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. Reverting to my question, I am grateful for the supportive comments from the minister but would he give a further commitment that they will re-examine the periods of empty houses awaiting tenancy changes, because I am given to understand that some houses are taking up to six, seven, eight months to have a turnaround and this is unacceptable to me in a housing crisis?

**A Member:** Hear, hear.

**The Speaker:** Minister to reply.

**Mr Gilbey:** We do have the lengths as well and I quite agree with him about unnecessarily long periods. We are constantly trying to get the numbers on this list reduced. They have been reduced, as the hon. member acknowledges, but we want to see them reduced more because

it is both socially and economically wrong to have houses empty (**Mr Houghton:** Hear, hear.) if that can be avoided. That must be obvious to everyone.

### **Traffic Lights at St Ninian's, Douglas — Question by Mr Houghton**

**The Speaker:** Question number 7, hon. member for Douglas North, Mr Houghton.

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

- (1) *What was the cost of the recent installation of the traffic lights at the St Ninian's crossroads?*
- (2) *are you satisfied with their sequential setting; and*
- (3) *does your department propose to adjust the setting regulating the filter lanes into Ballaquayle Road?*

**The Speaker:** Minister for Transport to reply.

**Mr Brown:** Mr Speaker, I thank the hon. member for his question as it enables me to clarify the situation. I can confirm, in relation to the first part of the question, that the previous signals were controlled by a Plessey type 200 controller. This unit was faulty due to its age and there was also a problem in that there were no longer type approval spares being produced or available. As the installation of a new controller box was required, it was seen as prudent by the department to carry out other necessary upgrading of the lights - that is, the poles, signal heads and the cables. I can confirm that the work undertaken on the signals at St Ninian's has to date resulted in an expenditure of £27,287.22.

With reference to the second part of the hon. member's question, the works currently are incomplete and the lights are presently operating on a fixed-time cycle in relation to each approach. This also includes the automatic pedestrian phases. The department awaits the final on-site set-up and testing of the controller. This work is currently programmed by the manufacturers to be undertaken during the 30th-31st January 2001. Subject to the successful on-site set-up the signals will be set to operate in their new sequence of operation. The amount of green time given to each approach will then vary depending upon the time of day and the volume of traffic. This should eliminate the temporary and somewhat unsatisfactory present operation of the signals.

With reference to the third part of the hon. member's question, I can confirm that the current filtering system is working well and no changes are projected. When the signals were first changed to remove the dedicated right turn into Ballaquayle Road, the department did receive some adverse comment. The comments were primarily from persons not realising that the signals had been amended and that a new sequence was in place. However, the department has erected advance warning signs which advise drivers as follows: 'Traffic signals sequence changed'.

I am advised that the current sequencing is consistent with other traffic signal installations where right-turning traffic has to await breaks in traffic flow. The amendments to the sequencing and flow movements have resulted in a greater amount of time being available to other traffic lanes and thus increasing the traffic capacity. My department is confident that once the signals are operating fully, as designed, the flow of traffic through the St Ninian's traffic signals will be much improved. My department will, of course, as normal undertake monitoring

to ensure that the system is meeting our requirements and, if necessary, adjustments will be made. Thank you, Mr Speaker.

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

**Mr Houghton:** Thank you, Mr Speaker, and I thank the hon. member for his reply, but is the minister aware that the filter lanes allowing traffic travelling from the direction of Bray Hill and Glencrutchery Road into Ballaquayle Road run concurrently and at best are causing a blockage for traffic exiting Ballaquayle Road when the light sequence changes and at worst are a hazard and can lead to a potential collision? How does the hon. minister propose to rectify this particular situation, sir?

**The Speaker:** Minister to reply.

**Mr Brown:** Yes, Mr Speaker. As I thought I fully explained to the hon. House in the answer to my question, the sequencing at the moment is not being done in the way that it is envisaged as the works are being phased to be put in and what will improve the situation is when they have been set up properly to work, as would be envisaged with such a system. So at the moment we have a situation where the lights are currently being switched on a fixed cycle and do not take account of the traffic. So it will improve once the new system is fully operational.

**The Speaker:** A final supplementary, Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker. Can I just also gain further clarification? Does this particular sequencing also affect the pedestrian crossing sequence which also operates for pedestrians which are not actually evident on the site, causing unnecessary delay to other traffic? Is that also affected, sir?

**The Speaker:** Minister to reply.

**Mr Brown:** The simple answer again, Mr Speaker, as I gave in my initial answer is yes, and I just refer to what I said when I gave my initial answer, and I go back to the relevant paragraph which says, 'With reference to the second part of the hon. member's question, the works currently are incomplete and the lights are presently operating on a fixed-time cycle in relation to each approach, and this also includes the automatic pedestrian phases.' So once the new equipment is in place and installed by the manufacturers - because we are awaiting them doing that - which should take place 30th-31st January, so that is today and tomorrow, and if all goes well, then the sequencing will change and there will be an improvement. We have had to bring in a temporary arrangement in an endeavour to at least ease some of the problems we have had in that junction.

### **Marine Drive Works — Health and Safety Risks — Question by Mr Henderson**

**The Speaker:** Question number 8, hon. member for Douglas North, Mr Henderson.

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

*Are you satisfied that there are no health and safety risks associated with works which have recently been undertaken on Marine Drive by your department?*

**The Speaker:** Minister to reply.

**Mr Brown:** Mr Speaker, I am satisfied that there are now no health and safety risks associated with the recent works undertaken on Marine Drive. However, I can advise the House

that I was extremely concerned, as were senior officers in my department, that the contractor employed by my department had left the area at Horse Leap in such an unacceptable condition after the works they undertook for my department were completed. I fully accept that the area was not left in a condition that was conducive to ensuring adequate public safety and therefore potentially resulted in putting members of the public at risk. As soon as the matter of how the contractor had left the site was brought to the attention of the director of highways and traffic of my department, the site was inspected and instructions were given to secure the area in a more acceptable way so as to ensure that there was no risk to the public.

I would take this opportunity to apologise to the public for the unacceptable situation that arose. However, I would wish to take this opportunity to make a number of important comments in relation to this matter. First, I have to say that I am amazed and saddened at the actions of the hon. member for Douglas North, Mr Henderson, in that as soon as he became aware of the potential danger to the public he did not immediately contact either myself or the appropriate senior officer in my department to advise of the unacceptable situation at Horse Leap and thereby ensure that the potential danger to the public who use the area was immediately removed.

Secondly, the hon. member for Douglas North, Mr Henderson, in relation to this matter, a matter of public safety, seems to have been more interested in obtaining and maximising publicity for himself instead of taking immediate action to ensure that a potentially dangerous situation was immediately brought to the attention of my department at the earliest opportunity so as to secure immediate action to rectify the matter and remove any potential danger to the public.

Thirdly, I have to say that I find his remarks as reported in the *Manx Independent* on Friday 26th January 2001 on page 23 totally uncalled for, they are unfair and ridiculous, being without any foundation whatsoever and are an insult to the staff of my department. Again, it seems to me that the hon. member for Douglas North, Mr Henderson, was more intent on ensuring he received maximum publicity for himself by initiating such an outrageous headline than anything else. I would have expected, as I am sure the public would, that a person in his position, a member of this House, would where there is a matter relating to public safety which had either been brought to his attention or where he himself was aware of such a situation, would make his first priority to be that of public safety and would therefore in the first instance, as soon as he became aware of such a situation, contact my department and/or myself to ensure that urgent and immediate action was taken to remove any potential danger to the public.

I can advise the House that to date the hon. member for Douglas North, Mr Henderson, has never directly brought this matter to the attention of any officer in my department or myself. Personally I find it difficult to understand the actions of the hon. member for Douglas North, Mr Henderson, in relation to such an important matter of public safety, and I have to say that I am appalled and mystified that he did not report this matter and that he sought publicity for himself over a matter of public safety. Thank you.

**The Speaker:** Hon. member for Castletown, I draw your attention to standing order 98, which reads, 'No member shall digress from the subject matter of any question under discussion, and all imputations of improper motives and all personal reflections on members shall be deemed disorderly.' A supplementary, Mr Henderson.

**Mr Henderson:** Mr Speaker, I think as a matter of point of order I have the right to respond to those scurrilous allegations made by the Minister of Transport. (**Several Members:** Hear, hear.) He has put my public office on the line and my integrity and everything else in the statement he has just made.

This situation that I have highlighted has been ongoing since before Christmas. The hon. minister's officers have been working up there on that Marine Drive since the autumn, they are aware of the bore holes I have now made public, his staff have walked past them on a daily basis. Your senior officers, sir, are the ones who you should be addressing your ridiculous comments to and not the safety of this House.

My supplementaries, Mr Speaker, are easy: is the minister aware that the bore holes are still bore holes, they have not been capped even as of this morning, the silly fencing that has now been put in place is still there, and is he aware that the tarmac his department did last autumn cover up cracks next to the cliff face? Could he answer those and tell me also why his officers, walking past all the issues that have been highlighted, have never seemed to do anything about it?

**The Speaker:** Before the minister replies, I again draw his attention to standing order 98. Minister to reply.

**Mr Brown:** Thank you, Mr Speaker. I am quite satisfied that I have not digressed from the basis of the question. I await your judgement on that but certainly I am personally satisfied that I have complied with standing orders.

Mr Speaker, as far as the situation is concerned the matter, which was brought to the attention of my department through a press report, has been rectified in that the safety barriers have been moved back into the middle of the road to ensure that the public cannot walk on the area where the bore holes have been undertaken. Again, I made it absolutely clear and I apologised to the public in my first part of my answer for the situation that arose, which I find and my senior officers find totally unacceptable. There is no question about that at all. My concern - and I have expressed it here - is because of the situation of outrageous headlines and statements made by the hon. member through the press, and I feel I have a duty to respond to those as it relates to this question quite specifically.

**The Speaker:** Hon. member for Castletown, I refer you again to standing orders and the part of it which says that, 'all imputations of improper motives.' I trust that you will not persist with this matter. A supplementary, Mr Singer.

**Mr Singer:** Thank you, Mr speaker. Could I ask the hon. minister why he should say that the shortcomings of the contractors were brought notice through a press report. Can he explain to me why his officers were not aware from the very beginning that the contractors had left the area in a state in which it should not have been left and why action was not taken then before it ever came into the press?

**The Speaker:** Minister to reply.

**Mr Brown:** Mr Speaker, as with any contract, my department's senior officers expected the contractor to leave the site in a condition that would be acceptable because of the public passing that area. My department's senior officers were not aware of the situation until there was a report in the press.

**The Speaker:** I will take two more supplementaries, Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. Could the hon. minister give a commitment to this House this morning that he will endeavour to unravel the mystery of why there are still large holes in the Marine Drive that are not fenced, have never been capped, and would he also give an undertaking to look at the fencing which has been used, which is not as substantial as the original more permanent fixture? And would he agree that it is not in the best interests of public safety to have movable barriers?

**The Speaker:** Minister to reply.

**Mr Brown:** Mr Speaker, we all know the hon. member's intention is to ensure as far as possible that the Marine Drive does not open under any circumstances to traffic in the area that is presently closed.

As far as the barriers that are there, the barriers are there temporarily because the main concrete posts and wire that was there had to be removed to enable bore holes to be taken to show whether or not the ground below was such that would enable the Marine Drive in this area to be reopened to the public. When that work is completed and during the works, there were in place what people will know as the crush barriers, which are the normal main barriers which interlink, and they were in position.

What concerns me and concerns the officers of my department is that when those works were completed those barriers were not moved back to a position to ensure that the public were not put in any danger where they could have an accident where the core holes had been taken and where the posts had been removed. When it was brought to our attention those barriers were moved back. Those barriers are to be fixed to the ground as a temporary measure with adequate signing on until such time as a decision has been made by myself over whether or not the Marine Drive should be opened to the public on a temporary basis due to the works in the Old Castletown Road area. If the decision is not to reopen the Marine Drive in this area, then of course the concrete posts with the fencing will go back, but in the interim it is absolute folly to put that back as long as we make adequate provision to ensure that the public who do walk in that area are warned not to go past the barriers and that those barriers are fixed adequately to the road.

There is no question about myself and my department not taking the matter of public safety seriously, as I indicated in my first part of the answer to this question. My concern is that when somebody was aware of the potential danger it was unfortunate that nothing was said that may have assisted an earlier response to put the matter right.

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

**Mr Cannell:** Yes, Mr Speaker, would not the hon. minister agree with me that, notwithstanding the merits or otherwise of the repair to the affected area of the Marine Drive, the expense to which the Manx taxpayers went to restore the road in the '50s and the labour which was put into it demands that the area be reopened as a traffic thoroughfare rather than attempting to create it into some kind of expanded dog-walking toilet facility?

**Members:** Hear, hear.

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

**Mr Brown:** Mr Speaker, I have made it clear in this House, I think, and certainly in another place that it is my intention to examine fully whether we should invest in opening the Marine Drive fully to traffic or retain it as it presently is with some improvements to the area. One thing I can say to hon. members is that while I will listen to their points of view and consider them, as I will the public's, the decision ultimately will be made on the grounds that I believe merits such a situation and such a decision to be made. I have to say that I find the situation where we are endeavouring to assess whether or not it is safe to open that area for a temporary period to me is quite straightforward and, as I say, I was extremely concerned, as were the senior officers of my department that the contractor had left the site in a situation and in a state that was unacceptable.

**The Speaker:** I will relent for one final, final supplementary. (*Interjection*) The member for Douglas East, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker, I am most grateful. I would ask the hon. minister here today, is it not the responsibility of your department to monitor works undertaken by outside contractors, (**Members:** Hear, hear.) thereby ensuring for his department and for public health and safety a satisfactory job is completed at the end of the day?

**The Speaker:** The minister to reply for the last time.

**Mr Brown:** Yes, Mr Speaker, I accept that it is my department's responsibility to ensure that with any contract that goes on throughout the Island where we are the client, the contractor applies to the law in terms of health and safety. That is quite straightforward and the responsibility would fall on that contractor as it would on anybody else if a situation arose where there was an accident. I do not have any problem with that at all and, as I say, immediate action was taken as soon as my department was made aware that there was a problem in this area. That is not my criticism.

**The Speaker:** Hon. members, that brings to a close oral questions. Questions 9 and 10 are for written answer and are on your desks.

**Fixed Penalty Fines — Sums Imposed and Unpaid —  
Question by Mr Houghton for Written Answer**

**Question 9**

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

*In respect of (a) fixed penalty fines and (b) fines imposed by the courts in each of the last five years -*

- (1) *what was the total sum of the fines imposed; and*
- (2) *what is the total sum of those fines unpaid to date?*

## Answer

### (a) Fixed Penalty Fines

#### FIXED PENALTIES ISSUED 1996-2000

1995-2000	(1) Total sum of Fines Imposed	(2) Total sum of Fines unpaid to date
Police		
Issued Fines	£1,263,740	£84,360
Harbours	£32,000	£2,260
Airport	£28,820	£1,680

It should be noted that the value of fines increases by 50% after a set period of time.

### (b) Fines imposed by the Courts

1995-2000	(1) Total sum of Fines Imposed	(2) Total sum of Fines unpaid to date
	*£2,035,526.50	£323,462.78

\*The courts often make orders for costs and compensation, but such figures are not included in the above.

## Public Sector Houses Unoccupied — Question by Mr Henderson for Written Answer

### Question 10

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

*By local authority area -*

- how many public sector houses are currently unoccupied; and*
- how many of those properties are owned by (a) the local authority and (b) by your department?*

### Answer

Further to the hon. member's question I have caused enquiries to be made of the Island's functioning housing authorities and can answer as follows:

- At 25 January 2001 the numbers of public sector houses unoccupied, as advised by the relevant officer in the particular authority, were as follows:

	Awaiting capital works	Awaiting tenancy change
Arbory	0	2
Braddan	11	0
Castletown	6	1
DLGE	3	4
Douglas	6	19
Onchan	0	2

Peel	3	0
Port Erin	5	3
Port St Mary	6	0
Ramsey	13	6
Malew	1	0
Cooil Roi	0	1
Marashen Crescent	0	3
Peel & Western	0	2
Ramsey & Northern	1	4
Royal British Legion	0	1
Sandfield/Mill Hope	0	3

Total 55 51 = 106

(2) Of those properties 99 are owned by local authorities and 7 by my department.

### **Bills for First Reading**

**The Speaker:** I will ask the Secretary of the House to lay papers. Bills for first reading.

**The Secretary:** I lay before the House: the Interception of Communications Bill, Mr Bell; the Halifax International Bill, Sir Miles Walker; the Housing (Special Provisions) Bill, Mr Karran.

### **Statement by Mrs Hannan**

**The Speaker:** Hon. members, the member for Peel has requested to make a statement to the House. Mrs Hannan.

**Mrs Hannan:** Thank you, Vainstyr Loayreyder. Under standing order 8, 'Personal explanation. By the indulgence of the House a member may explain matters of a personal nature.', during the debate in this House on Wednesday, 24th January, I stated that the member for Douglas West, Mr Shimmin, had briefed the radio on the issue under discussion. He has informed me that he did not. I accept his word and I apologise to him and this House unreservedly for those remarks. Thank you, Vainstyr Loayreyder.

**Members:** Hear, hear.

### **Food (Emergency Provisions) (Amendment) Bill — Third Reading Approved**

**The Speaker:** Item 14, Food (Emergency Provisions) (Amendment) Bill for third reading, Mr Downie.

**Mr Downie:** Thank you, Mr Speaker. The Bill amends the Food (Emergency Provisions) Act of 1986 to provide powers closely based on part 1 of the United Kingdom Food and Environment Protection Act of 1985. One of the requirements of this Bill is to provide legislation to protect our shellfish industry.

Over the last few years the biotoxins which cause paralytic shellfish poisoning, known as PSP, diuretic shellfish poisoning (DSP) and amnesic shellfish poisoning (ASP) have been spreading close to the traditional Manx fishing grounds in our territorial seas. During the summer of 1999 the marine laboratory in Port Erin reported on a number of occasions that

routine water samples taken off the west coast of the Island indicated a slight trace of the dinophyceae species of toxic algae capable of causing DSP.

The Bill will enable the department to prohibit fishing in areas which have become infected with biotoxins. In order to identify that shellfish are infected, regular samples of shellfish will be required to be taken from the fishing grounds identified by the marine laboratory and sent to a specialist marine laboratory in Aberdeen, as the assays cannot be carried out in the Island. However, the Bill can be applied not just to sea food but to any foodstuff which is defined under the Food Act of 1996. The Bill has been accepted by the UK Home Office in conjunction with the Ministry of Agriculture, Fisheries and Food and is supported by our own Department of Agriculture, Fisheries and Forestry, who have responsibility for the management of our fishing and other interested parties, all of whom have given concurrence.

Clause 1 dealt with emergency orders and enables the department to make emergency orders in response to any circumstances, not just an escape of substances in consequence of food which may become polluted. The effect will be that (a) an area affected by, for example, amnesic shellfish poisoning outside Manx waters could be designated and fishing could be prohibited in that area, but fishing (b) in that area would not be an offence under Manx law, only the landing of fish caught in that area in breach of the prohibition order.

Clause 2 dealt with enforcement and it applied only in cases where they have reasonable grounds to suspect that something to which an emergency prohibition order relates has been, is being or is about to be landed from such vessel into the Isle of Man.

The financial implications of the Bill - as the powers are only imposed in emergency scenarios, the department would only allocate financial resources from other sources in the event that the special powers had to be implemented, and can I just clarify that in a question that was raised by the hon. member for Peel, Mrs Hannan as to whether the agriculture and fisheries division would have funding, funding for food legislation is provided by the Department of Local Government and the Environment, but should we have an outbreak of shellfish poisoning, obviously there would be a joint approach by both departments in order to bring about a satisfactory resolve.

The Bill is very important for the well-being and ongoing protection of our shellfish industry and, as I said earlier, it also applies to other foodstuffs which could be imported into the Isle of Man by other means. Mr Speaker, I beg to move that the Food (Emergency Provisions) (Amendment) Bill 2000 be read for a third time.

**The Speaker:** Mr Henderson.

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

**The Speaker:** Hon. members, the motion is that the Food (Emergency Provisions) (Amendment) Bill 2000 be read a third time. All those in favour please say aye; against, no. The ayes have it. The ayes have it.

## **Local Government (Miscellaneous Provisions) Bill — Third Reading Approved**

**The Speaker:** Item 15, the Local Government (Miscellaneous Provisions) Bill 2000 for third reading, Mr Gilbey.

**Mr Gilbey:** Mr Speaker, hon. members will remember that we spent three hours discussing the seven clauses and one new clause of this Bill last week. I think it has been given adequate consideration and I do not intend to add anything at this stage, so I of course will be very pleased to answer any comments or points that hon. members may raise. I therefore beg to move the third reading of the Local Government (Miscellaneous Provisions) Bill 2000.

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

**The Speaker:** The motion is the Local Government (Miscellaneous Provisions) Bill 2000 be read a third time. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it.

## **Income Tax Bill — Second Reading Approved**

**The Speaker:** Item 16, the Income Tax Bill for second reading, the Minister for the Treasury.

**Mr Corkill:** Thank you, Mr Speaker. Hon. members, this Income Tax Bill is a routine updating of the income tax legislation to take account of a temporary taxation order approved by Tynwald at the time of the budget in February of 2000, three amendments which address the potential avoidance of tax and two minor corrections to provisions in the Income Tax Act which make no change in the effect of the law.

Turning to the clauses themselves I will now give hon. members an explanation of what each clause is intended to achieve - each clause stands alone effectively and it is difficult to give a general second reading without actually referring to the individual clauses.

Clause 1 replaces and confirms the Income Tax (Child Benefit) (Temporary Taxation) Order 2000 which was approved by Tynwald on 15th February 2000 and which confirms the abolition of tax relief in respect of child benefits. Hon. members will recall that the imposition of income tax on child benefit has been counterbalanced by an increase in the amount of benefit payable in respect of each child.

Clause 2 clarifies the meaning of a termination payment in section 48A of the Income Tax Act 1970 to make it clear that the term does not include a payment which is already chargeable to income tax under any other provision of the Income Tax Acts.

Clause 3 amends schedule 1 to the Income Tax Act 1980 to improve the powers of the Assessor of Income Tax to deal with avoidance schemes. Hon. members will be aware that new legislation is being prepared to deal with the taxation of companies. That new legislation is part of Treasury's taxation strategy and is broadly in accordance with the recommendations of the company taxation working party report of 1995. That report recommended the introduction of legislation to cater for any artificial arrangements which during or immediately before a transition period to the new company taxation regime, might result in a reduction of a company's income tax liability or a delay in payment. The amendments which clause 3 will bring about to schedule 1 of the Income Tax Act 1980 achieve the simple anti-avoidance measures proposed by that working party.

Clause 4 will amend section 106B of the Income Tax Act 1970 to permit the Collector of Customs and Excise to pass information to the Assessor of Income Tax for the purpose of any proceedings connected with a matter in relation to which the Assessor performs duties. The flow of information from the Assessor to the collector is already provided for in section 106B of the Income Tax Act 1970 and this new provision allows the information to flow in the other direction.

Clause 5 just makes two minor corrections to existing provisions in the Income Tax Act of 1970 and these amendments make no change in the effect of that law.

Clause 6 is a matter of interpretation and clause 7 will provide for the short title.

Mr Speaker, this is a short Income Tax Bill and it confirms the temporary taxation order approved as part of last year's budget. It tidies up a couple of minor problem areas and it prepares the way for the major update of our income tax legislation which is in keeping with the taxation strategy approved by hon. members in Tynwald in October 2000. I look forward to hon. members' support of this Bill and I beg to move, Mr Speaker.

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

**The Speaker:** Mr Singer.

**Mr Singer:** Thank you, Mr Speaker, if I can just make a short comment? I am not quite sure whether I should be declaring an interest of not having three children receiving three amounts of child benefit, but it is on the taxation of child benefit that I briefly rise to say that I did oppose it in the past; I think it was a wrong decision to make. I do not believe that we should be taxing child benefit and my view has not changed. I will not be opposing the Bill because I think the other parts are quite acceptable, but when it comes to the next stage then I shall be voting against this particular clause on the taxation of child benefit.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I shall be moving a number of amendments to the Bill. I shall be using my right as a member of this hon. House and a member that was 'BC', before Council of Ministers came about, and so that I shall be using this Bill in the way it should be used. Many pieces of legislation simply get nodded through because of the system of government now and the fact that it gets harder for individual members to make their stand, but I do see this piece of legislation as a vital opportunity so that other issues should be addressed. I believe that we should be giving tax relief on certain child care payments and I will be moving amendments as far as this is concerned. I believe that this House should debate this issue and let us hear what members have to say, because I believe that this is an opportunity to do so.

For years I have tried to get common sense to prevail as far as free public transport is concerned. The lunacy of what we see proposed as regards car parking spaces that are proposed at £20,000-odd per space - the economics of that crazy proposal would make free transport, but as I cannot manage to get sanity to prevail about this and that all public transport should be free on this Island - admittedly we have had some success over children - I believe that we should be, as a government, making people who use public transport on tickets, say, of more than three months able to get tax deduction and I will be moving amendments to this piece of legislation.

I do hope that I will have the courtesy of discussing these issues with the Treasury at some time and I have to say that the Department of Education and the minister have been very courteous in talking to me about my amendments to the Education Bill, but I believe that we should be giving tax relief. We have a bumper input of money into the Island; I believe that we need to have a balance but we should be trying to encourage as many people as possible to use public transport, and if we cannot get the exchequer to pay for it to be free one way, at least people who help to cut back on the congestion at peak times in Douglas in particular should be at least given tax relief on that.

We heard not so long ago in another place about the carbon dioxide emissions and the Rio Convention. I believe that what we should be doing is finding a way of giving tax relief for energy conservation on domestic premises. This is something that should be done, in my opinion, and I intend to move clauses as far as that is concerned in this House, and I do hope that we will at least see some sort of debate and this House going back to what it used to be - a parliament of the Isle of Man and not a rubber stamp for the executive.

An issue that I also would like to see in this Bill is tertiary education. I believe that we should be encouraging our young people and our people to get as well educated as possible, and I hope to move amendments so that we can include in the Bill tax relief on fees for tertiary education such as the Open University, where it costs thousands of pounds for individuals to train up. We want a nation that trains up so that they can take the top jobs and I am using this Bill as a vehicle for that I believe that that is something that should be sorted out.

The other issue that I would like to see included in this Bill is a statement to show that the old days when 'you will not get a penny from talking the Manx language' are changed. I must congratulate the government. One of the things that it has done, maybe with a bit of consultation and a bit of coercion, is the renaissance of the Manx language and the way that we have improved out of all recognition regarding our linguistic heritage.

**The Speaker:** Hon. member, we are debating the Income Tax Bill. Carry on.

**Mr Karran:** Vainstyr Loayreyder, I know we are, and one of the amendments that I will be looking for within the Income Tax Bill is that there will be tax relief for O-levels or GCSE in Manx at the grades C to A and advanced certificates in Manx at the rate of £200 in the tax year for persons who can prove that they have passed them. I know it will be open to ridicule but I am used to ridicule within this hon. House when I think of when we first started out with the Manx language and on many other issues in this hon. House. But I believe that it would be only a token towards showing outside this House that we value the Manx language. One of the things that was hammered into so many generations of Manx people was that the Manx language is worthless, you cannot make a penny out of it, and I think that, as much as it is a token gesture, it would be showing that we do actually value the Manx language without it crippling the resources of the reserves of the Treasury.

This House will have the opportunity to amend the income tax law and I hope that other members will raise the issues where the tax structure can be used in order to change things that they feel should be changed in primary law. I do hope that members will support my proposals and I would be interested to know how far the Treasury minister is prepared to support the proposals that I mentioned in this second reading debate.

**The Speaker:** Mr Braidwood.

**Mr Braidwood:** Thank you, Mr Speaker. I will be supporting the Bill. 'Naturally,' everybody will say 'with being a member of Treasury.' And I will be supporting clause 1 because although I do not have any children now who receive benefit, the £3.50 which was given was targeted to those people on the lower pay and those who did not pay tax, so that with the higher rate of income tax, which was at 20 per cent, they only received a minor benefit. As far as I was concerned that was the correct way of doing it, and I will be supporting the Bill.

**The Speaker:** Mr Quine.

**Mr Quine:** Yes, first of all I would like to associate myself with the concerns that have been expressed by the hon. member for East Douglas. I think there is still some concern abroad as to whether this principle is right or is wrong, and I do feel myself that it is wrong, although I can understand that when you apply these provisions on a universal basis you get into another situation which makes it perhaps equally wrong. So I look forward to that being debated during the clauses stage.

But the other two points are really matters for clarification, and I apologise in a way for not seizing an opportunity to discuss these with the Treasury direct, but I am sure the minister will be able to enlighten me this morning. The first point is on private health premiums. I just want him to clarify for me what the situation is in relation to private health. Is it allowable in relation to just the premiums or to the cost? What is the position in relation to allowances in respect of private health? I think there is an argument that that is in the broader interest of the community, particularly having regard to all the pressures that are placed upon the department in relation to their expenditure. So if he could just clarify that position: what is the position on tax vis-à-vis private medicine? Is it related to premiums, to cost, or is it not applicable at all? I am fairly sure it is applicable in one form or the other.

In a similar vein could he enlighten us again on this matter of private nursing costs? What is the situation there? It is a parallel, in a way, to the question which I have asked vis-à-vis private medicine. I think if he could help us with that information it would be beneficial, sir. Thank you.

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

**Mrs Cannell:** Thank you, Mr Speaker. I merely want to place on record, really, at this point in time my opposition to taxation on child benefit. It was something that a number of us opposed when it came up in another place. I still believe that there are those women, in particular single women who are working who have children, who were receiving child benefit and who previously were not brought into the tax regime but now, since the taxation on child benefit, of course, this has brought in. I had a number of people phone me after the principle of it was approved, a number of women from all over the Isle of Man, outraged that they should be expected to pay tax on child benefit. I still believe it is fundamentally wrong and that we should not have done it, and when one considers that it is going to actually bring in £1.2 million a year I would ask the hon. Treasury minister what he proposes to do with that extra income. Will it go back to those who really need it? Is he earmarking it for a special benefit, perhaps? That in itself might make it more acceptable, but I am still vehemently opposed. Thank you.

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

**Mrs Hannan:** Vainstyr Loayreyder, I think obviously people can make a big issue of taxing child benefit and it can be quite emotive, really. People do get emotive about all sorts of support

measures, and if one piece of support measure is increased another is deducted, so there are a lot of emotive issues and discussion about this particular issue. But it was not a case of - and this is my understanding - that child benefit was taxed, end of story. My understanding was that to compensate for the taxing of this, certainly the poorer, lower income families would get more and would not be taxed, and therefore it was an increase to the less well-off and it allowed them to have more finance to support their children. The people that have the ability to pay tax - let us face it, we pay very, very little tax. In some countries it is 50 per cent for everyone; somebody has got to pay for services, and there has to be this balance.

Now, with more money coming into government and paying more to the lower income people, the people that I believe that we would wish that money to get to - I think it has got to be a better way forward and to increase the amount that the lower income families get has got to improve the situation. Now, all that could have happened, but if you are supporting the lower income and everybody is getting it, then yes, they are paying tax on everything else that they are getting, but in a way it is not as necessary as it is for the low income people.

So I think we need to bear that in mind. I do not always agree with tax increases in every instance, and do not think that the Treasury is going to get away with all sorts of tax increases or even tax reductions; I am also very concerned about tax reductions and what they do, because it is all very well introducing a tax such as this - it does become emotive - but once you start reducing a tax it is very difficult to then increase again simply because of the arguments that are being put forward at this time.

**The Speaker:** Sir Miles Walker.

**Sir Miles Walker:** Thank you, Mr Speaker. I rise to align myself very closely with the comments made by the hon. member for East Douglas, Mrs Cannell, because I believe she is absolutely right and the principles she detailed when she was on her feet are the principles that the Treasury and the Department of Health and Social Security had in mind when child benefit was taxed - i.e. nobody would be disadvantaged and those that were on the lower incomes would get a substantial increase in child benefit whereas those who were in the tax bracket paid tax and, in essence, the balancing exercise which she has just detailed took place. It seemed to me at that time, at the last budget, a very sensible way forward. I believe those decisions were right and I support them today in the same way as I did almost 12 months ago.

The hon. member for Onchan, Mr Karran made a number of suggestions, and I appreciate that we do not have amendments before us at this stage, but I guess the thing that should be pointed out is the issue that is raised budget time after budget time - i.e. assistance through the tax regime is not necessarily the best way to benefit people in our community, because it is only those, of course, the hon. member knows, that pay tax that would benefit. I believe that the issues that the hon. member raised - childcare, transport, emissions, tertiary education, Manx language and so on - apply to everybody whether they be taxpayers or not. If the hon. member is keen to pursue those, then it should not be through the alteration of tax rates and giving extra benefit because, as I say, that will only assist a very few people. I also would just like to say that if the hon. member for Onchan is the only who is sane in this hon. House - and he tries to look to that over and over again - then I am quite pleased to be insane! Thank you, Mr Speaker.

**The Speaker:** The member for Rushen, Mrs Crowe.

**Mrs Crowe:** Thank you, Mr Speaker. I follow my insane colleague! I think the matter of taxing child benefit and indeed the substantial rise in child benefit came about when I was in the Department of Health and Social Security and, as I am sure the minister will explain, it is my understanding that it was a joint working party between Treasury and the Department of Health and Social Security to see how they could address a better provision for low-paid or non-earners in society. There was a substantial increase in child benefit for just the very people that the member for East Douglas seems to have mentioned. A single mother raising a child on her own would not be disadvantaged in any way and in fact would have a substantial increase in her child benefit. That was the specific reason that the taxation element, I think - and I am sure it will be fully explained by the minister - came in. The well paid, those who did not require extra child benefit would be taxed, but in this case also they would not be disadvantaged either. But the low paid and those people who desperately need child benefit every week would have a substantial increase in the money they had. Thank you, Mr Speaker.

**The Speaker:** If nobody else wishes to speak, I will call upon the Treasury minister to respond. Mr Corkill.

**Mr Corkill:** Thank you, Mr Speaker. I thank hon. members for their input because these are serious issues. Income tax legislation obviously is at the very heart of our revenues and of the incentives which government offers to the community, and so the things that crop up in our taxation legislation do actually mould the way our community exists.

Now, several members, without going through their submissions one at a time, have focussed on the issue of child benefit and the fact that this order ratifies a decision which Tynwald took at budget time because it is a temporary taxation order - that is the way it is done - but obviously it requires a change in legislation in due course to actually underline what has been decided.

The whole reason - and the last speaker touched on this: the DHSS and the Treasury, having listened to comments from many members over several budgets, particularly in Tynwald during the budget debate, were scratching their heads really to find a way to help low income families. Now, whatever you do with the taxation allowance is completely irrelevant to someone who does not pay tax, and who is at a level of income where the income tax is just not an issue because they do not pay it, and a good number of our community do not actually pay tax because over a number of years thresholds have changed and thankfully a number of people have been taken out of that taxation situation. So here was a situation, an opportunity to deliver to low income families, and it was very much a pragmatic way forward.

Now, it is not an attack on the universality of benefits because, to do that, Treasury would have been arguing for a means-tested system whereby only those below a certain income level, the argument would be, should have benefits for children. But in fact these payments are made to everybody who has children, qualifying with the relevant ages. There was no suggestion at any time that in fact that universality should be taken away. But where the change has occurred, what this legislation hopes to ratify is the very fact that if someone is paying tax because their level of income is at that level. . . and thankfully, due to a buoyant economy, there are more people perhaps in a position to pay tax, although we try not to let people come back into the tax net but obviously, if salaries rise quicker than inflation, then you may have a situation where people do come back into tax because they are earning it. Now, the situation quite simply was put that, with the increases that were approved, those people who would now

be paying tax on child benefit would be the status quo. In other words, they get the increase but the tax would come back onto them and take them back down to where they were. So they were no worse off. But the family where there is no tax liability would receive, and has received for this current year, the full benefit of that increase, and that was the statement and the commitment at the last budget. As far as I am concerned, whilst I hold this office and it is Council of Ministers policy it is policy of Tynwald that we should help low income families. There are not that many opportunities to actually deliver it, and this was one that we engineered to do that.

**Mrs Crowe:** To be commended.

**Mr Corkill:** Now, it is true to say that single parents above a certain level, because they are actually paying tax, would end up paying tax on child benefit. Whether it is single parents or a traditional family unit is not really relevant. The fact is, tax is applied on income and certain allowances are made for certain circumstances. So I am sorry in a way that with some members that assurance and message has still not been accepted, but I would say to those hon. members is that I support universality in terms of benefits and it is not an attack on that. All people who deserve benefits under that particular legislation should receive it. But in this case of child benefit those in higher income brackets, the decision is that they be asked to pay tax on it.

I have to say in my contact with members of the public, a number of people have come up to me, people who have said in the past, 'We don't understand why it was tax free to start with,' and in fact they do not mind paying tax on it because their incomes are adequate for their purposes and they are satisfied that it is fair that it be classed as part of their overall income, because at the end of the day it is income to them.

So I hope that puts the record straight with regard to that. There is a point of principle and I just hope that hon. members who feel as though they cannot support it do not feel that Treasury has ridden roughshod, because we have not; we have progressed this very carefully with the DHSS and eventually with Tynwald and it has taken quite a long period of time to digest it and I do hope hon. members who feel uncomfortable about it may change their minds.

Now, the hon. member, my colleague from Onchan, Mr Karran, I thank him for his mini-budget, effectively, because he has a shopping list, and that obviously is his right, and he has faxed to me copies of his proposed amendments. I thank him for that and we are looking at those. Obviously he is focussing on child care costs and I think that is an issue that quite rightly needs to be debated by this hon. House because there are two probably diametrically opposed views on relief on child care. But I would make the point again, Mr Speaker, that if you are not paying tax, then an allowance does not really mean very much, and part of the taxation strategy is to create a system of tax credits in future. It is a complicated thing to do but we are committed to it happening. It is in the legislative programme to arrange this whereby people who do build up tax allowances that they cannot use because they are not paying tax effectively can actually have that translated into a cash refund. We are actively looking at that and we do see that as another means of pragmatically using the system to deliver back to that area where people are so concerned.

Obviously you will be interested to hear what hon. members say at the clauses stage on some of the other issues the member has raised, such as transport, energy and education.

His angle on the Manx language and the GCSE is very interesting and I would be the last person to ridicule and I hope that the hon. member is not ridiculed on the Manx language issue because it is dear to his heart and dear to the hearts of a number of people. To the extent that we promote it, there may be differing views. The hon. member is quite clear with his view. The point I wish to raise with regard to that is, that we have all just recently seen the passage of the human rights legislation through this House and through another place. I believe that has Royal Assent now and therefore is law and I would question whether his incentive to give an allowance against GCSE in the Manx language only actually does comply with human rights legislation. That is something that we are inquiring about at the moment. So I understand where he is coming from but I would put that question back to the hon. member with regard to human rights.

He has also mentioned education. The fact is that we already provide income tax relief for further education as approved in the 1995 Act, so I would be interested to know more really as to why the hon. member does not feel that it goes far enough or that it is not appropriate and where the deficiencies are, so I would not like the impression to be abroad that in fact there is no relief for further educational purposes because there is.

I come back to the point, Mr Speaker, that in fact this Bill is really an enactment of last year's budget and I did forlornly, I suppose, hope that it would be kept simple because that is the purpose of the Bill. I would ask hon. members to hear that, but obviously there is the privilege of all members here to make amendments on matters of principle.

The point made by the hon. member, Mr Karran, was that in fact that we have got a bumper level of finances so we need to give it back, and certainly I do not have a problem with that principle but what I would point out is that all these amendments in fact relate to income tax relief, so I would give him the question as to who he wants to give those surplus moneys back to, to lower income or to those who pay tax anyway. So there is an issue to think about in general, but the tax structure is there.

I thank the hon. member, Mr Braidwood, my colleague on the Treasury who explained the figures with regard to child benefit and the explanation that it was status quo.

The hon. member for Ayre, Mr Quine has asked for clarification on a couple of points, and I will do my best but I may fall short, perhaps, of what is required by the hon. member. I am quite happy to speak to him further before the clauses stage. In fact for private medical insurance the relief is on the premiums and I think - but I may have to confirm - that the figure is up to £2,000; that figure I need to verify.

With regard to nursing costs and that figure, the policy is to have it allowable up to the level of single person's allowance and that was brought in at the last budget as some way of making sure that there was a benchmark so that did not get forgotten year on year.

I hope that answers the hon. member's questions. I understand his concern as I have already mentioned about the universality debate, but I would say again that this measure on child benefit is not an attack on universality in any way.

I think those are the issues. I will not go through every hon. member's contributions because some of them reinforced issues that other members had already mentioned. The issue I think I would like to end on is simply to restate, Mr Speaker, that there is a requirement under the

legislation when we move forward with budgetary issues that need legislation changes for a second reading to be achieved, and this Bill hopefully, if hon. members approve it today, will achieve that end but the door will be open for hon. members' views on points of principle as we go into the clauses stage. But I would be much appreciative if hon. members would give the Bill a second reading and that would in fact endorse the decisions that are already in operation and have been through the current year. I beg to move, Mr Speaker.

**The Speaker:** Hon. members, the motion is that the Income Tax Bill 2000 be read a second time. All those in favour please say aye; against no. The ayes have it.

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

*: Messrs Gilbey, Quine, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Houghton, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 18*

*Against: Messrs Henderson, Duggan and Mrs Cannell - 3*

**The Speaker:** Hon. members, the motion carries, 18 votes in favour and 3 votes against.

### **Children and Young Persons Bill — Second Reading Approved**

**The Speaker:** We now move on to item 17, Children and Young Persons Bill 2000, the second reading, Mr Cannell.

**Mr Cannell:** Thank you, Mr Speaker. By way of introduction I would like to say something about the background to this Bill, which is a major reform. There have been two major childcare inquiries in the Isle of Man: the McManus inquiry reporting in 1991-92 recommended that the Island should introduce the English Children Act in its entirety; and secondly the Leslie inquiry, reporting in 1997, said that there was a need to bring public and private law together.

Mr Speaker, the Children and Young Persons Bill is based largely upon the English Children Act, which was itself developed from years of research and a background of childcare inquiries which highlighted too much state intervention in family life and at other times insufficient assistance given to protect children. This Bill and its 106 clauses attempts to address these issues.

Its main aims are to introduce reforms of the law relating to the care and welfare of children and young people under the age of 18, to bring the law in the Isle of Man relating to childcare up to date, chiefly in line with the United Kingdom Children Act of 1989, the legislation on which professional training of all concerned with childcare in the Island is now based; to bring together all aspects of public law - that is, the aspects of the welfare function of social services and other state agencies with respect to children and private law, for example the care, custody and maintenance of children within the family under one set of principles, values and regulations. The Bill contains the corresponding provisions to achieve that as incorporated in the United Kingdom legislation. It includes the Human Fertilisation and Embryology Act of 1990 and the Surrogacy Arrangements Act 1985 to prevent the Isle of Man being used as a back door to avoid United Kingdom controls around such activities. It also makes provision for the legal status and family relationships of children born as a result of those activities. The Bill effectively replaces the Children and Young Persons Acts 1966 to 1990 and re-enacts without substantial amendment the Family Law Act of 1991.

Mr Speaker, our department does view this, and I hope hon. members will agree, as a major reform, and because of that importance I would like to ask hon. members to receive an overview of the Bill. The major themes and messages contained within it include, firstly, that the welfare of children is the paramount consideration and that whenever possible children should be brought up and cared for within their own families. The key issues within the Bill are that it draws the balance between the position of parents and the role of the state within family life, it draws a balance between one parent and another and outlines the obligation of the department to children. So in part 1 of the Bill it states that the welfare of the child should be the paramount consideration during any court proceedings; it defines parental responsibility and how that may be acquired - it is a relatively new concept stressing the responsibility parents have for their children rather than rights over them. Part 2 of the Bill deals with the orders that can be made with respect to children - for example, contact orders and residence orders. These are similar to the old custody and access issues which arise when parents separate.

The second major theme of the Bill is that parents with children in need, including children who are disabled, should be helped to bring up their children themselves. This help should be offered as a service to the child and family and should be provided in partnership with the parents; it should be appropriate in terms of a child's age and background; it should be open to effective, independent representation and complaints procedures; it should draw upon effective collaboration between different agencies, including those in the voluntary sector, all with the aim that all officers and all interest in this regard should be worked together in the interest of the children. So part 3 of the Bill contains a definition of children in need for guidance; it insists upon consultation with the relevant parties - for example, and probably most importantly, parents, but also other significant adults who may be involved; it advises collaboration between the department and voluntary organisations and gives power to make regulations to that effect.

The third major message or theme contained within the Bill is that the children should be safe and protected by intervention if they are in danger or at risk. However, and very importantly, the intervention in such matters by the state must be open to scrutiny. Part 4 of the Bill deals with care and supervision orders. It introduces the concept of significant harm, perceived, actual or likely. Before an order can be made, the court has to be satisfied that a child has actually suffered significant harm or is at risk, or being vulnerable to the likelihood of something happening to them. 'Significant harm' is defined within the Bill. The section of the Bill offers greater protection for children than previously. Under the current system a child has to be harmed and evidence of that harm provided before a care order can be made. Under this Bill the criteria for care can be met on the basis of professional assessment and judgement that harm may be likely to occur.

Part 5 of the Bill introduces new orders to protect children. A child assessment order allows professionals access to children to assess their needs and to evaluate their circumstances. An emergency protection order would allow for children to be removed from the homes, and an order would allow for the removal of a perpetrator from the family home rather than the child victim.

Mr Speaker, in summary these orders offer greater protection for children while increasing the accountability that professionals have to the court, since the orders can only be obtained

from those courts and they last only a very short space of time - seven or eight days before that vital return for further evidence to be presented to the court becomes legally necessary.

The fourth major message contained within this Bill is that when a child has no parents or where the parents cannot offer their children adequate standards of care, then high quality substitute parenting must be provided. Part 6 of the Bill allows for the making of regulations for standards of care within children's homes and for the registration and inspection of such premises. Part 7 allows for standards and regulations around fostering, including any private arrangements that families may make. It also deals with the regulation and inspection of childminders, playgroups and nurseries; people who use such facilities need to be reassured that their children are safe. And generally the Bill makes improvement to the current Nurseries and Childminders Act of 1974.

The Bill makes the point that as far as possible children and young people should be consulted and be kept informed about what happens to them and to be able to participate in decisions made about them if deemed suitable. Part 3 deals with consultation where children are accommodated within care. This makes the point that children and significant others, such as parents and relatives, should be consulted about where they live and their care plans. Part 1 of the Bill advises in this respect the court in its dealings to have regard for the child's wishes and feelings. The Bill stresses that in situations where children are cared for, or live away from home, must be open to scrutiny to make sure adequate standards of care and safety are maintained. Part 10 gives permission to inspect premises where children are cared for, to check both the suitability of the premises and the welfare of the children within them. The Bill also gives the message of the importance of the wider family and stresses that the family should continue to have a role in their children's lives, even where it has been decided that they must live apart from them. Wherever possible contact should be maintained. Part 4 of the Bill directs the department to facilitate contact between children and their families insofar as this is viewed as being consistent with those children's welfare. The Bill advises the courts that decisions about the upbringing of children must be responsive to the needs of the children and designed to foster their welfare, and to further that aim the court system should be viewed to be flexible. But the court should be well informed, delays in making decisions must be avoided and the court should not make orders unless it is better for the child for the court to do so.

Turning now to some other details of this very large but important piece of legislation, part 8 details with the protection of children and young people in court proceedings and in the hands of the police. It introduces supervision orders for children and young people in criminal proceedings; it reminds criminal courts that they have a duty to have regard to welfare issues when sentencing juveniles; it places the age of criminal responsibility at 10 years; it requires children and young people to be separated from adults in police stations and courts; the Bill deals with the arrest and bail of juveniles and the notification of parents whose children find themselves in such circumstances; it deals with the remand of young offenders to care, or, to be more precise, to accommodation provided by the DHSS. Part 8 introduces the notion of secure accommodation and defines the criteria which needs to be met before any young person may be placed in secure accommodation. Part 8 deals with admissibility of hearsay evidence in welfare cases and the restrictions on reporting of cases involving children.

Finally part 9 of the Bill deals, as I have mentioned earlier on, with fertilisation and surrogacy issues. It covers the regulation and licensing of these activities and also the legal status of any children born as a result of those activities.

I believe that this is a Bill which will set out to achieve the aims. It is to say it offers protection to children who need it, it upholds the importance of the family and it draws a balance between parental care and appropriate state intervention. Any additional financial or manpower implications which have been planned for have been incorporated and are detailed. Consultation has taken place throughout the Island with the appropriate childcare agencies, considerable research has been undertaken concerning the content of the Bill, and in particular attempts have been made to accommodate the lessons learned in other jurisdictions.

Since the above Bill - that is, the Bill on the order paper today - the Rehabilitation of Offenders Bill has been introduced and is currently at the Legislative Council. It includes references to care and supervision orders under the Children and Young Persons Acts which will be consequentially amended by this Bill when it comes into force. Therefore there will be some amendments to this at the appropriate stage. But with those provisos, which are sweeping and broad in their approach, I commend the provisions of the Bill. I hope hon. members will feel they are able to view this as a substantial reform that the basic tenets of the McManus enquiry and the Leslie enquiry, long ago though they were, have now been met. It would be indeed bold to say that it answers all of the questions posed in those individual circumstances, some of which were peculiar to this Island, but I hope that hon. members will feel able to support this secure in the knowledge that this goes a long way in a genuine attempt to try to avoid the circumstances which prevailed at those times. So I formally move the second reading of the Children and Young Persons Bill 2000.

**The Speaker:** Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker. Very briefly, I am quite happy and delighted to second this Bill. During my time in Social Services I had an awful lot of work put in by myself and the division now that the hon. mover has, and I congratulate him on bringing the Bill forward. It is an extremely complicated area and, as I say, there is an awful lot of work to be conducted by his division once this Bill becomes law. So I have every support in seeing this work to its end. Thank you.

**The Speaker:** Mr Shimmin, member for West Douglas.

**Mr Shimmin:** Thank you, Mr Speaker. Firstly I would like to congratulate the hon. member, being the person bringing through such an important Bill. I am almost envious until I read 106 clauses and the size of it, but I do think it is a significantly important piece of legislation which I am glad to see on the statutes.

Because of the complexity of it I am extremely disappointed that the department has not taken the opportunity of giving a full briefing to members. I have been waiting and I have been putting messages out via members of the department to try and get a briefing, because I believe that I and others will now be forced to go down to the department in order to try and gain some information to some of the queries that I do not understand. I think that the hon. member may be saying there has been a briefing; I may have missed it and I apologise if that is the case. I certainly have discussed some aspects of this with some officers of the department, but

that is many, many months ago. I believe the vast majority of this I would fully support unequivocally; there are other areas I would like some further clarification of. I think we all have so many issues relating to the care of young people in the family environment. I do believe that the department have been in need of this type of legislation for so long now. That will actually facilitate the officers to actually get on and do the job. I am more interested in learning how practical the department is in its set-up to actually achieve the restrictions and the requirements being placed upon it. It is all very admirable to have these assessments and the accountability standards put upon the department, but what we all know is that the communication of information is very time consuming and I would like to see whether the department feel they have the resources necessary to adequately cope with the demands of this Bill.

Certainly the introduction the member has given this morning I have found very helpful. I have taken numerous notes from that, I will refer to *Hansard*, but if there are any amendments to be moved I am going to struggle to get them down by next week or the following week, so I shall have to trust that the department have got most of it correct, sir.

**The Speaker:** Mr Quine, member for Ayre.

**Mr Quine:** Again I maybe may have missed out on this but I am not aware of a briefing on this Bill, and I would have thought a Bill with 106 clauses going back a considerable number of years involving two very expansive reports would have been certainly worthy of a briefing; it would have been helpful to us. But personally I am not aware of an invitation to attend a briefing on this Bill.

But at this juncture I just really want to focus on a matter which is raised in clause 45 which refers to, in substance, police protection. We are talking of a child here and it says, 'Where a constable has reasonable cause to believe that a child would otherwise suffer, or be likely to suffer, significant harm, he may be removed to accommodation. . . .' Now, I am not disputing the situation where there may be a need for a child to be removed. What I am asking the member is to explain is why it is necessary to bring the police into a situation where a child who is likely to suffer harm? Why is it necessary for the police to get involved in that situation? I think in dealing with a child as opposed to young persons et cetera, the police should not be drawn into these situations. I can understand the police providing support to other officers to act in relation to children, but the idea that police should be drawn into these situations - I think you have got stop and ask yourself whether that is necessary. We have highly trained social workers and we have other specialists, but the idea that the police should have a right or there should be a requirement for the police to put a child in protection for up to 72 hours, to me, does not seem to be the right approach. It would appear to me that we are drawing the police into this situation unnecessarily and that this is a matter that should be handled, and there should be a mechanism to handle it, by other specialist officers, not by a police officer. It just seems to me that this is not the right way to go about it. So I would be grateful if the hon. member could explain to me why there is a need for police protection in relation to a situation where a child may cause himself harm. I would have thought that ostensibly that is a situation where a social worker or somebody of that sort of background would be better placed to react and that the police really should not be drawn into those sorts of situations other than perhaps providing some support in certain circumstances to allow these specialist officers to discharge

the duties that need to be discharged. There may be a perfectly good reason for this, but to me I do not think this is a matter for the police.

**The Speaker:** If nobody else wishes to speak I will call upon the mover to reply. Mr Cannell.

**Mr Cannell:** Thank you, Mr Speaker. Firstly regarding the briefing, I did understand that there was a considerable amount of information given regarding the background to this, but I may be mistaken that there has been a specific briefing and I am apologising with my hands up for that. I hope that members would agree that perhaps it is not too late for such to be arranged. The notes which I read from to introduce the second reading can be circulated to save to save Mr Shimmin and others from having to consult *Hansard*. That is very easy to arrange and, with the requisite period before the clauses come forward, I hope that members would agree that we could rescue the situation by arranging just such a briefing, and it is clear that there would be benefit to all for that to occur.

I thank Mr Houghton, hon. member for North Douglas, for his seconding of the Bill and acknowledge that indeed he was along the way instrumental in putting together lots of the moves which now come out via his replacement at the division of social services. In fact, I would say many hundreds of people have in ways which may here be publicly acknowledged contributed a lot of very (**Mr Houghton:** Hear, hear.) valuable time, a lot of deep thought and a lot of sincere intention to try to rescue the Isle of Man situation should such a circumstance arise as I detailed in the two major reports which still lie on the files as testament to days when in fact we were perhaps not quite so enlightened.

The question by the hon. member for West Douglas, Mr Shimmin, apart from his regard to the demonstration of the introduction to the Bill, called for adequate resources to be made available. I hope that certainly will be the case, because he is quite right, in my opinion, that it is absolutely hopeless having legislation if in fact the resources are not behind the department to deliver, and in fact a reading of both the reports pointed to does quite clearly demonstrate that that was one of the inhibitions which led to those situations occurring and, it has to be admitted, some other situations too. I hope the department is not alone in that, because I am sure that there are other departments, perhaps not concerned with such an important issue as childcare, where the provision of resources might well have rescued some of the situations which have befallen them.

The hon. member for Ayre, Mr Quine, asked specifically on clause 45, and again he mirrors a concern which I have had, and that is the jackboot technology which might be employed elsewhere to try to contain a situation which might not require it. If there is anything in the legislation here which has concerned me, it is having the rights of the child as a paramount clause to this but never at the expense of making sure that the parents have their needs recognised too. What we definitely do not need are any suggestions that either the department, the law enforcement agencies or any other agencies appointed by this march in and snatch children away. It must be only as an extreme last resort that any action is taken which displaces the child in any form, but that also, I respectfully say, must include the ability to remove the child should the professionals adjudge that circumstance to require it. What we have had before, as I understand it, is a 'push me, pull you' situation where no-one has been quite in the picture as to what is able to be done and there have been some regretful incidents where in fact the children have come out of it pretty badly.

But the involvement of the police is one of the planks which I, in principle, do not care to entertain in such matters and what we are talking about here are highly emotionally charged and perhaps in some cases drink-fuelled arguments in the small hours of the night with frightened children perhaps considering that they are going to be taken away by some bogeyman and never to see their homes or their parents again. I hope we are never in that position, but though I shall get the experts' opinion on clause 45 from those who put the legislation, I would say in principle that the involvement of the constabulary is probably to prevent anything developing which, might lead to a worse situation that was already the subject of the requirement for attendance by the social workers or their heads of departments or any further officers attempting to deal with what can be very, very unsavoury situations and which can be very rapidly developed into something that might not have been necessary, was there to be a steady hand on the tiller.

You might say that the presence of uniformed police officers at a child's home in the middle of the night might inflame a situation, and in some cases with parents that can be exactly the case, but I am confident that the constabulary of the Isle of Man are in a position to be able to judge it, to put the necessary steady hand on it; they will know what is in this legislation, when I hope it is passed through and they will just give it that semblance of steadiness so that the constabulary are not to be viewed as an enemy but rather as a friend to adjudge a situation where parents may be feuding, there can be bystanders, there can be neighbours dragged in, there can be all manner of people pushing, pulling, swearing and generally kicking up an affray, all of which is designed to end up with the children totally perplexed.

So I imagine that the provision of the constabulary is to achieve a degree of steadiness within the situation, to point to what are the rights in law, because I must admit it is possible in extreme cases of inflamed situations that even the social workers themselves are sometimes struggling to actually know fully what best to do and how to know what best to do and actually get a resolution to a situation. I wish that these situations did not come about, but all we are doing here is to make sure that every possible provision is made for the inevitability of those situations which come, I am afraid all too frequently, as I mentioned, in the middle of the night. You do not often hear of in fact cases of social workers being drafted in the ordinary daytimes. It is when children get fretful, cause a nuisance, the parents start to feud and away we go. It happens time after time but the department now has plenty of opportunity to put the clauses of this Bill into operation, which will result in a better service to the people who are involved.

Only the three members spoke on this but I imagine that many of the House have - in fact I hope everybody has - a view on it. We will try and I hope that it will be attended fully; we shall assemble the experts in this field and give a presentation. We have almost a fortnight for that although, I agree with the hon. member for West Douglas, the amendments have to be in pretty sharpish, but we will be tolerant, we ask for tolerance in return and I hope that in principle this very important legislation. . . and I do not pretend to have everything in 106 clauses fully at my fingertips but I have read it two or three times. There is what I would call an explanatory memorandum, a rather easier version, which also is available to anybody who would care to have it, and there are a number of notes also and indeed the answers to the hon. member for Douglas North, Mr Houghton who at the time was the incumbent of the position regarding the McManus and Leslie reports which also sets out the department's position in that.

I hope that is sufficient explanation for this stage of this legislation. I hope that is formally answered and I do now move the second reading of the Children and Young Persons Bill 2000.

**The Speaker:** Hon. members, the motion is that Children and Young Persons Bill 2000 be now read a second time. All those in favour please say aye; against no. The ayes have it, the ayes have it.

### **Education Bill — Second Reading — Debate Commenced**

**The Speaker:** We now move to item 18, the Education Bill 2000 for second reading. The member for Garff, Mr Rodan.

**Mr Rodan:** Thank you, Mr Speaker. The object of this Bill is to make new provision for public education in place of the Isle of Man Education Act 1949. I feel it might be helpful to hon. members to give some of the historical background to the present structure of education in the Isle of Man and the Act under which it currently operates.

The state education system in the Isle of Man has been governed by the Isle of Man Education Act 1949, which was closely based on the UK Education Acts of 1944, so called 'Butler Act,' and 1946. The UK Acts set up a system in England and Wales under which county and county borough councils became local education authorities, or LEAs, operating with central financial support under central guidelines laid down by the UK Ministry of Education. Important continuing elements of the system: firstly compulsory education for children of compulsory education age, secondly the three stages of education, primary, secondary and further, thirdly the management of schools by managers or governors, and fourthly salaries and conditions of service of teachers determined at the national level. The significant new element at that time was the incorporation into the system of the church or voluntary schools with various degrees of autonomy.

The state education system in the Isle of Man had a somewhat different history but by 1949 was operating under two tiers of control. The system was run by the elected Isle of Man Education Authority, which was financed by an education rate and supervised by a board of Tynwald, the Isle of Man Board of Education, which provided it with additional funds out of general taxation. The wholesale adoption of the UK 1944 and 1946 Acts was thus easily achieved, the authority and the board, assuming the roles of the LEA and the Ministry of Education respectively, even to the extent that state schools were called 'county schools'.

The education system of England and Wales has undergone radical alterations from time to time over the last 50 years but few of the structural or administrative changes have been imported into the Isle of Man. The main educational changes were adopted, however, and one may highlight the introduction of comprehensive secondary education and the raising of the school-leaving age from 15 to 16.

Some major but unrelated structural changes have occurred in the Isle of Man. First, in 1968 the authority was merged with the board, which thereafter consisted of 24 popularly elected members and 5 members appointed by Tynwald. A committee with a majority of Tynwald members exercised the powers of the former board. Next, in 1986 when the ministerial system of government was set up, a new Department of Education was established and the board continued, albeit reconstituted, with 15 elected members only. All the functions of the former

board and authority were transferred to the department but certain of those functions today stand delegated to the board at a number of committees or joint committees. So that was the structural background.

The 1949 Act is obviously now over 50 years old and is now very out of date. It has become increasingly unworkable in recent years since the administrative structures it embodies, and many of the educational policies on which it is based, no longer operate. A two-tier system of management imposed by the 1949 Act was abolished in 1986 but it is still the legal foundation on which the system is based. The former board's approval was required to the authority's proposals for change, standards of provision and other policies and in appeal laid to the board from certain decisions of the authority affecting children and their parents. The merger of these two tiers struck at the root of that system. Therefore radical changes are needed to primary law to provide a sound legal basis on which the department can operate.

The 1949 Act required the authorities to produce for approval by the board a development plan for primary and secondary education as well as schemes of further education which set out policies and proposals for the future educational provision and the deployment of resources. Many of the Act's provisions assumed such a plan and that such schemes exist but so far as is known none was ever prepared or approved. In particular, the 1949 Act intended further education to be provided in county colleges to be established by the authority but no order has ever been made bringing that obligation into force. Instead of having a proper legal basis for its establishment management operation, the Isle of Man college exists solely in reliance on an interim legal power to provide additional facilities.

Provision of facilities at the Isle of Man College for secondary pupils also needs a firm legal foundation. Clearly members will be aware that no modern social services existed in 1949 when the National Health Service was in its infancy. Though amendments to the Act have to some extent transferred to the Department of Health and Social Security the authority's functions of providing welfare and health services for children, that role still underlies many of the education provisions of the Act and causes today some difficulty in the interaction of social and educational services. It is, of course, pertinent to note that the Children and Young Persons Bill, which has just received its second reading, and the National Health Service Bill, making its way through the branches, will revise the laws on social and health services respectively in a way that is consistent with modernising educational provision.

The 1949 Act requires schools to be run by bodies of governors, in the case of secondary schools, or managers, in the case of primary schools, which are given specific functions and a degree of autonomy. This requirement has long been ignored in many respects and a greater degree of flexibility in the legal rules is badly needed. While the basic philosophy of providing children with education suitable to their age, ability and aptitude remains unaltered, the educational provisions of the 1949 Act have to some extent been superseded by changes in educational theory and practice, and conflict between what the law requires and what happens in practice can no longer be avoided. For example, the requirement for daily religious worship and the implied duty to provide education on at least 200 days in the year remain on the statute book, but schools no longer, in practice, comply with that. The scheme of the 1949 Act with regard to the provision of special educational treatment is in fact based on medical criteria and does not accord with modern practice with respect to pupils who have special educational needs. Provision by the department of community facilities - for example, libraries, youth clubs

and outdoor activities - is based on the Education and Young People's Welfare Act 1944 which, as much as the 1949 Act, demands revision to reflect modern needs. Finally, the legislation relating to the employment of children, which is administered by the department, is in need of radical overhaul to take account of the modern employment market, the need for vocational training and the Isle of Man's international obligations.

As to the content of the Bill, now would be appropriate, having given the background to the structure of why certain changes are needed, just to go through the parts of the Bill for the further explanation of hon. members.

Part 1 lays down the basic duties of the department to promote education and to provide educational services. It consists of one clause, which restates the department's basic duty to promote education and to provide efficient and comprehensive educational services and the principle that pupils are to be educated in accordance with their parents' wishes so far as practicable. The department is also legally required to keep educational provision under review and to lay statements of its policies before Tynwald.

Part 2 begins with the department's obligation to ensure that sufficient schools are available by providing and maintaining schools itself, maintaining schools provided by others - for example, church schools - and assisting other schools, and enables new schools to be established and existing schools to be merged, divided, altered in character or closed. Provision is made for the establishment of government bodies for schools, and in this regard the term 'managers' is dropped, and their functions and the appointment, pay and conditions of service of teachers. The department is given new duties to prescribe a curriculum by order and to make provision for the information and reports to be given to parents and for school discipline. It is also pertinent to note that in the provision of a compulsory curriculum, in addition to physical education and religious education there is a new statutory requirement for the department to provide for the teaching of Manx Gaelic language and history in Island schools. The department is given express power to make regulations allowing for charges for specific teaching or activities but otherwise all facilities at any provided or maintained school are to be free of charge. The existing duty to provide religious education, arrangements for a syllabus and parents' rights to withdraw their children from religious education and worship are preserved, but an obligation, as stated earlier, to provide regular collective worship replaces the duty to provide daily worship. Specific provision is made, in part 2, for the designation of catchment areas of schools and for an appeals procedure if the department refuses to comply with the parents' choice of school. The department is given new powers to provide education for older children at a college and to educate pupils elsewhere than at school in exceptional cases. A new procedure is created for assessing whether children have special educational needs and in determining the provision to be made for them. The department is given new powers to delegate the financial management of schools to their governing bodies.

Part 3 of the Bill restates the existing definition of 'compulsory school age', the existing duties of parents to see that their children of compulsory school age receive suitable education by regular attendance at school or otherwise, and, if registered at a school, to attend that school. The existing procedure for enforcement by means of a school attendance order is restated. A new right of appeal to the court is given against a refusal to cancel or vary an attendance order.

Part 4 of the Bill makes new provision requiring the department to make arrangements for higher education and continuing education with an express power to provide, maintain or assist colleges and to make provision for the establishment and management of colleges. The department is also given power to provide or maintain nursery schools and classes, libraries and youth and other community services. The existing powers of the department to secure the cleanliness of pupils in the interests of public health and to arrange for medical and dental inspection are restated.

Part 5 restates the existing law relating to registration and inspection of independent schools.

Part 6 re-enacts the existing law relating to the Isle of Man Board of Education, the inspection of schools and the control of degrees and awards. The department is given new powers to make regulations to replace the existing legislation on the employment of children and to make schemes with respect to educational trusts. Consequential and supplemental provisions are also included.

In summary, the intention of the Bill is twofold: firstly to remove the anomalies that have arisen due to changes in educational practice, policy and legal requirements over the past 50 years; and secondly to provide an enduring core of enabling primary law which will serve the Island in making future education provision. I would emphasise that to a large extent this Bill is not introducing into the education system of the Isle of Man new practice that is not currently in existence; it is instead providing a structural framework for future education provision while making new provision for regulations and subsidiary secondary legislation.

There has been wide consultation with the public, with the teaching profession through associations, government departments, members of the elected Board of Education and members of Tynwald. I would thank those members and all those who have put forward suggestions during the consultation exercise, a number of which have been incorporated into the Bill.

I beg to move that this Education Bill 2000 be read a second time.

**The Speaker:** Mr Henderson.

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

**The Speaker:** Mr Duggan, member for South Douglas.

**Mr Duggan:** Thank you, Mr Speaker. Could I just look under clause 17 if the mover of the Bill would say that provisions of education, otherwise than at school. I knew of a case where there was a child continually bullied. A very respectful lady who was a widow had a son. She kept seeing the school and got nowhere with it but she actually educated her son at home. Will this still provide for such circumstances whereby you could actually educate your own child at home?

**The Speaker:** Mr Rimington.

**Mr Rimington:** Thank you, Mr Speaker. We have to recognise this is a very necessary updating of legislation and no-one can deny that obviously many improvements will take place by the bringing in of this Bill. It is one of those unfortunate things that when a large piece of legislation relating to a department comes forward it necessarily attracts what lies behind that

legislation in terms of the policies of the department, and indeed (as I see smiling from across the chamber) there is a contradiction in my own bringing this up in that I argued in a previous Bill from my own department that something one must be wary of when addressing the legislation that one does not get too diverted into the wider issues that exist in that field. But we do have to recognise in this House, I think, that there are actually little mechanisms to debate the overall policies of the department and that we do have in another place the debate, the policy document, which structure really is not there for focusing on the individual activities or policies of a department. It is not appropriate because it is looking at the overall policies of the economy and the Island. Then there are questions in this House and in another place which again are often confrontational and not really a mechanism for informed debate. And then we have, in another place, items being approved for expenditure, which again is an opportunity to raise issues but is really not a focus on the debate on the policies but on those particular items of expenditure.

So it is understandable that when a large Bill like this does come forward the legislation does attract looking behind that legislation and what is taking place in terms of policies. Really after, say, 50 years and new legislation is coming forward, one should look at that legislation and look for some shafts of light as to the future direction of the department and of education on the Island.

Now, I am concerned, really, as to how this Bill as is being proposed will beneficially address what I consider to be a crisis in our schools, and that is one which is not particularly restricted to is Island but is one that is outside as well. We have a haemorrhaging of the teaching profession, there is a lack of new blood, and there are distinct departures of experienced members leaving that profession in a very difficult position. The profession I consider to be rather undervalued and devalued.

This legislation sits within the department and then relates to schools and educational institutions below it, and it reflects a very hierarchical system of management and one whereby the people at the bottom of it, who are the greatest number and are actually applying the value in education, are treated like automatons. They do not have any more the professional room to give their opinions, to take charge of their own affairs or to actually get on with the business of education. That hierarchical system is good for implementing the policies of the department, good for things that emanate from Murray House, but it is no good for innovation, for teamwork and for open healthy debate and the resolution of problems that are taking place now at that level in the schools.

I was saddened last weekend: I had to spend - well, not had to spend, I was happy to spend - a couple of hours with a long experienced teacher who felt they had no opportunity any more within the system to explain general frustrations and why that person could not do what he wanted to do any more; that there was no open doors left in the system. I think we do have to address this and that the Bill does look and focus, quite rightly, on the issue of curriculum. It is unfortunate the wording in the Bill - but I can understand that wording - is rather Stalinist in that it says 'the department shall by order prescribe' which to the general layman must seem rather strong, but I do understand that there are no nasty intentions necessarily. But when we address the curriculum we have to think, what is going to be prescribed and how is that process going to take place?

The curriculum in the schools, as I see it at the moment, has been the subject of what I would call political football, and not political football on this Island but elsewhere. It has been at length kicked around by opposing parties in the adjacent isle and is forever being changed and new ideas or new mantras accepted and then imposed from central government in the adjacent isle. It does appear to me that that is what we have tended to do over here: we have accepted what has taken place, not in total but in general, in the adjacent isle and implemented that without the opportunity of our own House here or in another place giving a real debate to whether the various changes are viable or desirable. I wonder - and perhaps the minister will be kind enough in his reply to explain how - when the order which will prescribe the curriculum is going to come forward, we will be able to have that debate, how we will be able to look at that curriculum and see whether it is actually to the best advantage of the pupils of this Isle of Man and how, where there are issues such as vocational education, which has been largely dismantled in our schools under the new comprehensive mantra of recent years and belatedly is now recognised and starting to come back again, that may well be best achieved.

I was concerned, having read the policy document of last October, that it said quite clearly under both primary and secondary that the number one policy was to teach the Manx national curriculum, and I thought, in my innocence, 'Oh good, I will look at that and sent a note over to the department and asked about the Manx national curriculum and it is this one, small, little leaflet, and that is the Manx national curriculum. Beyond that it is apparently is boxloads of individual things that are taking place. So if we are going to prescribe by order the curriculum, then surely we must get to a point where there is a synopsis of something representing a clearer professional philosophy of what that curriculum is and why we are prescribing it by order rather than just one piece of paper. And so I believe that from the stage now where we might pass this legislation to the point where that order will come before another place, there is a lot of work to do and there is a lot of consultation to take place, and this whole issue of curriculum and what it is and how effective it is and how good it is for the educational benefits of the children of this Island, needs a lot wider debate. Thank you, Mr Speaker.

**The Speaker:** Hon. member for Douglas West, Mr Shimmin.

**Mr Shimmin:** Thank you, Mr Speaker. I would hate anybody in this hon. Court to think I am going soft on the Department of Education; I have many criticisms of the way in which the priorities of the department run. However, I have very little problem with this Bill. I think I must disagree with some of the comments of the previous speaker in as much that I do not wish such a strong direction from this Court or even from the department, and I think that is one of the problem areas within the operation of the department as to the professional debates going on regarding curriculum and behaviour and children's welfare in schools. That is for another time. For the Education Bill I would agree with the hon. minister who says effectively this is not new practice. This is a long overdue tidying up exercise, and I do congratulate the minister, because this Bill was becoming a bit like 'pass the parcel' for the last six or seven years; I did expect to have something a bit more dramatic when it came, and therefore I think over the years the edges have been smoothed off somewhat and we have here a practical piece of legislation which updates very old previous legislation and to a great extent I cannot get excited about it.

He will forgive me, though, for raising two points at this stage: firstly, I am sure he is aware of certain queries regarding religious education and instruction, for clarification rather than any

real disagreement, because I have worked within a system where this has been classed as illegal for many years what was actually happening with the religious worship within schools. I would ask the minister to explain for the record why in the Bill it does refer to religious instruction in certain areas and then go on to religious education, and whether there is any difference between the two. The wholly or mainly or broadly Christian character - certainly I understand what is meant by that, but he may wish to elaborate on the reasons for the terminology, and the concern has been put as how do 'wholly' and 'mainly' sit comfortably with 'broadly Christian'.

The other issue on the religious side is regarding the regular collective worship, and I would support the department in their position. It is something which can be given by guidelines issued to schools so that there can be a level of religious involvement in the guidelines, but to put it in the Bill, I think, would be restrictive and too proscriptive.

My other point would be clause 50. I wonder if the minister could explain whether the inspection of schools and colleges - under what authority within this Bill will he be able to take place with the Ofstead inspection or equivalent of the department, which I expect him to do this year, and therefore it is under that section that that would actually be carried out or where is the authority to do an inspection of the department rather than just the schools and colleges? Other than that, it is a Bill which I welcome although I do not believe it will change things radically. I think all the changes will come within the department and within the Board of Education giving guidelines to teachers and education. sir.

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

**Mrs Hannan:** I think, like the previous member who spoke, I am a bit disappointed with the legislation. Yes, I was in a position where this legislation should be developed; however, we were on our way with it and that is some time ago now when I changed to another department. However, it is difficult with legislation such as this - it is 50 years old - to update and change it dramatically.

However, I do think there are some missed opportunities. I think there are opportunities that could have addressed some of the issues. Some of the issues have been commented on already but I am concerned that parents have a responsibility to send children to school. Children come in all sorts of different shapes and sizes all different types of behaviour and they are then suspended when they are difficult or expelled. My concern is that while the parents might want to send their children to school, you then get to the situation where the school does not want them. Is there enough support for children who are not attending school? Is there enough support within this legislation to support families and children so that they end up with some form of education, some form of future, because it is all very well to say that children are expelled, suspended or whatever, or we set up various education systems for them, if at the end of the day they come to 14, 16 or whatever and they no longer compulsorily have to stay at school but they are not able to exist in society comfortably and with the wherewithal to survive in a reasonable way, I think we then as a society have let them down. I am not sure whether this legislation actually addresses that particular aspect of it. I know legislation cannot; as the member for Douglas West says, it is what happens in the department. It is like the member for Rushen who has described certain frustrations of teachers where, to a great extent, they are not respected. They are told, 'You must do. . .' this that and the other, 'you must have these inspections.' So the inspectors come in, the schools have been given three months' notice.

That is not inspecting a school which is operating day to day; that is operating a school which has advance warning, (**Several Members:** Hear, hear.) and if a school then does not come up to a particular standard you have to ask why? I would much prefer, if we are going to have inspections, that people just generally just wander into the school, come into a classroom sit at the back, see what happens, see what happens at playtime, see what happens at lunchtime and then say what the sort of response is, whether it is a good, bad or indifferent school. Then there should be a set-up within the department to help and assist that school (**A Member:** Hear, hear.) and to advise, because it might not be the school themselves that have got this bad report; It might be because they have got children who are disruptive, out of control and all the rest, and we know that there are children like that in probably every school on the Island now.

So it is those sort of concerns that I really have. The minister, in moving it, mentioned comprehensive education. Could he clarify that it is still comprehensive education that we have? I believe that we should be looking at providing education, as it says, to cater for children of all abilities, and that does not mean every child taking GCSE. (**A Member:** Hear, hear.) So what we need is an education which fits every ability, not saying 'you will actually', because some children might be absolutely brilliant at music but not have the ability to do something else but are just absolutely brilliant at art or something like that; they might not have any other ability in any other area but they could actually be taken along at a lower level on those sorts of issues or indeed, as the minister mentioned, vocational education, which we seem to have moved away from. That is not educating somebody for a job, but it could be educating somebody for their leisure time. It could encourage people - again back to art or any aspect which is not necessarily seen as employment-based or vocationally-based - something which would encourage the strengths of those pupils.

There is just another concern that I have with a missed opportunity, because I feel with there being less interest from the general public in the election of board members by universal suffrage it might have been possible to look at electing Board of Education members in a different way. There have been a number of studies carried out on, maybe in local areas, representing local areas as governors and maybe a representative then coming together with the Department of Education. So I am not against board members, but they could be elected in possibly a different way rather than having one member - again we are back to democracy - representing my area where there is one House of Keys member, but in another area where there are three representatives there is one board member. So I think it is a missed opportunity that this could have been looked at to elect board members in a different way and maybe with different responsibilities. Even, as the member for Castletown has just murmured to me, all-Island, because we could do that under STV and I believe it is a missed opportunity there.

There are a number of other issues but I will leave it at that for the moment, Vainstyr Loayreyder. I will support the second reading of it but I am just concerned that there have been missed opportunities.

**The Speaker:** Hon. members, this seems an appropriate opportunity to adjourn for lunch and the House will stand adjourned until 2.30pm. Thank you.

*The House adjourned.*

**Procedural**

**The Speaker:** Hon. members, with the permission of the House, at the close of business today I would like to take the supplementary order paper. I would not wish this matter to continue on the order paper week after week. If that is agreed?

**Members:** Agreed.

### **Education Bill — Debate Concluded — Second Reading Approved**

**The Speaker:** Thank you, hon. members. Mr Rodan, sir. Oh, I beg your pardon, Mr Karran. We continue the debate.

**Mr Karran:** Vainstyr Loayreyder, I would just like to say concerning the Education Bill that I think some of the debate has been excellent as regards some of the input. I think the hon. member for Rushen was quite right about the curriculum being a matter of a leaflet that could be thrown out at any part. It just highlights one of the diseases that we have as a nation when we talk about a Manx national curriculum.

Our educational system was second to none for many years on this Island compared to the adjacent isle, but there has been a fixation with following what is happening in the adjacent isle. One of my philosophies as far as Mann is concerned is that happens here tomorrow has happened a decade or so ago in the adjacent isle. I just feel that far too often we are in too much of a rush to drag everything in before it is all thought out from the adjacent isle. The member was quite right when he talked about education being at war with the government in the adjacent isle. That is a known fact, and the teaching profession have had that problem.

As a former member of the Board of Education and non-Tynwald member, I could not support the hon. member for Peel on having a different way of electing the people. I personally feel that the non-Tynwald members of the Board of Education - we should not be wasting money on separate voters lists or anything like that. I believe that, if anything, the non-Tynwald members are a valuable resource that are not used enough in other ways. Although we have seen with our system in many other departments where the delegation of responsibility has come from 15 or 20 individuals on different committees to one person; then the problem is that there is not the same accountability and it is very, very difficult to get things over to the elected members in the right way. So I would not be supporting money being wasted on developing new constituencies and new voting lists for the non-Tynwald members. I think that would be a very big mistake and a big waste of resources. I concede that it is crazy that we have a member for Glenfaba with 1,400 votes and a member for Onchan with 8,000 votes plus, more than likely by now, but I am glad to see that that bullet has been left concerning the non-Tynwald members. I think that their role could be extended to other departments.

On the Bill itself, I must say that I was very pleased at the detailed response to the hon. member in his moving of the second reading of this Bill, but I have got concerns and have had an audience with the Minister of Education over a number of amendments that I feel need to be addressed, and we have argued the point over clause 3 and the inclusion of providing for the teaching in schools to be through the medium of Manx Gaelic. I believe that we have had an instrumental move away from the linguistic genocide that too many in this hon. House were keen to follow because they all wanted to be more English than the English. I believe that this Bill should have a number of things put into it - and we must not allow the personalities, and I am sure that the hon. minister and the members of the department at the moment have a sincere commitment to providing the facilities for Manx Gaelic, which is something that should

be applauded. But this Bill is about tomorrow and future generations, and I believe that is important that we do establish the situation where we have some positive legislation in primary law regarding the Manx language in our education system, and I intend to move amendments to clause 3 on this. I believe that should be put in primary law so that we get away from the situation of it being on a grace-and-favour basis.

On clause 6 of this Bill I would like to make it so the department '*shall* make arrangements' for teachers in provided schools and maintained schools to undergo training duties through the medium of Manx Gaelic. I believe that it is no good where the ones who oppose the development of the Manx language and its survival are able to say, 'Well, there are no teachers who can teach it to the level that we require,' allowing that there is policy against it. As a former member of the Department of Education, I know that we had almost a civil war at times within that department: we would have the Manx lesson in the west building one week at Ramsey Grammar School, in the east building another week at Ramsey Grammar School, in room 46 one week and in room 47 the next week so that unless the children were ultra-committed to the Manx language they would dwindle away, or we would end up with a situation where they would be put in the same room as the children that had detention.

These situations are hard to believe in our time. That is the sort of nonsense we had within the lifetime of most of us in this hon. House, and I believe that clause 6 should be changed in order to allow teachers to have the time off to go to the courses to get to the level to be able to teach others in the language.

I have also asked for the situation on clause 8 of this Bill so that there shall be established a committee, not of the Klingons or whatever you want to call them but people representing the different organisations with a free voice able to discuss the issues of Manx Gaelic in the curriculum to be provided for in schools on the Island.

I have no problems as far as the membership of the Department of Education today, but I am not legislating for today, it is for tomorrow; maybe this Bill will last another 50 years. I believe that we have seen such a policy against the language in the past that it is about time we had some positive discrimination in favour of it. I hope that members will support these proposals, and also that the department's public library should have a reasonable quantity of books and other materials in Manx Gaelic. I think it is wrong that this is not the case and I think that future generations (*Interjection*) the minority that are into the Manx language should be able to say, 'We don't feel the Education Act 2001 is being adhered to.'

There are a number of other points on education that I am a bit concerned about. I am concerned about the situation over clause 36. I find it incredible. Here we live in a society where it is hard enough to get people to do anything voluntarily. I am not the only one to have had the problem. I know of football clubs who have had terrible problems fund-raising in the past to be able to use the school facilities. On clause 36 I believe that we should say to the department that if voluntary organisations provide services for the youth of our society, then we should waive all the charges on this issue if we are happy that they are a credible organisation and fit to be an organisation involved with youth. I do hope that this hon. House will support a move to clause 36, because I think it is a scandal when you think that our new primary schools cost £5 million or £6 million pounds today and here we have a situation where they are empty well over half of the year at the present time. I think that we must try and make sure that we maximise the use of this massive capital outlay of taxpayers' money and I believe that we should not be

talking about an 80 per cent reduction for voluntary groups that are in the pleasure of the department; it should be a hundred per cent. I think that if we can get people to do voluntary work helping to entertain and educate the youth of the Island in their own leisure time, the least we can do is make sure that the facilities of the Department of Education are free for them.

Vainstyr Loayreyder, the next one I am concerned about is on clause 36. I believe that we should put in law the scandalous situation where in recent times Departments of Education have allowed themselves to get into insane restrictions on schools. This amendment, which will be part of clause 36, shall be that notwithstanding any restrictions on the use of school premises imposed by trust, deed or covenant or other instrument shall be waived. I find it incredible that the Department of Education could have signed covenants so that the likes of Scoill Vallajeelt cannot be used for the youth service. I believe that this amendment will help in other cases where we have the Education Act 1922, I believe it is, which dealt with church schools. So I do hope, of all the other amendments, at least this thing that should have been sorted out when one was the only one that voted against the proposal of Scoill Vallajeelt in the first place should be sorted out in this hon. House as a piece of nonsense.

I believe also that we should have a situation where buses should be free anyway for children. I know at the present time they are free, but what we need to do is make any reasonable costs to get children to school free in primary law, in my opinion. I find it crazy that this can just be done away with at a whim. As I said in the Income Tax Bill this morning, I believe that all public transport should get as much support, subsidy and encouragement as far as can be done for children, so I am considering moving an amendment on this.

I want to propose a new clause in the Bill to do with pupils that are expelled or suspended from schools. I find it incredible that we talk about this trendy new way in schools and as a person who was 'warehoused' in secondary school, one has the frustrations of seeing what was happening then. I have to say to the minister that secondary education has improved out of all recognition from my days and I must applaud the department on that, but there is still this idea that we expel children and they get an hour's tuition every other day. It is lunacy, in my opinion, and it is too easy to pass on a situation where we can have everybody blaming everybody else and we have these children wandering the streets without anywhere to go, actually encouraging and promoting delinquency within our educational system. I believe that the department should be made to make arrangements for the provision of premises where a child is suspended or expelled from a maintained school and they should have to supervise them during school hours. This should be the responsibility of the Department of Education and we need something to be done.

I applaud the moves as far as 'include' is concerned. I understand that it is not easy to deal with some of these children with their horrendous backgrounds, but I believe that it is too easy for this hon. House to shrug its shoulders and say, 'Oh, what can you do?' That is not the answer; we have to find a way. If they are write-offs today, they will almost certainly be write-offs tomorrow, and what we must be trying to do is make sure that they are not write-offs tomorrow and we must do something to try and improve their lot, to break that circle of the likes of people that I went to school with, who now have children and are having the problem that they were written off and so now their children are now being written off and this generation. We have to find a way on this.

It does concern me in this House that the issue of clause 10 has not been identified. It just shows that obviously the research into this Bill by the House has obviously not had sufficient investigation at the present time. I am concerned: I ran youth clubs before I became a member of the Board of Education; if I had disruptive pupils, I put them out of the youth club. If I was a teacher, I cannot put them out of a class at the present time until they get to a point of absolute anarchy. What I am concerned about is that once again we see ourselves just blindly going along with the flow with the issue there. I do not see anything being put in to enhance education. As I said, as a person who sat in a class of about 36 where four of them made sure that the other 30-odd did not get educated in the secondary school, I think that we must give more credence to what we are going to do on the issue of disruptive children. It is far too easy just to try and say that somehow someone will sort it out. It is not a matter of someone needing to sort it out; we should be sorting it out in this Bill at this present time and we need some sort of leadership from the Minister of Education on this issue.

The other issues that I was concerned about are clause 40: I do not know why we are talking about girls when we have equally a problem with boys nowadays and whether there should be some sort of an amendment to read 'no pupil' instead of it being classed as purely for girls, as I think that there is an argument there that needs to be looked at. Maybe it is an oversight within the Bill and the minister will have a discussion on this.

On clause 8 of the Bill we were concerned about vocational training, and I think many hon. members in this House have argued about trying not to force everyone to have GCSEs. I just think that the hon. minister should come back with his viewpoint on why we should not put into primary law that vocational training should be for those with little ability. What we do not want is for this Bill to just augment any proposals on warehousing in our educational system. We want to move away from warehousing, and education should be education to improve everybody in our schools at the present time.

As a former member of the Board of Education for Middle from 1982 to 1985, I think there are many provisions in this Bill that are very good and are for consolidation, but it does concern me that I feel that this Bill has not been given the right scrutiny by many members in this hon. House on the implications of a number of issues, and I think it does this House no good when it just nods things through when it should not do. I believe that this House should make sure that we have the right things in for our children for the next 50 years. This Bill hopefully will be around for the next 50 years. I do hope that the minister will note the issues that I have raised.

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

**Mrs Cannell:** Thank you, Mr Speaker. I rise to my feet in overall support of the proposed legislation that is before us, but in respect of clause 8 I actually welcome, and I think the department deserves a pat on the back by including in the curriculum, the teaching of Manx Gaelic and the culture and history of the Island, and also for including physical education. Both, I believe, are very important for well-rounded, comprehensive education programme in the Isle of Man. For some time, I understand, there was a little resistance to actually include the teaching of Manx Gaelic in the national curriculum, so I personally welcome this very much indeed and I am very pleased with it.

I do have a little bit of concern - and the previous speaker touched upon it - on clause 40, and this is in terms of 'the department may authorise the Director of Public Health to cause

examinations of the persons and clothing who may be affected with. . .' whatever. It causes me a little concern because all the way through clause 40 it does not mention anything about any parental consent or consultation. Being someone who still has children attending school, if there is a forthcoming examination coming up for whatever purpose, as a parent I am normally informed about it and asked whether or not I consent or otherwise to the examination. I appreciate in urgent situations, if someone were to walk into a school flea-infested or whatever and it was quite a visual thing, that an examination may need to be so called. But it talks here about infested with vermin or in a foul condition - these are clothes that a pupil might wear.

Sticking with clause 40, on page 32 at the bottom, under (11) - this is where it was referred to by the previous speaker - it says that 'no girl shall be examined under the powers conferred by this section, except by a registered medical practitioner or by a woman authorised for that purpose by the health department.' I feel a little bit uncomfortable with that because it is discrimination, I feel, against the boys. Equally, it could be equally embarrassing or otherwise for a boy to be examined in such a way, and I would concur with the comment that perhaps that ought to be changed to 'pupil' and perhaps a special provision in terms that the female should be examined by a female and the male by a male, or whatever.

Again, when we look at the bottom of clause 41 under (7) - this is again in terms of medical and dental inspections and treatment - it does say, 'The department may make regulations as to the conduct of medical inspections under this section,' but there is no reference to the same consideration under clause 40, and I would have thought that both are to do with the health and well-being of the individual pupil where examinations would need to be undertaken.

Finally, on clause 54, employment of children, I am pleased that reference is made in terms that the department 'may make regulations prohibiting, restricting or regulating the employment of children.' Of course, there is a whole host of other things that children can at some time take part in, but I would ask the minister please to give us an indication of when his department may make the regulations regulating the hours of employment of children. All too often, and particularly at times leading up to Christmas, I know of youngsters only aged 12, 13 and 14 being employed by some of the retail industry to do a job for little less than pin money and sometimes they do not get paid at all. On many occasions they are actually working longer than I would regard as being permissible under any kind of good legislation, and so I would welcome regulations coming forward which make it plain, once and for all, at what age you are permitted to work, how long you are expected to work and what sort of breaks you can expect during that period of gainful employment. Also, with the minimum wage legislation, of course, children fall out with minimum wage legislation so there is no regulating of what a child can be expected to earn, and we do have a lot of industrious youngsters coming up through the education system. I think we probably can boast that we have got at least a dozen more would-be entrepreneurs who would gladly turn their hand to some sort of work. In my day it was the paper round, but today they can turn their hand to all sorts of things, especially with the knowledge that they have with computers, the internet et cetera. Our children today are very clever compared with, perhaps, the level that we achieved when we were still at school. So I would welcome regulations.

I am a little concerned that clause 54 says 'The department *may*. . .' I always am when I look at legislation and it refers to 'may', because 'may' could equally be 'may not' and I always feel

happier with terminology such as 'the department shall. . .' because it is more of an assurance that it will happen. But overall, I welcome the legislation.

**The Speaker:** Mr Henderson, member for Douglas North.

**Mr Henderson:** Thank you Mr Speaker. Mr Speaker as a member of the Department of Education there are one or two points that I would just like to briefly comment on. Most of the contributions so far have been well thought out and I appreciate the comments made by Mr Rimington and Mr Shimmin, but I am afraid that there are one or two things I feel a bit strongly about as illustrated by Mr Karran, and I feel we may need to put one or two things on public record, the other side of the coin that has not been illustrated.

Mr Karran said there is a rush to drag everything in from the UK et cetera. and the department is giving the impression it is doing everything in its power to wheel in great amounts of legislation from the adjacent isle. I would ask hon. members to look at point one on the explanatory memorandum: 'The objective of this Bill, which is promoted by the Department of Education, is to make new provision for public education in place of the Isle of Man Education Act 1949' and I think that is all we need to say there. It has taken a lot of hard work by an awful lot of people to get it to this stage and it is a new piece of legislation which is going to help immeasurably. So it is not just a case of dragging everything in and rushing from here to there; it has taken along time to work up to this stage.

The hon. member also mentioned, when he was referring to Manx Gaelic and the teaching of Manx Gaelic and so on, he thinks the departmental members may be sincere. (*Mr Karran interjecting*) Well, I have written exactly what you said down hon. member. There is a firm commitment and the hon. member, I must say, is pushing against an open door where this thing is concerned, and the department tries its best where it can, to the extent that I have found myself at 9.00 a.m. one frosty morning in the middle of Cregneash negotiating various issues, which I was happy to do and am happy to do again. So there is a little bit more going on than what we have been given to understand, and more to do, and we are only too happy to do what we can in that respect.

We also touched on voluntary organisations and, having had a little bit to do with that in the department, I would reassure the hon. member that there is a safeguard in the lettings procedures now, worked up by myself and the officers, whereby if a voluntary organisation does have a problem in letting one of the rooms or premises belonging to the department, they do actually get a reduction of up to 80 per cent. But further to that, if there is a very real problem they can make an appeal and come to the department and talk to us with regard to the difficulties that they are having. That is in place now and available to different groups who are having problems with the lettings. So I think that needs to go down on the record, Mr Speaker.

In relation to one of Mr Rimington's concerns and touched upon briefly by Mr Karran in relation to teachers' feelings and opinions, I would urge Mr Rimington to talk to his constituent who came to see him, because there is a major initiative being put in place this week by the department where we are meeting members of the teaching unions et cetera to have a look at a special questionnaire which we are preparing, which is a matter of public record, to examine feelings and views of the staff around the schools and to say that we are listening to the various issues that are being raised, and we hope to progress this.

When we look at suspension, I have some degree of sympathy with the hon. member's points, but when he says about 'write-offs' I have to draw the line here because the department will try, and does try, and this Bill paves the way for that in the most difficult of circumstances with difficult children, and the hon. member argued himself out of it really. One minute he is saying that they should not be suspended and then the next minute they should be, because the others cannot learn. We are in the middle of it and the best option we have got at the minute if all else fails - and I would point out that because that is the thing of it, 'when all else fails'; when we have tried everything we possible can, then there may not be any other option at the minute. The answer does not only lie with education, as the hon. member knows, and we will be looking at cross-departmental working with this particular problem. Having said that, I think that is all I would like to say on the different issues, but just to put a little more of the other side to this hon. House.

**The Speaker:** Does any other member wish to speak or shall I invite the minister to reply?  
Mr Rodan.

**Mr Rodan:** Thank you, Mr Speaker. Can I first of all sincerely thank all members of the house who have contributed to this debate and for the very constructive manner in which they have done so. All the points have been very carefully noted and they have indeed in the main been extremely constructive. Certainly, it is only seemingly once every 50 years that we get the opportunity to debate primary law in education, and I am glad that members have taken full advantage of this rare opportunity.

I think it does highlight what has been said: the general tone is one of continuing support politically for the education system of the Isle of Man. This has been a historical fact. It has been a feature for many, many years of the Isle of Man, the way politicians and the community place high value on education and make the necessary resources, in the main, available and I think that that has come out and has been reinforced in the debate this afternoon. Such concerns as there are are genuinely made and they are treated, certainly as far as myself and the department are concerned, seriously and are not undervalued in any way.

The first to speak was the hon. member for Douglas South, Mr Duggan, and he asked in relation to clause 17 whether this was the facility for allowing parents to educate children at home. Now, clause 17 relates to duties of the department and the arrangement the department might make for education other than at school, and in fact it would be clause 24, restating the duty of parents of every child of compulsory school age to receive education either at school or otherwise, and this is the enabling power for parents to educate at home. I think it is worth emphasising that it is not the department's job to educate; it is the parents' job to educate their children. It is the department's job to provide facilities to provide schools to enable that to happen.

Mr Rimington, the hon. member for Rushen, in his contribution made points about the future direction of education. He did so largely from a policy standpoint rather than the legal framework standpoint. He referred to a crisis in our schools, and just as he quite rightly emphasises the need not to drag in from adjacent isles all the practice and policies, similarly we must be careful not to import into the Isle of Man the features of education that have indeed caused crisis in the United Kingdom. We can at times be in danger of talking up the crisis in education. I want to qualify that by acknowledging that there are ongoing difficulties and issues related to the recruitment and retention of teachers in the Isle of Man as there are in the United

Kingdom. These are issues to which the department is very alive. It has structures and procedures in place to address them with the people most directly concerned. I want to reassure him that when he talks about difficulties in the UK, I believe in the Isle of Man we are much better placed to deal with them here. We are, as a small department and a small education service, relatively well placed to deal with them sensitively and quickly. Now, it does not happen all the time to the consistent way we would all like necessarily, but I believe that we have the capacity to address the real issues of concern on the Island.

I am glad he said that education is not the political football in the Isle of Man as it is in the UK. It is very much party-political driven in the UK and fortunately, as far as education is concerned, we do not have those kinds of sterile arguments over here.

As for undervaluing and devaluing staff, I hope that I have indicated that the department does value the professional teaching staff, and all the staff of whatever capacity, which it employs. We are very lucky to have staff of high quality in the Isle of Man, and when he talks about this legislation representing a hierarchical system where innovation, teamwork and open debate is difficult or impossible - and those were his words, these were the issues that were giving him difficulty - I think he has to acknowledge the opportunities for professional input that do exist and have been fully taken advantage of by the profession and the associations. Clause 6(3) of this Bill, for example, is the facility whereby the remuneration and conditions of service of teachers in provided schools, maintained schools and special schools shall be determined by the department - a very short statement but a crucially important one because it is from that enabling power that everything else flows in terms of consultation and putting into regulation the result of those consultations, and he will be aware as a former teacher that there are conditions of employment of teachers in existence, and the ones that we are currently working were drawn up in 1993 with the fullest possible consultation of teachers' associations who sat down over many weeks to get these right, to the extent that associations themselves point to these regulations of the Isle of Man as being among the best in the British Isles. I think that is an illustration of the potential within this primary legislation even though it is not spelled out for there to be proper consultation with the professionals that work with us and for us.

He goes on to talk about the Manx national curriculum. I would not be too hung up by the department's 'shall by order' prescribe the curriculum. This is not a Stalinist tactic; it is a drafting device when we say 'by order' to Tynwald, and I am sure that he does know that, but it was maybe fortunate that he used that to upset the tenor for this process being highly prescriptive, and of course what we want to have is the maximum flexibility but there are some things for which the curriculum must make provision, and this is why we use the words 'shall make provision': it is religious education, physical education, preparation for examination, the teaching of Manx Gaelic - this new area of education. The rest is for the people in the Department of Education, with respect, to determine what is best along with the professionals and everyone else. There are certain things you should not have in primary law. We do not want a highly prescriptive situation that does not allow the department to adjust its priorities, respond to the inevitable changes in teaching and learning techniques, subjects and so on. You cannot have written in stone for all time certain things. But there are certain things we say we must have, and these are amongst them. Then he showed us the pink leaflet, which he rather belittled because this was the extent of the national curriculum. Of course, all it is is a leaflet that states what the curriculum is, what the subjects are; for example, it makes reference to the studying of French in primary school, an area in which we lead the adjacent isles, by the

way, and the provision of the teaching of Manx Gaelic in schools as well as maths, English and all the other things. If he wants boxes of material containing the syllabus that actually delivers what is stated in that pink leaflet, we can make that available with pleasure. There are boxes and boxes of this syllabus, but that is different from the curriculum as simply stated -

**Mr Rimington:** Education philosophy.

**Mr Rodan:** Anyway, Mr Speaker, I feel I have probably said enough about that and I do not want the syllabus and the detail of how the curriculum is delivered to be confused with a simple statement of what the curriculum is. Suffice it to say that there will be orders made to provide what the curriculum is and an opportunity for input at the appropriate stage.

The next speaker was the hon. member for Douglas West, Mr Shimmin, who was quite right to state from the outset that this was a practical piece of legislation to provide the framework from which other things educationally would flow in terms of teaching and learning and the way we manage the system. It would have been easy for him, knowing of his genuine and sincere concern in many areas of education, to have spoken at length on policy matters. He confined himself, though, to the subject which was before the House, which is the primary law framework, and I thank him for doing so because this is the focus of our debate. Much of what has been said is actually not strictly related to the content of this Bill, important as it is. But he did raise a couple of specific queries and one was why was the term 'religious education' used and not the term 'religious instruction'. The 1949 Act certainly had 'religious instruction'; that was the terminology. In education circles since the 1950s 'religious education' has been the term that has been used, really reflecting the differences in time of the nature of the religious syllabus. Just to quote what is actually stated in the 1996 UK Act by way of illustration, it says, 'every agreed RE syllabus shall reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great Britain.' So there is a distinction between instruction and education: literally, one means teaching and the other upbringing. The term 'education' is a broader one which better embraces the change in philosophy whereby information is delivered about religions other than mainly Christian religions. That is why that terminology has been employed.

He asks about clause 50, which relates to the facility for the department to bring in inspections of schools and colleges, and of course he then makes enquiry about the legal basis for the department to have an inspection made of itself. Now, my understanding is that that is a matter of policy but also reflects the fact that when we talk about the Department of Education we are also talking about not just the equivalent of a local education authority but a department of central government. Inspections of local education authorities in England are constructed on a different basis because those local education authorities do not have the features of a Ministry of Education; it is not a central government function because of the dual structure that operates there. We have a single structure here: the department carrying out both the roles of a central government department and a local education authority in terms of delivering centrally decided policy. So such an inspection will have to acknowledge civil service regulations, it will also have to acknowledge the different situation we have, which is not to say that it should not take place; it should take place because the department, as well as being a department of government, is that part of the education service which centrally provides educational aspects that are not provided by the schools, and we are talking about special

needs education, to give an example. That is organised centrally. It is right, therefore, that the delivery of that service and its quality should be tested. The hon. member asks, or assumes, or hopes, that this will happen this year. I have to say that it is normal practice, when examining central services provided by a local education authority, for that inspection to take place after two rounds of inspections of schools. That takes place and then you look at the central provision. That is custom and practice and it is done in order to get more meaningful information about the nature of the service. It is better to do it once you have looked at all the schools. These matters are organised many, many months in advance because inspection teams have schedules of inspections, so that unless there is a window of opportunity we cannot automatically specify when an inspection of the central services should take place. However, I have already given on behalf of the department a commitment that it will happen, it is essential for the better provision of information about the education service that it does happen, and it will happen as soon as practicable. I think that is as far as I can say at the moment.

The hon. member for Peel, Mrs Hannan, rightly made known her concern about what happens to children and families in a situation where children are not attending school for whatever reason, and she highlights some of the problems that confront government as a whole, all the agencies of government, not just the Department of Education. If I could draw her attention to clause 17, which enables the department to provide education other than at school, it is this that allows the department to have agencies like 'INCLUDE' to take difficult pupils out of the mainstream school setting and deal with them separately; it is that provision that enables that one hour a day schooling, for example, to take place other than at school or at home. The difficulty in it which has been alluded to by other members is that that is not the sum total of how you address the problem. Absolutely it is not. Education is one part of how you properly address difficulties of children whose parents either cannot or will not carry out their statutory duties to educate their children, and it is a problem for government. Government acknowledges this and is working on a cross-departmental basis at the moment. There is a new committee in place headed by the Chief Minister with the relevant departments to look at issues of children and young people, their welfare and the provision for the situation of behavioural difficulties in terms of the right strategies. That process has started.

Mrs Hannan also was concerned about the periods of notice being given for inspections under clause 50 and felt that 10 weeks or three months was inappropriate. I think we have to be fair and acknowledge that it is not just a case of an inspector coming sitting at the back of a class and observing. The school, for the inspection to be meaningful, has to provide in advance to the inspection team certain records, results, things like the school development plan. There is quite a bit more to it and it does require a period of notice. The period of 10 weeks would be one we started off with. Across it is now six weeks and there is indeed a case to revisit the period of notice. Ten weeks is probably longer than is needed but, being half-way through the inspection process, it is quite hard now to change half-way through in fairness to those who have gone before. There is also the aspect that is important, that the process of Ofsted inspections in the Isle of Man is done for quite different purposes than the UK, where it is often seen as a stick to beat teachers or beat local education authorities into getting up to scratch. Here we use it as more of an advisory function, and the teachers in the schools who are inspected welcome the practical advice that is tendered by the teams during their week in the school, and I have to say the inspection teams themselves often comment upon the Isle of

Man's being a far preferable situation to the one they normally practise in whereby they are allowed to give professional advice in the process of inspection, and we welcome that. Comprehensive education and the need for that to be true in practice as in theory by addressing the needs of pupils of all abilities - absolutely right, and in recent years there has been a welcome acknowledgement of the value of vocational training within the curriculum. It does not need to be spelled out in primary law; it is best left to the education service. Such things as vocational A levels and GNVQs, the day release that takes place at secondary schools of 15-year-old boys - instead of sitting learning French, actually getting to the training school to look at courses in mechanics or whatever of practical value - and I for one see the value to that pupil of that form of education as being just as high, just as significant and just as important as an academic curriculum is for more academic pupils, and there is no shortage of resolve on the part of the department to carry that process forward as fully as possible, and we have made great advances.

The Board of Education - I think probably, like the hon. member for Peel, I would have preferred to see the board members elected by a different electoral system; the single transferable vote, I think, would ensure that we remove the anomalies of some people having one some having two and some people three votes, but this is not, I can assure you, Mr Speaker, the vehicle to have a debate for electoral reform or voting systems - chicken, maybe, but speaking practically I would like this Bill through this year. (*Laughter*)

I would certainly pay tribute to the board and the work they do. They are often the forgotten people of the education service. They are 15 individuals elected by popular franchise every five years, like ourselves, who carry out, for relatively little monetary reward, most important functions without which the education service would not be able to function and would certainly not have the uniqueness of which we can be proud in the Isle of Man. If the board did not exist we would need to invent them; we would need to have those dedicated individuals to serve on the committees and to serve on the governing bodies of schools. Their work can often be underrated but, I must assure them, it is not undervalued.

Mr Karran spoke at considerable length, and I will just pick up one or two of his points, if I may, because he covered quite a large number of areas, some relevant, some less relevant. First of all, the issue of Manx Gaelic medium education. I thank him for his positive comments about the progress that has been made within the department. His concern, if I take it, using his words, is that this process should not be one of grace and favour; he would prefer it being in primary law. Well, first of all the subject is in primary law, and that is a very bold innovation. For the first time we have got, as in the compulsory curriculum, the national language, history and culture to be delivered. Now, the way it is done, with all due respect, should be best left to those who deliver education, syllabus and curriculum. It may well be that a special statutory committee is the appropriate way to do it but I have to say, why should not music or drama or English or maths not also demand its own statutory advisory committee? For this requirement to deliver Manx education actually to happen will require the very things that he is suggesting be put in primary law. There will need to be advice taken of Manx language groups and cultural groups to work up the syllabus and to get the appropriate educational programmes and syllabus put together; there will need to be appropriate training of teachers, who are, in the case of Manx Gaelic, medium education and who will be expected to deliver the national curriculum to examination standard in a range of subjects. That will need to happen. And the enabling provisions for these Gaelic medium units or schools to be established are currently

in law already. Clause 1 says, 'in so far as is compatible with the provision of efficient education and the efficient use of resources pupils are to be educated in accordance with the wishes of their parents' and that is why, with a viable group of parents now, we are looking at providing for teaching of Manx Gaelic to take place in a primary unit later this year, and the duty of the department to provide educational facilities in schools under clause 2 is sufficient, in our view, to discharge our new responsibilities in primary law. So I would caution Mr Karran for obliging us to carry out our duties in a certain way by following certain provisions that would be best left to the department, with respect.

He refers to clause 36 and the fact that this allows for voluntary organisations involved with youth to be supported by the department - this is a restatement of the present position - but he wants to go a little bit further and he wants all voluntary organisations, as far as I can understand it, to enjoy such facilities free of charge. Now, in so far as schools are public buildings and as part of the public education service and paid for by the taxpayer I acknowledge that as public facilities they form an important focus within the community and are available to the community. I have some concern, however, opening it up to free provision because I can point to all sorts of other examples where public facilities are not provided free of charge. We have to remember that schools are first and foremost the workplaces of teachers and pupils and with free access out of hours, there are issues to be addressed there relating to security and confidentiality, computer rooms, the expensive equipment that is now in our schools. We make provision; we acknowledge our duty towards youth services by having an 80 per cent reduction in letting charges already. (**Mr Houghton:** Hear, hear.) If we are to say there should be no letting charges to all voluntary organisations we shall be swamped, and the danger is that the youth and voluntary organisations, which we were primarily interested in, will be squeezed out of having access to these facilities, so please enable us to have this little bit of control. It is a fair system, and I have concerns: it sounds easy but, if you want to make it all available free, what you do not charge for tends over time to be no longer valued. These are public buildings, maintained and paid for by the taxpayer, and it is a question of getting the right balance between reasonable charges and access and not being swamped with unreasonable demands over and above the primary role of pupils' workplaces. So I would just caution on that one. Cronk y Berry school - I think he referred to that actually - I can tell him is fully utilised by external organisations (**Mr Houghton:** Hear, hear.) and youth clubs. It is hard to see how in areas of demand we can do any more than what we can.

**Mr Karran:** Scoill Vallajeelt we are on about.

**Mr Rodan:** As far as Scoill Vallajeelt is concerned, of necessity Ballacottier, which covers a similar area, is available. However what I want to say to him about Ballajeelt is that he has raised an interesting point in so far as whether there should be restrictions on the reasonable use of school premises imposed by covenants or trust deeds, and the department would be prepared to look at that situation within this primary legislation, whether through any amendments of his own or one of the departments, and I thank him for raising that because I believe he does have a point; I believe it is unreasonable for public facilities to be made unavailable to members of the public because of unreasonable restrictive covenants.

As far as charging for transport is concerned, we do not charge as a matter of policy and have not done for three years, but it is, and I am talking about not just the transport the Department of Tourism and Leisure is responsible for but out-of-hours swimming transport

and so on, school trip transport - or, I will qualify that, any transport to or from school is not charged for, but I believe that there ought to be the facility there to do so if required. To address the situation of an unreasonable demand for transport, when you might have a parent in one part of the Island who insists on the child being educated in another part of the Island unreasonably - quite entitled to if there is space there, but how reasonable is it that the taxpayer should pay for that school transport? So leave us the flexibility again, hon. member.

As far as the new clause is concerned, Mr Karran is trying to do something about children who are suspended or expelled from school and have nowhere to go, but the idea of a day centre for the badly behaved at the expense of the Department of Education and staffed by the Department of Education is not on, which is not to say that there is not a problem that needs to be addressed, because what we cannot have is the situation whereby, when you are dealing with difficult pupils and schools which, quite rightly, have a zero tolerance policy within school, that does not mean zero attention to what happens next when they are suspended from school. And while it is no longer the school's direct concern it most assuredly remains the concern of government and of society and of the Department of Education, which is why I come back to the need for a cross-agency approach involving social services and all the other agencies that work for government to have a system in place of addressing this problem, but the mechanism that Mr Karran is proposing, if I understand him, that the department is to make arrangements for providing premises during school hours for those children that are just suspended, I am afraid is not a practical proposition. I think I would caution Mr Karran -

**Mr Quine:** I would charge him! *(Laughter)*

**Mr Houghton:** You are not obliged to say anything!

**Mr Rodan:** - dealing with complex issues to do with behaviour and community issues and problems of this sort, with all due respect, by anecdote and by soundbite. Now, we all have concerns and there are many members in this House that have risen to their feet and expressed concerns in this area as well, but when we are dealing with primary legislation I think we just have to be clear about the practical ways of dealing with those particular concerns.

He raises clause 40 about girls being examined - this is under the cleanliness and public health provisions of clause 40, girls being examined by a medical practitioner or by a woman, and he is saying, why should provision not be made for the same sex situation? The wording from this is a restatement of the position under the 1949 Act, which is not to say that therefore it must stay. It is something that the department will be happy to look at again if a case is made, and Mrs Cannell made a similar case on that one, and unless there is good legal reason to keep it in we would be perfectly prepared to see the same-sex situation included.

He asks again about vocational training and I will not go over what I have said previously except to say that there is no need to prescribe it in the national curriculum the way maths and English is not prescribed in the national curriculum. Vocational training, vocational education for all is a nonsense. Vocational training is not appropriate for academic pupils the way that academic education is not appropriate on the other side, so do not tie us up into compulsory vocational education; leave it to the educators to determine how that is delivered. Leave the flexibility.

Now, Mrs Cannell - I have dealt with the question of clause 40 that she raised, but she asks why there is no provision in clause 40, such as is in clause 41, relating to making regulations as to the conduct of medical inspections. And the reason there is no provision in clause 40 for the Department of Education to make regulations is because it is an enabling clause for the director of public health and the DHSS in the interests of public health to address the issue. It would not be appropriate for the Department of Education to bring in public health regulations. It is appropriate where we are dealing with medical and dental inspections and treatments under a delegated power to the school medical service, which happens to be operated by the DHSS, so that is a difference there.

Similarly, she asks about the absence in clause 40 of parental rights and draws attention to the fact that clause 41, dealing with school medical service, in subsection (3) gives the parents of pupils notifying the department the right not to have that particular medical treatment. Again we are dealing with different things. In the first clause it is an issue of public health and the powers are slightly different, and it may well be that under the regulation that question of parental involvement will be involved there.

She draws attention again to clause 44, enabling regulations on the employment of children to be made, and asks how soon they will be brought in. Well, I can say the department had been looking at a new model of regulations but deferred bringing them in until the new Education Act was in place. When it is in place we will obviously be in a position, after their required consultation, to look again at the question of regulations. As far as employment generally is concerned - and she gave an instance, I think, of retail - there are regulations there, a certain legislative provision, already in force. As to 'may' or 'shall', Mrs Cannell prefers 'shall', but of course there is a fundamental difference, because one puts an obligation and a duty, and another is merely enabling. There is an important distinction, and when that distinction is there it is for a very good reason.

I would thank the hon. member of the department my colleague, Mr Henderson, for his helpful comments and for outlining some of the practical ways the department is addressing some of the issues that have been raised by members this afternoon, and I think it was important that members did know how the issues raised, because there is an opportunity to do so when we are talking about legislation, are actually policy matters and are being carried forward.

I think, Mr Speaker, Mr Henderson had been the last speaker to contribute to the debate and with that I do thank all the hon. members for their contributions to the debate and look forward to their support and I move the second reading, Mr Speaker.

**The Speaker:** Hon. members, the motion is that the Education Bill 2000 be read a second time. All those in favour please say aye; against no. The ayes have it. The ayes have it.

### **Trustee Bill — Second Reading Approved**

**The Speaker:** We now move to item 19 on the agenda, the Trustee Bill 2001 for second reading, and I call upon Mr Rimington.

**Mr Rimington:** Thank you, Mr Speaker. I am glad this is a subject of great interest to many members and they are voting with their feet! The Trustee Bill 2001 is closely based on the Trustee Act 2000 of the UK Parliament which implements, with minor modifications, the

changes in relation to the law of England and Wales recommended in the report by the Law Commission, *Trustees' Powers and Duties 1999*. The principal change is to create a new, wider statutory power of investment to replace the present limited power under the Trustee Investments Act 1961 of Parliament which applies to trustees in the Isle of Man by virtue of section 1 of the Trustee Act 1961 of Tynwald.

This new power of investment is supported by a range of new powers to appoint agents, nominees and custodians to ensure trust property and to pay professional trustees. These measures are designed to facilitate the better administration of trusts and enable trustees to take full advantage of the wider investment opportunity now open to them, whilst protecting the interests of beneficiaries against the abuse of the new powers. As under the present law the new powers will only be applied to the extent that the trust instrument permits.

The Bill is divided into six parts. Part 1, clauses 1 and 2, introduces a new safeguard for beneficiaries in the form of a statutory duty of care which will apply to trustees in the exercise of their new wider powers under the Bill, circumstances listed in schedule 1.

Part 2, clauses 3 to 7, sets out the new general power of investment which gives trustees the same powers of investment as an absolute owner, other than in land, subject to appropriate safeguards. The new power will replace the power in the Trustee Investments Act 1961 of Parliament which applies to the Isle of Man by virtue of the Trustee Act 1961 of Tynwald.

Part 3, clauses 8 to 10, introduces a new power that will allow trustees to acquire freehold and leasehold land in the Isle of Man or the United Kingdom for any purpose.

Part 4, clauses 11 to 27, contains a wide range of measures relating to collective delegation by trustees. Clauses 11 to 15 provide trustees with a wider power to delegate their functions in the absence of an express power, or where an express power does not provide to the contrary. Not all functions may be delegated, but the new law will permit the delegation of discretionary functions that do not relate to the distribution of the trust's assets. Clauses 16 to 20 provide trustees with the power to appoint nominees and custodians in the absence of an express power, or where an express power does not provide to the contrary. Clauses 21 and 22 impose a duty on trustees to keep any delegation under review and to take appropriate action. Clause 23 defines the extent of the liability of a trustee for the acts and omissions of an agent, nominee or custodian and his permitted substitute. Clauses 24 to 27 are supplementary provisions.

Part 5, clauses 28 to 33, aims to create a better regime for the payment of professional trustees and the reimbursement of trustees' expenses and those of their agents, nominees and custodians.

Part 6, clauses 34 to 40, deals with several matters included in the creation of a new power to ensure trust property in place of the present Trustee Act 1961, section 17, and the extension of the reforms in the Bill to personal representatives. The limited application of the Bill to pension scheme trusts and unit trusts and the extension of the perpetuity period for trusts from 80 years to 150 years. Consequential amendments and repeals and transitional provisions and commencement. Just a short note on the background. Trust law has a wide application, it applies far beyond the traditional spheres of will and family settlements; it has major application to charities and has increasing importance in commerce. It is very significant in relation to the management of pension and other investment funds. However, the law

governing the powers and duties of trustees, particularly the relevant provisions of the Trustee Act 1961 and of the Trustee Investments Act 1961 of Parliament which is applied by it, has not kept pace with the evolving social and economic role which trusts now fulfil. This discrepancy has been brought into sharp focus with the fundamental changes in the conduct of investment business during the last 10 years, such as the introduction of the Crest system on the London Stock Exchange. The situation is now so serious that a view is widely held that it is very difficult for such trustees acting under the terms of trust instruments which make no specific provisions as to investment powers to satisfy their paramount duty to act in the best interests of the beneficiaries of the trust.

The Bill follows the UK legislation in order to insure that Manx trustees, in particular professional and institutional trustees, have equivalent powers to professionals and institutions in England and Wales and can compete with them in the financial world. Thank you, Mr Speaker, I beg to move the second reading.

**Sir Miles Walker:** I beg to second, Mr Speaker, and reserve my remarks.

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

**Mr Karran:** Vainstyr Loayreyder, I would just like to ask, as I have had representation from professional trustees, whilst I think we all recognise that the recommendations from the Law Commission are worthy of support, we once again have not taken account of our own FSC and the different situations we have got with them and the regulations, and what I would like to know from the mover is if he can give some idea of what they are going to do about the concerns of different individuals and the fact that they have to have passports and all sorts of things as far as any beneficiary from a trust is concerned in order to pass it on. I believe that it is putting some people in a very invidious position as trustees where they cannot actually give them the money until they pass over all sorts of documentation because of the situation with our Financial Supervision Commission, and it is bringing some trusts into question, having them domiciled in Manx territory.

That is the only point that I would like to raise at this present time. Maybe there will be a need for some amendments to this piece of legislation to reflect this, especially when you allow for the fact that we have managed to create, through the law of Parkinson, a situation with the FSC which must have something in the region of 50 staff in their luxurious office. I understand they have got to be kept in a job, but I am concerned that I am told that these recommendations from the Law Commission from the United Kingdom will be very, very good in the Isle of Man if they are on the same sort of basis, and that is the only concern I have with this Bill.

**The Speaker:** If nobody else wishes to speak, I call upon Mr Rimington to reply.

**Mr Rimington:** Thank you, hon. member, for this opportunity to extend my full knowledge in this direction. Simply talking about passports, what you are referring to there is the 'know your customer' policy, which is now commonplace throughout the financial world, banks et cetera, and if you are the beneficiary of a trust and there is a trustee, then that trustee has to actually be able to determine that you are a legitimate beneficiary -

**Mr Karran:** You have got to do a lot more than that.

**Mr Rimington:** I can assure the hon. member that this Bill has been fully gone through consultations with the FSC and they have obviously had their quite long opportunity to comment

on that and make sure that it is satisfactory to them. I will, of course, for the hon. member's interest make further enquiries and come back to him in due course. Mr Speaker, I beg to move the second reading.

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

## Genetically Modified Organisms Bill — Second Reading Approved

**The Speaker:** We move now to item number 20, the Genetically Modified Organisms Bill 2001 for second reading, and I call upon Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. Hon. members will be aware that the whole issue of genetically modified organisms has attained a very high profile and generally hostile reaction in the United Kingdom. The purpose of this Bill, which is supported by the Department of Agriculture, Fisheries and Forestry, is to address those concerns and recognise that there is no legislation directly covering genetically modified organisms by preventing the import, release, propagation, supply et cetera in the Isle of Man of genetically modified organisms. The UK Government has been severely criticised for its apparently blasé attitude and even complicity with the multi-national companies which have promoted GMOs. Such firms have themselves been forced to alter what was interpreted as their arrogant stance, to take notice of the wide scale rejection of their assurances and even direct action against experimental crops. Whilst illegal direct action is not generally to be condoned, it seems to have met with public satisfaction rather than the reverse. Even Prince Charles has entered the furore stating, 'I believe that this particular technology is so powerful and so far reaching that we should seek ways of engaging a wide range of people and interests in a thorough, ethical debate about how and where it should be applied.'

I think this aptly sums up public feeling on GMOs. Even some experts have expressed their concerns along with large organisations such as Friends of the Earth. These public feelings, concerns of conservation and green organisations and experts in relation to GM crops and plants are based on several core principles, these being: (1) testing and trials have neither been comprehensive nor sufficiently prolonged for a full and complete scientific evaluation to be made, especially to establish the effects on human and animal health and what impact there may be on other life forms and the environment; (2) there is an unpredictable element to the process of genetically modifying something; (3) genetic engineering crosses species boundaries in ways that could never occur in nature or in conventional cross-breeding. There are also fears of contamination of the naturally occurring species and ordinary unmodified farm crops; (4) there have also been reports on unanticipated effects on wildlife and resistant species developing, immune to weed-killers or resistant to antibiotics; (5) safety is being compromised in the face of all consuming commercial concerns; and (6) there are fears and genuine concerns from the farming industry itself.

In conjunction with these concerns the UK does operate certain controls already over GMOs allowing certain trials, whereas there is no equivalent legislation in the Island. The associated UK legislation relevant to GMOs is dealt with under the following Acts: The control of GMOs under section 11 of the Environmental Protection Act 1996, regulations made under the European Communities Act 1972 and the Health and Safety at Work Act 1974. In particular, the Genetically Modified Organisms (Contained Use) Regulations 1992 deal with the use, genetic modifications, storage and so on of organisms. The regulations also implement EU legislation on the subject. The provisions deal with organisms in general and do not completely prohibit them, as in our proposed legislation. The department and the Council of Ministers being aware of these concerns and current Isle of Man legislative position, no current control of the growing of GMOs, excepted that an inter-departmental working party with a delegate from the Manx National Farmers Union should be established to examine the issue and work up possible

legislation to assist in high environmental and health standards which would address these concerns and legislative deficit where GMOs are concerned.

This Bill is the result of the working party's endeavours following many meetings involving the department, DoLGE and the Manx National Farmers Union. It also entailed lengthy exchanges with the Ministry of Agriculture, Fisheries and Food in the UK so that Isle of Man legislation melded with UK legislation and was consistent with EU legislation and regulations, including the EU common catalogue of varieties of agricultural plant species, which does effect the Isle of Man. This Bill is leading the way in this area, certainly in the British Isles if not in many other places - another first for the Isle of Man leading with a quality standard and setting the pace.

The EU common catalogue of varieties of agricultural plant species lists all the varieties which are approved by member states and have been shown to be true to type and not present any risk whatsoever to the environment or human health. At the moment there are no genetically modified plants on the EU common catalogue and there are unlikely to be any for some time.

The Manx National Farmers Union in 1999 recommended an indefinite moratorium on growing GM plants until such time as a full assessment of the situation had been made. The union has accepted that, should any food crop variety after rigorous assessment by the EU be shown not to present any risk whatsoever to the environment or human health, then it would become part of the EU common catalogue and the Isle of Man's obligation under protocol 3 would mean that it could not then be banned here. However, a plant so assessed would meet the new Isle of Man standards in any case, having been fully evaluated scientifically and shown to be safe for public health and the environment.

This legislation will prohibit the planting and growing of any GM plants in the Isle of Man which have not been fully evaluated scientifically. This is in order to establish that planting and growing is only carried out when it is safe to do so in terms of public health and when the release of any commercial GM plants to the environment by way of a planted crop will not harm our flora and fauna. EU legislation permits growing of GM material under licence for commercial and scientific evaluation. This Bill is therefore unlike EU and UK legislation in that it will prohibit that activity. Only once GM material has been fully evaluated by the EU and been given approval and accepted on the EU common catalogue can it be grown in the Isle of Man.

During this process there has been an element of consultation and this has been achieved through the following mediums: the aforementioned working party, headed up by the assistant chief environmental officer of the Department of Local Government and the Environment, the Department of Agriculture, Fisheries and Forestry's chief agricultural adviser, chief health and safety inspector DoLGE, senior wildlife and conservation officer DAFF and the secretary of the Manx National Farmers Union. The working party concluded that legislation regulating the cultivation of GM crops should be drafted as existing legislation did not cover it.

Discussions also ventured to the Department of Trade and Industry insomuch as the legislative draftsman suggested that there might be an impact on its policy apropos of the encouragement of scientifically based commercial ventures. Whilst the secretary of the MNFU was a member of the working party, the MNFU as a body conveyed their recommendation to the department that an indefinite moratorium be implemented as regards the growing of

genetically modified crops in the Island to be maintained until both scientific and environmental assessments confirm that there is no danger of adverse long-term effects either to the human/animal food chain or to the environment ecology of the Isle of Man. This issue has also been raised in Tynwald by myself in relation to advice in packaging, which was a matter for OFT, and in general for written answer for my hon. colleague opposite, Mr Karran. Certainly I have great pleasure in taking the Bill through this hon. place given the keen interest in it.

Some members of the public tendered their views, including a petition seeking a five-year freeze on genetic engineering and patenting in food and farming which was received from the Peel branch of the Townswomen's Guild. Following lengthy correspondence on the matter between the legislative draftsman and MAFF, MAFF is now content with the Bill. The Bill has, therefore, broad base support both from within and without the agricultural industry. Support is on the basis of health and environmental concerns.

The provisions of the Bill: clause 1 defines 'genetically modified organism.' Clause 2 prohibits the import, release, propagation, supply et cetera of GMOs in the Isle of Man and also provides for liability in conviction of an offence. Also exemption and permission for marketing which is consistent with EU regulations. Clause 3 and the schedule give powers of entry on land and inspection to demand information and to seize and destroy articles for the purposes of enforcing the prohibition. Clause 4 gives a court power to order that a breach of the prohibition be remedied. Clauses 5 to 7 are supplemental.

This Bill is not expected to have any significant effect on public revenue, expenditure or manpower. Mr Speaker, I beg to move that the Genetically Modified Organisms Bill be now read a second time.

**The Speaker:** Mr Singer.

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

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

**Mr Karran:** Vainstyr Loayreyder, I find it very hard to believe that we can be talking about setting the pace when we have to follow blindly what the EU says. It seems a bit of a contradiction in terms, but I am sure this House will be able to distort what one says within this House, and it is very happy that we have a situation where MAFF, the UK ministry, is very happy over this piece of legislation. What I am concerned about is what I feel about this piece of legislation and what I feel the people of the Isle of Man feel about it. I believe that our government should be going for a derogation for this produce and bringing anything into the Island is concerned. I think that we should be looking at that as a way forward.

I am glad to see that the Chief Minister, after asking questions. . . hopefully I will be able to put my amendments to this piece of legislation to this hon. House by the AGs, who will have to draft it now, even if it is contrary to EU law. I believe that I have a right to put amendments to this piece of legislation and you should have to argue the points. I believe at the moment that we need to go further. This Bill is a step in the right direction and I am not denying that, but what I am saying is, is that I feel it should go further. When we talk about clause 2, where the department and the AG will consider whether to prosecute people, a bit too cosy as far as I am concerned. I believe that this issue is worthy of more debate than it just being nodded through this hon. House. It is a serious issue, not just for us but for our kids and our grandchildren, and

I believe that the Council of Ministers should be revisiting this whole issue and we should be trying to have some sort of derogation completely as far as this substance is concerned and we should be putting in our own law, our own safeguards for the protection of the Manx environment, in my opinion, and the health standards of the Isle of Man.

I do hope the hon. mover will take on board my concerns and, I believe, the concerns of a lot of people outside this House, and I think it is wrong to try and make out that we are setting our own pace when at the end of the day the situation is you will import anything which the EU says. You are not setting your own pace. Stop deluding yourselves and start producing legislation that this House should be producing for the protection of its people. I believe there should be a total derogation and we should be going for that, and I think it will be a sad day when we just once again put up the white flag and maybe we might get something out of the honours list if we do so.

**The Speaker:** Anybody else wish to speak? If not, I will call upon Mr Henderson to reply.

**Mr Henderson:** Thank you, Mr Speaker. In answering some of the queries from my hon. friend opposite I have to inform him of one or two things which seem to have been glossed over. The department is setting the pace; there is nothing in place now. There is a legislative deficit which has been recognised, so in the place of nothing we are now producing a quality standard. What does he want? I will rip it up now and sit down and then we will still have nothing. We have not seen him progress anything (*Interjection*) but, notwithstanding that -

**Mr Karran:** Do you want me to build the hospital as well as do your job?

**Mr Henderson:** - what we have got here is leading the way in the British Isles. We have recognised the health issues that my hon. colleague spoke about. That is why it is here. The concerns of the public and the industry itself have been well recognised and we have had a consultative period so that they can be well aired and discussed by our department.

Also, I am very aware that we do have the support of the general public and, in answer to the hon. member's concerns there, also the green organisations in the Isle of Man have given their broad base support to this Bill. I accept it is not the be-all and end-all of everything, but what we do have is something that is pretty good, I think, and certainly another first for the Island.

Now, the issue with the common species catalogue, of course, is problematic. The Isle of Man is tied by protocol 3 to a certain extent and there is no way around that. If we want this Bill to be successful we have to recognise that, if a GM plant species goes on the common catalogue, it means that we can accept its importation into the Isle of Man. That is quite true, but - and what my hon. colleague may not have heard me say was - for a plant species to go on the European common catalogue, of course, it has to be rigorously scientifically tested in order to prove that it is safe for the human health, the environment and animal health, which meets the requirements of what we are trying to do here. So it is not a case that the EU can say 'Oh, we will put X, Y and Z on the list today and A, B, C, tomorrow'; it is a lot more difficult than that, and at present, as I have already said, there are no GM plants on the common catalogue and, our information is, are not likely to be for some considerable time as this whole issue is so contentious.

The hon. member has given the impression of some sort of flood gates being open to the Isle of Man and that the place will be flooded tomorrow with all sorts of experimental crops

everywhere. Now, that is utter nonsense. We have set a standard here and we are recognising the concerns of the public, the industry and the legislative deficit. We will be setting the pace because we are the first in the British Isles to actually put this standard in place, and I hope all the hon. members realise what we are trying to do here and I would indulge their support for the principle in what the department is trying to do here this afternoon, Mr Speaker. Thank you.

**The Speaker:** Hon. members, the motion is that the Genetically Modified Organisms Bill 2001 be read a second time. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it.

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

*:: Messrs Gilbey, Quine, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Henderson, Cretney, Braidwood, Shimmin, Downie, Singer, Cannell and the Speaker - 13*

*Against: Mr Karran - 1*

**The Speaker:** The motion carries in the House, 13 votes in favour, 1 vote against.

### **Minimum Wage Bill — Second Reading Approved**

**The Speaker:** We now move, hon. members, to item 21, the Minimum Wage Bill 2001 for second reading, Mr Shimmin.

**Mr Shimmin:** Thank you, Mr Speaker. I am delighted to be able to move the second reading of this Minimum Wage Bill 2001 this afternoon, which is promoted by the Department of Trade and Industry.

This Bill is intended to implement the findings of a report by the department entitled *A Statutory Minimum Wage* which members will remember was received by Tynwald in October 1999 and resulted in agreement that a Bill, based on the outcome of wide consultation on the subject, should be brought forward.

The origins of the Bill go back some time, but I think there is little to be gained today in recounting the various steps along the way. The important thing to bear in mind is that the principle of introducing a statutory minimum wage has been accepted and also that Tynwald accepted the proposed form and extent of the legislation that would be appropriate. The Minimum Wage Bill provides the vehicle by which this principle can be put into effect, thus providing a safety net for those who have in the past suffered from unacceptably low levels of remuneration.

Members will be aware that although I have not arranged a briefing on this issue, I did offer the services of the department to be available to any member who still had questions or concerns.

The Bill before the House today is based on similar legislation already in place in the United Kingdom, and it seeks to provide a structure which, whilst precise, remains understandable to both workers and employers. I would like to briefly explain some of the main provisions contained in the Bill.

The primary purpose of the Bill is to make provision for a minimum wage and to identify those workers entitled to it. As part of this, it is necessary to amend the Agricultural Wages Act 1952 to ensure that workers in that industry are also entitled to at least the same level of

minimum wage provision as all other sectors. The Bill also provides for the making of regulations but, it is worth emphasising, will need to be subject to the approval of Tynwald in a number of areas.

Hon. members will understand that one of the central features of any minimum wage legislation is that it should be applicable to the majority of workers, and to this end regulations will be introduced to ensure that whether a worker is paid hourly, salaried or on piecework the minimum wage legislation will apply.

The Bill allows for the actual level of the minimum wage to be prescribed by regulations, which will be determined by the Department of Trade and Industry and the Treasury acting jointly. Clearly at the appropriate time very careful consideration will have to be given to the setting of the statutory minimum wage rate. To set the rate at too low a level would fail to protect those who are amongst the most vulnerable in our society. On the other hand, to set a rate at too high a level could impose an unacceptable burden on businesses. We must find the right balance, I would suggest, and set a rate that is not so high that jobs are lost, thus excluding from the workforce those who we all wish to see better off, but equally not so low as to be ineffective.

The regulations, to be approved by Tynwald, will also cover the very technical detail of the administration of a minimum wage, including matters relating to the valuation of benefits in kind, the treatment of deductions from earnings, record keeping, wage statements, enforcement and appeals amongst other things.

Hon. members may wish to note that certain categories of worker are proposed to be excluded from entitlement to a minimum wage. These include share fishermen, self-employed groups, those in detention of any kind, members of religious communities and members of armed forces and reservists whilst they are serving. It is considered to be inappropriate to include any of these categories within the scope of the Bill. There are also certain other circumstances where the enforcement of a minimum wage is not considered to be in the best interests - for example, areas such as voluntary work or casual work undertaken for a friend or neighbour. It is not considered appropriate that such informal arrangements should be subject to an enforced minimum wage.

I trust that hon. members will confer their support on this measure, which is a most important step forward for low paid workers in the Isle of Man. Mr Speaker, I beg to move the Minimum Wage Bill be read for a second time.

**The Speaker:** Mrs Crowe, member for Rushen.

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

**The Speaker:** Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. The hon. member who is moving this Bill does not have to have any concerns about my support on it; he has it 300 per cent. What I have to say, though, is that it has taken a while to get here. At one stage I thought we might not see this day, but I am pleased that we are here and I hope this Bill goes through. I wish him every success with it, and I hope also that the issue of addressing the low paid will now, once and for all, be put to rights.

But in offering my support I would also ask the hon. member to address with utmost urgency the other issues that are surrounding the Minimum Wage Bill which are of equal importance, and that is the right to representation and the right to be a member of the trades union and I would ask that he brings that back to the department and the issues surrounding the industrial tribunal. Apart from that, Mr Speaker, it has my full support and I hope it goes through.

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

**Mr Downie:** Thank you, Mr Speaker. Basically I rise to support the Bill. The principles which it enshrines are already well founded in other places. I would, however, just like to put down for the record that I do not want to see this House or another place being the place which finally determines what the minimum wage should be. I think, whatever happens with the legislation, that should be done independently of any political overtures. It is important that we get this mechanism set up and it does have some independence and input by other parties. It is not to become a political football, in my opinion, and we would be very careful to ensure that the system of coming up with the figure for the minimum wage is not subject to interference. Thank you.

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

**Mrs Hannan:** Thank you, Vainstyr Loayreyder. I support the introduction of minimum wage legislation. I think it is very important, but I do not think that we should pretend that it is going to be without difficulties. It is going to be for a number of people who employ people and who do not actually have the income to pay a minimum wage or somewhere near to that area. It might be that somebody works around the corner and does not have any expenses of going a long way to work, either by vehicle or car or bus or whatever. It might mean that it suits that person. So there are many issues here where people would be able to fit in within their working arrangements and it might just suit their situation and conditions. What I am trying to say is that, while I agree with it, is not necessarily the be-all and end-all and it will cause some problems in some areas.

As to it being political, this whole issue is political. There will be questions asked in this House or, if it is not this House that approves it or sets the level, in another place there will still be questions asked. It will be political and I think some of the political fallout from it we will have to deal with, but that is a fact of life.

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

**Mr Karran:** Vainstyr Loayreyder, I do hope that it is decided in this hon. House because I am sick of listening to the vested interests when it comes to all sorts of social legislation. I can just imagine the people that Mr Downie wants to arrange what the levels are with the Chamber of Trade and all the other groups. What we need is not that you can tell one lot you are for it, the other lot that you are against it and no-one really knows where you are; we need a clear undertaking and I think that is where the member for North Douglas is wrong. It is no use talking about a good step. This is something that we have slogged away at for years to try and get into this hon. House like many other pieces of social legislation, and I will give praise to the Chief Minister because I appreciate what he has done with the different power groups outside this hon. House. We have an economy which we have never had since the days of the mines booming on the Island. If we cannot bring in and drag up the standard of living for our ordinary working people to a decent level at this time in our history, then we might as well go home.

I have moved on clause 1 that we should do and in primary law. . . It is all right these ministers wanting the flexibility not to have stuff in primary law, but the danger is it may happen; it also may not happen, and invariably it does not happen when it deals with the working people. So I shall be putting an amendment to this piece of legislation - I do not know whether the hon. mover has got a copy of it at the present time. It should not even start at a minimum of £5 per hour. We have a situation now outside this hon. House where at £5 per hour, £200 a week, you are lucky, if you are not in a council house or bought a house several years ago, that that would keep a roof over your head, never mind providing food on your table. So I hope that this hon. house will not take the *lhiam-lhiat* attitude of not wanting to pin a level, and if people in this hon. House say that a job is not worth £5 an hour, then it is not a job worth doing, in my opinion. If that is the case that it is not worth £5 an hour, then we should not be encouraging that sort of industry in this Island where we hear a lot of praise about how we have never had it so good. We need to make sure that the people at the bottom end get a bit of the action, in my opinion. I appreciate that we have seen some wonderful initiatives on many points such as FIS so that we can now help people so that they can get back into the work routine and have the time to look after their family as well and many other issues.

I hope that this hon. House will not support the hon. member for West Douglas so that it can be quietly left to the vested interest groups as to where they are going to make the amount.

I would also like to say, if hon. members are wanting to improve on £5 an hour, I would always be willing to support that sort of proposal, so I do hope that is the case.

The other issue that does concern me in the Bill - and maybe I cannot see it - is the inclusion of public holidays within the Bill. I do feel that increasingly we are seeing a situation where rogue employers are getting out of paying their staff what is morally right, if it is not statutorily right, as far as public holidays are concerned. I think that is an issue that needs to be sorted out. I am afraid I doubt if the hon. member for West Douglas is correct as far as his intimation about the health service is concerned. I do feel that that is an issue that should be looked into - public holidays. I think that maybe we should be having that included in this piece of legislation. What I am conscious of is that obviously the right wing in this House might have a hit list of what they want to do, but we would have our hit list as well. I do believe that there has to be compromise with this piece of legislation. But I think it should have from day one an amount in the Bill and this idea of looking to some of the mainlands to follow them when they have mass unemployment is not an answer. The opportunity is here, we have got full employment and we should be supporting somewhere in the region of £5 per hour. I believe that that would not be unreasonable in this hon. House.

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

**Mr Cannell:** Yes, Mr Speaker, by some kind of frightening thought transference I agree with my hon. colleague for Onchan on much of that and indeed had written it down on somewhat similar lines. But when you turn to the actual clauses of the Bill, there can be no more telling surely than clause 1, sub-paragraph (iii): 'The minimum wage shall be such single hourly rate as the Department of Trade and Industry' - we are winning up to now - 'and the Treasury acting jointly may from time to time. . .' You could sell tickets for that, Mr Speaker, because trying to get the DTI and the Treasury to agree a figure on this is going to be exceptionally difficult. The hon. member who has just resumed his seat, Mr Karran, said that if the job is not worth £5 it is not worth doing. That is right - £10,000 a year. Five pounds when it was mentioned in this hon.

House when the Bill was first being talked about was a figure that evoked shock, horror and astonishment, but suddenly even in that intervening 12 months it does not sound outrageous to me now. It did not then and I hope that it does not sound outrageous to those who were actually saying it would put small businesses out of action, it will ruin the Island, employers will drift back to other climes et cetera. I concur that that is actually a figure which, if it is matched up against the multitude of tables which the hon. member for Rushen seems to grasp so well but which I do not, which is the level of benefits emanating from Markwell House as social security, would show that in actual fact many people would find that they were not over the minimum income there for income support at that figure. So do not tell me that a job is not worth £5 an hour. Someone is going to labour from 8 o'clock in the morning on a Monday through until 4 or 5 o'clock on a Friday and they are going to get £200 a week.

In the Tynwald document policy speech which I made in response to the hon. Chief Minister launching his document I did touch upon this. Those who were present might recall that I said in another place that the main question for this Island to face at the moment is a question of balance, because if we are going to contain everybody's interests in this Isle of Man we must make sure that everybody is getting a share of the prosperity. It is galling in the extreme for those who do not enjoy any degree of the prosperity other than the services provided - that is acknowledged - but they do not see it at first hand, and what many people still take home is cash in a wage packet, and if they are bringing that sort of sum home then there is not much room for latitude for any luxury.

The luxury is, of course, being felt by the remainder who are benefiting directly from the prosperity, and I said that to ignore that balance is to alienate a wide range of the community, young and old. It is not just recognising the balance that once and for all that the Island has changed irrevocably in the past 10 years; it is not just recognition that the place can no longer pretend to be a quiet backwater. This is not a quiet backwater. We were always being urged to take on the mantle that in fact the Isle of Man now - and we are now quite happy to do so most of the time - is dealing globally, internationally. Well, I am sure that those who actually consider that they are part of an international finance centre would not like it to be very much known that those at the bottom end of the scale are labouring long and hard, perhaps in reasonably unskilled jobs, blue collar workers, great people who have supported this island through thick and thin, and those of us who have been through apprenticeships in the 1950s will know what it was like to have gun to your head and told 'If you don't like it, laddie, at 15 bob a week, down the road you go', are finding it very much different now. No-one is battering the doors down. No-one is standing up saying, 'We demand mega-salaries, we demand mobile phones, we demand Porsches et cetera', but they do demand just a little bit of this prosperity that the Island is currently enjoying. All of us who were old enough to remember it when it was very different do not want to see those days come again, and we will not accept the charge that to try to impose a reasonable minimum wage - this is not, as the late clerk to the Port Erin Commissioners would have said, shooting for the moon; this is only looking for a fair starting point. There is no figure quoted in this; as I say, it is yet to be argued, but I would agree that you are not talking about trying to hit £5 an hour, you are actually trying to start from £5 and move forward very rapidly indeed.

So those are my thoughts on it. I think that it cannot do anything but good and, if a few businesses do not care to pay their men or women £5 per hour or whatever the figure is that is going to be so easily agreed by the DTI and the Treasury acting jointly prescribing by

regulations, then I agree that they should not be in business at all, because anybody paying that rate of pay in the Isle of Man these days is a disgrace.

**The Speaker:** Mrs Crowe, member for Rushen.

**Mrs Crowe:** Mr Speaker, I am brought to my feet by the remarks surrounding clause 1 and the rates of pay, which are not included in the Bill, but just as a reminder, really, that statistics tell us the main cause of low income is unemployment. That is the main cause of people who have and suffer greatly from a lack of income, and if the minimum wage is raised to a level which jeopardises job creation on this Island, the whole of our society will suffer.

**Mr Karran:** We heard that about redundancy.

**Mrs Crowe:** There are those who are fixated about raising the minimum wage level and they often tend to forget that there are other ways of increasing prosperity and income for those who are suffering in that low pay area. We had one such example today with the Income Tax Bill, where it specifically targeted tax benefits; the increase in child benefit that was specifically targeted for those who are low paid was one such initiative, and there are other initiatives other than a minimum wage that can benefit: an increase in benefit, no taxation - all can help the low paid. But what I am saying is that it has been proved in the adjacent isle where there is a minimum wage in place, the main beneficiary of a minimum wage is the second wage earner in the household. Generally that is the part-time lady who is working at whatever job. They are the main beneficiaries when it comes to minimum wage. What is certain is that a minimum wage rate will definitely not help the unemployed.

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

**Mr Cretney:** Thank you, Mr Speaker. Just a few remarks. I am old enough to remember the Isle of Man being marketed by the Department of Industry on the basis that people who wished to invest in the Isle of Man in terms of providing job opportunities could enjoy low wage levels. It was something that was promoted as something special about the Isle of Man. Fortunately, after that we had 10 years of the Walker administration where we were marketed on a different basis. I think we should continue along that route and I think that is the route we are continuing along today. I am glad that we are past all that, and in terms of it taking a long time to get here, I think all that could be considered as well in as much as the hon. member for Onchan referred to the redundancy legislation. That was 20-plus years after it had been introduced across the water that we eventually got it here, and I remember employers' organisations almost battering the door down the day before we had that employment legislation saying that it was going to cause all sorts of problems. It has not in practice. I do believe that what we have achieved is a balance of the interests because we recognise there are lots of employers on the Isle of Man who are small employers, but we have recognised there is a balance to be set between the needs of employers and those of their staff. I consider that this is another step along that route and so I am pleased to offer my support to the hon. member for West Douglas today.

The other point I would just like to raise is that it would be a little naive to suggest that it is not a matter for politicians, for political input. Clearly it is and clearly a balance will have to be met between the various interest groups in that regard, and I do believe that we owe it to those who, despite the fact that the Isle of Man has done well and is continuing to do well, still find themselves in receipt of low wages. We need to try and take this step along today and I hope that hon. members will support the measure.

**The Speaker:** Member for Rushen, Sir Miles Walker.

**Sir Miles Walker:** When this matter was discussed in Tynwald, in fact before that on the committee of Tynwald dealing with this particular issue, I voted against it. In Tynwald I spoke against it. I felt that if this was the principal way of raising the wages within this community then I felt it was wrong. That is what it was being announced as.

I understand that in the United Kingdom five years ago or thereabouts when the Blair administration came into being they made a very clear pronouncement that they wanted to raise the wages of the working community. They said that they would do that and they would introduce a minimum wage - a very clear and, I think, very fair statement. One of the points that I tried to make in Tynwald some time ago was that we did not need to make that statement. That statement was being made every year in the policy documents that I was responsible for and I think in the policy documents since. We wanted to raise the standard of living of the whole community, not just some of it. The fact that the minimum wage legislation was introduced in the United Kingdom, of course, puts pressure on ourselves as a small jurisdiction alongside the United Kingdom. I understand that, but the way that the economy has been growing over these last 10 years, and I hope the way it will continue to grow over the next 10 years, makes this piece of legislation, which is going to be put into place - I accept that - almost superfluous, because I believe it is the generation of wealth within the economy that is going to enable employers to pay better and better wages and to enable those who are self-employed to get better and better remuneration as the years go by. The time that this legislation will come into its own, if that is the right expression, is when we enter into a recession, and then I think its benefit or its usefulness will really be questioned, because you are then removing the market forces with which our employees have benefited over the last 14 years or so. In times of recession those market forces do not play in the same way, and so people will be forced to pay wages which probably, as businesses as employers, they cannot or may not be able to afford. I hope that that time is a long way away.

So it seems to me, Tynwald having made the decision to introduce this minimum wage - and I hand it to the Department of Industry that as far as I can see with this piece of legislation they have cut the bureaucracy to a minimum - I think there has been a very real attempt at that and they have made it as practicable as is possible. I hope that is the case and that it will remain to be seen. On that basis I am prepared to give it my support, bearing in mind the economic attitudes of our community at the moment.

It is said that the minimum wage is in being in a large number of other places, and so it is, but if you look at those different places, I have got to come across one where it is in place in a comprehensive way. It certainly is not in North America and it certainly is not in most of the countries within Europe. It is tailored to create the greatest amount of flexibility within which the community can work. Again, one of the concerns that I have and have had is with this piece of legislation in a jurisdiction as small as this. We are all keen to see that legislation working to the maximum and as comprehensive as possible, and that in itself can pose problems when you deal with legislation such as this.

I really hope that our economy carries on growing, because if it does not I think we are going to have some problems with this piece of legislation. We know 9.6 per cent of employers on the Isle of Man employ over 80 per cent of the employees and it is likely that the majority of those employers have got their roots somewhere else, probably in the United Kingdom. It is

quite probable that the workers for those employers share the same wage agreements as do their counterparts in the United Kingdom. So as far as they are concerned, if the minimum wage is fixed at a similar level to that in the United Kingdom, it is not necessary in the Isle of Man because it is imported. That leaves almost 20 per cent, I suppose, of our employed being employed by something like more than 70 per cent of our employers. It is that group that I believe will have difficulties and they are mainly in the service industries employing up to four or five people. It is the retailers of all shapes and sizes that at the moment are feeling the pinch in this growing economy of ours.

**Mr Houghton:** Hear, hear.

**Mr Cretney:** Many of them are.

**Sir Miles Walker:** Many of them are faced with keeping employed people they have had employed with them for years, where they have had a very good relationship and where the relationship between employee and employer, I believe, cannot be bettered. But in those situations I believe there are going to be some problems; I believe there are going to be some problems in the hospitality industry, again where margins are trimmed at the moment and where there is not a lot of fat and if people are saying they cannot afford to pay £5 or £6 an hour, or in fact somebody has even suggested a minimum wage be £7 on the Isle of Man, whatever level it is set at, if the belief is that people who cannot pay less than that should go out of business, I think we should have a real think about that because I have to say I just do not agree with that particular point.

So I will support this piece of legislation with the background against which it is being introduced, but I do have my doubts about its efficacy and its benefits in a small community like ours with its growing economy.

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

**Mrs Cannell:** Thank you, Mr Speaker. I want to totally dissociate my contribution with those of the former speaker and also prior to that. I believe that there is a fundamental right that every worker in the Isle of Man is entitled to a minimum wage.

The principle of this, of course, went through Tynwald and we all approved it. The sad part about the Bill and its debate today is that we are having it so late. One thing I would agree with the former speaker on was that the over-bureaucracy of the first drafted Bill has been modified to some extent. Having been the former member of the DTI who was originally given this Bill by the Minister of DTI to work on, the first white production of this Bill was very weighty indeed. In order to condense all that contained down into this green Bill as presented to us today is quite an achievement in itself and I congratulate the hon. member for the DTI who has been given responsibility for taking it through.

What I would say is - and I think it was touched upon by the hon. member for South Douglas, Mr Cretney, and he is quite correct - in clauses 2 to 4 they provide for regulations to specify the minimum wage and any exclusions from, additions to and modifications of the entitlement to the minimum wage. Let us not forget that when we were considering the Sex Discrimination Bill there were also built-in exclusions in that piece of legislation for small businesses that may suffer as a consequence of that legislation, and so there was an opt-out provision within that legislation. Indeed, in this one exclusions, additions and modifications, and we all know of

the plight that may affect small businesses, small shops where they perhaps have one or two workers who have been working for a long time for that same employer, are quite happy with their lot and quite happy with what they are getting. This is primary legislation. It is going to enable a minimum wage to come forward. I had hoped - and I know this view is shared by other individual members, some in another place - that we would have had this primary legislation in place and we would possibly now, before this House folds in October, be looking at an order to establish what that rate of a minimum pay should be today. I do not believe for a minute that, once having approved an order to set a standard for a minimum hour's work, we are going to be tied to that forever and a day. The flexibility of this particular Bill is in clause 47 with the actual coming into operation on such days or days as the department by order appoint. Now, going back to my time in the department, we were very, very keen that such legislation provide for the order to be flexible in terms that if we suddenly have a downturn in the economy, then the department naturally would move an order to reduce or even raise the minimum standard depending on the buoyancy of the economy at the time. Just because an order is being moved to establish a minimum wage it does not mean that you are tied to that forever and a day, and I am sure that future members of the House of Keys, future governments and future members of Tynwald will be mindful of the financial buoyancy or otherwise of the economy at the time and will be swift in moving orders as and when and if necessary.

But also, of course, I find it quite interesting that in the United Kingdom today, it was announced - or maybe it was last evening - I caught it this morning - that the United Kingdom is presently being lobbied by the Transport and General Workers Union and others to raise the standard to £5 an hour. I think, if we cast our minds back to the original in-principle idea of a minimum wage, there were many members who voiced at that time last year that we should have a minimum of £5. So it is rather. . . listening to the lobby this morning and interviews on the radio this morning in the United Kingdom in respect of this, it is rather ironic that they now are saying we should up ours to £5 an hour and in the Isle of Man some of us mooted that we would like that to be in place a year or more ago. So in some ways I think some members are actually more far-sighted, perhaps, than our UK counterparts.

I hope hon. members will unanimously support this Bill today and will support the hon. member when he comes through to the clauses stage. I would ask him, however, that it might be fruitful and prudent if he was to provide a presentation for members of the Keys possibly prior to the clauses, because it can be a complicated Bill to actually go through because you have to take on board all the other aspects of it - agricultural wages, for instance - and there are other certain aspects in here where members may actually achieve a little better understanding of the legislation, if the member is able to put on a presentation.

It is unfortunate that the minister is not here today to give his members support, and it is rather sad that the only other member on the department is vehemently opposed to anybody receiving a decent minimum wage.

**Mrs Crowe:** I beg your pardon!

**Mrs Cannell:** I do not share that view, Mr Speaker. I wholeheartedly support the Bill and I welcome the move.

**Mrs Crowe:** Nonsense! Rubbish!

**The Speaker:** Mr Rimington.

**Mr Rimington:** Thank you, Mr Speaker. I was initially brought to my feet by the kind remarks from the hon. member for Onchan, Mr Cannell, who suggested I might be able to understand the social security tables better than himself! I think the relevant table for the purposes of this debate is not actually income support but is family income supplement, which is relating to people in work, and just for the information of the House, a married couple without children - the prescribed amount is £195 as it stands at this moment, and that would be before taking into account any housing costs. Now if that married couple were earning less than that amount, say £150 or £160, then it is the difference between the prescribed amount and what they are earning that the department very kindly pays 70 per cent of, but it is illustrative of the sort of figures that are involved there. Also a one-child family - that is either one or two parents - the prescribed amount before housing costs would be £202.86, so that gives an indication of what those figures are and tends to boost the point that my hon. colleague, Mr Cannell, was making.

However, I would like to say that whereas I support the legislation and I do support the concept of a minimum wage, it does have to be brought in not as a blunderbuss, because there are situations, and I can think very clearly of situations in my own constituency, the small retail areas which are being staffed by people on a casual or part-time basis -

**Mrs Crowe:** Absolutely!

**Mr Rimington:** - and the existence of those shops is very precarious. We are constantly seeing them actually closing and the life of the community very much diminishing. If it was a high figure, whatever that was determined was to be applied in that situation, that might well make the difference between that small shop operating and giving a service to the community, its existence or otherwise. So whereas the overall principles that give everybody a decent wage, yes, I am fully in agreement with, it does have to be operated with sensitivity so we do not actually create the problems that we are trying to avoid. Thank you, Mr Speaker.

**The Speaker:** Mr Singer, member for Ramsey.

**Mr Singer:** Mr Speaker, I have always supported the principle of the minimum wage but I have also said, and I still say, that the most important thing is at what level it is set, not the fact that it is a minimum wage but the level at which it is set.

I was a bit concerned about the comments from the hon. member for Rushen, Mrs Crowe, when she did say that it would be the second wage-earner that would benefit. Well, I think there are those families with a second wage-earner and it is those families which are the ones that need the money. That is why there is somebody working on this second job, because they cannot manage on the one wage. So certainly there is nothing wrong to say they are the ones who are benefiting. They need this minimum wage and they should be receiving a minimum wage.

**Mrs Crowe:** Yes, of course. I do not mind that.

**Mr Singer:** They are the ones, often part-time, who are working many often unsociable hours as a second job for very little money under some employers at this time.

As for good employers, they have got nothing to be concerned about. They will be paying more than any level of set minimum wage and it will not apply to them. However, the level does have to be affordable by the employer, certainly in recession times, as referred to by Sir Miles

Walker. The employer must be able to afford that minimum wage, because too high a level will, without doubt, lead to unemployment because certainly the small family businesses will work with fewer employees and it is these family businesses that do employ a considerable number of people, and those jobs will be lost. The second wage-earner is often part-time and those are the jobs which are more likely to go in the first place. But there are one wage-earner families working for a wage that is insufficient to keep a family, and they have to resort to benefits. I believe there are employers who think, 'If we pay too little we will let the government make up the difference', and I think that is exactly the wrong attitude, that the government should make up for the employer's inadequacies.

Whilst not directly involved in this Bill, we do need also to be aware that there are Isle of Man-registered ships which are not paying agreed federated rates, but are getting away with signing up crew on non-federated rates and not telling them their entitlement, and they are not getting their correct wage either. We need to ensure that this exploitation is also halted, if necessary by legislation. Whilst it cannot be attached to this Bill, we need to keep it in our mind that this is happening also within the Isle of Man.

So basically, Mr Speaker, I would say, minimum wage - yes, but to work effectively that minimum wage has to be affordable at all times by the employer.

**The Speaker:** Member for Glenfaba.

**Mr Gilbey:** Mr Speaker, I shall certainly be supporting the second reading of this Bill, but I would like to say that I do very much agree with the very wise remarks made by all three of the hon. members for Rushen, and particularly Sir Miles' economic assessment. He is absolutely right, and anyone who thinks you can stand against economics is like King Canute standing against the sea.

**The Speaker:** If nobody else wishes to speak, I call upon Mr Shimmin to reply.

**Mr Shimmin:** Thank you, Mr Speaker. Obviously an emotive and important area; over half of the House have actually spoken on it. To be honest, I think you would be surprised if you did not get told that all the issues that have been raised have been fully discussed within the department. There is nothing new today. This is where we talk, and the hon. member for South Douglas was talking, about a balance. That is what we are aiming for. There have been comments regarding the possibility of moving an amendment to have the figure put within the primary legislation. The figure that will be determined will not be determined until such time as it passes through the two branches and gets Royal Assent. It is my hope that will be done before the end of this session. If one looks at the legislative time available and the work that has already been done on the regulations, it is my hope and belief that we will get this through both branches and also the figure to be brought back towards Tynwald well before the close of this House.

Within regulations it is worth pointing out some of the subtle differences between the Isle of Man scheme for a minimum wage and the UK scheme, whereby this will become clearer during the clauses stage, but also in the regulations. In the Isle of Man a full worker will be classed from the age of 18 whereas in the United Kingdom the age is 22 before they are eligible for that minimum wage. We will also be introducing, we hope, a minimum wage for those who have reached the end of compulsory school-leaving age. So from 16 to 17 there will be a minimum rate, from 17 to 18 and then an adult rate.

There are certain other issues within the United Kingdom such as tips and gratuities that we have exempted from our regulations in order to try and get that balance right. We believe that the minimum wage which is proposed is going to be one which will drive up the lower end wage on the Isle of Man, without, to use the member for Rushen's comment, a blunderbuss which then puts out all of those workers from those vulnerable areas of employment.

The time to increase the minimum wage is not day one. Day one is bring in a figure, that figure is best put in regulations which can then be amended, annually if necessary, (**A Member**: Hear, hear.) or more frequently than that if necessary, but in order to evaluate the impact. It is all right the hon. member for Onchan shaking his head, Mr Karran; the reality is, when we talk, he and I, on social issues, we are not too far apart. When I or the minister comes forward with the regulations, with the figures, we will provide the members of Tynwald with detailed information, the best we can get, to show the impact of the proposed rate that we are going to put forward. If Tynwald is not minded to support it, that will be the will of Tynwald, but we will have put a substantial argument to explain the reasons for trying to get that balance right. I would urge hon. members to realise that the enabling Bill that we have before us is low on bureaucracy and is designed as a safety net.

The hon. member for Rushen, Sir Miles, said he hoped it that it would be superfluous, almost. I do not. I want to see a minimum wage come in that does drive up the salaries paid at the lowest end, (**Mrs Cannell**: Hear, hear.) but not to cripple them and therefore it should not be superfluous, it should be challenging, but I do agree with his sentiment. I hope that this will be challenging to those people who pay the lowest wages but without forcing them out of work. Within a period of time, if those companies cannot keep up with the minimum wage, then fine, they will go to the wall, but let us not chuck them out on day one.

Going through some of the members quite quickly, Mr Henderson talked regarding industrial tribunals, et cetera, and I look forward to the meeting I am holding in a couple of weeks to discuss those issues.

My colleague and hon. member for West Douglas next to me - a nice idea, a figure to be introduced independently of Tynwald. I understand his sentiment. Has not got a chance; is not going to be happening. So it will be political. That is going to be determined by Treasury and DTI.

The hon. member for Onchan, Mr Cannell, turned round and said, 'How are you going to get those two together?' It is one where - I will quote, 'It is of course imperative any consideration of options for wages rate is based on clear evidence - for example, wage information collected by economic affairs division of the Treasury.' That is their role; that is what I have said. We will come forward with a sustainable argument which will be DTI and Treasury. Trust is a wonderful thing; I hope the hon. member will trust that I am sincere when trying to do it in that way.

The hon. member for Peel, Mrs Hannan, is known to support minimum wage but she has identified there are problems. People for whom it is convenient to walk around the corner, part-time, to fit in with their family circumstances; even if they are part-time, will be eligible for the minimum wage. Therefore we will be disadvantaging some of those people and they will not thank us for that. They are working part-time but they will be entitled to, in fact they will have to be paid, the minimum wage. It is not going to be something that they can negotiate with an

employer. It is important to bear that in mind. You cannot turn round and say, 'Well if we have a figure of', to use the hon. member for Onchan's figure, '£5,' you cannot turn around to that employer and say, 'Look, I don't need that much, I just live around the corner, I'll just do a few hours, we'll call it £4.' It cannot be like that. The minimum wage will be brought in, it will apply to all. You cannot make exceptions between an employer and an employee. Voluntary work, working for family is exempted, but you do not want to deny those people an opportunity to work.

'Drag up standard of living' was Mr Karran's comment. I do not like 'drag up', but yes, I do want to see an increase of the standard of living of the people we are talking about. I think there is sufficient knowledge that we differ as to the figure. Let us realise that we are united in a minimum wage. It is something that we can get on with. I believe that the regulations, when they come forward, will satisfy members; that is for another day and another place, but at the moment I believe that hon. members are supportive of the principle and I would urge them to support when we get to the clauses stage.

Finally, the hon. member for East Douglas, Mrs Cannell, referred to the possibility of a presentation. I will leave that to individuals to approach me. The regulations are going to be more detailed in order for people to understand, and I think at that stage there will definitely be a need for a presentation. I believe that everything which is in the Bill is what we have already discussed in previous debates. I and my officers will be available, but unless there is sufficient demand I believe we have talked about it, let us get on, but I will discuss that further with the hon. member. I beg to move, sir.

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

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

*For: Messrs Gilbey, Quine, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Messrs Karran, Cannell, Gelling and the Speaker - 22*

*Against - 0*

**The Speaker:** Hon. members, the motion carried unanimously with 22 votes.

Now hon. members with your leave I will take the supplementary order paper.

**Members:** Agreed.

### **Court of the University of Lancaster — Member Appointed**

**The Speaker:** Appointment of one member to the Court of the University of Lancaster. Can I have nominations, please?

**Mr Braidwood:** Mr Speaker, I would like to propose the hon. member for Douglas West, Mr Shimmin.

**Mr Bell:** I second that, Mr Speaker.

**The Speaker:** Are there any other nominations? In which case I announce that Mr Shimmin is duly appointed. (*Interjections*)

**Mrs Crowe:** There's a treat!

## **Road Transport Bill — Second Reading Debate Adjourned**

**The Speaker:** Hon. members, item 22 on the agenda, the Road Transport Bill for second reading, Mrs Hannan.

**Mrs Hannan:** Thank you, Vainstyr Loayreyder. This Bill creates new systems of regulation of commercial road passenger and goods transport. The main system in part 2 is a scheme of regulation of operators designed principally to ensure safety and competence in the operation of vehicles for commercial purposes. As respects passenger vehicles, it replaces both public service vehicles, PSV, licensing under the Road Traffic (Public Service Vehicles) Act 1964 and inspection of hackney carriages under the Public Service Vehicles (Inspection) Act 1928.

As respects goods vehicles, it is an entirely new system for the Isle of Man. Both are based on systems which have long been in force in the United Kingdom, since 1968 for goods vehicles and 1980 for passenger vehicles.

Part 3 sets up additional controls for bus services and taxi services, designed to secure reliability of service. These replace road service licensing under the 1964 Act and hackney carriage licensing under the Local Government Acts of 1916 onwards and also PSV and hackney carriage driver licensing.

The authority responsible for regulation is a New Road Transport Licensing Committee; it replaces the Road Traffic Commissioners and also takes over responsibility for taxis from certain local authorities.

Part 2 of the Bill regulates the operators of vehicles, not the vehicles themselves. It sets up two similar and parallel systems of regulation of passenger vehicle operators on the one hand and goods vehicles operators on the other. The activities subject to regulation in relation to passenger vehicles are those which involve the commercial use of passenger vehicles on an adopted road for the carriage of vehicles, commercial use being defined as use (a) in connection with any business of carrying passengers - for example, taxi, bus or coach operation; and (b) in connection with any other business of the operator or an associated company, for example, hotel or construction business; or (c) otherwise for hire or reward with power to exempt voluntary organisations.

Similarly, the activities subject to regulation in relation to goods vehicles are those which involve the commercial use of a goods vehicle on an adopted road for the carriage of goods. The classes of goods vehicles to which regulation will apply are to be prescribed by regulation. They will not apply to vehicles under 7,500 kilogrammes and controls will be introduced at stages, applying to the heaviest vehicles first. Commercial use is similarly defined as use (a) in connection with any business of carrying goods - for example, haulage or distribution business; (b) in connection with any other business of the operator or associated company - for example, construction business; or (c) otherwise for hire or reward. It should be noted that 'business' includes the activity of a public authority, so central government and local authorities will be subject to regulation in the same way as the private sector.

Both systems of regulation involve both (a) licensing; and (b) registration of operators. A licence is for the operator who intend to run vehicles both within and outside of Mann and is designed to be equivalent to the operator's licence required under EC legislation by operators

within member states. The standards required of the licensed operator will be the same as that required by EU legislation. The reason for that is that should any of our operators wish to operate their business within the European Union then they will have documentation to protect them within the European Union should they be stopped or just for regulation of services. Registration is for an operator who intends to run vehicles within Mann.

For both passenger vehicles and goods vehicles there will be a two tier system of registration. In order to run certain kinds of operation requiring particularly high standards of safety and competence - for example, one involving regular bus services or the running of heavy lorries - the operator will have to meet special requirements and be entered into a separate part of the relevant register. In all cases the operator will have to operate from a suitable operating centre, to be specified in his licence or registration, which will also specify the maximum number of vehicles which he may operate at any time, and may limit or prohibit the use of vehicles of particular classes.

Licensing for certain passenger services is contained in part 3 of the Bill and sets up a system of service licences of two types of passenger vehicle service in addition to operator registration under part 2 - regular bus services and taxi which ply for hire. These controls will not apply either to bus or coach hire services, including bona fide excursions or to pre-booked taxi services. Detailed transitional arrangements will apply for up to three years.

In addition, part 3 establishes a system of driver licensing for bus and ply-for-hire taxi services. These may be extended by regulation to other passenger operation - for example pre-booked taxi services. It also imposes on the operator of a licensed service the obligation to carry passengers on demand and gives the power to make regulations fixing maximum fines and governing such matters as the numbers and conduct of passengers, lost property, et cetera.

The system of the Bill is to lay down the basic rules of the various systems of control, leaving the details to be filled out by regulations made by the Department of Transport and subject to Tynwald approval. It is intended that, apart from the provisions relating to the committee and the making of regulations, which will come into force on 1st January 2002, the Bill should come into force on 1st April 2002. However, the Department of Transport will be able to bring any provisions into force earlier by order if required. Regulations will make transitional provision for the continuation of existing licences pending the granting of licences or registration under the Bill.

That completes those comments on the detail of the Bill, Vainstyr Loayreyder, but if I could confirm that I do have a briefing set down for Friday afternoon, 2nd February, for members and I intend under that sort of timetable to bring clauses forward on 6th March, as I am in the process of asking for leave of absence the week before. I beg to move the second reading of the Bill, Vainstyr Loayreyder.

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

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

**Mrs Cannell:** Thank you, Mr Speaker. I was actually hoping that the hon. member for Peel may have included in her opening remarks on moving the principle of this legislation some kind of consideration for the concern expressed by the taxi trade. (**Several Members:** Hear,

hear.) I appreciate that the hon. member is not looking to take clauses until 6th March, which gives the trade a little over four weeks in which to consider part of this Bill which they had not been consulted upon. I am disappointed that the hon. member has not seen fit to say in her opening remarks that during this four-week lead-in period to the clauses being considered, she is not, along with her minister, prepared - or has made a statement to this effect - to meet with **(Mr Houghton: Hear, hear.)** the taxi trade to listen to what their concerns are.

Now, let me make it quite plain here. We are not looking at trouble-makers; we are not looking at people wanting to score points or get publicity; what we are looking at is a group of very hardworking individuals who agree and approve 95 per cent of the provisions laid down in this legislation. That is quite an achievement that the Department of Transport have undertaken over the last two or three years of consultation. It is only in the last three years that it started to move. Ninety-five per cent approve and agree with the regulations as proposed in the legislation. However, five per cent of those clauses were not agreed or discussed with the trade. Indeed, the minister of the department was only heard to say, being interviewed on Manx Radio this morning, that there was further consultation in August which did include members of the public, following which the Bill was changed; there were amendments made to the Bill. Now, it was at that stage, I would suggest, it would have been appropriate and courtesy would have been upheld if that final amended draft Bill had have been sent back to the working party established to try and come up with the legislation that we now have before us. But that did not happen. Whatever input members of the public, other businesses or even members of the trade had to say in August last year was obviously viewed upon with such seriousness that it actually prompted the department into changing the legislation from that which was understood, having been agreed with members of the trade under the working party.

So of course naturally the trade were very concerned - they only actually got a copy of this Bill last Tuesday, hon. members, and this is legislation that is going to affect their very livelihoods. Some have very successful taxi and buses and all the rest of it; they have very successful businesses, they employ people, they have a number of vehicles within their fleet. Others do not. Other members that work in this trade work as one-man bands or one-woman bands; they have one vehicle.

There are all sorts of contentious issues, I would suggest, contained within this legislation and we may well be able to pin them down to perhaps three, four possibly five clauses which, with some discussion, might be changed to both sides' agreement, and I think we owe it to the trade and I think we also owe it to the department to ensure that what legislation goes through here today and at another time is the right legislation, bearing in mind that the hon. member for Peel has prompted me twice to say the discussion has been going for 15 years, so for goodness' sake let us get it right.

What I would like to have seen in the opening remarks was an assurance that during this lead-in period of four weeks to clauses further consultation would have been afforded to the people involved in the trade on the contentious clauses. I would have liked also to have sought assurances that, following such consultation on the contentious clauses, if some kind of amicable agreement cannot be reached to the benefit of all by 6th March, the clauses stage would be further extended and possibly amendments agreed at that time with the trade and the department.

I was quite happy when I discovered that we would not be considering clauses until 6th March to go along with that. However, the assurances that I did want for the trade and indeed other members are seeking here today in fairness and in democracy (**Mr Houghton:** Hear, hear.) are that there would be further consultation just on the contentious clauses. These are the clauses that have been introduced into the Bill prior to agreement by the working party. If the department will afford us that opportunity during the next four weeks, those clauses will be identified.

I am not going to lengthen this debate any longer than it need be, but what I would like, because I have not received an assurance from the hon. member - and it is no good delivering it in the summing up because it will be too late - is to propose to adjourn consideration of this Bill until such time as further consultation has taken place with the trade. I believe, if the department is eager to get this through by 6th March, then they will do their level best to ensure such consultation takes place prior to the introduction of clauses, but I beg to move:

*That debate be adjourned pending further discussion with the taxi trade.*

**The Speaker:** Now, hon. members, I draw your attention to standing order 7, which states, 'On ordinary occasions the business of the House shall terminate at the hour of half past five o'clock in the afternoon but the time of continuance shall be determined by a majority of the members present according to the state of business before the House.'

**Mr Cretney:** I beg to move, Mr Speaker:

*That the House adjourn after consideration of this item.*

**Mr Bell:** Mr Speaker, could I just add one comment to that - that we continue the sitting until the completion of item 23, which is a very short Bill, it is non-contentious and I have a very short presentation to make on it. Bearing in mind the serious pressure we are going to be under very shortly to complete the passage of all the legislation, I would urge hon. members to do their best to expedite legislation today as quickly as we can.

**The Speaker:** Hon. member for Rushen.

**Mrs Crowe:** Mr Speaker, I would support the continuance of the business of the day to include item 23 and also item 24 (*Laughter*). I have a five-minute presentation for the second reading of this Bill and it is important that we make sure that these legislative matters are progressed, and I would support that the House sits until the determination of the agenda.

**Mr Karran:** Vainstyr Loayreyder, as the only proposal that is here in front of us that has been seconded is the extension of the time to do the two remaining items on this agenda I must object violently to this. We are in here to produce primary law, good law, not to be done on the hoof or as some sort of situation; it would be a scandal and I hope that that is not the case. I just think a simple answer from the hon. mover - are they going for some negotiations? - would be very much appreciated. But I must oppose any moves of just passing law on the hoof by -

**Mrs Crowe:** It is only second readings.

**Mr Karran:** Well, you might think it is good law, but I think this House deserves the courtesy of being able to debate it fully, not on some sort of speed track. We are not here as nodding dogs, as I said years ago when we fought against ministerial government, and I hope this

House kicks that proposal out. I believe that this House should adjourn now because it seems

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**Mrs Crowe:** Come in on Wednesday.

**Mr Karran** - no, until the next sitting of this House and let us carry on with the business of this House next week. We are talking about making good law and we should do it informedly. I hope that the hon. mover has taken on board that we hope that something can be arranged for the different groups - I am not saying what I agree with, but I do believe (*Mr Downie interjecting*) in making decisions on informed viewpoints, not on pressure groups, like you yourself will do with your mates as far as the minimum wage is concerned. I believe that we should adjourn now and I hope that the mover would support the adjournment now because I think we are going to get ourselves into another nonsense that we have been into not so long ago and I propose that we adjourn now, Vainstyr Loayreyder.

**The Speaker:** Right, hon. members, instead of us wasting a long time (**Members:** Hear, hear!) debating whether we should carry on or not I have had one motion properly seconded, that we finish this item I am putting that one to the vote. Now, you can either take that one and then, if it is approved and finished, those who want further Bills can then put another motion to carry on (**Mr Houghton:** Hear, hear.) or you can turn this one down and the House will adjourn now, otherwise we will debate on and on about how long. The motion that we have is that business continues with the item under debate. All 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, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Bell and the Speaker - 14*

*Against: Messrs Gilbey, Rimington, Singer, Karran, Corkill, Cannell and Gelling - 7*

**The Speaker:** Hon. members, the motion carries, 14 votes in favour, 7 votes against. We will continue with the Road Transport Bill. I have a proposal for adjournment from Mrs Cannell. Mr Henderson, member for Douglas North.

**Mr Henderson:** I am not signalling to speak just at the moment, Mr Speaker, sorry.

**The Speaker:** Right, Mr Braidwood.

**Mr Braidwood:** Thank you, Mr Speaker. I will second Mrs Cannell's adjournment of this.

**The Speaker:** Right, we are in the adjournment motion.

**Mr Braidwood:** The only reason, sir, is that I can endorse Mrs Cannell's sentiments. If Mrs Hannan, the mover of the Bill, would give an assurance that she would talk with the associations I would be quite happy.

**Mr Houghton:** She had the opportunity.

**Mr Braidwood:** But we have had letters from the trade organisations who say that on 23rd December they received an amended Bill and only the green Bill last week. Now, it has happened in this House before that when this has arrived where people have not been consulted, there has been a lapse of time and now Mrs Hannan has said that the clauses stage would not be till 6th March, which would be ample time for her department to meet the

trade organisations who have concern over some aspects of the Bill and I think that is only fair. It is better to get it out in the open and sorted and then have the trade organisations with the department in support of the department's Bill. As my hon. friend for Douglas East said, 95 per cent of the Bill they agree with. There is only about five per cent where they have a problem. If Mrs Hannan can give those assurances I would be happy, otherwise I would rather see the Bill adjourned.

**The Speaker:** Member for Castletown, Mr Brown.

**Mr Brown:** Yes, thank you, Mr Speaker. I have to say I am somewhat saddened at the comments from the hon. member for East Douglas, Mrs Cannell, who is fully aware that the hon. member for North Douglas, Mr Houghton, who approached myself and Mrs Hannan before, was advised that the hon. mover of the Bill was more than content to allow a period of time for further discussion with some members for Douglas, which involves the hon. member for East Douglas, Mrs Cannell, and some from the trade, and that is why the hon. member stated in her presentation that she would delay the clauses stage until 6th March. Now, as the hon. member for East Douglas is aware, the hon. mover of this Bill has the right under our standing orders to deal with the clauses at the next stage of the sitting of the House, and it is a voluntary offer by the department because of the concerns that have been expressed to have a meeting with representatives.

**Mrs Cannell:** Well, why was that not made public?

**Mr Brown:** Well, if the hon. member would wait - and one maybe could forgive her if she does not understand how the procedures work in this House -

**Mrs Cannell:** Not like you do.

**Mr Brown:** Exactly! the hon. member would know that the mover of the Bill has the opportunity to wind up when it comes to the debate finishing. Now because - (*Interjections*)

**The Speaker:** The hon. member for Castletown is speaking.

**Mr Brown:** Mr Speaker, again, as hon. members know, the mover of the Bill has the right to speak to an adjournment.

Now, as far as the department is concerned, we have no problem in meeting representatives from the organisations. There has been more consultation over this legislation, I would suggest, than over any other piece of legislation, and the department has had no problem in providing advice explaining the situation relating to this Bill, which is a very complex piece of legislation. We are very well aware that we are dealing with individual people who have an investment in their own business. That is why many provisions in the legislation are not obvious to see. That is why there are duties on those within the legislation to carry out certain functions.

So I would say there is no need to adjourn, as is being proposed, because if the House gives this Bill a second reading the department and the mover of the Bill, who is a member of the department, have given an undertaking to members of this House who raised the issue with us previously that we will delay the clauses stage until 6th March, and the hon. mover of the Bill gave that undertaking when she made her presentation, so I would hope that hon. members would see the reality of the situation and acknowledge that the member offered to have this consultation with members prior to this second reading debate going ahead. The

reason for that was we were not sure whether or not we would get to the second reading today because of the amount of legislation that was before us, and therefore it was even said to the members who approached myself and Mrs Hannan that, if we did not get the second reading today, we would still arrange an early meeting with those members who wished to and with representatives from the trade. So I hope that clarifies the situation.

**The Speaker:** Member for West Douglas, Mr Shimmin.

**Mr Shimmin:** Thank you, Mr Speaker. I am pleased to hear the comments of the minister. I thought we were in danger of snatching defeat out of the jaws of victory. The hon. member for East Douglas - and I take her at her word - says there is 95 per cent agreement on the proposals. Now, that is a major step forward on an area that has been bumbling around for so long. (**Mr Houghton:** Hear, hear.) If those figures are accurate, then certainly the minister and the mover of the Bill were requested to discuss with the associations. (**Mr Houghton:** Hear, hear.) Rather than dig ourselves into trenches we have now had that assurance. I hope that both parties to that, including some representation of the members which I think the minister mentioned, can sit down and productively talk within the next month. Following that, if it comes back to the House on March 6th and there has not been adequate discussion and dialogue and opportunity for that, then it is up to the House and we can do what we wish. The offer has been made; I would hope that all parties would honour that. It seems to be getting what the taxi drivers felt they were denied previously, the members of the House felt the department should offer and the department have. I concur with what the minister has said. I am satisfied and, if not satisfactory at the end of the period of time, the House can make its own decision then, sir.

**Mrs Crowe:** Hear, hear.

**The Speaker:** We are in an adjournment debate. Member for Douglas West, Mr Downie.

**Mr Downie:** Thank you, Mr Speaker. I would just like to remind hon. members that at 2.30 on Friday, 2nd February the Department of Transport is arranging a discussion and a presentation for members of this House on this particular piece of legislation. Wouldn't it be very nice if, following the presentation to members, representation from the hackney licensing trade could be afforded the same opportunity that the members are having while the experts are all there and the people who have drawn up the legislation can have an opportunity to present to the hackney trade in much more depth a resume of the Bill and how it all fits together and how we are hoping that the various regulations will come in to deal with a lot of the problems that have been raised by the trade themselves?

Now, I know this issue has gone on for 15 years or more, but I would suggest to this hon. House that at no other time in the life of the hackney trade have we been closer to coming up with a piece of legislation which works and, in fairness to the hackney trade, they have been kicked from pillar to post by various administrations in this House; I feel that they have been let down badly on more occasions by the local authorities; they have been blown about in the winds for the last few years and, in fairness, there have been a lot of issues that have come up that have been contentious to them and, for whatever reason, they have not been addressed. I know that the minister and the department are keen to bring in this new legislation and I think, if there is a little bit of goodwill and that can be demonstrated on Friday when I hope an opportunity is taken to bring everybody together, I am sure we can resolve this issue.

So I would like to think that, in summing up when the mover wants to speak to this particular adjournment or amendment debate, there is an opportunity given to make this commitment and we can put the whole issue to bed until Friday afternoon and everybody can go home reasonably happy.

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

**Mr Houghton:** Yes, thank you, Mr Speaker. I am quite bewildered, really, with the negotiations I did set up with the hon. Minister for Transport and it concerns five letters of one word: the word is 'trust'. The situation with this particular matter with the hackney trade is they have no trust in the actions of the Department of Transport. We have no trust now in the actions of the Department of Transport because of what has not taken place with the mover of this particular Bill. We hoped that we would get firm assurance that the hon. mover with her minister would, yes, delay the clauses stage to 6th March - she has mentioned that - but then that she would undertake consultations in the way that the hon. member for West Douglas has suggested, which I would say is an excellent suggestion - an ideal time; let us get this sorted out on Friday afternoon after the presentation to members, or at any time, but at a time that suits all, and that we get proper discussion and proper thought-out agreements made as to how we would propose to amend the four or five affected clauses in this Bill which are in contention, and it is our intention to see to that. We have made that quite clear. We did not expect at such a late hour now to be having a debate about this particular issue where we feel once again we have been let down and we wanted this categorical assurance, not as the hon. minister for the department has said that the mover will sum this up at the end of the debate, we wanted it right at the start so that we could have got up then and supported it and then we could have all, as you say, have gone home and discussed this at a later time around the table with the people who know what they are talking about, and that is the members of the trade. That is most important.

Just speaking generally, there are other issues -

**The Speaker:** Hon. member, we are on an adjournment debate.

**Mr Houghton:** That is enough, and I will speak later to the Bill.

**The Speaker:** Absolutely. Member for Onchan, Mr Cannell.

**Mr Cannell:** Yes, thank you, Mr Speaker. I would like to point to one other facet of this which does not appear to have been referred to, and that is that what we are being urged to do is to consult the trade. Now, I have been around long enough to realise that during these discussions that trade has not been able to bring itself together as one uniform argument. They have represented various factions and have been unable to present a united front, so I am extremely heartened to see that we now appear to be in a position where there is a common view, and I sympathise entirely with the association that they claim they have not had sufficient representation. It is difficult to swallow when you have heard it has been going for 15 years, but if they have a case and if they can present a united committee which will represent the interests of all their members in one go, then that is not too much to ask. If, however, that organisation fragments, as I regret to say it has done on so many previous occasions, when its interest within its association or indeed other associations as there have been from time to time over the 50 years and more that I have been associated indirectly with the hackney trade through my late father, I would say that is the least we can actually entertain. I think, in fact, far

be it from me normally to spring to the defence of the mover of the Bill here because we differ so many times politically, but in actual fact I think she failed to explain to us what in fact her kind offer was going to be. Let us short-circuit this and say either way the offer is on the table, we can bring it together; let us not say, 'You said this' and 'You said that' - push, pull. Let us get the people who have spent the entire afternoon giving up some of their livelihood, I do not doubt, and taken the trouble because you could not have forecast; if there is one thing that is very difficult to do, it is for anyone to come up and hear a debate because of the variances of time when they come forward - and I will speak about that at some other time - but they have taken the trouble to come along, there is an offer on the table, again bang their heads together and let us get it sorted.

**Mr Houghton:** Hear, hear.

**The Speaker:** Member for Douglas South.

**Mr Cretney:** Thank you, Mr Speaker. I will be brief. I felt it was important that we did at least conclude the debate one way or another today in terms of where we are up to. Despite the fact that it has been suggested that the crude percentages are that they are 95 per cent there and five per cent only remains to be resolved, I do not think we should underestimate that there may still remain some difficult discussion and negotiation. However, it is more important, I am sure everybody would agree, to have the discussion and negotiation and, if the department can make some progress by 6th March I am sure that is in everybody's interest. If they do not make the progress, then it is for the House to decide.

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

**Mrs Hannan:** Thank you, Vainstyr Loayreyder. In moving a second reading of a piece of legislation I do not think any member of this House has approached me to comment on this legislation. I do not think any member, since it has been published, has lifted the phone up, met me in the corridor or said to me, 'What is this about?' Yesterday we had taxis driving around. All right, some people have said that the information was not available. The letters have gone out from my department to people that have commented on this legislation. The legislation was published. We were in a very short timescale. It is just today that I have discussed with my minister to look at a way forward. We have the briefing for members on Friday.

The intention of doing a second reading in the way that I did was to cover the principles of the Bill and to find out where members had a fault with it. Nobody has told me. All right we are in an adjournment but nobody has told me the five per cent that anybody is concerned about. If it forms a major or a minor part of the Bill I could tell you. People are saying that they know what is wrong with it. Nobody has approached me, nobody has told me what is wrong with it. Yesterday we had a letter to say that Isle of Man taxi owners were not happy; today we have had another press release.

I have promised a briefing for members on Friday. It is not possible, because I have got another meeting straight after the briefing, to go into a briefing with the taxi operators, and my minister is not there anyway and my minister would like to be present to have a meeting with the taxi drivers. It is possible that we would arrange a meeting in the afternoon for taxi drivers as I am told that is the time that taxi drivers are not quite as busy, but obviously they can come

back to me on this. I am quite happy to have another briefing for taxi drivers and a discussion on the issues but, as I do not know what the main issues are, I cannot comment now.

I would hope that, because of the concern that has been expressed this evening, we can have the second reading of the Bill, and once we have had that we then have the briefing and we just have the discussion with the taxi drivers and then come back to the clauses stage, and I would hope members can go along with that but I wait to hear what the concerns are with regard to this legislation.

**The Speaker:** Mr Singer, Ramsey.

**Mr Singer:** Thank you. Can I say, Mr Speaker, that I believe that changing the law is essential.

**The Speaker:** We are in an adjournment debate.

**Mr Singer:** Yes, but as far as the adjournment concerned, there has been over a period of a time a changing of goal posts, and I know that from having been in the department. Those changes of goal posts were often done by the taxi drivers themselves when you thought you had an agreement but in fact they came back and said they had not got an agreement. But if we are looking for consultation with the taxi drivers, it has not got to be just for the Douglas taxi drivers; it has got to be with all the taxi drivers.

**Mrs Cannell:** They are from the whole Island.

**Mr Singer:** No, they are not the whole Island. (*Interjections*) This letter says that deregulation is not wanted. I think that perhaps deregulation in certain areas of the Island would be very much supported by the taxi drivers, and therefore all I would say to the hon. member in charge is that if she is going to have consultation, then make sure it is with all the taxi drivers, including those in the north.

**The Speaker:** Member for Ramsey, Mr Bell.

**Mr Bell:** Thank you, Mr Speaker, I will support the adjournment. I can see the logic in trying to get as many people on board as possible before this Bill goes any further. I would, though, also like first of all to endorse the comments of my colleague in Ramsey, that if we are consulting taxi operators, it must be an Island-wide consultation, because ultimately this legislation will affect the operation of taxis right throughout the Island.

But I would also, Mr Speaker, like to make comment on an area we seem to have overlooked entirely today. This legislation is intended to set up a framework to operate the taxi services throughout the Island for a great many years to come. We obviously want to get the taxi drivers on board with it, but equally the consumer surely has to be considered in all this and the framework that we end up with ultimately has to be one which is beneficial not only to the taxi drivers but also to their customers, and I have not heard one single person today mention the customers. They are the ones who have been complaining about the service they get, the problems they have in getting taxis at appropriate times. If we are to set up this new framework, it has to be one which benefits everyone, the consumer as well as the taxi drivers themselves, and I would hope that the hon. member moving this Bill, if we have the adjournment, will at some point be able to try and gauge whether the settlement she reaches with the taxi drivers is appropriate and acceptable to the consumers and perhaps the Office of Fair Trading itself may

have some comments to make on this to ensure that the final framework is a practical one which benefits everyone.

**The Speaker:** The Chief Minister.

**Mr Gelling:** Mr Speaker, speaking to the adjournment but on a point of clarification, could you perhaps, as the presiding officer, tells us, if the adjournment is successful, does that adjourn the second reading to 6th March, because the mover has said that the clauses will be 6th March? Therefore if we adjourn today, does that mean we continue the second reading next Tuesday or are we saying it is adjourned until 6th March, sir?

**The Speaker:** The motion, as I understand it from the mover of the adjournment motion, was that the second reading be adjourned until there was a satisfactory agreement with the taxi owners. (**Members:** No.) Sorry, pending further consultation with the taxi drivers, but it was not dated, sir. The adjournment was not dated. Can I ask the mover of the adjournment to wind up? Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I think that we are back to the situation I thought before. What we should be doing is adjourning this debate until the next sitting of this House. (**Several Members:** Hear, hear.) I am appalled, to be honest with you, by both sides. I think that this has come about by the mover and the minister. We could have had a simple undertaking. I am disturbed (*Interjections*) and I am very, very concerned with the way things are going on in this House. The idea that we debate the issue with detail after we have had the second reading really is wrong, a bad parliamentary process anyway, and I appreciate that there are pressures both on the hon. mover and the department to try and facilitate this sort of debate, but I think that if we are going to have any common sense, I am glad that the Chief Minister has allowed the breaking of ranks. What we should be doing is adjourning this second reading debate to be the first item of the agenda of the next sitting of the House of Keys, because we are getting nowhere fast. We could not get an undertaking from the hon. mover. There was not the undertaking. There was a clouding of the issue. I think that is what we need to do, and I think it is nonsense that this House is being abused and members of this House are being abused regarding the parliamentary procedure over the executive, and I certainly feel that is the way forward. You can adjourn it; the hon. member is saying it is about consultation, but the real adjournment should be, as I said before, to the next sitting of this hon. House, and that is the second reading, Vainstyr Loayreyder.

**The Speaker:** Is that a motion?

**Mr Karran:** I would adjourn to the next sitting of this hon. House whether they have negotiated or not, but I would hope they would have the sense to realise that they need to get their act together and let us hear all the arguments from all the areas. I do propose that we adjourn this debate until the next sitting of this hon. House and carry on with the second reading. Vainstyr Loayreyder, I beg to move:

*For the words after 'adjourned' substitute 'to the next sitting'.*

**The Speaker:** Right, I have an amendment, therefore, to the original adjournment motion. Mr Corkill.

**Mr Corkill:** Yes, I would wish to second that motion, Mr Speaker, because I do feel that we are in danger of not giving the second reading a fair hearing at this time of the day. I think we

have made a mistake by trying to push on. We do have a full agenda, I appreciate that, and the legislation is important, but it is important to have it considered properly. I think we are in danger of not doing that, Mr Speaker. (**Mr Karran:** Hear, hear.) A week is plenty of time, as the hon. member has said, for everyone to get their act together, for that consultation with members to take place, for presentations or whatever, and then perhaps in a week's time we can have a proper, genuine second reading debate with all the issues on the floor for members to vote upon. There is then the clauses stage to look at the detail. So I think the hon. member for Onchan, Mr Karran, is quite right, and I think it is the reasonable thing to do particularly at this hour of the day.

**The Speaker:** Can I close the adjournment debate? Sorry, Mr Quine, you wanted to speak, sir?

**Mr Quine:** Mr Speaker, we are - and I think that some of us have lost sight of this - at the second reading stage and we have two very simple courses open to us: we either proceed with the second reading, which appears to be what the hon. member for Peek seems to be suggesting, or we go for an adjournment. Well, I think if you put that question the answer is quite simple: we are not in a position to continue with the second reading for the very simple reason that we still have a briefing to come from the department ourselves, (**Mr Houghton:** Hear, hear.) which of course would possibly inform us of certain matters that we would wish to raise at the second reading, and secondly, I think we need to know what is going to come out of the consultations, because there may be matters that arise from those consultations which would inform us what we would wish to say at the second reading. So I think there is only one option before us and that is to adjourn, and we have two motions, as I understand it, Mr Speaker.

**The Speaker:** One motion and an amendment to the motion.

**Mr Quine:** Right. We have two propositions, and the proposition is we either adjourn until such time as there has been proper consultation with the trade or we adjourn until next week and the latter, it is quite clear to me, is totally impractical. (**Several Members:** Yes.) So the way forward is very simple: we adjourn until such time as there has been proper consultation. (*Interjections*)

**The Speaker:** I now call upon the member for Onchan to reply if he wishes to reply. Mr Karran, do you wish to reply? No? Mrs Cannell, do you wish to reply to the adjournment?

**Mrs Cannell:** Just very briefly, Mr Speaker. I would just like to say that I am sorry that it has come to such conflict here today for possibly the way in which the whole thing has been structured. The hon. member for Peel said, 'We'll look at the second reading, we'll consider at second reading the principles of the Bill which are contentious partly, then we'll give a briefing to members to tell them about what they have already approved - that is, accepting that it will go through - and then we will consult the trade,' and perhaps that is where the problem lies (**Mr Houghton:** Yes.) because the whole thing, to my point of view, has been back to front. It should have moved the other way. We should have had the briefing before consideration of the second reading today, and this should have followed an in-depth consultation with the trade.

I really do hope that members will support the adjournment until there is further consultation, and I would have thought that, as the hon. member has mentioned 6th March for the introduction of consideration of clauses, that is giving the department four weeks in which to

secure a meeting, possibly more than one, which includes the hon. minister too. I hope members support.

**The Speaker:** Right, hon. members, I now have the motion before you and I will ask the Secretary to read out the amendment to the motion.

**The Secretary:** There is, Mr Speaker, just the slightest complication because the hon. member has an adjournment motion that the House adjourn after consideration of this item, which is slightly in conflict with adjourning debate on the item. But perhaps we could deal with that after?

**The Speaker:** We will deal with that afterwards.

**Mrs Crowe:** What a shambles!

**The Secretary:** The adjournment motion put by the hon. member for Douglas East is that debate on the Bill be adjourned pending further consultation with the taxi trade, to which we have an amendment from the hon. member for Onchan, Mr Karran, which effectively would mean that for the words after 'adjourn', substitute 'to the next sitting.' So the debate on the Bill be adjourned to the next sitting.

**The Speaker:** Are you all clear what we are voting on now?

**Mrs Crowe:** We are.

**The Speaker:** It is the amendment that this debate be adjourned to the next sitting. All those in favour, please say aye; against no. The ayes have it.

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

*For: Mr Gilbey, Mrs Crowe, Messrs Rimington, Brown, Mrs Hannan, Messrs Karran and Corkill - 7*

*Against: Messrs Quine, Rodan, Houghton, Henderson, Cretney, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Singer, Bell, Cannell, Gelling and the Speaker - 14*

**The Speaker:** Hon. members, the amendment fails to carry, 7 votes for, 14 votes against. I now ask the Secretary to read out the adjournment motion standing in the name of Mrs Cannell.

**The Secretary:** The motion, Mr Speaker, is that the debate on the Bill be adjourned pending further consultation with the taxi trade.

**The Speaker:** 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, Mrs Crowe, Messrs Rimington, Houghton, Henderson, Cretney, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Singer, Bell, Karran, Corkill, Cannell, Mr Gelling and the Speaker - 18*

*Against: Messrs Gilbey, Brown and Mrs Hannan - 3*

**The Speaker:** Hon. members, the motion for adjournment carries 18 votes in favour, 3 votes against. The House will now stand adjourned until Tuesday next, being 6th February, at 10 o'clock in this chamber. Thank you, hon. members.

*The House adjourned at 6.17 p.m.*