

# REPORT OF PROCEEDINGS OF THE LEGISLATIVE COUNCIL

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**Douglas, Tuesday, 1st April 2003  
at 10.30 a.m.**

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Present:

The President (the Hon. N Q Cringle), Hon. C M Christian, Mr D F K Delaney, Mr D J Gelling CBE, Mr E G Lowey, Mr L I Singer and Mr G H Waft, with Mrs M Cullen, Clerk of the Council.

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*The Chaplain of the House of Keys took the prayers.*

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## Apologies for Absence

**The President:** Hon. members, we have apologies from the Attorney-General, and I have got word this morning that the Lord Bishop is indisposed and unable to join us as well.

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## Whooping Cough – Vaccinations – Question by Mr Singer

Question 1. The hon. member (Mr Singer) to ask the Minister for Health and Social Security:

1. *How many whooping cough vaccinations are administered to children each year;*
2. *what type of vaccination is used; and*
3. *what is the total cost?*

**The President:** We turn, then, to our order paper, and first we start with a question. I call on the hon. member Mr Singer.

**Mr Singer:** Thank you, Mr President. I beg leave to ask the question standing in my name.

**The President:** I call on the Minister for Health and Social Security to reply.

**Mrs Christian:** Thank you, Mr President. Whooping cough vaccinations are administered as part of a combined vaccination which also contains vaccination against diphtheria and tetanus. For the calendar year 2002, 3,924 combined vaccinations were provided.

In response to part 2 of the question, I can advise that for children aged two months, the whooping cough constituent of the combined vaccine is a whole-cell pertussis vaccine. Each child receives three doses of the combined vaccine at intervals of four weeks. For children at pre-school age who receive a booster, the whooping cough element of the combined vaccine is acellular pertussis vaccine. Each child receives one dose of the combined vaccine.

Finally, Mr President, in response to part 3 of the question, for the calendar year 2002, the total cost of the combined vaccines was £45,879.

**The President:** Mr Singer.

**Mr Singer:** Thank you. Could I ask the minister, first of all, to confirm that the vaccines that are given contain thiomersal and are not thiomersal-free? And if the answer to that is positive, could I ask the hon. minister: as it is biologically plausible that there is a link between thiomersal and neuro-developmental disorders in children and, in fact, Alzheimer's disease

and that thiomersal has been taken out of all child vaccines in the USA and Australia, and as vaccines are available in the UK which are thiomersal-free, why are you not at least giving parents a choice?

**The President:** Minister.

**Mrs Christian:** Mr President, with regard to the first vaccine which is given, the whole-cell pertussis vaccination combined with other elements does contain thiomersal. The acellular pertussis booster vaccination does not contain thiomersal. The reason for using the former vaccine, the whole-cell vaccine, is that it is demonstrated to be more effective than the acellular version and that it is considered that it is . . . There is no evidence of the levels of thiomersal contained in these vaccines being of any concern. The information is based on a paper circulated from the Chief Medical Officer in the United Kingdom, where advice is that these vaccines are wholly appropriate and acceptable and that in other areas where thiomersal may be used, such as in the United States, the levels of thiomersal in those vaccinations is higher than is contained in the United Kingdom paper. The hon. member did receive an answer in another place on the question of thiomersal. The safety of vaccines containing thiomersal is such that the decision to use the acellular pertussis vaccine relates to its effectiveness in the combating of whooping cough and does not relate to the fact that it is thiomersal-free, because children of an older age react rather badly to the whole-cell vaccination, and therefore the acellular version is used for the booster. Mr President, the department acts on the basis of advice provided by the United Kingdom and by expert bodies in that area, both on the area of what are suitable vaccinations and on the question of thiomersal, and follows that advice, which seems to me to be a reasonable step to take.

**The President:** Hon. member Mr Singer.

**Mr Singer:** Thank you, Mr President. Is the minister aware that, using the standard vaccines, the children are exposed to about 187 micrograms of mercury in their first six months, but this would be reduced by 98 per cent using the thiomersal-free formulations? Surely the hon. minister would agree that it is worth reducing any risk factor to our children that has been done in every developed country except the UK, which still uses thiomersal-containing vaccines for routine vaccinations. In this case, is it necessary that we follow the UK blindly? Is the minister also aware that whilst the Committee for the Safety of Medicines says that the level of thiomersal causes no harm, there have actually been no major studies to demonstrate proper safety limits for the exposure to ethyl mercury and the committee only states that there is no *adequate* scientific evidence that damage is caused? Could we not take the decision ourselves to use the thiomersal-free version in order to cut out any risk factor at all to our children?

**The President:** Minister.

**Mrs Christian:** Mr President, I do not think we can ever take away every risk factor. The decision is taken on the basis that whilst one could use the thiomersal-free vaccine, that is the acellular version, it is less effective against whooping cough than the whole-cell version which is delivered to babies at the age of two months and monthly thereafter for three vaccinations. Therefore, the balance has to be established between the effectiveness of whooping cough, which we are trying to combat, and the concern expressed in some quarters about thiomersal. The balance of advice in the United Kingdom is that it is better to give the children the whole-cell vaccine at the first stage, followed by the more effective acellular version at the booster stage, and the considerations are based on its effectiveness against whooping cough, the thiomersal issue being a secondary consideration and one which is not considered to outweigh – or even have a significant influence on the matter – the risks associated with children getting whooping cough. The hon. member has referred to other countries and his view on what happens there, but my advice is that in the United Kingdom similar vaccinations are used as are used in Europe.

The hon. member has referred to the possibility of parents getting thiomersal-free vaccine. If a parent approached us for a thiomersal-free vaccine, this could be supplied, but it would have to be obtained on an individual basis. It would delay the vaccination of the child. However, the department has not encouraged that, because we believe that the policy which we are pursuing does give these children the best protection against whooping cough and the tetanus and diphtheria infections that are also contained in this combined vaccine.

**The President:** Mr Delaney.

**Mr Delaney:** Could the minister, if she has it, give us the difference in the cost of the alternative? I was not clear on whether or not they could be given the choice. Would the choice of the alternative fall upon the parents if they so chose that, and what would that cost be?

**The President:** Minister, do you have that information?

**Mrs Christian:** The vaccine that we use, the whole-cell vaccine used at the first stage, is about half the cost of the DWT vaccine, which is thiomersal-free, but the manufacturers of the vaccine which we currently use in the NHS are initiating a research programme which will lead to the elimination of thiomersal over several years. There is a global move to removing mercury compounds generally, and they are working to that end, but the principle of using the vaccines that we use is not based on the cost but on the effectiveness of the vaccine against whooping cough.

**Mr Delaney:** So the cost – I think you indicated £7 – would be £14?

**Mrs Christian:** No, I did not say £7 or £14; I said that it was half the cost of the DWT vaccine, which cost last year, in the combined form, £45,879. I have not got a cost on the price of an individual vaccination, Mr President.

**The President:** Mr Singer.

**Mr Singer:** If I could help the minister, I believe that the INFANRIX, which is thiomersal-free, is about £7 an injection more than the one that they are using now. But the minister has admitted just now, Mr President, that we are moving, within Europe, to removing mercury from injections, and therefore there must be some reason, does the minister not agree, why they are moving to mercury-free injections, following the United States and Australia and other developed countries? Therefore, if they are moving, then they want to eliminate it for some reason, so they must think there is a possibility of a problem. So, whilst the INFANRIX is readily available in the United Kingdom as an alternative – the minister said it might take longer to get, but I do not understand why, because it is readily available – would she then not give a pledge now that they do not have to wait for parents to ask for these INFANRIX but that parents are offered a choice – either you can have the original ones or the INFANRIX – and that they are also told that the original ones have 10 times the side effects of the non-thiomersal injections? Will the minister pledge here to give parents a choice?

**The President:** Minister.

**Mrs Christian:** Mr President, I have said that if a parent specifically asks for it, I assume that their GP will take steps to get hold of the alternative vaccines, but I am not going to pledge here to offer a choice carte blanche across the whole system, Mr President. We believe that the vaccination which is offered is effective. We do not believe that the thiomersal levels within it expose children to any risk, and the reason that the second booster is of a different type to the first one is that it offers better protection to that particular age group, Mr President. It is not based on its thiomersal content.

**The President:** Mr Waft.

**Mr Waft:** In view of the controversy, perhaps, over the thiomersal input into the vaccine, can you categorically state that all the GPs are in favour of the existing situation with regard to injections?

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, I am not here to speak for GPs. I have no idea whether they are all in favour or not. I presume they advise their patients on the basis they see fit. I am not aware of any GPs

objecting to the use of the vaccine which is currently used.

**The President:** I think that is right. Mr Singer, a final supplementary.

**Mr Singer:** The minister's answer made the assumption that parents knew or know that thiomersal-free injections are available, and the minister said that if they ask for it, then they can have it. Would the minister not agree that the fact is that not all parents are aware and it is up to the department to make them aware that they have a choice? Surely they are entitled to know they have a choice and the difference in the side effects of the two, and then the parent makes a choice on information, not the department hoping that the parents have read in the paper somewhere that there is a choice. Most parents probably will not know.

**Mrs Christian:** Mr President, just to respond to that point, I think that one can argue that everyone should be offered all the information that is available. The department sometimes has to make determinations itself about what may or may not be available. Hon. members may think that this is unacceptable, but it is a fact of life. If the department and the United Kingdom Health Service and its expert committees consider that this vaccine is a suitable and appropriate vaccine, then I see no reason why we should not simply offer that vaccine to children in our vaccination programme in the Isle of Man. If individuals, having carried out research, feel that they have some concerns – which we would not necessarily accept as justifiable concerns – then they could ask their GPs, but I think that it is not the department's present policy to avail of a second choice in this particular circumstance, where we believe what is offered is perfectly satisfactory.

**The President:** I think that we have given whooping cough a good airing this morning. (*Laughter and interjection*)

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### Litter (Amendment) Bill – Consideration of Clauses Concluded

**The President:** We will turn, hon. members, to the Litter (Amendment) Bill. As members will be aware, we were making progress on the Litter (Amendment) Bill at our last sitting in so far as we had clause 2 and an amendment to clause 2 both moved. We ceased our deliberations when the Attorney was prepared to go away and come back with an explanation. In the absence of the Attorney this morning, he has submitted a letter to Mr Lowey. Is it easier for Mr Lowey to read the letter or for me to read the letter? I understand that members have actually been circulated with it now. Are you content for the letter to be circulated? Mr Lowey.

**Mr Lowey:** Yes, thank you, Mr President. I am grateful to Council for pausing last week and taking

stock, because when the Attorney-General queries the amendment, subject to his department actually having advised on the original, I thought it was right and proper to clarify and to make absolutely sure, along with Council, that we were getting it right. I think the letter from the Attorney-General, which I think is quite relevant for, I suppose . . . Do I read it out, Mr President, for the public record? I think it would be advised.

**The President:** I would be very happy for you to read it, sir.

**Mr Lowey:** Right, sir. The Litter (Amendment) Bill, and I think we can start at the third paragraph, which says:

'What Mr Karran's amendment, as originally tabled, sought to ensure in another place was that each local authority should have some person who was capable of enforcing the requirements of the Litter Act, and in particular to bring prosecutions in that authority's name. There was some confusion in the Keys, in that it was thought (mistakenly) that the original wording ('employ') required each local authority to appoint a separate 'litter officer', which was not the case – several local authorities could have banded together to 'employ' one person as the litter officer for each of them. An amendment by Mrs Crowe sought to avoid this, and substituted the word 'authorise'.

This unfortunately caused another, and more real, problem, in connection with prosecutions. Section 53 of the Local Government Act 1985 enables 'any member or officer of a local authority who is authorised by that authority to prosecute or defend on its behalf, or to appear on its behalf in, proceedings before a court of summary jurisdiction' to prosecute or defend or to appear in any such proceedings, even though unqualified as an advocate. The point is that such a person must not only be 'authorised', but also be a 'member or officer' of the local authority – and being authorised to act does not, of itself, make a person an officer of the authority. So, under the present wording, a person merely 'authorised' to enforce the Litter Act would not be capable of prosecuting and appearing by himself.

The solution therefore is to substitute 'appoint' for 'authorise', this being effective to make the person appointed an officer of the local authority (if he is not already an officer) and therefore able, provided he is authorised for the purpose, to prosecute for litter offences on behalf of the local authority.'

That really is the essence of the Attorney's advice, which was the advice that was given to the department for me to bring the original amendment. Again, I would draw the members of Council's attention to the need for it; it is to, in effect, allow the local authority, without recourse to great expense, to actually prosecute for litter and to enhance the member's intention in bringing this Bill forward in the first place. So, I am quite happy that the Attorney has, I hope, cleared up the matter and the Council will be able to support the amendment standing in my name.

**The President:** Mr Singer.

**Mr Singer:** Can I ask Mr Lowey: using the word 'appoint', can several local authorities appoint the same person as being their officer? (**Mr Lowey:** Yes.) This was one of the points.

**Mr Lowey:** Yes, they can do that. Under this word, that alleviates some of that, yes.

**Mr Singer:** I am deeply disappointed that it has taken three goes for the Attorney-General to come up with the right word, but if this is the right word and we are sure we have got no other problems, I am happy to accept that.

**The President:** Mr Gelling.

**Mr Gelling:** Mr President, I presume the amendment has already been seconded last week?

**The President:** Yes, the amendment was seconded. Clause 2 was moved, and the amendment was seconded. Then we got into this business of whether it was 'employ', 'designate', 'authorise' or 'appoint'. I think the letter has now, to some extent, cleared that and Mr Lowey is content that his amendment on 'appoint' coincides with the letter from the Attorney-General.

**Mr Lowey:** It mirrors exactly what I did say to Council last week in my notes that were presented to me. The department had received advice from the legislative draftsman confirming that whereas a person *employed* by a local authority could prosecute on its behalf under section 53 of the Local Government Act, a person merely *designated* could not, and that is why the appointment . . . That covers it now. That is the legal way out of the log-jam, and I think we have to take note that the Attorney-General now has confirmed what his chambers advised us in the first place.

**The President:** Mrs Christian.

**Mrs Christian:** Yes, Mr President. I was happy to second the amendment, but I think it is right that we did seek further clarification –

**Mr Lowey:** Oh, absolutely.

**Mrs Christian:** – on the inter-relationship and interpretation of the words 'appoint' and 'authorise' and 'officer' as they related to the primary legislation. This letter, now having been read and entered into *Hansard*, I think will give guidance as to interpretation of the law in future when this is all accepted, so I think it has been a useful exercise, notwithstanding the fact that the hon. member says that it merely says what he said in the first place. It does clarify, from a legal perspective, I think, the interpretation of all of those particular phrases and words.

**Mr Lowey:** Could I again, Mr President, concur absolutely with the hon. member? As I said, I think that is what this Council is about, making sure the legislation is effective, and I think the members were quite right if there was a doubt. Even the learned Attorney had that doubt, and I was quite happy last week to say that we should pause and just make sure that what we were proposing was absolutely correct. I think there is nothing wrong with standing back, and I accept totally the comments of the hon. member Mrs Christian.

**The President:** Hon. members, if you are content with that explanation, what I will do is put to you clause 2, and to that we have the amendment, circulated to you on the piece of white paper, in the name of Mr Lowey. So, there is a new clause 5C.

Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

Those in favour of clause 2 as amended, hon. members, please say aye; against, no. The ayes have it. The ayes have it.

We then need to take the final clause of the Bill, which is clause 3, and I call on the hon. member Mr Singer.

**Mr Singer:** Thank you, Mr President. Clause 3 cites the short title of the Act and that it shall come into operation on a day the department of local government shall appoint. Therefore, Mr President, I move that clause 3 becomes part of the Bill.

**Mrs Christian:** I beg to second.

**The President:** Hon. members, the motion that I put to you is that clause 3, Short Title and Commencement, do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

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### Suspension of Standing Orders – Approved

**The President:** Having completed the Litter (Amendment) Bill 2003, then, as far as the clauses go, hon. members, we turn to the Fireworks Bill, in the hands of the hon. member Mr Waft –

**Mr Singer:** Mr President, can I possibly ask: I understood that perhaps because of the delay, it would be possible to have the third reading?

**The President:** The stage is yours, sir.

**Mr Singer:** Could I move to suspend standing orders so that the third reading be taken?

**Mr Waft:** I would second that, Mr President.

**Mr Lowey:** I would speak in support of that, because I do think, under the normal thing for having

amended the Bill, it would be on the third reading today. I think the Bill is worthwhile and should not be delayed any further, and I would support the suspension of standing orders.

**The President:** Hon. members, the proposition is that we deal with the third reading of the Litter (Amendment) Bill. Those in favour please say aye; against, no. The ayes have it

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### **Litter (Amendment) Bill – Third Reading Approved**

**The President:** In that case, Mr Singer, over to you, and we will take the third reading of the Litter (Amendment) Bill.

**Mr Singer:** Right, thank you, Mr President. I brought forward this Bill as there is a gap in the current 1972 Litter Act. That Act has the powers to order an occupier to clean up private land to which the public has access, but there is no power vested in either the department or the local authority to order a similar clean-up if that litter is deposited on the highway from a premises bordering that highway, and the Bill inserts new sections into the 1972 Litter Act.

This Bill gives the power to local authorities to issue litter control notices to types of premises in regulations made by the department, premises from which they judge the litter emanates. The Bill gives a right of appeal within 21 days to whomever the notice is served on, and the local authority has to take that appeal into account when making its decision. The department is to be supplied with copies of all litter control notices, which will be in force for five years and will be available, at all reasonable times, to the general public.

If I may remind hon. members that I took two consultations with local authorities, firstly on the principle of the Bill and then on the contents of the printed Bill. I was extremely pleased when I received overwhelming support, even from local authorities which would not be directly affected but which appreciated that this power was important to those local authorities which were affected by the problem. I am pleased to have had the support of the ministers of the two departments which were consulted, that is the local government department and the Department of Transport.

A new clause was added to the original printed Bill moved by the hon. minister for local government, which has today been amended in this hon. Council. I am grateful to the hon. member Mr Lowey for his interest and efforts in ensuring that the clause is now clear in its interpretation of its meaning. That clause firstly encourages a local authority to provide bins or other litter receptacles in its area and make arrangements for them to be regularly emptied, and secondly instructs every local authority to appoint one or more persons as a litter officer.

Mr President, I think there is a general feeling throughout the Island – and that view has been expressed in this hon. Council – that it is necessary to tackle the increasing problem of litter, and there are several agencies and departments which, by working together, can improve the environment. I ask hon. members to support this final stage of the Bill and look forward to seeing the regulations brought forward by DoLGE at a later stage, after this amendment has been sent back to another place. I would like to express my thanks to the Attorney-General's department, in particular to Mr Gumbley, for their help in drafting the Bill and to the learned Attorney for his advice on the amendment. Mr President, I therefore move that the Litter (Amendment) Bill 2003 be given its third reading.

**Mr Delaney:** I beg to second and in so doing, Mr President, in absence of my apology given for not being here last week, I would like to say that although this Bill is very small, the amount of Bills that come through here are never hopefully seen by the public, but this one, I believe, will be seen by the public for some improvement in the environment in which they live. I welcome the Bill.

**The President:** Mr Gelling.

**Mr Gelling:** Yes, Mr President. Again, I was not here last week, but I did raise with the Attorney-General in another Bill where the responsibility of government lay, because I take note of the mover, who has said that even those local authorities not affected were supportive. I would suggest that yes, they would be supportive because it does not affect them, but certainly, having been at a meeting last night where the Transport Division was represented and the local authority's chairman was there, the complications that exist out there in actually putting this into being, as it were, where you have got a high road, a verge and a seashore and Transport have the responsibility, up to the median line . . . And, of course, no rubbish stays below the median line, because the tide comes in and throws it up. For the chairman of the commissioners, the local commissioners in Malew, to say, 'Well, none of it is our responsibility. All we can do is shout and create and get the government to do something about it', I was rather taken aback. If they were consulted on this, surely they must have realised they have got miles of seashore, unfortunately, along and out around the peninsula of Derbyhaven. I think there is a lot of education to be done here, because the plea was, 'Well, can't you even put not bins, but a skip there?' because people would actually pick it off the beach and throw it in, but they do not want to leave it, then, on the grass verge.

So, I am very supportive of this, Mr President, but as I say, I think I would be drawing attention immediately to some of the commissioners who are very much affected, as to what their responsibilities are, because I think they are trying to push it down the road of, 'Oh, it is all government. Government should see to it.' So, I am very supportive, Mr President, but

that is an area I think it will be a problem in implementing.

**The President:** Mr Waft.

**Mr Waft:** I am fully supportive of the Bill, Mr President. It is only, as I was saying previously, the provision of emptying receptacles. They get filled reasonably well, but then they are filled to overflowing, and that is what causes the problem for tourists when they go round seeing bins overflowing. It is quite common, and quite honestly I do not know whether this Bill will do anything towards that, but if the local authority does not accept responsibility for emptying those bins on regular occasions and seeing that it is done correctly . . . We get all the excuses after the event, but if there is not the will there to make sure that the staff are available and the receptacles are emptied regularly, it defeats the object.

**The President:** Mr Gelling.

**Mr Gelling:** Could I just have a . . . Following off, actually, Mr Waft's statement, by all accounts there has been a national advertisement – two tourism members being here – a wonderful tourism advertisement about the Isle of Man, a full page in a weekend magazine, and this was being waved by some of the people that were there. It said quite clearly, 'Come to the Isle of Man, where your beaches are beautiful and clean', so they were saying that if that is what governments say, governments should do something about it. It is exactly as Mr Waft has said: the rubbish sometimes is picked by volunteer organisations who pile it up in black plastic bags, and then it is not moved and it is scattered all over the place, so I agree with Mr Waft.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, I am not clear whether this Bill will cover the sort of situation that the hon. member Mr Gelling is talking about. I am not sure to what extent a highway can be deemed to front onto a beach; it is stretching it a little bit far. So, I do not think this is directly aimed at that issue, though I do accept that there are concerns about areas in the Island which are not covered by this Bill.

I think the major issue is for us to get across the message that *individuals* are responsible for litter in the Isle of Man. (**Several Members:** Yes.) I do not know how we are going to do that, because there has been a decline over the years. Individual responsibility has waned, which is a very sad thing to see, (**Mr Delaney:** Hear, hear.) and indeed people are very thorny if you even approach them about the fact that they have dropped litter and invite them kindly to pick it up and remove it, (**A Member:** Hear, hear.) and you tend not to be received very warmly when you make such a suggestion. So, there is a job to be done, not only with schools, as the hon. member has interjected. I accept that it can start in schools, but adults are just as much the offenders in this as our young people and children,

although I do think that if we do start to reiterate the question with children and introduce elements of ownership, which do not seem to be the case at the moment in some schools, where it is regarded as somebody else's job to go and clear up after us . . . That is something we have got to overcome, but I do support the third reading and hope that it might go somewhere.

I think we have said, in the earlier stages of the Bill, that even this may be difficult to implement and apply, but with this, I think, aligned with the efforts of the Department of Local Government and the Environment, which I think are fairly soon to come on-stream, and, I think, engendering support from considerable numbers of people in the Island who are supportive of cleaning the place up, that we may be able to bring about some sort of change before too long.

**The President:** Mr Lowey.

**Mr Lowey:** Yes, I think the comments of the hon. members underline what I would call the highlighting of the problem. I too, like Mrs Christian, would share the view that this particular Bill may not be the answer to Mr Gelling's meeting last night, because although the litter officers are able to prosecute, they have got to find the person who has created the litter. The litter on the beaches, in the main, comes in from boats that are discharged at sea. However clever these litter wardens are, they do not walk on water, and I do not think the boat from DAFF will be available to many litter wardens to go out and catch them. Having said that, I do think it is a healthy sign that people, in their localities, are still complaining about the effects that litter has on blighting the quality of their lives in the environment in which they live. Again, I think this Bill – and the mover of the Bill did actually say it – is not the answer to all our problems, but it is another arrow in the quiver – or whatever the pouch is that the arrows go in – in fighting this particular problem which we all have to face and which I think, as I said, is facing most countries in the world, wherever it may be. But again, this Bill, for what it is, I think is another little step on a long journey, and I think the member ought to be congratulated for putting it here and getting it to this stage. I obviously will be supporting the Bill too.

**The President:** Mr Singer.

**Mr Singer:** Thank you, Mr President. Can I thank all members for their contributions and their support? If I can just perhaps pick up a couple of points, sometimes perhaps repeating what has been said, I did say at the very beginning that this Bill was not a panacea, in what was two clauses originally and now three clauses, to clear all the ills of litter on our Island, but I did liken it to a jigsaw, and this Bill was part of a jigsaw. I hope it is an important part of the jigsaw, because I do not believe it will be too hard to interpret this Bill and to make it work. It is quite clear that there is a responsibility to be put onto the local authority –

and I have always believed that local authorities should have more responsibilities – and the local authority will be on this site, almost, to identify the premises from which these problems are occurring. If these problems have been specified by the department of local government in their regulations, then I would envisage the local authority sending their litter officer to speak to the people from where the litter is emanating, giving them a warning, telling them to clear it up, not for it to be draconian, but to go and say to them, ‘Look, you have this responsibility under the Litter Act. Will you clean it up?’ and only if they do not clean it up would they then go and issue a litter control notice and all that that means. So, I think that it is identifiable, because it is putting the responsibility on the owners of the premises from where the litter emanates, whether it is a takeaway or a bank or a betting shop, which is specified under the regulations.

There are other things that have been mentioned, and I know the minister for local government, Mrs Crowe, mentioned that they would now look into reintroducing a ‘Clean Sweep’. That is another step, and also I did speak to the Minister for Education, who was talking about the definite way to go ahead for education in schools. Link that with Clean Sweep; it is an ideal time. So, as I say, there are other methods if the local government department, the Department of Transport and other departments all have their part to play.

The new clause, which Mr Waft refers to, in fact does now put the definite responsibility on the local authorities to empty the bins, and if they do not empty the bins, then a member of the public can serve notice on them, I would imagine, and get them to do it. So, there is that extra responsibility; hopefully that is another piece of the jigsaw.

I would like to emphasise in my final point that this Bill did receive the full support of the local government department and the Department of Transport, and, in fact it was the minister for local government who seconded through, I think, most of its stages. So, they obviously felt it was worthwhile. Can I thank members, Mr President, for their support? I hopefully will see them vote for this third reading.

**The President:** Hon. members, with those comments, I put to you that the Litter (Amendment) Bill 2003 be read for a third time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

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### Fireworks Bill – Second Reading Approved

**The President:** For the second time of asking, we then turn to the Fireworks Bill for second reading, and it is in the hands of the hon. member Mr Waft.

**Mr Waft:** Thank you, Mr President. The Fireworks Bill arose from complaints from the general public, emergency services and animal and veterinary

organisations about incidents of criminal damage involving the indiscriminate use of fireworks, particularly in public places and at times in the early hours of the morning, well outside the traditional Bonfire Night or New Year’s Eve period. In recent years, it has become evident that the concept of a traditional Bonfire Night has extended way beyond 5th November, and this is a cause of considerable concern for many of our Island’s residents. For instance, the police force control room started taking calls from the public concerning fireworks last year from 16th October, and over the remainder of that month some 60 calls were recorded which warranted police attendance. A further 22 calls concerning fireworks were lodged during November; these figures do not include calls received directly at Ramsey, Port Erin or Peel police stations, of which I would expect there to be equally significant numbers. Some of the most serious incidents attended by the police included reports of children throwing fireworks at cars in Union Mills and several 999 calls from members of the public describing a major explosion in Castle Street, Douglas; numerous shop alarms were set off by this explosion, and there was a belief by the general public that a shotgun had been discharged in the street. All these incidents were as a result of a firework being discharged in a flower planter in the shopping centre.

There have been a number of complaints, and members have passed on the complaints from elderly constituents, parents with young children and owners of household pets regarding an increase in anti-social behaviour, often causing alarm and distress resulting from the misuse of fireworks. There has been a consultative process which involved the police, the home affairs department, the fire service, the Office of Fair Trading – who also have responsibility for some of our existing firework legislation – wholesalers and retailers of fireworks, firework display organisations, veterinary practices, animal welfare organisations and some members of the public and local authorities.

At the first reading of the Bill, the hon. Mrs Christian made reference to the sale of fireworks and was particularly concerned, I think, about the clause relating to sales over £25. I am assured by the original mover of the Bill that this was put in there to prevent people from being able to buy fireworks *per se*, and the sale must be meaningful, because even after purchasing that amount of fireworks, they have to go to the home affairs department, get permission, advertise it in the press, go and show they have advertised and then go and purchase the fireworks, and it must be over £25 worth. I think it is just to stop indiscriminate purchasing of fireworks and then making a nuisance of themselves, to put it bluntly. The indiscriminate purchase of bangers also comes into this area, and I understand the sellers of fireworks are going to display boxes of £25 worth or more.

A question was also raised as to clause 4, when it mentions ‘any place’ – I think it was you, Mr President, who raised it – and clause 5, which mentioned a ‘public place’. I am assured by the member who initiated the Bill that this was intentional as clause 4 deals with restrictions on firework displays,

for instance Onchan Park and other displays, whereas clause 5 is concerned basically with harassment, which can be in any public place and is not particularly a firework display.

Mr President, I think I have covered the points which were of concern, but I am sure we will deal with many more as we go through the Bill. There are some amendments contained within the Bill, and I can mention them as we get to the different clauses later. I understand Mr Lowey will be moving an amendment to clause 2, and we will take that as we proceed through the Bill. Mr President, I beg to move the second reading of the Bill.

**Mr Gelling:** I beg to second, Mr President, and reserve my remarks.

**The President:** Seconded by Mr Gelling. Mrs Christian.

**Mrs Christian:** Mr President, whilst I am not opposing the second reading, I am still not clear about the implication of the clause relating to the cost of the fireworks. What the hon. member said seemed to be contradictory, in which case I think there is another word – ‘not exceeding’ – needed in that subclause, but I think when we come to the clauses and look at it in some detail that will beg a little close consideration, lest we do the opposite of what we think we are going to do. I may be wrong in my interpretation, but I do think it needs to be carefully scrutinised.

**The President:** Mr Singer.

**Mr Singer:** It appears to be that, in having the box of £25 worth, it is – I think the word you used was – ‘serious’ and it is going to be for a display. The problem is, I think, when children get hold of fireworks that have been bought individually in shops. Are they still going to be able to be sold individually or would it not be worthwhile not allowing the sale of fireworks at less than a box of £25 worth, which would then be less affordable and less likely for children to get their hands on, if you understand?

**The President:** Mr Delaney.

**Mr Delaney:** Yes, I would welcome the Bill. There is just the implication that it is only young children that have these fireworks; that incident in Strand Street and many of the incidents are people who are of adult age and who are actually going out and think it is great sport to cause these sort of problems. I witnessed myself people throwing bangers out of a three-storey flat onto the cars below, and I could not find anyone to go and get anything seen about. It is the enforcement of this Bill which I want to see when this goes through. It is making sure that when it starts it is not only the police turning round and saying, ‘Ah, well, it is somebody else’s problem.’ It has got to be enforced, and I am hoping that we will see some action on this rather than it just being put to one side because there are more important things to do.

**Mr Gelling:** Mr President, I support the Bill for the reason, I suppose, that as you get older, they become more annoying than when you were young, because when you were young you were getting the pleasure and the devilment out of it.

**Mr Delaney:** I am glad I am not young any more.

**Mr Gelling:** However, seeing the way in which animals react now to some of the fireworks, it really is distressing to them, and, of course, that distresses the owners of the animals also. Again, I think this is yet another step, hopefully, that will be put into action and that will enable some control, but again I think we are down to the same thing: unless we have got people that will enforce it, it is going to sit there and not be enacted.

I think in the subsection of (3), which was being discussed, it is funny how you read these things differently, Mr President. I read that that this does not apply to the sale of fireworks at a price exceeding £25 a box. So, I suppose when we get into it further, we will get the full interpretation as to what that meant. And not to be bought with any other goods – in other words, if your bill was over £25 and it included fireworks, that was okay. I read it that it had to be £25 worth in one grouping, but nevertheless, Mr President, I certainly will support the Bill.

**The President:** Mr Waft, reply, sir.

**Mr Waft:** Thank you, Mr President. I thank the members for their input and the general acceptance of this Bill. I thank my seconder.

With regard to the hon. Mrs Christian and the £25, I think it says a minimum of £25. I think this is to stop the indiscriminate purchasing of small quantities of fireworks to let off in the street, and the £25 – it could be £30 or £50 – is just a nominal sum, I think, to identify that that was a case by which you have to be serious if you are going to spend £25 on fireworks and be responsible et cetera. I think the hon. Mr Singer said exactly the same sort of situation. I thank Mr Gelling for his input as well.

I think generally, Mr President, we can deal with the clauses as we get to them, but the general acceptance of the Bill I endorse. Thank you, Mr President.

**The President:** Hon. members, the motion I put to you is that the Fireworks Bill be read for a second time. Those in favour please say aye; and against, no. The ayes have it. The ayes have it.

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### **Fireworks Bill – Consideration of Clauses Commenced**

**The President:** We then take the clauses of the Fireworks Bill, hon. members, and I call on the hon. member Mr Waft to take clause 1.

**Mr Waft:** Thank you, Mr President. Clause 1 and the schedule define 'firework' for the purposes of the Bill and clearly define those products in the schedule which are not fireworks. Mr President, I beg to move that clause 1 stand part of the Bill.

**Mr Lowey:** I beg to second, sir, and reserve by remarks.

**The President:** Mrs Christian.

**Mrs Christian:** Yes, Mr President. This does define the firework. I think concerns have been expressed here this morning and last week about the aural effects of fireworks as much as the visual effects, and I do not know whether the hon. member has any information he can give us about whether or not the aural effects can be controlled separately from the visual effects in any way.

**The President:** Mr Gelling.

**Mr Gelling:** I only raise a point of clarification, Mr President. I noticed we moved straight from second reading into clauses. Nothing was suspended to do so. I just wondered: was this something in the Legislative Council that . . .

**Mrs Christian:** We just do it.

**The President:** Which we do.

**Mr Gelling:** You just do it? That is what I mean. It is another stage in the Keys; you would have to suspend to go on to clauses. It is just a point.

**Mr Delaney:** He is getting very technical in his old age, isn't he? (*Laughter*)

**The President:** I thought, hon. member, for a moment that he thought that I had moved on to clauses without moving the second reading, but in fact we had, so there we are.

**Mr Lowey:** And it is only a recent experiment that the Keys have done the same.

**The President:** But we are dealing with clause 1 and the schedule, hon. members. Out of interest, Mr Waft, before we get to putting it to you, members have commented about noise and aural effects and fireworks, but in the schedule it specifically excludes throwdowns as being not a firework.

**Mr Delaney:** Sorry, Mr President, I did not catch that.

**The President:** A throwdown is not a firework. If you read paragraph 8 of the schedule, you can take something in the street and throw it down, which will make a bang and that is not designated to be a firework.

**Mr Delaney:** Yes, it is one of these 'bombers'.

**Mr Singer:** These are these children's things you buy, like a soft toy; it is not a firework. (*Interjections*)

**Mr Lowey:** It would be an offence. It is a defence.

**Mr Singer:** It is okay unless it hits you on the head.

**The President:** Perhaps the hon. member can tell me what a throwdown is before we put it to him. (*Interjection by Mr Delaney*)

**Mr Singer:** They do not have a cap in them necessarily, either. You get these things which you throw, and for some reason they just bang. There are no caps in them. Soft toys.

**The President:** Hon. member, do you know what a throwdown is?

**Mr Waft:** I presumed, from my youth, it was one of those things that you fitted to a small bar, sort of a match-head, and when you threw it down it went off with a bang. I might be incorrect here, but it is not designated, for this Bill, as a firework. It does say, on 8 of the schedule, a throwdown is 'a device comprising impact-sensitive explosive composition and grains of inert material wrapped in paper or foil which function to produce a report when thrown onto the ground.' For some reason, they did not want to get into that area of possibilities and they have not included it –

**The President:** I wonder why. I just wondered why it was not deemed to be a firework. If we are worried about the noise a banger makes, in fact they can go along the street making bangs. (*Interjections*)

Anyway, hon. members, having commented on that, the motion that I will put to you is that clause 1 and the schedule do stand part of the Bill. Those in favour please say aye; and against, no. The ayes have it. The ayes have it.

We turn, then, to clause 2 as amended by the Keys, hon. members. Mr Waft.

**Mr Waft:** Thank you, Mr President. Clause 2, hon. members, deals with restrictions on supply and provides a minimum age of 18 years for the supply of a firework. This clause also makes it an offence for a person under the age of 18 – it has been amended from 21 years – to supply or sell a firework in the course of business. It also provides a penalty on summary conviction, which is outlined in sections (1), (2), (3) and (4), and (5) deals with fines. Members will read, in section (6), that 'In proceedings for an offence under section (1) it shall be a defence for the accused to show that he had reasonable cause to believe that the person in question was of the age of 18 or over'. I beg to move that clause 2 stand part of the Bill. I understand there is another amendment.

**Mr Gelling:** I beg to second, Mr President, and reserve my remarks.

**The President:** Seconded by the hon. member Mr Gelling. I now call on the hon. member Mr Lowey.

**Mr Lowey:** Thank you, Mr President. Let me confess that I am privy to what the Attorney would have moved. He would have moved this amendment if he had been here, and I am taking it virtually on his behalf. The Attorney-General has consulted with Mr Downie, the mover of the Bill, and Mr Waft, the mover of the Bill in Council here. He is concerned to clarify the position that both those hon. members were content with his proposed amendment, which is now my amendment, and that is:

*Page 1, line 12; after 'person shall' insert 'in the course of a business,'.*

So, the new amendment would read, on clause 2 (1), 'No person shall, in the course of a business, supply a firework to a person apparently under the age of 18'. The amendment, in the learned Attorney's view, is necessary because there is no intention that the Bill should criminalise the innocent supply of a firework to a person under the age of 18. There must be an element of sale before the offence is triggered, otherwise the handing over by, say a father, to his child under the age of 18 of a firework would constitute an offence. It is significant that later in the clause, in subclauses (3) and (4), they explicitly refer to the supply of a firework in the course of a business, so this is making absolutely clear that it has to be in the course of a business. So, trying for clarity, I think, and the Attorney believes it will help the Bill and it has the support of the mover, I would beg to move the amendment standing in my name, which I believe has been circulated to hon. members.

**Mrs Christian:** I beg to second, Mr President. I think that is entirely consistent with the other subclauses, and I am sure that is the intention. I am sure it is not intended that people cannot buy fireworks and have a bonfire party at which they give them to the children, provided they are supervised properly.

**The President:** Mr Gelling.

**Mr Gelling:** Mr President, I am a little concerned about that, because I look upon it a little like the sale of cigarettes. It is an offence to buy cigarettes and give them to . . . And I see a situation here that could possibly be a difficulty, whereby someone over the age of 18 goes in and buys a box of fireworks and then gives them to the youngsters to go along the street or whatever. I can understand that it should be amended so that it is then in keeping with the rest of the Bill, but I just wonder whether that is a loophole that we might find a difficulty with. I can understand what Mrs Christian says about a father or mother handing it to their son at a firework display, but what is there to stop, as we know they will, some adult saying, 'This is

a load of nonsense. I do not mind my kids having them' and buying them and actually giving them to them and going through the street just the same. That is my only concern, actually, with the Bill.

**The President:** Does not (2) actually avoid that, in so far as no person, other than a person having parental responsibility for him, shall buy a firework? No?

**Mr Gelling:** Yes, probably. Yes, I will accept that, Mr President.

**The President:** Mr Singer.

**Mr Singer:** Can I comment on the amendment that actually went through, the one that is printed here about the defence that there was reasonable cause to believe the person in question was of the age of 18 or over? I do not think there is any excuse, actually, to sell to a person under 18, because if a person is not sure, then they ask for the proof-of-age card. This was the whole point of bringing in the proof-of-age cards for many different things. I do not know if anybody can advise me: if a landlord serves a young person under 18 in a public house, is it a reasonable defence to say, 'I thought that that person was over the age of 18'? I do not believe it is. I think they would have been expected to ask for a proof-of-age card. I see no difference in this, and I am not really supportive of this amendment.

**The President:** You would require to move that it be deleted at this stage, hon. member.

**Mr Singer:** I am just passing my comment at the moment.

**The President:** Okay. Mr Lowey.

**Mr Lowey:** The only thing there is that there is a due defence in the point that has been raised by the hon. member. If I was challenged as to my under-age capabilities and produced a card – which some of them have done – which is not legal, and someone took it at face value that it was legal and then discovered later that I was under age, it is a defence for him to say, 'I took all reasonable courses of action. He showed me his driving licence' or 'He showed me his proof-of-age card.' That is a defence. The mere fact that I am still under age, I have still technically committed that offence, but he has taken all reasonable steps to find out that he was, and I think that is a legitimate . . . The onus is on the person to prove that he had taken all reasonable steps, and I think that is where it should rest.

**Mr Singer:** It does not say that; it says he had reasonable cause to believe that. So, he can look at somebody, somebody can walk in, and say, 'Oh, they look over 18.' It is not taking any steps, because the places where you are retailing these fireworks are normally in places, for example, where they sell

cigarettes. What is the difference? The owner or the person working in the shop should be aware of what a proof-of-age card looks like. They are officially produced by the department of local government for young people for particularly these reasons, to protect those that are over 18 to show they are – so trouble is not made for them – and also to protect the retailer, quite clearly, who would know either that child is 18 or not because there is a photograph as well as the age date on the card.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, I see the point that the hon. mover is making, in that he is quite right and everyone would agree with the hon. member for Ramsey that the sensible retailer will ask for a proof-of-age card, but we know that some children, with their computer skills, produce proof-of-age cards which do not carry their true age. The chances of that all being found out at the end of the day when they have set off a firework may be remote, but it could happen, and I think that is what this amendment was about in the other place. Whether or not the same defence, if you like, should apply in other places I do not think is an issue for this particular piece of legislation.

**The President:** It is certainly not an issue unless the hon. member wishes to delete, and at the moment he does not. Mr Waft, do you wish to reply, sir?

**Mr Waft:** Thank you, Mr President, I think the point has been argued quite adequately, really. I think the mover is quite happy to accept the amendment from Mr Lowey, and I beg to move that clause 2 stand part of the Bill.

**The President:** In that case, hon. members, what I will put to you is clause 2, and to that you have the amendment moved by the hon. member Mr Lowey, which is: on clause 2, page 1, line 12, after ‘person shall’ insert ‘, in the course of a business,’. Those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

Now I put to you clause 2 as amended, hon. members. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

We now take clause 3. Hon. member Mr Waft.

**Mr Waft:** Clause 3, Mr President, deals with the supply or retail sale to the general public of fireworks at certain times: the period beginning 25th October and ending 5th November, and the period beginning 26th December and ending 31st December.

Subsection (1) does not apply to a supply to those specified in (2)(a), (b), (c), (d), (e), (f) or (g), where they are professional firework display organisers, fireworks trade or suppliers, public authorities, special effects, film co-ordinators or a person who has given notice under section 4 of this Bill for the purpose of a display outside the normal fireworks period. Certain exemptions also apply to local authorities, the RNLI

and coastguards, and the Bill will not prevent authorised bodies firing maroons, for example, on Remembrance Day to mark the two-minute silence. Subsection (1) does not apply to the sale of fireworks at a price exceeding £25, which will be the minimum required to justify the holding of a firework display under section 4 outside the normal fireworks retailing period following notification to the home affairs department. Subsection (5) provides for a penalty on subsequent summary conviction in proceeding for an offence under subsection (5). This section provides for a defence, and subsection (7) describes the meaning of a maroon and its use. Mr President, I beg to move that clause 3 stand part of the Bill.

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

**The President:** Hon. member Mrs Christian.

**Mrs Christian:** Yes, Mr President, I am seeking to move an amendment to subclause 3(2)(d), just in the interests of consistency of wording. In another place, clause 4, which is referred to in that subsection, has been amended and there is no reference in it to firework displays as it is now worded. Therefore, I think that reference to a firework display in 3(2)(d) is slightly disconcerting, in that you have no definition of what is a firework display in this context. Therefore, I am moving an amendment:

*Page 3, line 36; for ‘display’ substitute ‘letting off of a firework’.*

This is the wording now in clause 4. Whether that meets with the approval of Council, I am happy to test.

The other issue I do have in respect of clause 3 is still on subclause (4), and I am trying to just clarify what it is we are trying to do here. In subclause 3(1), we are restricting the period during which fireworks can be sold in the course of a business to that around November 5th and New Year’s Eve. So, if you are going to buy fireworks, that is the time of year when you are going to have to buy them, irrespective of whether you want to let them off in July or August or at any other time. This Bill is restricting the time at which you can buy fireworks, but if you read subclause (4), it says, ‘Subsection (1)’ – i.e. the constraint on selling fireworks to particular periods of the year – ‘does not apply to a sale of fireworks at a price exceeding £25.’ I interpret that as meaning that if you want to buy a firework exceeding the price of £25, you can do it at any time of the year. Is that the intention? I do not know. I just want to know what we are trying to do. Are we trying to restrict the sales to a particular period? If so, it seems we are restricting them to a particular period only for the lower values. Maybe that is the intention, and I would just like to understand why. The wording does refer to whether it is goods in a box, and I understand that to mean that if you are buying £10 worth of fireworks and £6 worth of books, that is not what it is about. It is fireworks at a value of £25, maybe a boxful, but I still do not know why we

are allowing the sale of fireworks at a higher value all year round. It may be logical. I do not know. I just want to know what we are trying to do, and –

**The President:** Would it be for a display purpose?

**Mrs Christian:** Well, it does not say it is for a display purpose.

**Mr Singer:** I interpret that as that even if you can buy it at £25, if it is not intended for display purposes, then you still cannot let it off between those dates on an individual basis, but if you are buying fireworks for a display for which you have to get a licence, then if this is not in, then you cannot buy fireworks at any time of the year, even if you seek a licence to have a firework display at another time of the year other than in those particular dates.

**Mrs Christian:** No, Mr President, I do not think that is right, because if you look at subsection (2), people who are doing firework displays, whether they are local authorities or other people as professional organisers, are exempt from buying them at the fixed period. So, we are dealing here with individuals, right? So, an individual can then, under subclause (4), at any time of the year, go and buy fireworks worth more than £25. Maybe that is okay. I do not know quite what the point of the Bill is. If we are saying that anybody . . . What we should be saying, without these subclauses, is that anybody can buy fireworks outside of those periods as long as it is more than £25 worth. That is effectively what these subclauses seem to me to do. (*Interjections*)

**Mr Singer:** But they have still got to –

**Mrs Christian:** They have still got to get a licence, I accept that, but I just do not know why we are setting out all these subclauses when we could simply say that you have got to buy at least £25 worth outside that period and you have got to have a licence.

**The President:** Mr Singer, did you wish to comment?

**Mr Singer:** I did not see the point of the last point the hon. minister made there.

**The President:** Okay. Take the time and get it straight, if Mrs Christian will try to reiterate again. What I take it Mrs Christian is actually saying is that there is no need for the exemptions in (2) if we just had, within the Bill, subsection (4), which says that anybody, outside of the specific times, could buy fireworks if they were over the value of £25.

**A Member:** And obtain a licence.

**The President:** And obtain a licence. I think that is the point which Mrs Christian was making. I do not know whether I have summed it up correctly. Mrs Christian.

**Mrs Christian:** Yes, I think so, Mr President. I think that seems to me how you can read it. You are setting out so many exemptions to subsection (1), which covers everybody except people who buy less than £25 worth during the course of the year, and even those who buy less than . . . What we are saying is you cannot buy less than £25 worth except between these periods, and if you are going to have fireworks at any other time of the year, you have got to buy at least £25 worth then.

**Several Members:** Yes, that is right.

**Mrs Christian:** Right, but why do we have to set out all these subclauses?

**Mr Lowey:** The introduction of the Bill says, ‘These are additional controls over the supply and use of fireworks’, and what they are attempting to do is say, ‘Well, if you are going to have fireworks, they have got to be of a certain size. The show must be over £25 worth.’ You cannot then say, ‘Well, I am going to have a garden party’ and just entertain the kids with less than £25 worth. I think the thing is to restrict – that is the aim of the Bill – and the Bill is saying that between the bonfire period and the New Year period, we relax it a bit to allow the smaller parties to take place, but excluding those times, the principle of this Bill is that it has got to be over. Not that you will get much for £25, I would say, because I think they are paying that for a couple of rockets nowadays. So, really and truly the Bill is an arbitrary figure put in. It could be £50 or it could be £100, I suppose, but the figure is put in to . . . I suppose maybe the box . . . I have not bought fireworks for a long time, so I do not know whether the standard family box is £25 worth. Maybe that is what the mover of the Bill is attempting.

**Mrs Christian:** Sorry, Mr President –

**The President:** It is all right. (*Interjection by Mr Lowey*)

**Mrs Christian:** – I am trying to get clear how effective this is and what it is we are trying to do. It seems to me that at that value, when you can buy boxes of miscellaneous small fireworks to a value of £25, that, okay, you are simply restricting very small usage throughout the year.

**A Member:** Yes, that is true.

**The President:** Okay.

**Mrs Christian:** But I think it seems to me to be excessively cumbersome where you could simply say purchase . . .

**The President:** Mr Waft.

**Mr Waft:** Thank you, Mr President. It might help if I report what the hon. mover had to say about the £25: ‘I think it must be taken into context that clause 3 deals with the supply of fireworks at certain times, and

subsection (1) does not apply to the sale of fireworks without any other goods, except a box or other container, at a price exceeding £25.' So, we are talking about particular instances and, with regard particularly to 3(d), if the hon. minister wishes to delete 'firework display' and put in 'the letting off of a firework', I cannot see myself supporting that, because clause 3 deals specifically with a supply of fireworks at certain times. I do not think there is too great a problem there with introducing 'firework display'. I will just read what the mover said: 'Subsection (1) does not apply to the sale of fireworks at a price exceeding £25, which will be the minimum required to justify the holding of a fireworks display under section 4 outside the normal fireworks retailing period, following notification to the home affairs department. A fine provides for the penalty on subsequent summary conviction, and in (6), in proceedings for an offence under subsection (5) et cetera.' He states particularly with regard to – if I can just go ahead for a minute – clause 4, 'Members will be pleased to note that in clause 3(4) the minimum amount of fireworks to be supplied for this purpose is £25', so he seems quite happy with the fact that the £25 is a limiting factor to stop the indiscriminate purchase of fireworks. And the fact that they have to apply to the Department of Home Affairs, get permission, go down with their receipt et cetera and have it advertised is quite an important situation, a restriction which . . . People can recognise that this is a constraint which is there purely to stop the indiscriminate purchasing of fireworks, and the £25 was decided on after a great discussion going on. I do not feel there is too much merit in changing what is there already, Mr President.

**The President:** Okay, hon. members. The motion I put to you is that clause 3 do become part of the Bill, and to that you have got the amendment circulated in the name of Mrs Christian: on page 2, line 27, for 'the firework display' substitute 'the letting off of a firework'. Those in favour of the amendment, please say aye; against, no. The noes have it. The noes have it.

I put to you therefore, hon. members, the clause as it stands in the green Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

**Mr Singer:** Did somebody second Mrs Christian's amendment that we have now voted on?

**The President:** I thought we had voted on it. I thought Mr Gelling seconded.

**Mr Gelling:** No, I thought I had seconded the . . .

**The President:** Yes, you seconded the other one. Okay. Irrespective of that, the vote is clear. (*Laughter*) Whether it was seconded or not, hon. members, it was perfectly plain that the amendment is not carried in any context and that, in fact, the clause has carried.

We turn, then, to clause 4. Mr Waft.

**Mr Waft:** Thank you, Mr President. There are a few amendments to this clause 4. Clause 4 deals with the restrictions on the use of fireworks and the requirement to notify the Department of Home Affairs, giving notice specifying the time and place of a firework display, such as Onchan Park.

We have an amendment for line 23, in subclause (1): substitute 'No person shall let off a firework in any place unless he has, in accordance with subsection (2), (a) given notice to the Department of Home Affairs ('the department') specifying the time and place when the firework will be let off, and (b) caused like notice to be given in a newspaper published and circulated in the Island.'

Clause 4(4) makes it clear that you can let off fireworks to have a non-notifiable display during the period 25th October to 7th November; this provides for inclement weather over Bonfire Night and therefore extends from November 5th for a period of two days. Clause 4(4)(b) provides for a fireworks display between 26th December, ending on 1st January – that is, midnight on 1st January – for letting off fireworks over the New Year period. Subsection (5) provides for exemptions for displays put on by a public authority or naval, military or air forces of the Crown.

Subsection (6): if subsection (1) is contravened, (a) and (b) provide for a penalty following the subsequent prosecution.

The person by whom the display is put on is, subject to subsection (7), the occupier of the place where it takes place. Subsection (7) provides the defence, for example, that contravention took place without his or her consent or connivance or that he had reasonable cause to believe that the person by whom the display was put on had complied with subsection (1).

Subsection (8): the Department of Home Affairs shall, by regulations, prescribe the forms of notice under subsections (1) and (3), and in this section 'prescribe' means prescribe by such regulations.

We have amendments for line 7 and line 13. Line 7 I have explained. For line 13, for 'the firework display put on' substitute 'the letting off of a firework'. In line 18, paragraphs (a) and (b), substitute 'the person by whom the firework is let off' and (b) to subsection (7) 'the occupier of the place where it is let off'. In line 30, for 'the display was put on' substitute 'the firework was let off'.

I think I have covered all the clauses, Mr President. I beg to move that clause 4 stand part of the Bill.

**Mr Lowey:** I beg to second, sir. Could I ask the mover: I notice he used the word – and I picked it up – 'firework' in the singular, but what about *fireworks*? Does the singular apply to fireworks? If you let one off, does that mean that as long as you set only one off, one you are covered, but if you carry on and set off two, you are clear? (*Interjection by Mr Delaney*) Again, I was not quite clear, when I was reading it, whether the singular means the plural. In other words, does 'firework' mean 'fireworks', and is it a defence to say, 'I did not let one off; I let two off, your Honour.

Therefore it is all right'? (*Interjection by Mr Delaney and laughter*)

**The President:** Mr Gelling.

**Mr Gelling:** Yes, Mr President. I must admit that was why, finally, I voted against Mrs Christian's amendment for the simple reason that I think we are calling a 'display' something that is on with over £25 worth of fireworks. That is a display, whereas 'a firework' let off between those other periods is a likely thing that could happen, so you cannot obviously be prosecuted for letting off 'a display', but you are prosecuted for first of all letting off the first firework, I would suggest. You would never continue to let them off after you have been warned, perhaps, that you had let off the first one, but it is getting more confusing, as we are going along, as to why they have deemed it fit to change it in another place to 'the firework' in place of 'display'. The only way I could read that was that the 'display' is the whole event, whereas 'a firework' is one single part of that event to which you could be prosecuted.

**Mr Singer:** A firework could cost £25.

**A Member:** Exactly. Yes.

**Mr Gelling:** It could.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, again, it may not meet with favour, but I am going to move it anyway. (**The President:** Okay.) We are running into an inconsistency of wording throughout this clause. In another place, they have deleted the expression 'a firework display' in 4(1), and therefore they are referring to 'No person shall let off a firework'. One can take it that every single firework which is let off is covered by this – every single firework – so, okay, you can use the word 'a firework' and every single firework which comprises a display will be subject to the legislation, but it does seem to me that it is inconsistent to use that wording in subclause (1) and then go on, in subclause (b), to refer to a display. We have not got anything in the notice which ties this to a display or even defines what a display is. I do apologise to hon. members – and I did only deal with this early this morning – but I find that a similar thing applies in subclause (c) over the page. I have just passed to Mr President a suggestion that we also make the wording there consistent by removing 'display' in line 3 and substituting 'the letting off of a firework' so that we are saying the same thing all the way through. Hon. members can make their own minds up whether that is sensible drafting or not. I would like to ask for clarification from the mover in relation to this question of restrictions on use, as referred to in clause 4, and the requirement to give a notice and publish in the newspapers. There is no reference in here at all to the value of fireworks which have to be set off under this subclause. Hon. members, in their minds, have said it

is £25, but the legislation does not say that. You could have a box worth £5 and you can take it down and ask for a licence. Are they to refuse it? Are they to interpret, in their own way, what this restriction applies to? There is nothing in the legislation which says that you are not going to be allowed to set off a small amount of fireworks under licence. What it does say is that you can only *buy* small amounts of fireworks in the period in November and December and you can keep them as long as you like, and it does not say that you cannot go for a licence to set off that smaller amount, and it does not say you shall be refused a licence if you want to set off that smaller amount. So, the discretion presumably will be with the Department of Home Affairs. As far as I know, there are no regulations. Oh yes, there are regulations – (*Interjection by Mr Gelling*) Okay, so I do not know what the regulations will do – which prescribe forms of notice and receipt under sections (1) and (3) –

**Mr Lowey:** It enables, and then you wait for the regulations.

**Mr Singer:** It does not show the value of the display. (*Interjection by Mr Lowey*) It should do. (*Interjection by Mr Delaney*) It should show the value.

**Mrs Christian:** It does not say that that has to be included in the notice, but if members express that view in discussion of the Bill, maybe that will come into it. But I do think that, in the interests of consistency, we should be using the same phraseology throughout that clause.

**Mr Lowey:** Could I just say I think the hon. mover is absolutely right to say that when we are dealing with legislation there should be consistency so that it makes it easier for the people reading it. I would refer the hon. mover, though, to the fact that the mover of this original Bill did a tremendous amount of consultation with those in the business of supplying and those who actually operate firework displays, so the Bill is as a result of that consultation. The Bill has received wide support from (a) the 'trade', if I can use that word, and (b) the people who actually legitimately organise fireworks. We understand that private companies celebrating their opening nights, if you like, will be subject to this legislation too, which I think at the moment it was not, and I think that is right and proper. So, the aims are being met, which are to curb the displays. It will be under licence now, and people will advertise to that effect, and secondly we are restricting the use of fireworks to two areas of the year, and I think that is a great step too. But I come back to the point that Mrs Christian made: there has to be consistency, but I do think the saving grace is in enabling regulations or instructions, if you like, by the department.

**Mrs Christian:** Mr President, may I –

**The President:** One moment, Mrs Christian, if I may. Are you seconding Mrs Christian's amendment?

**Mr Lowey:** No, sir.

**The President:** Right. Mr Delaney.

**Mr Delaney:** I understand exactly where you are coming from, for good law and interpretation. I can see that. The point is that I have been involved in fireworks, other than turning up in pyjamas. I have been involved in organising them in the Tourism Department, and I know the cost. I took some time to have a look, and while we think of £25 as being a lot of money maybe, it actually buys very little, whether it says it in here or not. And when they come to making the regulations for display work, I took it for granted when I spoke to the mover that we were talking in the region of £500 worth of fireworks to be let off. That seems a lot of money to us, but that is the sort of cost you would have to be above before you could put on any sort of display, because it is no longer the penny banger that is going to be sold in Strand Street in a shop; they are now talking about £3.50 for a rocket. That is the sort of figures we are getting to, so I think this £25 has to be taken in the context of the cost of living today, if you want, of people purchasing.

**The President:** Mr Singer.

**Mr Singer:** Thank you, Mr President. If we are talking about consistency, the particular amendment is under clause 4, which is 'Restriction on use of fireworks', but the marginal note is 'Restriction on firework displays'. So it is quite clear that all that section responds to firework displays, and therefore surely the use of the words 'firework display' in that clause is right rather than substituting it with 'letting off of a firework'. I do not see anything that is incorrect in that.

**Mrs Christian:** Mr President, may I ask a further point –

**The President:** My understanding has always been that the side notes are not part of the Act. Mrs Christian.

**Mrs Christian:** Can I, Mr President, just as we are in committee on this, refer to that particular issue? That side note reflected the clause as originally drafted. For some reason, in another place, they have amended it, so it no longer reflects what they wish to do in another place. They have, for the most part, with the two exceptions that I have referred to, throughout that subclause taken out the words 'a firework display' in at least three places – well, four places if you take the original one which changed the context – and replaced them with the words 'letting off a firework, or 'fireworks'. However many places they have done it, they have not done it throughout. All I am trying to do is get a consistency throughout the subclause. I do not care whether you accept it or not; I am just saying that it seems to me inconsistent to have variable wording throughout that clause and I do think too that we can ignore the side note in the context of how it has been

amended in another place. If we accept what they have done in that context in another place and we are not seeking to change it back again, then all I am doing is seeking a bit of consistency.

I would ask the mover to comment, Mr President, on statements which are now being made with regard to reliance on the regulations. We cannot rely on the regulations if you read subclause (8). Subclause (8) says that 'The department shall by regulations prescribe the forms of notice' – that is the notice under subsection (1) to the Department of Home Affairs – 'and receipt' – and that is the receipt of the notice under subclause (3) – and 'in this section 'prescribe' means prescribe by such regulations'. It does not allow them to make regulations for any other purpose.

**The President:** I see.

**Mrs Christian:** So there is nothing in here to deal with the value of any display that shall be applied for by an individual.

**The President:** I foresee, hon. members, that the same problem is going to arise in clause 5. We have not reached there yet, but I can see that amendments to clause 5 have led to the same difficulty appearing. Mr Gelling.

**Mr Gelling:** Yes, Mr President, actually as the discussion goes on, of course, it is repeated right throughout that –

**Mr President:** It is.

**Mr Gelling:** Mrs Christian did not get beyond (c), but further down in 5 it is all display, display, display, and I am beginning to wonder –

**Mrs Christian:** No, Mr President, that has been deleted in another place.

**Mr Gelling:** Yes, but what I am saying is – and I can well understand why it should be the same all the way through – I am beginning to wonder then, as we go on to 5 – as you already say, Mr President, we distinctly go on to the letting off of fireworks – what the display is there for. It is obviously there for a specific reason, and I just wonder whether or not some legal advice from the legal draftsman is required.

**Mr Delaney:** I was going to move an adjournment, Mr President, bearing in mind this is a private member's Bill. I would like to adjourn this so that you can consult with the private member who brought this Bill in on the points well raised by Mrs Christian particularly and see if we can get some agreement for the next sitting to get this clarified and clear. I do not think it is too difficult to do. I just think it needs to be talked over and agreed. I would like to move that adjournment of this Bill at this stage.

**The President:** Mr Lowey.

**Mr Lowey:** As long as the third reading and the clauses . . . It will not hold this Bill up in any way at all, because we have already amended the Bill and it will have to go to another place anyway. (**The President:** Yes.) So, it is a question, really, of . . . I agree with Mrs Christian. The job of this Council, as I have said earlier on the previous Bill, is to make sure the legislation is workable and it is in a form that meets the requirements, and I think it is quite right that we should be spending a bit of time on this. Mrs Christian has raised some interesting points that, I think, do need clarifying, and unless the mover is able to clarify them, I think he would heed the Council . . . I put words in my hon. friend's mouth, but I am sure he will heed the Council.

**The President:** We will ask him. Mr Waft. (*Laughter*)

**Mr Singer:** Mr President, could I ask for some advice, please?

**The President:** Mr Singer.

**Mr Singer:** We are on clause 4, and the adjournment has been moved on clause 4. We have actually voted down, on clause 3, a similar amendment. If the advice comes back that perhaps the wording should be changed to be consistent, can we go back to clause 3?

**The President:** My advice, sir, would be that we would return to that if necessary.

**Mr Lowey:** Indeed, for consistency.

**The President:** Never mind. Mr Waft.

**Mr Waft:** Thank you, Mr President.

**Mr Delaney:** We have got to be fair to the mover of the amendment, too.

**The President:** We have not got an amendment at the present time. Mr Waft. What we are talking about at the present time is that Mr Delaney, supported by Mr Lowey, has suggested that we adjourn and seek further advice. I am asking: as the member in charge, do you accept that or not, sir?

**Mr Waft:** I would prefer to carry on with the Bill, Mr President. (*Interjections*)

**The President:** In that case, hon. members, I will put it to the Court, unless anybody wishes to add to the discussion.

Those in favour of adjourning further discussion of the Fireworks Bill 2003 at this juncture to allow further discussion to take place, please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, we will therefore adjourn the Fireworks Bill, and I would ask the hon. member, along with Mrs Christian, to spend some time on this

particular measure together, and if necessary we will return to clause 3 at the next sitting as well. Thank you, hon. members.

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## Gas and Electricity Bill – First Reading Approved

**The President:** We now then turn, hon. members, to our Gas and Electricity Bill, item 4 on our order paper, and it is in the hands of the hon. member Mr Lowey. Mr Lowey.

**Mr Lowey:** Thank you, Mr President, hon. members. The prime purpose of the Gas and Electricity Bill is to enable the Manx Electricity Authority to move the natural gas project forward. It also proposes amendments to certain other related matters which I will outline to hon. members later.

It was only in June 2001 that Tynwald backed the resolution which gave the go-ahead to a proposal that the MEA should undertake a major project to import natural gas from the second Scotland to Ireland interconnector, known as SIPS II, to fuel a new gas-fired power station at Pulrose and to facilitate a supply of gas for the Island. At the same sitting, Tynwald endorsed the DTI's proposals in relation to a logistical control mechanism for the gas and noted that a Gas Supply Bill would be brought forward to put this into effect. Less than two years later, the Isle of Man spur from the SIPS II pipeline is in place and has been successfully tested. The onshore section of the project, including a pressure reduction station and the pipe across the Island to Pulrose, is also complete – an amazing engineering feat. This will enable the MEA to bring the new gas turbine power station online later this year. Since that Tynwald debate, the MEA has also negotiated a commercial agreement with Bord Gáis Éireann and secured capacity in the pipeline which is sufficient to provide natural gas to the Island as a fuel for power generation and to facilitate a future supply for domestic consumers.

The onshore pipe was laid under powers conferred on the authority by the Electricity (Amendment) Act of 2001, which empowered the authority to lay on-Island gas transmission mains to the power station for electricity generation. It did not, however, cover the reselling of the gas to third parties or the construction of other mains, which were the issues to be covered in the Gas Supply Bill. The Bill before us today will therefore enable the MEA to construct low-pressure transmission mains for the purpose of distributing natural gas at suitable pressures around the Island, which will be necessary if we are to facilitate the future distribution of natural gas outside the Douglas supply area. It will also enable the authority to wholesale natural gas to any public gas supplier that may wish to take a supply. The gas is to be supplied on fair commercial terms on a non-discriminatory basis, with provision for arbitration in the case of any dispute. In addition to this, subject to obtaining the approval of the DTI, the Bill will permit the MEA to

retail natural gas to consumers. This approval could not be granted by the department without prior consultation with the public gas suppliers and is intended to cover situations where a public gas supplier may not be prepared to provide a supply, but where the MEA – and thus government – believes it is appropriate. The opportunity has also been taken to insert a power into the Gas Regulation Act for the DTI to make regulations for the approval of persons carrying out tests on gas calorific values.

Hon. members will no doubt be aware that the MEA has been very effectively trading electricity for the last two years or so as part of the operation of the interconnector cable to the UK, which was brought into operation towards the end of 2000. When the new power station is operational, these opportunities are expected to increase as, in order to utilise the power station as its most economical and efficient operating levels, it is the intention of the MEA to export this excess generation capacity. The opportunity is therefore being taken in the Bill to make it clear that the authority has the statutory power to export this excess capacity, which gives the MEA the opportunity to raise further revenue, which is expected to lead to further reductions in the electricity tariff on the Island in due course.

Mr President, the Bill also proposes to extend the right of the MEA to provide consultancy and advisory services relevant to its functions so that they can provide such services off-Island. The Electricity Act allows consultancy services to be provided, but legal advice has indicated that this is currently restricted to clients on the Island. We all know that there are many small Islands scattered throughout the world that will look to the Isle of Man, if you like, as a place that can offer advice as to how we have done it, and I think it is right that it should be included.

Hon. members will also be aware that, as part of the electricity interconnector project, a fibre optic cable was laid to provide telemetry communications and a decision was taken to include extra fibres to maximise any potential future demand. The Bill which is before us contains a provision that would enable the MEA to use, and thus maximise, the potential of this as yet unused asset. The suggested power to provide telecommunication services would be subject, obviously, to the consent of the DTI and the granting of the required licence by the Communications Commission, and any such licence would also be subject to the approval of Tynwald Court. So, we are talking of an enabling power at this point. In addition, this would also enable the MEA to install and maintain associated apparatus. We believe that this is a sensible provision as the fibres are now owned fully by the MEA – you will recall that they were a joint operation prior to this. The MEA have the expertise to operate them if that is the wish of Tynwald.

Finally, in order to support the MEA in carrying out these additional functions, it is intended to amend the constitution of the authority to allow greater flexibility in the number of members appointed to the board. The present membership is a chairman and four other members, and this Bill proposes that this should

be changed to allow for a chairman and up to a maximum of six other members. Obviously, they are looking to recruit expertise in these new fields. It is a sensible provision at this time.

Mr President, I beg to move the first reading of the Gas and Electricity Bill.

**The President:** Mr Singer.

**Mr Singer:** I second, Mr President, and reserve my remarks.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, just to speak in support of the Bill, I think it is a useful move forward and it regularises the positions. I think it also, as the hon. mover has said, allows for scope and development in the area of gas delivery, but only with the approval of Tynwald Court, and I think that is an important provision in the Bill as well. Therefore I welcome the first reading.

**The President:** Mr Delaney.

**Mr Delaney:** Yes, I am supporting the Bill, obviously, but I am interested in the constitution of the authority. We are taking the opportunity here, but you did not mention that, in your foreword to this Bill, in any detail on clause 5. Could you just clarify why we are reforming it through this Bill? I thought it was already organised.

**The President:** Mr Waft.

**Mr Waft:** Yes, Mr President, I am a bit concerned with this gas and electricity marriage. I am a bit concerned from the general public's point of view. I fully endorse the principle of the Bill, but I am concerned that it does not go too far before Tynwald and everyone can have some input into what the situation is and what contracts are going to be signed between the MEA and Manx Gas or whoever. My concern is that once any contract has been signed, there is very little scope for anybody to do anything with regard to overseeing the prices of these things and perhaps having some regulator in place that might have been . . . So, I would think that before any contracts are made by the MEA, it should be endorsed by Tynwald, because the public at large needs to be in control of utilities and how they use them. Thank you, Mr President.

**The President:** Mr Singer.

**Mr Singer:** Sir, I think Mr Waft's concerns, which I understand, have been covered in other discussions – I think it was the February Tynwald, which I can refer to in a moment – but the important word, as far as this Bill is concerned, is that it is *enabling* legislation, primary legislation. That is what is most important, because it enables the MEA to distribute natural gas and to wholesale it to any public

gas supplier – and it does mean any, not just the one gas supplier we have at the moment, because if any other supplier comes in and is interested, then the MEA can certainly deal through that other retailer.

It is important that we do endorse the MEA exporting electricity and that it does come within the legislation, because we are bringing into the Island considerable amounts of finance in selling the electricity, and it would obviously then increase its efficiency and it keeps the costs down. The fibre optic cable capacity is also the way forward, as far as the Island is concerned, in attracting the type of businesses that we want to attract to the Island and to expand our potential for diversification of Island business. So, I think it is important that we endorse that particular part of the Bill, but this is primary legislation, and I believe that if we do not fully endorse this, then the population of the Island will not benefit from the ability of the MEA to distribute the gas or benefit from the income from the excess electric capacity.

Mr Waft is concerned about the regulatory point. We did have a discussion, if I may remind members, in Tynwald in February, where a motion was put forward by Mr Cannan that the provision of funding should be made during the financial years 2003-4 and 2004-5 for the construction of a natural gas pipeline to serve the north, south and west of the Island. To that was added an amendment from the Chief Minister, which was accepted, that said further research be undertaken to develop a long-term strategy for the provision of natural gas to serve the north, south and west. Then a further amendment was put by Mr Speaker – and this is the part I am referring to – which added that further research be undertaken to develop a long-term strategy for the provision of natural gas to serve the north, south and west of the Island *and* that consideration be given to the introduction of a gas regulatory body and that the Council of Ministers report to Tynwald no later than 2003. So, the regulatory side that I think you were referring to will be the subject of a report later in 2003. I think that was covered, but I would say that it is very important we appreciate this is an enabling measure, this primary legislation.

**The President:** Mr Gelling.

**Mr Gelling:** Yes, I think, Mr President, it is an area of which there are lots of perceptions out there of ‘We are going to get gas a lot cheaper’, and that is the whole idea. Of course, I was a bit alarmed to hear the manager of our existing gas company saying there will be no noticeable decrease in any of your gas prices for the immediate future. Then you start to wonder, ‘Well, why are we bringing the gas in? Is it to make electricity cheaper?’, the ultimate being then that people will move on to electricity and the gas will be used purely for the generation of energy. I take the point of Mr Waft about a regulator, in as much as they then become virtually electricity, gas and communications, because the cable is under their jurisdiction as well, and I think that is where the difficulty might come. The expectation of our people is that we will be getting all these things a lot cheaper,

and it may not be the case, but certainly I am supportive of the Bill because I cannot see any other way. We have got to put this through to be able to control it, and I am supportive of the first reading.

**The President:** Mr Lowey.

**Mr Lowey:** Thank you, Mr President. First of all, can I thank hon. members for the interest and the support that they are giving to the Bill.

If I can take, really, Mr Gelling’s point first – in biblical terms, the last shall be first: why gas and is it to be for cheaper gas? Of course, it was to produce electricity, and gas-fired production is a cleaner way of doing it. It is cheaper – and we have all been talking about energy prices – and it is diverse. Hon. members will know that the energy-from-waste plant is coming on; that will generate energy and that will go into the supply. At this moment in time, the MEA will have the ability to use that and export surplus requirements, so we are in the business of creating an export so that we can actually bring money inwards to help pay the large capital costs that actually go into the production. I would like to congratulate the drive and the enthusiasm and the energy, if I may say so, of the MEA in the way in which they have taken on this particular task. As I said in my opening remarks, it is an amazing engineering feat that they have brought in the gas from the pipeline and brought it across the Island successfully in the timescale. In Manx terms, it has been fast, it has been, if I may say so, mainly trouble-free, and again a great tribute must go to the farmers and the landowners for allowing it to go in across lots of the fields. I think that showed a lot of foresight and a lot of negotiation skills, which augurs well for the future.

If I can take individual member’s points, they are all supportive, and I accept Mrs Christian’s support in general for the gas and for the introduction of it and the MEA to be controlled. I think the main thing here is that there needs to be an ultimate control on behalf of the consumer, and I think ultimately Tynwald will have to have that control.

Can I say, on Mr Delaney’s point about the expansion of the authority, that I thought I had covered that in my very last paragraph, where I said the need for the authority to increase its membership from the present, which is four plus one – (*Interjection by Mr Delaney*) Five, yes. Obviously, if they are going to expand into gas distribution – there is an expertise on that board for generation and accountancy and the like – I think there is a need there for this plus the fibre optic. I do think it would be wise to have somebody on the authority with specifics (**Mr Delaney:** Agreed.) so I think the case has been made for the expansion of the board as far as I am concerned.

If I can come to Mr Waft –

**Mr Delaney:** Can I ask about (2), Mr President, please –

**The President:** We are dealing with the first reading actually, Mr Delaney.

**Mr Delaney:** An explanation of (2) is what I was interested in.

**Mr Lowey:** Okay, I will come back to that.

**The President:** I am sure we will pick it up.

**Mr Lowey:** Yes, indeed. Can I come to Mr Waft? He is absolutely right. He is rather worried that electricity and gas are being married together. I think this is a marriage of convenience, actually. They are using gas. When you brought the gas, wholesale, ashore, then I think it is right that they should have the ability then to make it available to the public in the long term. We are talking here of the medium to long term and many advantages of bringing the gas in and using it, and I think it is right that the electricity authority should at least be the wholesale provider and there should be some regulation over that that they can do it. If the private sector then decide, for whatever reason, that they do not want a supply, then I do not think people should be denied that right just because they have decided not to. I think the authority thinks then it can make a viable proposition out of it and it can be done. The prices: I will quote the words I used in my opening remarks, where I said, 'The gas is to be supplied on fair commercial terms and a non-discriminatory basis, with provision for arbitration in the case of any dispute.' So, I think that is one of the keynotes. Also, the DTI, being the department responsible for the MEA and the utilities, will be consulted in many ways. If we take the cable and the utilisation which this Bill enables, it has got to be through the DTI first, then it has also got to get a licence from the Communications Commission, and then it is subject to the approval of Tynwald Court. So, there are at least three hurdles for it to go over before it can do anything. Therefore the public interest will be tackled at three levels before they can go ahead with it. I take the point that he has a concern over electricity and gas and (**Mr Waft:** Telecommunications.) and telecommunications being . . . Just to complicate things –

**Mr Waft:** The conglomeration outside with no Tynwald member on the board, that was my concern, and no regulator, up to now, in place.

**Mr Lowey:** But there will be, and again I take the point that my good friend, Mr Singer, made that the department, in this Bill, is enabling and the control will then be under the regulations. I come back to what I said before: in most of these things, control is done in the detail. This is the principle, and this primary legislation is getting the principle. I take on board the genuine concerns that the hon. member has. I hope I will be able to assuage those concerns at the second reading and clauses stage of this Bill, but I would welcome the general support that this Bill has. It is an exciting time for the MEA.

It is an exciting time for energy. Energy prices on the Isle of Man were a bone of contention for a long time. They are still a bone of contention, as rightly

explained by Mr Gelling, but I think most people will say the price of electricity has, in real terms, fallen – and who would have suggested that could happen? For years, we were told that it could not, but it has now happened. The modernisation of the production of electricity by gas and this energy from waste is changing all the time. The speed with which it has changed is quite dramatic, in Isle of Man terms a very short space of time. I think the MEA, as I said, are to be congratulated. The Department of Trade and Industry is certainly to be congratulated for the way in which it has enabled that to take place, and I beg to move the first reading of the Gas and Electricity Bill 2003.

**The President:** The motion, hon. members, is that the Gas and Electricity Bill 2003 be read a first time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

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### Election to Legislative Council

**The President:** Hon. members, you will be interested to know that in another place this morning the election to the Legislative Council resulted in Mr Bates receiving 8 votes and Mr Kniveton receiving 11 votes. There appears to be no change in the position in another place.

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### New Member of Legislative Council – Swearing-in of Mrs Crowe

**The President:** I have to also inform you that there will be the swearing-in of Mrs Crowe this Friday at 9 o'clock, hon. members, which is the time which the deemster can make. So, at 9 o'clock on Friday will be the swearing-in of Mrs Crowe. I would be grateful if you can attend. We will now adjourn to the sitting of Tynwald commencing on 8th April, next Tuesday, and thereafter to 15th April, here in our own chamber. Thank you, hon. members.

*The Council adjourned at 12.30 p.m.*

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