

REPORT OF PROCEEDINGS OF THE LEGISLATIVE COUNCIL

**Douglas, Tuesday, 24th June 2003
at 10.30 a.m.**

Present:

The President (the Hon. N Q Cringle), the Attorney-General (Mr W J H Corlett QC), Hon. C M Christian, Hon. P M Crowe, Mr D F K Delaney, Mr D J Gelling CBE, Mr J R Kniveton, Mr E G Lowey, Mr L I Singer and Mr G H Waft, with Mrs M Cullen, Clerk of the Council.

The Chaplain of the House of Keys took the prayers

Items Considered

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| Litter Amendment Bill – Report of Conference with House of Keys – Amendment Approved | C320 |
| Heath Burning Bill – Third Reading Approved | C320 |
| Sexually-transmitted Diseases – Treatment Facilities, Number of Cases and Publicity Programme – Question for Oral Answer by Mr Singer | C321 |
| Performing Rights – Royalties and Licence Fees – Question by Mr Gelling for Written Answer | C323 |
| Planning – Redress when Applicant Starts Work prior to Receiving Permission – Government Projects – Question by Mr Gelling for Written Answer | C324 |
| Transport – Drainage and Highway Work and the Law – Question by Mr Gelling for Written Answer | C324 |
| Planning Office – Treatment of Planning Applications – Question by Mr Gelling for Written Answer | C325 |
| Local Government (Miscellaneous Provisions) Bill – First Reading Approved | C326 |
| Suspension of Standing Orders – Approved | C331 |
| Local Government (Miscellaneous Provisions) Bill – Second Reading Approved | C332 |
| Local Government (Miscellaneous Provisions) Bill – Clauses Considered | C332 |
| Suspension of Standing Orders – Approved | C334 |
| Local Government (Miscellaneous Provisions) Bill – Third Reading Approved | C335 |
| Standing Committee of Tynwald on Standards and Member's Interests – Members Elected | C335 |
| Joint Committee on the Emoluments of Certain Public Servants – Members Elected | C336 |
| Standing Orders Committee of the Legislative Council – Members Elected | C337 |

Procedural

The President: This morning, hon. members, we start with the order paper with one question for oral answer, and I call on the hon. member Mr Singer, but that gives me a bit of a difficulty at the present time, because we are still short of Mrs Christian. The answers to the remaining questions are in writing, and I assume that we will have our hands on those very shortly.

Litter Amendment Bill – Report of Conference with House of Keys – Amendment Approved

The President: Perhaps, hon. members, in the absence – temporarily I assume – of Mrs Christian, we could deal with item 3 on the order paper and go straight on to our Litter (Amendment) Bill. So I call on the hon. member, Mr Singer.

Mr Singer: Thank you, Mr President. Hon. members will recall that there was a disagreement between the two branches over the use of the words ‘designate’ ‘employ’ and ‘appoint’ in a section of the Bill and it was decided to call a conference, chaired by His Excellency, and it was a very successful conference. Members from both sides agreed to an amendment that was put forward on the day from the Attorney-General, and it really has clarified the terminology of the word, what the word ‘designate’ means, and that has now been inserted under a clause 2, which clearly explains to anybody perusing the Bill what the word ‘designate’ means.

I do not think I need to go into the history of why the words were changed, Mr President, and I regret that so much of hon. members’ time has been taken up, but I would ask with an understanding that there was complete agreement between the two branches, they accept that clause 2 now, as printed, with item 2 giving the clarification. I understand that hopefully that same clause is going to be put before the other branch today and will be recommended for acceptance by the hon. member for Onchan, Mr Earnshaw. So I hope that explanation is satisfactory to the members, Mr President.

The President: Yes, hon. member, that is fine. I understand that, in fact, the conference did reach agreement in the manner in which you are saying, and we have on our white sheet the new 5C in clause 2. However, hon. members, I do think it is necessary for us to actually formally approve that as well.

Mr Lowey: Could I second that proposal?

The President: So I take it, Mr Singer, that you are moving that the Council accept the conference report and the new clause. Mr Lowey?

Mr Lowey: I would second, sir, and concur with the sentiments expressed by the mover.

The President: Mr Delaney.

Mr Delaney: I thank the members for the time taken on the conference and support the actual stance that has been taken.

The President: Does any other member wish to speak to it? In that case, hon. members, what I will put to the Council is in clause 2, inserted by the Keys:

for the new section 5C substitute –

‘Litter Officers’

5C(1) Every local authority shall designate one or more persons for the purpose of exercising

(a) its functions under section 2 (enforcement), and

(b) any other functions of the authority under this Act.

(2) in relation to proceedings for an offence under this Act, a person designated under subsection (1) shall be deemed to be an officer of the local authority for the purpose of section 53 (appearance by local authorities) of the Local Government Act 1985.

Hon. members, those in favour please say aye; and against, no. The ayes have it. The ayes have it.

Hon. members, noting that and noting, presumably, that the original clause 2 becomes clause 3 also in the Bill, didn’t it? As we were going through I put . . . Do you wish to speak then, further to a third reading?

Mr Singer: No, thank you, only to thank members for their support, Mr President, throughout the reading, and I obviously hope that it will be successful in helping to reduce the amount of litter around the Island.

The President: And again, hon. members, for purposes of clarity on our *Hansard*, I put to you the Bill, including the amendment made by the conference. Those in favour please say aye; and against, no. The ayes have it. The ayes have it.

Heath Burning Bill – Third Reading Approved

The President: Hon. members, we will continue with the Heath Burning Bill for third reading, and I call on the hon. member Mr Delaney.

Mr Delaney: Thank you, Mr President. The Heath Burning Bill had a number of amendments, namely 10, coming from the other place. The Bill, as we explained in the first reading was to replace the 1939 Act and the regulations of 1942. I do not believe there is need for a

long discussion on this, Mr President. I beg to move the third reading of the Bill.

The President: Mr Waft.

Mr Waft: I beg to second, Mr President.

The President: Any hon. member wish to speak to the third reading of the Heath Burning Bill? In that case, hon. members, the motion I put to you is that the Heath Burning Bill 2003 be read for the third time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Procedural

Mrs Christian: I apologise, Mr President. I am sorry.

The President: No, that is fine, Mrs Christian. If you wish, we . . . If you have your breath back, Mrs Christian, what we will do is revert to our –

Mrs Christian: Question.

The President: – question, which is item 1 on our order paper.

Sexually-transmitted Diseases – Treatment Facilities, Number of Cases and Publicity Programme – Question by Mr Singer

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

- 1. What facilities are offered to the public, other than attending GP's surgery, to discuss and receive treatment for sexually-transmitted diseases on a confidential basis;*
- 2. does your department have details of the number of cases identified for these diseases in (a) 2000, (b) 2001 and (c) 2002; and*
- 3. is there a continuing health and publicity programme to encourage the public to appreciate the dangers of these diseases, to recognise the symptoms and to seek treatment?*

The President: 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, Mrs Christian, to reply.

Mrs Christian: Thank you, Mr President. As the questioner intimated, professional advice for patients concerning sexually-transmitted diseases would initially be provided by GPs. In addition, the Department of Genito-Urinary Medicine based at the new Noble's Hospital, which is open six days a week, is available to the public either by appointment or by direct access, where they can receive advice and treatment. Advice on sexual health matters generally is provided through the Family Planning Service and the School Health Service, where one-to-one counselling is offered, including referral to the GUM clinic or a general practitioner as appropriate. This is shortly to be extended to the College of Further Education, where support and advice to students will be available on a weekly basis.

Over the last three years, approximate case attendances at the GUM clinic have been 1,400 in the year 2000, 2,500 in the year 2001 and 3,000 cases in 2002. Data is not available relating to attendances only at GP surgeries.

Turning to the final part of the question, the hon. member may be aware that, in accordance with the provisions of the Island's health strategy, the department has developed a sexual health strategy. Under the strategy, a sexual health group has been established, consisting of key individuals, to co-ordinate activities across the health service, with the purpose of identifying priorities concerning sexual health issues. Prominent in this is health promotion, which has identified sexual health as one of its main priority areas over the next five years. This initiative has already begun. Recent health promotion campaigns, for example, conducted over this year's TT period, included extensive advice on sexual health. Furthermore, the sexual health group has worked closely with the Department of Education in the curriculum development of a recent 'Sex in Relationships' policy for schools. I should say that the sexual health strategy envisaged additional resource being provided. One recent example is the newly-appointed post of Nurse Educator, who will combine anti-smoking education with sexual health education to school teachers, governors and pupils. This post is jointly funded between my department and the Department of Education.

In conclusion, Mr President, the department does recognise that, in common with other countries, incidences of sexually-transmitted diseases are increasing. The department is committed to addressing this worrying situation through the steps I have outlined.

The President: Mr Singer.

Mr Singer: Can I thank the minister for that detail? I am sure she will agree with me that we are not separate from anywhere else, neither the United Kingdom or even the world. In the United Kingdom it

is reported that one in 10 of sexually active young women have chlamydia and that syphilis rates have increased fivefold in six years and other diseases have doubled. Would the minister also agree with me that people often feel that it is not appropriate to go to the local GP? Did the minister say that there is actually a walk-in clinic and could she tell me exactly what publicity is actually given to the fact that there is this walk-in clinic for people?

The President: Minister.

Mrs Christian: Yes, thank you, Mr President. Yes, indeed we are not immune in this particular area, and the department, two or three years ago, became conscious of the need to strengthen our strategy in this area and to recruit extra staff, which we have done. Indeed, chlamydia is getting a higher profile now; given that it can create infertility problems, it is very important that our young people understand that they have got to be aware of sexual health issues.

We do have a walk-in facility at the Genito-Urinary Unit. There is publicity around the Island in various appropriate places, but indeed our newly appointed Health Promotion Officer, who is the first professionally trained Health Promotion Officer we have had, is going to give a high priority to this particular area over the next few years. In addition to that, we have strengthened the number of staff in that area. Indeed, we have had to move the unit from where we originally intended to put it in the new hospital to another area so that it can have more accommodation to make sure that we have sufficient staff accommodated to provide for this issue. I think, Mr President, that has, I hope, answered the points that the hon. member has made.

The President: Hon. member Mr Delaney.

Mr Delaney: On this subject, the minister, in her answer, pointed out that they shared a budget with the education. Could she tell us, just to bring us up to date, what the amount of that budget is to tackle this very difficult problem we have? Could she also indicate whether there are any plans, other than the new officer that they have, to actually increase any of the services that have been given to this problem on the Island?

Mrs Christian: Yes, Mr President. I hoped I had answered that, but I will try and clarify the point. The joint funding is of only one post, and that is a nurse educator post in the schools. That is only one element of the programme. That is the post of a person in schools who is combining anti-smoking education with sexual health education, with the agreement of the Department of Education. In addition to that, of course, we have the team at the unit, which comprises a visiting consultant, then we have sessions between clinical assistants and associate specialists, we have two senior nurses full-time in that unit, and have a part-time registered nurse, a service manager and an administration assistant for 22 hours a week. So there

is a dedicated unit plus this educator post and this function, as well as our health promotion team, which is separate from the unit. In particular, I think this appointment with the Department of Education will be a very useful one. In addition to that, primary health-care have decided to allocate a health visitor one day a week to the Isle of Man College to deal with sex and relationship issues, starting at the beginning of the new academic year. So there is some resource going into this matter.

The President: Mr Delaney.

Mr Delaney: Can I ask then: given the figures and statistics that the minister has been kind enough to give us this morning, and bearing in mind the impact that has on the obviously increasing problem, will the minister consider taking a more proactive educational thing outside of the schools, such as delicate radio advertising or media advertising to warn the public of this increasing problem you and we have?

The President: Minister.

Mrs Christian: Mr President, I think we have already started on that. We have a contract with MGFM to cover these specific issues, because we feel that that is targeted at young people in particular. We have work going on, through the health promotion through pubs, clubs and whatever dealing with this issue. In TT week we had people out on the promenade working on this issue, providing free condoms and making high-profile education available out there. So it is something that is being worked on.

In terms of the actual budget which the hon. member asked me about for the one nurse educator post, I am sorry I do not know what that cost is –

Mr Delaney: It is okay. You have answered the other question.

Mrs Christian: – but we are working on it.

Mr Delaney: Thank you very much.

The President: Mr Singer.

Mr Singer: Can I take this opportunity – and I do not want the minister to be taken aback – to congratulate the department (**Members:** Hear, hear.) on their efforts? Obviously we note that the numbers in two years, that we know of – (**A Member:** Tripled.) Well, more than doubled – 1,400 to 3,000 – and that is just the cases we know of, so there must be many cases that we are not aware of. (*Interjection by Mr Delaney*)

So there are two points. The hon. minister said that the nurse goes to the college one day a week, but of course we know that there are a lot of sexually active young people who are in schools, so perhaps the minister could tell me what proposals there are, perhaps, for a similar scheme to go through the schools. Secondly, is there any plan to actually put free

condoms into clubs, into areas where people can pick them up? I noticed this when I was in Namibia, particularly; wherever you went in – certainly I do not know about the ladies – but the gents, there were free condoms for people just to take. That was obviously the Aids scare, but this is just as important. Are there any plans, through the department, to make condoms freely available for people so they do not actually have to go and ask for them?

The President: Minister.

Mrs Christian: Yes, Mr President. Perhaps I can again revert to my original answer about the provision in schools. Schoolchildren can either access the Family Planning Service for advice if they do not want to be in school seeking advice or they can go to the school health service, which is there all the time, for one-to-one counselling. Parents may approach the school service to ask them to speak to their family if they wish to do so. So there is provision in school.

With regard to the availability of free condoms, I have not had any such proposal put to me. I do not know whether they have that in mind, and indeed I do not know whether their budget will extend to that, but I am quite sure it may be a part of their thinking as we develop the health promotion programme in this particular area.

If I may comment just on numbers, it is difficult to know whether numbers . . . I suspect it is a mix of new cases coming forward and people who hitherto might have been reluctant to come to our clinic now being willing to come and seek treatment rather than, as we were alerted to about three or four years ago, the fact that people were going off the Island for treatment. Some may still be, but I do think that the programme we have in place and the more open approach will, I hope, encourage people to use the facilities here. I think that the numbers increasing may show that there is an increasing willingness to tackle the problem by the individual.

The President: Mr Lowey.

Mr Lowey: Would the minister not agree with . . . I agree entirely with the last part of her sentiments, where she says we must not be embarrassed or uncomfortable, because it is a subject that is embarrassing. Parents have great difficulty, but I think the openness of the department, as the hon. member for Ramsey has said, is to be applauded on this.

Mr Singer: Pardon?

Mr Lowey: The hon. member of Council, (*Laughter and interjection*) yes, indeed – is absolutely right that the department is at least tackling this with vigour, and she is to be congratulated and encouraged, because the statistics are extremely worrying.

The President: Minister, do you wish to reply?

Mrs Christian: I just thank members for that comment and the encouragement to the team who are delivering this service, and we will hope to continue to make inroads.

The President: Okay, hon. members, the written answers have now been circulated, so you have those in your hands.

**Performing Rights –
Royalties and Licence Fees –
Question by Mr Gelling
for Written Answer**

Question 1. The hon. member (Mr Gelling) to ask HM Attorney-General:

During the May sitting of Tynwald, the hon. Chief Minister moved an order in respect of performing rights. Several questions were posed during the debate to which no answers have been received. Could the learned Attorney therefore, give answers to the following questions –

1. *who regulates the way in which companies make demands for royalties due for the public performance of copyright music in the Isle of Man;*
2. *on what basis are the licence fees calculated and therefore due and payable;*
3. *are the dues payable on every occasion that members of the public can hear the radio or the tape being played;*
4. *does this apply to a coach, where the passengers listen to Manx Radio;*
5. *what redress does the person from whom the dues are requested have when the seating capacity upon which it would appear the dues were calculated is incorrect;*
6. *is the VAT so collected from local businesses treated as a 'home trade' code; and*
7. *what record is kept of the amount collected from Island businesses by companies sending out such demands?*

Answer

1. The principal bodies or 'collecting societies' are the Performing Rights Society Limited which represents composers and Phonographic Performances Limited which represents recording companies. (Note licences from both are required when commercially produced tapes or compact

discs are played in public). The operations of such licensing bodies are to some extent controlled by the Isle of Man Copyright Tribunal. A person who considers that the terms of an individual licence or a 'licensing scheme' under which licences are granted, are unreasonable or discriminatory or otherwise improper can refer the licence or scheme to the Tribunal which has power to vary their terms. An appeal lies on any point of law arising from a decision of the Tribunal to the High Court.

2. The calculation of royalties is set out in the relevant licensing scheme. (The Performing Rights Society Limited, for example, has 40 different tariffs for different kinds of business).
3. This depends on the terms of the licence or licensing scheme; for example, the payment for a licence for background music in a shop is usually calculated by reference to the floor area and not on the number of occasions the music is played.
4. Playing music on a coach which carries members of the public as opposed to (say) a private family party would count as a public performance and would therefore carry with it a duty to pay the relevant royalty. The method of calculating the payment depends on the terms of the particular licence.
5. This depends on the terms of the licence and the reason why the miscalculation occurred.
6. This aspect to the question should be directed to the Minister of the Treasury.
7. Each licensing body is responsible for keeping records of royalties collected. I am unaware as to whether the licensing body keeps separate records of royalties collected in the Isle of Man; there seems to be no legal or business reason why that should be so.

Planning – Redress when Applicant Starts Work prior to Receiving Permission – Government Projects – Question by Mr Gelling for Written Answer

Question 2. The hon. member (Mr Gelling) to ask HM Attorney-General:

1. *What redress does a member of the public have when an applicant requesting permission for a development, starts such work on that development, prior to the*

statutory period for a review to be requested, has lapsed;

2. *if such work involves the demolition of an existing structure, is there a penalty for such a breach of planning law; and*
3. *is it not a fact, that companies working on government projects should be seen to act in a responsible manner and within the laws of our Island?*

Answer

1. Where development commences before the time limit for requesting a review has expired, there is, prima facie, a breach of planning control and a member of the public may seek redress by requesting the Department of Local Government and the Environment as planning authority to take action against the offender. Under the present law, the department may institute a prosecution or, in limited cases, serve a stop notice to prevent a continuing breach. When the Town and Country Planning Act 1999 becomes fully effective the department may, as an alternative, take action by serving an enforcement notice requiring the breach to be remedied.
2. Under the existing law, demolition of a building does not require planning approval and therefore there is not a breach of planning control, although an offence is committed when the building in question has been entered in the Protected Building Register and registered building consent has not been obtained. The position will be different when the Town and Country Planning Act 1999 becomes fully effective; the demolition of a building which is attached to another building, where the other building is not also demolished, constitutes development as does the demolition of a part of a building where the rest of the building is not also demolished – such demolition will require planning approval.
3. I would agree with the statement of opinion (not fact) expressed in this part of the question.

Transport – Drainage and Highway Work and the Law – Question by Mr Gelling for Written Answer

Question 3. The hon. member (Mr Gelling) to ask the member for Transport (Mr Kniveton):

1. *Has your department any control over the contractors carrying out, on your department's behalf, drainage and highway work;*
2. *if yes, how is this control carried out;*
3. *does your department make sure that all Isle of Man Government laws are upheld by those working for and on behalf of your department; and*
4. *what is the penalty for those who do not adhere to local laws, when carrying out such work for your Department?*

Answer

1. The department has control over the contractors working for them on any type of work through the construction contract.
As a matter of course the construction contract calls for the contractor to abide by the laws of the Isle of Man.
2. Control is through the administration of the contract, by the engineer appointed by the department.
3. As far as is practically possible the department does ensure that contractors working for it comply with the laws of the Isle of Man.
As with any individual or company operated by individuals the department has no direct control over an accidental or intended breach of the law.
4. The department has no powers to serve or seek penalties from contractors working on their contracts.
where there is a breach of contract the department can insist on restitution, or implement restitution at the contractor's cost if there is a failure to comply.
where there is a breach of a law, either intentionally or accidentally then there are no restrictions which would or should prevent the law being applied.

Nothing within the answers given should detract from the obligation of all companies/individuals to comply with the requirements of the laws of the Isle of Man. Nothing should prevent the application of the full weight of the law, in the event of a breach.

This requirement extends throughout to all residents and visitors to the Isle of Man, the requirement to comply with the laws of the Isle of Man resting clearly with the individuals.

Whilst the department can ensure through the contract that compliance with the laws of the Isle of

Man is a prerequisite, it can not control either a deliberate or accidental breach of the law, as the breach would not become apparent until after the event.

**Planning Office –
Treatment of Planning Applications –
Question by Mr Gelling
for Written Answer**

Question 4. The hon. member (Mr Gelling) to ask the Minister for Local Government and the Environment (Mrs Crowe):

1. *Does your Planning Office treat all planning applications in the same way whether it be a private applicant, or another department of government, or a contractor working for that department;*
2. *if objectors to the applicant's plans are not satisfied with the decision of your Planning Committee, are they given a period of time to request a review of that decision;*
3. *what is the period of time given and does this apply in all cases;*
4. *if an application is received which does not in fact require approval, does your Planning Office return this to the applicant stating why this is the case; and*
5. *once an application is accepted and appears in the Notice of Planning Applications in the local newspapers, is it then in the system and subject to all planning law?*

Answer

In reply to the Hon. Member, I can advise as follows –

1. All planning applications, whether from private applicants or from government departments (or their contractors) are treated in the same way, except in the following circumstances:-
 - (a) applications from my own department are subject to a different procedure, whereby they are considered by an independent person who reports to the Council of Ministers;
 - (b) applications by departments to which there are objections from another department are referred to the Council of Ministers for resolution of the objection; and

- (c) where it is judged by the Council of Ministers that there should be a special inquiry in accordance with Part One of the Town & Country Planning Act 1981.

2. Those persons who –

- (a) submitted written representations to the Planning Committee within fourteen days of the press notice; and
- (b) are judged by the committee to have sufficient interest in the application;

may request, within twenty-one days of the date of service of the notice of the committee's initial decision, that the committee review this decision.

3. This period of twenty-one days applies in all cases.
4. Should an application be received for works which do not constitute development or which constitute permitted development, the application should be returned to the applicant with an appropriate explanation. These circumstances are generally identified at the time of validating the application. However, acceptance of an application does not in itself alter the development status of a proposal.
5. Once an application has been validated (i.e. checked and accepted), it is processed in accordance with the procedures prescribed by the Isle of Man Planning Scheme (Development Plan) Order 1982. Any application may be withdrawn by the applicant or his agent up until the time when an initial decision is made.

Additionally, I should advise the hon. member that, under the Town and Country Planning (Permitted Development) (Statutory Undertakings) Order approved by Tynwald in 1999, certain operations carried out by (or on behalf of) some public bodies do not constitute 'development'. These operations include, for example, the placing and storage on land of pipes and other apparatus to be included in a sewer which is being constructed, subject to the land being properly reinstated.

I hope that these general points answer the hon. member's question satisfactorily, but if there are further queries of either a general or specific nature, I trust that he will contact me accordingly.

**Local Government
(Miscellaneous Provisions) Bill –
First Reading Approved**

The President: As we have dealt with items 3 and 4, we move on to item 5 on the order paper. It is for first reading of the Local Government (Miscellaneous Provisions) Bill, and it is in the hands of the hon. member Mr Lowey.

Mr Lowey: Thank you, Mr President. I am pleased to be able to promote this significant piece of legislation on behalf of the department. The main provisions of the Bill relate to local elections and will mean that all members of the Island's 24 local authorities would be elected on the same day every four years. Elections will be held in April on a day to be determined by the department. The department is of the firm belief that a single, high-profile election every four years will significantly raise the interest and status of the local election process by attracting more voters to the polling booths on election day.

It may be helpful if I could point out to hon. members that the change to a single local election day was one of the main recommendations of a working group set up by the department following concerns over recent low numbers of candidates and voters. As well as representatives from the department, this working party included several local authority clerks acting in their personal capacity. For example, they were from Ramsey, Onchan, Braddan, Douglas and Port Erin – there may have been others – and they all had considerable experience of the election procedures.

The department's hope is that the new legislative proposals will help focus public attention on local elections, stimulate renewed interest in local government issues and hopefully encourage greater electorate turn out at the polls. I am sure that, at the moment, many people throughout the Island will be hard pressed to confirm the time when their own local elections are next scheduled and how many vacancies there will be to fill. If I could remind members, at the moment there are elections for one third of town and village authority members every year and for all parish authority members every three years: a real potpourri.

During consultation on the Bill, the department has received invaluable feedback from many local authorities – I think we had a response from 19 of them – and has taken careful account of the various views received. For this reason, the department has been prepared to modify its stance with regard to the length of term of election. The department's initial preference was for local elections every five years so as to be the same as House of Keys and Board of Education elections, but this has now been modified to four. Over the past few months, the department has also taken the opportunity to acquaint the Tynwald select committee with its latest proposals, as that committee was charged with looking at the House of Keys elections, and their report was debated recently.

Other provisions in the Bill will require all local authorities to make standing orders with regard to its proceedings and business, instead of merely allowing them the option of introducing them. At the moment, local authorities are only obliged to make standing orders with regard to tenders and contracts for the supply of goods or the execution of works. The department has produced draft standing orders, and these have already been made available to all local authorities. Hon. members will be aware – because I believe every member of Tynwald also had them – that there is a book now, a bible, with a whole raft of information regarding the role of local authorities, where they can get information et cetera, confidentiality, data protection, declaration of interests, public records, complaints and employment of staff. The list is endless. It is all there in a book. It has been circulated to every local authority and every member of the local authority. So, what we are doing in this is actually making sure that they have a set of standing orders that everybody should be able to work to.

The remaining provision of the Bill was, I think, clause 4, which will simply correct a faulty cross-reference. In section 2(3)(a) of the Local Government (Miscellaneous Provisions) Act of 1984, which deals with the procedure for the removal and disposal of abandoned vehicles, the numbering was incorrect, so we are just taking this opportunity now to correct that.

Having outlined the broad principles of the Bill, I hope members will feel content to give it their support. It is important, Mr President, and I beg to move the first reading of the Bill.

The President: Hon. member Mr Kniveton.

Mr Kniveton: Yes, thank you, Mr President. I am happy to second that reading. I believe, sir, that the working party set up by DoLGE in 2001 had a difficult task to put forward modifications to generate greater interest and higher turnout in the local authority elections. I can appreciate all the consultations they had, including those with local authorities, and I can understand the different forms of support, or indeed resistance, they encountered. I can appreciate that what they have put forward in clause 1 of this Bill is an attempt to fulfil their aims, added to which, I would add, is a certain amount of guesswork. I can accept all they have put forward, although I am not thoroughly confident that clause 1 will win the day, yet I cannot say that it will be a waste of time. I will support this Bill, Mr President, at all clauses, but the main interest being clause 1.

I personally believe the low turnouts are brought about by a disinterest by electors due to the fact that they are reasonably happy with what their authority is doing for them. I would suggest that if they are not happy, then they would turn out, and they would turn out in numbers – that is if all the people, or many of the people, were complaining about one particular subject. Local authorities have lost so much of their activities over the years that electors cannot find many major subjects to disagree with and fall out over. Rates

always increase by no more, if any, than the rate of inflation. So, basically what I am saying is: the electors really are quite happy. People generally are more busy in their lives than they ever were and how often do we hear people say, ‘Oh, I haven’t got time to do this or do that, or go there or go here’? It happens every day in our lives. They just do the necessities of life and enjoy life and do not bother about elections or going to chapel or church or anything like that. They just do not bother in this day and age, often because they are affluent enough to not have to worry, both husband and wife going out to work and both earning good salaries. You know the ones who live around you, hon. members, and I am not criticising these people. I am certainly not criticising them, just trying to determine in my own mind why there are such poor turnouts.

Turning to clause 2, sir, I believe that this is essential, and I thoroughly support it without going into any detail whatsoever.

Clause 3: as I mentioned to the hon. mover, I do not quite follow this clause in both the printed Bill or the explanatory notes, and I am not sure whether there were any members in another place – perhaps I have missed them during my sabbatical.

I do support the Bill, and I look forward to the clauses stage. I only have one question to put to the hon. mover, and that is: has allowance been made, Mr Lowey, for those persons elected during the years 2002 and 2003, who presumably would have a three-year term, if this clause comes into effect in 2004? Thank you, Mr President. (*Interjection by Mr Lowey*) Have I missed it?

The President: Mr Singer.

Mr Singer: Thank you, Mr President. I will support the Bill. I was a bit concerned, as has already been mentioned, about why we have come up with four years, other than that it is a compromise, The department wanted five years, and there was a reason for that five years, a very clear reason for the five years, that it then came in at the same year as the general election. Some authorities wanted three years, and I personally believe, for reasons I will state in a moment, that it should remain at three years. There does not seem any justification for four years, but it is not a thing I would vote against. I asked a written question in another place not too long ago about the average length of service of an elected member of a local authority, and I think it came in at just over three years. It changed because of people’s circumstances; either their jobs changed or they moved homes or they found out, with it being a voluntary position, that it was not quite their cup of tea. So this four-year compromise, I think, could result in a considerable number of by-elections, which, to a certain extent, negates the all-in, all-out principle. As I say, I would personally have preferred a three-year term, as it is a voluntary position, but I would support every effort for a greater turnout, where it is often less than 20 per cent. To a certain extent, you have to say, ‘Well why is there the disinterest?’ And I think it is often that local

elections are very low-profile, partly because the candidate is working and the candidate does not have time to go round knocking on every door in the ward. There are no voting cards to remind people that it is voting day. There are no posters out, again because of cost, and so we have to look at some ways of stimulating greater turnout other than saying we are going to have an all-in and an all-out system. I have always been a believer that the local authorities should be given more responsibilities, that power should go back to the local authorities, when, over a period of time, we seem to have been taking powers away from local authorities. They need to be able to have more power. They need to be able to have more influence on local matters, and I think particularly Department of Transport matters are a case where . . . DoT matters, roads and pavements et cetera, are high profile in a particular area, and it is the local authority and the members of the local authority who will probably have greater local knowledge, which could result in speedier action and better prioritisation, if that is the word, of areas that need attention.

So, I will support the Bill. I will support the other sections of the Bill as well, but it is obviously this election period where I am not that happy with four years, but it is not enough for me to say I will not go along with it. But I do believe that there are other items and other ways that need to be looked at to ensure that you actually encourage people to feel that they are doing something by coming out to vote and they are going to have some reaction. We do know, from recent experience, that people, when they are stimulated by a particular item, do make their views known, and I think that is what we have to try and encourage in the local authorities: for people to believe that, by coming out and voting, they are going to make a difference. And I do not think, at this stage, that they feel they are going to make a difference.

The President: Hon. member Mr Waft.

Mr Waft: Thank you, Mr President. My view is that, in the local authority elections, the numbers that turn out do wax and wane the same as the House of Keys elections. Sometimes you get a big turnout for some reason or other and sometimes you do not get many out at all, and there is no specific reason why these things happen, apart from, perhaps, some topic which might come up from time to time and which catches the public imagination.

I am interested to hear that the average length of service is three years.

Mr Singer: Just over.

Mr Waft: After having spent 20 years in my local authority in Onchan – and some of my colleagues spent equal lengths of time – I find it hard to believe, but I will take advice on that. I would just say I fully enjoyed my time in the Onchan Commissioners and did enjoy the confidence of the local authority area, that the people in the district were quite happy with the

local commissioners. In fact, the commissioners, the district, are now the Onchan District Commissioners, so you had the parish commissioners and the Onchan Village Commissioners, and they amalgamated a long time ago. I think I was the first chairman to chair the both when they amalgamated, purely on a voluntary basis.

With regard to the local authority and the decision to perhaps take some of the responsibility from local authorities, I think the local authorities are to blame in this effect, because I know Castletown Commissioners, many years ago, decided to give up their bye-law officer, and it was only fairly recently, in the last three or four years, that Ramsey decided to give up their bye-law officer. They cannot have it both ways; they either take responsibility . . . And some local authorities really do –

Mr Lowey: That is right.

Mr Waft: – and they have got housing officers, they are housing authorities, and they do provide a worthwhile service to the community. It is helpful if there are people to go and see when there are housing problems, people in the area, and they are in touch with the people on the ground as to exactly what the situation is, rather than just looking at an application form.

I have a concern, and I thought this might have been taken into consideration when the Bill was drawn up. I appreciate it is purely to do with this specific item, but, in the future, if somebody could give some thought to perhaps some standardisation of facilities in the different areas of the Island . . . Playgrounds, play areas, lighting, libraries, toilets, disabled toilets and things like that sometimes are very few and far between in some of the local authorities, and there is a reluctance to put up the rates in those areas. So, that is an area that might be looked at by the department, but I would support this Bill. I do not have any problem with it. Thank you, Mr President.

The President: Hon. member of Council, Mr Delaney.

Mr Delaney: Yes, in brief, Mr President, the mover is aware of my close connection with local authorities and my interest in how second-tier government works in the Isle of Man. The situation is that I am a great supporter of local authorities, as the present minister is, in trying to give them back more powers, more responsibility, more response to the people they represent, the ratepayers, the second group of taxation – and they are taxed in the Isle of Man.

I find it difficult to understand why it is, in this small community that we have – and I have recently been taking a look at this – that the standing orders are different in every local authority. Some of them, to be quite honest with you, frighten me, and I would refer to Douglas Corporation in this instance. We have got to have some sort of minimum standard and maximum standard of representation, and the important part of

local representation is questions about what the people pay for in their rates and what services they get, and that seems to be a stopping-block in certain areas. I think – and I did speak to the minister about this some time back – I had intended possibly to move amendments to this miscellaneous Act, giving a chance to change some of the things that are happening within our community, certainly in relation to the standing orders, certainly in relation to how much money local authorities can take and keep from the people who are moving it without giving a statutory reason why that money has been kept. The minister is aware of this, but, on this occasion, I will leave the Bill as it is and go for another Bill, if necessary, because there are some changes other than representation that need to be done to get the people back to supporting their local councils.

The President: Hon. member Mrs Crowe.

Mrs Crowe: Thank you, Mr President. I am delighted that a member of the department, the hon. member of Council, Mr Lowey, is taking this Bill through this particular branch, and there have been some observations made about the Bill. As you know, it was in order to address the low turnouts and the non-elections. In my own area, I cannot recall when a local commissioner was last elected, because, of course, there is the reluctance of people to stand. One of the reasons for the guidance notes, the most comprehensive book that we have produced for all members of local authorities, is to tell them what their rights and their responsibilities are under the Local Government Act, hoping to encourage people to be able to stand. Anyone that wishes to stand as a local commissioner, we offer this book to them.

Other members have made comments and observations about the great deal of difference between authorities, and of course that is perfectly true. We have local authorities that are very reluctant to raise rates to enable facilities – much-needed facilities – such as disabled toilets to be provided in their area, and, as a department, we do our best, through grant aid, to help these authorities, but it is a responsibility of a local authority to provide these local facilities, and this is something that we are trying very hard to ensure that local authorities all treat in a more standardised way.

I am sure the hon. member of Council, Mr Delaney, knows that I am well aware of all the concerns that he has raised, and we are having ongoing discussions with local authorities as to all the issues that have been identified that do need some redress within the department, but this Bill is particularly only to address low turnouts and perhaps a more high profiling of local elections by making sure that there is one local election day so everyone on the Island is aware that their local representatives are due to be elected to that post. I hope that it goes some way to achieving a higher turnout and perhaps a more high-profile rôle for some of the local authorities.

The President: Hon. member Mr Gelling.

Mr Gelling: Yes, Mr President. I think a couple of things jump out of this for me – again, clause 1 – and that is, having been on the commissioners and knowing full well that the country commissioners, of course, get an extension of a year, the main effect this will have will be on the villages and the towns. But regarding the point raised by the hon. Minister for Local Government and the Environment about raising rates to pay for amenities, I have been in conversations where it is very much the case that you do realise that an election will cost you or cost the parish rates, and I know full well that this happens in country areas where there is virtually a pecking order where people are discouraged from standing because it will cause an election and it will be a penny rate or something. So, there is definitely a situation there. I do not know whether this will change that, because the by-elections are done exactly in the same way – ‘Will you stand? However, don’t you stand this time because he is, and it will save a rate.’

But certainly the point raised of it being one day, more publicity . . . Quite honestly, I think if you went round a lot of the country areas and asked who had just been elected to the Rushen Parish Commissioners, they would not know, because again one person filled the vacancy, end of story. I think it is also a case of people that might very well have stood for an election in the parish, but they do not know who else has actually stood, and then when it is announced that there is only one standing for the one vacancy, they say, ‘Gosh, if I had known that, I would have had a go.’ There is definitely a need for a higher profile, and I think this possibly is what this Bill will do, Mr President.

The President: Not in Rushen. The answer to the hon. member’s question is: Derek Cain. *(Laughter)*

Mr Lowey: I read it in the paper too.

The President: Mrs Christian.

Mrs Christian: Mr President, just again to support the measure. I am aware of concerns in some of the smaller rural areas. The three-year to four-year extension is seen as a bit of an inhibition in terms of people perhaps embarking on taking up responsibilities of local authority work, but we will see how this goes. I wonder whether there should be some provision made, in the light of the comments of the hon. member Mr Gelling, for there to automatically be a rate imposition in a year when an election may take place in order that it cannot be used as an excuse and then the year after they can modify their rates accordingly, but if there is an inhibition because of paying a rate, I think that is a very negative approach to democracy. The other thing is that it does illustrate that perhaps commissioners themselves need to be a little more high-profile with their parishioners in terms of what they are there for and what they do. **(Mr Delaney:**

Hear, hear.) So, all in all, I think it is a measure which perhaps will encourage more participation.

The President: Mr Singer, once more.

Mr Singer: Could I just pick up one point made by my hon. friend, Mr Waft? We were talking about responsibilities of commissioners and the need for more responsibilities, and yet for example, Ramsey and I think maybe Onchan gave up their bye-law officer – (*Interjection*) I was sitting on the commissioners at the time. The fact was – and it was government's fault – that if you had a bye-law officer, it was paid for through the rates. If you did not have a bye-law officer, the government paid your costs (**A Member:** Yes.) and this is something that the government should have realised. They had plenty of time to realise it. Of course it would be better to have your own bye-law officer, but not at the expense of the ratepayer when other people were getting it for nothing.

The President: Mr Lowey to reply.

Mr Lowey: Thank you, Mr President. I thank all the members for their general support and for their comments on the Bill. As I said at the start, this is an attempt by the department to give a high profile. There is no guarantee of success at all, but I think, having decided to go out on this route, they were right to widen the remit and not just to be in-house. They got the clerks from some of the major local authorities. There are 24; the figure that I have before me is 19 of the commissioners, but 24 sets actually replied. I think one was against, three were a little bitty and the majority were in favour of giving this a try. So, again, in an attempt to compromise, when you discuss with people, you are damned if you do and you are damned if you do not. If you talk with people and you listen to their views and you then compromise – and the four years is a compromise, because it was written in the Bill originally five years, but we have agreed to compromise – you are damned if you do and you are damned if you do not. The point I am making is the department was not going to be dogmatic; they tried it and I think, as hon. members will see, let us give it a try and see if it is.

Again, if I can take members individually and try and deal with some of their specifics, the average turnout at the moment is about one in eight, 12.5 per cent, in some of the things. If you get 25 per cent, it is extremely rare and you have got a massive turnout. It is sad, but that is a fact, and that is not good for democracy, as we would all agree.

Dealing with the point, I thought I had explained it in my opening remarks about the clause with the incorrect numbering. It is simply that. It has been spotted and it needs to be rectified. It does not affect the principle of what that clause is; it is just the wrong numbering in the first lot. This is an attempt to put that right, and I think it is as simple as that. I will explain that on the clause when we come to it.

Again, if I can take Mr Singer's point about if you get an issue – and this refers to Mr Waft, too, when he says there is general satisfaction of local commissioners and there are only individual issues – in a recent election, not to a local authority but into a national government, there was a real burning issue, and still only 50 per cent of the people turned out. If that is the sort of interest and half the people, even although there was a burning issue, decided not to exercise their right to vote . . . and this is the point: what we are attempting to do is make it easier. The other point I want to say is that, no, this is not the be-all and the end-all, there are other areas which the department is already discussing with people, such as polling cards, which we have at national elections and which should be in the local elections, and extending the hours a bit longer for the local elections to coincide, if you like, again a standardisation and making it easier for people to go and vote when they want to vote in the places they want to vote. So, there are ideas. There is a whole raft of secondary legislation which we are looking at, or the department is looking at, which will be actually dealing with the legitimate points that are being raised.

Mr Delaney's specific interest in local authorities is very well known and, having served his apprenticeship in the biggest local authority on the Island, we are very interested in the comments that he made.

The minister: again, I would thank her, obviously, for her support, but again I want to stress what the department does. It has been an eye-opener. This division of the department is run, or has been run, by my good friend, Mr Earnshaw, for the last two years, or the last year and a bit, and he has been extremely active in it and shown a great interest, but the amount of assistance that is available from the centre to the local authorities-training, training of the members, training of the clerks. They have sessions where they all come in and talk about specifics as well as general matters. They have seminars arranged by the department. The clerks constantly ring up for advice, and it is willingly given. So, the idea that somehow the centre is trying to encroach is the reverse when you examine the history of what is actually happening, and rightly so. We are there to assist and help, and the division is doing just that.

Mr Gelling's comment about local conditions: I recognised, as he was speaking, the individuals concerned. A love of the area they live in and a thing to do what is right for the area and what they believe is right, but elections do cost, but sometimes they take great steps to alleviate the rates, the burden on the ratepayers. That, I think, is a good thing in one regard, but if you look at the broader picture of democracy, it is the very opposite. Elections are about choice, and people should be always given that ability to have choice.

Again, coming back to Mrs Christian, thanking her for her support, there is an anomaly, hon. members, and you know we are going to have to face it sooner or later. I mentioned it at the start – 24 local

authorities – and when you consult with 24 you know how it works in reality. The reality is there is a reluctance to change, and sooner or later you have got to have direction or a lead in the best interests of everybody. This particular Bill does not deal directly with that; this is purely one of trying to assist and encourage people to vote. We believe that the right way to do it is to have one election, to give it four years and to give it a try, and I would urge the House to support it. I beg to move, sir, the first reading.

The President: The motion I put, hon. members, is that the Local Government (Miscellaneous Provisions) Bill be read for a first time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Suspension of Standing Orders – Approved

The President: Mr Lowey.

Mr Lowey: Mr President, I am going to ask for the indulgence of Council, if I may. The department is anxious to progress the Bill as quickly as possible, because the new provisions, clause 1 in particular – that is the only real one that is giving us problems, relating to local elections – need to come into effect before the end of the calendar year. You will see, in clause 1, it has got to be in by 31st December. The sheer mechanics of it will be that if we do not get the three readings through this session and the Bill back to the October or November sitting, it will be November before we get it in, and therefore it will be very tight to get it in for the calendar year. It has had a good debate in another place, with one minor amendment – and I regret I did not mention this to the hon. member of Council, Mr Kniveton. There was an amendment to actually deal with the Onchan Village representative. That had been missed out, and that was an amendment that was moved and accepted by the lower House, which deals with that to make sure that they come into the net as well.

Mr Kniveton: Thank you.

Mr Lowey: As far as I am concerned, it is a practical one. It has had the general support of the majority of the authorities that have been contacted and taken into consultation, and therefore I would seek the indulgence of the House to suspend standing orders, sir, to deal with the second reading, clauses and third reading of this Bill today, if that would meet with the approval of the House.

The President: Mrs Crowe, hon. member.

Mrs Crowe: Oh, I am pleased to support that. It is not any fault of the member in charge that the Bill was delayed in some way, and it is essential that this is progressed with speed. What I would say – and it was

in response to a question that was asked earlier – is that in all recent elections, those elected have been aware of the short term of the last election period. So, they were fully aware that this legislation was before the branches. Thank you, Mr President.

The President: Mr Singer.

Mr Singer: I think it would have been courteous of the mover or the department to inform hon. members that this was going to take place today, that we were going to try and move the whole of the Bill. This one is not particularly contentious, I do not think, in items, but I am just wondering whether this is likely to happen at other times. I understand the reasons why they are saying it, but I do believe that we should have been told beforehand that this was going to happen so that if we did have something in particular to criticise or to prepare beforehand, that could have been done. But to be doing that here, whilst I will not oppose it, because I should imagine most members will support it and I realise the reasons for it, I do not think that it was a courteous way to conduct business as far as hon. members are concerned.

The President: Hon. members, the suspension of standing orders to jump a week or jump a month or two is entirely in your hands. Mrs Christian.

Mrs Christian: Mr President, I accept that if it is not dealt with now, it could probably squeeze through, but I think, given the timetable and the consequence of not having it through by December, which I think would hold it up for-

Mr Lowey: Twelve months.

Mrs Christian: I thought more than 12 months. (**Mrs Crowe:** Yes.) It is four years or something, so it is fairly critical if we really want to make this change. I do think it is up to us now, whether we have been notified or not, to make our own minds up. It has not been practice to notify anybody before seeking suspension of standing orders. So, I will support the suspension in this case, because I do not think it is contentious and I do think it has had a considerable amount of public airing and scrutiny.

The President: Mr Kniveton?

Mr Kniveton: No, thank you.

The President: No? In that case, hon. members . . . Mr Lowey, do you wish to reply?

Mr Lowey: I take on board the hon. member Mr Singer's point about courtesy. As Mrs Christian has said, it is not normal practice to circulate something like this in advance, but I take the criticism, and I understand the need for courtesy. I think the department does always try to be courteous and helpful to members, and if the hon. member feels it has been

discourteous, then I apologise on behalf of the department to him, but I would urge members, on the strength of Mrs Christian's arguments, that they would support the suspension on this occasion.

The President: Let us deal with it, then, hon. members, step by step. What I will put to you is that we suspend standing orders in order to take the second reading and clauses stage. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

**Local Government
(Miscellaneous Provisions) Bill –
Second Reading Approved**

The President: In that case, Mr Lowey, we will take second reading and clauses, sir.

Mr Lowey: I will not give a big speech, just to formally move the second reading. The Bill is promoted by the Department of Local Government and the Environment, and it amends the Acts relating to local government. As I have said, clause 1 provides that members of all local authorities are to hold office for four years, commencing in May 2004. Clause 2 makes it mandatory for local authorities to make standing orders as to their proceedings. Clause 3 corrects a faulty cross-reference, and clause 4 is supplemental. Mr President, I beg to move that the Bill be read a second time.

The President: Hon. member Mr Waft.

Mr Waft: Mr President, I beg to second. I just wondered: I do not know whether I am alone in not having the amendment yet to this Bill.

The President: Mr Kniveton.

Mr Kniveton: No, sir. I was talking about that earlier, the amendment. I am not familiar with it.

Mr Lowey: I certainly got a copy of the amendment. It was circulated with the agenda for today's meeting. You will see from . . .

The President: Does any hon. member wish to speak to the second reading? I admit to having put Mr Attorney to quite a little question here this morning. Perhaps it is right to raise it, and he can clarify it for all members at this stage. Noting the amendment, hon. members, which I now know the hon. members have in their hands, the thought crossed my mind in relation to the village district of Michael and the parish district of Michael, which similarly amalgamated some years ago. (*Interjection by Mr Delaney*) I did ask Mr Attorney whether or not it would be necessary to have a similar amendment as you have now for the Onchan one, relative to the Michael one. Mr Attorney, I do not know whether,

having put you to the work this morning, you wish any explanation, sir.

The Attorney-General: Well, thank you, Mr President. I do not think that we need to make specific reference to the Michael District Act 1989. I think the reason why it was necessary to refer to the Onchan District Act 1986 was that that Act specifically created or retained the rural commissioner. The rural commissioner held office for a term of three years ending on 1st May in the third year after that in which he was elected and so on, and in the schedule 2 of the 1986 Act, the Onchan District Act, there was specific reference made for election of members. If one can trust that, Mr President, with the Michael District Act 1989, the sole object of that Act was to state, in section 1, that the parish of Michael shall, with effect from 1st April 1989, be constituted a village district for all purposes by the name of the local government district of Michael. Mr President, in the schedule to the Michael District Act, there was no reference at all made to elections and so on, and therefore there is no need, in this new Bill, to make reference to Michael. So, if that analysis is correct, Mr President, I think we are safe in proceeding just with reference to Onchan.

The President: Thank you, Mr Attorney. Mr Lowey.

Mr Lowey: No. I thank hon. members and Mr President for your observations on that and for the learned Attorney's comments thereon. I beg to move the second reading.

The President: Hon. members, the motion I put to you is that the Local Government (Miscellaneous Provisions) Bill be read for a second time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

**Local Government (Miscellaneous
Provisions) Bill – Clauses Considered**

The President: We will take the clauses. Mr Lowey, clause 1.

Mr Lowey: Thank you, Mr President. Clause 1, of course, is the meat of this particular Bill. Clause 1 provides that, with effect from 2004, elections to local authorities will take place every four years. Members will recall that, at the moment, elections occur every year, or every three years in the case of parish authorities.

Subclause (1) substitutes a new section 3 in the Local Government Act 1986. Section 3 currently provides that the day of election of local authorities is such day in April as the returning officer – in the case of Douglas, the Mayor – may decide. The intention will now be for the day of election to occur on such day in May of 2004 and each fourth year thereafter as the department may decide. The department will have

to make its decision and advertise it in the press before the end of the previous year. Members should note that this provision does not apply to by-elections, that is elections to fill casual vacancies caused by death or resignation. In these circumstances, the day of election will continue to be fixed by the returning officer.

Subclause (2) substitutes a new section 5 in the 1986 Act. Section 5 currently makes different provisions for town and village districts and parish districts.

At the moment one third of the members of a town or village authority, including Douglas, go out of office on 1st May every year. If the district is divided into wards, one third of the members of the ward go out. Existing provisions also determine which members are to retire if the number is not divisible by three. Also, at present, all the members of a parish authority go out of office on 1st May every three years. In future, if this new Bill becomes law, all members of every local authority will go out of office on 1st May in every fourth year, beginning in 2004.

Subclause (3) provides that the new provisions will apply to existing members of local authorities, and this provision will cover those elected in 2001, 2002 and 2003 as well as future members. As my hon. minister did remark, it has been well known that this was being proposed and was in the public domain.

Subclause (4) introduces the schedule, which tidies up the Acts relating to local elections by repealing spent provisions. I will not spell them out, but they are there quite easily, and to that there was an amendment to deal specifically with the Onchan rural area, which was passed by another place.

With that provision, I move that clause 1 and the schedule stand part of the Bill, sir.

The President: Mr Kniveton.

Mr Kniveton: Yes, I am happy to accept that, Mr President. There is just one point I would ask, and please forgive me if I have missed it, because I have come in late on this. I would ask Mr Lowey: all elected members will go out of office on 1st May, that is correct; is there to be an intervening period between 1st May and the election date, and if that is so, is that a correct situation? Nobody in office. No committee member in office. On 1st May they go out; what date is the election?

Mr Singer: No, it is April. It has already taken place.

Mr Lowey: It has already taken place.

Mr Kniveton: Oh, right. Elected members will go out of office on 1st May –

Mr Singer: Yes, but they come in –

Mr Kniveton: The others then come in. Right, thank you, Mr President. I have got that, yes.

Mr Lowey: It is seamless.

The President: Mr Singer.

Mr Singer: Could I possibly ask the hon. mover: was there a slip of the tongue initially when he was talking about all local elections being such day in April as the department may determine? I thought he actually said May.

Mr Lowey: Did I? I did. It is.

The President: It is April.

Mr Lowey: It is April. Yes, indeed, it is in April. So, if I did say that, it is a misprint.

Mr Singer: I am listening.

The President: Right. Hon. member Mr Waft.

Mr Waft: Just one point. I do not think it would cover here at all, but with regard to the elections of local authorities, I have always found it anomalous in the past when people decide they are not going to stand for re-election. Sometimes they do not tell anybody they are not going to stand for re-election, and it is only when the nomination paper goes in that people realise that there was a seat available there. I would like to see more openness from people who are standing for election to declare that they are going to stand for election and then take the nomination paper out and get it . . . Otherwise, the nomination paper will go in – or not go in, as the case may be – and the general public do not know that there is a possible seat vacant.

The President: Mr Lowey, do you wish to reply to that?

Mr Lowey: I cannot really reply. I can have a lot of sympathy with the hon. member that it could save, on many occasions, an election if somebody had taken out an election paper, but that is up for the individuals, not for this particular Bill.

Can I clarify for the record that if I did say May, then it was certainly a misinterpretation by me of the notes that I have. The intention will now be for the day of election to occur on such day in April 2004 and each fourth year thereafter as the department may decide. So, the changeover will go out of office on 1st May and the new ones come in. So, there is a seamless changeover.

The President: Hon. members, the motion I put to you is that clause 1 do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 2.

Mr Lowey: Clause 2, Mr President, requires a local authority to make standing orders for the proceedings and business instead of merely allowing it to do so. At the moment, local authorities are only

obliged to make standing orders with regard to tenders and contracts for the supply of goods or the execution of works. The department has produced draft standing orders, and these have already been made available to all local authorities. I am not going to comment about the problems we have had, in my own local authority, for example, in Malew, where there was a lack of standing orders, which led to all sorts of problems, so the opportunity now . . . I think most people would agree that there should be a set of standing orders for everybody to work under. (*Interjection by Mr Delaney*) It is accepted, and I must say local authorities have been extremely appreciative of this particular document, individually and collectively. So, this clause makes that compulsory. I beg to move that clause 2 stand part of the Bill.

The President: Mr Singer.

Mr Singer: Can I second that? Can I ask the hon. mover: have those standing orders then to be approved by the Department of Local Government, or are they just approved by the actual commission or the local authority themselves?

The President: Hon. member Mrs Crowe.

Mrs Crowe: I think, in order to be helpful, that the standing orders were a recommendation from a recent inquiry, and the recommendation is that local commissioners do have standing orders. I think we have given them guidelines as to what those standing orders should be, but they are an elected body, and of course they can make their own judgement.

Mr Lowey: Yes.

The President: Hon. member Mr Delaney.

Mr Delaney: Thank you, Mr President. Just quickly. I recently had to go through this lot, and I can tell you now that the basic standing order for all the local authorities should be similar, particularly where it relates to the questioning. It horrifies me, what the differences are in standing orders between having to give a month's notice before you can ask a question in some local authorities and other ones where you can virtually ask questions as they occur, which we have to get back to if we are going to encourage open debate and free speech.

The President: Mr Lowey to reply.

Mr Lowey: Yes, I would concur with the sentiments of Mr Delaney that it does seem strange in the extreme that in one of the major authorities – and let us name them, Douglas – they virtually have to give a month's notice for a question. That is not what democracy is about. The executive, whether it is on local authorities or in central government, should be accountable to the elected people. The councillors

have, I think, a duty and a right to question, and they should not have to give a month's notice.

The President: Hon. members, the motion I put to you is that clause 2 do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, for purposes, again, of clarity, can I say that I am accepting that your 'ayes' in relation to clause 1 also included the schedule? (**Members:** Yes.)

Perhaps, hon. members, we could take clauses 3 and 4 together. Mr Lowey.

Mr Lowey: Yes, thank you, Mr President. Clause 3 – again, I want to make it quite clear – corrects a faulty cross-reference in section 2(3)(a) of the Local Government (Miscellaneous Provisions) Act 1984, which deals with the procedures for the removal and disposal of vehicles. Subsection (3)(a) was added by section 7 of the Local Government (Miscellaneous Provisions) Act of 2001 and currently reads as follows: (3)(a) Where, in pursuance of subsection (2)(b) or (3), an appropriate authority proposes to remove a vehicle which, in its opinion, is in such condition that it ought to be destroyed, it shall, not less than the prescribed period before removing it, cause to be affixed to the vehicle a notice stating that the authority proposes its removal for destruction on the expiration of that period.' The reference to subsection (2)(b) or (3) should be to subsection (1)(c) or (2), which deals with vehicles apparently abandoned on a road or on open land. So, the point is that it was wrongly put in in the first place. This is a correction of that. It does not deal with the specifics; it actually deals just with the numbering.

Clause 4 provides for the short title of the Bill. No provision is made for commencement. It will come into force on the day it is passed, when Royal Assent is announced by Tynwald.

Mr President, I beg leave to move that clauses 3 and 4 stand part of the Bill.

The President: Mr Kniveton.

Mr Kniveton: I am happy to second that.

The President: The motion, hon. members, is that clauses 3 and 4 do stand part of the Bill. Those in favour please say aye; and against, no. The ayes have it. The ayes have it.

Suspension of Standing Orders – Approved

The President: Mr Lowey.

Mr Lowey: Do I have to (**The President:** Yes.) suspend standing orders, sir?

The President: Yes, you do, sir.

Mr Lowey: Could I again indulge the good will of the Council and ask for the suspension of standing orders to take the third reading, sir?

The President: Mrs Crowe.

Mrs Crowe: I would support the suspension of standing orders. I do take on board the comments that have been made about the department – perhaps a lack of courtesy – and perhaps, in future, we would notify all members if this procedure needs to be forwarded. Thank you.

Mr Singer: Even though this is not the season of goodwill, I will support it.

Mr Lowey: It is obviously seasonal.

The President: Okay, hon. members. I appreciate we may be going round in circles, but I think it is important that we clear it. Those in favour of the suspension of standing orders to take the third reading of the Local Government (Miscellaneous Provisions) Bill this morning please say aye; and against, no. The ayes have it. The ayes have it.

Local Government (Miscellaneous Provisions) Bill – Third Reading Approved

The President: In that case, I call on Mr Lowey to move the third reading.

Mr Lowey: Thank you, Mr President. I do not intend to recite again all the reasons why. It is only a four-clause Bill. Two of them are self-explanatory: clause 3, which is the cross-reference, and clause 2, which is the standing orders. The main one is the four-year term and all councillors coming out on the one day. I think I have stressed that point enough. It is an attempt; as I said, there is no guarantee of success. I hope it will be successful, because we all have a vested interest in getting the people to become involved. It is a difficult issue. I do not think there is one single issue that will assist it, but this, I think, will assist to keep people focused on a general election day. I hope it succeeds, and I beg to move that the third reading of this Bill takes place by this Council.

Mr Kniveton: Yes, I am happy to second, sir.

Mr Singer: Mr President, could I ask the –

The President: Mr Singer.

Mr Singer: – hon. mover: how does the department determine if it is . . . You are saying you hope it will be successful, but how do you determine if it is successful? You have only got until next April to stimulate people to come out, and then after that you have got to wait another four years. So, how do you determine if it is going to be successful?

The President: Mr Lowey.

Mr Lowey: Well, as I said before –

Mr Delaney: Every four years.

Mr Lowey: – it is every four years. There is no guarantee. The proof of the pudding will be in the eating.

Mr Singer: There might be no pudding to eat.

Mr Lowey: Well, do give it one chance next April, and if it is not a success next April, is it then a failure? I think you have got to give it at least a couple of tries to see if it will focus people's attention. Along with this, there must be other issues that will come in in secondary legislation – polling cards. I think we have got to assist and help with the hours and all of those what I would call logistics and mechanical things that can be done to help will be done. Then, if it is a failure, I think we then have to consider: do the people require local government? It is as simple and basic as that, and then perhaps that will stimulate an interest. There is nothing like saying you are getting rid of something to stimulate a good old-fashioned debate that we cannot possibly live without it. I think democracy, as my hon. friend, Mr Waft, said, waxes and wanes sometimes. It is a bit like health: You do not know you have got it until you lose it. I think what we have got to do is to provide a framework in which we hope the people will avail themselves of it, and with that I think there is no guarantee. And how will it be evaluated? I think only time will tell, sir.

The President: Right, hon. members, with the spanner being thrown in the last paragraph, I put to you that the Local Government (Miscellaneous Provisions) Bill of 2003 be read for a third time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Standing Committee of Tynwald on Standards and Member's Interests – Members Elected

The President: Now, hon. members, we turn to item 6 on our order paper, which is the Standing Committee of Tynwald on Standards and Members' Interests. We need to elect two members. This is a new standing committee which replaces the former Declaration of Members' Interests Committee. All members except myself are eligible for election. Hon. members, I call for nominations.

Mr Gelling: Could I ask for a point of clarification, Mr President, please.

The President: Yes, sir.

Mr Gelling: It says 'a new standing committee which replaces the former Declaration of Members' Interests Committee'. Who were the members from Council that sat on the Declaration of Members' Interests Committee?

Mrs Christian: I did.

Mr Waft: I was on the committee.

The President: Mr Waft and Mrs Christian.

Mr Gelling: I would like to vote for Mrs Christian.

Mr Kniveton: I will second that, sir.

Mrs Crowe: I would like to propose Mr Kniveton.

Mr Waft: I second.

The President: Mr Waft seconds Mr Kniveton.

Mrs Christian: I propose Mr Waft, Mr President.

The President: Mrs Christian proposes Mr Waft.

Mr Lowey: I will second. (*Interjection by the President and laughter*) Democracy. See what I mean? that is the only . . . (*Interjections*)

The President: I appreciate the need sometimes, hon. members, to cross talk. Nevertheless, I am also aware that our *Hansard* was having difficulty with the conversation on my left this morning.

Right, hon. members, there is a need to vote for two, and the members in the ballot are Mrs Christian, Mr Kniveton and Mr Waft. (*Interjections*) That is all right, yes. If you have all got your ballot papers, hon. members, the messenger will collect the ballot papers, hon. members, and return them to the Clerk, the Clerk will count. Or shall I count? I shall count them here. Can I not count them here?

The Clerk: It is normal for us to count them and we have tellers.

The President: Okay. Do we need a teller?

The Clerk: Oh, yes.

The President: Mr Attorney will be the teller. (*Laughter*)

The Attorney-General: Shall I leave the . . . ?

The President: It might be interesting, hon. members, to look up in *Hansard* when last there was a ballot in the Legislative Council. (*Interjections*)

A first ballot took place.

The President: Right, hon. members, if you would please, the result of that ballot: Mrs Christian, 5 votes; Mr Kniveton, 6; Mr Waft, 5. We will require to ballot again between Mrs Christian and Mr Waft.

Mr Delaney: Who said democracy does not work?

The President: We need to distribute again ballot papers, and the ballot this time is a straight fight between Mrs Christian and Mr Waft.

Mrs Christian: I couldn't stand down, Mr President?

The President: No, we are in the business –

Mr Delaney: Why don't you do it fairly, Mr President? Put your hands out: one potato, two potatoes. (*Laughter and interjections*)

The President: Two candidates, one place, Mrs Christian, Mr Waft.

A second ballot took place.

The President: Have you completed yours, Mr Lowey? Yes?

Mr Lowey: Yes.

The President: Hon. members, the result of the ballot: Mrs Christian received 2; Mr Waft received 6. Mr Kniveton and Mr Waft are the members of the Standing Committee on Standards and Members' Interests.

Joint Committee on the Emoluments of Certain Public Servants – Members Elected

The President: Hon. members, we now turn to item 7 . This is the Joint Committee on the Emoluments of Certain Public Servants and the election of two members in place of Mr Lowey and Dr Mann. Mr Lowey is eligible for re-election, Mr Waft is a continuing member and I am not eligible for election. Nominations, please.

Mr Singer: Mr Lowey.

Mrs Crowe: Seconded.

Mrs Christian: Mr Gelling. I move Mr Gelling, Mr President.

Mrs Crowe: I would like to second that.

Mr Gelling: I move Mr Singer.

Mr Kniveton: I will move Mr Delaney, sir.

Mrs Christian: I will second Mr Singer.

Mr Gelling: I will second Mr Delaney.

Mrs Crowe: I propose nominations close, Mr President. *(Interjections)*

The President: Well, hon. members, we need to elect two, and I have four nominations. Right, hon. members, you are voting for two. Your candidates are Mr Delaney, Mr Gelling, Mr Lowey and Mr Singer. Can you continue, Mr Attorney, I think?

The Attorney-General: Thank you.

A ballot took place.

The President: Hon. members, did somebody not hand in their ballot paper?

Mrs Christian: Perhaps I did not. I am sorry.

The President: Your candidates are Mr Gelling, Mr Lowey, Mr Delaney and Mr Singer.

Mrs Christian: Sorry. *(Interjections)*

Mr Lowey: That is an abstention. *(Laughter)*

Mrs Christian: We are not allowed to do that.

The President: Yes, hon. members, the result of the ballot: Mr Delaney, 1; Mr Gelling, 6; Mr Lowey, 7; Mr Singer, 2. So, Mr Gelling and Mr Lowey are elected to the Joint Committee on the Emoluments of Certain Public Servants.

Standing Orders Committee of the Legislative Council – Members Elected

The President: We turn, then, to item 8 on the order paper, which is the Standing Orders Committee of the Legislative Council. Former members were myself, Mr Kniveton and Mr Lowey. All members are eligible for election, except for HM Attorney-General, who is an ex-officio member and efficient teller. *(Laughter)* I call for nominations, please, hon. members.

Mr Gelling: I nominate the three previous incumbents, Mr President.

Mr Delaney: Seconded.

Mr Singer: I move the nomination.

The President: If you are happy, hon. members . . . **(A Member: Yes.)** In that case, the three former members, having been proposed and seconded, will remain as the members of the Standing Orders Committee of the Legislative Council.

Hon. members, we now turn to our private part for consideration of our Summaries of Proceedings in the Council of Ministers. Thank you very much for your manner in which we have dealt with this morning's order paper. We will, of course, be adjourning to the sitting of Tynwald on 15th July.

The Council sat in private.
