

REPORT OF PROCEEDINGS OF THE HOUSE OF KEYS (LEGISLATION AND OTHER MATTERS)

**Douglas, Tuesday, 27th May 2003
at 10.00 a.m.**

Present:

The Speaker (the Hon. J A Brown) (Castletown); Mr D M Anderson (Glenfaba); Hon. A R Bell and Mrs A V Craine (Ramsey); Mr R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon. S C Rodan (Garff); Mr P Karran, Hon. R K Corkill and Mr A J Earnshaw (Onchan); Mr G M Quayle (Middle); Mr J R Houghton and Mr R W Henderson (Douglas North); Hon. D C Cretney and Mr A C Duggan (Douglas South); Hon. R P Braidwood and Mrs B J Cannell (Douglas East); Hon. A F Downie (Douglas West); Capt. A C Douglas (Malew and Santon); Mr Q B Gill (Rushen); with Mr M Cornwell-Kelly, Secretary of the House.

The Chaplain took the prayers.

Items Considered

Leave of Absence Granted	K602
Bills for First Reading	K602
Local Government (Miscellaneous Provisions) Bill – Consideration of Clauses Continued	K602
Local Government (Miscellaneous Provisions) Bill – Consideration of Clauses Concluded	K620
Local Government (Miscellaneous Provisions) Bill – Standing Orders Suspended – Third Reading	K620
Approved	
Companies, Etc (Amendment) Bill – Clauses Considered	K623

Leave of Absence Granted

The Speaker: Hon. members, I have granted leave of absence to the hon. member for Douglas West, Mr Shimmin and the hon. member for Rushen, Mr Gawne, who has a prior commitment off the Island in relation to a previous commitment, and also to the hon. member Mr Corkill, member for Onchan, for part of the day's proceedings.

Questions were taken at this point and concluded at 11.00 a.m. These are published separately.

Bills for First Reading

1. *Audit (Amendment) Bill – Mr Karran*
2. *Human Tissue (Amendment) Bill – Mr Karran*
3. *Construction Contracts Bill – Mr Downie*

Local Government (Miscellaneous Provisions) Bill – Consideration of Clauses Continued

The Speaker: Hon. members, item 4 on our order paper is 'Bill for Consideration of Clauses' and we are now at the stage where the hon. member for Onchan, Mr Karran, is introducing the proposed new clause. The next item, therefore, is the new clause as identified on our order paper as [B], and I call on the hon. member for Onchan, Mr Karran, to introduce the principle that the clause be accepted. Hon. member for Onchan.

Mr Karran: Vainstyr Loayreyder, if we allow for the payments for attendance allowances for local authority members then it should be up to the individual members of the local authority to claim that payment. He or she should be paid. Where we have a situation of a parish authority of say, five members, you can have an unfair situation where you have three members who can veto any payments to the other members, who may wish to be paid.

Democracy is about the exercise of choice. If an individual member decides that they wish to be paid for their efforts involved in local authority – local government – so long as the payments are open and accountable to the ratepayers, then I think it would be against the spirit of the 1985 legislation that we passed, for the permitted member of the local authority to be paid when the intentions can be undermined by a simple mechanism of veto in the local authority.

When we passed this legislation it was our intention, the will of Tynwald and the House of Keys, that the members of local authorities should be paid. This was our intention, as I believed, and it was up to the individual members. Our intention was to express that the legislation to individual members to be

empowered to make their legitimate claim for attendance allowance, and it should be up to the individual member to make it. I believe that this is a straightforward matter; it should not be within the power of the local authority to deny any individual member his or her legitimate claim to attendance allowance on the basis of other members making the decision not to be able to claim it.

Any decision to claim should be up to the individual members, and I believe that this was the principle that was behind the original Act when we did so. I beg to move the principle be accepted:

New Clause [B] for agreement in principle –

Allowances for members of local authorities

(1) *In Schedule 2 (attendance and travelling allowances) to the Local Government Act 1985¹ –*

(a) *paragraph 1 is repealed;*

(b) *for paragraph 2 substitute –*

'2. (1) *Subject to the following provisions of this paragraph, a local authority shall pay to each member of the authority who makes a claim in accordance with sub-paragraph (2) an attendance allowance of the prescribed amount for each session during which the member undertakes an approved duty.*

(2) *A member of a local authority who wishes to claim an allowance under this paragraph shall submit his claim in writing, in such form as may be approved by the Department, to the clerk of the authority.*

(3) *Not more than one attendance allowance shall be paid to any person in respect of any one session.*

(4) *The aggregate of the attendance allowances paid to any one person by any one local authority in a financial year shall not exceed the prescribed amount.*

(5) *Allowances under this paragraph shall be treated as allowances in respect of expenses and disbursements in the performance of the recipient's duties.'*

(2) *This section shall come into operation on the 1st April 2004.*

(¹1985 c 24)

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: Vainstyr Loayreyder, I beg to second, and in doing so I am mindful of a local authority, within the sheading of Rushen, that has attracted some correspondence in the media, where one of the members has felt it was appropriate that he should receive payment and the other board members felt that it was inappropriate. I do not want to get involved in that particular argument but certainly the principles that the previous speaker has outlined would have an impact on that arrangement.

My own view is that there is nothing contradictory about receiving reasonable payment and serving the community and in fact, we have just seen within the Board of Education a sizable increase in the allowances paid to members for that.

Again, I make no comment whether that is appropriate or inappropriate but the principle certainly holds true. So I would suggest that there is a reasonable compromise. It is one that Port St Mary board – with which I have the honour to have been a former member – exercise a very sensible compromise where each member receives payment for one meeting per month, no matter how many we actually attended, and that met our reasonable expenses. I, at that time, had a young family and had various expenses that had to be met and, of course, the advantage of that is that people who would otherwise be dissuaded from standing through financial constraints would be able and willing to stand for the important rôle in local authorities. At a time when we are trying to engage with the population, as the electorate, and also trying to redefine the validity of local authorities, I think this is an important principle that would underpin that, so I do fully support the amendment as moved by Mr Karran and the principles behind it. So I would wish to support it on that basis, Vainstyr Loayreyder.

The Speaker: Hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Mr Speaker, I have quite a lot of sympathy for this new clause and some of the other clauses proposed by the hon. member for Onchan, Mr Karran, but, however, I do have reservations and those reservations are going to make me vote against the new clause. The mover of the Bill has already mentioned that he has been out to extensive consultations with all the local authorities and has actually gone out to meet with the local authorities. And it was acknowledged a couple of weeks ago by the hon. member for Onchan, Mr Karran, that he has not been out to consultation with any of the local authorities and I feel that it is inappropriate at the present time if the mover of the Bill has gone out for extensive consultation then these new clauses should go out to the local authorities as well. Mr Karran was given the opportunity a couple of weeks ago by the Chief Minister, saying that there is another amendment – Miscellaneous Amendments Bill – coming through from the department, where those

clauses could be incorporated, if they had been out to consultation.

So I do feel, although I have sympathy, I will be voting against because the mover, Mr Karran, has not been out to consultation with the local authorities.

The Speaker: Hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker. As a significant number of local authorities already pay allowances to members, in principle this is perhaps a relatively minor change to which there can be little objection. Members may already be aware that the issue of whether local authority members should receive attendance allowance has been attracting coverage in the media and it is a matter that as a department we are already looking at. I am in the hands of hon. members here. I am sympathetic to this amendment and the department, for its part, is not opposed to this amendment, but wishes to put on record the importance it places on consulting with local authorities before enacting new legislation or making changes to existing legislation which affects those local authorities.

The mover of this clause has already indicated that when this House was about to consider these new clauses in a previous session, he has not consulted local authorities about this or any other proposal. Hon. members may therefore take the view that local authorities should be consulted on this proposal first and I would respect that view. If it is adopted, this clause would not compel members of local authorities to claim an attendance allowance or travelling expense – if they do not wish to do so. It would simply, as I understand it, place the onus on individual members of local authorities to decide for themselves whether or not they wished to make a claim. In the circumstances, Mr Speaker, I am not prepared to support this clause and recommend members to reject the clause.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: Well, certainly, Mr Speaker, the issue of lack of consultation is of paramount concern to the department and to the Council of Ministers on how we progress this Bill. There is a point of principle too, that I think, at the very least, deserves some consultation with local authorities and that is that this cost falls upon the rates and, at the end of the day, the elected representatives for the local authorities have a responsibility to raise a rate and to set a rate and to take into account all the costs of running local services and running the local authority, and so, although this is, in fact, in all regards most likely to be a sensible thing to do as the hon. mover of this Bill has already indicated, I think at the very least this hon. House should allow the department to consult with the local authorities. How often do we hear of situations where things are done without adequate consultation, and

government is often criticised for that very process, because we have urgency and a need to actually change things?

I would suggest that this particular principle, albeit a minor one in lots of ways, does actually give us the opportunity to show, as a House, that we are respectful of other democratically elected groups and that we do go to consultation, and it will most likely be that we will end up supporting this, because I have a feeling that perhaps the majority of local authorities will not be opposed to this. But I do not know that because we have not asked them and I think it is important: the consultative aspect for which, at the end of the day, we have responsibility as government. This is a government Bill and a private member's amendment. I think we have responsibility to consult and yet it is a bit of a dilemma, because having spoken to hon. members, I know quite a number of members feel sympathetic that in fact, there are only a few people who are excluded from these costs but I come back to the principle, Mr Speaker, that these are rate-borne costs and we are not elected representatives to look after the rates of local authorities, local authority members are and therefore, I think, at the very least we ought to speak with them.

The Speaker: Hon. member for Onchan, Mr Karran, to reply to the debate.

Mr Karran: Vainstyr Loayreyder, I would just like to say that I am so glad to hear that Mr Corkill believes in consultation. I do hope that he will now be withdrawing his proposals for refuse charges for local authorities. He will also be withdrawing a number of other issues like the lack of consultation to the hon. members for Glenfaba and for Middle over the place of the dump up at the Archallagan plantation. He will also be taking consultation over a number of other issues, I believe the likes of the member for Ayre, as far as the lack of consultation and the unilateral decision of the DoT over the radio mast and the circumvention of the law of the Isle of Man, and I wonder . . . And I hope that the hon. member will be –

Mr Corkill: On a point of order, Mr Speaker.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: Government does not circumvent the legislation of the Isle of Man, sir.

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

Mr Karran: Vainstyr Loayreyder, the situation is that I am thinking that the issue of the play as far as consultation with local government, is somewhat inconsistent in that the law for the goose may not be the same law for the gander and I think that this is a bit of hypocrisy. If this House was that concerned about consultation on these four clauses then we could

always suspend standing orders in order to give the government the opportunity to go out to consultation on these four new clauses that are in front of us today, but I fear that that would be just as much political shenanigans as we are getting from the Council of Ministers.

I thank the member for Rushen for seconding this proposal because democracy is about choice, and what we have got is a situation that we want as wide a representation in our community as far as our local government is concerned, and that can be an issue that can maybe stop people with commitments, whether the husband has left or divorced or widowed, and you end up with the likes of child-minding costs, and things like you need someone to mind the children, to go to the meetings at night, to play your part, and I believe that local government is about representation, and I am glad that the hon. member did the parliamentary thing at least to get this thing debated which is something that needs to increase.

I appreciate that he has a constituent in his area that feels particularly aggrieved and I think it is morally wrong that on the issue that if somebody with a fixed income did not play the game - some of these local authorities tend to be more of a club than anything - they would end up finding themselves in a situation where they might not be able to afford – after having a mandate – to keep up that mandate, so I am moving this today because, not that just that issue, but the primary legislation, when we put it forward in the Local Government Act of, I think, 1985, that the principle was that it should be – so long as it is up front, open and transparent – left to the individual members, and if the electorate of that constituency feels that the members should not be paid, and does not want them to be paid, then they vote them out in the following election. I believe that this actually is because of bad drafting that we have the scenario now, where the likes of the hon. member for Rushen's constituent, is in the position where the three members in his board – or maybe four members in his board – do not want to be paid, but want to veto his opportunity to be paid and that was not originally intended in the primary legislation.

As far as Mr Braidwood, the hon. member for East Douglas is concerned, I welcome his support for the withdrawal of refuse charges because of the lack of consultation as far as the issue of local authorities not being given enough time and I hope that he will be as consistent but I do feel that this is not the real reason. This is about parliament and executive and the issue of campaigning in this hon. House to get a parliament that does its job in scrutinising the legislation and sees where there are holes, as far as the legislation is concerned. I believe that in this case, what I am doing, the hon. member for East Douglas, is trying to remedy a shortfall that we did not realise when we brought the legislation in. Maybe the hon. member was not here at the time, so he is not to be blamed for that, but the situation is, I believe, the principle, when we brought in the thing, was to leave it to the individual members,

so long as the people know what people are being paid in their authorities, they should allow for that.

I am not surprised by the hon. member for Onchan taking the one-party line in this hon. House whether it is right or it is wrong it has not got the blessing of the executive. We are supposed to leave our brains at the door of this hon. House and just nod things through or not nod things through as far as the government is concerned.

As far as my hon. colleagues are concerned, as I have said, the principle here is that the primary legislation, I believe, was not drafted right, and I hope that hon. members will see that the principle really has been accepted by the government, but they do not want to use it the way that, I believe, we should be doing, as members of this parliament, and that is amending primary legislation promoted by the executive and we should have the freedom to do so, Vainstyr Loayreyder.

The Speaker: Thank you, hon. member. Can I just advise that members have the freedom to do so. Hon. members, the motion before the House is that the new clause, identified as [B] on the order paper, should be approved in principle. All those in favour say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Mr Quine, Mr Gill, Mr Karran and the Speaker – 4

Against: Mr Anderson, Mr Cannan, Mr Rodan, Mr Quayle, Mr Houghton, Mr Henderson, Mr Cretney, Mr Duggan, Mr Braidwood, Mr Downie, Mrs Hannan, Mr Bell, Mrs Craine, Mr Corkill, Mr Earnshaw and Capt. Douglas – 16

The Speaker: Hon. members, the motion fails to carry, with 4 votes for and 16 votes against.

Hon. members, we move on to the next item on our order paper which is the new clause identified as [C] and I call on the hon. member for Onchan, Mr Karran, to propose the principle.

Mr Karran: Vainstyr Loayreyder, the principle of this legislation is to try and encourage more interest in local government in the Isle of Man and in the elections of local government in the Isle of Man. It is an established practice that should an individual wish to stand for the Board of Education, or for the House of Keys, in these events, the candidates' manifesto and postage is paid for by the taxpayer. It is my contention that that is the right thing to do. I wish to see that established practice extended to local elections as well, especially when you get some local elections in some local authorities where you have as big a constituency base as you would have for standing for the House of Keys. I think it is not unreasonable, I believe that we wanted this Bill forward. The Bill was promoted for trying to get more interest into local government

affairs, and I think it is not unreasonable that this proposal should be adopted in this Local Government (Miscellaneous Provisions) Bill. I beg to move:

New clause [C] for agreement in principle –

Postage of election addresses

In Schedule 1 to the Local Elections Act 1986¹ (application of provisions of Representation of the People Act 1995²), after the entry relating to section 30 insert –

'31 Postage of In subsection (1), for election "Treasury out of money addresses to provided by Tynwald" be paid by substitute "local authority out Treasury of the district fund of the authority", and for "constituency" substitute "district or ward".

In subsection (3)(d), for "Treasury" substitute "local authority".'

(¹1986 c 10)

(²1995 c 13)

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: I beg to second, and in doing so voice one of the concerns that I had raised to me by a number of constituents in discussing this matter and that they have concerns that the motivation for people who might be standing if they were supported in this way, might not be as genuine or as committed as members under the present arrangements, and yes, that is a reasonable concern, but the same could be said for Board of Education or for the House of Keys, and therefore the arbiters of whether there are legitimate reasonable and plausible candidates, is not a matter we should trouble ourselves unduly with here today. It is a matter for the electorate at the time. So if I just flag that up as an issue that has been raised with me, it is one I do take, but I think that is outweighed by the issue of democracy and accessibility into the electoral process. So, with those comments, I beg to second. Thank you, sir.

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

Mr Downie: Thank you, Mr Speaker. As a former local authority member myself, I have no problem with the principle of this and, in fact, I think it would be helpful but the problem that I see is the way the hon. member for Onchan has come forward with this issue. This, the matter regarding the payment of the election expenses, will have to be generated by the local ratepayers. In fairness, some of these local authorities do run a tight ship. If we are going to introduce this legislation now they really need to have some input

into this and get an idea what these things are going to cost them. The hon. member made reference early on to increasing local costs. It is an issue, it is one we have to address and get our heads round and, I think, regard is being had for that at the moment but there again, had there been some prior consultation with the local authorities and we had got some feedback, I would have been more than willing to support this. I am afraid I cannot support this clause at the present time, until we have had the dialogue with the local authorities and an opportunity to see how they are going to raise this additional income and whether they are happy with it.

The Speaker: Hon. member for Malew and Santon, Capt. Douglas.

Capt. Douglas: Mr Speaker, I beg your indulgence sir, but I wonder if I could call for, under standing order 85, the adjournment of the clause debate at this stage because, obviously, we are going along a long and winding course, and I think further discussion should take place between the local authorities.

The Speaker: So you are seeking an adjournment, hon. member?

Capt. Douglas: Yes, sir.

The Speaker: Of the debate? That is a matter for the House clearly, but of course, if you adjourn this item and that was carried, then the hon. member has the right to move the next two clauses –

Capt. Douglas: I want to adjourn the lot.

The Speaker: Well, we have two new clauses before the House, so the adjournment can only apply to this one clause. I think I am correct on that, Secretary, can you confirm that? I will just make it clear then, hon. members, because we do want to be clear on this. Before us we have a proposal for the new clause [C], as it is identified on the order paper, that that principle be adjourned, and therefore, that will in itself adjourn the Bill – is that correct? Maybe just get the Secretary to clarify it?

The Secretary: Mr Speaker, I believe the House could adjourn the clauses stage of the Bill. That would effectively postpone the consideration of all the new clauses, pending the opportunity for consultation. That would be a motion to adjourn the clauses stage of the Bill.

The Speaker: I will leave that. The motion for adjournment has not been seconded yet, so –

Mr Duggan: I beg to second, Mr Speaker.

The Speaker: Right, it has now. So, therefore, we have a debate on an adjournment and that debate is

time-limited? Five minutes' contribution, so hon. member for Ramsey, Mr Bell.

Mr Bell: It was just a point of clarification, Mr Speaker, on my part. I think this would be a wise move to defer these clauses because – (*Interjections*)

The Speaker: Hon. members, please, the hon. member has the floor. You can have your say when you want to get up. Hon. member for Ramsey.

Mr Bell: – there are issues, I think, within some of these clauses which some members may wish to support after proper consultation. But I would just ask, Mr Speaker: am I right in thinking that we are suspending debate from clause [C] onwards and therefore clause [B] would not go or be included in any consultation process which would be expected to follow?

The Speaker: Clause [B] has been rejected by the House and, therefore, it would be a matter for government whether it wished to add anything else into any consultation, at an appropriate time, but the matter before the House is purely the adjournment of the Bill and this new clause for consultation as I understand it. Any other hon. member wish to speak to the adjournment? Hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: I would like to speak to the adjournment, Mr Speaker. I have worked very hard to bring this Bill to the House of Keys. It is a pretty simple Bill, essentially – or it was – until all these amendments were introduced. I have worked with honesty in my heart here to try and improve the process for local elections. I think it is a worthy intent, and these – if the Bill is to continue – is time-based and these will have to be implemented by the end of this calendar year.

If members support this adjournment, I think it will destroy the whole impact of that and we will not be able to proceed because of the fact that it is time-based, that opportunity would be lost, there will be insufficient time to bring it through in the legislative programme which will be a big disappointment to me and a big disappointment to other members in this House who want to see some progress made with the local authority situation on the Isle of Man. We get a lot of comment about this, both within the House, by the public and in the media.

So I would urge members not to support this adjournment, to allow the debate to continue. Albeit a small Bill, I think it is quite important. There has been an enormous amount of consultation by the department with local authorities to bring it to this stage. I am in the hands of hon. members, of course, on this, but I would ask them not to support any adjournment to allow us to discuss the remaining clauses and vote on the whole Bill during this session.

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: Thank you, Vainstyr Loayreyder. I fully accept and appreciate the comments that the previous speaker has just made, in particular in relation to the time-scale. All I would say is that the time-scale is a self-imposed one and I would not be unduly troubled – I make no apology or evasion about the fact that I would not be unduly troubled – if the effect of it was to cause the consequences that he has described. However, there is a wider issue at point here and that this is about democracy, this is about consultation and we have heard a lot of soothing words from government that they believe in consultation, that they will talk to us, they will listen to us, or listen to local authorities. Now, we have a test of that commitment, whether they are actually going to do what they say they will do or whether they are going to, on another pretext, say: ‘Well, it is too late now. We are not actually going to bother talking to people.’

These are worthwhile amendments that the member for Onchan, Mr Karran, has put forward. I support them to some degree – or a lesser degree – depending on the merits of them but, nonetheless, there are valid issues. So, I will be voting to defer this Bill. If the consequence of that is that some of the Bill is lost, well, so be it. But this is not about just this Bill, it is about the commitment of government to actually honour their pledge, that they will consult with local authorities –

A Member: We have done that!

Mr Gill: – so I would argue that a vote to defer is a vote for democracy. A vote to defer is a vote of confidence in local authorities, and a vote to defer is the right thing. So, I hope hon. members will concur with those views, and I hope government will lead by example rather than by empty rhetoric, and will vote to support to defer. Thank you, Vainstyr Loayreyder.

The Speaker: Hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I will vote against the adjournment. I think the most appropriate vehicle would, as I have already mentioned, be for the department to take these new clauses which Mr Karran has been moving back to the local authorities for consultation and incorporate them in a new Miscellaneous Amendment Bill. That is the correct procedure. I totally agree with the mover of the Bill, the hon. member for Onchan, Mr Earnshaw. He has done a tremendous amount of work. Let us get this Local Government (Miscellaneous Provisions) Bill through now and let the department go back with these new clauses to the local authorities and if it is appropriate, to put them in a new Miscellaneous Amendments Bill, and bring them to this House.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker. There are a few points that I just wanted hon. members to be aware of certainly in relation to the hon. member for Rushen, Mr Gill’s comments and his plea for democracy.

Obviously, as government, we accept whatever this hon. House decides and that would be it but I do hope hon. members will vote against an adjournment because, from a practical point of view, we feel that it will be the end of this Bill, because it is time-sensitive inasmuch as in 2004 most, if not all of the parish authorities, are out for election at that time. The intent of the mover of this Bill and the department is to have this legislation on the statute books by the end of the year so that the proper intro time for those elections is available because there are advertisements and all sorts of things that have to be done in due process.

What is occupying the mind of the hon. mover of this Bill is very much the time constraints. The hon. member for Rushen talks about consultation. I know, in talking to the mover of this Bill, that he has spent many hours in the evenings going to the local authorities, talking about the content of this Bill and I would certainly congratulate him for having done that.

The fact that these amendments have come along in the member Mr Karran’s name are, I know, genuinely put forward thoughts in terms of how to improve participation in local authority elections and that is all fine but reality is that there has not been the consultation. So, we talk about democracy, we are talking about local authorities here who are elected democratically by people in their own areas and here we are, not talking to them about things that have an impact on them, and I really feel that we are backing ourselves into a corner here, because these issues, whether voted in or not, in this Bill, can still be discussed with the local authorities.

So, I would say to hon. members, do not adjourn the Bill, let the Bill that is before us move forward, let it become statute, let it do due process with regard to elections and these other issues, either by the department or, indeed, by the mover of the amendments, Mr Karran himself, or in fact, a combination of the two. I am sure whatever is amenable to all concerned can be achieved and these issues can be put to local authorities for their report back so that we are aware of what those views are. That is democracy.

To adjourn the Bill will achieve that process, I agree, but the reality is that the core of the Bill will fade away into insignificance because we will have missed that timetable. And I think that is what is on the mover’s mind, Mr Speaker. I would urge hon. members to go with the Bill, do not adjourn it, let us see what the clauses bring and there is a commitment to look at these issues because, as I have said a couple of weeks ago, there is another local government miscellaneous Bill in the pipeline, and these things, if agreed upon, can be appended to that. Now, this is not all about the executive trying to dominate everything, it is just about consultation with local authorities and we are aware that with regard to these amendments

none has taken place. With regard to the clauses in the Bill, a great deal has taken place.

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

Mrs Cannell: Thank you, Mr Speaker. I rise with a degree of sympathy for the mover of the Bill, in that I am sure that he has put a lot of work into it, but this is what can happen to hon. members who are selected by the Council of Ministers, to take through a Council of Ministers Bill. I have been there, hon. member, twice, and got the T-shirt twice and been burned twice - in the Matrimonial Proceedings Bill with the civil jurisdiction legislation, where members moved all sorts of amendments. It is part of the due process of considering legislation. All sorts of amendments are floated, some that you feel are fairly damaging and others that might be quite helpful, but nevertheless, it is the mover of the Bill's job to defend or to accept, otherwise the outcome of the debates surrounding those amendments, whether they are successful or not.

So, I have a degree of sympathy for him because I have been there and I know that it does not feel very good. Nevertheless, I think it is important that the local authorities are given an opportunity to comment, particularly on the new clauses - and I know the hon. member has consulted and gone out in his own time - as lots of us do - to consult with local authorities on various issues but, nevertheless, I believe these new amendments have been floating for some little time - and I think time has been lost in that they could have been consulted before we got here today. At least a consensus opinion could have been sought from the local authorities in terms of their initial 'gut reaction' to the new clauses and that would have given, perhaps, the mover of the Bill a little bit more 'oomph', in determining whether totally defend or perhaps to be a little bit more flexible.

It is due process, they do need to be consulted. This happens every time that if it is a Council of Ministers Bill, if it is a little Bill like this, it is rushed through. The heavier ones, of course, like the Matrimonial Proceedings Bill: that was put off for months and months and that affected real people and suffering for real people as a consequence of certain members' views in this place to actually put that back.

So, I am sorry, I would have thought that that sort of social legislation would have taken far more importance and weight within this place and it did not. This is a fairly minor piece of legislation, in my view. I do not think that the local authorities will be too bothered at all whether it comes into effect or not, as it is presently printed because I really do think that we are fiddling while Rome is burning in terms of local authorities and with this piece of legislation, if the truth be known.

And there you are, I have revealed my true feeling on it, but I think an adjournment is appropriate. It need not necessarily take that long to consult, it can be a very quick consultation to get a 'gut reaction' of whether there is a principle of favour or not, and that

can be done very quickly, it can be done within a week or two, and this Bill could be back, if necessary.

The Speaker: Hon. member for Garff, Mr Rodan.

Mr Rodan: Thank you, Mr Speaker. I do not think it is surprising that we are getting into this muddle and I think the wish of hon. members for delay in legislation so as to more fully consider the amendments before us is understandable.

I think the problem has arisen, of course, because we have got what is a (Miscellaneous Provisions) Bill which has, unsurprisingly, attracted miscellaneous amendments and it is a fact that those amendments which are quite different from each other require a process of consultation which has not taken place. This is giving the wish on the part of some members to hold pause and ensure there is a consultation.

I am not going to repeat what the Chief Minister has said and other speakers have said. The mechanics of how we properly do that consultation is spelled out, there will be the opportunity of a further (Miscellaneous Provisions) Local Government Bill in the near future which will be the opportunity for these particular amendments to have been fully considered and quite possibly make their way into that legislation.

On this particular clause I think it is quite interesting that this is, of all the amendments by the hon. member for Onchan, the one most closely associated with the main aim of the Bill, which is to do with the election of local authorities and encouraging participation in local democracy, the sending out of election addresses. Interestingly, this did not, in fact, feature as one of the focus group recommendations when the consultations with local authorities did take place, when the various mechanisms or procedures were being examined, this one was not one - to my knowledge - that surfaced at that point.

So it is right that there should be some consultation but I am afraid that if the hon. member for Douglas East thinks it would just be a matter of a week or two, I am afraid it going to be at least a month or two, local authorities, by the way they meet and consider matters, this Bill will be lost if, at this particular stage, we chose to initiate the consultation now, for it would be wrong to do that now. I think there is a lesson for government here because of the time-critical nature of the main provision of this legislation. There is a lesson that in future we should not incorporate something of that sort into a Miscellaneous Provisions Bill. Let us make it a more focused, long title and then we will not be in the position of being obliged to consider miscellaneous amendments.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder. Most of the comments I was going to make have been made by the last two speakers. However, the reason I am on my feet is because of the comments made by the

member for Rushen. He suggested this Bill should actually be adjourned and it would be democratic if we did that and my concern is that this Bill before us has been out to consultation. Not all of it is accepted by all local authorities but it has been out to local authorities and they have discussed the issues and my understanding is that they support quite a number of the issues within this legislation. I am not sure what timetable members are talking about but it would only take a week or two. Local authorities only meet on either a monthly or bi-monthly basis – most on a monthly basis – so even if this consultation starts from today it is going to be another month before that legislation is even considered by these local authorities.

So, it is not a simple issue at all. All the members would have to be there to discuss it and then they would have to report back, so we are looking at something like two or three months before we are able to get comments back on this. I think the issue that has been mentioned by the last two speakers – and some before – is that the legislation is to do with local authority elections, it is to do with bringing them all in line. That is what has been approved by this Bill, in the second reading, that this should happen and that the date should be next year.

I am not necessarily convinced that that would bring the people out. I think you need commitment and a load more issues, before you are going to get a lot more people out to vote at local authority elections because they do not necessarily see local authorities relating to them and I think until we actually get people that are in local authorities who realise and recognise that they need to go out and talk to the people that they represent, I do not think that we are going to get increased turnout because of that.

The issue with regard to postage does come down to maybe this local election but the thing is there, if all the manifestos – everyone will get a manifesto – are posted at no charge, but the thing is, are local authority members going to go out and talk to people? They will get a manifesto but will they go out and talk to people? This is really what we should be looking at, people who are willing and able to go out and talk to people about what they are wanting to represent, and it is not a matter of even a month, going around talking to people. I think you need to start a long time before that, to talk to people and get the feel of the place.

You cannot legislate for that, I realise that, but I think this legislation should be given a chance, it should go through to its third reading and the issues that have been brought forward by the member for Onchan, I believe, can be dealt with by another piece of legislation. And I know that if it is not dealt with within that legislation, he will bring it back as a private member's Bill and that is up to him. He can say that he has been and talked to local authorities but I do feel that we should carry on with this legislation as it is printed.

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

Mr Karran: Vainstyr Loayreyder. I actually support the proposals as far as the adjournment is concerned because I think what we see today is, I understand, that on [A], [D] and [E], they are controversial, but [B] and [C] were not controversial. They are common-sense proposals that should not have been overlooked and I think most people would agree. We have seen in the debate where we had the previous billing there was a complaint from one government minister because it had an effect on ratepayers and the cost, and we have on this one from another government minister complaining because it should not be the taxpayer but it should be the local authorities. You have got to have some sort of consistency, as far as your reasoned argument against these proposals.

I think there has been a lot . . . I must say that I am rather concerned when we hear that somehow the hon. member for Onchan, in 'honest heart', has brought this Bill forward. I would hope that he would understand that in 'honest heart' I have brought my amendments forward, as far as that is concerned. I do not think that the righteousness is just on one side of this hon. House and I would remind him when he talks about consultation, the focus group primarily – I am led to believe – consisted of clerks, not elected members. We have already heard that in the south of the Island one local authority were not even consulted, it was the clerk that was consulted, and I believe that this is the case in a number of local authorities. I know that in my own constituency, which I share with the mover of this Bill, that I do not believe that many of my Onchan commissioners are very happy with the contents of this piece of legislation in front of them, as far as that is concerned.

The Speaker: Could I just remind the hon. member, we do not want a rerun of what you have already presented to the House and also I would remind you that it is an adjournment debate you are actually putting forward whether you support or do not support the adjournment. Whilst the rest is interesting, you have made those points before, hon. member.

Mr Karran: Vainstyr Loayreyder. As far as the adjournment is concerned, I believe that we should support the adjournment. The fact is that there has not been the wonderful consultation. We know what this Bill is about. I am supporting this adjournment not because I am trying to destroy the Bill, but let us be perfectly honest about it, this piece of legislation is a backdoor of bringing in more indirect taxation and more charges to local government. That is what this Bill is about, it is about consolidation and bringing in more charges, as far as that is concerned, and that is what is going to happen. This Bill is a Trojan horse, as far as that is concerned. I am not arguing that point but that is what this Bill is a device to do – not to reform – but to bring in extra charges.

I hope that hon. members will support the amendment because I think that the consultation should be done. I believe we have an example here,

and the previous example, where I believe there was a reasonable argument that should have been allowed to do. I believe that unfortunately the government has forced the more independent members of this hon. House into this mechanism of going for adjournment debate which is a shame because I wanted to have these issues debated on this floor fairly and reasonably and consistently with the rest and that is why I would have been happy to debate these issues but we have seen that members are frustrated with the way that things have just been thrown aside because the government wants that to be the case. I hope hon. members will support the adjournment debate of the member for Malew and Santon.

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

Mr Quine: My points have been covered already, Mr Speaker.

Several Members: Hear, hear.

The Speaker: Thank you, hon. member. I call on the member for Malew and Santon to respond to the adjournment debate.

Capt. Douglas: Thank you, Mr Speaker. I had not realised that we had not quite finished the 'Fireworks Bill'. I think the reason why I brought the request forward is, sitting here and hearing people say: 'I have consulted, we have gone out with consultation', and then finding that people have not really consulted, concern me, and I was not sure at all, that is why I begged your indulgence, sir, on which way I should go. I did feel concerned, particularly when the hon. member for Onchan, Mr Earnshaw, I appreciate what you have done, hon. member, you have worked very, very hard, and I am sure with every ounce of integrity and honesty, and I do not have any problem about that.

What I have a problem with, having already asked a written question in another place, and not had a proper answer back from the local authorities, it does concern me that we are probably doing what they are doing: not consulting. So I felt that I had to make some sort of move. I apologise if I have brought some excitement to the Court this morning but at least I have learned a lot today and I hope other members have learnt a lot this morning about it. I know that the hon. member for Rushen, Mr Gill, is very concerned about the lack of consultation but not unduly troubled by the delay in the Bill. I would be, and I am concerned, when the department has set a target, but then I would have expected that department to have looked at all the angles. Mr Gill actually went on to say that it would show a commitment by government. It would show a vote of confidence in the commissioners, a vote of confidence in this hon. House; all those are fine words and I can agree with them.

Mr Braidwood explained in his usual, very lucid fashion, that there is another way of doing this, and I can see the sense in that, it puts me probably more on the spot now than I was before. The Chief Minister

obviously accepts - he has to accept, as the Chief Minister in a democratic institution such as the ancient and honourable House of Keys - that whatever the House decides, the government has to go with. I suppose it is fair to say that when I did stand up, I did not think it might mean quite the end of the Bill but I think what it has given me an opportunity, as an independent member, is to say: 'Hang on a minute, I think things might be moving a little too fast'.

I understand the urgency to have this legislation in place by 2004, that is obviously critical, particularly to the hon. member, Mr Earnshaw. Amendments are fine but I really think there has been some lack of consultation in this particular case. There are words, phrases used such as 'backing ourselves into a corner'. Mr Karran, in fact, said: 'Perhaps there is a lesson to be learned here by the government'. Perhaps there is a lesson to be learned by every individual member. People should not say, perhaps, they have consulted, when they have not. Perhaps we should talk a little bit more with the government departments, pay, perhaps, more attention.

Mrs Cannell also, the hon. member for East Douglas, had sympathy for Mr Earnshaw's position and the government and, perhaps, she is a lot more experienced than me, perhaps it will never happen that the Council of Ministers give me a Bill to take through. I am well warned, Mrs Cannell, thank you.

It is important that the local authorities are given an opportunity to discuss amendments and time has, perhaps, been lost, as the hon. member for East Douglas has mentioned and perhaps consensus of opinion could have been achieved but then that also worried me a little earlier on in this hon. House when I noted, that perhaps not all the local authority members had been consulted and in some instances commissioners' clerks were actually the main prime movers. That worried me, it would certainly worry me if I was a member of a local authority. I can understand that the wish would be to quickly get this back on course again. I cannot see, for the life of me, how we can do it in such a short period of time.

I think the hon. member for Garff actually, perhaps, put up a signpost for us to say that while this is a miscellaneous amendments Bill, it obviously does give members an opportunity to discuss things but they need to discuss it a bit more fully. So, perhaps a way out is that at some stage to bring in a private member's Bill. I do not know but it was interesting to note that the focus group had not seemed to have discussed this matter. It is an important matter for certain members of local authorities. Some that I have spoken to feel, actually, almost embarrassed to claim expenses, et cetera, and others perhaps, are making a living out of it, I do not know. I doubt the last comment, it is probably not worthy of me saying that.

The hon. member for Peel, quite rightly, points out that local authorities only meet on a monthly or bi-monthly basis. So, again, this probably puts the pointer towards us that it would be probably two to three months before these clauses and the Bill could come

back to us. I hear my hon. friend over here saying, 'October', and the target is next year.

I am quite sure that the department will reach their target but I would say that amendments are very fine but if there has not been any consultation then really not a lot of point in us going through the motions, almost. I think that is probably all I would like to say except that I make no apologies for bringing the motion for the adjournment forward and I thank Mr Duggan for seconding me and it has certainly been a lesson well learnt by me, at least. Thank you, sir.

The Speaker: Hon. members, the motion before the House is that the clauses stage of the Local Government (Miscellaneous Provisions) Bill be adjourned. All those in favour say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Mr Gill, Mr Duggan, Mrs Cannell, Mr Karran and Capt. Douglas – 5

Against: Mr Anderson, Mr Cannan, Mr Quine, Mr Rodan, Mr Quayle, Mr Houghton, Mr Henderson, Mr Cretney, Mr Braidwood, Mr Downie, Mrs Hannan, Mr Bell, Mrs Craine, Mr Corkill, Mr Earnshaw and the Speaker – 16

The Speaker: Hon. members, the motion for adjournment fails to carry with 5 votes for and 16 votes against.

Hon. members, we go back to consideration of the principle of new clause, identified as [C] on the order paper and the hon. member for Malew and Santon, if he so wishes, can contribute to that debate at this point or he can decide to leave it or come in later in the debate. Hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker. I would like to thank hon. members at this point for their support regarding the last vote. I would like to say that I can assure my colleague Mr Karran of my honesty in this, I am again sympathetic to what he wants to achieve here. I personally think it is a good idea. Now, as the hon. member for Garff has already informed members, the matter is not presently under consideration by the department regarding this but I will ensure that it will come under consideration. I do think that in due course it will be worthy of support as long as the local authorities feel comfortable supporting it but there is a cost element to this. In the case of some of the smaller authorities, who have got only a small rateable income, a significant cost, I am aware of that. In terms of Onchan, Douglas and Ramsey, the larger local authorities, it would not have a significant impact but for Malew and Santon and for some of the other small constituencies, Rushen and Arbory for another, it certainly would. I am supporting their view on this. I want to hear their view.

So, whilst this clause seems worthy in principle, and it would be helpful to candidates, there is cost to their ratepayers. I believe because of that, as I have already said, it should be subject to consultation with the local authorities before we bring this forward and for these reasons, Mr Speaker, I cannot support this clause at this stage and urge hon. members to reject it.

The Speaker: Hon. member for Onchan, Mr Karran, to reply to the debate.

Mr Karran: Vainstyr Loayreyder, the issue is, as I say - and the hon. member for West Douglas, who is not here now, was arguing - that it should not be the taxpayer. We had at the previous debate that it should not be the ratepayers and they had to be consulted. We now have the mover of the Bill, who obviously has not read the clause, because the fact is, this is nothing to do with the liabilities as far as the local authorities are concerned, it is coming from the taxpayer and has no effect as far as the local authorities are concerned.

It does concern me with government here that they must always win, even when they are wrong. As I say, the situation is as he says, he cannot support this because he has to support the views of the local authorities but his complaint is, that the situation is, he then claims, that they have not been consulted, as far as these issues are concerned, but he has to support their views, even though he has not consulted. I think we have got really, an awful lot of jiggery-pokery in this House today about the problem with some of -

Mr Earnshaw: A point of order, Mr Speaker.

The Speaker: Point of order, hon. member.

Mr Earnshaw: Just concerning the hon. member for Onchan, Mr Karran's comments, it says here clearly in his amendment, in subsection (1) for Treasury, 'out of money provided by Tynwald, substitute local authority, out of the district fund of the authority, and for constituency, substitute district or ward.' So quite where he is getting the idea that central government are going to fund this from, I do not know.

The Speaker: The hon. member for Onchan, Mr Karran, had the opportunity to clarify that in his reply. Hon. member.

Mr Karran: Vainstyr Loayreyder. The situation is that government can pay for whatever it wants. The issue is that the principle that I was trying to establish in this hon. House, is the principle of the local authorities. You want them to be more interested, you have complained that you want the business community to get involved. If you want people from a cross section with time limited to them then obviously these sort of things are important because you could be talking about several hundreds of pounds, just for postage alone, and I believe that this Bill was promoted to try and encourage more interest in local government.

We have got to have a situation where we are consistent and I believe that this is where this clause should be supported because we said that the promotion of this Bill was for the encouragement, to give people encouragement, and I think that at the present time, if you have not got the time to go round then you have to pay several hundred pounds out for postage to get your message. You are wanting local people to be interested in local affairs and I believe that that should be the case and I beg to move.

The Speaker: Hon. members, the motion before the House is that new clause, postage of election addresses, in principle, that that new clause be accepted. All those in favour say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Mr Gill, Mrs Cannell, Mrs Craine, Mr Karran, Capt. Douglas and the Speaker – 6

Against: Mr Anderson, Mr Cannan, Mr Quine, Mr Rodan, Mr Quayle, Mr Houghton, Mr Henderson, Mr Cretney, Mr Duggan, Mr Braidwood, Mrs Hannan, Mr Corkill and Mr Earnshaw – 13

The Speaker: Hon. members, the motion fails to carry with 6 votes for and 13 votes against.

Hon. members, we now move on to the new clause, reimbursement of certain expenses by local authorities, identified as [D] on the order paper. I call on the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I move this new clause as this is a long-running grievance that I have, that we talk about wanting local government to act responsibly, and I believe, that under the present legislation, we have the situation where we actually penalise local authorities for being productive and proactive, as far as their legal requirements are concerned. We have seen recently in Ramsey that they have done away with by-law control simply because they can get the services free from central government. We are talking about wanting local authorities to be more meaningful and to take their responsibilities responsibly and yet we are penalising the ones who actually do go out to do that. So, in my constituency the ratepayers are paying twice, in the constituency of Peel the ratepayers are paying both in their rates and in taxes, and, of course, the Douglas members are in the same situation. I believe that the whole promotion of this Bill was to make meaning of local government and I believe one of the things that has to be addressed as far local government is concerned and when we talk about local government reforming that, we should not be penalising the local authorities, who do do and act responsibly and do their own statutory duties.

I believe that on the public health side there is one issue that needs to be looked at but I think that is not the priority, in my opinion.

On the side of the building control, I actually believe that because we have not sorted this out when it has been previously raised, that we are going to leave a legacy as far as building controls are concerned, for future generations because we have not had that separation between the overseer of the people who should be checking them by government over local authorities. It has been a matter of poacher-turned-gamekeeper and I think that is not good for local government in itself. So, I do hope that hon. members will debate this issue, in this hon. House:

New clause [D] for agreement in principle –

Reimbursement of certain expenses by local authorities

(1) After section 92 of the Public Health Act 1990¹ insert –

‘92A. Expenses of Department

(1) Where, in pursuance of arrangements under section 2(1) of the Local Government Act 1985, the Department provides technical assistance to a local authority in the exercise of its functions under this Act, the authority shall pay to the Department, at such times and in such manner as the Department may reasonably require, the expenses incurred by the Department in providing such assistance.

(2) Where, pursuant to section 10(1), the Department exercises any functions of a local authority under section 2, 3, 6, 7 or 9 in the district of that authority, the authority shall pay to the Department, at such times and in such manner as the Department may reasonably require, the expenses incurred by the Department in exercising those functions.

(3) The expenses payable under subsection (1) or (2) shall include a reasonable sum in respect of the Department’s establishment charges.

(4) Any question arising under this section between the Department and a local authority shall, in default of agreement, be determined by arbitration.’

(2) In section 34 of the Building Control Act 1991², at the end insert –

‘(5) Where a local authority is not the building authority for the authority’s district, the authority shall pay to the Department, at such times and in such manner as the Department may reasonably require, the expenses incurred by the Department in performing its

functions as building authority for that district (including a reasonable sum in respect of its establishment charges).

- (6) *Any question arising under subsection (5) between the Department and a local authority shall, in default of agreement, be determined by arbitration.’*

⁽¹⁾1990 c10)

⁽²⁾1991 c21)

The Speaker: Hon. member for Douglas East.

Mrs Cannell: Thank you, Mr Speaker. For the sake of democracy, I am happy to second the amendments and in so doing as a Douglas member of the House of Keys, one of seven, I have a great deal of sympathy with what is contained within the new clauses and I do not think it is putting too much of a burden on those local authorities who do not provide for these services and charge their ratepayers for them, such as Douglas and other of the large local authorities, Ramsey being another.

When we look at the new clause in sections (1), (2) and (5), it says: ‘the authority shall pay’, but it says that the department ‘may reasonably require’. So I think it is balanced, I think the new clauses actually balanced, because although it says: ‘the authority shall pay’. It is only what the department *may* reasonably require, equally, they may reasonably *not* require anything other than perhaps a penny for the purpose of the service. So I do not think it is too onerous, the provisions within this new clause. I think hon. members should accept it. I think it will provide a more equal and level playing-field, right across, as the whole purpose, as I have heard, throughout the readings of this piece of legislation, have been for bringing everybody in together, going out the same time of year for elections together, to make them more responsible, et cetera, to give them more responsibility and I think it is fitting and proper that this new clause be up for consideration to hon. members in the House today and I am happy to second.

The Speaker: Hon. member for Rushen, Mr Gill, did you wish to –

Mr Gill: I was just going to rise to second in the same vein as the previous speaker, sir.

The Speaker: Hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I have already said this morning I have a lot of sympathy with some of the clauses which the hon. member for Onchan, Mr Karran wants to introduce and particularly when he mentions the building control officers and the Building Control Act, the amendment to that and, as he has quite rightly mentioned, there is only Douglas,

Onchan and Peel who have now their own building control officers.

Again, Ramsey did away with theirs and now the functions are performed by the Department of Local Government and the Environment. I know that when I was in the Department of Local Government and the Environment I was wanting to introduce a charge for those authorities who use the building control officers of the department, but again, that is only one part, there is another amendment to the section 92 of the Public Health Act 1990 which will have implications for the local authorities.

As I have already reiterated and mentioned, it should go out for further consultation, and therefore, although I have sympathy with what the hon. member for Onchan, Mr Karran, is trying to introduce into this Bill, it would be more appropriate, again, consultation and I would hope that Mr Karran would see sense and put the clauses . . . Work with the department and allow the department to introduce them in a new Bill.

The Speaker: Hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker. This clause is identical to one proposed by my hon. colleague, Mr Karran, in November 1999, during a debate on the Public Health Amendment Bill, which was going through the Keys at that time. Charging for building control services along with other services provided by the department to local authorities is a live issue within the department and is a subject under consideration at present. It is quite wide-ranging, or it could be quite wide-ranging. We do not know what the outcome will be at the moment because it is a discussion stage but because of the complexity and potential wide-ranging implications, adopting change in this area without full consultation with the local authorities, and I think it is very important in this case would, in the opinion of the department and myself, be a most unwise path for us to follow. So, for these reasons, and I thank the hon. member for East Douglas, Mr Braidwood for his comments, for these reasons, Mr Speaker, I urge the House to reject this clause and I will be opposing the proposed clause.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I would reiterate the former speaker’s comments in relation to this, Mr Speaker. In this suggested new clause there is this sort of in-built assumption that this is the right way to arrange the revenues and also to arrange the way inspection is carried out. But equally, one might put an argument to the reverse of that to say that things could be centralised and then, in fact, all these functions could be taken away from local authorities including some of the ones who have that responsibility now and effectively charge the ratepayer for most of the cost of that.

Whether that is the right way or the wrong way, I do not know, but certainly before making a decision on such an issue I would hope to have the benefit of consultation with local authorities, some who have responsibilities, some who do not, to see what their comments are in relation to this. Once again, we are lacking in knowing what their thoughts are on this process and, of course, whether it is one way or the other way, whether you centralise or de-centralise, some of these day-to-day services, is all about local authority reform, and I would suggest, Mr Speaker, that is a debate for another day. Therefore, I would urge hon. members not to go down the road of this suggested new clause because I believe it is premature that we have not had the debate to support the decision on it.

The Speaker: Hon. member, Mr Karran, to reply to the debate.

Mr Karran: Vainstyr Loayreyder, I am glad the hon. mover mentioned the fact that I have put amendments in this hon. House back in 1999 and, I believe, even before that. This issue has been raised particularly about building control. The issue is that here we are, four years on, and what consultation has happened as far as this issue is concerned? I am very concerned in this House that we are having a principle, that we are finding that individual members are supposed to have, with none of the resources.

We have got a terrible problem as far as legislative draftsmen are concerned, trying to catch them, and things like that. Some are trying to turn this House into nothing more than a formal nodding-dog syndrome of which I complained back in the 1986 Council of Ministers' legislation. I am concerned that here we are, four years on from that amendment, and still nothing, and it still an excuse for doing nothing, and I do feel that it is the procedures that are being used today, is the separation of function between the executive and the parliament, that we are really seeing today.

I think it was very enlightening of the Ard-shirveishagh, the Chief Minister, as far as his argument of whether we should be taking the power away from local authorities. I suggest that this piece of legislation will be more used to taking the power away and at least he has been more honest, he has been more up-front, as far as the issue of what this Bill is really about.

This Bill is more about whether there is going to be local authorities that will be able to function independently of central government. I believe we have had this raised several years ago, this is not a new issue. How long do we have to wait before this injustice, to my ratepayers, to the ratepayers of Peel, the ratepayers of Douglas, is sorted out? I believe that because of this present scenario, the likes of Ramsey withdrew from having this facility in Ramsey, and it actually detracts from the local government, that one talks with about the issue.

Vainstyr Loayreyder, I just commit this new clause to this hon. House. I know that one has lost the

vote but I think the principle of it being right, is something that I find that would be impossible, with open minds, to vote against. I beg to move.

The Speaker: Hon. members, the motion before the House is the new clause, identified as [D] on our order paper, Reimbursement of certain expenses by local authorities, and the motion is that new clause, in principle, be approved. All those in favour say aye; against, no. The noes have it. The noes have it.

Hon. members, we move on to the new clause, identified as [E]. I call on the hon. member for Onchan, Mr Karran, and his rating of unfinished properties et cetera.

Mr Karran: Vainstyr Loayreyder. Hon. members, the valuation of unfinished properties is brought about for two reasons. It gives local authority representatives the power to address the concerns of local residents who may be faced with unfinished developments on their doorstep. They are blots on the landscape and it gives local government the ability to deal with developers, so that at least they can come to Treasury to get the rates charged on these things that are being detrimental.

I think, not so much in my own constituency, but I look at certain other constituencies, particular in Douglas, where there are 30 or 40 houses lying empty, and have laid empty for three years, which are an absolute eyesore to the residents in the area. What we are trying to do in this piece of legislation, was give more meaning to local government. It must be very frustrating in that case where the local councillors can do nothing. This is just one way of looking at a way of resolving that.

The issue also deals with developers at present, holding on to a number of unfurnished properties without a completion certificate, and therefore, rates are exempt. This is better than having cash in the bank because the developers have all the benefit of the rates that would have had to be paid to the local authority but not having to be paid as long as the situation continues. We should be encouraging developers, not encouraging developers to drip-feed the housing crisis and the amendment should persuade developers to behave more reasonably.

That is the second part of the first part of this clause, and I must say I have only managed to get a hold of my legal draftsman and I do know that he has said that there are some concerns about the draft of this piece of legislation and I just highlight the issue that parliament needs to get its own legal draftsmen, that is there for the benefit of us as independent members from the executive. That desperately needs to be addressed.

As far as the second part, the present situation where his own land for development can be sat on for years and be a better investment than cash in the bank needs to be looked at by this hon. House. Some residential land is worth around £300,000 per acre. I believe that we should not be encouraging landowners to let land lie, undeveloped, when it is zoned for

residential development. I, therefore, propose that such zoned land be included for rates assessment and collected by local authorities prior to the land being built upon. I believe that this issue should be addressed. I think it is a fundamental issue that should have been addressed. We are talking ever-increasing rate charges and here we have a situation where we have people who hold on to large chunks of developable land. This only affects zoned-land, Vainstyr Loayreyder, and remember, in the old days we used to charge rates on agricultural land, so this is not a new principle but I do hope the hon. members will debate this issue because I think this is an issue that does need debating:

New clause [E] for agreement in principle –

Rating of unfinished properties etc

For section 31 of the Rating and Valuation Act 1953¹ substitute –

‘31. Valuation of unfinished properties etc

- (1) *This section applies to any land in respect of which planning approval has been granted by or pursuant to a development order for the carrying out thereon of any building operations which have not been completed.*
- (2) *The Treasury may, and if so requested by the Commissioners shall, direct that any land to which this section applies shall be valued at its full value as if those operations had been completed.*
- (3) *The Treasury may, for the purpose of making a valuation under this section, require the production of any drawings or specifications in the possession of any person.*
- (4) *In this section “development order” and “planning approval” have the same meanings as in the Town and Country Planning Act 1999².*

31A. Valuation of land zoned etc for building

- (1) *This section applies to any land, where an area plan makes proposals for its development by way of the carrying out of building operations of any description or where planning approval has been granted therefor.*
- (2) *The Treasury may, and if so requested by the Commissioners shall, direct that any land to which this section applies shall be valued on the basis that the gross value thereof were the following amount –*

CV x F

where –

CV = the amount which the land if sold in the open market by a willing seller might be expected to realise;

F = two, or such other factor as the Treasury may by regulations prescribe.

(3) This Part of this Act shall apply to the determination of any amount under subsection (2), subject to such modifications as the Treasury may by regulations prescribe.

(4) Regulations under this section shall not have effect unless they are approved by Tynwald.

(5) In this section “area plan” has the same meaning as in the Town and Country Planning Act 1999.’

(¹XVIII p 258)

(²1999 c 9)

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: For the sake of debate, I would like to second and reserve my remarks.

The Speaker: Hon. member for Middle, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker. I rise to confirm that I will be opposed to this particular amendment as, indeed, with the others I have consistently voted against them. Some of them I have sympathy with but I do feel that I should clarify my position on this that, I think, whereas many Bills could realistically be adjourned to allow for consultation with the local authorities, and so on, this is a particular Bill that is time-restrained and I feel it is very important to have got the whole Bill, hopefully, passed today to make its swift progress through.

There are other Bills that could usefully be sent off for adjournment to deal with the particular circumstances that have been before us today but this is a particular instance, I think, where the Bill should not be de-railed. It is one, because of the time-restraints, with it requiring to be coming in to application next year, that is for that very reason that I have felt obliged to vote against all of the amendments although I have actually had sympathy with some of them. I hope that the hon. member for Onchan, Mr Karran, who, obviously, has put a lot of work into bringing forward these amendments, will be able to work with the Department of Local Government and the Environment so that some of the ones that will find favour could be actually brought back to the House for inclusion presumably with that miscellaneous Bill that has been referred to previously.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder. I seek your guidance. There are two parts to this particular new clause, 31 and 31A. Would they be voted on as one clause or would they be voted separately?

The Speaker: They would be voted as one clause, hon. member, because they refer to section 31 of the Rating and Valuation Act 1953 substitute and it therefore replaces and adds a new clause.

Mrs Hannan: The reason I asked that, Vainstyr Loayreyder, is because I have sympathy with the first part, 'valuation of unfinished properties', because I think if someone is developing the property should be developed and, or at least, in the process of being developed and after a particular time, especially if it is lying empty, I do believe that the person developing should start paying rates and play a full part in the community, whether that is a developer or whether that is a private person.

However, I would have to oppose the 'valuation of land zoned for building' part of it because this could pressurise somebody who did not want their land developed, or for some reason the land could not be developed, because it appeared under the Town and Country Planning Act 1990, as an area plan, could then have to pay rates, and I think that is totally unacceptable. Somebody might not want their land zoned but, after full consultation with the community and before an inspector, the department might either keep land in or even bring land in after the inspector had commented on these issues and, therefore, I think it is quite wrong for us to rate land, that is agricultural land and being used for agricultural purposes, to be developed, and therefore I would have to vote against both parts of this legislation being introduced as one clause. Thank you, Vainstyr Loayreyder.

The Speaker: Could I, just before I call on the next hon. member, just clarify the issue before you, hon. member for Peel. We have a new clause in principle, therefore, that can only be taken as one complete clause. However, if the House resolved to approve the clause in principle, we would then move on to the clause in detail and any hon. member could, with the leave of the House, because there would need to be a suspension of standing orders, to enable an amendment to be put, to delete part of that new clause in its detail. So I hope that clarifies it for the hon. member and for the House. Hon. member for Douglas West, Mr Downie.

Mr Downie: Thank you, Mr Speaker. There are a number of issues which this particular clause actually raises which I do not honestly think are covered within the clause itself.

The first one, the majority of properties, I think, which cause problems are those which were built many

years ago. People buy them for speculative purposes, they acquire them for some larger development and, in fact, they do present problems to the local authority because when they are unoccupied, the level of rate income generated is significantly less than when there are operated.

This clause does not do anything to address those and if you drive down Peel Road in Douglas and along one or two other roads in the Island where there are old Victorian properties there are plenty of them around, they are not just viable at the moment to do anything with them unless someone can acquire three or four of them in a block and then if they are put to another use, well, it increases their viability.

I just want to take the point that was raised by the hon. member for Peel, Mrs Hannan. She is quite right in what she says. You could well have a situation where there is a local plan revision, land could therefore be included in that local plan which, at the end of the day, the person who owns that land has no say in this matter. That land could be tied up in a family estate, it could be vested in a trust somewhere, there could be very little money in that trust, and here we are, stating in this particular clause [E], that those people will have to now pay a charge, a rate, because a situation has developed out of their control and Tynwald Court has decided that the land is going zoned for development. Well, I would suggest that if this clause goes through as it is written at the moment, we could well be seeing some judicial reviews, or petitions of dolence coming forward because it is just contrary to people's human rights. You cannot just do what the hon. member is trying to do.

I can see his point in other areas where, perhaps, builders are putting buildings up and they are slowing the situation down and leaving them empty for a while to let the price go up, to control the market a little bit. I can see the sense in doing that but, at the end of the day, where the Bill, in my opinion, the clause, has a major fault, is in section (1), where it applies to the land in respect of which planning approval has been granted by or pursuant to a development order for the carrying out therein of any building operations which have not been completed. That provides a whole raft of issues which really need to be more clearly defined than is in that section (1).

Section (2): 'the Treasury, and if so requested by the Commissioners shall, direct that any land to which this section applies shall be valued at its full value as if those operations had been completed.' Well, anybody who wanted to ride a coach and horses through that only has to not connect the water supply up to a new building and, therefore, the requirement for a habitation certificate will not come in and, therefore, that property is unfit to live in. So, there is a clear example of how you would get round this particular Act because, quite clearly, there is a development which, although completed, would not qualify to go on to the list to generate rates because of the habitation certificate.

There, again, the hon. member is well intent but I think the thought process has not been fully examined

and how this particular clause is going to be implemented. I think it will bring far more problems if we accept it as it is, than it will actually solve. I accept the hon. member's intentions are honourable and he is trying to deal with a problem which he sees but, sadly, I do not think the inclusion of this particular clause is going to deal with these issues. It is going to present us with a lot more serious issues and cause further problems down the line. Thank you, Mr Speaker.

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

Mr Duggan: Thank you, Mr Speaker. I would, like Mr Downie, point out to the House this morning, I think the member has had a good intent but, unfortunately, I think all those clauses are going to fall because there has been no consultation. As for the derelict buildings, he is quite right, because there are at least 30 or 40 around Douglas; up on West View there is a derelict house there. Again, Robinson's, which is a complete eye-sore, and the local authority has problems. You have only got to go, hon. members, along the promenade and see a derelict boarding house all boarded up. It is an absolute disgrace, it has been like that for years. So the member has got good intentions but, unfortunately, there has been no consultation, and I think all the amendments are going to fall.

The Speaker: Hon. member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Speaker. I am sure that the principle behind all this strikes a chord with a number of members who, clearly, are concerned with the way the property market can be manipulated from time to time on the Island. The hon. member, though, in his presentation of this clause, argues the point that what he is suggesting in all this is not a new principle. I would suggest that very much it is a new principle and it is something we need to do a lot more research on, to think up the side effects, perhaps, of what he is suggesting before we take through this resolution today, this amendment.

I well remember when I was first elected here and it was about the time that you came in as well, there were strong arguments on the Island about the property speculation tax which was in play then. This, and I have to say I was a strong supporter of it at the time, was strongly argued as being the solution to the property speculation that was going on at the end of the 1970s and early 1980s. Ultimately, though, on an objective assessment of it, it was discovered that the people that were being most badly hit by the property speculation tax was not the speculator at all, it was the first-time buyer and those on low incomes getting into the market, and, therefore, ultimately, the tax was removed.

I would suggest, certainly if you look at the first part of it, the rates being charged on unfinished properties, there may well be a small number of properties which are deliberately left uncompleted to

allow the property values to increase a little bit further. How widespread that is though of course, we have had no evidence at all today. We have simply had a sweeping claim that this practice takes place. What I would remind hon. members of though, that what is likely to get caught up in this, is the first-time buyer who is building his own house. We have just, in the last few weeks, announced a scheme for Jurby, where we will have a number of self-build plots which will be available. I have no doubt at all that it is going to be successful and it is likely that it is something that will be repeated elsewhere on the Island.

I well remember back, again at the end of the 1960s and early 1970s, the building by private enterprise scheme which built Ballalough at Andreas. Now that was a very successful scheme but I would suggest that the way those houses were built meant that the houses were built actually over a number of years, in some cases, three or four years, as and when the owner of the plot managed to get enough money together to actually build a house. On the basis of this legislation, as I see it, the very people we are trying to help, would be the first to be penalised under such a scheme which is proposed here.

So I think we need to be very careful, hon. members, before we go down this route to think, quite clearly, about what the wider impact of all this is. It is not enough to have a knee-jerk reaction to say: 'We have got to do something', when there is a problem. We have got to have a clear rationale for why it is being done, how it is going to work, and who is going to be affected by it.

Likewise in the second part of the proposal, again, I know there is concern about releasing land which is zoned for housing, into the market, but as I think, the hon. member for Peel said, there are a lot of people who have their land zoned for housing, who do not want it zoned for housing. I can think of one particular case in my own constituency, which is probably the prime land left in Ramsey for development, who is absolutely adamant that it is not going to be developed for housing, they want to retain it as a working farm.

There will be other people on the Island in the same position. Why should these people be penalised? I would suggest, if any surcharge is brought in, in either of these cases, all that is going to happen is, you are not going to hit the speculator. The speculator will simply add the cost of any penalty that the government applies to the price of land or to the price of property, and ultimately it will be the buyer, as usual, that will be faced with increased housing costs, and I would also, just finally, touch on one point, especially when we are talking about land, what we are arguing today is in the context of the current property market, as we see it today, but do not forget there have been periods – long periods – on the Island, where development land could not be given away for housing development. That land was legitimately zoned for housing, there was no demand for it on the Island, and they kept that zoning for a number of decades, in some cases, not because of any desire not to develop it, because the market just was not strong enough for it. So, let us just

step back from this and realise we need to look, just not at the current situation, but at all the eventualities which may well happen.

I would urge hon. members again, to reject this clause. There are some widespread implications of this. If we are going to go down this avenue, then I think we need to step back and look at it as a separate issue altogether, have some proper investigation into it, proper consultation into it, and a Bill brought back based on that.

I am told from the legal draftsmen's department that they have a concern about the way this clause has been drafted anyway, that it is deficient, even in their own eyes, and really would prefer – as I understand it – to have a look at the whole drafting of it again.

So, Mr Speaker, there are a number of queries over this, the implications of it, the drafting of it, the timing of it, which I believe hon. members should take on board, and reject the clause today, and if there is felt to be an argument for action along these lines, then let us do it in a properly logical and objective manner, so what we end up with is something which is workable and really will have some effect, rather than just pursue this window dressing of saying we are doing something, just for the sake of doing it.

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

Mr Quine: Thank you, Mr Speaker. I think, inevitably, there is a fusion of debate here today in the sense that 'motion', the item before us, of course, relates to the principle, but, of course, the debate has run into, what would very properly be debate on the clauses themselves, if and when, we reach that point.

I think that is an important point to make because a lot of the argument against what is before us has been on the basis that certain aspects of the clause are either inappropriately drafted or not sufficiently embracing to cover the totality of the problem or certain matters have not been looked at in sufficient depth. All perfectly legitimate comments, but I would suggest not necessarily in themselves a bar to an affirmative vote on what is before us because we are here to discuss the principle. There are opportunities which would arise if the principle is endorsed and the clause is moved. There are a number of opportunities that procedurally are available to us to address those questions and I would wish to make that point.

From my own point of view, I believe, there are two principles we are being asked to endorse today, and that is, essentially, whether we should do something in legislation to try to address the problem of unfinished properties which are left unfinished for whatever the reason may be. There is, at least, as one or two other members have mentioned, perhaps that is not the totality of that area because you have also got the problem of dilapidated properties, you have got the problem of unoccupied properties, which may be finished properties, they may be unoccupied and some of that may not fit under this legislation. So I can recognise the difficulties but it does not take us,

necessarily, away from endorsing the principle that we should do something about these problems.

The same with zoned land. Yes, I believe, the leaving available of land which is zoned but not going to be developed is quite wrong. Certainly in our present housing situation, it is quite wrong to leave that land lying there. Again, I can see that there are legitimate interests that would need to be safeguarded in any amendment to legislation, and it may be that the approach to dealing with that problem does not come through this type of legislation. I mean, maybe it comes through the Town and Country Development Act in the sense that if you have got land that is zoned, *you* should be allowed to ask for it to be taken out – or it should lapse at the end of five years. There are other approaches to this and, therefore, just looking at the clauses, I would find great difficulty in supporting them at this time because I do not think the clarity has been brought into the debate as to how we address these issues, but my purpose of getting up was basically to make the point that we are at a stage in considering this legislation where it is the 'principle' that really comes foremost in this. Are we minded or not to do something about the unfinished, unoccupied, dilapidated properties which may fit properly under this legislation, or it may not? Are we minded to do something about zoned land? Those are issues of principle, and as far as I am concerned, I believe, as a principle, what the hon. member is moving, warrants my support.

I am very happy to support that because I think it is a travesty of justice that we have this situation when there is such pressure on housing. We all know the situation and it really is unacceptable that people should be exploited in this fashion and that we, as legislators, should be sitting back and saying, 'Well, it is too difficult to approach.' We should at least move forward and endorse the principle that something needs to be done even if, when we get to the clauses stage, we push it to a select committee, and let them have a crack at it, let them look at the detail. Or, as I say in this case, because of the urgency of the legislation, having endorsed the principle, it may be that we cannot support the clause but we will know and we have been told that there is another Bill coming forward, whether it be government's Bill, or whether it be a private member's Bill, and we can delve into it deeper but at least endorse the principle.

The Speaker: Hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker. I have to say that although this clause is interesting – very interesting in fact – it is well outside the terms of this Bill and I just wanted to get to my feet, as the mover of the Bill, to say that I agree that the proposals, if they were to be adopted, would have far-reaching consequences which would need to be properly evaluated by the proper authority, and this is, of course, the Treasury.

So, as the mover of the Bill I just want to put down my marker that I, too, shall not be supporting this and I will be recommending members to reject it.

The Speaker: Hon. member for Onchan, Mr Karran, to reply to the debate.

Mr Karran: Vainstyr Loayreyder. I would have been happy if the mover would have said that they would have taken on board this proposal. I actually have to say that I welcome the input from the Treasury minister, and he recognises that this issue needs to be debated. I appreciate what he said about the implications of the speculation tax and the dangers of legislation not being well thought out and I think that is a reflection on the structure of how parliament debates these issues in the first place and this is the very reason why I put these clauses here today and why I have moved these clauses. I have to be honest with you, I agree with the hon. member on this clause. This clause does need more consultation but the others did not. This one does but this was a matter of a principle that I believe that people outside this House are crying out that we in government do not care about the housing crisis and the homeless and that we are doing nothing and that we are allowing the developers to make the agenda as far as the housing crisis is going on and that is the reason why these proposals are in front of us today.

As far as the hon. member for Ramsey is concerned, the Treasury minister is concerned, I agree with him that there are dangers with this but I would hope that local authorities that would have the position, would recognise the difference between first-time buyers and developers who are making the residents life in that area a misery with dust and inconvenience. So I would say on that point that it is an unfair criticism.

I do agree with the hon. member for Ramsey when he talks about the zoned land. There are occasions, very occasionally, where you do get people having land zoned, but they do not want zoned, but they should be able to have that land dezoned because what we have had in this House, and in another place, is the nonsense of talking about all this zoned land that never was zoned land. I take in my own constituency the land of Hague Farm. That lady has no intentions of developing that land in her lifetime. She says she is not giving up her vegetable plot for first-time buyers and that is her right but I believe that it is also our right to know where there is zoned land that is real zoned land, and where there is not, and this would concentrate the mind and this is the reason why this amendment is down here today.

I hope that Mr Bell, the Treasury minister, will take on board this new clause and will work with the Department of Local Government and the Environment to look at this issue. That is what I want.

What the hon. member for Ayre is talking about, I believe that the principle of this issue is worthy of support but I actually do agree that the issue would have to go to a select committee for it to have the

detailed appraisal because, at the end of the day, independent members of this hon. House do not have the resources and we are trying to create yet another hope. We have seen the standing orders changed, of where now we have to have the same consultation period with none of the resources to do so.

So, as far as that is concerned, I am disappointed with the member for Ramsey. I would have liked him to have said that he would investigate this proposal with the Council of Ministers, and not be another situation, like the previous amendment, where legitimate concerns were raised in 1999 and nothing has been done in the year 2003.

As far as the member for South Douglas issue, he could have quite easily moved an amendment to this Bill to amend to include the likes of derelict property. This would not be included as far as the proposal in front of you.

The member for Peel's concerns as far as hitting private persons: the whole idea of this Bill is not to be hitting private individuals. It is a device to try and get the practice where developers develop their land so that they have it ready, and all they have to do is to connect it to the water supply to get a habitation certificate for sale and then they pay rates. That is the whole purpose of this piece of legislation. It is not here to affect individuals, it is here to affect the developers, who know the system well at the present time.

As far as the issue of zoning of land is concerned, what I am trying to do is get a clear picture of what land has really been zoned for development.

The hon. member for West Douglas raises a number of points. Again, I would have given him the same advice as to the member for South Douglas, if he was concerned about the issues of older properties and the state, then that was the position that he could have done, like myself, to put in for amendments to this particular Bill. I think he has missed a point and I promise not to be misled this time as far as this clause is concerned about the habitation certificate. This piece of legislation would make null and void the issue of the habitation certificate.

It is a well-known practice at the present time for developers not to connect up so there is no habitation certificate and I think it is appalling, Vainstyr Loayreyder, when I look in my former seat of Middle and I see the situation where there are 20 or so houses in that part where the developer has just held on to those properties and he is milking the situation and he is milking it further up the road and we see a new Braddan plan and he is going to get a load more development land as far as the new Braddan plan is concerned if it goes ahead which it should not do.

But Mr Downie does not put any alternatives up for the way to deal with these pressing social issues. I have brought this forward today to have this issue debated to highlight and hopefully concentrate the minds of the executive party into having to address this important issue. It is an outrage that when you have people on low paid incomes who are going to end up paying horrendous rate charges and you are going to have a situation where you have developers with multi-

million pound concerns and they will pay no rates. They are not affected by this proposal and they are the ones that we want to hit. I believe that if the will was there, there is a way to make this piece of legislation hit the people who are causing so much pain to our constituents but I believe that, once again, there is no will to hit the big guy but we are quite happy to intimidate and bully the little guy and that is the reason why we will not be able to do anything today as far as this fundamental issue is concerned. Vainstyr Loayreyder, I think the principle is worth support. As far as I am concerned I wanted this on the agenda today purely as a debating mechanism. The other clauses, I wanted to see passed today. This clause I want to concentrate minds as a parliamentarian in this hon. House.

The Speaker: Hon. members, the motion before the House is the clause identified as new clause [E], 'rating of unfinished properties et cetera', and the motion is that it in principle is approved. All those in favour please say aye; against, no. The noes have it.

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

In the Keys

For: Mr Quine, Mr Gill, Mr Duggan, Mrs Cannell and Mr Karran – 5

Against: Mr Anderson, Mr Cannan, Mr Rodan, Mr Quayle, Mr Houghton, Mr Henderson, Mr Braidwood, Mr Downie, Mrs Hannan, Mr Bell, Mrs Craine, Mr Earnshaw, Capt. Douglas and the Speaker – 14

The Speaker: Hon. members, the motion fails to carry with 5 votes for and 14 votes against.

Now, then, hon. members, it is time to adjourn the House. The House will stand adjourned until 2.30 p.m. However, I would remind hon. members that I would ask them to be in their seats by 2.25 p.m. to enable the official photograph to be taken. Thank you, hon. members.

The House adjourned at 1.07 p.m. and resumed its sitting at 2.38 p.m.

Local Government (Miscellaneous Provisions) Bill – Consideration of Clauses Concluded

The Speaker: Hon. members we move back to the Bill as printed and I invite the hon. member for Onchan, Mr Earnshaw to move clause 4, sir.

Mr Earnshaw: Thank you, Mr Speaker. Very simply, clause 4 provides for the short title of the Bill. No provision is made for commencement. It will come into force on the day that it is passed, that is when

Royal Assent is announced in Tynwald. I beg to move that clause 4 stand part of the Bill.

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

Mr Houghton: I beg to second, sir.

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

Local Government (Miscellaneous Provisions) Bill – Standing Orders Suspended – Third Reading Approved

The Speaker: Hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: Yes, Mr Speaker. Hon. members will recall in a letter dated 6th May 2003 which I circulated to all hon. members, I did indicate that if the opportunity arose I would ask the House to suspend standing orders to allow the third reading of this Bill to be taken today. As I have already said this morning, the Bill is time-based and suffered an unplanned delay, for procedural reasons, due to the Easter recess. To enable the planned timetable to recover, I shall appreciate the support, therefore, of hon. members in allowing the suspension of standing orders to enable the third reading to take place.

So I beg to move:

That standing order 158(1) be suspended to permit the third reading of the Local Government (Miscellaneous Provisions) Bill to be taken at this sitting.

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

Mr Houghton: I beg to second, sir.

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

Mr Karran: Vainstyr Loayreyder, I will be voting against the suspension of standing orders. I do not see why we should have to suspend standing orders today. Standing orders are there for a reason. I shall be voting against the Bill anyway but I just think that there has not been a good enough reason put down in front of us why we should suspending standing orders at the present time.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder. I will be supporting the suspension of standing orders for the simple reason that, except for the fourth clause in this piece of legislation, everything else has been given time enough between the second reading and the clauses stage prior to the third reading. So I see no problem if there is enough support for it to get a third reading. I will support the suspension of standing orders. I think it is quite reasonable to allow this piece of legislation to proceed especially in the light of its timetable and I do not see any reason why we should obstruct it and I would hope members would support the third reading.

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: Thank you, Vainstyr Loayreyder. I was always of the idea that the suspension of standing orders was to fulfil an urgent requirement which is pressing. The only pressing issue here seems to me to be the time scale which is self-imposed by DoLGE, and I fully appreciate their desire to get this dealt with as expeditiously as possible but there have been a number of issues that have been raised today which do warrant further comment and further considered comment and we are not going to be given time to make that consideration if this suspension of standing orders is allowed. It may be others disagree with that and they are prepared to make their comments more on the hoof but I would prefer that not to be the case. So I would look to the mover to come up with something a bit more tangible than, 'We just want to get on with it', as a reason to suspend standing orders. Thank you, Vainstyr Loayreyder.

The Speaker: Hon. member for Michael, Mr Cannan.

Mr Cannan: Mr Speaker, I fully support the suspension of standing orders. This is a short four-clause Bill, which has been fully debated. We have spent the whole morning debating *proposed* new clauses that have had a thorough airing, that have been voted on, and therefore are no longer part of the Bill and are not subject to comment in the third reading. They are not subject to comment in the third reading. The third reading of the Bill is to comment on the four clauses that have had the approval of this House. I believe that in the interest of good local government, and this Bill has the support of almost all the Commissioners, that we proceed as quickly as possible. I would urge members to support the third reading and let us get on with the business of government.

The Speaker: Hon. member of Onchan, Mr Earnshaw, to reply.

Mr Earnshaw: Thank you, Mr Speaker. I would like to thank the seconder, my colleague within the department, Mr Houghton, hon. member for North Douglas. I would also like to thank the hon. member

for Michael, Mr Cannan, for his support and the hon. member for Peel, Mrs Hannan, for her support.

This Bill is for the local authorities. It is not for DoLGE, it is for the local authorities. They are the ones who, by and large, have asked for this. I said at the outset we could not please everybody for everything but we have done our best to accommodate everybody in the best way that we can, as far as possible. Adoption of this today will give certainty to local authorities for the future, particular the small parish authorities who are due to go to the polls in April 2004.

I do not accept what my colleague for Onchan, Mr Karran said that I had not given reasonable reason for this, I think I have certainly done that. We have got to advertise for local elections, so that is what makes this time-based. So, with that, Mr Speaker, I beg to move.

The Speaker: Hon. members, the motion before the House is that standing orders be suspended to permit that the third reading of the Local Government (Miscellaneous Provisions) Bill be read for a third time. All those in favour say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Mr Anderson, Mr Cannan, Mr Quine, Mr Rodan, Mr Quayle, Mr Houghton, Mr Henderson, Mr Duggan, Mr Braidwood, Mrs Cannell, Mr Downie, Mrs Hannan, Mr Bell, Mrs Craine, Mr Corkill, Mr Earnshaw, Capt. Douglas and the Speaker – 18

Against: Mr Gill, Mr Cretney, Mr Karran – 3

The Speaker: Hon. members, there are 18 votes for and 3 votes against.

Therefore, as it has obtained the required 16 votes, standing orders are suspended.

I now invite the hon. member for Onchan, Mr Earnshaw to move the third reading of the Local Government (Miscellaneous Provisions) Bill.

Mr Earnshaw: Thank you, Mr Speaker, and I would like to thank hon. members for their support for the department of this Bill. As members are fully aware the main provisions of this 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.

Furthermore, local elections will be held in April, on a day to be determined by the department. A firm belief is held by the department that these new legislative proposals will help focus public attention on local elections, simplify the existing procedures, stimulate renewed interest in local government issues in due course, and hopefully, encourage greater electorate turnout at the polls.

Other provisions in the Bill will make it obligatory for all local authorities to make standing orders for regard to their proceedings and business instead of merely allowing them the option of introducing them, and the reasons for this were explained during the clauses stage for the Bill.

The remaining provisions of the Bill will simply correct the faulty cross reference in section 2(3A) Local Government (Miscellaneous Provisions) Act 1994, which deals with the procedure for the removal and disposal of abandoned vehicles.

So I would like to thank hon. members for the consideration of this Bill and for their assistance in taking it through. I beg to move, Mr Speaker, that the Local Government (Miscellaneous Provisions) Bill 2003 be read for a third time.

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

Mr Houghton: I beg to second, sir.

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

Mr Karran: Vainstyr Loayreyder, let us be honest about this Bill. This Bill is about destroying local government as we have it at the present time. Some might argue that that might be a good thing. I think the problem that we see with our track record is the situation where, when we have gone down this line, often we have made the situation worse in recent years for our intervention on so many fronts. Maybe that is to do with our own structure that needs to be looked at, as far as government and parliament is concerned.

This Bill, in my opinion, is just a backdoor method in order to be able to produce another pot of gold for this administration to be able to get at, through the fact that they want to bring taxation away from the situation where it will be on how much you earn, onto the rates system. I am very concerned today, that once again, we are allowing something to be brought through that has not been thought out as far as the implications are concerned. You have got the issues about refuse rates coming up in the very near future and I believe that this Bill is a Trojan horse, and I do feel, that this way it has not been allowed to be thought about until the next sitting, will come back to haunt this House.

I have also raised the issue which concerns me greatly, is the fact, the likes of those people who were elected last year, on a three-year mandate, their mandate has just been made null and void for the following two years, as far as that is concerned. I am concerned, I believe that we have a Bill that is a Trojan horse for other agenda. My concern is that we talk about consultation, and yes, I know that criticism is levied at the likes of us back benchers when we move amendments to the legislation but I do not believe this Bill has the wholesale support that it is being made out that it has as far as local government is concerned and

I personally feel that members should err on the side of safety and vote against this Bill.

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: Vainstyr Loayreyder. I recognise that this Bill has got overwhelming support in this House and I respect that but I would just ask, in summing up, if the hon. mover could give an indication that the claim is made that the provisions of clause 1 will see an increase in the voter turnout. If that is the intention, I have no doubt that the department would have made some estimation of what kind of percentage would actually be acceptable to them to justify these changes, which I would reiterate, sir, have met – certainly in the South – with resistance and opposition and I would not like it to go unremarked that has not been the case.

So, perhaps in summing up, sir, we could have a percentage that would justify these measures, and time will tell if they are actually justified in that or, if I sadly anticipate, they prove to be flawed. Thank you, Vainstyr Loayreyder.

The Speaker: Hon member for Ramsey, Mr Bell.

Mr Bell: Thank you Mr. Speaker. Just a couple of points. First of all I will be supporting this Bill. I know there are differing views around the Island but there has been extensive consultation carried out by the mover of this Bill and his department and I believe there is some concern, perhaps, remaining in some areas. The general consensus is still very much in support of the direction the department is going.

I would just like to comment on one issue where I was brought to my feet, an issue raised, again, by the hon. member for Onchan which, I do not think, should be allowed to go unchallenged and that is his description of the Bill as being a 'Trojan horse', implying, in effect, that the Council of Ministers is using this Bill as a backdoor method of raising more revenue for government. His comments that this is a measure to transfer from direct taxation to rate-borne charge and I would like to make it very clear that that is most definitely not the case.

The implication I would assume in that is that Treasury has a hand in it and I want to make it very clear that that is not the case. Hon. members – although Mr Karran would appear still to be deaf to the explanation – are well aware of the rationale behind the taxation strategy and the fact that it is driven by an external agenda which we have to respond to and that is the savings directive and the code of conduct coming out of Europe. If we do not do that, if we had not taken the measures we have done, we would have had very serious problems in other areas.

So, Mr Speaker, I just want to make it very clear for the record, this is not a Trojan horse being slipped through on behalf of Treasury to earn extra revenue. It is a direct response to pressures being brought to bear on us and on the Channel Islands by the European Union and hence the tax strategy which we are now implementing which, I would remind hon. members,

was voted for almost unanimously with the exception of one person, last October.

The Speaker: Hon member for Michael, Mr Cannan.

Mr Cannan: I just want to say that this is positive, progressive legislation in respect of local authorities. We are going to have an all-Island election on one day for all authorities. They then can go in on a mandate of what they want for their authorities rather than the staggered elections with people with various mandates and with various matters that were relevant at that time. There will be one view and the people will be able to speak and take more interest in local elections because they know the whole of the Isle of Man will be voting on the same day. I think it is important.

I think it is important also that the local authorities are seen, and able, to influence local affairs a great deal more than they are now and that central government takes more notice of them in the future because at the moment, I know from one local authority, which writes letters in support of a certain action that is needed to be taken – I will not mention which it is – its letters too, in that matter, seem to be put in the bin. I wish the elections well next April when they take place.

The Speaker: Hon. member for Onchan, Mr Earnshaw to reply to the debate.

Mr Earnshaw: Thank you, Mr. Speaker. First of all I would like to thank my seconder, the hon. member for North Douglas, Mr Houghton. Just to address some of the comments that have been made and I will start these in the reverse order with the hon. member for Michael, Mr Cannan. I know, like most members I believe in here, Mr Cannan is supportive of progress in the local authority system but progress in the right way and that is what we want to see. We do not want to be progressing in the wrong way, that does not work to anybody's benefit.

The Minister for Treasury, hon. member for Ramsey, Mr Bell, is quite right in what he said. I thank him for his support but he says it is not a panacea for everything in the local authority system. It certainly is not. He is also right when he says it is nothing to do with revenue. This was basically a very simple Bill. It might have been wise to have named it a little bit better. I have learned from that experience I hope, but it is nothing to do with revenue.

The hon. member for Rushen, Mr Gill, asks me to identify a percentage improvement that might appear at the polls. Well, it is absolute nonsense that I could take any sort of stab at that. We hope it is a move in the right direction. I have said countless times now that this is really at the behest of the local authorities. They are wanting to improve their own turnout at local elections. We are trying to give them a mechanism to raise the profile to do that and we certainly hope it will succeed, but only time will tell and I doubt if we are going to see any great improvement in 2004. It is a

long-haul process but I think a lot of it comes down to the efforts candidates make themselves. If the candidates make a big effort, they get a good turnout. The department, for its part, will be doing its best to raise public awareness of the election process but we have absolutely no influence about how candidates will conduct themselves and what effort they put in. We hope it will be positive all round from that point of view.

The hon. member for Onchan, my colleague Mr Karran, alludes to a conspiracy theory here with his Trojan horses and the things that we have heard so many times before. I believe Mr Karran supports change in the local authority process as well. He has had five clauses put down on this Bill to that effect, so to say that he is not in favour of change does not seem to stack up in my mind. I think, certainly, the facts are before us and he does support change in the local authority process, and some of the amendments, the clauses that he put down I think are good ones and that is my view. It will remain for the department and the consultation process to take its course and we will find out what comes out on that at the end of the day.

The final comment I am going to make, Mr Speaker, is to reiterate that consultation has been full on this, and there will be more consultation to come on other matters which will be brought forward at a future date. I beg to move.

The Speaker: Thank you hon. member. The motion before you is that the Local Government (Miscellaneous Provisions) Bill now be read a third time. All those in favour say aye; against, no. The ayes have it. The ayes have it. Thank you, hon. members.

Companies, Etc (Amendment) Bill – Clauses Considered

The Speaker: We now move on to the next item on our order paper which relates to the Companies, Etc (Amendment) Bill 2003, and I call on the hon. member for Ramsey, Mr Bell, to move clause 1, sir.

Mr Bell: Thank you, Mr Speaker. Clause 1 substitutes a new section for section 17 of the Companies Act 1931. The new section incorporates the current provisions contained in both the existing section 17 and in the existing section 8 of the Companies Act 1974. It also includes some new provisions relating to the use of company names.

The new section 17 changes the law as follows: subsection (1)(b) allows the Financial Supervision Commission to place conditions on the use of certain company names and subsection (2)(b) permits the Commission to issue guidance notes on what criteria what will apply in deciding whether a name is undesirable.

Subsection (2)(c) gives the Commission power to prescribe forms for use in connection with name approval, and subsections (3) and (4) allow the Commission to change a company's name on the

register, if the company fails to do so, within six weeks of the Commission having directed it to change its name. The Commission must then place a record on the company's public file, held by the Companies Registry, of both the direction for the company to change its name and the new name ascribed to the company by the Commission.

Subsection (5) introduces a right of appeal to the court, in respect of either: (1) the Commission refusing to register a company by a particular name or change of name; or (2) the Commission having directed the company to change its name. The court may set aside such a refusal or direction, in which case the company would be able to use the name of its choice. Alternatively, the court may order the company to comply with the Commission's instructions. The court may also specify the period in which the company must comply and the terms and conditions relating to such compliance.

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

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clause 1 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 2, hon. member for Ramsey, Mr Bell.

Mr Bell: Clause 2: by replacing the current section 36 of the Companies Act 1931, clause 2 will further relax the obligation on a company to file a prospectus, in the form set out in the fourth schedule to the Act. This applies where the company has already been accepted for a listing on a recognised stock exchange. The purpose of filing a prospectus is to make available to the potential investors the information they would need in order to make their investment decision.

The new provision allows a company that proposes to make a public offer of its shares or debentures to file a prospectus in the Isle of Man in the form acceptable to the listing exchange, provided that exchange is defined as a recognised investment exchange under the UK Financial Services and Market Act 2000. Mr Speaker, I beg to move clause 2 stand part of the Bill.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

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

Can we take clause 3 and 4, sir. Hon. member for Ramsey, Mr Bell.

Mr Bell: Clause 3, Mr Speaker: hon. members may recall that Mr Andrew Edwards in the Home Office Review of Financial Regulation on the Crown Dependencies, considered the ability of an Isle of Man company to issue share warrants to bearer, to be undesirable. This is because criminals could potentially conceal their identity behind what are commonly referred to as bearer shares. To address the criticism by both Mr Edwards and others in connection with internationally accepted standards for the prevention of money laundering, clause 3 substitutes a new section 71 of the Companies Act 1931. This prohibits companies from issuing share warrants to bearer, while transitional provisions honour the rights attaching to warrants currently in use. The holder of a share warrant may have rights to receive dividends or to vote at general meetings of the company. This gives the holder a property right because it would not be equitable to extinguish the property rights attaching to existing share warrants.

Subsections (3) and (4) permit the holders to exercise their rights, provided they first register as share holders. This will only apply to any share warrants issued before 1st April 2004 when the prohibition on the issue of share warrants to bearer comes into operation.

Clause 4 is a new section substituted for section 72 of the Companies Act 1931 by clause 4. This clarifies the law and changes the penalties for impersonating a shareholder or holder of a share warrant to bearer. If convicted in the lower courts the penalty will be a fine, and if convicted in the higher courts, a fine not exceeding £5,000. Mr Speaker, I beg to move clauses 3 and 4 stand part of the Bill.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clauses 3 and 4 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 5, hon. member for Ramsey.

Mr Bell: Clause 5 inserts a new section 85A to the Companies Act 1931. This allows a company to register changes to the particulars of an already registered charge or mortgage.

Subsection (3) specifies that sections 80 and 81 shall not apply and therefore will not be mandatory to register such changes. Furthermore, because such registration does not alter the charge itself, the FSC will not be required to issue a new certificate.

Subsection (2) does, however, require the Commission to place the notification of change of particulars on the company's public record.

Mr Speaker, I beg to move that clause 5 stand part of the Bill.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clause 5 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 6, hon. member for Ramsey, Mr Bell.

Mr Bell: Clause 6 substitutes a new section for section 94 of the Companies Act 1931.

Subsection (1) replaces the current requirement for a company to display its name outside every office or place in which it carries on its business by requiring that the name must be prominently displayed where the public has access to that place of business. The company name might, therefore, be displayed in the reception area inside an office building.

Subsection (1) also requires a company to show its name in all official documents to be signed on or on behalf of the company. This includes but is not limited to all documents described in the current provision.

Subsection (2) allows corporate service providers who are licensed under the Corporate Service Providers Act 2000 to display a notice stating that a list of the names of the companies that use the CSP premises as their registered office can be inspected by the public during office hours.

The new subsections (3) and (4) cover the provisions in the current subsection (3), that is the sanction of the company for non-compliance, and the current subsection (4), that is the section on director and manager, et cetera. The application of the sanction now only refers to every officer of the company. The definition of officer in section 3(41) of the Companies Act 1931 includes a director, manager or secretary.

The change reflects that an officer of the company either has specific statutory duties for the company's affairs, or is, by custom, expected to be responsible for specific affairs of a company. It would not be fair to place a sanction for non-compliance in respect of the publication of the company's name on persons who are not officers of the company.

Mr Speaker, I beg to move that clause 6 stand part of the Bill.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

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

Mr Karran: Vainstyr Loayreyder, I am a little bit concerned about this publishing of names. I would like the Shirveishagh Tashtee, the Minister for the Treasury, just to clarify, when it talks about the prominent display of companies' registered names displayed in public, and now it is going to register open for inspection. What happens if you have the situation where you have got three or four corporate service providers in the one building? You could end up running round the whole of the building trying to find out who is actually providing the service. I am a little bit concerned that when it had to be on the front of the building or on the inside of the building, you could go in and you could see, if there was two or three corporate service providers, there would be a plaque with them all on and you would know who was responsible. Now, under this legislation, and maybe I have read it wrong, the situation is the different providers have to provide a book with it in which the public can inspect.

Now my concern is: when you register the likes of a company, who is running it? The situation is that it is the name and the address of the building, so that you can have two or three firms working out of the one building. The danger I see is that it makes it much more difficult for people trying to find out information on that company, because they have got to first get to that building, then they have got to inspect maybe two or three different companies' registers within those different company corporate providers. I am just concerned that actually we might be going backwards, instead of going forwards, as far as this issue is concerned, and I just wondered if the mover of the Bill had any observations.

Concern is being expressed to me on the issue of if you want to serve something on a company, then you have got to find out who actually are the ones running the company. This is going to make it more difficult to do so because of the fact that you are doing away with the plaques at the entrance of the building and I would just like to know what is the position.

The Speaker: Hon. member for Ramsey, Mr Bell, to reply to the debate.

Mr Bell: Yes, Mr Speaker. This is a very straightforward measure. It simply allows the company, instead of having the names of all the companies registered in a particular office, to have it either displayed on the outside of the building or in the public space within the building now to have the names on a register. I really do not see that this is going to be a big change from before.

The hon. member says that somebody checking out the company would first have to get to the building and find the building. Well, of course, they would have to do that now anyway. Nothing has changed on that front. They would have to check several registers, conceivably that would be so, but I would think, as far as I understand it anyway, a rare occasion where several CSPs share a single building. They normally operate an independent property and therefore there

would be a simple register to check there, and checking a register would be just as easy and accessible as checking a list on the wall, I would have thought, and if someone has to serve notice on someone, this in no way is going to prevent a notice being served on a company, simply because the method of display to the public has changed from a plaque on a wall to something in a register.

I could perhaps understand where the hon. member is coming from but I do not see that there is any major change here that would make it any more difficult to identify the companies, or as I say, take action against them if, indeed, if it was deemed necessary.

The Speaker: Hon. members, the motion before the House is that clause 6 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Hon. member for Ramsey, Mr Bell, clauses 7 and 8.

Mr Bell: Clause 7, Mr Speaker, substitutes a new section for section 108 of the Companies Act 1931. This sets out the requirement for the annual return made to the companies registry by companies that do not have a share capital and companies that are limited by guarantee. The new section 108 specifically excludes a company that has a share capital but is limited by guarantee which is generally referred to as a hybrid company. It alters the annual return requirements for companies not having a share capital and companies limited by guarantee by requiring: (a) disclosure of the particulars of the company's secretary as shown in the companies register of secretaries, (b) the number of members of the company and the total amount guaranteed by those members in the event of the company going into solvent liquidation; and (c) the company's principal business or activity by reference to such categories of business or activity as may be described by the Commission by regulation.

Clause 8 inserts a new section, 108A, into the Companies Act 1931. This will bring the annual return for a company limited by guarantee, and having a share capital that is a hybrid company, into line with the shareholder and guarantee member disclosures required respectively in the annual return of a company limited by shares and a company limited by guarantee.

A hybrid company will be required to disclose in its annual return, the names of the shareholders at the date of the return and the number of shares held by each such person, and any changes since it last made its annual return. It will also be required to show the number of guaranteed members and the total amount guaranteed by those members in the event of the company going into insolvent liquidation.

In addition a hybrid company's annual return will also be required to show the particulars of the secretary of the company, and its principal business and activity by reference to the categories of business or activity prescribed by the commission by regulations.

I beg to move, Mr Speaker, clauses 7 and 8 do stand as part of the Bill.

The Speaker: The hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon members, the motion before the House is that clauses 7 and 8 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Hon. member for Ramsey, Mr Bell, clause 9, sir.

Mr Bell: Clause 9, Mr Speaker: the substituted section 144 of the Companies Act 1931, uses the expression 'official documents', which includes but is not limited to, the currently specified trade catalogues, trade circulars, show cards and business letters. It also clarifies that 'official documents' include communications sent electronically. The current requirement to include the nationality of a non-British director has been removed, also the expression 'Christian names' has been changed to 'first names'. Mr Speaker, I beg to move clause 9.

The Speaker: The hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion for the House is that clause 9 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 10, hon. member for Ramsey, Mr Bell.

Mr Bell: Clause 10 substitutes a new section for section 273A of the Companies Act 1931. Section 273A provides an alternative procedure for a solvent company to be dissolved quickly and easily and the new section alters the current procedure in the following respects.

Subsection (1) restricts the application of section 273A to private companies.

Subsection (2) and the addition of the words 'to the best of his knowledge and belief' qualify the requirement for an officer or a member of the company to make a statutory declaration that the company has no outstanding liabilities. The statutory declaration must also advise if there has been any change to the company's particulars shown in its last annual return.

Subsection (3) provides that when the Commission receives an application for dissolution it will be responsible for advertising the proposed dissolution. It will also be responsible for checking if the Assessor of Income Tax, the Collector of Customs and Excise or the Attorney-General has any objection to the company being dissolved.

Under subsection (4) the period allowed for Income Tax, Customs and Excise or the Attorney-General to raise their objection is one month. However, they may apply to the court for an extension of that time period.

Currently a company can be dissolved after it has notified the Commission that it has distributed its surplus assets.

Subsection (10)(ii) allows a company to be dissolved even if it is unable to distribute its surplus assets. Any assets remaining in the company's name when it is dissolved will be deemed *bona vacantia*.

Subsection (12) now also allows an officer of the company to apply to the court for the company to be restored to the register.

Subsection (14) introduces a power for the Treasury to make regulations in respect of waiving fees due to the Commission for the statutory filing of documents or the performance of any of the Commission's functions or the payment of non-resident company duty. Mr Speaker, I beg to move clause 10 stand part of the Bill.

The Speaker: Could I just say to the hon. member: I think you have missed subclause (13) unless you covered it when you . . . You went straight from (12) to (14).

Mr Bell: I am sorry, Mr Speaker, I have not got an explanation of subclause (13) on my script, but subclause (13) states that an order under subsection (12) may be made on such terms and conditions as the court thinks fit – which is the best explanation I can give at this point.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clause 10 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 11, hon. member for Ramsey, Mr Bell.

Mr Bell: Thank you Mr Speaker. If I could just refer back to that subclause, I think the reason it has been overlooked in my brief is that there is no change at all. It is exactly the same as stands at the moment and, therefore, it was not referred to.

The Speaker: In appreciating that, hon. member, I think the House still needs to have it presented, as you did. Thank you.

Mr Bell: Clause 11, Mr Speaker, substitutes a new section for section 312 of the Companies Act 1931. The current section 312 places an obligation on any company incorporated outside the Isle of Man which I will refer to as a 'foreign company', to register under part 11 under the Companies Act 1931, if it carries on business in the Island. The new subsection (1) repeats this provision.

Subsection (2)(a) incorporates the current provision in section 314(2). A foreign company that holds land

in the Island will still be construed to have established a place of business in the Island. However, the new subsection (2) adds that if land is held by way of security only, the foreign company will not be required to register.

Subsection (2)(b) introduces a power for the Treasury to make regulations if in future it becomes necessary to define certain activities as falling within their requirements to register under part 11.

So, Mr Speaker, I beg to move clause 11 stand part of the Bill.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clause 11 do stand part of the Bill. All those in favour say aye; against no. The ayes have it. The ayes have it.

Clauses 12 and 13, hon. member.

Mr Bell: Clause 12, Mr Speaker, substitutes a new section for section 315 of the Companies Act 1931. This clarifies the existing requirement for a foreign company to notify the Financial Supervision Commission of any change to its registered particulars.

Clause 13: the new section 315A of the Companies Act 1931 introduces an obligation for a foreign company to make an annual declaration confirming that the company still maintains a place of business in the Island and that it has complied with its obligations under the Companies Act 1931.

Under subsection (2), failure to confirm that a foreign company is still maintaining its business in the Island will result in the Commission placing a notice in the company's file. It will then be clear from the public record that the company is in default with its statutory obligation to make the annual declaration and the public will, therefore, be put on notice that the company might no longer be maintaining a place of business on the Island.

Mr Speaker, I beg to move that clauses 12 and 13 stand part of the Bill.

The Speaker: Hon. member for Onchan, Mr Corkill.

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

The Speaker: Hon. members, the motion before the House is that clauses 12 and 13 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 14, hon. member for Ramsey.

Mr Bell: Clause 14 substitutes a new section for section 317A of the Companies Act 1931. This introduces a new obligation on a registered foreign

company to state the names of its directors on all of its official documents. I beg to move.

The Speaker: Hon. member for Onchan, Mr Corkill.

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

The Speaker: Hon. members, the motion before the House is that clause 14 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clauses 15 and 16, hon. member for Ramsey.

Mr Bell: Clause 15, Mr Speaker: the amendment to section 340A of the Companies Act 1931 made by clause 15 allows the Financial Supervision Commission to prescribe any form for use in connection with the Companies Acts 1931-93 and not just where a particular section already specifies that the submission of particulars must be in the prescribed form. The new section 340A also allows the commission to make regulations in respect of how documents must be certified, where certification is required.

Clause 16 introduces the new section 340B that specifies the Tynwald procedure to be followed in making any public document under the Act. The procedure allows Tynwald to annul the measure, either at the sitting at which the public document is laid, or at the next sitting.

I beg to move that clauses 15 and 16 stand part of the Bill, Mr Speaker.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clauses 15 and 16 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clauses 17 and 18, hon. member for Ramsey, Mr Bell.

Mr Bell: Mr Speaker, clause 17 substitutes a new section for section 11 of the Limited Liability Companies Act 1996. Section 11 provides for the Financial Supervision Commission to strike a limited liability company's name off the register and dissolve the company. The cross-reference to the Companies Act 1931, is replaced in the new subsections (1) to (5) by the inclusion of the equivalent provisions to those in section 273 (1) to (5) of the Companies Act 1931.

Subsection (6) introduces a right for a limited liability company or any member or creditor of the company to apply to the court for the company to be restored to the register. An application may be made within 12 years from the date on which the company

was struck off the register. If the court is satisfied that the company should be restored, it will order its restoration on payment of whatever fee is prescribed by the commission.

Subsection (7) describes how the notice of the commission's intention to strike a limited liability company's name off the register must be sent to the company, and in the case of a company in liquidation, to the liquidator. If the commission has reason to believe that the company does not have a registered office the notice may be sent to the manager, registered agent, or any member of the company, or to the persons named in the company's constitutional documents.

Subsection (8) introduces as a ground for the commission to believe that a limited liability company is no longer in business, failure by the company to submit its annual return within six months of its due date.

Subsection (9) states that the offence under section 10 in respect of non-compliance with the requirement for a limited liability company to file an annual return is unaffected by the provisions of section 11.

Subsection (10) explains the method of publication by the commission of a notice of its intention to strike a limited liability company off the register.

Clause 18 inserts new sections 11 A, B, C and D in the Limited Liability Companies Act 1996.

The new section 11A introduces to the Limited Liability Companies Act 1996 an alternative procedure for dissolving solvent limited liability companies.

Subsection (1) provides that the registered agent or any member of the company may apply to the Financial Supervision Commission for a limited liability company to be dissolved.

Subsection (2) provides that the application must be accompanied by a declaration made by either a manager or member of the limited liability company, that to the best of his knowledge and belief the company has no outstanding liabilities. The statutory declaration must also advise if there has been any change to the company's particulars shown in its last annual return.

Subsection (3) provides that when the commission receives an application for dissolution it will be responsible for advertising the proposed dissolution. It will also be responsible for checking if the Assessor of Income Tax, the Collector of Customs and Excise, or the Attorney-General, has any objection to the company being dissolved.

On subsection (4) the period allowed for Income Tax, Customs and Excise or the Attorney-General to raise their objection, is one month. However, they may apply to the court for an extension of that time period.

Subsection (5) requires that before making an application for dissolution the applicant must advise, (a) the registered agent, and (b) if the members of the limited liability company have appointed one, the manager, of the intention to apply for dissolution, offering them the opportunity to object.

The commission is prohibited under subsection (6) from making the declaration of dissolution before the

expiry of one month period allowed for objections to be raised. If the commission receives any objection it must advise the applicant of the name of the objector. The dissolution will not proceed unless the commission considers the objection to be groundless and there has been no appeal against the commission's decision or the objection is withdrawn.

Subsection (9) requires that when the commission is in a position to make the declaration of dissolution it must advise the limited liability company that it may distribute its surplus assets amongst its members. The distribution should be in accordance with the company's articles of organisation, operating agreement or as otherwise agreed by the members.

Subsection (10) requires the limited liability company to advise the commission when it has distributed its surplus assets so that the commission can publish a further notice advising the company is dissolved.

Subsection (11) provides that every manager and member of the company remains liable for the actions of the company after it has been dissolved. The court's powers to wind the company up remains after it has been dissolved and its surplus assets distributed.

Subsection (12) allows the commission, or the manager, if one has been appointed, a member or a creditor of the limited liability company, to apply to the court within 12 years of this dissolution, to have the company restored to the register. The court may, if it is satisfied, revoke the dissolution and order the restoration of the company to the register. The court may also give directions in connection with the company restoration.

The new section 11B repeats the relevant provisions of section 273B(1) to (9) of the Companies Act 1931, adapted to reflect the differences between companies and limited liability companies. It also changes the current period allowed for application to be made from within two years to within 12 years after the company has been dissolved. In addition to the company being able to apply for its restoration to the register the new section 11B also allows any manager, member, or creditor of the company, to apply. The new section 11B follows the amendment made in schedule (1) to the Bill to section 273B of the Companies Act 1931 as follows: subsection (2) requires the commission to publish notice on its web-site of the application for restoration.

Subsection (3) requires the applicant to obtain written confirmation from the Attorney-General in addition to the Assessor of Income Tax and Collector of Custom and Excise, that he has no objection to the company being restored.

Subsection (4) requires the applicant to give notice of the intention to apply for the company to be restored in only one Isle of Man newspaper and also to each member of the company.

Subsection (9) clarifies that any filing fees which were due to the commission at the time of the company's dissolution are payable at the rates current at the date of the company's restoration.

The new section 11C corrects an omission in the Limited Liability Companies Act 1998 by allowing the Financial Supervision Commission to refuse to register or receive documents if the commission considers them to be unlawful, non-compliant with the Act, incomplete or incorrectly completed, not in a format suitable for processing, or in the prescribed form, or if the fee due on submission is not paid. This section provides that the date of submission which is relevant in relation to the time period in which certain documents must be filed, is the date when the commission accepts the document. The commission may require additional information or documents to be submitted before accepting a document.

Subsection (2) allows the commission to make regulations in respect of electronic filing.

The new section 11D introduces to the Limited Liability Companies Act 1996 a right to appeal to a court of summary jurisdiction against decisions of the FSC in respect of refusals; the refusal (a) to register a limited liability company, or (b) to receive any document relating to such companies. The appeal must be made within 21 days unless the court allows an extension of that limit. The court will either confirm the commission's action or make whatever direction it considers appropriate.

Subsection (3), however, provides that an appeal under section 11D will not be allowed if a particular section of the Act specifies another appeals procedure or declares the commission's action to be conclusive or final.

However, subsection (4) provides that whilst an appeal is in train, the relevant decision or act of the commission, shall stand. In the interim, or until the court reaches its decision, any obligations relating to that decision remain.

Subsection (5) provides that if the decision or act of the commission is overturned, the limited liability company's record must be cleared of all reference to the decision.

Mr Speaker, I beg to move that clauses 17 and 18 stand part of the Bill.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: Very pleased to beg to second and reserve my remarks, Mr Speaker.

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

Mr Karran: Vainstyr Loayreyder, I am just a little bit concerned about this limitation, when they can strike out a company as being defunct. I am a little bit concerned about this period of 12 years, especially when we talk, nowadays, about our technological revolution, as far as keeping information on such a width of information. I wonder why the mover, the Shirveishagh Tashtee wants, why did we go for this limitation of twelve years, and does it cover, on this one as I say, I would just be interested to know that,

and the other thing was on 11C. If documentation, is there any discretion, any appeals process, if somebody believes that a certain documentation should be put in to the register, as far as a company is concerned, what is the appeals basis?

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

Mr Quine: Yes, in a somewhat similar line I am just seeking confirmation as to . . . It is 11D actually, 11D(3): 'no right of appeal shall apply under this section against act or decision of the Commission'; and it goes on to say: '(a) in respect of which there is any expressed provision this Act in the nature of an appeal or review, or that it is declared this Act is to be conclusive or final, or that it is embodied in any Act, declared that this Act to be conclusive evidence of any act, decision, matter or thing.'

It is two questions, really. I am always a bit wary if we have what is in effect an administrative body in respect of these actions, there is not an appeal. If that is the case, I am sure that the minister will correct me if I am wrong. Secondly, if, in fact, it is as I understand it, that there is no appeal on the decision of the commission, is this appeal provision paralleled in other legislation and if so, in what other legislation have we got a similar curtailed decision in respect of an appeal?

The Speaker: Hon. member for Ramsey, Mr Bell, to reply.

Mr Bell: If I could take the second questioner first, I am sorry, I am stumped on that one, Mr Speaker, as far as whether it applies in other legislation. It was certainly the intention, a large part of the legislation in here is consolidation. It is simply bringing Bills, bringing elements of legislation relating to the same issues, together under one roof. So, my initial response hon. member is, yes, I think it probably will, but I cannot give a specific answer to that and if the hon. member would bear with me, I will get that answer for him before the third reading because I do not want to give any misleading information at this stage which may not actually be accurate.

Likewise, the point raised about the 12-year process, I think again this is a consolidation exercise. I think it is to bring it in line with legislation elsewhere – and it may be in my hands right this minute – yes, that is right, it is currently 12 years under the Companies Act. These are ordinary companies, yes, so the 12 years is really bringing it in line with other company legislation and that has been, I think, in place for some time.

Again, the appeals procedure is the same for the Companies Act as well but, once again, I will take up the point the hon. member made and get a wider explanation why this system comes about but a large proportion of this legislation is the bringing together of a number of areas of similar legislation simply to put it all on a level footing and that is why it is going through as it is. So, with that commitment to the hon.

member for Ayre, I beg to move, Mr Speaker, that these clauses stand part of the bill.

The Speaker: Hon. members, the motion before the House is that clauses 17 and 18 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it, The ayes have it.

Clause 19, hon. member.

Mr Bell: Clause 19 replaces the current section 15 in the Limited Liability Companies Act 1996 but makes no change to the Financial Supervision Commission's power with Treasury's prior approval to prescribe fees and duties in respect to the filing of documents and its functions in relation to limited liability companies. I beg to move clause 19, Mr Speaker.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clause 19 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 20, hon. member for Ramsey, Mr Bell.

Mr Bell: Clause 20, Mr Speaker, inserts a new section 52A in the Limited Liability Companies Act 1996. This allows the Commission to dispose of valueless documents 12 years after the dissolution of a limited liability company or if it has made copies of such documents two years after the company's dissolution. It also permits Companies Registry to produce a copy of a document for inspection instead of the original. Mr Speaker, I beg to move clause 20 stand part of the Bill.

The Speaker: Do we have a seconder for that clause?

Mr Duggan: Thank you, sir.

The Speaker: Hon. member for Douglas South, Mr Duggan. Hon. member for Onchan, Mr Karran.

Mr Karran: A couple of points on this one, this does concern me something deeply. I mean, who decides what a valueless document is as far as the companies are concerned? Can I have a categorical assurance that all information will be, at least, put on to computer or microfiche, or whatever. The paper document will be got rid of, but the actual documents will be kept because I do feel if you do not do that, I think that we really need this amended in the upper House, if that is not the case, because the destruction of limited liability companies, after 12 years, sounds an awful long time ago, but many frauds can take longer than that to surface and I do really think that

there should be at least a guarantee that every piece should be electronically copied to be retained for ever. I do hope that the minister will be giving us that assurance. I am very worried about that and I know that it crops up again in section 60 on page 33 and on page 36, section 31. I am concerned and I do think we need to make sure that we are not destroying evidence that could be done at a later date and I think that it is very concerning.

I know myself that we have dealt with some thousand documents to companies for one issue, or a couple of issues, and go back a considerable amount of years, and I think we could open ourselves up, if we are destroying this information which could be evidence at a later date. I think that we could be legitimately criticised for doing that and I know that the mover would not want the Isle of Man's good name to be brought into any disrepute. I do feel that we must have a categorical assurance that if we are getting rid of the paper information, that all paper information should be kept, in my opinion, in perpetuity, as far as companies are concerned, because I believe that if we do not, I think it could come back and bite us severely, at a later date. It might be used against us both in litigation and it could also be used against us if people tried to make out that we have done this for any wrong reasons, Vainstyr Loayreyder.

The Speaker: Hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. If the hon. member looks at the explanatory notes, it says that this new section 52A only mirrors the powers under section 2 of the Companies Act 1961 which allows the commission to dispose of valueless documents 12 years after the dissolution of a limited liability company, or it has made copies of such documents two years after the company's dissolution. Now, if the hon. member for the Treasury can tell me, what has been the situation the last 42 years? Have any documents been destroyed which would have come to light or has there been supervision on those documents? I would be interested.

The Speaker: Hon. member for Ramsey, Mr Bell to reply.

Mr Bell: Thank you, Mr Speaker. In effect, I think the hon. member for East Douglas has actually answered the question. The clause which I am moving now, clause 20, in fact, corrects an omission which has taken place previously and mirrors the power under section 2 of the Companies Act 1961 as the hon. member rightly points out. So this provision under the Companies Act has actually been in place for over 40 years as it is. I am not aware of any difficulty that has arisen. It has certainly not been pointed out to me as part of my brief and the system seems to work quite well.

As I understand it, it is only an enabling provision anyway, and the commission, if they believe that it is

appropriate, are only able to dispose of valueless documents 12 years after the dissolution of the limited liability company, which members will recall, is at the end of the appeal process for companies to be restored. So, after 12 years a company cannot be restored again and, therefore, if there is superfluous documentation, the commission, if they feel it appropriate, have the ability to dispose of these documents.

Ordinarily, I think, although we talk about documents I think pretty well everything now is kept on file on computer and, therefore, is accessible as well as straightforward paper copies. So, Mr Speaker, there is nothing unusual about this. It is simply bringing the method by which we deal with limited liability companies in line with the procedure which is applied to ordinary companies, as the hon. member for East Douglas says, for the last 40-odd years.

The Speaker: Hon members, the motion before the House is that clause 20 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clauses 21 and 22, hon. member for Ramsey.

Mr Bell: Mr Speaker, by inserting a new section 8 in the Registration of Business Names Act 1918, clause 21 introduces a new requirement for an annual declaration to be made by a firm or person who has registered a business name. The declaration must be made annually on the anniversary of the business name's registration and must confirm that the name is still in use. If the declaration is not filed within six months of that anniversary, this will be noted on the relevant file.

Clause 22 inserts a new section 9A in the Registration of Business Names Act 1918. This introduces a requirement for documents relating to business names to be submitted in a form acceptable to the Financial Supervision Commission.

I beg to move that clauses 21 and 22 stand part of the Bill, Mr Speaker.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clauses 21 and 22 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 23, sir.

Mr Bell: Clause 23, Mr Speaker, substitutes a new section for section 15 of the Registration of Business Names Act 1918. This is substantially the same as the current provision relating to the removal of names from the Register of Business Names but corrects a defect. The Act applies to companies as well as unincorporated bodies and individuals. It has therefore been necessary to substitute 'person' for

'individual' so that the Act applies to both natural and legal persons. Reference to the directors of companies and to the manager or members of limited liability companies have also been added where necessary. I beg to move clause 23, Mr Speaker.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clause 23 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 24, sir.

Mr Bell: Clause 24 of the Bill substitutes a new section for section 16 and 16A of the Registration of Business Names Act 1918.

Subsection (1)(b) allows the commission to place conditions on the use of certain business names or to make a direction for the name to be changed.

Subsection (2) allows the commission to issue guidance notes on what criteria it will apply in deciding whether a name is undesirable and to prescribe forms for use in connection with name approval.

Subsection (3) and (4) allow the commission to change a business name on the register if, within six weeks of the commission having directed it to change its name the firm or person fails to do so. The commission must also record on the Register of Business Names that the direction has been given as well as the new business name ascribed by the Commission.

Subsection (5) introduces a right of appeal to the court in respect of (a) a refusal by the commission to register a business name or (b) placing conditions on the use of certain words in a business name or (c) making a direction to change a business name. The court may either set aside or confirm the commission's decision. If it confirms the commission's direction it may specify the period in which the direction must be complied with, order the commission to change the name, or apply conditions to the use of that name.

Mr Speaker, I beg to move that clause 24 stand part of the Bill.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clause 24 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clauses 25 and 26, hon. member.

Mr Bell: Mr Speaker, clause 25 inserts a new section 50A in the Partnership Act 1909. This introduces a power for the Financial Supervision Commission to refuse to register a limited partnership by a name that, in its opinion, is undesirable.

Clause 26 inserts a new section 51A to the Partnership Act 1909. The new section 51A allows the FSC to strike defunct limited partnerships off the Register of Limited Partnerships. This is equivalent to the Commission's power under section 2 (73) of the Companies Act 1931 and under the new section 11 of the Limited Liability Companies Act 1996, to strike a defunct company or defunct limited liability company off their respective registers, as they are described in relation to clause 17.

Mr Speaker, I beg to move clause 25 and 26.

The Speaker: Hon. member for Onchan, Mr Corkill.

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

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

Mrs Hannan: Thank you, Vainstyr Loayreyder. Could I ask the minister, in regard to the Financial Supervision Commission's opinion as to being an undesirable name for a company, is it a name that would bring the Isle of Man into disrepute? In what way would a name be undesirable? In answering that, could you confirm that a Manx name would be undesirable with regard to the Financial Supervision Commission in dealing with names of companies.

The Speaker: Hon. member for Ramsey, Mr Bell, to reply.

Mr Bell: Mr Speaker, a Manx name of itself, of its own right, would not, I am sure, be undesirable but what might be undesirable would be an attempt to use Isle of Man, or Manx, or something which would designate some sort of national status to it. I think there have been occasions where it was felt, perhaps, that attaching the Isle of Man such and such a company, was not the most appropriate use of that word and it would depend on the area of business it was being carried out. There are a range of areas, I think, which I cannot really categorise now but I am sure would be considered that may be undesirable to have associated with the Isle of Man. This really would be considered, though, on a case-by-case basis and really, ultimately, would be left to the discretion of the FSC of the day whether it was appropriate or not.

The Speaker: Hon. members, the motion before the House is that clauses 25 and 26 do stand as part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Hon. member, clause 27.

Mr Bell: Clause 27, Mr Speaker, substitutes a new section to section 57 of the Partnership Act 1909, relating to the office for the registration of limited partnerships.

Subsection (1) repeats the current section 57 but subsections (2) to (6) introduce a requirement for documents related to limited partnerships to be submitted in a form acceptable to the Financial Supervision Commission. Where the Commission refuses to accept a document, subsection (5) provides for an appeal against that decision to a magistrate. Sorry, Mr Speaker, did you say 28 as well?

The Speaker: No, just 27.

Mr Bell: I beg to move.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second clause 27 and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clause 27 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 28, hon. member.

Mr Corkill: Clause 28, Mr Speaker, adds a new section 60 to the Partnership Act 1909. This allows the Financial Supervision Commission, after consultation with the Chief Registrar, to dispose of documents relating to dissolve limited partnerships. I beg to move clause 28, Mr Speaker.

The Speaker: Hon member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clause 28 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 29, hon. member.

Mr Bell: Clause 29 substitutes a new section for section 10 of the Industrial and Building Societies Act 1892.

Subsection (1) adds: refusal by the Financial Supervision Commission to register or receive any document submitted to it, to the grounds for appeal against decisions against the Financial Supervision Commission. It also specifies that such an appeal would be to a court of summary jurisdiction and that the period in which an appeal may be made is 21 days from the date of the decision. It provides that whilst the appeal is in train, the decision or act of the Commission shall stand and in the interim any obligations relating to that decision remains until the

court reaches its decision. I beg to move clause 29 stand part of the Bill, Mr Speaker.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clause 29 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 30, hon. member.

Mr Corkill: Clause 30, Mr Speaker, substitutes a new section for section 15 of the Industrial and Building Societies Act 1892. This alters the law in respect of the inspection production and the admissibility in evidence of documents which relate to building societies.

Subsection (1) allows the Financial Supervision Commission in response to a request for sight of a document to provide a copy of the document. However, if the copy is illegible, the Commission must provide the original document.

Subsection (2) provides that the Commission shall not be compelled to produce documents without the express sanction of the court. Mr Speaker, I beg to move that clause 30 stand part of the Bill.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: Pleased to second and reserve my remarks.

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

Mr Karran: Vainstyr Loayreyder, I am just wondering whether the mover could just clarify: do credit unions come into this or are they . . . I do not know whether the credit unions that were talked about ever came off the ground, but would they be covered under this clause as well?

The Speaker: Hon. member for Ramsey, Mr Bell to reply to the debate.

Mr Bell: Thank you, Mr Speaker. As far as I am aware, no credit union has been established on the Island, so this issue really has not arisen but I understand this would not apply to the credit unions anyway even if they were established.

The Speaker: Hon members, the motion before the House is that clause 30 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 31, hon. member.

Mr Bell: Clause 31 inserts a new section 24A, which allows the Financial Supervision Commission, after consultation with the Chief Registrar, to dispose of documents related to building societies. I beg to move.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that clause 31 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 32 and schedules 1 and 2, hon. member.

Mr Bell: Mr Speaker, clause 32 gives effect to schedules 1 and 2 to the Bill, which respectively, contain minor amendments to and repeals of enactments. I beg to move.

The Speaker: Hon member for Douglas East, Mr Braidwood.

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

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: With regard to the amendments in my name, Mr Speaker, I have had them circulated and they do affect the schedules to the Bill:

Schedule 1. Amendment of Enactments –

Page 51 –

Under the heading ‘Companies (Transfer of Domicile) Act 1998 (c 6)’, omit entries 1 and 2.

Schedule 2. Enactments Repealed –

Page 54 –

Against the heading ‘Companies (Transfer of Domicile) Act 1998 (c 6)’ in the third column, insert the following two entries before the existing text –

‘In section 1(1)(b) omit subsection (1)(b)(i) and (iii)’.

and

‘In section 7(1)(b) omit subsection (1)(b)(i) and (iii)’.

The amendment removes the prohibition on companies that carry on banking business or investment business from using the Companies

Transfer of Domicile Act 1998 to transfer into or out of the Island. It also deletes the amendment made in schedule (1) of the Bill which adds CSP regulated activity as defined in the Corporate Service Providers Act 2000 to the prohibited activities in the Act.

The amendments follow on from certain repeals in schedule (2) to the Bill. The repeals I refer to remove the word ‘listed’ wherever it appears in the Companies Transfer of Domicile Act 1998, and also remove the definition of ‘listed body corporate’ in section 17 of the Act. Thus the Act will apply to any type of company and not just to listed companies and their subsidiaries. My amendments take the extension of the Act’s operation further and will enable banks, investment businesses, or corporate service providers, which may, for example, be restructuring their businesses to establish in their jurisdiction of choice.

Although the current prohibition on companies engaging in banking, or investment business, might have been intended to discourage banks, et cetera, from leaving the Island, other means would no doubt be found to achieve what would probably be, in the end, a commercial decision. Indeed, hon. members will be aware of banks using private Acts of Tynwald, to achieve their purpose.

Of course, to operate in the Isle of Man, banks, investment business and corporate service providers, must be licensed. Therefore, if a bank wished to transfer its operation into the Isle of Man using the Companies Transfer of Domicile Act 1998, the application to transfer in would have to run in parallel with applying for a licence under the regulatory regime. The controls on the quality of banking, investment and CSPs’ business, conducted in or from the Island, therefore lie in the Financial Supervision Commission’s authority, to license such activities, rather than in the commission’s authority to consider an application from a foreign company to transfer its domicile into the Island.

The uncertainty that might have existed when the Act first came into operation has been ameliorated by experience of the operation of the Act. Furthermore, in respect of the potential use of the Act to transfer out of the Island, hon. members should have sufficient confidence in the Island’s ability to attract, and hold, businesses, not to see my amendment as any sort of threat to the Island’s robust economy, particularly, as the finance sector continues to expand. On the contrary, the amendment provides significant opportunity for good quality, high value businesses to transfer into the Island without unnecessary obstacles being placed in their path.

Therefore, I invite hon. members to support the amendments which will remove the prohibition on banking, investment and CSP businesses, from using the Companies Transfer of Domicile Act 1998. I beg to move the amendments in my name, Mr Speaker.

The Speaker: Hon. member for Michael, Mr Cannan.

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

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

Mr Karran: Vainstyr Loayreyder, I would like some clarification as far as Registered Business Names. It talks about omitting the word 'Christian' and substituting the word 'first'. In there any chance of confusion, with people with similar first names? Are we now saying that they have to put . . . are we talking about first in their Christian names, or are we just talking about their first name? The reason why I ask that, it might sound rather stupid but the fact of the matter is, you get someone with a common name like John Smith, it might be the fact that their middle name, is the one that will distinguish the different individual. So I am a little bit concerned about that in schedule 1.

I am also concerned that in page 41, subclause (12), that it should be the full name. If first names mean the names of what they are, one, two and three, then fair enough, but if not, I think it should be. I think it will make it even harder when we agreed on clause 6, in schedule 1, subclause (22), as far as the inspection of lists of companies held by CSPs, under subclause (6), page 5, where there is a multi-occupancy of them in a building, I think that it is important that we . . . What we want is, we are saying we want quality and we do not want the problems but we do not want to make it easier for people to hide from who are legitimately in control of these companies.

The other thing that I would like to raise with the mover is in section 3, the disqualification of company directors. I do feel that it has been a missed opportunity that copies of the court orders for the disqualifications should have been placed on the company files of these individuals, who had been directors, to tell the public there was this problem and I think this is something that has concerned me a bit, as the Speaker – and the Clerk – were very sympathetic to the fact that I was thinking of putting some amendments on this Bill and we could not get to the legal draftsman.

I would just like the hon. mover, if he would clarify, on these points, that it is the first names, and not just the first name, and the issue of, really speaking, when somebody is disqualified, I think you can quite innocently open up a company, get involved with a company that might have had disqualified directors. I really do think that we should have done that, in my opinion. Vainstyr Loayreyder, they are the things that I am concerned about that is moved in schedule 1, clause 32 of this Bill.

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

Mr Quine: The Minister for the Treasury will thank me for this question. I am just wondering what the situation is with the first name in relation to

Chinese people, whose first name is the equivalent of their surname, of course.

The Speaker: Hon. member Mr Corkill, do you wish to reply to your amendments, sir?

Mr Corkill: No, thank you, Mr Speaker. The case, I think, stands on itself. This issue of reciprocity, as it were, allowing businesses to transfer in or transfer out of the Island without too much red tape has in other sectors of the economy borne the Island well and I thank my hon. seconder from Michael, who recognises that. I thank him for seconding the amendments because they are a pro-active way of encouraging transfer of business into the Island, high-quality business, which is what we are after, so, thank you, Mr Speaker.

The Speaker: Hon. member for Ramsey, Mr Bell, to reply to the clause.

Mr Bell: Thank you, Mr Speaker. Could I first of all reply to the hon. member for Onchan, Mr Karran, in regard to the issue of Christian names. There is nothing sinister behind this at all. This is simply an act of political correctness that we are introducing. As I am sure the hon. member realises now, the Isle of Man is an international player in business. We take business from all over the world and I think it is a feeling that, insisting on Christian names, for example in Muslim countries, may not necessarily be the best way to secure the business –

Mr Karran: Two or three names that are there.

Mr Bell: – so you can put as many names as you want down, it is first names, it does not mean the first name, it just means names instead of using the term Christian.

I do not know how many Christians are in China. (*Laughter*) I thank him for his very helpful question and I will have to look up what the answer is. I am sure there is an answer. It is a valid point, actually, because we are very anxious to do more business with China. We are hopeful later on this year for Isle of Man based companies to be registered, for example, on the Hong Kong Stock Exchange which may well introduce the Isle of Man to a considerable amount of new Chinese business over the next few years and, therefore, we will have to ensure that the registration of Chinese names is in the most appropriate manner. I cannot honestly say how it applies to Chinese surnames being first – I will have to check on that one for the hon. member and tell him later.

As far as the other point, made by the member for Onchan, about the names of disqualified company directors being placed in perpetuity, I suppose, he is meaning on company files for public notification. I really cannot see what the benefit of that would be to any company, quite honestly, because if there had been a rogue director for example, and that director had been removed from the company, if he had been

banned, he would obviously have gone through a banning process with the FSC, possibly with the courts. He will have nothing more to do with that company, and if a company is trying to recover, and it could well be a high-profile well-respected name, I can see no benefit to anyone having the name. The fact that some point in the past, it had a disqualified director associated with it, so in that sense, although, perhaps, I can see where the hon. member is coming from, I can see no benefit at all to either public or the company by having this name attached – I assume the hon. member means forevermore – to the particular company which may be a perfectly legitimate entity, having removed all the problem directors from that particular board.

As far as the amendment goes, obviously Treasury strongly support this. It is a recognition of the changing circumstances now where banks and various other financial businesses are restructuring. They are becoming a lot more mobile and whilst, yes, it could allow a certain amount of business to leave the Island, the intent, essentially, is to enable a swift move for new business into the Island instead so that we are not putting unnecessary red tape in the way of potential new business at a time that we are driving forward the tax strategy, the funds initiative, and various other initiatives, that we are looking at, Mr Speaker.

So, I would urge all members please support the amendment. Treasury strongly supports this move and I will come back to the hon. member for Ayre with a more detailed explanation about Chinese surnames.

The Speaker: Hon. members, the motion before the House is that clause 32 and schedules 1 and 2 do stand part of the Bill. To that we have two amendments in the name of the hon. member for Onchan, Mr Corkill, and I put the first amendment that schedule 1, the amendment to schedule 1. All those in favour say aye; against, no. The ayes have it. The ayes have it.

I now put the amendment as schedule 2. All those in favour say aye; against, no. The ayes have it. The ayes have it.

I now put the clause, as amended, and schedules 1 and 2. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 33, hon. member.

Mr Bell: Clause 33, Mr Speaker, gives the short title of the Act and provides for one or more appointed day orders to be made to give its provisions effect. I beg to move.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: Pleased to second and reserve my remarks.

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

Mr Karran: Vainstyr Loayreyder, I would just like to ask the minister: before this Act's operation comes in, I do hope that the minister will look into the issue of the likes of changes to companies. The fact that it takes up to four days for changes of companies to get through the procedures, as far as changes are concerned, and in four days an awful lot can be done. If he can look at the issue of trying to speed up, as far as the information being disseminated back into the company files much quicker, I think it would be very much appreciated. I think it is important, so that we can keep on top of anything that could give us a bad name as far as the Isle of Man is concerned. I appreciate maybe it should not be in legislation but I do feel that there should be some policy on that and I hope he will look at that as a priority, as much as he will look at the issue of bringing us this piece of legislation in front of us now.

The Speaker: Hon. member for Ramsey, Mr Bell, to reply.

Mr Bell: Thank you, Mr Speaker. I appreciate the point made by the hon. member for Onchan. It is a point which is raised from time to time, not necessarily from the point of view that the member for Onchan holds, but simply from people trying to do business with the Isle of Man and there have been complaints from time to time about the speed of this information being disseminated into the company's information. It is something which is under scrutiny all the time. I believe the speed that this information is processed now is actually quicker than it has ever been. Maybe it will never be fast enough for some people but it is something that is under scrutiny and we will do our best to ensure that information is supplied into the public arena as quickly as possible.

I would just also like to reinforce what I said at the second reading for this Bill, that this is a very relatively short amending Bill to deal with a few immediate problems that we need to deal with. This will be a very major overhaul of the companies legislation in the pipeline within the next 12 to 18 months. This process, I think, has already got underway and it is almost to the effect of starting again with a blank sheet of paper, reviewing what is appropriate for a modern jurisdiction, such as the Isle of Man, to have to regulate and control its companies activities.

This will be a very major Bill underway. We are bringing private sector support in to help us to draft this Bill and I would urge hon. members, in the next few months if they do have any particular concerns in relation to the Companies Act and its operation, or suggestions as to how it may be improved, please do not wait until the Bill necessarily comes to the floor of this House. Please come and talk to Treasury or the FSC and put your views forward at that time. That way it gives us plenty of time to assess the validity of the point being made and gives you an opportunity then to get it drafted into the Bill whilst it is being constructed initially rather than trying to tag on an amendment

later on. We are more than happy to work with members who have legitimate concerns or ideas as to how to improve the situation. Our aim, ultimately, is to make the Isle of Man more competitive in what is becoming a very highly competitive, cut-throat business world, and any suggestions from members would be more than welcome. So, I leave that open invitation to members, Mr Speaker, and in doing so, I beg to move clause 33.

The Speaker: Hon. members, the motion before the House is that clause 33 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Now that concludes consideration of the Companies, Etc (Amendment) Bill.

Procedural

The Speaker: Hon. members, just prior to adjourning the House, the Speaker's Lunch will take place on 24th June and I propose and recommend that the House concludes its business at 1.00 p.m. on that day. Is that agreed? (**Members:** Agreed.) Thank you, hon. members.

The House will now stand adjourned until 10.30 a.m. on 17th June, in Tynwald Court. Thank you, hon. members.

The House adjourned at 4.17 p.m.
