



**LEGISLATIVE COUNCIL  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH**

**PROCEEDINGS**

**DAALTYN**

**(HANSARD)**

**Douglas, Tuesday, 4th May 2004**

**Present:****The President of Tynwald (The Hon. N Q Cringle)**

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

**Business transacted**

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*The Council sat in private at 11.26 a.m.*

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## Legislative Council

*The Council met at 10.30 a.m.*

[MR PRESIDENT *in the Chair*]

**The President:** Hon. Members, in the absence of the Lord Bishop, I invite the Chaplain to lead us in prayer.

### PRAYERS

*The Chaplain of the House of Keys*

**A**LMIGHTY God, humbly acknowledging our need for Thy guidance in all things, laying aside all private and personal interests, we beseech Thee to grant that we may conduct the affairs of this Legislative Council and of our Island to the glory of Thy holy name and the maintenance of true religion and justice, the honour of the Queen and the public welfare, peace and tranquillity of the Isle of Man. Through Jesus Christ, our Lord.

**Members:** Amen

### LEAVE OF ABSENCE GRANTED

**The President:** Hon. Members, the Lord Bishop is absent, with permission, this morning, as he is attending the consecration of a friend of his, who is being introduced to the Bishop of – I am a bit unsure of which one – but that is why I have given him permission to be missing this morning.

## Questions for Oral Answer

### COUNCIL OF MINISTERS

#### Chairmen of the Statutory Boards Delay in reappointment

1. The Hon Member (Mr Lowey) to ask a Member of the Council of Ministers:

*When are the Chairmen of the Statutory Boards, whose term of office expired on 15th April 2004, to be reappointed or replaced, and what is the reason for the delay?*

**The President:** We turn, Hon. Members, to our Order Paper, and we first have the Member, Mr Lowey, to ask the Question.

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

**The President:** The Question is to a Member of the

Council of Ministers, and I call on the Hon. Member, Mrs Crowe.

**A Member of the Council of Ministers (Mrs Crowe):** Thank you, Mr President.

Under the Statutory Boards Act 1987 (as amended), a Tynwald Member of a Statutory Board, shall go out of office on the expiration of a period of two years and six months, beginning with the date on which the Keys was last dissolved.

The Keys was last dissolved on the 18th October 2001, meaning the expiration date was 18th April 2004.

However, the Act also provides that Tynwald Members going out of office under this provision shall continue to be a member of the Board for all purposes, except that of filling the vacancy, until his or her successor has been appointed.

Therefore, the legislation provides, effectively, for Tynwald Members of Statutory Boards to be replaced, reappointed at any time after the expiration of two years and six months. However, it has always been the intention to conclude such a review of the Statutory Boards et cetera, through the mid-term, through the term of the current Government, and that intention remains.

**The President:** Mr Lowey.

**Mr Lowey:** Would the Minister not agree that the intention of moving the Act, by the Council of Ministers, was to change midway through the term, and to that extent, the principle was established?

Obviously, what the Member has referred to as the ability for Members to continue in office, was a fail-safe position. Can she explain why – because I gave warning in February, about asking the Question, that the half year was coming, and the answer I got was it was coming up on the 18th – there has been no appointment. Can she explain why: is it wilful neglect of the statutory position, or is it pressure?

**The President:** Minister.

**The Minister:** I do not think for a moment that it is wilful neglect. I do think the intention remains, as has been stated in the Answer, to review all the membership of these Boards and that is ongoing. It has been a lengthy process, and I would tend to agree with the questioner that it needs to be dealt with as soon as possible.

**The President:** Mr Singer.

**Mr Singer:** It is interesting that the Minister, the Hon. Member, speaking on behalf of the Council of Ministers, says she ‘thinks’ this and she ‘thinks’ that. Has the Minister not got more specific information? Whilst the Minister said it is an ongoing and long-term decision to make, surely the date of 18th April was known two and a half years ago; would she not agree that it has been a bit dilatory, on behalf of whoever decides on these new appointments, in not coming forward, one would have thought, before the last date, instead of what now will be more than a month afterwards?

**The Minister:** My personal view would be to agree with my hon. colleague in Council. However, the Council of Ministers is intent to conclude a review and to right that situation as soon as possible.

### Prayers

#### Leave of absence granted

#### Chairmen of the Statutory Boards – Delay in reappointment

**The President:** Mr Lowey.

**Mr Lowey:** Again, would the Minister not agree that it is unsatisfactory that a statutory requirement has not been met; and can she inform me whether the Government Secretary, who is in charge of the administration of the rules and regulations, has brought it to the attention of the Council of Ministers, and it is the Council of Ministers that have the responsibility of nominating names for Tynwald approval?

And can she not confirm that, as it is too late now to be confirmed by May, we will be two months overdue at the earliest? It cannot be any sooner than that. Again, can I ask her: would she not agree that it is flying in the face of a Council of Ministers' decision to amend the law, and then not implement the law?

**The President:** Minister.

**The Minister:** I would agree that it is not satisfactory to make the pronouncements and, indeed, to work within the statute that the two-and-a-half-year period should be observed. I think there has been an announcement of intention to review and, perhaps, reshuffle persons, and I think, if that was the case, then we should be making every step that we possibly can, and I will certainly raise it in Council this Thursday.

## TREASURY

### Select Committee recommendation of 1999 re savings for retirement Treasury action to date

2. The Hon Member (Mr Lowey) to ask the Member for the Treasury (Mr Gelling):

*With reference to the Report of the Select Committee on the Equalisation of the Pension Age and Future State Pension Policy of the Isle of Man approved by Tynwald in October 1999,*

*(a) has your Department taken any action in response to recommendation 10.5 'that the Isle of Man Treasury introduce new savings schemes and savings incentives for Isle of Man residents as soon as possible, to encourage and assist people to save towards their retirement,' and (b) if not, why not?*

**The President:** Hon. Members, we turn, then, to the second Question for Oral Answer, and, again, I call on Mr Lowey.

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

**The President:** This time the answer is in the hands of the Member for Treasury, Mr Gelling.

**The Member for the Treasury (Mr Gelling):** Thank you, Mr President.

First of all, I want to say that Treasury is concerned about encouraging Isle of Man residents to provide for old age.

One of the most effective ways for an individual to be able

to do this is to ensure there is a secure source of income from employment or self-employment, and that the individual is able to retain as much of that income as possible.

The Treasury has sought to do this through the annual budgetary measures, by supporting businesses, keeping personal allowances high and the tax rates low. But it is accepted that this, on its own, may not encourage provision for old age.

To achieve this, there has to be an integrated policy for both pensions and savings. It has to be an integrated policy, otherwise there is no guarantee that when the individual most needs that additional support, being when their regular source of income has ceased, the savings will be available to supplement the state pension.

As early as July 1997, the Treasury started to take steps to implement such an integrated policy. In appendix 1 to that Report that the Hon. Member refers to, there is a letter from the Chief Financial Officer, setting out details of the pension proposals, but it is fair to say that, whilst progress has been made on the regulatory front, the policy has been thwarted in a number of areas by events outside Treasury's control.

Now, in part, the failure to make significant progress has been caused by the fact that the Isle of Man system for providing for old age is very closely linked to that of the United Kingdom. Any significant departure from the UK creates difficulties, in terms of reciprocity and finding firms which will provide products for such a small captive market as the Isle of Man. It is only now that the UK is bringing forward its own fairly revolutionary proposals, following the report in the UK in December 1998, and that was entitled 'Partnership in Pensions'.

This report appears to have influenced the recommendation at 10.5 of the Select Committee Report. The UK proposals are being studied and will influence the ultimate shape of private pensions in the Isle of Man. There are indications that the concept of separate incentives for savings may well be replaced by a more flexible, all-embracing pensions regime, something the Treasury was seeking to move towards with the 1998 proposals.

Rightly or wrongly, it has been felt that the private pension side has to be sorted out first, before any steps are taken to introduce other products that might encourage savings for old age. As I have already stated, the key aspect is ensuring the savings will be available at the time they are needed, and, therefore, there has to be a direct link between the two.

Without knowing the final form of the private pensions regime, no meaningful decisions can be taken on appropriate savings products. Equally, the events of the past few years have not helped, the significant decline in the stock market, combined with low interest rates and the various criticisms over poor returns on investments, have not encouraged an environment for savings.

Nonetheless, despite these setbacks, the Treasury is determined to see the introduction of an integrated policy for both pensions and savings, and initiatives will be forthcoming over the next 12 months, sir.

**The President:** Mr Lowey.

**Mr Lowey:** Always suspicious when Treasury Members take so long to reply!

I thank him for his reply, but I am sure he will agree with me that his reply is less than satisfactory.

Could I refer to part (a) of my Question ‘that the Isle of Man Treasury introduce new savings schemes and savings incentives for Isle of Man residents as soon as possible’: would he not agree that, five years later, no incentives have been introduced, for whatever reason, and there was no likelihood of the Treasury reporting that lack of action back to parliament? Does he find that satisfactory? And how many other reports dealing with urgent action have been similarly delayed and not reported upon?

**The President:** Mr Gelling.

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

At least the Hon. Member has not accused me of anaesthetising Members on this occasion!

However, I think it did need a full report, because, taking the report that came out, which I did note was chaired by yourself, sir, it did definitely refer very much to the UK agreement paper, which contains certain proposals. It has taken them until March to come forward, because it is an extremely difficult area of legislation, but the ultimate conclusion, I am assured, will be simple.

In other words, the flexibility that is built into it... I think the form they use now is ‘lifetime limit’, rather than all these complicated systems that are available.

So, it is very important that we introduce at the same time. I have checked up and I am finding that the UK want to introduce in 2006. Now, the Hon. Member might feel that even that is two years away, it is a long time, but, of course, we come to the area which is not under our control, and that is that the people who will be actually offering this are all UK-based. They will be tooling up to adhere to the discipline which is introduced by the UK law. I would suggest that we would get no-one who would actually come in for what would be a bespoke product, just for the Isle of Man, for a very small area, purely and simply for the Isle of Man legislation.

So, therefore, with those two coupled, it has taken a long time, and I have to say, yes, there has been, in the eyes of the Hon. Member, a lack of action, and, I have to say, it would have been very nice if, two years ago or whatever, someone had come forward and alerted us to the fact that this is actually what was being progressed. It is regrettable, I suppose, that a Member has had to ask the Question, even to get the answer: that at the moment, we have got something like eight different forms of pension regime; that will be all condensed into one complicated legislation. That is now being worked on – I even went to see the gentleman who is working on it this morning, to get myself up to date, and he has assured me that that will have to be ready for implementation at the same time as the UK.

So, what I am really saying to the Hon. Member is, yes, we should have reported to Members that this is what was being progressed. It appears there has been lack of action, but, in fact, there have been those areas that have made it very, very complicated.

So, all I can really say to the Hon. Member is that it is being worked upon. I have been assured over the next 12 months we will see the thing come to fruition. That will then have to go into law, we will have to pass the legislation, and then we should be already to go in link with, or, perhaps – if the UK insurance companies do have an answer, we could get it into the Isle of Man – before the UK.

**The President:** Mr Lowey.

**Mr Lowey:** Could I ask two supplementaries of the Member, please, for his reply, thanking him again for his explanations.

Has anybody been asked to produce any schemes for the Isle of Man? That is number one – you say they could not because it is too small. It always seems amazing to me that we can do niche-markets for ex-pats, but we cannot do it for locals. That is number one: has anybody been asked to introduce special schemes, tax reliefs and all the rest, to go with it?

And, secondly, would he not agree, again, as I have said in the first Question: is it right that the people who are looking after the administration of the Island – and I have to come back to the Chief Secretary on this – should be looking at what Tynwald has decided in policy, and making sure that it is either reported upon or not reported upon? And would he agree that it is satisfactory that Members have to bring it up five years later?

**The President:** Mr Gelling.

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

I think the easiest way to answer your question is: in my time in Treasury, over the last two and a half years, it has never been raised in Treasury as to why this has not happened, or nobody has asked us why it has not happened.

The administration, again, has been sitting on it, waiting for this to happen, but it has not been reported. I would suggest that now it would not happen, if it is any comfort to the Hon. Member, because we now have a running list of outstanding matters, and it comes up at every meeting of Treasury, so that, if something has not happened, or is waiting for reports, no matter what it is, it now appears on a list, and we can tick them off, as and when they are attended to.

So, what I would suggest is that, perhaps, now, if something like that went through Tynwald, it would immediately be logged on, and until it is finished it would come up every month.

But, unfortunately, I can say that that is not on the list, and, probably, only that I went and made the enquiries, because the Hon. Member asked the Question, it would have been waiting until the legislation came from the Attorney General’s, and that would have been your first signal that, in fact, something had moved.

**The President:** Mr Lowey. Has there been any approach...?

**Mr Lowey:** Has there been any approach made to any local firm to provide...?

**Mr Gelling:** Certainly not to my knowledge, but I will raise it tomorrow in Treasury, to see if that is the case.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, would the Treasury Member concur that the market available, in terms of ex-pats, is vastly greater than the market available in the Isle of Man, and that, notwithstanding any approach from the Treasury, that the view of the local market is that it is too small for special schemes?

**Mr Gelling:** The answer to the latter question is ‘yes’! That is the feedback that we have had: that it is too small,

they would not want to deal with a small area.

But, certainly, I think you can see a difference in the approach from... When the Hon. Member raises ex-pats, this is when the insurance companies actually come to Treasury and say, 'We have found more business, if you could only do this, this and this.'

Now, I can say again, not to my knowledge, have any of the insurance companies come and said, 'Now, here is a niche market for the Isle of Man; can we introduce this?'

So, I think it is, purely and simply, the fact that everybody is waiting for the bigger and larger market of the UK, before they actually even look at the Isle of Man.

**The President:** Mr Lowey.

**Mr Lowey:** Could I refer to what was agreed, and I come back to item (a), 'that the *Isle of Man Treasury* introduce new saving schemes and savings incentives for Isle of Man residents', so it was a Treasury charge to introduce incentives to the market, and if you have not introduced any incentives, then how do you expect a market to actually change its position from what it was earlier?

**Mr Gelling:** Again, I can only reiterate that I think that was something that Members should have been informed of: that there were complications, and then we would have understood.

**The President:** Mr Waft.

**Mr Waft:** I think I made comment in the last Budget, and I think the Budget before, and in Questions before that, with regard to the pensions and the future for pensioners, and where we were going on this. We have not had any recommendation from anyone, the Insurance and Pensions Authority has also been mentioned in my speeches, with regard to some advice somewhere, as to how people are going to invest for the future. Taking into consideration they are only guided by the RPI and salaries are going out of control in some areas, there is no sort of balance in between that; we were asking for information, and we still have not got it, and there is nobody able to recommend any particular pensions group, in view of the situation with the Stock Exchange.

So, there is a problem there and it needs to be addressed.

With regard to the fact that we are too small to do anything considerably in our area, what I would ask is: what input do we have with regard to the greater good of the UK as regards to us? We are going to have to adhere to it, whatever it is; what input do we have?

**The President:** Mr Gelling.

**Mr Gelling:** I think our input is, actually, now, reading what the UK are introducing for the reciprocal situation, that... I am not saying that ours will be a lift out of the UK, but it will certainly have to be compatible with it, and it will have to be something in which the insurance companies that will be dealing with it will be able to have Isle of Man participants.

In other words, if we go too far out, they are not going

to have that product available to us, and I can only, again, apologise to the Hon. Member that that was not picked up in your contribution in the debate, which, of course, was leading up to that: what are we doing about pensions? Which is the very question, really, that should have been answered and has now been asked.

So, there is something there that we must learn from: that these areas that are questioned should have a reply.

**Mr Waft:** It is in *Hansard*.

## Orders of the Day

### European Union (Accessions) Bill

#### First Reading

#### Debate commenced

**The President:** Right, Hon. Members, we will turn, then, to the European Union (Accessions) Bill. It is in the hands of Mr Attorney, and it is on Order Paper for First Reading. Mr Attorney.

**The Attorney General:** Thank you, Mr President.

As the title to this Bill implies, the subject matter of the Bill is the accession of the 10 new member states to the European Union.

When Greece acceded to the Community, we made, in 1981, an amendment to our European Communities (Isle of Man) Act 1973, in order that the Treaty which governed the accession of Greece might be added to the list of Treaties which have effect in the Island.

The same procedure occurred in relation to Spain and Portugal in 1985, and Austria, Finland and Sweden in 1995.

In March of last year, I had the conduct, in this Hon. Council, of the European Communities (Amendment) Bill, which dealt with the consequential amendment which required to be made to our 1973 Act, following the signing of the Treaty of Nice.

I mentioned, then, that, whenever there is a new European Union Treaty, the definition of those Treaties which have effect in the Island, within the context of Protocol 3 to the United Kingdom's Act of Accession, requires to be amended. This is, therefore, an important Bill, albeit of only two clauses, in respect of which there is ample precedent.

I would emphasise, as I did in March last year, in relation to the Treaty of Nice, that the Bill does not affect the Island's relationship with the European Union.

With that brief introduction to the Bill, I would move:

*That this Bill be now read a first time.*

**Mrs Christian:** I beg to second and reserve my remarks.

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

**European Union (Accessions) Bill****Referral to Committee****Motion lost**

**Mr Singer:** I would like to move an amendment at this stage, which reads:

*That the European Union (Accessions) Bill 2004 be referred to a Committee of three Members, with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, to consider and report.*

The reason I am doing this is that I, and other Members, have been in receipt of various correspondence and conflicting advice from two eminent lawyers: namely, the Attorney General and the Clerk of Tynwald. I, personally, need more information and clarification, before I feel I can endorse the contents of this Bill, to have it clear in my mind what the implementations of approving the Bill as it stands are, or not approving it, in light of these conflicting views.

I have no intention, I can say quite clearly, of any slight or criticism of the learned Attorney or of the Clerk of Tynwald, but I want to have a clear understanding of both arguments and, therefore, I would like this amendment to be approved and the committee to take evidence, and then I would like to consider the recommendations of that committee, in order for me, personally, to come to a reasoned judgement.

I do not think it will take very long; I think it can be done within a short time, and I would feel much better, in myself, if I can come to that reasoned judgement, having listened to or considered the evidence.

Thank you, Mr President.

**Mr Delaney:** I would like to second that, Mr President, and I think there is a need for clarity – clarity of exactly where this particular piece of European legislation is taking the House of Keys, our colleagues, certainly in relation to: do they know before or after, have they any comment to make, will it be after the fact or will it be during the fact, or before the fact?

I think there is a need for somebody other than administrators to have a grip on this particular one. I know there is a clash, not about the Bill so much as what it actually means, and I think that needs to be clarified, so that we all know, particularly the House of Keys, exactly what the position is.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, I find it a little difficult to understand why, on this Bill, it is felt necessary to have a committee, where Bills of the same nature have gone through without any query before now.

The learned Attorney has quite clearly indicated that there has been precedent for this: every time there is the accession of another country to the European Union, we have dealt with the legislation in relation to the treaty. We are doing the same again in respect of the countries which are now being admitted to the Union, and one wonders why Members did not feel it necessary to query it before.

However, it will be for the Council to determine whether or not they feel a committee would be useful. The hon. mover of the amendment has not indicated from whom he feels

he might get the written and oral evidence that he feels he needs. It might have been useful to know where we would be obtaining evidence from that we cannot, really, obtain from the learned Attorney.

**The President:** Mr Kniveton.

**Mr Kniveton:** Yes, Mr President.

I am not going to refer with the amendment, sir; I am referring to the motion.

I am not going to boast, sir, or persuade anybody, that I know all about the European Union; I do not, and I believe that the vast majority of people are the same. One must be working with that subject, continuously, to understand what it is all about.

However, it is our job to know the meaning of what goes on, and then to be advised by the professionals, the consultants, or whoever it may be, as to how we, as a government, are affected by any changes.

So, no doubt, as I express my views, the learned Attorney will advise me if I am incorrect, and I am very happy that he should do so, as he has done, quite rightly so, in the past, on other matters.

So, as far as I see it, this Bill makes a change to our European Community Act 1973, to allow the enlargement of the EU that has taken place within the past few days. This is where Protocol 3 comes in to the subject, because of our relationship within Europe. I believe we have to retain our relationships, but, as far as I can see, I do not think that this Bill will adversely affect the Isle of Man.

The expansion of the EU by the extra 10 countries is not the first time that the Union has increased. There have been at least four previous occasions, including 1973, when the UK joined and when Protocol 3 came into effect. That, in itself, I believe was a wonderful decision for the Isle of Man.

I understand that this Bill ensures our Protocol 3 relationship, so that we have this new Accession Treaty to the 1973 Act.

However, there are some measures which it appears have already been agreed from the entry of these new countries, and I believe that the greatest concern most people have is the movement of people, and also the question of taxation.

In the case of movement of people, I am thankful that our employment legislation means that a person who is not an Isle of Man worker must have a work permit, before getting a job on this Island. Likewise, people arriving from the new states joining the EU will not be entitled to most Social Security benefits.

So, I am learning more about the EU of recent days, and I feel that, after hearing the amendment just put to us, that I want to hear more about that, and, certainly, a reply from the Attorney General, to the amendment by Mr Singer.

Thank you, sir.

**The President:** It is actually a proposition that we refer the Bill to a committee. Mr Gelling.

**Mr Gelling:** I think, basically, the concern I have is that the hon. mover of the amendment has put forward that there are two differing views. It has been through another place, and, certainly, nothing has been brought to my attention, personally – maybe it does not need to be – to persuade me that there is another legal opinion which is different from the Attorney General's.

So, therefore, to support a committee that is going to take, again, legal opinion – and we know we get differing legal opinions from whichever lawyer you might have, maybe addressing it in a different way – my concern would be, perhaps, that to bring attention to the fact that we are now starting to enquire and look into, and, perhaps, start to question, something that we have already done, previously, in a systematic way, might bring attention to our Protocol 3, which has done us very well in the past, and which I do not think this Bill really has any effect on whatsoever. I think, as the Hon. Member, Mrs Christian, has said, we have already done it every time new countries have come on board.

So, I could not support that, because you are not giving any information which would make me believe that a three-person committee could actually glean anything more than we have already got from the Attorney General.

**The President:** Mr Lowey.

**Mr Lowey:** I was just going to say that I have no difficulty in supporting the Bill, because it is ratification of what we have done.

But there is no doubt whatever, on this occasion, there has been... Mrs Christian says, ‘Well, why should we look at it differently now, if we have done this in the past?’ Well, we have done this in the past, but we have never had the Clerk of Tynwald giving an opinion and, therefore, there is a doubt, this time.

I have no doubt... I have confidence in the Attorney General, and I have no difficulty at all, but if there is a doubt, and it will not delay this Bill unduly... and I do not accept the point that this might draw attention to our Protocol 3: as far as I am concerned, Protocol 3 can have all the attention it has drawn, because, since 1974, it has stood the test of time, and, as far as I am concerned, it is one which I think has already been protected in the arrangements, in the drawing up of the new alleged Constitution.

So, unless there is an undue delay which is going to adversely affect the Bill, then I could quite easily support the amendment to have a look at it by a committee of the House. It will do no harm; it could do a bit of good.

**The President:** Mr Waft.

**Mr Waft:** I have no problem, Mr President, if there are any concerns with Members with regard to the background to this Bill and where it might alter our situation we find ourselves in now. I do not think that undue time is going to be wasted by having a further examination, when two lawyers are in conflict, and the more information we have on the Bill so that we can come up with a unified decision with regard to this, I do not think there would be any problem with.

So, I would support the amendment.

**The President:** Mr Attorney, do you wish to comment, sir?

**The Attorney General:** Yes. Thank you, Mr President.

Of course, as adviser to this Council and the Member in charge of the Bill, I must be very careful not to be afraid to have a committee, if Hon. Members wish to have it.

The first duty, of course, is to ensure that Hon. Members are content with the Bill, and I would not wish to say or do anything which would stand in the way of that.

However, if I may, I would like to make one or two comments. The first thing is that I had no notice of this proposed motion to refer this matter to a committee of three members. I have listened carefully to what the Hon. Member, Mr Singer, has said, and it seemed to me, although I hope I am not wrong in this respect, that the Hon. Member has a general concern about the relationship of the Island to the European Union, and the way in which Treaties affect, or might affect, the Island’s relationship with the Union.

If that is true, if I have correctly taken the point, it would seem to me, with the greatest respect, that, perhaps, there is no reason why this Bill should not proceed and that there might be a more general review of the relationship in another context.

If Hon. Members truly do have a concern about the Island’s relationship with the Union, and Protocol 3, then, perhaps, the correct way would be to look at it, certainly by a committee, but outside this Bill.

The reason I say that is that it seems to me that the issue of this Bill is so clear and straightforward, it does not actually engage any material difficulty in our relationship with the Union at all. It simply adds to a list of Treaties, which, by virtue of section 2 of our 1973 Act, have effect in the Island. We have done it – as I said in my very brief introduction, I did not, in any way, belie the importance of this Treaty by making a short introduction – but we have had ample precedent to show that accession countries have been admitted to the Union, and we have correspondently passed an Act of Tynwald to add to the list of Treaties. It seems to me that is entirely straightforward, and need not give Members undue concern.

If I may just refer to a comment made by the Hon. Member, Mr Kniveton, and I would wish to reassure him that Protocol 3 is not affected in any way by this Bill. Hon. Members may be aware that Protocol 3 has been under the spotlight – intense spotlight – recently in relation to the new European Constitution. Officers from the Island have met with their counterparts in Jersey and Guernsey. We have had the most in-depth meetings, not only with the Department of Constitutional Affairs, but also with the Foreign Office and, indeed, with the representatives of the Council of Europe, to look at Protocol 3, and I can assure you that if the European Constitution is revised – and that, of course, is not a certainty – our Protocol 3, in a revised form, will be preserved in its total substance. The only revisions that have been made, in fact, are in the wording, so that, for example, we are substituting ‘European Union’ for ‘European Community’ and so on – a tidying up exercise.

We are not concerned here, with this Bill, with problems of taxation and movement of people. Taxation, of course: we are not part of the European fiscal area, we never have been – that is, insofar as direct taxation is concerned. As far as movement of people is concerned, the Accession Act, in the United Kingdom, does widen the scope for community members from the 10 countries to come to the United Kingdom to work. We have our own legislation, which protects the Isle of Man, to an extent, against an influx of workers, but that, again, is a matter which we deal with by our own domestic legislation: our Control of Employment Act, our Residence Act, no doubt, when it comes into force, and, in the meanwhile, the immigration rules which are applied to us. So, again, there will be no amendment to that whatsoever.

Turning to the Hon. Member, Mr Gelling: of course,

I appreciate that different legal opinions are generated on legal issues. That is my life! If we were to refer every matter on which I have a disagreement with another lawyer to a Committee of Tynwald, I think we would be well and truly clogged.

There is nothing wrong, nothing unhealthy, with a difference of opinion, and one can stand by one's views and do one's best, sometimes in court, sometimes in arbitrations and sometimes before committees – but there, perhaps, will always be a doubt, and if I may say so, I do not think, with the greatest of respect, that this Bill engages the more fundamental problems and concerns which Hon. Members have indicated.

Mr President, I think that Hon. Members have raised points which I hope I have responded to.

**The President:** Hon. Members, what we do have before Council this morning is the reference of the European Union (Accessions) Bill to a committee of three, proposed by Mr Singer and seconded by Mr Delaney. Hon. Members, it appears as if, within Council, there is, from the contributions made, a division. So, I will put it formally –

**Mr Singer:** Mr President, can I get the chance to...?

**The President:** I am happy to give you a chance sir, if you so wish, yes.

**Mr Singer:** I think Mr Lowey picked up the point that was made by Mrs Christian, as to why, in the past, these things have gone through, and why, this time, we have to make a difference. The thing is that we have not had any different interpretations in the past, while there is, this time, clearly, a difference in interpretation.

Mrs Christian also said I did not mention who the committee were going to interview; I think that is up to the committee, but I would assume that two people would be the learned Attorney and the Clerk of Tynwald. But, then, the committee would make a decision on who else it felt it ought to take evidence from.

I certainly think here we are talking about the imposition of ancillary treaties – are they treaties of importance, or are they not treaties of importance? – and primary treaties, and the United Kingdom making obligations on our behalf. I think this is where some of the clash is.

Mr Gelling said he was not aware of any correspondence. I think all Members were aware of the correspondence between the learned Attorney and the Clerk of Tynwald. To me, it is quite clear that they have got alternate views, and I understand that there can be disagreement on interpretation, but that does not help me at this stage. I want to know, or make a judgement, myself, on these two differing views, as to where I believe we should be going.

I apologise to the Attorney General that he had not got notice. I only decided a couple of days ago that, having thought about this, I was going to put the amendment, so I apologise for not having it in earlier.

But, really, I think I have made my case for why I believe, before we come to a decision – and there is no rush now, because we are past 1st May, anyway – we should feel that we have the fullest information on this particular Bill, before we go any further, and, therefore, I would move the amendment, as printed.

**The President:** I take the point, but I think we ought to

be a little wary that we do not travel down the road of looking at additional matters, rather than the Bill which is in front of us; that would be my only comment.

Nevertheless, Hon. Members, I put it to Council: those in favour of the reference to a three-member committee, please say aye; against no. The noes have it.

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

**FOR**

Mr Lowey  
Mr Waft  
Mr Singer  
Mr Delaney

**AGAINST**

Mr Kniveton  
Mrs Christian  
Mr Gelling  
Mrs Crowe

**The President:** I think that came down pretty fair, didn't it? (**Mr Lowey:** Yes.) (**Mr Gelling:** Absolutely.)

Hon. Members, I appreciate, in fact, the position has come down 4 for, and 4 against, whether or not we should refer to a committee. What I propose to do is to come down on the side against the committee, at this particular stage, bearing in mind that we can deal formally with the First Reading, and there are other stages of the Bill, which we could deal with at that particular time.

Mr Delaney.

**Mr Delaney:** To assist the Council, could I ask the Attorney General's interpretation and the Clerk of Tynwald's interpretation be put together, re-circulated again to Members.

**The President:** I am sure that can be done.

## European Union (Accessions) Bill

### First Reading approved

**The President:** Hon. Members, for our purposes this morning, what I propose to do is to continue with the First Reading of the European Union (Accessions) Bill. We will continue with the Bill in our normal procedure, and, as I said, there will be further steps to be taken, which you can deal with, in those cases.

Mr Attorney.

**The Attorney General:** Thank you very much, Mr President.

In order that I can be clear as to the issues, as I understand it, there was to be an amendment proposed in another place, and that amendment, I think, was defeated. The correspondence to which Hon. Members have referred was concerned with the matters raised by the proposed amendment. That amendment, not being an issue in this Hon. Council, I wonder the extent to which I should prepare for the questions that arise from that correspondence. In other words, is the correspondence relevant or not?

**Mr Delaney:** I take your point, Mr Attorney, but all I am asking for is: my colleague said he did not have any correspondence; I would like him at least to have the correspondence on which we based our judgement.

**The President:** I still say, Hon. Members, the sensible

way is: we have dealt with the object which Mr Singer, rightly, brought to Council that he wished this matter to go to a three-member committee. Hon. Members, we know exactly how we have arrived at that decision, on a 4:4 ballot. My view, from the Chair, is that there are further stages of this Bill to take place. I think we ought to continue down the line of dealing with it step by step.

I am happy that Mr Delaney gets a further circulation of documentation. Mr Attorney, I am sure you would be prepared, if in fact there were to be questions asked, or, in fact, if amendments were to be moved. Whether or not you anticipate it, sir, is entirely in your hands (**The Attorney General:** Yes.); I do not think it is up to me to anticipate whether Members are going to propose amendments at the Second Reading, or clause stages of this Bill.

Can we just deal, straightforwardly, with the First Reading of the Bill. Does any Member wish to speak to the First Reading? Mrs Christian.

**Mrs Christian:** Mr President, just to say that I think if we do not –

**The President:** Sorry, Mrs Christian, to interrupt.

What I was dealing with before, I am quite happy for you to speak to the First Reading. I felt I was dealing previously with the proposition Mr Singer put to us that we should be dealing with a committee. So let us deal with it as First Reading, formally, now.

**Mrs Christian:** Thank you, Mr President. I think I reserved my remarks, when I seconded it.

So, simply to say that it does seem to me to be a fairly straightforward measure. It is one that, if we do not at least table it for a First Reading, and there is to be further discussion later, so be it, but it is not something that we can properly ignore or even reject at First Reading, I believe, because it leaves us in a limbo, if the countries in our legislation are not in line with the countries named in the Accession Treaties in the European Communities.

Therefore, I think that, even if Members have concerns about the detail in the clauses, I do hope that at least they will support the principles embodied in dealing with the First Reading.

**The President:** Mr Lowey.

**Mr Lowey:** Could I just say: I have no difficulty, as I said before, with the Bill, at all. It is our international obligations, which we signed up to and which we are implementing.

I am, equally, convinced, myself, that, being a member of the Constitutional Committee, I can vouchsafe everything the Attorney has said about the work that has gone into Protocol 3 and protecting the Island's position, vis-à-vis the new wording of the thing that is changing.

So, I have no difficulty at all in that, and I have no difficulty at all in saying that the enlarged community will be of potential benefit to the Isle of Man and our international obligations. So, I think, in practical terms, it will be a plus for the Isle of Man to be able to trade, with our special arrangements, with an enlarged trading block.

So, the Bill itself, as a piece of machinery, is, in my humble view, a workable document that should be progressed, so I have no difficulty in supporting the Bill, as I said at the earlier stage. I am not going to recite anything else, and I think the vote actually spelt out, really, a concern, and I am sure the

Attorney will be able to assuage that concern –

**Mrs Crowe:** I am sure.

**Mr Lowey:** – perhaps in a question-and-answer session on the clauses, and at our next Reading.

But I will be supporting the Bill at its First Reading, to get it on the roll.

**The President:** Mr Singer.

**Mr Singer:** I am happy to support the First Reading of the Bill. I think it is an important Bill, although the only criticism I would have is that we have – and I referred to it, briefly, just before – said, ‘yes, we have got to do this’, but I know we are past the 1st May deadline. The question I would ask is – we have known for years there was going to be this increase in the new countries coming into the EU – why are we actually looking at this Bill after the accession has taken place? Surely, we should have been dealing with this several months ago, and had this Bill in place before the countries came into the European Union, not doing it at the last minute.

**The President:** Mr Delaney.

**Mr Delaney:** I just want to say to my friend and colleague, ‘ditto’ to Mr Lowey – exactly that – but during this debate – a very worthwhile short debate – interesting points were made by our colleague on the extreme left there. One of them was that most Social Security benefits will not be applicable to these people from Europe.

I understand, just as an example of how ignorant we might be of this, that there were *no* Social Security payments due to anyone who was not under our system. Obviously, that is the unclarity of what is going on out there, that we have to keep abreast of, even in our minor roles in the administration. These things will affect us, if they are not as we think they are. I thought there were no Social Security payments, but, obviously, Mr Kniveton – the words from his own little input – said ‘most Social Security benefits’. That is the unclarity of the situation, as he sees it and as I see it. No benefit will be payable.

It is not the Bill – the Bill is perfect, as far as I am concerned, for that side of it – but when we get down to understanding what we are getting into, it is a very dark horse.

**The President:** Mr Waft.

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

I think Mr Delaney has hit the nail on the head: there is a lot of mistrust out there, with regard to the European Union, and a lot of it brought upon by themselves, I might add. Nevertheless, there are concerns, and it sways from time to time on the radio, and there is never any rebuttal of what is said on the radio, and there are concerns out there.

I think back, in the past, we used to have a legal interpretation and some guidance from the Clerk of Tynwald, from time to time, but that has been lost over the years, and we do not get that now. We have got the explanatory notes, and we get phrases like:

‘These notes are to be read in conjunction with the Bill. They are not, and are not meant to be...’

Now what does that mean? That says, in one little paragraph, these are supposed to be explanatory, but they are, and are not, an introduction on (2) there!

We understand it is only a rubberstamping, and we have got to go down this road, but at the same time, if Members want to raise concerns, even if it is not directly on the Bill, and there are concerns in that area, it should be easy to explain and give a full explanation, so we go forward on a united front, when we meet Bills like this – they should be automatic. There are concerns, obviously, on different sides, so the more information we can get, the better. That is all I would say to the Attorney, for the future.

**The President:** Can I just try – I appreciate Members want to wander – but I would try to be definitive now, if I can, on this, and let us not go down other lines. Let us try to stick strictly to the Bill, if it is practical.

Mr Attorney to reply sir.

**The Attorney General:** Mr President, I am very grateful to the comments made by Hon. Members.

If I may say so, I think the Hon. Member, Mr Lowey, made a very good point indeed, when he referred to the Bill as being a way forward to dealing with the machinery of the enlarged Union, and that is, obviously, a very useful way of looking at it.

I will, I hope, be able to deal with questions raised by Hon. Members. It is, of course, a huge topic, and if Hon. Members do have specific questions which give them concern, it would be very helpful to me if they could, perhaps, let me know in advance, although, clearly, I cannot insist on that.

The Hon. Member, Mr Singer, raises the question of delay. In fact, I think, actually, with this Bill, we were rather quicker off the mark than we have been before, in relation to European Union legislation! I am not quite sure when, but the Bill was introduced into the Keys some little while ago, but, of course, caused some concern there.

I will certainly do my best to find out the applicability of Social Security legislation, in relation to new entrants, and I hope the Hon. Member from DHSS might be able to help me there.

I do take to heart the comments made by the Hon. Member, Mr Waft. I am acutely conscious of the fact that these are difficult matters, and that sometimes our explanatory notes are not as full as they might be. I hope, though, that clause 2 does, in fact, make sense, if we look at it carefully.

It is part of my function to, hopefully, guide Members through this Bill, and I will do my very best at the next sitting.

**The President:** Hon. Members, the motion that I put to Council is that the European Union (Accessions) Bill 2004 be read for a first time. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Now, Hon. Members, that, therefore, brings to conclusion the matter of the European Union (Accessions) Bill, and we turn, then, to a sitting in private for the whole of Council.

*The Council sat in private at 11.26 a.m.*