



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

P R O C E E D I N G S

D A A L T Y N

(HANSARD)

Douglas, Tuesday, 30th March 2004

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

The Lord Bishop of Sodor and Man (The Rt. Rev. Graeme Knowles), Hon. C M Christian,
Mr D F K Delaney, Mr D J Gelling CBE, Mr E G Lowey and Mr G H Waft,
with Mrs M Cullen, Clerk of the Council.

Business transacted

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The Council sat in private.

Legislative Council

The Council met at 10.30 a.m.

PRAYERS

The Lord Bishop

[MR PRESIDENT *in the Chair*]

LEAVE OF ABSENCE GRANTED

The President: Hon. Members, I have granted leave of absence for the Attorney and for Mr Kniveton, who are both off the Island on Government business; the Hon. Member, Mr Singer, and the Hon. Member, Mrs Crowe, are both absent, as well, this morning.

Questions for Oral Answer

CIVIL SERVICE COMMISSION

Civil Service Policy to improve morale

A. The Hon. Member (Mr Lowey) to ask the Chairman of the Civil Service Commission:

- What is the policy of the Civil Service Commission in –*
- providing a unified and motivated Civil Service;*
 - why was it found necessary to appoint external candidates to senior positions in recent months;*
 - is this not a sad reflection on the financial investment and forward planning of the Civil Service;*
 - what steps do you intend to introduce to improve confidence and morale in the existing workforce; and*
 - how is loyalty rewarded in the Manx Civil Service?*

The President: We have but three Questions for Oral Answer on the Order Paper. I call on the Hon. Member, Mr Lowey.

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

The President: I call on the Chairman of the Civil Service Commission, Mr Waft, to reply.

The Chairman of the Civil Service Commission (Mr Waft): Thank you, Mr President.

The Civil Service Commission attaches high importance to having an appropriately skilled, qualified and motivated Civil Service. It is through those staff we are able to deliver quality services to the community.

With over 2,000 staff in the unified Civil Service, the Commission's approach to management and motivation is to have those staff at the heart of its thinking and rounded

policies in place, recognising that all staff are individuals, with differing needs.

Therefore, in response to (a) of the Hon. Member's Question, it is a combination of policies and practices which help to provide a unified and motivated Civil Service. By the word 'unified', we mean that we have to grow people within the work environment to cover the whole of the Civil Service, and not just one Department.

The Commission's aim is to ensure that individuals are managed effectively, receive praise for a job well done, and help and encouragement to improve and grow. Also, the Commission, through its policy for employee development and comprehensive management development programmes, provides opportunities for all staff, but it must be recognised that it is for individuals to embrace and make best use of those opportunities, by putting what has been learned into practice in the workplace.

Also, the Commission seeks to have in place pay and benefits which not only provide a fair level of pay, but help support staff in striking the right balance between work and home, given their personal circumstances. Those benefits are not all financial; indeed, when the Civil Service was last surveyed four years ago, a non-contributory pension, flexible hours of work, good communication with managers and the ability to contribute to improving public service delivery were found to be important to staff. We also provide good working conditions, new technology and welfare support, when needed.

The Commission has sought to respond positively to that survey and continues to build on the strong affinity of staff to the public service ethos of integrity, impartiality and commitment to continuous improvement.

However, it is also important to recognise that we face continuous change. Exposure to new approaches, ways of thinking and greater interaction and working with the private sector are also needed. Both sectors have much to offer. Therefore, the Commission has, for some time, recognised that it is good for the organisation and individuals for there to be movement between the public and private sectors, enhancing the skill base across the Civil Service, and the Island more generally.

This is reflected in the Commission's recruitment policy to get the best person possible, through open recruitment, to deliver what Government and the public expect from the Civil Service. Clearly, there is a fine balance to be struck between the appointment of external candidates, as opposed to internal candidates. But fair, objective and recruitment processes ensure that there is a level playing-field for candidates and demonstrates equality of opportunity which will stand up to external scrutiny and compliance with social legislation. This applies across the whole of the Civil Service, and not just to senior positions.

Quite simply, in response to part (b) of the Hon. Member's Question, it is through that recruitment policy and process that the best persons have been appointed to all positions, whether internal or external candidates. That being said, it is worth reminding Members that there has been a considerable number of retirements from senior positions in the Civil Service in recent years, and these have been mainly filled by internal candidates. And, of course, posts at such levels require the concurrence of the Department concerned.

Mr President, turning now to part (c) of the Hon. Member's Question, it would be wrong to use solely the number of internal promotions as a measure of the return on

the financial investment in our people and forward planning of the Civil Service, because employee development is a partnership between the individuals and employer. It can only be an indicator, rather than the aim, to develop a pool of appropriately skilled and competent people to do the jobs expected by Government. This can be both current and future jobs, and the real benefits and return lie in the improved performance of individuals, which is reflected in the quality of public services.

Nonetheless, the number of internal promotions continues to exceed the number of external appointments, and ought to be seen as a positive indicator with regard to our investment in staff development.

Sight should also not be lost of the fact that the Civil Service continues to grow, and current initiatives aim to provide greater opportunities for career advancement and reward for contribution. The Commission does recognise that there will be a range of differing and conflicting views from political colleagues, staff and the public, as to the best approach in securing a high calibre Civil Service. But the reality is that the Commission must balance the aspirations of those in the Service against providing opportunities for well-able Manx people, who may have gone on to university and now wish to return to the Island and work within the Civil Service. Some of those Manx people may view it as an opportunity to give back to the community, having received public funding to grow and develop in other sectors, either on or off-Island.

In response to (d) of the Question, the steps that the Commission is taking to improve confidence and morale is embodied in the Commission's overall approach, which I have elaborated on already. Additionally, staff continue to be actively involved and consulted on, on the emerging changes to people systems and processes linked to improved performance and reward.

Finally, 'personal motivation' means different things to different people, as I have already said. This is also true of how individuals will see reward for loyalty, or the response to part (e) of the Question. For some, it will represent a monetary sum, for others, acknowledgement of a job well done. What I can say is that staff turnover in the Civil Service is low – around 8 per cent last year; a reduction of 2 per cent on the previous year.

However, the Commission is not complacent, and, with a growing and diverse Civil Service, will continue to modernise its approach to the management of people, so that we have a high calibre Civil Service, responsive to the changing demands and expectations of our Island's community.

Thank you, Mr President.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President. I thank the Chairman for his reply.

Long, long words, not matched in practice and the result is a low morale, when decisions are reached; in the face of what the Chairman has said, Mr President, would he not agree that success should be rewarded and failure punished, but it does seem, repeatedly, that people who have been successful in their careers in the Civil Service are not rewarded, and external candidates are brought in ahead of them. Would the Chairman not agree that morale is dented by that, and can he explain why spending in excess of £200,000 on senior management training, which he gave me

in a reply, a few months ago, is successful, when, since that information has been imparted, and that training undertaken, only external candidates have been appointed to the topmost jobs, stymieing any sort of promotion for the next decade?

The President: Mr Waft.

The Chairman: Thank you, Mr President.

With regard to low morale, I would not agree with the Member, as you understand. There have been long, long words, but it was a rather complicated Question – I could have given it in triplicate, but I thought I had better not!

It would be wrong of me, Mr President, to become drawn into comments which clearly relate to specific jobs for individuals; the confidentiality as between the Commission and the individuals must be observed. However, let me say that the Commission will not be able to satisfy everyone all of the time.

Whether success is rewarded, the Pay and Reward Strategy, which we are currently undertaking, will guarantee that success is rewarded, and we look forward to having a more motivated Civil Service in the future.

The President: Mr Lowey.

Mr Lowey: May I ask the Chairman to answer the question I put with specifics: £200,000-plus spent on senior management and the only return has been to appoint external... How is that a reflection on the investment that you made, sir, and the results?

The Chairman: Well, I am sorry, Mr President, that is not correct, actually.

External appointments are very few and far between, with regard to the great scheme of things. Senior management training is undergone by external consultants from time to time, because it is necessary to do so.

When you are talking about 'senior management', you are talking about chief executives, senior chief executives, as they may be. They, from time to time, go to the United Kingdom, for that senior management training, which is considerably more when you are talking the whole scheme of things of doing all the senior executives at the one time on the Island. So, that is the balance that we have to take with regard to costing.

I think, without getting involved in external appointments, as I have stated, they are in the minority at the moment.

Thank you Mr President.

COUNCIL OF MINISTERS

Government reshuffle Timetable

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

When is there to be a Governmental/Departmental reshuffle, and what is the timetable for this event?

The President: We turn, then, to the second Question, or B, on the Order Paper. Mr Lowey.

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

The President: Member for the Council of Ministers, Mrs Christian.

A Member of the Council of Ministers (Mrs Christian): Mr President, the Chief Minister has previously commented that section 3 of the Statutory Boards Act 1987, which contains provisions relating to the tenure of office of members of Statutory Boards, would appear to provide an opportunity for the Council of Ministers and Tynwald to revisit the membership of the various Departments of Government, at the same time as considering the membership of Statutory Boards.

Section 3 provides that 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 House of Keys was dissolved on 18th October 2001 and, therefore, the expiration date for present membership will be 18th April 2004.

The Act does provide, however, that retiring Members shall continue to be a Member for all purposes, until such time as a successor has been appointed.

So, I must conclude, I think, Mr President, that it will be some time after 18th April.

The President: Mr Lowey.

Mr Lowey: Would the Minister not agree that the announcement of the Chief Minister and the interviewing of Members in January – and here we are, a fortnight away from the particular date – leaves a lot to be desired, and why should it have to wait until 14th? Could it not be announced in advance?

The President: Mrs Christian.

Mrs Christian: Mr President, it is a matter for the Chief Minister to determine whether he wants a reshuffle. He may not, indeed, want a reshuffle. At this point, we do not know.

I understand the concerns that there is a feeling abroad that he did start his interviewing process with Members at the beginning of this year, and there are people who very much look forward to some sort of outcome from that, but I am not in a position to say when the Chief Minister will come to a conclusion, one way or another.

The President: Mr Lowey.

Mr Lowey: Could I press the Minister one little bit further? Is it not a fact that the Chief Minister will pick his Ministers, but it is the Council of Ministers that will pick the membership? Therefore, if he is going to have a reshuffle and if it is on the timetable that he actually has indicated, then, surely, we are talking of: the first step is the ministerial and then, after the Ministers are appointed, a reshuffle of Members, and if we take the timescale now, as given, it will be well into May before that could actually be finalised? So, again, we have got six months from the interviews to actually anything happening. Does the Minister not agree that that is rather a long gestation period?

Mrs Christian: Mr President, the Member asked if it was

not a fact; indeed, he is correct. It is for the Chief Minister to pick his Ministers, and then for the Ministers to determine the departmental structures and, indeed, it is reasonable to imply that it will not be on 18th April, I would suggest – though I have no information from the Chief Minister as to what his timetable is.

Mr Lowey: That's not surprising.

Mrs Christian: The Hon. Member has expressed an opinion about the gestation period, and that is all it can be, Mr President.

Chief Officers' Group meetings Frequency and procedure

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

In the past two financial years –

- a. how often has the Chief Officers' Group met;*
- b. do they meet the Council of Ministers en bloc, or by delegated groups or individuals, and how often do these meetings take place;*
- c. are minutes and other records kept of such meetings and who is privy to these records;*
- d. who sets the agenda for these meetings;*
- e. do the Chief Executives report back to their respective Departments regarding matters discussed at these meetings; and*
- f. where does the first loyalty of Chief Executives lie – with the Group or their Department?*

The President: Okay. We turn, then, to C. Again, Mr Lowey.

Mr Lowey: I beg leave to ask the Question standing in my name.

The President: Mrs Christian.

A Member of the Council of Ministers (Mrs Christian): Mr President, the Chief Officers' Group has met 35 times since April 2002. On average the group meets twice monthly.

There is no set procedure for the Group's meetings with the Council of Ministers. Over the past two years, there have been seven meetings, which the Council of Ministers have invited the Chief Officers' Group to attend, to finalise Government's aims and objectives, with regard to the business planning process. The Group plays a role in this regard, in discussing the issues with Council, giving advice where they feel it may be helpful.

There have been no meetings of delegated groups to Council. Chief Officers will normally attend Council meetings, as and when required to do so, as part of their departmental role.

Minutes are kept of the meetings of the Group. They are currently confidential to the Group, Chief Minister and Ministers. The Chief Secretary sets the agenda for the meetings. It is normal practice for Chief Officers to inform their senior managers of any relevant issues discussed at

Chief Officers' Group meetings.

The current terms of reference of the Group which may be modified further are as follows: to provide a forum for Chief Officers to raise issues of policy, management and common interest, and to report on matters from their Departments; to consider issues emanating from the Council of Ministers which have a bearing on the workings of Departments, and the managerial implications thereof; to sit as a consultative and advisory forum on specific issues that are referred to it for consideration by, for example, the Council of Ministers, the Treasury, the Civil Service Commission and so on; to develop something of a think-tank role for the overall direction of Government, and to generate initiatives that are not covered by the remit of other groups or committees, and for these initiatives to be put before Council of Ministers; to act as the principal adviser to the Council of Ministers on the corporate government and business planning initiative.

Each of these five strands is designed to develop better corporacy within Government.

So far as the final section of the Hon. Member's Question is concerned, the Chief Officers have statutory roles within their respective Departments, and are also tasked with supporting corporate government, a task clearly set out in the above terms of reference.

The President: Mr Lowey.

Mr Lowey: I thank the Hon. Minister for her reply.

So, we have got a confirmation from the Minister that this is a decision-making body. Would the Minister, who reports to no-one... She also says they are a think tank and they take initiatives. Is she also aware that they actually expend public moneys? Where does that come from, and where did the authority come to this particular group, which reports to no-one, for spending money – public moneys of other Departments?

The President: Mrs Christian.

Mrs Christian: Mr President, they report as... Their function is to overview various issues and deal with matters of corporacy. The objective here is to ensure that there is streamlined working between Departments. The Hon. Member indicates they spend money. If they spend money, it either is allocated from the Departments involved, or it comes from the Chief Secretary's Office.

Now, I am not aware of the issue that the Hon. Member is referring to, and if he could elucidate, it might assist me in answering, but the question of their resources, there is no specific fund for the work of this Group, to my knowledge, and, therefore, it is either funded by the Chief Secretary's Office for specific tasks, which they have been invited to carry out, or it must be work funded from the Departments, for which they may be also doing some work.

The President: Mr Lowey.

Mr Lowey: I will be specific on the amount of money: there was, I think, about £250,000 expended on training, and every Department has been subjected to a bill for £27,000 – the two Departments that I am on have been. I also know that Manx National Heritage, the Museum, have been given a bill, but they have refused to pay it. Therefore, it was money that was expended from Departments' budgets without the

prior approval of the Department. That is number 1.

The President: Right, okay. Mrs Christian.

Mrs Christian: Mr President, the Hon. Member is raising an issue of which I have no knowledge, and I am not in a position to answer it. I would be very surprised if the Chief Officer Group could initiate any expenditure on training. Training is the function of the Civil Service Commission, in relation to civil servants, and it is the function of Departments in relation to their other staff.

Now, I can follow this issue up, but I do think that we need to be clear about who initiated the training and for what purpose, and I can happily look into that for the Hon. Member.

The President: Mr Lowey.

Mr Lowey: Could I then ask: would she not agree that this group of chief executives...? They obviously meet 35 times, twice a month, so they are pretty active. Does she not agree that it is rather surprising that these minutes are not available to Members of Tynwald for their surveillance? Who is running the show? Would she not agree that this is almost a second Government?

The President: Mrs Christian.

Mrs Christian: Mr President, I have been waiting for that since the Question was tabled, because the Hon. Member is well-known for his view, his opinion, that the Chief Officers' Group is a second Government.

I would suggest that that is not the case, Mr President. Chief Officers have the function to carry out the policy of Government. It makes sense for Chief Officers to get together on a regular basis to ensure that they are developing the strategies of Government, through their Departments, and to ensure that, as far as possible, they are not duplicating effort or wasting resource by not acting in a corporate manner.

Now, the Hon. Member is entitled to his opinion and that is what he expressed.

The President: Mr Delaney.

Mr Delaney: Yes. Could you please put me down, Mr President, in the same camp as my hon. colleague, in relation to this Group.

Could I remind the Minister that, when this Group was first initiated, questions were asked on how they were going to perform when they got together for these meetings, including the financial side of it, and assurances were given to us that there would be no financial spend by this Group without authorisation. This was part of when we first set it up: that we were told, Mr President, that they would not have any commitment or power over spends, or over any direct policy, without the information of the Members of Tynwald. Now we are hearing that this is not the case.

Mr Lowey: They're taking initiative.

Mr Delaney: Could I ask the Minister, as a second supplementary –

The President: I think what we are hearing is that Mrs

Christian said she does not know, but she was prepared to check.

Mr Delaney: On the same question, could I ask for assurance, in writing, immediately – we were told about this spend, whether it is true or not, and I believe we are being given the right information by my colleague – on who authorised it and how it is that I have not seen this bill for £27,000. But, on a tight budget, which my section of the Department is, I want to know what I am committing to, with this £27,000, without knowledge.

The President: Mrs Christian.

Mrs Christian: Mr President, I do not think I can add anything. I will find out about this particular query, and clarify what it is about. Chief Officers do clearly have authority to spend, as financial officers, within –

Mr Delaney: In their Departments; not outside.

Mrs Christian: Right, well, let us resolve this issue by looking into the detail.

The President: Right. Mr Lowey.

Mr Lowey: Would the Minister not agree: in her reply to me she said that this Group would take initiatives. On whose authority do they take initiatives, collectively? They are not answerable to... They have got a life of their own.

Mrs Christian: Mr President, they take initiatives in bringing matters to the Council of Ministers.

Mr Delaney: They are not the parliament.

The President: Mr Delaney.

Mrs Christian: Mr President, no, they are not the parliament. We employ civil servants, who we train at some considerable expense, and we expect them to use the initiative and training to benefit Government.

Now, Members of the Hon. Council and the other place do not have exclusive rights to ideas, and there is nothing wrong with senior civil servants, even through feedback from the people who work under them, and in our Departments, bringing back ideas to the Council of Ministers, where they are the people on the coalface, who may well see something that could be done better and that, indeed, could be progressed by discussion at Council of Ministers.

So, initiatives, generally speaking, in that Group are initiatives to bring matters to the Council of Ministers. Now, if they are taking initiatives of their own volition, I do not believe it is done without the understanding and knowledge of the Council of Ministers.

The President: Mr Gelling.

Mr Gelling: Could I just ask the Minister, when she is checking up, Mr Lowey raised the point about Manx National Heritage (MNH), and yet I understood that the chief executives of Departments were in this group: would it also be fair to say that MNH are represented by their chief executive on this Group?

Mrs Christian: Not to my knowledge, Mr President.

Mr Gelling: So, therefore, following that, they were penalised this amount of money which they had not budgeted for, when they did not have any input.

Mrs Christian: Mr President, with respect, we are working on supposition here. My Department has recently received a bill for training from the Civil Service Commission.

Mr Delaney: They are open to scrutiny.

Mrs Christian: Now, we were not aware that we were incurring that expenditure, and we are contacting the Civil Service Commission about that. I do not know whether there is any confusion here, about whether it is Chief Officers, or whether it is the Civil Service Commission. (*Interjection by Mr Lowey*)

The President: Mr Lowey.

Mr Lowey: First of all, would the Minister tell me, please: what initiatives have come from this Group that would not have come to the Council of Ministers via the Departments?

Mrs Christian: Mr President, there are, for example, now, processes for looking at capital projects over a wider framework, because many Departments do not get involved in major capital schemes. When a Department, therefore, does get a capital scheme it is very useful for them to have the benefit of the experience of other Departments which have been through that process. That is an example of where I would say that an oversight by more than one Chief Executive may be useful, in contributing to the improvement in the processes.

The President: I think we are in danger of going down a road which is unanswerable at the present time, but Mr Delaney.

Mr Delaney: I have a simple question on that last statement, then. What is wrong with the parliament knowing that the process had been changed, on which they are supposed to have the public responsibility to oversee, if it has been changed by a group of officers, in private, on confidential minutes? When are they going to be told what the changes are in the policy and procedures?

The President: Mrs Christian.

Mrs Christian: Mr President, it is not changes in policy; it is suggestions made for improvements in the light of experience of either managerial issues or corporate –

Mr Delaney: When are we going to be told?

Mrs Christian: I do not know what it is the Hon. Member wishes to be told.

Mr Delaney: To be told the change in procedures.

The President: Okay.

Mrs Christian: There is no change in procedures.

Mr Delaney: You just said there was.

The President: Mr Lowey.

Mr Lowey: Would the Minister agree that since this Group has been set up for a few years now, there should be signs of joined-up government? Would the Minister agree with me that there are no such signs of joined-up government improving?

The President: Well, we are going down another road

Mr Lowey: No, it is true. Minister –

The President: Yes, the Minister will answer, but let us not...

Mrs Christian: Mr President, joined-up government is not easy, because Departments still, in some instances, naturally, look at their statutory responsibilities, and think with blinkers on.

There are signs of joined-up government. There are increasing numbers of inter-departmental working groups. The Drug and Alcohol Strategy is one; the Health Strategy is another. Your own Department, sir, has formulated a Sports and Leisure Strategy, which is being looked at and integrated in other Departments' developments, in their business plans, and there is, I think, a reasonable suggestion that there is a bruising of inter-departmental working, and that is assisted by the Chief Officers' Group meeting together.

The President: Mr Waft.

Mr Waft: Yes. I am just trying to clarify things a little bit. Would the Minister agree that some of the concerns are with the cost of training, as opposed to what the Chief Officers' Group are recommending, and the cost of that – the cost of training being borne by Departments over the overall costs of Chief Executives. I think that, perhaps, is it: where the moneys are from.

Mr Lowey: Dress it up as you will.

Mrs Christian: Mr President, we need to get to the facts of the matter, and we are all supposing, at the moment.

The President: Lord Bishop.

The Lord Bishop: Would not the Minister agree that it is more sensible for this group of people to meet officially, than meeting unofficially, because nobody in their right mind would think that a group of Chief Executives will not meet together, and it is much better that they report to the Council of Ministers?

Would she not also agree that – we have been talking about rewards for good service – if we rewarded people by giving them a salary which suggests that they have the initiative and the intelligence to have ideas, to say they should not have them and feed them back into the system is contradictory?

The President: Mrs Christian.

Mrs Christian: I would agree, Mr President.

The President: Yes, right.

Mr Delaney: Mr President, they should feed them back publicly, so we can see what they are feeding back.

The President: Right, we are going round in circles.

Mr Delaney: Sorry, Bishop, I disagree with that one.

The President: So we will move on, Hon. Members –

Mr Lowey: Thanks to the Minister for her reply.

Mr Delaney: Hear, hear.

Orders of the Day

Income Tax (Amendment) Bill Second reading approved

The President: We move on, now, to Item 2 on your Order Paper, which is the Income Tax (Amendment) Bill and it is in the hands of Mr Gelling at Second Reading stage. Mr Gelling.

Mr Gelling: Thank you, Mr President.

As I said last week, a lot of Members will recall that this is the first of two Income Tax (Amendment) Bills which are scheduled for this calendar year. This first Income Tax (Amendment) Bill 2004 is divided into five parts and three schedules. The first four parts each address a specific topic.

Part 1 amends legislation dealing with the basis of assessment and introduces provisions that are supplementary to the changes to the assessment base.

Part 2 and schedule 1 amend legislation dealing with the submission of Income Tax returns and introduces a new civil penalty for failing to file a return on time.

Parts 1 and 2 do not go so far as to introduce the self-assessment system, which other jurisdictions have favoured, and the extension of time for a taxpayer for submitting the annual return still means that the Assessor must issue the actual tax assessment, and the payment on account notice, before the end of the calendar year.

Part 3 and schedule 2 amend legislation dealing with the Assessor's powers in respect of documents and information.

Part 4 and schedule 3 introduce anti-avoidance measures in respect of differential rates of income tax.

Part 5 of the Bill makes a number of amendments to existing income tax legislation, some of which are consequential, or in relation to the legislation in the first three parts of the Bill, sir.

Can I move straight into the first clause, or do you want to take the – ?

The President: No, we will have the Second Reading formally moved.

Mr Gelling: I beg to move the Second Reading.

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

The President: Hon. Members, I put formally to Council that the Income Tax (Amendment) Bill 2004 be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Income Tax (Amendment) Bill Clauses considered

The President: Now, Hon. Members, we did give the Income Tax (Amendment) Bill a good hearing at First Reading stage last week, so we move on to clause 1. Mr Gelling.

Mr Gelling: Thank you, Mr President.

Clause 1 inserts the new section 81A into the Income Tax Act 1970.

This new section will only apply to non-corporate taxpayers, and will direct that the Assessor shall assess income on the amount received or accrued in the year of assessment.

Now, this clause also ensures that section 81, that previously applied to all taxpayers, will only apply, for future years, in respect of bodies corporate.

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

The President: Mrs Christian.

Mrs Christian: I beg to second, Mr President.

I think this, if I am right in saying, has been on the cards for some time, and that, to some extent, we have been waiting for Treasury to have computer systems in place which will assist with this, and, indeed, work out the transitional matters which will have to be dealt with in respect of this.

But I do think that this clause will be of benefit in the longer term, simplifying the understanding of the tax structures in the Island for the individual.

The President: Mr Lowey.

Mr Lowey: Yes, you did say, last week, we had a very good airing. We are going to have a very good airing this week too, Mr President.

Here is clause 1, and Mr Gelling is at his very best again to anaesthetise us, but he still has not yet convinced me at all how he is going to get from the current situation to a present-year taxation, without incurring added expenditure to the taxpayer, or as it is called in this, a new definition of a taxpayer, 'non-corporate taxpayer'. He has not really answered that question.

Mrs Christian has hinted that there may be some transitional regulations that will come along to deal with that, but we are really being asked to buy a pig in a poke – 'trust me'. Now, I trust Mr Gelling, but would I trust Mr Gelling, as the Treasury, when they are saying to me: 'Here we are, it is going to be painless.'? It will not be painless; it cannot be painless.

Again, I think we have to be fully cognisant of what we are doing. I am recognising in clause 1, like most Bills, the

first clause, if you like, is the engine, the key one. We are going from our present situation to the new situation and we are doing it consciously.

I agree with Mrs Christian that this has been flagged up for a few years now. This is where we would like to get to, because it is right that people should know their tax up to date. I appreciate all of those arguments and I appreciate that.

I am concerned with the transitional period and how it is going to be effected, and we have not heard a single syllable of how that is going to be achieved, other than it will be painless, and I do not believe that.

So, unless the Member of the Treasury can sort of assuage my concerns a little bit more than he has done up to now, I am going to vote against clause 1.

The President: Mr Gelling.

Mr Gelling: Yes, Mr President, I take the point that clause 1 is the principle. That is what makes it happen.

But of course, really, in that particular part there are no specific issues regarding that actual clause. Issues regarding the introduction, which the Hon. Member is speaking of, of the system that support the move to the current-year basis, will come up in clauses which will follow, where I am sure we can convince the Hon. Member, that it will be... not without problems, I would say there will be difficulties; whenever you move from one system into another there will be areas which we have not covered – but, hopefully, what we have here is the way in which it can work and there will be briefing notes and everything, which will have to come out to actually lead us through that transitional period.

But we will find out later on, Mr President, in a clause that follows, that there will be no double payment of taxation. That is covered in a clause later on.

So, all I can say to the Hon. Member is: I am sure he will find, when we go through all these clauses, that it does all come together, and that he will see there is a great deal of work gone in here to actually make sure that the taxpayer will not end up paying more, unless that taxpayer is reluctant to actually pay the assessed amount, and they are penalised with an interest charge for whatever reasons. But even that, I am quite sure, will be dealt with in a way in this transitional period, to get it on to a common current-year basis, to enable the taxpayers to have confidence, as well as the Hon. Member, Mr Lowey, sir.

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

A division was called for and voting resulted as follows:

<p>FOR The Lord Bishop Mr Waft Mrs Christian Mr Gelling</p>	<p>AGAINST Mr Lowey</p>
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The President: We have the one vote against, Hon. Members, 4 votes for; clause 1, therefore, stands, having passed.

We reach clause 2 and I call on Mr Gelling.

Mr Gelling: Yes, in going into clause 2, I could say to

Hon. Members, of course, that it is clause 7 which is the one that really deals with the transitional period.

So, if I move to clause 2, Mr President, this is the date when tax is due and payable. This clause inserts a new section 96A into the Income Tax Act 1970, which will set the due and payable date of income tax for non-corporate tax payers as 6th January following the year of assessment, or 30 days after the date of the assessment, where the assessment is issued later than 6th January.

Mr President, that, of course, means that the assessment should be made, and, hopefully, will be made in time, that you have 30 days, and it will be then due to be paid on 6th January; but if, for whatever reason, the assessment is late, then you have 30 days from that date. It knocks on from that date to actually pay it. Now that is an extension, in fact, to what has been in the previous Income Tax Act 1970.

So, therefore, with that explanation, Mr President, I beg to move that clause 2 stand part of the Bill, sir.

The President: Mrs Christian.

Mrs Christian: I beg to second, Mr President.

I wonder if the mover could illustrate for us, by saying the 2004-05 year of assessment, and give us precisely the date on which the tax would be payable for such a year?

The President: Do the 30 days run as a calendar run, or do we exclude Sundays, et cetera?

Mr Lowey: Yes, and the other thing is –

The President: And Mr Lowey.

Mr Lowey: I have a query: how does this differ? Normally, our tax is due on 5th April. I am old-fashioned enough to have these dates fixed in my mind – our financial year ends, and the tax is due. The 6th January seems to be a strange sort of date. How does this fit in, where we have a lot of people coming in from the UK and having joint tax accounts and being taxed? How does this fit in with the UK tax year? Does this dovetail, or is it a disjointed one? Has that been looked at?

The President: Mr Gelling.

Mr Gelling: Thank you, Mr President.

Now, if I could take the question of 2004-05 year of assessment. The payment on account would, therefore, be due on 6th January 2005. The balances due after they have been assessed, if you like, or if you have paid something on account, would be due on 6th January 2006, okay? So that the 30 days do include weekends – so your Saturday and Sunday is part of it – unless the 30th day is actually on a Sunday. So, in other words, it includes the weekends, except where a Sunday is 30th, when you are coming in on the last minute.

Now, basically, the system that we had before, where the Assessor or his staff were assessing, using current-year – and we must remember, of course, that an awful lot of people – I cannot just remember the percentage – pay on Income Tax Instalment Payments (ITIP) anyway, they are paying on account – nevertheless, it was up to 5th April, and you were only allowed a seven-day period in which, actually, to pay before you were in default. That has been extended now to

30 days, to give you more time to do so, and it could be said, actually, at this time, that when this went out for consultation, and it was seen that the – and I will use the phrase – ‘non-corporate tax payers’ have been given this extra extended length of time, of course, the accountants immediately came back and said, ‘Well, what about the corporates, they are still on seven days?’

So, you will find that, through this Bill, an amendment was actually put in, in another place, to allow that for a common amount of time, so there is no confusion. So, it is 30 days for corporate, 30 days for non-corporate, sir.

So, I hope that explanation helps Hon. Members to support clause 2.

The President: Hon. Members, the motion that I put –

Mr Lowey: Mr President.

The President: Mr Lowey.

Mr Lowey: I wish to draw his attention to the query I raised regarding the reflection of our tax year with the UK tax year, bearing in mind we have a lot of people in this position, with dividends and all the rest of it.

The President: It is still 5th April on both counts, I think – Mr Gelling?

Mr Gelling: Yes, that is right, yes, correct. I have had a nod from my expert on the bench, so the answer would be the same, yes.

The Lord Bishop: For your information, Mr President, 6th January clearly has been chosen because it is when the wise men arrived, bringing their gifts. *(Laughter)* Quite clearly, it is the occasion on which we bring our gifts to Government.

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

We move to clause 3.

Mr Gelling: Thank you, Mr President.

Now, this clause inserts new sections 96B and 96C into the Income Tax Act 1970, and it introduces a new method of paying the tax.

Section 96B requires that a non-corporate taxpayer shall make a payment on account of his income tax liability. The amount of the payment, which will take account of income tax deducted at source, has been initially set for 2004-05 at 105 per cent of the taxpayer’s previous year’s liability.

Now, the payment-on-account-factor percentage, that is to be applied in calculating the payment, may be then by resolution of Tynwald. In those cases where the non-corporate taxpayer has not been assessed for the whole of the previous year of assessment, the Assessor may, under subsection (6), estimate the amount that is to be paid.

Now, where the Assessor estimates the level of the payment on account, the non-corporate taxpayer may appeal to the Commissioners on the grounds that the amount falling due is not a fair and reasonable estimate.

So, therefore, that is the clause dealing with payments

on account of income tax, Mr President, and I beg to move that clause 3 stand part of this particular Bill, sir.

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

Mr Lowey: Could I ask, how many people have actually appealed to the Commissioners? Would the Chairman not agree that appealing to the Commissioners is a very cumbersome affair, and a very last resort, and could he inform us, really? He has made great play on the fact that we can appeal to the Commissioners, as if it is an everyday affair for an ordinary taxpayer.

And is the 5 per cent – which is a 5-per-cent penalty – one in which equal treatment is given to the people when the Treasury owe money to somebody? Do they pay 5 per cent to the people whose money they owe and if not, why not? Why are they claiming for themselves a bigger penalty than they are prepared to impose on themselves to the taxpayer, if they had taken more money than they should?

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

It is just this appeal to the Commission: what sort of response time does the average person get when they do appeal to the Commission, and does it go back to the status quo when they start off, and if they lose that appeal, do they have to pay up straight away, or are they given any time?

The President: Before Mr Gelling replies, could I just point out to Mr Gelling that I did raise with him last week, in relation to the new part 96B(2)(b), I have difficulty in understanding the 30-day rule there, in relation to 6th December and Christmas Day and all the rest of it thereafter. I find it difficult to calculate that one, but perhaps he will comment on that, as well.

Mr Gelling.

Mr Gelling: Thank you, Mr President.

Can I perhaps start with the Hon. Member, Mr Lowey, in reverse order. Again, this particular clause tells us how the payment on account is going to work, but, of course, we later on come to the penalties which will be imposed if the payments are not made, and what Mr Lowey has raised is: why is it higher on one side and not the other? Well, what I can tell you is, from last week – this was something the Hon. Member, Mr Singer raised – I have checked up and, of course, what I find is that 3 per cent is paid to the taxpayer who pays too much, and it is 7 per cent by those who do not pay their tax on time. That is the penalty.

Now, in the UK, just to give you an idea that it is pretty well on the mark, it is 2.5 per cent and 6.5 per cent. So ours is 3 per cent and 7 per cent.

Now, again, what I would really say to that is: the Tax Division is not a bank. It is not somebody loaning money. It is somebody trying to get in, for Government, amounts of money from taxpayers, for Government obviously to spend. So, therefore, it is acceptable to say to a person that pays too much and it is, therefore, lying in... that they are getting virtually the return that they would get if it was sitting in the bank, but the penalty is a penalty. It is there to try to create an initiative for the taxpayer to actually pay it. It is not there as an equal amount: 'Well, if you owe us, we will pay you the

same as we do the other way.' So, that is the way in which it worked. It is worked as a way to say: 'That is owed to the Government, therefore pay it on time, otherwise there will be a penalty clause.'

Mr Lowey: Could I just – ?

The President: Stay with the same point then, Mr Lowey.

Mr Lowey: It is that very point, but it would be a penalty. If it is 3 per cent, 3½ per cent or whatever it was, for the individual, it is still a penalty if you have charged, surcharged 3½ per cent for somebody who does not pay. You do not have to have it a bigger penalty than what you are actually prepared to give to somebody who you have penalised by holding on to their money a bit too long. So a penalty is a penalty, and I accept that, and you need to do it; but what is the logic in putting a bigger one for you, as opposed to the recipient?

The President: I think Mr Delaney has a point on the same –

Mr Delaney: My point is: it is not a penalty until you are proved guilty, and, until it goes through the process of law and goes through the rights of appeal et cetera, he is not guilty; therefore it should not be proposed until after that period –

Mr Gelling: It is not.

Mr Delaney: – and not before, surely?

Mr Gelling: Well, it would not be applied if you took it to the Commissioners.

Mr Delaney: He had not been penalised at that stage, has he?

Mr Gelling: No, that is if he takes it on much further.

Mr Delaney: He is entitled to take it on much further.

Mr Gelling: Well, he can, if he is that determined that it is wrong, he could take it that much further.

But coming back to Mr Lowey's situation, could we just look at a difficult taxpayer who is determined he was going to hang on as long as he could: if he was only getting penalised 3 per cent and he is getting 3 per cent in his bank, there is no incentive for him to pay it, but if he has got to pay 7 per cent, there is an incentive for him to get it out of his bank and actually pay it.

So, it is a system whereby it is trying to encourage the person not to sit on it, but to actually pay it. Right?

Now, the 30 days include the intervening public holidays et cetera. If the 30th day is an excluder day, there is an extension to the next working day. So, in other words, that is taking your public holidays, intervening holidays, as if they were included, but, back to what I said before, if the 30th day was on a bank holiday, or a Christmas Day, or a Sunday, or whatever, that would be extended to the next public working day.

The President: Something served on 7th December

could actually cross over to 8th or 9th January, depending on when it falls.

Mr Gelling: Yes, that's how I would see it.

The President: Yes, okay. Mr Waft also had a point, I think.

Mr Gelling: Sorry, could I just go back to the Hon. Mr Lowey, when he talked about the Commissioners. Now, I have not got how many people actually do, but I would say that there are very, very few, because we like to think that the Assessor, or the officer and the taxpayer, would actually come to an agreement, without it actually going to the Commissioners.

So, I would not over-emphasise – if I did, I apologise – that this is something that would be done on a regular basis, because I would assume that, between the taxpayer and the Assessor, they would find a result that would actually satisfy both.

So, I do not think it is something that happens on a very regular basis. It is usually a very serious one, where there is a lot of money involved, I would suggest, and principles would make the taxpayer probably go the whole way.

Now, sorry, Mr Waft: Mr President, could Mr Waft ask me the question again, sir?

Mr Waft: Yes, I asked about the time taken for an assessment appeal to take place, and if, at the end of that consideration, a decision is made, do they go back to when the assessment was made, or actually when a decision was reached for payment?

Mr Gelling: I think it would go back to when the actual assessment was made, if it was proved against them, yes.

The President: With those explanations, Hon. Members, the motion that I put to Council is clause 3 of the Income Tax Bill. Those in favour, please say aye; and against, no. The ayes have it. The ayes have it.

Clause 4, Mr Gelling.

Mr Gelling: Thank you, Mr President.

This clause inserts a new section 107B in the Income Tax Act 1970.

Now, section 107B will apply only to non-corporate taxpayers, and provides for the calculation and payment of a repayment supplement, where the taxpayer's payments on account exceed the annual liability, and a refund is authorised for issue.

The provisions contained within this section are based upon the repayment supplement provisions that were introduced by the Income Tax 1989.

Minor amendments made within this Bill are consequential to the introduction of the payment on account that has been considered within clause 3, which we have just passed, sir.

An amendment was approved in another place, to provide clarity that repayment supplement will apply to tax accounted for via the ITIP system.

Further consequential amendments to the extent section 107A have been incorporated into part 5 of this Bill, which will be considered later on, Mr President.

So, therefore, I beg to move that clause 4 stand part of this Bill, sir.

Mrs Christian: Mr President, I second, but I would ask the mover to give us an assurance that, where the sums in respect of repayment are less than £100, and which, therefore, do not attract interest, as I read it, those sums could be significant for certain individuals, and that the time lapsed would be as short as possible, please, in respect of repayments.

The President: Mr Lowey.

Mr Lowey: Yes. I can recognise the complexities of this legislation, but the Member moving it said this clause was for clarity. Well, subsection (4) is anything but clarity, I think he would agree.

If I was reading this as a lay person, trying to get my head round it, and I will read it again – subsection (4) is on page 7:

'Notwithstanding subsections (1) and (2)' –

and that deals with the point that Mrs Christian made about not getting it, if it is under £100, and that will be a lot of people.

Let me read it again:

'Notwithstanding subsections (1) and (2), section 107A of the 1970 Act (as it had effect immediately before the date on which this section comes into operation) shall continue to have effect in respect of any period preceding the date on which this section comes into operation.'

I have to say to the Member, if that is clarity, then I am still confused.

Mr Gelling: Yes, again, Mr President, I think I did try to explain at the First Reading. This, of course, is legal terminology, is legal drafting. There will be a considerable number of briefing papers, practice notes, which will have to come out with this, to give it a transitional chance, as it were, to get through, and, therefore, this is the legal draftsman's way of putting something, which probably will be very simple in ordinary, working men's and ladies' terms. I feel quite sure about that, because that is what we are determined to do is to try to make this – for our own sakes, never mind just the taxpayer – as easy as we can, because it is a very big jump, is getting into the current-year period, so we do not underestimate the problems and the queries that we will probably have, sir.

The President: Mr Waft.

Mr Waft: Just for clarification, Mr President: this amendment, through the House of Keys, that was a Treasury amendment, I take it, through you, Mr President.

Mr Gelling: It was, yes.

Mrs Christian: Mr President.

The President: Mrs Christian.

Mrs Christian: Mr President, does it not simply say that, until this comes into effect, then the existing Act applies.

The President: Yes.

Mr Gelling: Yes.

The Lord Bishop: Yes, it does.

Mr Gelling: Could I, Mr President, just... I omitted: the £100 is a *de minimis* limit to save administration costs, and in subclause (4), in this form, on the advice of the draftsman, that is his way of saying this. Mrs Christian has just described it: the existing system stays, until the new system actually is in being.

The President: Mr Gelling, in this particular clause, at (5):

‘The Treasury may by Order increase or decrease the rate of interest by reference...’ –

they are perfectly entitled to, but it is in (8), then, subject to the approval of Tynwald, which I think is normal, and I am reluctant to move forward, but just to pick up on the point for clarification.

In clause 5 the Treasury then can prescribe different rates of interest under ‘surcharge rate’, but I find there no reference to approval by Tynwald. Does subclause (8) govern what will happen in clause 8 or should we be looking at that when we reach it?

Mr Gelling: If I can, I will answer that, perhaps, when I move on to clause 5.

The President: That will be fine, thank you.

Therefore, Hon. Members, the motion which I will put to the Council is that clause 4 do stand part of the Bill. Will those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We turn then, Mr Gelling, to clause 5.

Mr Gelling: Yes, thank you Mr President.

Clause 5 deals with the interest on overdue tax.

This clause includes amendments to section 111A of the Income Tax Act 1970 that are consequential to the move to a current-year basis and to the introduction of a payment on account, and the provisions relating to interest on overdue tax have been tightened, so that a person who fails to pay the full amount of their payment on account will be subject to an interest charge on the amount not paid, for the whole of the period during which the tax is overdue.

This clause also introduces, for the first time, a surcharge rate of interest that will apply in those cases where tax is seriously overdue and the taxpayer fails to submit their income tax return by 5th April following the year of assessment to which the return relates.

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

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

The President: Hon. Members, we are quiet on this, and, perhaps, Mr Gelling, on the surcharge rate, it does fall into the second year before a surcharge rate would appear, and I just repeat my question: can, in these circumstances, the Treasury impose this surcharge rate without reference to Tynwald?

Mr Gelling: No. Clause 4(8) means Tynwald approval of a clause 4(5) Order is required.

The President: Yes, that is in clause 4.

Mr Gelling: Yes.

The President: But it is not a catch-all, is it?

Mr Gelling: No. The Income Tax Division proposes that the surcharge rate of interest should initially be 2 per cent higher than the normal rate of interest, so I suppose, as the normal interest rate drops, that, in turn, would be dropped by Treasury. In other words, it would not have to come back to Tynwald. But, of course, the same thing, Mr President, would be, if it went up.

The President: Hon. Members, the motion I put to the Court is that clause 5 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6, Mr Gelling.

Mr Gelling: Yes, thank you Mr President.

This clause includes amendments to sections 3, 4, 5, 6 and 7 of the Income Tax Act 1970 that are consequential to the move to current-year basis for all non-corporate taxpayers. Following the move to current-year basis, these sections will continue to apply to corporate taxpayers only.

Clause 6 of the Bill also inserts new sections 7A and 7B into the Income Tax Act 1970.

Section 7A will ensure that, on cessation of Manx residence, the non corporate taxpayer will only be allowed a proportion of the allowances and deductions, when computing the liability for the final period, during which the taxpayer was resident.

Section 7B will ensure that, following an individual’s death, income tax shall be assessed and charged upon his executors or administrators, and that any liability shall be a debt, due from and payable out of that estate.

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

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

The President: Hon. Members, the motion I put is that clause 6 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We turn to clause 7, Mr Gelling.

Mr Gelling: Mr President, clause 7: this is the transition to current-year basis.

This clause provides for the transition from the previous-year basis of assessment to the current-year basis.

Income assessed using the previous-year basis will be deemed to cease at midnight on 5th April 2004. The effect of the deemed cessation will be that income assessed during the 2003-04 year will be assessed, using the existing cessation provisions that are contained within the Income Tax Act 1970.

Following the deemed cessation, clause 7(3) of this Bill will ensure that the non-corporate taxpayer is then treated as commencing to carry on a business, or as receiving income from a new source at midnight on 5th April 2004. The commencement of income, together with the modifications to the Income Tax Acts already set out, will have the effect

of applying the current-year basis of assessment for 2004-05 and future years of assessment.

Can I remind Members that one complexity of the previous-year basis of assessment is commenced when part of the income is taxed twice, and cessation, when part of the income is not taxed at all, to balance things up. So, this deemed cessation will mean that one year's income will not be taxed.

So, that was the explanation which I was trying to give Hon. Members when we were at clause 1, that it will not be taxed twice.

Therefore, I would beg to move that clause 7 stand part of this Bill.

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

The President: The motion I put to the Council is that clause 7 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We turn then to part 2 and clause 8.

Mr Gelling: Thank you, Mr President.

This deals with tax returns and civil penalties and it comprises clauses 8 and 9, and I would like now to present to you clause 8, which deals with the returns.

Clause 8(a) makes amendments to section 62 of the Income Tax Act 1970. These amendments extend the period during which an income tax return form should be submitted, from three to six months, where a return is issued on 6th April, and from 21 days to six months, where the initial return is issued later than 6th April.

This change recognises the difficulties a taxpayer or his representative have, in complying with the current period during which a return should strictly be made. It also takes into account the work which the Income Tax Division has to do over the next three months, to raise the assessment and issue the payment-on-account notice. These changes have all been supported by the accountancy professions.

Clause 8 also inserts section 62A, 62B and 111J into the Income Tax Act 1970.

Section 62A extends the provisions of section 62 in the situation where the taxpayer ceases to be a Manx resident. This section will, for the first time, ensure that a taxpayer who leaves the Isle of Man will be required to make and deliver a return within six months of the date of his or her departure.

Section 62B deals with the production and auditing of accounts and looks both to satisfy the Island's international obligations and to ensure compliance in regard to domestic taxation matters.

This section provides for a notice to be served on a taxpayer who has filed a return that will require him or her to prepare and deliver accounts, and the notice may also require that the accounts are appropriately audited.

The Treasury recognises that a requirement to produce audited accounts may impose additional costs on the taxpayer, where the taxpayer was not otherwise obliged to have his accounts audited, and the audited accounts vary only marginally from the originally declared profit, then the taxpayer will be reimbursed by the Treasury the amount of costs incurred by him or her.

For the purposes of this clause, percentage and monetary amounts are included in section 62B(3)(d) that will determine

the maximum extent to which accounts could vary, within which the taxpayer may be able to seek reimbursement of the costs incurred.

The final section contained within clause 8 of the Bill is the new section 111J that will be inserted into the Income Tax Act 1970. This new section deals with serious default cases, and updates the existing provisions in section 112 of the Income Tax Act 1970, and the taxpayer shall be guilty of a criminal offence, where an income tax return has not been made and delivered within two years of the year of assessment to which the return relates.

The provisions contained within this section also address the failure to make a return within two years of the taxpayer's cessation of Manx residence, or where notice is given that a return is required and that return remains outstanding more than two years after the issue of that notice.

These provisions will be directed only at the more serious cases. Should it be necessary to apply these provisions, then the taxpayer, if found guilty, shall be liable to a fine not exceeding £5,000, or custody for a term that shall not exceed six months.

Therefore, I beg to move that clause 8 stand part of this Bill.

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

The President: I call upon Mr Lowey.

Mr Lowey: Is this a change from... a departure? We are making it a criminal offence now, as opposed to a civil liability, and if that is the case, who is going to police it, if you will pardon the pun?

And, secondly, it will not be used unless it is a serious offence, but if it is that serious, a £5,000 fine is hardly going to be a deterrent to some of these bigger frauds. I know this is non-corporate, it is individuals, but there are some very wealthy individuals to whom this could, and, no doubt, would, apply.

So: is the fine big enough; and, secondly, who is going to police it, because it is no use having the law in, if you are not going to police it?

The President: I call upon Mr Delaney.

Mr Delaney: Oh yes, I am on the very same point, actually. It is obvious what has happened here, and I am going to use a case; we will get down to hard cases here. We have a person who has decided, because of age, who has been successful in life and has got a few bob put away to look after themselves and is not a drag on the taxpayer on the Island, who then goes across to Britain or Spain, or somewhere else to live, to look after themselves in their old age, and are we saying now that if he does not do this six-month commitment to get that return in for the year he is away, he becomes, possibly, a criminal in international law? Are we saying that?

You were saying, 'only for the serious cases'; who determines the seriousness of a case? Is there a fixed amount of money that may be owed? Is there an amount of income he may be earning which puts him in the bracket? How do we determine a serious case and who will be in the governance of those serious...? Because it is a serious offence, obviously, a criminal case. You can get a £5,000 fine or six months. So,

this person is sitting out there and has forgotten, because of problems, he has not carried out this obligation. He then gets a knock on the door, or a letter in the post, saying he is liable to a £5,000 fine or six months in jail. I would say that is a real, serious case.

The President: I call upon Mrs Christian.

Mrs Christian: Mr President, can I just make an observation on this. We all know, if we have income, that we are liable to pay tax. Anybody who can overlook that, when challenged for two years, should be prepared for some consequence, I would suggest, and I do not think that the scenario which the Hon. Member has illustrated of someone who has done very nicely and wants to go off to Spain for the winter –

Mr Delaney: Has to go off.

Mrs Christian: Alright, has to go off – then, at least, after two years, and receiving communication from the Treasury in respect of the tax assessments, if they choose to ignore it for two years, knowing that there is a penalty of this magnitude, I think that they have no excuse, frankly. I think that if everybody paid tax as was due, we might be able to ease the situation in respect of those who do not... (*Interjection by Mr Lowey*) It would make it a lot easier for everybody, and so I do not think that we should be too prim about not pursuing people who, for two years, have ignored their obligations.

The President: Mr Waft.

Mr Waft: Thank you, Mr President. It is often the case that some old lady living on her own –

Mr Lowey: Yes, now you are talking.

Mr Waft: – has a considerable sum of money, and she directs the accountant to take care of her situation –

Mr Lowey: That's right.

Mr Waft: – and, invariably, the accountant would say, 'Well, leave it to me and I will sort it out for you.' It is still her responsibility, at the end of the day, if she falls behind. It is not the accountant's responsibility.

But there are situations, perhaps, where somebody goes into hospital, or there are extenuating circumstances, where the income tax return has not been made. I just wondered how far to go down this route to establish that this is a definite case of somebody avoiding tax, or it is somebody, for one reason or another, not actually knowing that they are falling that far behind.

It was mentioned – I think the Minister said it – about knowing that there is a penalty. They do not always know that that penalty is there. When some people are in their dotage they are not sure that there is a penalty –

Mr Lowey: We are making them criminals now.

Mr Waft: – or the criminality of the situation, when they are that far behind. But it is only the social aspect of the criminality of the situation, when somebody does get

into difficulties, possibly through no fault of their own, or by other extenuating circumstances.

Mr Delaney: Tax dodging in reverse. That is what gets me.

Mr Waft: Absolutely, yes.

The President: Hon. Members, if we keep making 'comments', when the other Member is speaking, it makes it very difficult for *Hansard*, and we are trying to get a record of what is happening in our debate.

Mr Gelling.

Mr Gelling: Yes, I think, if I can take the first point from the Hon. Member, Mr Lowey: it is not a change. If you look at clause 112, it is a prosecution, so it still remains the same as it was.

If I can move on from there, into the situation with regard to an accountant: unfortunately, that accountant is the agent of the taxpayer, so, therefore, if the accountant fails or falls down, it is not the accountant. Well, the taxpayer will have some redress against the accountant, but, nevertheless, unfortunately, it is the taxpayer who will still be the person who will be prosecuted.

If I can just take us back to that area where it said that a notice is given that a return is required: the Assessor will issue reminders and, in the last resort, there are warnings of prosecution, and if they still ignore it, they will be prosecuted. So, there is a fair lead-in period to the prosecution taking effect.

The professional tax advisers' argument, when they were consulted on this, was that they would be unable to process all their clients' returns within the originally proposed five months' period, and we have been able to accommodate them to their satisfaction, in this clause, and the move from three to six months is designed to give all, both represented and unrepresented, taxpayers an opportunity to file a return on time, whilst maintaining a suitable period during which the officers of the income tax can process the returns and raise the assessments.

So, what I am trying to say, Mr President, is: there is quite a lot of leeway being given here to allow extra time to give people time, whether they be the advisers or the taxpayers, to actually get them in on time, and if then they fail and they ignore the Assessor for a period of two years, I pick up what Mrs Christian said, they have been well aware that there would be a prosecution, and I would think when the prosecution came, it would certainly not be a surprise to them, because they had been given quite a lot of warning.

So, therefore, I think that clause deals with the situation, and deals with it in a way in which we have consulted with the professionals, and it has been accepted by them, as a fair and equitable way in which to put it into being.

Mr Lowey: Mr President, the Hon. Member still has not answered my question of who is going to police it. There is a criminal thing. It is the police.

Mr Delaney: I asked that myself.

Mr Lowey: He says it is the same as it has always been. Well, therefore, the police are not... We are not making it a criminal offence. It is a civil liability, not a criminal offence

and the word 'criminal' was introduced by the mover.

Can I again make the point: I am not here as an apologist for anybody not paying their due taxes. I am not being prim, but I am concerned about... Again, I am back to the reality. We all know that most people fill in their own taxes. They cannot afford to pay for an accountant. It is hundreds of pounds an hour for an accountant now, to do your books, and so, therefore, the normal, ordinary man in the street, whom we are here, really, trying to represent and protect, the non-corporate... It is all fine and good saying you can have an accountant do it. We all know, in reality, that will not happen, and it is not a level playing-field. The tax authority against the individual is not a level playing-field and there is no use pretending it is.

That is the point I am making. If this is making it a criminal offence, then I want to know who is going to police it. Is it the tax authorities or is it the police?

Mr Gelling: If I could answer that, Mr President, the Assessor of Tax, or, shall we say, the Assessor's office, are the ones who are controlling it, looking at it, checking it – I think you used the word, policing it. But then the Assessor would then, at a stage, decide that a prosecution was in order. He would then forward it to the Attorney General's Chambers so the Government would then be prosecuting from the Attorney General's Chambers. So, in other words, the Assessor and his staff will be policing it, but at the time that they feel that they have had due warning, and they have had due warnings of prosecution, they will then make a decision. The tax office will police it.

The President: Mr Delaney, I do not want to keep going back over this point, now.

Mr Delaney: I think this is a very important part of it. I had no questions on this, because it was straightforward, but it is the way the introduction has been done, Mr President, with due respect.

The mover said there would be a level at which they would decide whether they want to prosecute. Is it the level of money which decides that – how much is owed to the income tax office – or is it the individual's assessment, who works in the Department, of who he is going to pursue?

And there is the question, which I thought might have been illustrated: how do we get somebody – as I have tried to point out without getting into the obvious part – who is living outside the jurisdiction of the Isle of Man, who gets prosecuted on a criminal offence? If you are going to do six months, it is definitely a criminal offence. Have we got the powers, for example, to bring them back to serve that six months? How do we enforce this situation?

Mr Gelling: First of all, I would suggest that the serious case – I said it would be directed only at the most serious cases – would not be the amounts of money; it would be the seriousness of the taxpayer's attitude or ignorance of all their requests and letters ignoring the Assessor's requests for it to be paid. It would be the seriousness of the way in which the taxpayer acted, and I would think that due process of law would apply, when they would be prosecuted from the Attorney General's department, in the same way as any other prosecution from the Attorney General's department would apply. As to whether or not the person could be brought back to the Isle of Man would be the same principle as if they had

done anything else that was criminal.

The President: Hon. Members, the motion which I put to the Council is that clause 8 do stand part of the Bill, and, in putting that, the Council notes that the 6th day of September, for example, in the Green Bill, has been changed to the 6th day of October, and the consequent five months become six months – as long as we are all clear on that, for the purposes of record, it is made plain.

I put to the Council that clause 8 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We will take clause 9 and schedule 1, Mr Gelling.

Mr Gelling: Thank you, Mr President.

Clause 9 deals with the civil penalties for tax return defaulters, and clause 9 inserts this new section into the Income Tax Act 1970, as set out in schedule 1 of this particular Bill.

If I can turn to schedule 1, this schedule inserts new sections 111C to 111I into the Income Tax Act 1970 which deal with the introduction of civil penalties that will apply against tax return defaulters.

Before turning to the new sections, I would like to provide Hon. Members with background information that should illustrate the difficulties encountered annually by the Income Tax Division. Approximately 55,000 income tax returns are issued annually to non-corporate taxpayers, and approximately 50 per cent of those returns remain outstanding as at the current 30th June deadline for the return submission. So, only half of them are actually in at the moment.

In order to provide further assistance to the taxpayer, this Bill, within clause 8, extends the submission date of an income tax return from 30th June to 6th October. The new sections included within schedule 1 have been drawn up with the view of increasing compliance and ensuring tax returns are filed on time.

Regarding the new sections, section 111C directs that the taxpayer will be liable to a civil penalty if a return has not been made and delivered by the due date. Where, having become liable to this civil penalty, the taxpayer delivers a return and the amount of tax assessed is less than the amount of the penalty, the penalty will be automatically reduced in line with the amount of tax assessed.

Arrangements are in the process of being finalised, between the Assessor of Income Tax and the accountancy profession, to ensure that this penalty is not triggered, where a provisional tax liability has been reported to the Assessor. Section 111D directs that, should the taxpayer continue in default, a second civil penalty shall be levied. In such cases, the extended default would be triggered, where the return remains outstanding more than 12 months after the end of the year of assessment to which it relates, or more than 12 months after the date of cessation of residence. The civil penalty due in respect of an extended default will not be automatically reduced.

Section 111E provides for the mitigation of the penalties levied in respect of the initial and extended default. Mitigation may be given by the Assessor, or by the Commissioners, on appeal, but, in doing so, the Assessor or the Commissioners shall not take into account the taxpayer's insufficiency of funds, the fact that there had not been a significant loss of revenue, or the fact that taxpayers or agents were acting in good faith.

Section 111F includes provisions supplementary to sections 111C to 111E inclusive. The provisions include the ability to avoid a penalty, where the taxpayer is able to provide a reasonable excuse, and the removal of the penalty, where the taxpayer has been convicted of an offence under section 108 of the Income Tax Act.

Section 111G states that the level of the initial and extended penalty shall be £50. The amount is prescribed by Treasury and may be amended, subject to the approval of Tynwald.

Section 111H provides that the penalty shall be a debt due to the Assessor, that it shall be treated as a debt due to the Crown, and that the penalty shall not be deducted in computing income profit or losses for any income tax purpose.

Section 111I states that an appeal against a civil penalty shall lie with the Commissioners, and that the procedures will be the same as an appeal against an assessment.

I, therefore, beg to move that clause 9 and schedule 1 stand part of this Bill.

Mrs Christian: I beg to second, Mr President.

Just in responding to comments which have been made on earlier clauses, I think that it is right that many individuals do not have the services of accountants in preparing their returns. My only concern about the extension of the period, which is seen to be favourable and helpful in this transition to current-year assessment, is that many of us suffer from inertia when it comes to tax returns, and I am not sure that that inertia is going to go away! It will be, no doubt, encouraged to go away by the penalties which are being introduced, but I do hope that there will be advice going out from the Treasury about both the extended period and the penalty clauses.

I am conscious that the Treasury and the Income Tax Division do offer help to individuals in filing their returns, and, indeed, there are other organisations throughout the Island, I am very conscious, such as the Citizens Advice Service in Ramsey and maybe in other parts of the Island, which do provide assistance to individuals in completing their tax returns.

So, again, this is somewhat 'carrot and stick', but not inappropriate, in my view.

The President: Mr Lowey.

Mr Lowey: I would agree with Mrs Christian that I have always found the tax people very helpful to me when I have been dealing with people's problems.

Having said that, can I come to the particular schedule, and it does seem amazing to me that we have mitigation of penalties, under section 111E(1), and (2) says:

'In the case of a penalty reduced by the Assessor under subsection (1), the Commissioners, on an appeal [can] cancel the whole or any part of the reduction made by the Assessor.'

But then it goes on:

'(3) The Assessor or the Commissioners shall not be entitled to take into account in exercising their powers under this section –
'(a) the insufficiency of the funds available to any person for paying any income tax due or for paying the amount of the penalty'.

So, in effect, they are saying we cannot take into consideration if somebody is on supplementary benefit; if

they have been told they have got to pay, they have got to pay. It does seem to me, if you are having an appeal, we are saying: 'Well, hang on, even if you have got no money... How can you get blood out of a stone?'

This seems to me to be the Income Tax saying they are going to get blood out of a stone, and it just will not work.

And then can I come to the amount of the penalty, 111G(1):

'The amount of the penalty under sections 111C(1) and 111D shall be £50 or such other sum as the Treasury may prescribe by Order.'

The ability that there shall be a penalty of £50 minimum does seem to me, again, to be hitting the individual, as opposed to corporate things, because we have not got a defence of saying, 'Well, the books are at the accountant', knowing full well... But again we are putting... £50 may not appear much to the Treasury, but to an individual who perhaps is on the border-line with family, £50 is a lot of money, on top of the tax, which has got to be paid. 'Shall be', no variation – 'shall'; it is a direction.

But can I come back to the point, and the main point I am drawing attention to is, that no matter what they decide, they cannot take into account the inability of the person to pay. Well, with the greatest respect in the world to the Isle of Man Treasury, if somebody cannot pay, and they have got no visible means of paying, what does that do, and how does that make it a feasible proposition to somebody that is on supplementary benefit or got no visible means of support? 'We cannot take that into account; you have got to pay.' It just seems to me to be absolute nonsense.

The President: Just, Mr Gelling, before you reply, if you could, just for my purposes, refer to your notes when dealing with 111F. It may have been my ears, but I think you said, 'a penalty under section 111C or 111E', and the printed Bill says, '111C or 111D'. I think you said they were inclusive. Did you say E, sir?

Mr Gelling: That is what my note says. Yes, Mr President, as you say, 'section 111F includes provisions supplementary to sections 111C to 111E inclusive.'

Two Members: It says, 'D' in the print.

The President: I do think that you did say that, and that is why I am asking for clarification, because E follows D in the alphabet, as I understand it.

Mr Gelling: It should be D, sir, for the record. So, it should read 'Section 111F includes provisions supplementary to sections 111C to 111D.'

The President: In which case, Hon. Member, we really do require an amendment, do we not?

Mrs Christian: No.

The President: No. Let us just get it clear at this stage, because I thought that was what you said when I was following through the Bill, and I just wanted to be clear. Now, if, in effect, the wording of 111F does cover 'E', well, then I am content. Perhaps we could have clarity on that?

Mr Gelling: But the actual Bill is correct, sir, isn't it? The

actual Bill is correct; it was my notes that were incorrect, sir. Therefore, the Bill – the clause we are passing – is correct.

The President: Well, I just want to be sure that you are content that the Bill is right, and what you said in your notes was wrong. Whichever way round it is, we want clarity – that is the point I make.

Mr Lowey: Is it not right that the side notes actually say, ‘Section 111C to 111E: supplementary’, and yet the written word is ‘111C or 111D’?

Mr Waft: The side notes say ‘E’.

Mrs Christian: Mr President, section 111F states, ‘A penalty under section 111C or 111D...’, so that is dealing with *penalties*. Sections 111C and D deal with penalties. Section 111E does not deal specifically with penalties; it deals with mitigation. So, I do not think that there is any problem with 111F, in referring only to sections 111C and D.

But I would stand to be corrected on that. I think we are dealing... We are quite right in referring to the penalties in 111F, which sit only in 111C and 111D.

The President: That may very well be the case, but I just want to be sure that we are right, when there was a difference in the wording.

Mr Gelling: Could I just again, get that... I am not quite sure there, Mr President. Could I just get the officer to see what that means.

The President: We have time, just make sure that it is clear. As long as it is clear, we are all content. We know the point.

Mrs Christian: May I just comment on the principles here, in relation to insufficiency of funds.

This is not unique, there are other areas in which the courts deal with matters where the person before them may have an insufficiency of funds. That does not mean that they are not guilty of some offence, and there are systems available, if they are on benefit, for taking steps to recoup what they may owe from their benefits, provided there are limits on what is taken from them to allow them to survive.

Now, that is not unique, and one, I would suggest, should not argue that if someone has had sufficient resources to be liable for tax and has not paid it, they should not be absolved of their responsibility. That would encourage profligacy, would it not?

And if they have dispersed all their funds – or maybe they have fallen on hard times, and no longer have the resource to pay it – it is still not a reason for not finding them guilty of the particular offence. The penalty, and the question of how they repay the penalty, can be taken into consideration in relation to the benefit structures, potentially.

The President: Right, okay. Mr Gelling, have you got the answer for us, sir?

Mr Gelling: I think the side note to 111F includes mitigation of the penalties in section 111E. If you notice, on the side, there is ‘sections 111C to 111E: supplementary’.

So, I think that confirms what Mrs Christian said, so that is confirmation that, perhaps, what I read – ‘111C to 111E inclusive’ – should therefore cover 111C, 111D and 111E.

The President: You are content that it does?

Mr Gelling: Yes.

The President: Right, in that case, Hon. Members... Mr Waft, yes.

Mr Waft: It is only that the Minister mentioned a court can decide on the penalty, or whether the ability to pay, et cetera. It does not mention the court in 111G; it says:

‘shall be £50 or such other sum as the Treasury may prescribe’.

Mr Lowey: That is right.

Mr Waft: I just wondered what it may prescribe. It has just got £50 down, here.

Mr Gelling: Yes, but that Order, of course, will be subject to Tynwald approval. So, basically, that £50 is a standard charge. That is the penalty, which will only change if Treasury, therefore, put it to Tynwald.

The President: Okay, Hon. Members, the motion that I put –

Mr Gelling: I am sorry, Mr President, I did not answer –

Mr Lowey: No, you have not.

Mr Gelling: I have not answered, yes, I am sorry.

Now, I take what Mr Lowey, the Hon. Member, is saying; nevertheless, I concur with Mrs Christian, that is: it is not accepted as an excuse if you have got the money – irrespective of whether you have not got it because you are on benefits, or whatever – not accepted as an excuse for the non-payment; but that does not mean arrangements can then not be made for that person to be able to, through the Assessor’s office, be able to pay it in a way in which it would not cause them the concern, I think, that the Member is saying.

In other words, what I am trying to say is that it will not be accepted as an excuse just because you have not got the money, because you could very easily make sure, if you were devious, that you did not have the money, but you must differentiate between the person who is legitimately in a difficult situation.

Again, I would say, the Treasury will be considerate in that particular area. In fact, you will find that at the first time of introduction of this, those penalties will not be put on. They will be warned that, if next year they are in the same position, they will be switched on.

So, in other words, once again, Treasury being helpful, trying to assist people to pay, because it is in everybody’s interest that we do get the tax in. They will not be switched on in that first year of transitional introduction. They will be warned that: ‘if this occurs again next year you had better arrange yourselves, in a way...’

If you are a taxpayer, you must be earning quite...

Well, we know how much money you have got to earn, and, therefore, I just cannot accept that somebody who is totally on their knees, as it were, would not have the amount of tax. I would have thought they would have been on the other side, they would have been getting money back, rather than paying money.

So, I accept what the Hon. Member is saying, but I would suggest that that particular case, as far as the Assessor and the staff are concerned, would be a very, very rare occurrence, and it would be the arrangement, but not accepted as an excuse, just saying, 'I have not got the money'.

Mr Lowey: Could I just say that, while accepting that... I can illustrate what I have been privy to: widows taking on responsibilities for their husbands', and I will talk to you about that later, but under this legislation which we are passing now, that ability of the Assessor to operate in a fair way is proscribed, because we say the Assessor or the Commissioners 'shall not' – not 'ifs', not 'buts' or 'we will deal with it nicely in the interim' – '*shall not*'. So, I can hear them saying now, 'I would love to, Mr Lowey, but I cannot', and it is legislation you have passed.

Mr Gelling: Yes, but again, I would reply to that, Mr President: you could have cases where people actually arrange their affairs in such a way that they could appear to have no money. So, therefore, it is not accepted as an excuse, but I am quite sure that, in the circumstances that were, again, I would think rare, but difficult circumstances, where the people did legitimately not have the finances, because of things that you have just described – husbands dying and their liabilities or whatever – I would suggest that it cannot be accepted as an excuse, but certainly the Assessor and the staff would make arrangements for the way that that would be accommodated.

The President: Right, Hon. Members, I think we have given it a good airing, so I put to the Council that clause 9 and schedule 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We turn, then, to clause 10 and schedule 2.

Mr Gelling: Clause 10 of the Bill inserts new sections into the Income Tax Act 1970 that have been set out in schedule 2.

This clause also makes amendments to section 19 of the Income Tax Act 2003, that are consequential to the introduction of these new provisions.

An Order under section 19(1A) is subject to section 19(3), and shall not have effect unless it is approved by Tynwald. Information secured under these powers will be available for the Island to fulfil its international obligations to exchange information, and will also be available for the investigation of domestic tax fraud.

If I can then turn to schedule 2, Mr President. Schedule 2 of this Bill inserts new sections 105C to 105O into the Income Tax Act 1970.

Section 105C enables the Assessor, by written notice, to require a person to deliver documents relevant to any income tax liability or to the amount of the liability. Documents may also be requested that are relevant to the persons residence status. Whilst the Assessor may require submission of documents, the person must be given a reasonable opportunity to furnish the documents before a notice is given.

A notice issued under this section must set out the reasons for making the request, but does not require the disclosure of information that may identify a third person, who may have provided information to the Assessor.

Notwithstanding the issue of a notice, the person will not be obliged to deliver documents that relate to an appeal that may be pending at that time. This section also provides for the delivery of copies of documents, and for the inspection of original documentation, if required by the Assessor.

Section 105D deals with the Assessor's power to call for documents relating to the taxpayer. This section gives powers to the Assessor, whereby he may, by written notice, require a person other than the taxpayer to deliver documents relating to any income tax liability, or to the amount of the liability to which the taxpayer may be subject.

Documents may also be requested that are relevant to the taxpayer's residence status.

Section 105D also includes provisions similar to those considered previously within section 105C, namely, they are: providing reasonable opportunity to deliver documents before a notice is issued; secondly, what information must be included or may be excluded from the notice; and, lastly, the delivery of copies or the inspection of original documentation.

Section 105E makes further provisions that relate specifically to section 105D. These include the following: the notice shall name the taxpayer with whose liability the Assessor is concerned, unless the taxpayer is not known to the Assessor, or there are reasonable grounds for believing that the taxpayer may have failed to comply within the Income Tax Acts; the person may, within 30 days, object to the notice and if the objection cannot be solved by agreement, it shall be referred to the Income Tax Commissioners; Treasury may, by Order, which shall be approved by Tynwald, declare that information of a particular description is not included within the summary of the Assessor's reasons for giving the notice; the person shall not be obliged to deliver documents that originate more than six years before the date of the notice, except where the Assessor has reasonable grounds for believing that fraud may be involved; the Assessor may not issue a notice in respect of a taxpayer who has died, and more than six years have elapsed since his death.

Section 105F provides clarification regarding information held by auditors and tax advisers.

Subject to the provisions contained in subsection 105F(3) and 105F(4), an auditor need not provide documents that are his property and were created in connection with the performance of his function as an auditor. Similarly, a tax adviser need not provide documents that are his property and consist of relevant communications.

Section 105G makes provisions that are supplementary to section 105C to 105F inclusive. The supplementary provisions include: clarification that the term 'the taxpayer' includes a company that has ceased to exist, or an individual who has died; confirmation that personal records, journalistic material and items subject to legal privilege are outside of the definition of documents that may be subject to a notice under this schedule; confirmation that a notice will specify the time period during which documents should be delivered; and confirmation that copies of the documents may be taken.

Now, Mr President, section 105H to 105K inclusive provide for Court Orders to deliver documents.

Section 105H allows the High Court to make an Order if a notice made under section 105C(1) has not been complied

with, or where there is reasonable grounds for suspecting that a notice will not be complied with.

Similarly, section 105I allows the High Court to make an Order if a notice under section 105D(1) has not been complied with, or where there are reasonable grounds for suspecting that a notice will not be complied with.

Section 105J adds provisions that are supplementary to sections 105H and 105I, and the provisions include: direction that compliance with an Order shall be within seven days; that failure to comply may result in the person being held in contempt of Court; confirmation that information held electronically or in magnetic form should be delivered in a form that is visible and legible; and that Orders of the Court do not apply to personal records, journalistic material or items subject to legal privilege.

Section 105K entitles a person to notice of not less than 14 days of the intention to apply for an Order. A person is also entitled to be heard at the hearing of the application. The entitlements under this part may be disregarded if the High Court is satisfied that notification would seriously prejudice the investigation.

Section 105K also requires that a person given notice of the intention to apply for an Order shall not conceal, destroy, alter or dispose of any document, nor shall he disclose any information that would be likely to prejudice the investigation, notwithstanding this restriction on disclosure. The person may consult with his or her professional legal adviser, or his or her tax adviser.

Section 105L directs that a person shall be guilty of an offence if he or she falsifies, conceals or destroys documents, where notice has been given to deliver documents or make them available for inspection. This section will protect the person where his or her actions have been taken with the written permission of the Assessor, after the document has been delivered or inspected, or where copies of the documents have been delivered. Unless the Assessor gives notification that the original notice has not been complied with, the person shall not be guilty of an offence, if his or her actions are taken more than two years after the date on which the notice was made.

Section 105M includes provisions that allow for the issue of a warrant authorising the entry of premises. A warrant cannot be issued under this part, unless a Deemster is satisfied that there are reasonable grounds for suspecting that an offence of income tax fraud is involved, and that there are reasonable grounds for suspecting that the evidence may be found on those premises.

A warrant will not be able to be exercised at times outside those specified, nor will it be exercisable in the absence of a uniformed police officer, unless the warrant provides otherwise.

The provisions contained within this section also deal with the removal of information contained electronically, information that would be subject to legal privilege and the requirement to furnish the occupier of the property with a copy of the warrant.

Mr President, a warrant will only be sought in cases of fraud or where there is evidence to suggest that the relevant documents are being held on the premises, and items subject to legal privilege may not be removed, unless items are being held with the intention of furthering a criminal purpose.

Section 105N outlines the procedure that must be followed where documents are removed following the Assessor's entry into premises authorised under section

105M. That procedure includes: the requirement to provide the occupier with a record of items removed; items will not be retained by the Assessor any longer than is necessary; subject to the Assessor's supervision, a person may access items held by the Assessor; and copies of items held by the Assessor may be made and supplied to the person from whom the item was obtained.

One of the issues, Mr President, was access to or the making of copies of items, and it will not be possible if the investigation would be prejudiced as a result of doing that.

Section 105O provides interpretation of certain terms included within sections 105C to 105D.

With that rather long interpretation of the clause, I beg to move that clause 10 and schedule 2 stand part of the Bill, sir.

The President: Mrs Christian.

Mrs Christian: I beg to second, Mr President, and reserve my remarks.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

I find it hard to come to terms with when the Hon. Member moving the Bill says this is dealing with real fraud, really, fraudulent cases of tax, and yet the schedule starts off by saying the Assessor 'may' do this and 'may' do that. I would have thought it would have been more mandatory and should have 'shall'.

Now, we know, when we are writing legislation, we have already spoken about the individual hard luck case where the Assessor is being told in legislative form, he shall not take into account the inability of the person to pay – he shall not, that is a direction. Here we have where we think is serious fraud taking place and we are being permissive: he *may* do this and he *may* do that.

Now that I find that rather strange. I would have thought we should be tough on those who we believe, or the Assessor believes, is, and I am sure the Assessor will only ever introduce it when it is necessary, when he has strong suspicions of that. So, this is not a vote of no confidence in the Treasury and the way they do it, but it is the way we are writing the law, and it just seems to me to be extremely giving the wrong sort of message, and, perhaps, the Member can tell me why.

I note it is already in the present legislation – the permissive as opposed to the mandatory – but I am hard pressed to understand why it should not be mandatory in this particular case, as opposed to the one that I have highlighted earlier, which *is* mandatory, and this one *is not* mandatory.

The President: The Lord Bishop.

The Lord Bishop: A point of information: section 105O, 'interpretation', you, in fact, said, I think, '105C to 105D'. It, in fact, says in the schedule '105C to 105N'. Just to make sure that the Bill is correct.

Mr Gelling: Was that 105O, Mr President?

The Lord Bishop: Section 105O, yes, the last section.

Mr Gelling: 'Section 105O provides interpretation of

certain terms included within sections 105C to 105N'.

The Lord Bishop: But you said 'D'.

Mr Gelling: Did I? (*Interjection by the Lord Bishop*) I am afraid –

The President: That is okay.

Mr Gelling: So '105N'.

The Lord Bishop: Thank you.

The President: Correct. Mr Lowey's point, Mr Gelling.

Mr Gelling: First of all, fraud: you have to imagine here this is a case that is being prepared by the Assessor in obtaining documents to substantiate a case, it says 'may', and, of course, the Hon. Member is saying it should say 'shall'.

But, of course, it depends on what it is that is being collected. It would be very difficult to list, I would suggest, everything that 'shall be' taken into consideration. It is, therefore, up to the Assessor to assess whether or not he should actually require to take those documents, or require to prove his case for those documents to be released, that he will do exactly as we are at the moment, of course, as the Hon. Member has said, it is just a continuation of what the system is now. The Assessor will, in preparing that, take it into consideration or otherwise, and it is up to him to be able to do so.

So, therefore, it is not a shall, but a may, and I would think it is slightly different to the one that he suggests when the court has said 'You shall not take that into consideration.' That is an item, one item, one specific area of not having the money to pay, whereas this is a multiple of anything that he could or could not take into consideration.

Mr Lowey: That is covered in the other one, if they are sensitive documents, if they are legal documents, and that is right and proper – we will take that as read – but it is the direction to the Department, that I am saying. In one it is mandatory and the other is permissive, and there is a difference, when you are writing law. There is a difference.

Mr Gelling: I think, Mr President, we were not in any way persuaded or convinced that that should be a change from what we have now.

What I can say to the Hon. Member is, certainly, what has been raised now is something that we can look at, because, as I say, we have got another Bill coming up very shortly. But, again, it is getting into the fine detail of what or how that may restrict getting what they are after, and that is the documents.

The President: I will now then, Hon. Members, put to you that clause 10 and schedule 2 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 11, Mr Gelling.

Mr Gelling: Thank you, Mr President.

Hon. Members, I am sure, will be aware that mainstream rates of income tax for companies have reduced in recent years, and the differential between the company and individual rates has presented certain tax-avoidance opportunities that are to be addressed through this Bill.

Particular avoidance opportunities are present where participators within a company benefit from the advancement of a loan, that is then subsequently written off or released. This Bill seeks to address this issue by introducing provisions that will attach an income tax charge on the making of certain loans.

Turning to the specific clause, clause 11 and schedule 3 of this Bill insert sections A108 to J108 into the Income Tax Act 1970, and provide for an amendment to section 2H of the Income Tax Act 1970, that is consequential to the introduction of these anti-avoidance provisions.

Section A108 imposes an income tax charge on a company in respect of the advancement of certain loans to individuals. Section A108 also defines the company that would be subject to an income tax charge on the advancement of a loan, to whom the loan would have to be made and certain exclusions that include loans made at commercial rates by companies whose ordinary business includes the lending of moneys.

Section B108 provides further clarification regarding loans that are to be included, and loans that are not. For instance, debts to the company, or debts assigned to the company, may be regarded as a loan advanced. Loans advanced to directors who work full time for the company, but do not hold a material interest in the company, or in any associated company, will not be subject to an income tax charge under that particular part.

Section B108 also addresses the situation where a loan that has been subject to an income tax charge under section A108 is subsequently repaid. In these cases, the Assessor will authorise the repayment of the income tax charge that is attributable to the amount of the loan repaid.

Section C108 deals with the situation where loans are advanced through intermediaries. In such cases, the tax charge shall arise on the same basis as a loan made under section A108, except where the company making the loan is not resident in the Island, and in such cases, the tax charge would arise on the borrower.

Section D108 addresses the situation where a loan that had been subject to an income tax charge is either written off or released. Where that event takes place, the amount involved shall be treated as income received by the borrower. The amount treated as income shall then be assessed to income tax through the borrower's assessment.

To avoid potential issues relating to the double-charging of this amount, the tax originally paid on the advance of the loan shall be considered to be a notional deduction of tax, for the purposes of computing the tax due, following the write-off or release of that loan.

This section also addresses the situation where the borrower dies, and the loan is then written off or released, and the situation where the borrower would be liable to tax under the benefit-in-kind provision already contained in the Income Tax Act 1970. In the first instance, an income tax charge is imposed on the personal representatives in the same manner as the borrower, had he or she not died.

In the case of an employee who would be charged under the benefit-in-kind provisions, those provisions shall take precedence over these provisions. This means that the

participator or officer whose loan is written off suffers the same personal tax liability as an employee whose loan has been written off.

Section E108 outlines the requirements to report the advancing of a loan, the repayment of a loan and the writing off of a loan through the normal annual return process. This section also outlines the position where the company fails to report the making of a loan.

Sections F108 to J108 provide definitions of various terms that are contained within this schedule.

With that explanation, I, therefore, beg to move that clause 11 and schedule 3 stand part of the Bill.

Mrs Christian: I beg to second, Mr President, and reserve my remarks.

The President: The motion I put, Hon. Members, is that clause 11 and schedule 3 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 12, Mr Gelling.

Mr Gelling: Mr President, clause 12, which deals with personal allowances of non-residents, inserts new sections 35C, 35D and 35E into the Income Tax Act 1970, which will satisfy one of the commitments made within the future taxation strategy, by introducing a personal allowance that shall be available to individuals who are not resident in the Isle of Man.

Section 35C introduces the non-resident personal allowance, and outlines the calculation of the allowance in certain cases. There are many non-resident taxpayers who receive only a small amount of income from the Isle of Man. In such cases, whilst the Assessor will not require the individual to file a return, a personal allowance of £2,000 shall be available. Consequently, if the Manx income of the individual falls below £2,000, no income tax will be payable.

The purpose of this provision is to assist the taxpayer, by not requiring them to make a return, and to assist the Income Tax Division, by avoiding the management of a large number of insignificant cases.

An individual may, however, make a full return of income, as with individuals who are resident. The non-resident return must include a declaration of worldwide income. Having filed a return, the non-resident individual will then be granted an allowance that will be based upon the proportion of the resident's personal allowance which the Manx source of income bears to the total worldwide income. That is to say, if an individual receives half of his total income from Manx sources then he will be entitled to receive a personal allowance equal to half the resident personal allowance.

The amendment approved in the other place makes it clear that submission of a full return of income will not reduce the allowance below the flat rate of £2,000.

Sections 35D and 35E deal with the situation where an individual ceases to be regarded as a non-resident and where he ceases to be regarded as a resident. In each case, the non-resident allowance would be restricted, with the apportionment being based upon the number of weeks of non-residence, or residence, as the case may be. The provisions contained within these sections are in line with the current provisions that restrict the resident personal

allowance in the event of commencement of residence, or following cessation of residence.

The restriction of the personal allowance in this way will ensure that the individual receives no more than the resident personal allowance during any year, where such a change in circumstances takes place.

I beg to move that clause 12 now stand part of this Bill.

Mrs Christian: I beg to second, Mr President, and reserve my remarks.

The President: I call upon Mr Lowey.

Mr Lowey: The only query I have got is subclause (4), really, of the first part of clause 12, and it says:

‘(4) The allowance under this section in respect of a married claimant shall be the same as it is for a single claimant.’

How can that be right? If I am a married man, and I have done £3,000 worth of work here on the Isle of Man, and I have got the £2,000 allowance and I have got £1,000 tax liability – I am being simplistic, now – how does that fit in with a married, as opposed to a single, person? As long as somebody is getting tax out of them... What I dislike immensely is people working and not paying tax to either jurisdiction, but is this not a double whammy? He has got to pay – let me say, it is the UK or Ireland – Irish tax or UK tax, and Manx tax, and somehow, if he is a married person he should not be worse off, by it just being said, ‘you are, for the Manx purposes, a single person’. How is that fairness? How is that arrived at? Why have we deemed it necessary to put in that subclause (4)?

The President: Mr Waft.

Mr Waft: Could I, Mr President, also ask, with regard to residence and non-residence – I am sure there is a format by which they agree that they are resident or non-resident – but I am thinking about the comings and goings of people on the Island, who come over for a period of time and then they go away, and then they come back for a period of time. How do you dictate when they are resident or non-resident? Does there have to be a certain period?

The President: I call upon Mr Gelling.

Mr Gelling: Yes, I think, basically, if I can take Mr Waft first, the resident or non-resident is where you declare your place of habitation, if you are away, or actually resident. So, I think that would be declared by the person as to whether they are saying they are resident in the Isle of Man, or resident in the UK, or resident anywhere. So, I think it would be up to the actual taxpayer where they deem themselves to be resident.

Mr Waft: Just for clarification, Mr President, could I just ask if a person spends quite a bit of time away when he is retired or whatever, does he have to spend a proportion of that time on the Island to be deemed to be an Island taxpayer?

The President: Domicile.

Mr Waft: Domicile.

Mr Gelling: I will come back to that one.

If I can go, then, to Mr Lowey, the Hon. Member, we have independent taxation for non-residents. It is an independent taxation for non-residents. So, there is no right to transfer any allowances between persons. Say, you were demonstrating a married couple, and one had taxation in the Isle of Man, so, they are separately assessed, so there is no transfer between persons.

Mr Lowey: I appreciate that, that the taxation is equal and you split it into...But I am a married person. I have done some work in the Isle of Man and I am being taxed on that income, I would assume, if I declared it in the UK, or in Ireland, as well as in the Isle of Man. I am being taxed in the Isle of Man now, with my allowances, if it is a bit more, and for this purpose, I am deemed to be a single person when, in fact, I am a married person, and here we are saying, no matter what – whether you are married or not – you are only going to be classified as a single person.

Mr Gelling: I think, again, the fact that we deem that person to be independent, irrespective of being married and, say, living in the UK, if they are working in the Isle of Man, their taxation in the Isle of Man would be appropriate to the amount of taxable income they have received from the Isle of Man, whether it would be 40:60 or 50:50, or whatever, but there would be no transferring. They would be entitled to the £2,000, as being the amount that they could receive before taxation, but it would not be transferable between, whether they are married or otherwise. In other words, it would be as if you were single.

On the residence, this, again, is determined by the Assessor and he has got a wide range of criteria as to how he does actually assess that. Of course, the physical presence on the Island would be, possibly, the ownership of a property, which would be taken into account as to when does he reside in the Isle of Man, or is it just a holiday or whatever. So, it is really down, at the end of the day, to the Assessor, if the taxpayer does not declare as to where they are domiciled.

Mr Waft: But if you set up a separate company, a non-resident company, that complicates things even further.

Mr Gelling: That can complicate things. *(Laughter)*

Mr Waft: Yes, I appreciate that.

The President: Let us just deal with this particular non-corporate taxpayer bit. We have reached part 5, and I put to the Council that clause 12 do stand part of the Bill and we are noting, in doing that, the amendments made, Hon. Members, particular to the formula. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 13, Mr Gelling.

Mr Gelling: Thank you, Mr President.

Clause 13 extends the temporary taxation Order provisions that are set out in section 15 of the Income Tax Act 1995 to enable Orders to be made, in relation to the implementation in the Island, or compliance with international agreements and obligations.

An issue there was that an Order presented under the

terms set out in section 15 requires the approval of Tynwald, and it is required that a substantive legislation receives Second Reading in the House of Keys within 12 months. That was one of the issues that was raised in consultation.

So, I beg to move that clause 13 stand part of this particular Bill.

Mrs Christian: I beg to second, Mr President, and reserve my remarks.

The President: The motion, Hon. Members, is that clause 13 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 14, Mr Gelling.

Mr Gelling: Clause 14, Mr President, deals with the taxation of mariners, and removes an anomaly from section 2L of the Income Tax Act 1970, by ensuring that personal allowances are taken into account in the calculation of mariner's relief.

Under current legislation, earnings received by a mariner are fully exempt from income tax. Where the mariner has other income, or is married, and his spouse has income, his personal allowances are offset against that other income, reducing the tax due in respect of that income.

This amendment will ensure that the mariner's income will continue to be exempt, but the personal allowances will be utilised in establishing that position, and income tax will then be due on any other income received by the mariner or by his spouse. This is something which I am sure Hon. Members have raised over many years, the taxation of mariners who declared they were virtually domiciled in the Isle of Man, but felt aggrieved in the way in which they were taxed. The allowance addressed in this particular clause is the mariner's own personal allowance.

In the case of a jointly-assessed couple, the wife's allowance will not be restricted, and will remain available for offset against her income. So, it gives the mariner, virtually, something they have been looking for for a number of years.

I beg to move.

Mrs Christian: I beg to second.

The President: The motion, Hon. Members, is that clause 14 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 15, Mr Gelling.

Mr Gelling: Yes, Mr President, clause 15: actually, there are minor and supplementary amendments, and it makes a number of these and they are consequential to the contents of this particular Bill.

The amendments include: consequential amendments to sections 33 and 61 of the Income Tax Act 1970, resulting from the introduction of non-resident personal allowances; secondly, the clarification of section 64(3)(a) of the Income Tax Act 1970, that considers the situation where one spouse, or where both husband and wife are not resident in the Isle of Man for a year of assessment; thirdly, a restriction to section 107A that will inhibit the payment of repayment supplement that may have resulted in respect of a refund of tax calculated after a claim for group or loss relief; fourthly, is the amendment to the definition of taxable income in

section 120 of the Income Tax Act 1970; and, in that same section, the insertion of a new definition of non-corporate and corporate taxpayers, and there is also the insertion of a new section 81B, which will ensure the continuation of an accounts basis of assessment for trading profits; finally, the amendment to section 102 of the Income Tax Act 1970, which extends the due date for payment of an assessment raised late to 30 days in all cases.

With that, I beg to move that clause 15 stand part of this Bill.

Mrs Christian: I beg to second, Mr President.

The President: The motion, Hon. Members, is that clause 15 do stand part of the Bill and, again, we are noting the amendments made in another place. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 16, interpretation, Mr Gelling.

Mr Gelling: Yes, I would just move that clause 16 is an interpretative clause –

The President: You can take clauses 16 and 17 together, Mr Gelling.

Mr Gelling: Thank you, Mr President.

And then clause 17 is the short title. The clause provides for the short title construction and the commencement.

I, therefore, beg to move that clauses 16 and 17 stand part of this Bill.

Mrs Christian: I beg to second, Mr President.

The President: I call upon Mr Lowey.

Mr Lowey: Clause 17, Mr President, (5) and (6): do I read that, in subsections (4) and (5) 'and the subsection shall expire on 6th April', so any transitions cease on 6th April 2005?

Mr Gelling: Yes.

Mr Lowey: So, we have got a one-year transition.

Mr Gelling: Yes.

Mr Lowey: So, the transition from – this is where I came in – a back-year to a current-year, you are squeezing all the transition into one year.

Mr Gelling: Yes, but the one year will be discounted for tax, so you must not get into your mind that you have got to pay tax twice.

Mr Lowey: I have not got it out of my mind, Mr President.

Mr Gelling: So, that is where you started, and that is where it finishes, Mr President. I am trying to convince the Hon. Member.

Mr Lowey: You have not convinced me yet.

The President: Hon. Members, the motion that I put to

the Council is that clauses 16 and 17 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Income Tax (Amendment) Bill

Standing Order 22.2 suspended to take Third Reading

Mr Gelling: Could I be tempted, Mr President? Or perhaps I should not.

Mr Delaney: I think you should.

Mr Gelling: I was going to ask to see whether, perhaps, the Third Reading to allow this, because of the short period, to get it through, Mr President, and we have had an excellent morning, I would suggest, of looking through this particular Bill and I would very much appreciate – and I know the tax office would appreciate – if we were able to get this on the way.

The President: As you are well aware, Hon. Members, I am entirely in your hands.

Mrs Christian: Mr President, I beg to second the move to suspend Standing Orders.

Mr Delaney: As much as I do not want to go into history as saying I supported the tax office too much, I would definitely agree with this one.

The President: Hon. Members, we have had the proposal put to the Council that we suspend Standing Orders to allow Mr Gelling to take the Third Reading at this stage, this morning. Are we content with that? Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Income Tax (Amendment) Bill

Third Reading approved

The President: Mr Gelling, take the Third Reading of the Income Tax (Amendment) Bill, please.

Mr Gelling: Thank you very much, Mr President.

I do thank Hon. Members for this, and I do wish to thank my seconder for the clauses stage today, and the due consideration that this Bill has been given. I have to say that it has been a much more in-depth study of the Bill than, perhaps, I would say in another place, and I think that is good, because we have been able to suss out some of the areas of more intricate detail, and the way in which it is interpreted by the legal draftsman is not always easy to understand.

But, as I did say, Hon. Members are well aware that this is the first of two Bills that are coming forward this year, and we will be dealing with another one, I would hope not too soon. Perhaps we will have a rest and get the other one in after the summer recess. But, certainly, this particular Bill is quite an exciting, I would suggest, move forward, into something that we have been trying to do for quite some time. Now we have the ability to do it and to get into a current-year basis,

where I am still trying to convince the Hon. Member, Mr Lowey, that he will find that this will make it so much more simple for the taxpayer.

We are introducing new tax forms, which will make it so much more straightforward, better than it has been in the past. Although we have brought it forward, it has been evolution, rather than something that has just totally changed, and I would consider that, as far as we are concerned, it is exciting that we are able to get into this position, where we are going to have this current-year basis. We are not underestimating the possible problems that we will have in the implementation of it, but I can assure you that, from the tax office, there will be consideration given and help given.

We do already help taxpayers who come into the office. In fact, if requested, we have even had tax officers go to their homes. So, we do try to be helpful. It is in our own interest to be helpful, to try to keep it all in a good order, and obviously, at the end of the day, for people to pay their tax.

So, basically, in thanking the Members for the way in which we have considered the clauses, I would just ask Members to support the Third Reading to enable us now to get this, actually, into the office of the Tax Assessor, and they can then start developing this which, as I say, I think is quite a move forward, and an exciting day for the Assessor and Treasury, that we get this in place.

Mrs Christian: I beg to second, Mr President.

The President: I call upon Mr Delaney.

Mr Delaney: Mr President, I just have one observation. I believe Donald – I have believed him from when he was Chief Minister – but I cannot believe that someone at Madrid airport, getting on a plane is asked, ‘Where are you going? He says ‘I am going home to the Isle of Man.’ ‘For what reason are you going back? To see the family?’ He says ‘No, I am going back to do six months, because I have never filled in my income tax form – but I am excited!’ I cannot see that at all! (*Laughter*)

It is necessary, in income tax law, to do this, and I understand that – but it is not exciting, Donald, I assure you!

Mr Gelling: I think, Mr President, my reply would be it is exciting for Treasury and the Assessor! (*Laughter*)

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

Now, Hon. Members, that brings to a conclusion our Order Paper for this morning. It is our intent, on our Order Paper, to sit in private, so could we just have two minutes, please. Thank you.

The Council sat in private.