



**HOUSE OF KEYS
OFFICIAL REPORT**

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**PROCEEDINGS
DAALTYN
(HANSARD)**

Douglas, Tuesday, 11th May 2004

Present:

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

Business transacted

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The House adjourned at 12.09 p.m.

House of Keys

The House met at 10.00 a.m.

PRAYERS

The Chaplain of the House of Keys

[MR SPEAKER in the Chair]

LEAVE OF ABSENCE GRANTED

The Speaker: Hon. Members, I have granted leave of absence to the Hon. Member for Onchan, Mr Earnshaw, from mid-morning for part of the session.

Questions for Oral Answer

LOCAL GOVERNMENT AND THE ENVIRONMENT

UK nuclear industry Concentration on Sellafield

1. The Hon. Member for Onchan (Mr Karran) to ask a Member of the Department of Local Government and the Environment:

Can you confirm that the UK nuclear industry is concentrating its operations at the Sellafield site and has your Department any views on the possible consequential increase in activities at that location?

The Speaker: Hon. Members, we have two Questions for Oral Answer and I go to Question 1 and I call on the Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Question standing in my name.

The Speaker: I call on a Member of the Department of Local Government and the Environment, Mr Houghton, the Hon. Member for Douglas North to reply.

A Member of the Department of Local Government and the Environment (Mr Houghton): Thank you, Mr Speaker.

In his Question, the Hon. Member for Onchan might be referring to the transfer of nuclear material to Sellafield from other nuclear sites that are being, or will be, decommissioned. I can assure Members that the Isle of Man Government will be opposing any such proposal which will result in the accumulation of yet more nuclear waste at Sellafield. Until such time as we can attain our ultimate objective

of the complete closure of Sellafield, the Department will continue to focus on seeking to reduce the impact of Sellafield operations on the Isle of Man, whether they are potential hazards to health or the environment, or the risk of a nuclear accident.

I can also inform this Hon. House that the Department has concerns about the likelihood of additional radioactive wastes currently held at several Ministry of Defence dockyards being transferred to Sellafield for processing and storage, thereby resulting in an increase in the quantities of radioactive wastes being stockpiled at Sellafield. Fuel from the United Kingdom's nuclear submarine fleet is already stored at Sellafield and the decommissioning of reactor vessels from those submarines will generate intermediate-level waste which may be sent to Sellafield for so-called interim storage.

The United Kingdom Ministry of Defence is presently conducting project ISOLUS and that stands for Interim Storage of Laid-Up Submarines, with the aim of finding a storage location for the radioactive parts of these submarines, other than fuel. These radioactive submarine wastes could, therefore, be stored at Sellafield until a United Kingdom national disposal facility becomes available.

The Isle of Man Government is strongly opposed to any proposal for the movement of this submarine waste to Sellafield. The Chief Minister has informed the United Kingdom Government of this fact in recent correspondence. The Government believes that there should be no transfer of nuclear waste from decommissioned submarines until the problems regarding the permanent disposal of United Kingdom nuclear waste have been solved.

I am sure Hon. Members will agree that the consequences of an accident at Sellafield and the control of environmental discharges are two major concerns about the site. Any restructuring of BNFL, which shifts the operational focus towards more commercial considerations, could lead to a reduction in the resources devoted to addressing these issues.

I can assure Hon. Members that the Department will be paying close attention to all developments at Sellafield, including the reorganisation of the company and the operation of the Nuclear Decommissioning Authority. We shall most certainly be seeking maximum involvement for the Isle of Man in all dealings with the United Kingdom authorities, including the Nuclear Decommissioning Authority, when it comes into being in April 2005.

I hope my Answer has provided this Hon. House with some assurances that the Department is exploring every avenue to safeguard the interests of the Isle of Man, in line with Tynwald policy.

Thank you.

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

Mr Karran: A supplementary. First, I thank the Hon. Member for such a detailed response to my Question, but could the Member inform this Hon. House whether his Department is working with the Irish Government's environmental agencies, as far as trying to put some sort of control over the UK, as far as this policy is concerned?

The Speaker: The Hon. Member for Douglas North, Mr Houghton, to reply.

Mr Houghton: Thank you, Mr Speaker.

I can confirm that my Minister is in touch with all – and the officer level – they are in touch with all the environment agencies in order to press our very serious concerns forward.

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

Mr Karran: Could the Member inform this Hon. House, have they made a particular case towards the Irish Government, as far as their opposition to these proposals that are coming out of the United Kingdom Government, and would the Member not agree that, obviously, talking to the UK, they are going to look after their own interests, so it is a matter of us working together with the Irish Republic and, maybe, the likes of Greenpeace and those organisations to make sure that we do get the true facts, as far as this issue is concerned?

The Speaker: The Hon. Member for Douglas North, Mr Houghton to reply.

Mr Houghton: Thank you, Mr Speaker.

I am unaware of any issue to do with a plan with the Irish Government at this particular time. We may well have an interest in that, but I am unaware of that. But I do support the Hon. Member that we should all work together as one in order to deal with this matter in a satisfactory way.

HEALTH AND SOCIAL SECURITY

Chlamydia testing Trial postal service

2. The Hon. Member for Onchan (Mr Karran) to ask a Member of the Department of Health and Social Security:

Would your Department consider developing a trial scheme in conjunction with pharmacies to set up a free, confidential chlamydia testing service by post, similar to that proposed in the UK?

The Speaker: Question 2, I call on the Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Question standing in my name.

The Speaker: I call on a Member for the Department of Health and Social Security, the Hon. Member for Glenfaba, Mr Anderson to reply.

A Member of the Department of Health and Social Security (Mr Anderson): Thank you, Mr Speaker.

I would like to thank the Hon. Member for his Question and, in doing so, would confirm that the Department is aware of actions taken in the United Kingdom, under which a phased programme of chlamydia screening has been introduced across a number of primary care trusts. The increased screening, which is voluntary, takes place largely in clinics where young people access services such

as family planning, genito-urinary – that is the GUM clinics – and it is understood that community pharmacies are also becoming involved – and I am aware of a project involving community pharmacies to encourage men to be tested for chlamydia and, if necessary, treated.

With regard to the local situation, I can confirm that the Department's sexual health strategy contains proposals incorporated into an action plan, aimed at increasing the uptake of sexually-transmitted infection testing, in particular chlamydia testing. Testing is mainly carried out at the GUM department at Noble's Hospital, although it is also provided at GP surgeries and in the family planning service.

The Hon. Member will be aware that, arising out of the sexual health strategy group, a strategy has been established with terms of reference which include a requirement to encourage the development of multi-agency initiatives for sexual health, leading to the provision of integrated, accessible and effective sexual health services.

I have asked that the issue of chlamydia testing services by post, which appears to be a new initiative, is referred to the sexual health group for consideration.

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

Mr Karran: A supplementary, Vainstyr Loayreyder. I thank the Hon. Member for his reply.

Would the Member consider trying to do something like this with certain chemists on the Island, in order to try and get it more accessible for people to realise how important this issue is? Would he also not agree that we could do something like this development with the likes of these certain chemists on a six-month trial basis every 18 months or two years to try and highlight that we are not winning the battle, as far as sexually-transmitted diseases are concerned, including the likes of chlamydia, HIV and other things, where our young people need to get protection and we need to get the issue highlighted further as far as sexually-transmitted diseases?

The Speaker: The Hon. Member for Glenfaba, Mr Anderson to reply.

Mr Anderson: Thank you, Mr Speaker.

I would agree with the Hon. Member, it is an important subject that needs highlighting in the relevant areas, but, as I said in my initial Answer, I am referring this to the sexual health strategy group to look into the areas that he has highlighted and, maybe, they will come back and say that it is suitable to put a six-month trial into pharmacies.

I think, also, the sexual health strategy group has been working with a variety of agencies to make sure that the educational side of this is highlighted to those vulnerable groups and I see no problem in the sexual health strategy group looking at these proposals and coming back to the division with a recommendation.

We have little information at the moment about the testing by post, but the Department is looking into that alternative and the Hon. Member can be assured that we take this subject very seriously and, working with other agencies, we hope we will highlight the dangers to the vulnerable groups and that those that do need testing have the availability to have it in various locations.

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

Mr Karran: Vainstyr Loayreyder, would the Member assure this Hon. House that, if it comes down to finance, as far as the costs of providing this initiative, that representations will be made to the Treasury? Can I assure the Hon. Member that I have full confidence in his sexual strategy group, as far as the issue is concerned. It is just the issue that we have got to get it higher up the agenda, as far as people outside this Hon. House are concerned, especially the children and parents of young teenagers.

The Speaker: The Hon. Member for Glenfaba, Mr Anderson to reply.

Mr Anderson: Thank you, Mr Speaker.

I am unaware of the financial implications for this, but I am sure that it will be given priority within the Department's financial allocation.

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

Mr Downie: Thank you, Mr Speaker.

I would just like the Hon. Member for Health to give us his views, whether he feels that less promiscuity, the practice of safer sex and more promotion, is needed to advise young people of the dangers of sexually-transmitted diseases. Chlamydia is a very good example of what awaits people, if they do not observe the rules when having sex.

The Speaker: The Hon. Member for Glenfaba, Mr Anderson, to reply.

Mr Anderson: Thank you, Mr Speaker.

I would agree with the sentiments expressed by the Hon. Member for West Douglas. It is very important that education plays a major part in the sexual health area and, obviously, the best advice we can give to young people is to abstain from these areas until they are in a permanent relationship.

However, we have to recognise there are certain areas that do not conform to those guidelines. It is important that the Department puts into place the relevant information for those people who do not abide by those guidelines, so that they are aware of the dangers and aware of what the Department gives advice on, and if they do get something like this, that they have the services available and they know where the service is available to get testing for them.

The Speaker: Hon. Members, that concludes Questions for Oral Answer.

We now move on to Item 2 on our Order Paper, Questions for Written Answer, of which there are two, which will be circulated in due course.

Questions for Written Answer

TOURISM AND LEISURE

Tourism Development Fund Scheme 2000 Details of deed number 1326 and grant application

1. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Tourism and Leisure:

Will you confirm the following –

- (a) that deed number 1326 made on 16th December 2003, registered on 24th February 2004, and a public document, shows that your Department approved an application for a grant of £47,835.67 under the Tourism Development Fund Scheme 2000 (as amended);*
- (b) the date on which the application was made;*
- (c) whether three fixed price quotations were submitted with this application (and, if so, whether these were tested by an independent quantity surveyor appointed by your Department);*
- (d) whether the quantity surveyor inspected the works undertaken to assess whether they accorded with the outline of the project as originally submitted;*
- (e) whether your Department obtained receipted invoices in respect of this application;*
- (f) the date of your Department's letter offering the grant; and*
- (g) whether your Department has paid the grant (and, if so, on which date or dates)?*

Answer: (a) I can confirm that deed number 1326 made on 16th December 2003, registered on 24th February 2004, and a public document, shows that my Department approved an application for a grant of £47,835.67 under the Tourism Development Fund Scheme 2000 (as amended).

(b) The date upon which this application was made was 10th February 2003.

(c) There were two complete, and one incomplete, quotations submitted with this application. Following testing by an independent quantity surveyor appointed by the Department, the Department waived the requirement for submission of three quotations, in line with Paragraph 4(3) of the Tourism Development Fund Scheme 2000 (as amended).

(d) The quantity surveyor did inspect the works undertaken to assess whether they accorded with the outline of the project, as originally submitted.

(e) Not all invoices submitted in support of this application

were received. In line with my answer to Written Question No. 33, answered at the March 2004 sitting of Tynwald, I can confirm that 'Prior to February 2004, payment was made on the basis of invoices received, due to an error in the way in which the Scheme was administered. This administrative error was applied consistently to all support applications processed during that period. Since this error was drawn to my attention, action has been taken to change the way in which payments are handled and to ensure that they are made only on the production of receipted original invoices.'

Furthermore, as I indicated in my Answer to Written Question No. 34 at the March 2004 sitting of Tynwald, grant funding paid in support of an application made in respect of deed 2919 was made on the basis of receipted invoices, in respect of the full amount of the project, in accordance with the requirements of the Scheme.

(f) The Department's letter offering grant assistance was sent on 15th October 2003.

(g) The Department paid a grant of £47,122.29 on 8th January 2004, in respect of this application.

Ballacain, Little Mill Road, Onchan Details of grants approved

2. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Tourism and Leisure:

What is the total value, and detailed breakdown, of grants approved by your Department since 27th March 1998 in respect of Ballacain, Little Mill Road, Onchan?

Answer: The total value of grant assistance paid since 27th March 1998 in respect of Ballacain, Little Mill Road, Onchan is £90,972.62. This amount comprises two separate grants; the first being £43,850.33 in respect of the holiday cottages and the second £47,122.29 in respect of the apartments and games room.

Orders of the Day

National Health Service (Amendment) Bill Second Reading approved

The Speaker: Hon. Members, we now move on to the third Item on our Order Paper, a Bill for Second Reading, and we have the National Health Service (Amendment) Bill. I call on the Hon. Member for Glenfaba, Mr Anderson. Second Reading, sir.

Mr Anderson: Thank you, Mr Speaker.

The National Health Service (Amendment) Bill before you today for the Second Reading seeks to amend the National Health Service Act 2001, first by introducing greater flexibility in provision of primary healthcare services, and, second, to transfer the responsibility for the NHS Superannuation Scheme from the Civil Service Commission to the Department of Health and Social Security.

The Department supports the development of a high standard in the provision of medical, dental, ophthalmic

and pharmaceutical services and, in order to continue to ensure improvements, there is a requirement to make new arrangements for these services and seek additional powers provided by this Bill.

The powers contained within Part 2 of the National Health Service Act 2001 placed an obligation on the Department to bring forward Regulations that describe how medical, dental, pharmaceutical and ophthalmic services should be provided in the community. Once Tynwald had approved these Regulations, they gave the Department little flexibility in making arrangements for the provision of these services.

It has been recognised by the Department that, in order to continue to provide a high standard of healthcare, there needs to be flexibility to allow different types of service provision and the ability to be innovative by creating pilot schemes to test new ways of providing services. The National Health Service (Amendment) Bill gives the Department greater flexibility in the provision of these services by removing the obligation to provide only those services which are described in regulations. This will allow the Department and contractors to come forward with different ways of providing these services.

The Bill does not, however, remove the obligation to provide medical, dental, pharmaceutical and ophthalmic services as part of the National Health Service.

The more general obligation, to provide services contained in the Bill, will allow the Department to provide these services, either through regulations, as before, or by contracting with individuals, partnerships or companies, or by using directly-employed staff. The Department also have greater flexibility in the provision of these services, allowing some contractors to provide enhanced services, to specialise in certain aspects of primary care or to work in multi-disciplinary teams.

The Bill will provide a platform for the introduction of proposed new medical and pharmaceutical contracts and new arrangements for the provision of dental services, moving away from the services described in the regulations, which both the Department and the dental practitioners recognise as in need of replacement. Whilst the Bill removes the requirement for the Department to have regulations which describe the provision of services laid before Tynwald, clause 1(7) requires the Department to publish the arrangements for the provision of services and lay them before Tynwald.

Clause 2 of the Bill amends the Superannuation Act 1984 to transfer the responsibility for the National Health Service Pension Scheme from the Civil Service Commission to the Department. This transfer will pass to the Department the obligation to ensure that the Scheme is kept up to date and that all amendments to the equivalent scheme in the United Kingdom are considered for application into the Manx Scheme. The transfer of the Scheme will also bring it into line with the arrangements made for other similar schemes, where they are maintained and updated by the Department whose employees are members of the scheme.

For example, the pension scheme for teachers is the responsibility of the Department of Education.

Finally, Mr Speaker and Hon. Members, I would ask for your support for this Bill, so that we may ensure a continued high standard for the provision of medical, dental, pharmaceutical and ophthalmic services to all patients.

I, therefore, beg to move

that this Bill be now read a second time.

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

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

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

Mr Gill: Thank you, Mr Speaker.

I think nobody can be unaware, either in this House, certainly, or in the wider community, of all the concerns that we have about dental services and medical services and, just this weekend, we have had both the opening of the new hospital and the protest march in Ramsey as evidence of those concerns and also those developments.

So, given all of that background, and given the widespread uncertainty and unhappiness in some quarters, it is surprising that this Bill which, as I understand it, has got potential for great impact on the relationship between the Department and the professionals providing these very necessary and increasingly very scarce services, has been brought without any explanatory presentation, without any forward notice of the implications and the impact of some of the measures that are in this Bill. I think that can do nothing to reassure people who have concerns – and I am sure they are very genuine and I certainly hold them – which are about the ability of the Department to provide services at the point of necessity under these arrangements.

Certainly, we appreciate they are struggling under the current arrangements and we have heard Mr Anderson, moving this, say that, for example, the changes to a contract arrangement with the dentists, he said, were agreed by both the Department and the dentists. I am sure they were not agreed for the same reasons, though, and it is important that we are aware of that and we have some appreciation of that before we go down the road. So, whilst I can understand the Department will want to move this, and I can understand their reasons for it, I have not been advised – and I do not think I heard anything in the introduction there – to say that this is particularly urgent. Certainly, it will have to be moved in a timely manner, but I would look for Mr Anderson to advise if there is sufficient scope to take stock, take a breather in the process of moving this Bill and advise Members now. Perhaps his Department might have considered doing that before and it is disappointing they have not, but there we are.

Here we are today and I would look to him to advise if that would be his intention and, if not, why not, because it is a ticklish area. I know all the members of the DHSS apply themselves conscientiously and I am not suggesting any criticism in flagging up this request for a more informed opportunity to take stock of the implications, but I would urge them to revisit that issue and to come back and say they will slow the process of this Bill down, they will make advice not only to Members of Tynwald but to the wider community, who will all be affected, in due course, by the contents of this Bill.

Thank you Mr Speaker.

The Speaker: The Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like to say, on this Bill, there are a couple of issues that do concern me.

We talk about the National Health Service Superannuation Scheme. I would like to know what sort of ways are we going to make sure that we ring-fence these things? I am a little bit concerned that it is important that, if we are amalgamating these sort of funds together, we have the safeguards there, as far as the investment policy of these funds. We have seen a number of local authorities in the United Kingdom who have ended up losing their pension funds and I believe certain professional bodies in other Commonwealth countries, so I would be interested to know what exactly the implications of this are.

If we cannot get it in today, I would be interested if the Hon. Member could possibly find out what actually we are doing, as far as this consolidation is concerned, as it is an important issue.

The other issue I am a little bit concerned about is that the likes of pharmaceuticals grants for areas where they are not economic in some of these villages. I would like to know what implications this has, because I would hate to see a situation where you could see pharmacies not getting their subsidy that they get in certain locations throughout the Island, which means the lack of access, as far as people in places outside the Douglas-Onchan area, from having to get on buses in order to get their prescriptions done. I would be interested to know exactly the implications as far as that is concerned.

The other issues, that I will more likely be bringing amendments to this Bill, is I have to say that, as the former Member for Health, I am very disappointed that we have not been strong enough to make sure that the independent complaints body has not got more teeth and has not been able to flourish like it was originally designed for.

I will be looking in this legislation, because I feel it is almost like a war of attrition at the present time in the complaints procedure at the local stage. I do feel that, unless I can see some movement on this front, I shall be putting something into primary legislation in order to try and get this sorted out, because, at the moment, I think that, whilst you want to look after your health professionals and your civil servants in every Department, at the moment it is far too difficult at the local resolution stage, that most people are just giving up before they can even get to the independent stage. I would be interested in the Hon. Member's observations as far as that is concerned, because I am quite happy to do battle with the Attorney General's department to get some amendments drawn up to do that.

The other issue that I am concerned about, is that one of the things that needs to be put into this Amendment Bill, in my opinion, is that we need to get ownership of the Health Services back with the people (**Mr Henderson:** Hear, hear.) and I do feel – and I would be interested in the observations of the Hon. Member – that we should be looking at getting back to some sort of administration committees at the hospital.

Obviously, the way management works within the Health Services, we have created a situation where we have that many managers sitting in meaningless meetings and, at the end of the day, we are very fortunate in this Hon. House that, whilst your chances of promotion can be affected by being very blunt and straight, the situation is, that, at the end of the day, no Member can sack another Member of this Hon. House; only the people can do that at the general election.

But the point is, in the present management structure, junior managers cannot say how incompetent their seniors are, because their jobs depend on it. So I do feel that this

piece of legislation needs something put in it, in order to get the ownership issue back, as far as the Health Service is concerned and I do think that I would be interested in the Members' views about having some sort of lay body with an electoral college from outside the patronage of just the Health Services and the likes of the Council of Ministers, but other representations, maybe, from the Trades Council and things like this, being on such administrative bodies to do with primary health and the hospitals.

I understand that this Bill is really only an Amendment Bill, but these are the sort of issues that should be addressed, in my opinion.

Finally, the other issue I would be interested to know is, does the Member think that, maybe, we should be putting something into statute as far as primary law is concerned, as far as bursaries are concerned? We spend so much money at the present time bringing people into the Island, health professionals, at vast amounts of fees for relocation and that, does he feel that, maybe, we should be putting into legislation a right for his Department to have to develop a Bursary Scheme in order to increase, where there are shortages, the likes of the physiotherapy, occupational therapy and things like that, where there should be a proper Bursary Scheme?

I would be interested to know what the Hon. Member's views are on these subjects.

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

Mrs Hannan: Thank you, Loayreyder.

This is a reasonably simple piece of legislation. I know the Member who has just resumed his seat has broadened it out into all sorts of issues, which he feels concerned about the Health Service. But this particular piece of legislation is to amend section 3 of the National Health Service Act and section 2 of the Superannuation Act, so it is a *very narrow* area and it relates to the new contract that GPs have got, and it also will relate to the new contract that pharmacists will have shortly – not pharmacists, dentists. Pharmacists' responsibilities are changing in the future and so this piece of legislation will actually allow these sort of changes to happen.

I think I feel quite saddened, really, by the comments by Mr Gill. I think, maybe, we actually bend over backwards to give too many explanations about what is going on prior to things coming before the House for discussion. We have an explanatory note that was circulated with the Bill. The Clerk has seen to that – that we get explanatory notes with our Bills – something we did not have in the past, something which describes what the Bill does. It is quite straightforward,

'Requirement for new Bill.

'The Bill has two principal effects, first it introduces greater flexibility in the provision of family practitioner services, and second, it makes new provisions for the superannuation of health service staff.'

Now, I think Members might be reading a bit more into this legislation than is absolutely necessary.

I know there are grievances out there and, maybe, the Member who spoke for Rushen, Mr Gill, does feel aggrieved by some of the services that are provided in the South. It seems strange that some GP practices give extremely good service and others do not, and, in relation to, maybe, the practice in his area – that the service is sort of second rate – I think that is something which, maybe, he or other members of the public could take up on their behalf, but

that is something, I think, which he should address in his area, if he is concerned about it, but that would be in the old legislation or under this legislation.

Mr Gill is suggesting that we slow the process down. I would suggest that we need to speed the process up. The contract has started on 1st April and, therefore, we need to proceed with this legislation to make sure that what we are doing we do have that flexibility to do it, and provide the services that should improve, or should extend, under the new contract with general practitioners and the service that they provide, which is quite considerable in certain areas.

I think, under this piece of legislation, the concerns that Mr Karran has for subsidies of pharmacies in small areas, I think those sort of subsidies and things will continue. They are quite sizeable, but the Member wants to ring-fence everything with regard to superannuation, and, of course, we have responsibilities for superannuation. It is not a Pension Scheme that ceases to exist because somebody has sold it off or something. It will bring it home more to the Department, the actual operation of this Superannuation Pension Scheme, but I do not believe that there is a war of attrition, as the Member suggests, and I do not believe that this particular piece of legislation should be held up by amendments, because I believe, if there are other concerns that Members have, that they should be dealt with, Loayreyder, under a different piece of legislation.

This relates to – as the long title relates – to amend those two sections,

'section 3 of the National Health Service Act 2001, and section 2 of the Superannuation Act 1984; and for connected purposes',

and I really do not think that this legislation should be held up by amendments.

The actual Health Services itself – and the Member should recognise that he had five years in the Health Service and he is still not happy with how the Health Service works – there have been terrific changes since his membership of the Department of Health and Social Security, with new contracts and changing aspects of the service provided to the public.

The complaints procedure is changing. The Management Committee – to which the Member did not succeed in returning lay bodies – there is a difference in the Management Committee and the running of hospitals. They are becoming more professional, and I think, while the Member suggests that managers are in meetings all the time, there are certain things that managers need to be doing and they need to be disseminating their responsibilities to their under managers, or people that they manage, otherwise all they are going to be doing is walking the corridors.

So, I think to sneer at committee meetings is all very well. We have meetings from time to time, so I do not think that should be lost on people, and, with regard to his comments on patronage, he then brings it down to 'There should be Trades Council membership.' Well, I mean that could be said to be patronage on his part, so I think that there are issues –

Mr Karran: I have never been a Member of the Trades Council.

Mrs Hannan: The Trades Council, if Members do not know, are made up by all Unions –

A Member: I think it is the Isle of Man Trades Union Council.

Mrs Hannan: – Trades Unions coming together.

So, if anybody has been a Member of a Trade Council, they would have representatives, or they would have representatives on Trade Councils.

So, I think we have to look at it. Yes, we want people from all areas of aspect, if we are going to have lay representatives, but there are responsibilities in different areas. I think, if we had not got people representing the people, or Members representing the people, or elected representatives representing the people, then I think some of the concerns expressed by the Member would be valid, but there are Members on the Department. There is a Minister who oversees the delegated responsibility of the three sections of the Department – all representatives of the people – and I would hope that the Member would not try to amend this legislation, but recognise that this is urgent legislation that needs to be progressed, so that the Department is, in actual fact, acting under the National Health Service Act 2001, as amended by this (Amendment) Bill, should it be approved.

But I would just say again, Vainstyr Loayreyder, that it is legislation that is urgently needed, because of the changes that have taken place and we need that legislation to be in line with contracts which are available in the United Kingdom, because that is where we tend to attract our doctors, nurses and the like from – also pharmacists and other professionals within the National Health Service. They are a wide range of people, but these are people in the actual service. They are actually in the service provision. Their first port of call, you could say, for the public addressing public concerns, their patients' concerns, and I would hope Members will support it.

The Speaker: Hon. Member for Glenfaba, Mr Anderson, to reply to the debate.

Mrs Cannell: You will have nothing to say now!

Mr Anderson: Thank you, Mr Speaker.

First of all, I would like to thank my hon. seconder, Mrs Hannan, for those very useful comments that she has made, and I think she has addressed most of the issues that have been raised by Hon. Members.

She is quite correct in saying that it is important that this Bill does go through quite swiftly, because, although we have transitional arrangements in some areas to do with the general medical contract, we have the pharmaceutical contract coming up for renewal – a replacement – in October, and it would be a lot easier for the Department to put new things into place with this amended Bill. Also we have, hopefully, on 1st April 2005 a new dental contract coming into place and, of course, we would like to put into place a pilot scheme for that dental contract, and this (Amendment) Bill will give us the flexibility to put that in and to do things in different ways that we have not been able to do before.

Can I just touch on one or two of the concerns made by the Hon. Member for Rushen, Mr Gill, where he was not surprised that it had the support of other professionals to change the way things are. Can I just say that we have had no adverse comment at all from either the dentists, the pharmacists, general medical practitioners, on the introduction of these arrangements, because it will help the future planning for these and the future contracts for these professionals. So they are content that this legislation goes

forward, because it does give increased flexibility on both sides and we must bear in mind that this is for the benefit of the population of the Isle of Man.

I must emphasise, as well – and my hon. seconder, Mrs Hannan, has – that it is important this Bill goes forward in this session. It would otherwise create a lot of extra legislation to be changed in different ways, but, if we can get this through, it will be for the benefit of all that are negotiating in new contracts.

Mr Karran was concerned, the Hon. Member for Onchan, about the Superannuation Scheme and that this should be ring-fenced. Well, the Treasury will still hold the purse strings to that. It is more to do with the administration, rather like happens, as I understand it at present, with the Department of Education with their employees. So, I am sure there is no real concern there.

He also touched on the area of pharmaceutical grants to pharmacies out in the sticks, if you like, and his concern that this, in some way, might affect the grants that they receive. In my opinion, it will not affect that situation at all, but I will confirm that for him. This, basically, is nothing to do with that area, but, as Mrs Hannan has already said, it is only dealing with the relationships we have with primary health services.

Mr Karran also took the opportunity to raise his disappointment about the independent complaints panel and their lack of teeth. Hon. Members did have a presentation last year from the members of the complaints panel, where they had the opportunity to ask them how they thought it was working and, to be fair, I think the members of that panel were reasonably satisfied the way things were working out. Obviously, it had not been up and running too long and there have been one or two teething problems, but I think it is fair to say it is working reasonably well. If people have individual concerns, they can bring them to me and I will look into them for them, but we know the Hon. Member for Onchan has a view about lay representation on committees, that he has long held, but the earlier legislation – the 2001 Act – actually repeals some of those committees and gave that power to management. However, there was always the opportunity for people who had concerns to take those to review, where they had concerns, and that is the case now.

The other areas that the Hon. Member for Onchan, Mr Karran, touched on really do not relate to this part. This Bill is purely, as I said, to do with primary health care provision and the other areas that he was seeking, or thought he would need to bring amendments forward, I assure the Hon. Member, this really is not the (Amendment) Bill to do it within, because Mrs Hannan was right when she stated that only part 2 of the 2001 Act relates to the provision of primary health services.

I think a key point is that the current Regulations allow little flexibility in the provision of practitioner services and each of these service areas that is coming up for renewal will need more flexibility. In completion, I just ask Hon. Members to approve the reading of this Bill to ensure that we are able to provide the framework for updating our primary health services in the near future and provide a better service for our people.

The Speaker: Hon. Members, the motion before the House is that the National Health Service (Amendment) Bill be now read a second time. All those in favour, say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

| FOR | AGAINST |
|---------------|----------------|
| Mr Anderson | The Speaker |
| Mr Cannan | |
| Mr Quine | |
| Mr Rodan | |
| Mr Quayle | |
| Mr Rimmington | |
| Mr Gill | |
| Mr Gawne | |
| Mr Houghton | |
| Mr Henderson | |
| Mr Cretney | |
| Mr Duggan | |
| Mrs Cannell | |
| Mr Downie | |
| Mr Shimmin | |
| Mrs Hannan | |
| Mr Bell | |
| Mrs Craine | |
| Mr Karran | |
| Mr Corkill | |
| Capt. Douglas | |

The Speaker: Hon. Members, the motion carries, with 21 votes for, 1 vote against.

Representation of the People (Amendment) Bill Clauses considered

The Speaker: Now, Hon. Members, we move on to the next Item on our Order Paper, Bill for Consideration of Clauses, Representation of the People (Amendment) Bill, and I call on the Hon. Member for Michael, Mr Cannan.

Mr Cannan: Thank you, Mr Speaker.

Now, Hon. Members will be aware that this Bill is on behalf of the Management and Members' Standards Committee and we have clause 1 before us and that now excludes the duty of the Speaker to notify casual vacancies to the Governor, where the vacancy arises from the Speaker's own resignation. In other words, it is no longer necessary to inform the Governor, only to inform the Speaker, except when the Speaker wishes to resign himself.

Hon. Members, it is a very simple amendment, clause 1, and I beg to move.

The Speaker: Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you Mr Speaker, I am happy to second, sir.

The Speaker: Member for Douglas South, Mr Cretney.

Mr Cretney: Yes, just a point of clarification if I can, Mr Speaker.

If I understand it correctly, if the Speaker wishes to resign, he is to be required to do so to the Lieutenant Governor and I wonder why that is necessary, seeing that the Speaker is an appointment of this House. There is a deputy Speaker and, in the instance of a Speaker wishing to resign, surely it should be to this House rather than the Governor?

The Speaker: Hon Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, Members might remember some years ago we had a Representation of the People Bill, where we did try to change certain issues, as far as the constitution is concerned, but at the present time that is the constitution of the Isle of Man.

I would be interested to know from the hon. mover why is it seen that it is important to notify the Governor, as far as the Speaker is concerned, and not a Member of this Hon. House? I understand with the Council of Ministers legislation which came in in 1986, there was a change in emphasis, as far as Tynwald was concerned, in the fact that every Member of Tynwald was part of the executive before the Council of Ministers legislation, but I would just be purely interested why it sees that the Governor needs to be informed, as far as the Speaker is concerned, but he does not need to be informed as far as Members of this House. MHKs are as important, they are part of the cog of government, and I just find it rather surprising that they are, yet again, being further demoted.

The Speaker: Member for Michael, Mr Cannan, to reply to clause 1.

Mr Cannan: The answer to the query raised by the Hon. Member for South Douglas, Mr Cretney, as to why the Speaker had to notify the Governor of his own resignation. It is not the Speaker resigning as Speaker. If he wishes to resign as Speaker, not as Member of the House of Keys, as Speaker he notifies the House. If he wishes to resign his seat as Speaker, he must notify the Governor, because he cannot notify himself that he is resigning his own seat and it is the Governor who calls the elections.

I think that satisfies the Hon. Member for Douglas South.

Mrs Hannan: No it does not!

Mr Cannan: I hope I have clarified the position. It is just to repeat, now, that when a Member wishes to resign he notifies Mr Speaker instead of the Governor – when a Member wishes to resign from the House. When the Speaker wishes to resign from the House, he must notify the Governor, but if he resigns as Speaker of the House, but remains a Member of the House, then he advises the House. Hon. Members. I beg to move Clause 1 of this Bill.

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

A division was called for and voting resulted as follows:

| FOR | AGAINST |
|---------------|----------------|
| Mr Anderson | Mr Cretney |
| Mr Cannan | Mrs Hannan |
| Mr Quine | Mr Karran |
| Mr Rodan | Mr Corkill |
| Mr Quayle | Capt. Douglas |
| Mr Rimmington | |
| Mr Gill | |
| Mr Gawne | |
| Mr Henderson | |
| Mr Duggan | |
| Mrs Cannell | |
| Mr Downie | |
| Mr Shimmin | |
| Mr Bell | |
| Mrs Craine | |
| The Speaker | |

The Speaker: Hon. Members, the motion carries, with 16 votes for and 5 votes against. Hon. Members, we move on to clause 2 and I invite the Hon. Member for Michael to move.

Mr Cannan: Mr Speaker, clause 2 is two new sub-clauses, nine and ten, in which a Member may give notice in writing to the Speaker, entitling him to resign their seats on giving one month's written notice and there are the two amendments. The first amendment to the Representation of the People Act 1995 after sub-section eight:

'a sitting Member of the House of Keys, other than the Speaker, may resign his seat on giving to the Speaker one month's previous notice in writing of his intention to do so and, at the expiry of such notice, his seat shall thereupon become vacant.'

And the new sub-section ten:

'The Speaker may resign his seat on giving to the Governor one month's previous notice in writing of his intention to do so and on the expiry of such notice, his seat shall thereupon become vacant.'

The importance of this is for the independence of the electoral system, but also to give Members the right to resign their seat and I believe that that is a very important and democratic right. I do not believe that Members would lightly resign their seat. I do not believe that a Member, having been elected by his constituents, would fail his constituents, unless he had very good reason to do so. I believe all Members here take their responsibilities very seriously, but there may come a time, for whatever reason, within the five-year term of office when they wish to stand down and this gives them the right to do so and I would hope that most Members would agree with that right.

Mr Speaker I beg to move clause 2.

The Speaker: Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

I am very happy to second in and, in so doing, would add to what the hon. mover has said in terms of being able to provide in legislation an honourable discharge, if you like, from service within the House of Keys and I think the month is relevant in this particular clause, because you could have, for example, a Member who has not been able to put the requisite time within the job, because of an illness, or the Member could be in hospital, or could be advised not to return to their position within the House.

Therefore, by giving one month's notice, it provides a time, perhaps, when the seat might not be occupied for one month, as opposed, perhaps, for longer if we consider something else later on in the debate.

I think, also, Mr Speaker, we must not forget, that if this is utilised, that, once the Member has issued the notice that they will be resigning within a month, once the month is up, then, of course, the notice goes out and is published to everybody within the Island to say that the seat has become vacant and that there will be a by-election to that particular constituency for that particular seat.

Therefore, the requisite amount of time kicks in for a by-election to proceed, with sufficient time, in my view, for any prospective Member candidate to be able to come forward and sufficiently canvass and get his or herself noticed by the constituency in order to canvass for the vacancy.

We have to be mindful, when we are considering this, that not only are we providing what is necessary in terms of an honourable discharge, which I hope will rarely be exercised, but also that we are providing sufficient flexibility but accountability also, for the seat not to be left vacant for too long and, therefore, for an area to be under represented for a period that is too long.

Therefore, I am happy to support the clause and I think the month's notice is relevant in this instance, sir. Thank you.

The Speaker: Hon. Member for Rushen, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

I am happy to support the principle of clause 2, although Members will be aware that I wish to table an amendment on clause 2, replacing one month with three months.

I do not feel very strongly one way or another on the one month or three month issue, but I feel strongly enough to actually bring forward the suggestion that, perhaps, it should be three months. I am a little bit concerned that we are only expecting Members to give one month's notice. I think in most jobs in the Civil Service, certainly all senior appointments, certainly all the jobs that I have held with the Government, I have had to give three months' notice. It is important that people within Departments, within Government itself, have the opportunity to consider how they are going to replace Members, how they are going to move forward with different issues, so I think three months gives people a bit more time, a bit more notice of what is actually happening.

As I say, I will not be terribly disappointed if my amendment fails, but I do think it is important that we consider this issue. As I say, one month does seem a very short period to give notice for such an important job.

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

Mr Quayle: Thank you, Mr Speaker.

Whilst not wishing to second the amendment there, I just wondered whether, under the relevant Standing Order, it would be possible to suggest a compromise of two months if that might be a 'Middle Way' through! (*Laughter and interjections*)

The Speaker: Hon. Member, just to save time, if you would like to take your seat a second. You have missed the opportunity, sir, to move an amendment. (*Interjections*) It has been on the Order Paper.

Mrs Hannan: Suspend Standing Orders.

The Speaker: Notification under the Standing Orders is quite clear and it is a matter for the House, if it wishes to suspend Standing Orders. That is not what the Hon. Member said. The Hon. Member was trying to move, if he could make a compromise. Suspension of Standing Orders is a different issue. If the Member wants to test the House on that, that is absolutely up to him.

Mr Quayle: Thank you, Mr Speaker.

It was just that a month seems too short and three months seems a little long, so two months would have been right, in my opinion.

Mr Cretney: However!

Mr Quayle: However, (*Laughter*) I will leave it to yourself, sir, as to whether you wish to progress it under the way I have suggested.

The Speaker: Well, Hon. Member, it is not a matter for me, it is a matter for the House. The only way that you can move an amendment in the way you are now suggesting, as you have not taken the opportunity which has been allowed to every Member of the House to move an amendment, would be to seek suspension of Standing Orders. Now, if you are not going to put that, then we move on, Hon. Member.

Mr Quayle: I move, then, under suspension of Standing Orders, that be done, sir.

The Speaker: You wish to move a suspension of Standing Orders to enable you to put an amendment for two months. Is that correct?

Mr Quayle: Yes

The Speaker: Right, is that seconded? Member for Peel

Mrs Hannan: Yes, I will second it.

The Speaker: Hon. Member for Douglas West, Mr Downie, speaking now to suspension of Standing Orders. (*Laughter and interjections*)

Mr Downie: No, I am not.

The Speaker: Just a minute, Hon. Members. Members have a right, if they wish, to speak on it. Right. (*Laughter and interjections*)

Mr Karran: Nobody indicated. Vainstyr Loayreyder...

The Speaker: Hon. Members, can I just be clear. I am not trying to rush anything. I am making sure Hon. Members do not wish to speak and, in fairness, I will take reasonable time to do that. Nobody indicated they wished to speak. I was ready to move on, but I was just responding to the prompts for me to get on with it. (**Mrs Cannell and two Members:** Hear hear.)

We now take a vote on the suspension of Standing Orders. Hon. Members, the motion before the House is that Standing Order 1542b be suspended to allow the Hon. Member for Middle to put forward an amendment. All those in favour, say aye; against no. The noes have it, the noes have it.

A Member: Divide.

The Speaker: We now move on.

Mr Cretney: Learn your Standing Orders!

The Speaker: We now move on to the debate. Hon. Member for Douglas West, Mr Downie.

Mr Downie: Generally, I rise to support the clause as

it is written. I am of the understanding that this piece of legislation that is before us today is to allow a system to be implemented when a Member, for health reasons or personal reasons, feels that he wants to withdraw from his activities within the House of Keys, he wants to cease his or her membership. I do not see it as an honourable discharge. An honourable discharge is when someone is physically removed from a position. Honourable though it may be, but – (*Interjections*) I am afraid that is not the terminology that should be before us today.

There has been a lot of discussion about the duration or the amount of notice to be given, but, in fairness, when I look around this House, there are some former Members here who have passed on. Some former Members of this – (*Laughter*)

Mr Karran: He is on about Adrian again!

The Speaker: Members, please!

Mr Downie: I do not wish you to take it flippantly, but there have been Members of this House who have been diagnosed with terminal illness and we have actually witnessed first-hand a Member of this House who was ill for a number of months. He bore his illness very bravely and he continued to the bitter end and I would think that this piece of legislation today will be used, perhaps, to enable that situation not to happen, where, if a person does fall into those circumstances, he does not need to give three months' notice. He can go quickly and effectively and have a little bit of quality of life.

Just to highlight what happens in other jurisdictions, in the House of Commons, for instance, a person who takes a position in the Chiltern Hundreds goes straightaway. You are here today and you are out of the system tomorrow.

I just want to finally say that I hope, in supporting this legislation, we are not going to see it being used as a means for certain Members to make a political statement –

Mr Cannan: Why not?

Mr Downie: - and the reason I say that is that I am sure lots of us have major issues that come up in our constituencies from time to time and I think it would be personally against the spirit of this legislation for a person to, perhaps, resign six months or a year before an election because there was an issue happening in their constituency that they thought the best way to get elected was to resign as a point of principle and then go out and fight the election. I just want to make sure that is fully recorded in *Hansard*, because, if it does happen, I personally feel that that is a breach of parliamentary privilege and the reason that the mother of parliaments, Westminster, has the Chiltern Hundreds is to allow for that situation not to develop.

Mrs Cannell: Tynwald is the mother of parliaments.

Mrs Hannan: Grandmother.

Mr Downie: Grandmother, thank you.

The Speaker: The Hon. Member for Ramsey, Mrs Craine.

Mrs Craine: Thank you, Mr Speaker.

I would just like to support the amendment and second that. Anybody who is considering resigning from this House will, no doubt, wish to give it a considerable amount of thought and I do agree with the comments of my colleague from Rushen, Mr Gawne, that it is standard practice these days in order to be able to allow sufficient preparation for any newcomer, any post to be exchanged, for three months' notice to be given.

In the case of a Member resigning in the situation of ill health, I think it fair to say that nobody would expect them, in extreme circumstances of ill health, to have to put in an appearance in Court, anyway, and that length of time enables them to have sufficient time to prepare, to tidy up the ends, to enable them to leave in a sense of dignity and formality that can be completed.

However, I do think that the resignation and departure in a month is too short and it can, in fact, have implications, such as the Hon. Member Mr Downie has implied, that it could encourage Members to lightly resign their position, whereas, if it is a three-months' resignation period, then it is going to give very much more time for consideration.

From a practical point of view, I do think that it is much more sensible to give three months' notice because it enables prospective candidates to have some notice about standing, some time for the electoral process to be put in place and altogether I think it is a much more satisfactory term of time than one month.

The Speaker: The Hon. Member for Douglas South, Mr Cretney.

Mr Cretney: I recognise, obviously, Mr Speaker, that this applies to Members of the House of Keys, but I wonder if the Hon. Member could just let me know what is going to be the situation regarding Members of the Legislative Council. To whom are they to give notice? Because I am aware that –

Mrs Hannan: Well, they can resign.

Mr Cretney: If that is the case, that is fine. If it is presently the case that Members of the Legislative Council can resign their position that is fine, but I just wondered what the position was there.

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

Mrs Hannan: Thank you, Loayreyder.

I support the legislation that Members should be able to resign, but I do not think we should stipulate why they can give their resignation. I can see there are many issues that Members could wish to resign on, as a matter of principle.

The reason why we are here, surely, is because of politics. We are elected to represent the people, but we are not elected to represent the people in a negative sort of way. It is to do with politics, it is to do with – well, at least in my area, anyway – what people feel about certain issues. Maybe it is different in Douglas. But I do believe that politics could come into the resignation of a Member and I believe that we should not say that somebody must resign or must only be allowed to resign for medical or ill health or small issues.

It might be a big issue. It might be something which they feel extremely strongly about and not one Member of

this House feels as strong and this person says, 'Right, I'll give my resignation and I'll fight the by-election to find out exactly whether my feelings are relevant to the feelings of the House.'

I do not think we should get away from this particular issue, but we are here because of politics and if we are not – if we are just here to be a member of a doubtful club – then I think we are missing the point. We are here, certainly from my point of view, to do what I can for my constituency, for my country, and that is why I am here and, in certain circumstances, I could see a reason why I will say 'Well, to hang with the lot of you. I think I know best and I am going back to my constituents to see if they will support me on it.' (**Mr Cannan:** Hear, hear.)

I cannot actually bring that issue to mind at the moment, but I could envisage quite a few issues which could come about which I could feel extremely strongly about and would wish to do that.

I support the legislation, but I also think two months would have been more reasonable because by the time the two months is up people know and people in the constituency can sort out whether they actually want to stand or not. Because we have to think about it.

If we are standing during a general election we know virtually the date in 2006 when there is a general election and we start canvassing immediately we are elected. But the people out there do not know that, maybe, their Member is going to resign. They do not know that they can get issues, committee, manifesto and all the other issues together to represent their people and we should think about the people that we represent, that they have continuing representation and, therefore, I will be supporting the amendment moved by Mr Gawne to substitute the one month for three months, because I think that is reasonable. Obviously, any court of law is going to say 'What is the reasonableness of it?' and, if somebody is ill, as has been mentioned, then I am sure that, in those sort of circumstances, a resignation would be accepted within a shorter period, if somebody really is seriously ill. Even under the laws that we have passed, we have to look on the legislation as being what is reasonable and, in certain circumstances, I think we would have to recognise that somebody would go before three months, but I certainly support three months within this legislation. Thank you.

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

Mr Rodan: Thank you, Mr Speaker.

I have to say I am not persuaded of the case for having a protracted period of notice of up to three months. After all, if a Member dies, unfortunately, in office, there is no notice at all.

The overriding issue in this, surely, has to be the interests of the public that we represent and the overriding issue is to minimise the period of time in which constituents are unrepresented. (**Mrs Craine:** Hear, hear.) So, bearing in mind that the process of election itself can quite easily be three months, if that is added to the three months' notice you could, conceivably, have up to six months when constituents – the public – are not given an effective voice in this House of Keys (**A Member:** Hear, hear.) and the issue is to minimise that period. One month, in my view, has got that right; one month's notice to the Speaker which, when added to the period of the election, is time enough for members of

the public not to have a voice. So, I would certainly urge Members to support the one month, as proposed in the Bill.

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

Mr Corkill: Thank you, Mr Speaker.

I really just was going to ask for some clarity from the mover of the Bill in relation to ... Obviously, I think this Bill has got a measure of support and is likely to gain favour and I will be supporting the Bill. I am also interested in the amendment moved by the Member for Rushen, Mr Gawne, about the three-month period, because it is this issue of taking the matter seriously and considering it at length before a Member resigns and, of course, I would expect Hon. Members to do that, anyway.

But the circumstances I am interested in, would be in the run-up to a general election in the final year, or the final six months, or the final quarter of an administration. What is the gap, or what is the latest available time that a by-election can take place before the mechanics of a general election start to come into play? Because, obviously, in that period of time you will have a vacant seat. The Member will have resigned with one month's or three months' notice, whichever is agreed by the House, but then you have got a period of time for the mechanics and I am just interested to know what the maximum time would be for a seat to be unfilled in that final hurdle of a five-year period.

Obviously, it might be that a Member who is thinking of retiring, would last the distance up to the general election and a lot of people time their circumstances that way, but if the Member, due to health or whatever, was forced to retire in that last few months I would be interested to know what that time period is.

We have got a background of this Bill at the moment, where, if a Member of this House did, in fact, take a position of paid office with the Crown, as the Chiltern Hundreds structure is in the UK, then we would not need this Bill, because that could happen now. If any Member decided to change jobs and applied for a government job and was successful there would immediately be – well, it would be a miracle if they got the job to start with – (*Laughter*), but, if they were fortunate enough to take that choice, they would immediately be barred from the House, anyway.

So what I would suggest to Hon. Members is that we support this Bill – with or without the amendment and I think I am inclined to go for the three months – but the Standards Committee should, in future, just review the performance of it, to see whether it has been abused under the interpretation of some people, how it has performed over a couple of years or so, to see whether there might be a need to go to the UK model at that point. But, bearing in mind the size of the jurisdiction of the Isle of Man, it seems to me that this is a fairly simple mechanism that the mover is promoting, to allow a fairly simple and honourable process to take place.

I think we can review that as time goes by, but I would be interested in that time period in the run up to a general election. What is the latest date that you can have a by-election under these new rules?

The Speaker: The Hon. Member for Douglas West, Mr Shimmin.

Mr Shimmin: Sorry, Mr Speaker, I am taking more time

in the House. I am surprised that we are taking so long on this because we are generally in agreement. However, I am now going to do exactly the same and take up time of the House because there have been some interesting points raised.

My colleague for West Douglas talked about the spirit of this Bill, and certainly the spirit... I think everybody understands why we are here talking about an anomaly which does not serve the best interests of the people. Initially, I do agree with the Member for Peel, when she talks about principles and there should be no restrictions based on this legislation as to the motives, and, if somebody were to put it to their constituents, they would take the gamble of whether that was something which would work in their favour or indeed against them.

Where I do have concerns with the comments from Peel, I have learned a lot from yourself, Mr Speaker, and other more experienced Members about what the law says is what the law will happen, and were we to put the three months within that, I do not think that the caveat that might be humane and acceptable would actually be permitted within the legislation.

I do believe, although we all disagree at times and many of us are not totally together as a club, I think there is unanimity within the House, (**Mr Cannan:** *Laughter*) that every one of us serves the people and would not be in these positions if we did not care about the people whom we represent. I do believe that the current one month within the Bill actually allows the opportunity for the smooth transition. It would not be restrictive of any Member to give a longer period of notice, but let us consider why this might be used. If we put to one side the principal element that somebody might use – and I think that is going to be a very rare occasion – indeed the medical side is the one that we are looking at. If people have a medical condition which is going to take a period of time to recover from, then the standing orders already permit a period of absence from the House for recovery from that position.

No Member is likely to take that decision lightly, but if, under medical advice, they are advised that it is not in their best interests to continue, then I believe that, when that final decision is taken by the doctor or the individual, then that should move as quickly as possible towards the satisfaction of getting a replacement into position.

The length of time it would take and the uncertainty of having a three-month period I feel is counteracted by our own practices with the Legislative Council, where there is sufficient time. Indeed, a number of Members of the House have come in on by-elections following Legislative Council elections. Mr Rodan, quite rightly, the Member for Garff, pointed out that, if there were a tragic death of a Member of the House, there is no notice. So I believe that we can support the one month, allow individual Members to have an opportunity to remove themselves when they feel medically or personally it is appropriate and then leave it to them to determine whether they wish to go public in a length of time exceeding one month, to allow others to position themselves, because any one of us resigning from our post in this House would have a great deal of concern for our own constituencies, to ensure as smooth a transition as possible.

I do believe the legislation, as written at present on the length of time, is appropriate. I am grateful for the Chief Minister raising an issue worth considering, which is, is there a period of time prior to a general election which might

actually need to be factored in, so that, potentially, for a period of six months prior to a general election, or whatever period of time, this opportunity would not actually generate a by-election in short proximity to a following general election. So that, I think, is worthy of consideration but, at present, I will be supporting the Bill.

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

Mr Karran: Vainstyr Loayreyder, I think this debate has been quite interesting and quite concerning up to now. I totally agree with the Hon. Member who has just resumed his seat, as far as the issue of you cannot put caveats in. The law has to be one way or the other, and you cannot say, 'Well, it's three months if it's not on ill health,' or whatever, unless it is in primary legislation and it is not here.

But I am concerned about his comments about 'Oh, we've talked about this issue a lot,' and I am a little bit concerned about the issue that the Hon. Member tried to move an amendment. Until we changed Standing Orders, that was a regular occurrence for him, as far as wanting to change the... So I have no problem with the actions of the Member for Middle, as far as this is concerned.

The Speaker: And can I say, Hon. Member, neither did I, and neither did the House.

Mr Karran: I think the point is certain Members were rather upset about his actions.

The Speaker: They may be, but Standing Orders applied.

Mr Karran: Yes, but the issue is, that I was quite sympathetic towards the Hon. Member for Rushen's amendment, but the more I have listened in here, the more I have got more horrified.

As I said before, I would defend any Member's right to say what he wants in this Hon. House – I might not agree with it – but I do think that the Member for West Douglas, Mr Downie, wants to remember that we are supposed to serve the people and not the people are supposed to serve us, and, at the end of the day, if Members want to make a stand, as far as an issue is concerned, that is what happens in a democracy. Many might think this place is like a one-party state, but the point is – and I know with his recent experiences in China and certain other Members saying third-hand to me that they know how to treat their leaders – I certainly do not want the Isle of Man on the same lines as those sort of places. Democracy is there and, at the end of the day, any Member of this Hon. House who feels they need a fresh mandate in order to prove that, somehow, this Hon. House is going the wrong course, then I think that is up to the individual Member.

I would like to know a couple of points from the mover. When we say that if we allow three months' notice, as far as the amendment is concerned, does this mean that the individual, whoever resigns his seat, would have three months to withdraw that motion before the writ is moved? I would be interested to know does the Member still get paid, is he still entitled to the pension entitlement until the writ is moved? I would be interested to know what the position is, as far as that is concerned. I am a little bit concerned that,

when we talk about this month's notice, we would end up with a situation where the writ has to be moved. A writ, if I remember, could be a minimum of another month's notice after that, in order that the writ can be moved. I would be interested to know who actually has to move that writ, because I think it is important to know, because I am concerned that, in some seats, there could be a period where, if it is a seat that is not sympathetic to the executive, they might not want to see the writ moved quick enough to fill that seat because it is going to be a vote against the executive.

Will we still have a situation where the writ procedures are done by Government House, or are the writs moved by the executive and what sort of period?

So, my concern is that, if you were to leave it for three months, what would happen would be that you might be talking a third of the year, where we have got somebody who does not want to be in the job there, then it could be at least four to six weeks for the process of filling the vacancies concerned, and I just think we need to know these points, if it is possible.

I would be interested to know whether the Hon. Member who resigns his seat could take back his resignation before the writ is moved, because, at the end of the day, the vacancy only occurs once the writ is moved, as far as the election is concerned.

We do need to know that and I do think it is rather alarming when I see Members of this Hon. House thinking we have talked about these issues far too much. We are not here as a rubber stamp; we are here to debate the most important aspect, as far as Members are concerned, their right to change the law, to debate the changing of laws in this Hon. House and, far too often, Members in this Hon. House think that their executive, which pays the extra, is what is actually the priority. That is not the case. I would just be interested in the mover's response to the issues that I have raised.

The Speaker: The Hon. Member for Michael, Mr Cannan, to reply to the debate.

Mr Cannan: Thank you very much, Mr Speaker.

The first matter I will respond to is that Members of the Legislative Council give one month's –

The Speaker: Sorry, Hon. Member, my apologies. I need to invite the Hon. Member for Rushen, Mr Gawne, to reply.

Mr Cannan: Your apology is accepted.

The Speaker: My apologies, Hon. Member. The Hon. Member for Rushen, apologies. Reply to your amendment, sir.

Mr Gawne: Gura mie eu, Loayreyder. I have not got an awful lot to add to what has been said. I appreciate and understand the concerns of some people about extending this out to three months, but, as far as I understand it – and I do not understand the thing perhaps as fully as I ought to – we do have the opportunity to – I think Mr Karran was describing it – move this writ to declare that there will be a vacancy. You do not have to wait until after the three months, so it would be quite helpful, I think, to have a three-month notice period. We can have notice that an election is going to take place after that three months. I think one month is too short.

It does not give people enough time to consider.

Certainly, people who may wish to stand following the vacancy being announced, one month does not give an awful lot of time. So I think the three-month notice period is a good thing. It does not, either, cause problems to people who are ill, because, as we have already heard mentioned, there are Standing Orders which allow for people who are sick not to attend sittings.

So, whereas I can understand why people might be anxious about the length of time to three months, I think three months would be better than one month. I move that, on

'Page 1, lines 7 and 11, for "one month's" substitute "three months".'

The Speaker: Thank you, Hon. Member. The Hon. Member for Michael to reply to the debate.

Mr Cannan: Thank you, Mr Speaker. First of all, I would like to thank my seconder, Mrs Cannell, for her supporting comments.

I will now move to the question of the notice. The Members of the Legislative Council are required to give one month's written notice to the President - that is all, one month's notice to the President - and if they give one month's notice to the President, as we all know, then we will have to choose from here a Member, or outside, but we will be the electoral college to choose a new Member for the Legislative Council.

However, when the terms of office of the members of the Legislative Council come round, the only notice given to the electorate that there is a vacancy is 24 hours. Let us be consistent, because the day we vote a Member here to be a member of the Legislative Council and he accepts, from that day the seat is vacant. So let us start, Hon. Members, to be consistent.

The Hon. Member, Mr Gawne, the only notice he had that there was a vacancy in Rushen was the day Mrs Crowe was elected to the Legislative Council. She did not give notice that she was going to be elected - she may have given notice she might like to have been elected - and when she was eventually elected there was one day's notice to the constituents of Rushen that there was going to be a by-election. So, I do ask you to be consistent in your approach (**Members:** Hear, hear.) - to be consistent.

I will just comment, then, on Mr Gawne, who had just one day's - or the Members for Rushen, who had one day's - notice that there was going to be a by-election. He talks about three months and, when he was a civil servant, he had to give three months' notice in the interests of the employer. It was in the interests of the *employer* that he had to give the notice, not in his interests. Our employer, Hon. Members, is not the House of Keys; our employer, Hon. Members, is our constituents. (**Several Members:** Hear, hear.) We are interviewed in a single seat by 2,500 people for the job every five years, or in a treble seat, which is quite wrong, by 7,000 constituents and we are given a contract for five years. We are employed here, we are employed by our constituents, and if we fail our constituents, our constituents will determine whether we come back, not, not this body here. (**Several Members:** Hear, hear.) Just as a side issue, I feel that, if it was the choice of Members here, whether I remain here or not, I do not think, perhaps, I would be invited to carry on for too long, but that is not in the gift of Hon. Members.

So I feel that this business of three months' notice is a total nonsense, a total, total nonsense. One month gives time for a Member to, as we might say, clear his desk and tidy up his constituency affairs. We all do unless we are over-confident, before the general election, tidy up our affairs, just to make sure that everything is in order in case we are not re-elected. Well, maybe one or two of you are so over-confident you can be sure of being re-elected.

But people realise that our employment is not in our gift. We are here, as Mrs Hannan so rightly said, by the courtesy of our constituents. And if, in the interests of our constituents, an issue is so burning that the Council of Ministers cannot recognise it, then I believe, in the interests of democracy, a Member shall have the right to resign and stand again. It is a gamble, the voters can be fickle and you could go down. (*Laughter*) That is a democratic right. And I am amazed at the Hon. Member for West Douglas, who does not seem to have a full commitment to democracy.

A Member: One of them. (*Laughter*)

Mr Cannan: He does not have a full commitment to democracy. We are here at - how many times I have to tell you - by the courtesy of the people who elect us here. And that is a very great privilege, and I am very honoured to have had that privilege for many, many years.

Mr Downie: You are resigning then, are you?

Mr Cannan: No, I am not resigning. (*Laughter*)

A Member: Go on, go on.

Mr Cannan: I am not resigning, sir.

Mr Corkill: In your case, we will make it a month. (*Laughter*)

Mr Cannan: In your case, Chief Minister, there are a lot of people outside who would have you go tomorrow.

Several Members: Hear, hear.

Mr Cannan: There are a lot of people outside, Chief Minister - if you want to muddy the waters, I can muddy them for you. I was at a march in Ramsey on Saturday...

Several Members: Oh, oh!

The Speaker: Hon. Member, Hon. Member.

Mr Cannan: Yes, yes, and the comments were 50:50...

The Speaker: Mr Cannan, sir, please keep to the Bill.

Mr Cannan: I was, Mr Speaker. I regret and apologise, but I was speaking to the interruption by the Chief Minister.

The Speaker: I appreciate that and I think it would be better if you kept to the Bill, sir, (*Laughter*) and, maybe, discuss that later.

Mr Cannan: The issue, Mr Speaker, is three months or

one month. I think I have made my point.

Members of the Legislative Council voted in here; give one day's notice. I think it is right and proper that it is just one month's notice if a Member wishes to resign and, on the other issue, the other issue raised by Mr Karran and I think by the Chief Minister, about the length of time before a general election: if Members recall when we had the Bill to appoint a President of Tynwald, we made sure the President of Tynwald was appointed in the July preceding the general election, so that a Member of this House could stand for President of Tynwald and, if he was successful, it would not cause a by-election, because it was the summer recess for three months before the October general election. There are no by-elections during the summer recess and the issue of a writ is determined by the Governor and that is determined by Section 21 of the Representation of the People Act 1995.

So, I hope that answers that question. I hope, Hon. Members, you will stick with one month's notice and I hope you will support the clause. I beg to move Mr Speaker.

The Speaker: Hon. Members, the motion before the House is that clause 2 do stand part of the Bill. To that we have an amendment in the name the Hon. Member for Rushen, Mr Gawne. All those in favour of the amendment, say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

| FOR | AGAINST |
|---------------|--------------|
| Mr Gill | Mr Anderson |
| Mr Gawne | Mr Cannan |
| Mrs Hannan | Mr Quine |
| Mr Bell | Mr Rodan |
| Mrs Craine | Mr Quayle |
| Capt. Douglas | Mr Rimington |
| | Mr Houghton |
| | Mr Henderson |
| | Mr Cretney |
| | Mr Duggan |
| | Mrs Cannell |
| | Mr Downie |
| | Mr Shimmin |
| | Mr Karran |
| | Mr Corkill |
| | The Speaker |

The Speaker: Hon. Members, the amendment fails to carry, with six votes for, sixteen votes against.

I now put the clause, as printed in the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it. Hon. Member for Michael, clause 3, sir.

Mr Cannan: Clause 3, Hon. Members, is very supplemental – it makes just a minor amendment to Section 9 of the 1995 Act to provide for the office of Speaker to fall vacant, if he resigns from the House. Quite a simple, normal – a thing that, if the Speaker resigns, then it is obvious that the office of Speaker falls vacant. I beg to move sir.

The Speaker: The Member for Douglas East, Mrs Cannell.

Mrs Cannell: Mr Speaker, I am very happy to second, sir.

The Speaker: Hon. Members, the motion before the

House is that clause 3 do stand part of the Bill. All those in favour, say aye; against, no.

A division was called for and voting resulted as follows:

| FOR | AGAINST |
|--------------|---------|
| Mr Anderson | None |
| Mr Cannan | |
| Mr Quine | |
| Mr Rodan | |
| Mr Quayle | |
| Mr Gill | |
| Mr Gawne | |
| Mr Houghton | |
| Mr Henderson | |
| Mr Cretney | |
| Mr Duggan | |
| Mrs Cannell | |
| Mr Downie | |
| Mr Shimmin | |
| Mrs Hannan | |
| Mr Bell | |
| Mrs Craine | |
| Mr Karran | |
| Mr Corkill | |
| Capt Douglas | |
| The Speaker | |

The Speaker: Hon. Members, the motion is carried, with 21 votes for, no votes against. Hon. Member for Michael, clause 4, sir.

Mr Cannan: Mr Speaker, clause 4 is very simple. This Act may be cited as The Representation of the People (Amendment) Act 2004. I beg to move sir.

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

Mrs Cannell: Mr Speaker, I am very happy to second and I wish the Bill well in the Third Reading.

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

Suspension of Standing Order 158(1) to take Third Reading Motion lost

Mr Cannan: Hon. Members, in order that this Bill may be completed in the legislative sessions through all its facets and receive the Royal Assent before July, or at July Tynwald, I beg to move suspension of Standing Orders that the Bill be given its Third Reading, sir.

Mrs Cannell: Mr Speaker?

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

Mrs Cannell: I beg to second, sir.

The Speaker: Hon. Members, the motion before the

House is that the suspension of Standing Orders to enable Third Reading to be taken at this sitting. All those in favour, say aye; against, no.

A division was called for and voting resulted as follows:

| | |
|--------------|----------------|
| FOR | AGAINST |
| Mr Anderson | Mr Gawne |
| Mr Cannan | Mr Cretney |
| Mr Quine | Mrs Hannan |
| Mr Rodan | Mrs Craine |
| Mr Quayle | Mr Karran |
| Mr Gill | Capt. Douglas |
| Mr Houghton | |
| Mr Henderson | |
| Mr Duggan | |
| Mrs Cannell | |
| Mr Downie | |
| Mr Shimmin | |
| Mr Bell | |
| Mr Corkill | |
| The Speaker | |

The Speaker: Hon. Members, the motion to suspend Standing Orders fails, with 15 votes for and 6 votes against. As Hon. Members are aware, we need 16 votes to suspend Standing Orders.

Constitution Bill **Third Reading approved**

The Speaker: Hon. Members, we now move on to the next Item on our Order Paper, which is Bill for Third Reading and it is the Constitution Bill. I call on the Hon. Member for Garff, Mr Rodan.

Mr Rodan: Mr Speaker, I thank the House for the support of the Constitution Bill at the Second Reading and clauses stage.

As Members are aware, the intent of this piece of legislation is to introduce into our legislative framework a new feature, which is to reduce the power of the Legislative Council to delay and, indeed, and, most importantly, to indefinitely delay, if it was so minded, any Bill passed up to it by the House of Keys. The mechanism for reducing this power is provided in the Bill and the clauses, as amended at the clauses stage, whereby the Legislative Council has a period of six months, during which time it must pass the legislation.

The six months introduced into this measure is intended to give sufficient time for, if there is a requirement for a conference to take place between the Council and the House of Keys to resolve any differences or agree any amendments to the Bill, and, furthermore, the Bill will then pass back to the Keys, which then has a period within which to resolve that the Bill shall proceed to Tynwald for signature.

A severe test is introduced at this point, whereby the Keys must vote by seventeen votes to force the Bill to proceed for signature at Tynwald without the concurrence, possibly, of the Legislative Council. That seventeen votes is more than the two thirds majority required in other circumstances. This greater test that must be met is judged appropriate, in the event that the Legislative Council does not see fit to progress

within the prescribed period a piece of legislation.

I trust the Bill will, this morning, continue its passage and with the support that has been demonstrated up to now and, therefore, Mr Speaker, sir, I beg to move

'That this Bill be now read a third time.'

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

Mrs Cannell: Thank you, Mr Speaker. I beg to second and reserve my remarks.

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

Mr Corkill: I am a supporter of the Bill, Mr Speaker, but I just wanted the mover's opinion again on this clause in relation to the sixteen Members of the Keys because, obviously, under normal circumstances, where a Bill is returned from the Legislative Council, from another place, with an amendment or a disagreement contained, eventually a simple majority of this House is persuasive and the Bill becomes law. They can return a number of times but, eventually, a majority of thirteen in this Hon. House, under the normal circumstances, is sufficient for the democratic process to be heard.

I am still supportive of the Bill, Mr Speaker, but I am conscious of the fact that, under this new mechanism, which may obviously only occur on occasion, something which passed in this House with a simple majority of, perhaps, one, through its First Readings, then requires sixteen next time around, and I think that is an issue, really, of the power of this House. I know we debated about this in earlier stages, but I just would like the hon. mover's comments in relation to this.

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

Mr Karran: Vainstyr Loayreyder. I have to support the concerns that many in this Hon. House have. I know the likes of the Treasury Minister has been opposed to this piece of legislation. Whilst I think that the improvements that have been done by the Member for Peel have improved the Bill, I think it is fundamentally wrong at the present time the way we are tinkering with this mechanism.

I really do think that the executive have got it wrong when they look at the Constitution Bill and the issue of the Membership and even the view of the MLCs. If you want to know what the public think, as far as the MLCs, that should be the priority. Then it should be the issue of MLCs not being able to be Ministers, maybe the issue of before an MHK can be elected to an MLC that they have to resign their seat as an MHK and take their chance at being elected to the Upper House.

Things like that, the general public are more concerned, as far as the Upper House is concerned, in my opinion. That is what the general public are more concerned about, as far as any abuse of the Upper House is concerned, is the way that people can be put in the Upper House with portfolios, but go against what the general public want in this country and they are immune from what the people outside are wanting, as far as their policies are concerned. Maybe the real argument on that, Vainstyr Loayreyder, is the question whether this Hon. House holds the executive enough to account.

I understand the issues that people say, 'Well, we are the democratically elected House' and I totally agree with that principle, but what concerns me about this issue, and I have spoken in this House before about certain Members do not think that we can debate issues too much in this House, as far as primary legislation is concerned.

That is not the case, that is the main function of this House, and the main function of the Upper House is the issue of revision. What we want is them to revise legislation on a proper basis, and I am little bit more reassured by the amendments by the Hon. Member for Peel, as far as I believe it went up to six months, Vainstyr Loayreyder, which is a little bit more sensible, but with some complicated issues, I do feel we could be restricting the Upper House from doing a proper job on primary legislation.

We have already seen, not so long ago, with legislation that was turfed through this House by the executive and got through this House, having a bit of common sense in the Upper House to bring it back to stop the nonsense from coming into primary law in this country. What concerns me about this piece of legislation is the fact that we have never had an example, in my time in this House of over 19 years, of these sort of antics. I am concerned that this legislation was premature, it did not address the real issues that I feel the Upper House needs to be addressed. The issues of, as I say, the executive using the Upper House for unpopular portfolios to do what they want against the public's wishes. But, at the end of the day, this House has supported this proposal.

I will not be voting for this piece of legislation, I think it is a mistake as far as I am concerned, because there is no track record of there being a problem, as far as the Upper House is concerned. I appreciate we have the mandate, but they also have a thing for revision and I would like the mover to explain to Hon. Members what is the choice at the present time? They can only go so long at the present time, with the present legislation, which was I think that they could not go through two Tynwald days without reporting back. I think it is a mistake.

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

Mrs Hannan: Thank you, Loayreyder. I support this legislation. It has been amended and I thank the House for the support of those amendments in relation to making this legislation, just slightly better. I do consider it is a good piece of legislation.

Unlike the Member who has just resumed his seat, this relates to the wish of this House being paramount. We tend to say, 'Oh, well, if we pass a bad piece of legislation it can go to Legislative Council and they sort it out, and we will get it back again.' Under this legislation, yes, we do pass legislation and it does go to Legislative Council, we are not usurping their responsibilities. Their responsibilities, really, are as a revising Chamber. It is that revision of the legislation, looking to see if the legislation works, if it is going to do what is right. But if it is going to hold the legislation up, then it is not doing the job that it is there to do.

This piece of legislation will satisfy the wishes of this Hon. House; any legislation going to Legislative Council to be considered by them, they now have six months to consider that legislation. If they try to hold it up any longer than six months, the House of Keys, in Tynwald voting, has to have seventeen votes, which is a majority of Tynwald. But it has to be a majority of seventeen of this House. We have just

seen a vote taken whereby sixteen votes were not secured to suspend the Standing Orders. It could be that legislation is supported by thirteen votes at the Third Reading and goes to Legislative Council. In that instance, it would hardly be seen to be productive to bring this legislation into being, unless seventeen votes could be secured.

I would suggest to this Hon. House that sometimes we might vote against legislation that goes to Legislative Council, but if they took exception to it, for whatever reason, it is possible that we might then reform our thinking on it and there might be seventeen votes in this Hon. House in Tynwald to support legislation going through to become law. That is possible; it has happened in the past, if Members have a look at their history in this Hon. House, because they did not like the attitude of Legislative Council, when it was put there, but I believe, firmly believe, that the paramount wish of this House should prevail. But this House would have to have seventeen votes to do that, and I think that safeguard is absolutely right and it should be there.

I do not see, as suggested by the Member for Onchan, that there are antics connected with this legislation. I would suggest to Members it is a real safeguard and I think it has been brought through at the right time. It safeguards everybody, it safeguards the future of Legislative Council, it does not say to Legislative Council you must. It does not get rid of Legislative Council.

A Member: It will do.

Mrs Hannan: It is possible that it will, it is possible. But there has to be a majority of this particular House to do that. It might be that thirteen of us want to see Legislative Council being done away with, but seventeen votes are needed to do that.

The Member also spoke about Members in Legislative Council. The constitution of Legislative Council allows, and the constitution of the Isle of Man legislation, the law allows Members of Legislative Council to be Ministers under this particular Government. It is possible, it could be suggested, that no Minister should be a Member of the parliament, and that the Ministers and Chief Minister should sit outside the parliament, as happens in some other jurisdictions. We cannot say that our legislation and our constitution is right for everyone. We do have a place, we do have a position, and there are areas where we could change things. But nobody is suggesting those sort of changes at the moment.

It would be more democratic to have the Chief Minister and his Council of Ministers outside the parliament, so that parliament makes the legislation and the executive work within that legislation.

There are all sorts of issues. We could elect the Chief Minister separately to electing the parliament. There are all sorts of issues which could – but we are working within the law as it stands at the moment. If Members do not wish to support this legislation, of course, they do not have to.

As it stands at the moment, it is all very well for the Member for Onchan to make remarks about... but as long as we work within the law, then the law says that Legislative Council Members can take up portfolios.

I believe this legislation is in the best interests of the people of the Isle of Man. The House of Keys is elected by the people and I do believe, in certain circumstances, it will be right for legislation, once it has been through Legislative Council and they do not support it, because of politics – not

because of their principal job as a revising chamber – but they do not support the principles, they vote against it and it is not going anywhere, cannot come to agreement in meetings with this Hon. House and, therefore, the legislation would come to Tynwald for a collective vote by the Court.

I do believe that all the safeguards that have been put in place in this legislation are right and proper for that and I support the legislation.

The Speaker: Hon. Members, I call on the Hon. Member for Garff, Mr Rodan, to reply to the debate.

Mr Rodan: Thank you, Mr Speaker.

The Hon. Member for Onchan, Mr Corkill, asked me to comment on why a simple majority was not enough, in the event that a Bill returns to the House of Keys, having failed to pass the Legislative Council. Well, I think, for the reasons we have just heard from the Hon. Member for Peel, Mrs Hannan. It is a safeguard in the democratic process, whereby, yes, one might well imagine a simple majority ought to be enough.

The deliberate intention is that the number of Keys Members required this time round should be a majority of Tynwald, in other words the seventeen. Even above the two thirds majority required on Constitution Bills. The reason for that is that this is a greater test that needs to be applied. The non-passage of legislation in Legislative Council of a Bill that has been passed in this place is a very serious matter, a very serious matter. Therefore, it is right that the opportunity be taken for that Bill to have to be subject to a greater test of support for that passage to resume.

The Hon. Member for Onchan, Mr Karran, expresses the opinion that it is wrong to be tinkering with matters such as this when there are real issues to be addressed, which he tells us have the executive using the Legislative Council and using MLCs contrary to the public interest and the democratic process. Well, many of the issues that he has raised – his opinion – will be shared within this House, but it is a fundamentally different issue that he is talking about and there will be an opportunity to debate those issues in the very near future, when a certain report is brought before this House. There will be that opportunity then.

He is right, of course, that the function of the upper house is revision and he wonders whether this Bill is restricting the Legislative Council from doing a proper job of revising. Well, I think the House has concluded that six months is a realistic time, in practice, to resolve any difficulties that might be had in terms of agreeing amendments and the Hon. Member asked me to explain the choices at the present time that are open to the Legislative Council.

Well, of course, this is the crux of the issue. At the present time the Legislative Council, if it does not like legislation that has come up from here, can defeat the legislation. It can simply defeat it and an amendment, subject to the conference with the House, might also go nowhere. The legislation would be defeated, but the point is, in those circumstances, the law provides that that legislation can be reintroduced in the next session. So, there is a mechanism to deal with legislation that the Council chooses to defeat.

What there is not, there is a provision for legislation to be progressed, should the Council simply choose not to progress it. Should it decide to consign it to a committee that never meets or never reports, then that legislation becomes time expired. That is the deficiency in the present arrangements, Mr Speaker, that this Bill seeks to address.

The Hon. Member for Peel, Mrs Hannan, I thank her for her comments and she put her finger on the point where she says that, 'What this is to do with, is the wish of this House being paramount.' That is the issue, to ensure that the will of this House ultimately prevails and that the Legislative Council is entitled to defeat legislation. That is their role, that is their right, but what is wrong is for them to thwart the will of this House by simply not progressing or considering the legislation and I beg to move, sir, and thank the House for its support thus far.

The Speaker: Hon. Members, the motion before the House is that the Constitution Bill be now read a third time. All those in favour, say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

FOR

Mr Anderson
Mr Cannan
Mr Quine
Mr Rodan
Mr Quayle
Mr Rimington
Mr Gill
Mr Gawne
Mr Houghton
Mr Henderson
Mr Cretney
Mr Duggan
Mrs Cannell
Mr Downie
Mr Shimmin
Mrs Hannan
Mrs Craine
Mr Corkill
The Speaker

AGAINST

Mr Bell
Mr Karran
Capt. Douglas

The Speaker: Hon. Members, the motion carries, with 19 votes for and 3 votes against. The Constitution Bill is read a third time.

Procedural

The Speaker: Hon. Members, just for the record, can I clarify that I have granted leave to the Hon. Member for Douglas East, Mr Braidwood, from today's proceedings.

Hon. Members, the House will now stand adjourned until Tuesday 18th May in Tynwald Court at 10.30 a.m.

Thank you, Hon. Members.

The House adjourned at 12.09 p.m.