



**HOUSE OF KEYS  
OFFICIAL REPORT**

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Y CHIARE AS FEED**

**PROCEEDINGS  
DAALTYN  
(HANSARD)**

**Douglas, Tuesday, 23rd March 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); Hon. R P Braidwood and 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 11.45 a.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 Douglas West, Mr Downie, from later on this morning, for part of the session.

## Questions for Oral Answer

### CHIEF MINISTER

#### Environmental protection Government legislative plans

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

*What plans has your Government got for legislation to update environmental protection provisions, and in what timescale will they come forward?*

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

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

**The Speaker:** I call on the Hon. Member for Onchan, Mr Corkill, Chief Minister, to reply.

**The Chief Minister (Mr Corkill):** Thank you, Mr Speaker.

This Question provides me with a useful opportunity to confirm the importance Government attaches to environmental protection.

At the present time, the Government, through the Department of Local Government and the Environment, is drafting an amendment to the Public Health Act 1990 to introduce provisions intended to provide better protection of the environment from the burning of waste and to strengthen the noise nuisance provisions.

The possibility of introducing penalties, such as fines and custodial sentences, for breaches of waste licensing conditions is also being explored. It is intended that these amendments should be enacted as soon as possible and, hopefully, by the end of this year.

Mr Speaker, Regulations on the duty of care, in respect

of dealing with waste, are about to be published by the Department for public consultation and could become law before the summer recess.

Primary legislation is also scheduled for later this year that will require all waste carriers to be registered with the Department of Local Government and the Environment. This will support the proposed duty-of-care Regulations.

The Department intends to bring forward Special Waste and Oil Storage Regulations during 2005-06.

In addition to these measures, work is currently underway to prepare for the introduction of the remaining sections of part 1 of the Water Pollution Act 1993 by way of an Appointed Day Order. It is intended for these new provisions to be introduced by the end of October 2004.

Mr Speaker, my hon. colleague, the Minister for Local Government and the Environment, assures me that it is also her intention, as soon as is practical to do so, to consider further amendments to the Public Health Act 1990, to better control pollutants to the air. This will give the Government a stable platform under the Public Health Act to build upon by way of Regulations, to not only meet, but, perhaps, exceed European standards, if we wished that to happen.

Mr Speaker, turning to the work of other Departments, the Department of Transport is currently drawing up the Coastline Management Bill and this Bill will provide powers for Tynwald to designate areas of vested land, where cost-effective coastal protection measures might be considered when balanced against the environmental impact of undertaking the work. It is intended to introduce the Coastline Management Bill in the current legislative session.

In the next legislative session, the Department of Transport intends to bring forward a Harbours Bill to update and replace the current Harbours Act 1961. Among other things, this Bill will contain clauses which will give the port manager powers to give directions in respect of dangerous goods, whether on a vessel or elsewhere in the harbour.

Mr Speaker, I can also confirm that the Department of Transport will, in the current session, be progressing the Submarine Cables Regulations, which will require, amongst other matters, that all future applications to install new submarine cables should be accompanied by a detailed environmental impact assessment, together with any remedial measures. These Regulations will also provide for appropriate public consultation.

Finally, I can confirm that the Department of Agriculture, Fisheries and Forestry is in the process of preparing amendments to schedules attached to the Wildlife Act 1990, to add to the list of protected species.

So, in conclusion, Mr Speaker, I think it would be reasonable to state that Government has a number of plans for updating legislation on the Island governing environmental protection matters, which are issues the Government as a whole, and the relevant Departments in particular, take very seriously, indeed, sir.

**The Speaker:** Hon. Member for Glenfaba, Mr Anderson.

**Mr Anderson:** Thank you, Mr Speaker.

What confidence can Members have in further legislation when the Department of Local Government and the Environment seems very reluctant to enforce the present legislation?

**The Speaker:** Chief Minister to reply.

**The Chief Minister:** Mr Speaker, the Hon. Member will have to be specific about what legislation is not being enforced and then I could address the Question.

### Legal Aid award Government changes to criteria

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

- (1) *Has your Government any plans for legislation to change the criteria for the award of Legal Aid; and*  
(2) *what changes have Government hitherto made to these criteria, if any?*

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

**Mr Karran:** Vainstyr Loayreyder, I ask the Question in my name.

**The Speaker:** I call on the Hon. Member for Onchan, Mr Corkill, Chief Minister, to reply.

**The Chief Minister (Mr Corkill):** Mr Speaker, in response to the first part of the Question, the Legal Services Commission's inquiry into the Legal Aid system in the Isle of Man has resulted in the production of a comprehensive and detailed report, which is currently being considered by the Council of Ministers. There are a number of issues of detail which need to be resolved, before Council will be in a position to authorise the publication of the report.

However, I can state that the report makes a number of recommendations regarding changes to the eligibility criteria for both civil and criminal Legal Aid. These have been, and continue to, be the subject of consultation with the General Registry, the Department of Health and Social Security and the Legal Services Commission. The Isle of Man Law Society made their views on this issue known to the Commission and these views will, likewise, be taken into consideration.

Mr Speaker, some of the recommendations will necessitate changes to subordinate legislation, although the detail and resource implications have still to be agreed. I think it would be premature to discuss the matter further at this stage before the detail has been agreed by the officers and Departments of Government who are involved in the administration of the Legal Aid system.

In response to the second part of the Question, the current financial criteria for Legal Aid are contained in the Legal Aid Financial Resources Regulations 1997 and the Criminal Legal Aid Regulations 1993. The 1997 Regulations update the earlier Regulations, some of which date back from 1989 and 1992.

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

**Mr Karran:** Vainstyr Loayreyder, would the Ard-shirveishagh explain to this Hon. House what has happened,

as far as the inquiry that was going to look into the Legal Aid situation? Can the Ard-shirveishagh also inform this Hon. House that it has been a fact of life for quite some time that you either have to be poor or rich to be able to use the judicial system on the Island, but it seems that even the poor cannot use the system now? What is his administration going to do, as far as sorting that situation out, in order to make sure that at least there is a facility for some of the sections of our community to be able to use the judicial system?

**The Speaker:** Chief Minister to reply.

**The Chief Minister:** Mr Speaker, Government takes very seriously the availability of Legal Aid to all aspects of our community. The situation is that we did instigate a Legal Aid inquiry. That report was received. There were certain queries within the report the Council of Ministers wished clarification on, therefore that took some time, but I believe those matters have now been clarified by the Chairman of the Commission.

There is ongoing discussion with the relevant officers of Government and the General Registry, in relation to the resources that are now required to implement some of those issues which I referred to in my answer, because there are recommendations regarding eligibility criteria. There are areas within the report that have needed further clarification and I look forward, in the not-too-distant future, to be able to bring a package of what the new Legal Aid situation might well be for the Isle of Man.

So, I would ask Hon. Members to be patient for a short period of time, because the work is nearly completed.

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

**Mrs Craine:** Thank you, Mr Speaker.

Will the Chief Minister confirm that the Legal Services Commission finished this report in March of last year, and will he further confirm that he committed himself to bring this report to Tynwald in March of this year? (**Mr Houghton:** Hear, hear.) Perhaps he has given some suggestion as to the reason why that was not presented to Tynwald in March this year. He refers now to it being presented 'in the not-too-distant future'; would the Chief Minister please be more explicit about that?

Would he also, sir, when he is making reference to communication and consultation with relevant officers on this include the judiciary within that consultation?

**The Speaker:** Chief Minister to reply.

**The Chief Minister:** Well, obviously, the Member for Ramsey, Mrs Craine, who was actually a member of the Commission before election to this Hon. House, is obviously fully aware of the work that was done right at the beginning of this inquiry, and I would like to thank her for her efforts as part of that Commission.

The reality is that, in the scrutiny of the report, there have been one or two areas of inaccuracy. I do not believe that those inaccuracies detract in any way from the quality and the benefit that the report will give us in relation to the resources that will be required; obviously, they will have to be balanced in relation to the prioritisation that we give to resources generally. That is a fact of life, but I would hope that the Hon. Member – who, as I can understand, is

frustrated about the time that this has taken – can bear with us a little longer.

It is ongoing consultation with the Registry. I think that is important, and I will be back to Hon. Members as soon as we can.

I would warn Hon. Members that there may well be a considerable resource implication to this, and it may well be Hon. Members' consideration that their resource is well spent. I would make the point that they will be resources not available somewhere else to Government.

But that, really, is not the issue at this stage. The issue is actually determining what the resources would be and how we could actually phase in the eligibility criteria and the changes that are mentioned in the report – how we could actually implement what the report is talking about.

Hon. Members, can I just assure you that, in fact, this is important to Government. We are not delaying it for any reason other than we want to get it right.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Thank you, Mr Speaker.

With regard to the report, in view of the high cost of this service to the taxpayer and the reluctance of many members of the Manx legal profession to participate in providing a Legal Aid service, what are the Chief Minister's views on opening up the provision of Legal Aid to off-Island legal practitioners?

**The Speaker:** Chief Minister to reply.

**The Chief Minister:** I, too, regret – and I know the Isle of Man Law Society also regrets – the number of Manx advocates who participate in, particularly, criminal law work (**A Member:** Six.), and that is something that I believe needs to be addressed. That is one of the reasons why this report was actually commissioned to start with, because we are aware of that situation.

I would wish to see the Manx bar more active in the courts and not just committed to the commercial work which the Isle of Man provides plenty of at the moment, because I think, for a balanced society, it is important that we have that.

I recently met with representatives from the Isle of Man Law Society who approached me because they are aware of this concern amongst their own membership and I thank them for that.

The wider issue about allowing legal practitioners from outside this jurisdiction to have access, I think is a bigger question, Mr Speaker, because that may well have a broader impact in relation to the status of the Isle of Man as an independent jurisdiction, and I think it needs to be carefully borne in mind what opening up the markets would be.

I am not in favour of closed shops; I am not in favour of the situation being manipulated by practitioners. I do not believe that happens. There are well over 100 advocates at the Manx bar now, which is a much healthier position than we used to have 20-odd years ago, and I think, if we can achieve a situation where more Manx advocates do practise in the courts on a more regular basis, then the question about opening it up to off-Island competition would probably fade away.

But I would reiterate that there are broader constitutional outcomes from doing what the hon. questioner has intimated.

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

**Mr Houghton:** Thank you, Mr Speaker.

Just dealing with the last answer from the Hon. Chief Minister, would he not feel that it would be more appropriate for those 100 Manx advocates to be served a quota by regulation, that they must undertake a certain percentage of Legal Aid work on the Island?

But, just going back to the Legal Services Commission, sir, may I ask: that Commission, comprising of some highly intelligent and very capable people, including the Hon. Member for Ramsey, Mrs Craine, in her previous life, (*Interjection*) went into the most minute detail for clarification. I cannot understand how the Chief Minister can state that this is taking so long to look into and clarify matters; can the Hon. Chief Minister not really state that when they realised the amount of financial implication that this was going to take, that they got cold feet and this report has been more likely put on the back burner, rather than being brought forward, like it is the wish of the people of the Isle of Man, to be implemented just as soon as possible, sir?

**The Speaker:** Chief Minister to reply.

**The Chief Minister:** Thank you, Mr Speaker.

I do not believe that the suggestion of a quota is necessary. I appreciate the Hon. Member for Douglas North, Mr Houghton, has a prescriptive attitude to problems and tries to address things in that very direct way.

What I would suggest to the Hon. Member is that I am sure representatives of the Isle of Man Law Society will have heard these comments in public today and they ought to take note of Hon. Members' concerns (**Mr Houghton:** Hear, hear.) about the availability of legal practitioners to our community, particularly in the criminal court work, and I know they are, already, before these Questions, sensitive to it, anyway.

In relation to cost, it is certainly my hope, Mr Speaker, subject to the democratic processes that I am a part of, that we will see a phased approach to what is being recommended in the report, but that is running ahead a little bit because Hon. Members have not seen the report yet. When one or two of these minor imperfections are put right after this consultation then, in fact, Hon. Members will see that report for themselves.

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

**Mr Karran:** Vainstyr Loayreyder, a supplementary.

Can the Ard-shirveishagh assure this Hon. House that this is not part of this exclusive society, instead of inclusive society, that the Council of Ministers seem to be wanting to operate and that we have a situation where justice is in danger – if it is not already happening – of not being applied because there is not sufficient adequately trained and willing advocates to make sure that ordinary people get justice, especially when it comes to criminal matters, on this Island; and will he give some sort of time period, as far as coming back to this House or to another place with a thorough debate on the contents of the Commission's report?

Also, would the Ard-shirveishagh consider the issue that we would appreciate that there are anomalies within the

Legal Aid system, with the likes of the sale of property not being part of the costs, and we understand that it is going to be a two-way process, Vainstyr Loayreyder, but can he come back with a time period? Because the issue is that people are not getting justice at the present time, as far as a lot of people are concerned.

**The Speaker:** Chief Minister to reply.

**The Chief Minister:** Certainly, if the Hon. Member has examples of people who have not received justice, I would hope and expect the Hon. Member would raise them with me so that I could pass them on to the appropriate authorities.

It is certainly not my intention, or the Council of Ministers' intention, to have an exclusive society – the exact opposite, Mr Speaker: for many years the Isle of Man Government has striven to have an inclusive society, and I believe, by and large, we have that.

The issue of justice for all is a matter of a credibility scenario for the jurisdiction known as the Isle of Man. If we fail to have justice for any citizen of this Island, rich or poor, or in the middle, the reality is that we are failing, then, as a jurisdiction. So, there is an incentive, whichever end of the spectrum you are looking at, Mr Speaker, to ensure that justice is available to every one of our citizens.

And I believe, if you look at the legislative framework that Isle of Man Government has put in place in recent years, that eligibility for justice, not just within this jurisdiction, but outwith this jurisdiction, and the fact that we are close to implementing Human Rights legislation, as well, shows that, in fact, we are committed to that justice for every individual.

There is a cost to this, and, as I have said, I hope we will have a debate about this in the not-too-distant future. I cannot give an exact time scale to it, but when the recommendations come forward there will be a cost attached to that, Mr Speaker, because it is easy enough for this Hon. House and another place to make judgements on points of principle, but we need, I think, to also look at the cost of such a decision at the same time.

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

**Mrs Craine:** Thank you, Mr Speaker.

Will the Chief Minister agree that the system that presents itself at the present time is one whereby the justice you get is the justice you can afford?

**Mr Houghton:** Hear, hear.

**The Speaker:** Chief Minister to reply.

**The Chief Minister:** It may be that the Hon. Member for Ramsey is suggesting that those who receive Legal Aid, as opposed to those who do not receive Legal Aid, are better served. There are two ways of looking at that comment. There are those who have to fund the totality of all their legal costs and there are those, because of needs, who have the costs reimbursed or supported.

Justice is not really a matter for me, or Hon. Members, to determine; we have a judiciary charged with that separate and independent function. As far as Government is concerned, all we have to do is make sure that we have a structure and resources in place, to make sure that people have access to

the courts in an equal, unfettered way.

If that is the view of the Hon. Member, that justice is proportional to what one can pay, then that is a sorry state of affairs. I do not believe that, in the large majority of cases, that is the case –

**Mr Houghton:** It is the case.

**The Chief Minister:** – but the Members will have an ability to express that view when the report surfaces.

**The Speaker:** A final supplementary in this Question. I go to the Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Thank you, Mr Speaker.

Just a supplementary to my earlier comment, or my concern about the supply problem of practitioners. I would like to ask the Chief Minister: should legal practitioners who are registered in the Isle of Man but who do not, at the moment, have the ability to appear in court be granted audiences in court in the Island, to bolster the Legal Aid service?

**The Speaker:** Chief Minister to reply.

**The Chief Minister:** I am not quite sure of the question, Mr Speaker; am I right to understand the Hon. Member is saying that advocates not licenced to...? I thought all Manx advocates could appear in court. The Hon. Member is saying that, in fact, some are not and yet they are receiving Legal Aid monies. (*Interjections*) So, there are two categories. I could get back to the Hon. Member with more detail on that.

Can I say: I would ask Hon. Members not to talk about the content of Legal Aid without the report before us. It is not far away and we will have that opportunity in another place.

## HOME AFFAIRS

### Isle of Man Constabulary Telephone survey details

3. The Hon Member for Peel (Mrs Hannan) to ask the Minister for Home Affairs:

- (1) *Who authorised the telephone survey that is taking place at the moment regarding the Police Force;*
- (2) *who approved the questions;*
- (3) *did any consultation take place, if so, with whom; and*
- (4) *will you convey the results of the survey to Members?*

**The Speaker:** Question 3. The Hon. Member for Peel, Mrs Hannan.

**Mrs Hannan:** Vainstyr Loayreyder, I beg leave to ask the Question standing in my name.

**The Speaker:** Hon. Member for Douglas East, Mr Braidwood, Minister for Home Affairs to reply.

**The Minister for Home Affairs (Mr Braidwood):** Thank you, Mr Speaker.

Mr Speaker, in answer to part (1) of the Question, the Chief Constable approached the Department of Home Affairs for authorisation to conduct a survey to gauge and measure the impact the allegations surrounding the police may be having on the public's confidence in the Constabulary.

In answer to part (2), the line of questioning was agreed between the Chief Constable and the service providers, based on their experience of dealing with this type of survey.

In answer to the penultimate part of the Question, in terms of consultation, the Isle of Man Constabulary has carried out several previous surveys over a number of years, and consultation has never previously been seen as necessary. This survey was not deemed to warrant any different treatment.

In answer to the final part, as regards publication of the results, I am pleased to inform the Hon. Member for Peel that it is the intention of the Chief Constable to make the findings public as soon as they become available, and I believe this is scheduled for mid-April.

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

**Mrs Hannan:** Could I ask the Minister whether he is aware of the questions that were posed? Is he also aware that the survey was not carried out in an anonymous fashion, because people contacted were contacted by telephone and by name?

**The Speaker:** Minister for Home Affairs to reply.

**The Minister:** Mr Speaker, it was a telephone survey to try to get the results from 500 households. I am aware of the questions of the survey. I am also aware that my Department was approached on a few occasions, inquiring if this was a genuine survey because of the problems over phone scams recently, and they were reassured by officers of my Department. The police press officer also conducted an interview on Manx Radio to say that the survey was bona fide, but I had not realised that the individual was called by name, sir.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Yes, it really follows up the Hon. Member for Peel's supplementary, Mr Speaker.

Would the Minister agree that his respondents to a telephone survey *can* be identified and, bearing in mind it is a police survey, those answering may well have felt intimidated into giving a favourable reply, and, if this is the case, the value of the survey is greatly reduced?

**The Speaker:** Minister for Home Affairs to reply.

**The Minister:** Mr Speaker, the script of the survey was amended after the first couple of complaints came in, but this was just to reassure people that it was being conducted on behalf of the Isle of Man Constabulary.

On the other part, with the consultation, I think, surveys and telephone surveys are normally a spontaneous reaction, and I have spoken to the Chief Constable and, hopefully, what we will do, if other thematic surveys are carried out, the press officer will go on and say, 'a survey is going to be conducted within the next couple of days'.

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

**Mrs Hannan:** Could I ask the Minister if he is aware that some of the questions were leading questions about the Chief Constable personally?

**The Speaker:** Minister of Home Affairs to reply.

**A Member:** So what's new?

**The Minister:** Mr Speaker, all I can say is that I have looked at the questions in the survey, and, as I said previously, in actual fact the questions were agreed between the Chief Constable and the ORB.

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

**Mrs Hannan:** Thank you, Vainstyr Loayreyder.

Could I ask the Minister why this questionnaire was not put to the Police Advisory Group for their consultation prior to it going out?

**The Speaker:** Hon. Minister for Home Affairs to reply.

**The Minister:** Mr Speaker, I know that there have been problems with the Police Advisory Group and, as the Hon. Member for Peel is aware, and yourself, sir, a meeting took place not that long ago because of the concerns being expressed by members of the Police Advisory Group that they had not been consulted enough on policy matters.

As the Hon. Member for Peel is aware, the terms of reference are being changed for the Police Advisory Group, but I believe, if every policy has to come to the Police Advisory Group, then we would be stymied with paperwork, and I think, because these consultations had been taken previously, over the last four years, then it was thought by the Chief Constable and the Department that there was no need to go to the Police Advisory Group.

**The Speaker:** Hon. Member for Onchan, Mr Earnshaw.

**Mr Earnshaw:** Thank you, Mr Speaker.

I would like to ask the Minister: why was the survey commissioned and how much will it cost?

**The Speaker:** Minister for Home Affairs to reply.

**The Minister:** Mr Speaker, the cost was £9,500 and the survey was conducted to find out people's reaction to the allegations against the Isle of Man Constabulary and their perception.

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

**Mr Houghton:** That was £10,000 wasted.

**Mrs Hannan:** Thank you, Vainstyr Loayreyder.

Could I ask the Minister: is it not a fact that this survey would have had more validity if it had been put to the Police Advisory Group?

**The Speaker:** Minister for Home Affairs to reply.

**The Minister:** That is a matter of conjecture, Mr Speaker.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh son Cooishyn Sthie, the Minister for Home Affairs, not agree that keeping these voluntary groups, like the Policy Advisory Group, is really a nonsense and a waste of time when really they have got no standing within his Department?

And would he not agree that this is an example of the poor structure of his Department and the fact that we should have a police authority with cross-section representation from the whole of the community, in order that these issues could be addressed by them, and people from all walks of life that are represented on his police authority could reassure us, one way or another, whether the Minister is right to have concerns about his Chief Constable?

**The Speaker:** Minister of Home Affairs to reply.

**The Minister:** Mr Speaker, the Hon. Member for Onchan, Mr Karran, knows my view on the police authority and we have to differ on that matter, sir. (*Interjection by Mr Houghton*)

**A Member:** ‘Differ’ or ‘dither’?

**A Member:** ‘Dither’! (*Laughter*)

**The Minister:** But what I am trying to say, sir, is that we are going to involve the Police Advisory Group more, once its new terms of reference are brought out.

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

**Mr Quayle:** Thank you, Mr Speaker.

I wonder if I might ask the Minister: would the money not have been better spent on, for example, providing extra support staff for the police to allow them to allow the officers to go out onto the beat and be an effective presence in the community, and what measures or steps has he taken to address that?

**The Speaker:** The Minister for Home Affairs to reply.

**The Minister:** Mr Speaker, there is money allocated in the budget for surveys, sir, and as the police have carried out surveys previously, this money was already allocated.

## LOCAL GOVERNMENT AND THE ENVIRONMENT

### Jurby Airfield

#### MNH objection to development of industrial estate

4. The Hon Member for Michael (Mr Cannan) to ask a Member of the Department of Local Government and the Environment:

(1) *Is your Department currently receiving strong representations from Manx National Heritage to have the whole of Jurby Airfield declared a conservation*

*area; and, if so*

*(2) will you advise Manx National Heritage that this matter was fully debated in Tynwald on 19th November 2003 when the amendment to do so was rejected; and, therefore*

*(3) will your Department now positively facilitate the efforts of the Department of Trade and Industry to develop the Jurby Industrial Estate and create employment opportunities?*

**The Speaker:** Question 4. I call on the Hon. Member for Michael, Mr Cannan.

**Mr Cannan:** Mr Speaker, I ask the Question standing in my name.

**The Speaker:** I call on the Member for the Department of Local Government and the Environment to respond – Mrs Craine, Hon. Member for Ramsey.

**A Member for Local Government and the Environment (Mrs Craine):** Thank you, Mr Speaker.

With regard to the first part of the Hon. Member’s Question, I can advise that the Department has received further representations from both Manx National Heritage and the Manx Heritage Foundation regarding the future of Jurby Airfield. It is true that, in their original representations last year, both bodies were of the view that part or all of the former Jurby site should be designated a conservation area.

Manx Heritage Foundation initially stated they considered the complete structural layout of the airfield should be safeguarded. Manx National Heritage were of the view that part, at least, of the former RAF Jurby site should be designated as a conservation area.

With regard to the second part of the Hon. Member’s Question, it is a matter of record what Tynwald resolved in respect of this matter in November 2003. However, I believe it would be helpful to Members if I repeat the outcome at this point. The approved motion was as follows:

‘That the report dated October 2003 entitled “Jurby Village – a discussion document” on proposed developments in Jurby Village be received and; requires the Department of Local Government and the Environment to consider the recommendations of “The Francis Report” entitled “Airfield Archaeology RAF Jurby and Associated Sites”, a Report commissioned by the Manx Heritage Foundation, and to take the recommendations within the Report at pages 56 and 57 into account and to consider the implications of any future development proposals, when determining the future strategy for the development of Jurby, with a view to safeguarding the important historical and unique buildings and defence structures located in the area.’

Mr Speaker’s amendment sought to add the following words:

‘and to report to Tynwald with recommendations relating to their future, prior to initiating any developments which impinge on the historical and building structures which are part of the Jurby Airfield and its World War II defences.’

However, this amendment was not agreed.

Following the Tynwald debate, further discussions have been held with both Manx National Heritage and the Manx Heritage Foundation. As a result, both organisations have made further comments. The implications of these are being

considered and will be reported to the Department for a decision in a matter of weeks.

With regard to the third part of the Hon. Member's Question, I am pleased to confirm to the Hon. Member for Michael that officers of the Department are working keenly and closely with colleagues in the Department of Trade and Industry to further develop the Jurby industrial estate and create employment opportunities.

**The Speaker:** Hon. Member for Michael, Mr Cannan.

**Mr Cannan:** I thank the Member for her Civil Service reply, but is she aware that Manx National Heritage, on 4th February, wrote a six-page letter to her Department, enclosing a map, of which I have a copy here, seeking not to have buildings, but to declare a whole area of conservation?

And are her civil servants keeping her fully advised that they – Manx National Heritage – and also a letter from the Director of Planning, who seems to concur with all this – will the Member agree – are endeavouring to frustrate the will of Tynwald by seeking to delay, if possible, the will that Jurby should be created a sustainable village?

And further, will the Minister agree that, contrary to what she says – that her Department is working with the Department of Trade and Industry – the Department of Trade and Industry indicates to me that it is being frustrated in its endeavours by her own Department?

**The Speaker:** Hon. Member for Ramsey, Mrs Craine, to reply.

**Mrs Craine:** Thank you, Mr Speaker.

I would like to say that that is utter nonsense. (*Laughter and interjections*) I am kept well-informed, thank you, by the officers of our Department and, yes, indeed, I, too, have a copy of the map he has submitted, by Manx National Heritage. As I have indicated in my reply, it is to go before the Department for consideration; cognisance will be taken of all the considerations being put to us about the Jurby development plan.

There is no intention or desire to seek to delay the proposals for Jurby to become a sustainable village, and I would say that the Department would be much criticised if it did not take responsible consideration of these matters being put before us.

As for working with the Department of Trade and Industry, to my knowledge there is no frustration being felt amongst the officers of the Department of Trade and Industry over these considerations, and I am quite content that the matter will come to due fruition in good time.

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

**Mr Houghton:** That's you told! (*Laughter*)

**Mr Karran:** Vainstyr Loayreyder –

**Mr Quine:** You wait for my supplementary! (*Laughter*)

**The Speaker:** Hon. Members! Hon. Member for Onchan, please.

**Mr Karran:** Would the Member assure this Hon.

House that we will not have the absurdity that we had on 19th November 2003, where we had something like a four-hour debate on this subject, where we had 14 minutes at the same sitting on the subject of awarding Manx Telecom with another 15-year licence – 14 minutes compared to four hours on this subject, which is allowed for the consumers to be able to be taken advantage of –

**The Speaker:** Hon. Member, could you please concentrate on the Question before the House?

**Mr Karran:** – and would the Minister assure us – I think it *is* relevant, Vainstyr Loayreyder – that she will work with the Member in order that we do not have that sort of absurdity again, where something that is *really* important is forgotten about, because we are talking about Jurby airport?

**The Speaker:** Before I invite the Hon. Member to reply, can I just say: how long debates go on in another place is a matter for the Hon. Members of that other place.

Hon. Member for –

**Mr Houghton:** And subject to the revision of Standing Orders.

**The Speaker:** – Ramsey, Mrs Craine, to reply.

**Mrs Craine:** Thank you, Mr Speaker.

If I can just repeat, again, to the Member for Onchan that the amendment, whereby the Report and recommendations relating to the future of this area of Jurby and the fact that the amendment suggesting that it should come back to Tynwald was not accepted, and so it is within the role of the Department to give consideration to these matters. They are considering them and I can assure Members that Jurby comes to our attention on almost a daily basis, and we are happy to try and progress matters as swiftly as possible.

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

**Mr Gill:** Thank you, Mr Speaker.

Would the Member confirm that Manx National Heritage (MNH) do, in her opinion, have full regard for the will of Tynwald and that, rather than preventing the appropriate development of Jurby, MNH are, in fact, undertaking their duty responsibly by proposing a zone for protection as a conservation area which is less than two per cent of the Jurby Airfield size?

**A Member:** Hear, hear.

**The Speaker:** Hon. Member for Ramsey, Mrs Craine, to reply.

**Mrs Craine:** Yes, thank you.

I appreciate that MNH are taking their responsibility seriously and have put forward a proposal to the Department concerning that. However, it is to my concern that it did take MNH a considerable amount of time to respond to our request for their opinions. In fact, despite their deliberations in December, it took them until February to respond to the Department and that was not without being hurried along by myself.

**The Speaker:** Hon. Member for Michael, Mr Cannan.

**Mr Cannan:** If the Member, in her previous questions, is so keen on transparency of Government, why has her Department – and, in particular, the Director of Planning, who is so involved in this, in his letter, which I will not quote at this moment – and Manx National Heritage explained to Jurby Commissioners what they intend to do, or would like to see, in a six-page letter, setting out in detail the frustration their people feel in their endeavours to prevent the hard work being carried out by the Minister of Trade and Industry to develop the industrial estate and bring employment to the north-west of the Island?

**The Speaker:** Hon. Member for Ramsey, Mrs Craine, to reply.

**Mrs Craine:** Thank you, Mr Speaker.

I am not clear whether the questioner is asking whether we should be consulting with Jurby Commissioners.

**Mr Cannan:** Consulting – informing the Commissioners.

**Mrs Craine:** I am sure that, if that is the request of the Member, then that is not a problem.

However, what I would prefer to do is for the Department to have the leeway to make a decision before they go and make further consultation with Jurby Commissioners or anybody else. That is the role of the Department, and I think that by, in fact, airing views which the Department may not wish to concur with, Jurby Commissioners may even further, as you suggest, undermine the progress of this project.

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

**Mr Karran:** Vainstyr Loayreyder, would the Member not agree that it would be better for her Department to discuss these issues with the Hon. Member for Michael and the Jurby Commissioners to try to allay the situation of it having to be raised in another place again.

One is not against free speech, one wants plenty of debate, but I do feel that if Government can be a little bit more transparent, allow people to know about it... Will her Department consider just allowing that to happen, so that the Hon. Member and the local authority are fully informed and then we do not have to have a battle in this place over 'Government against the rest of us'.

**The Speaker:** Hon. Member for Ramsey, Mrs Craine, to reply.

**Mrs Craine:** I believe that there is no problem discussing this issue with the Member or with the Jurby Commissioners but I would say, once again, Mr Speaker, that it is right and proper that the considerations that are laid before the Department should be discussed by the Department before they go further.

**The Speaker:** Hon. Member for Michael, Mr Cannan.

**Mr Cannan:** How can the Minister talk about consultation when, in the answer before, (*Laughter*) she said the Department will make the decision and then consult? What sort of mumbo jumbo is that?

**Mr Houghton:** That's standard Government practice.

**Mr Cannan:** The Department has a duty if it brought a... Will the Member agree – I do not know who the Minister is in that Department at the moment – that the duty of the Department is to carry out the policy approved by Tynwald – to create a sustainable village in Jurby – and not frustrate the efforts of the Department of Trade and Industry, which is doing a magnificent job (**Several Members:** Hear, hear.) in trying to...? They are doing a magnificent job to create income for the Government and people of the Isle of Man, while the Department is frustrating everything that they try to do.

**The Speaker:** Hon. Member for Ramsey, Mrs Craine, to reply.

**Mrs Craine:** Mr Speaker, I would say, once again, that it is for the Department to consider the implications of the submissions that have been made to it (**A Member:** Hear, hear.) and when they have decided, in their own mind, what is the right and proper way to go ahead with this, then consultation – which I believe might actually be in the Hon. Member's favour – will be discussed quite openly and without hesitation, and I am delighted that we are able to work with such a fine body as the DTI, (*Interjections*) which is progressing this matter wholeheartedly and with our full support.

## TRANSPORT

### HGV parking compound Proposal and location

5. The Hon Member for Douglas North (Mr Houghton) to ask the Minister for Transport:

*Do you propose to provide an HGV parking compound within the outskirts of Douglas, and, if so, where?*

**The Speaker:** Question 5 and I call on the Hon. Member for Douglas North, Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker. I beg leave to ask the Question standing in my name, sir.

**The Speaker:** I call on the Hon. Member for Douglas West, Mr Shimmin, Minister for Transport, to reply.

**The Minister for Transport (Mr Shimmin):** Mr Speaker, the Department currently has no provision for heavy goods vehicle parking within the outskirts of Douglas.

However, within my Department's business plan for the period 1st April 2004 to 31st March 2007, my Department's Properties Division has an aim to provide, promote and facilitate the provision of off-street parking.

Associated with this aim is an objective to identify sites for commercial vehicle parking by December 2004. The intention is to identify sites at various locations around the Island, including the Douglas area, that may be suitable for commercial vehicle parking. My Department would also support any proposals from local authorities, developers or haulage contractors to provide suitable additional off-street parking for commercial vehicles.

Should my Department provide any off-street parking

for commercial vehicles, we would have to consider raising appropriate parking charges, in order to ensure that a level playing-field is maintained between those operators who already provide, at their own cost, off-street parking for their vehicles and those operators who, at present, do not.

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

**Mr Houghton:** Thank you, Mr Speaker.

I thank the Hon. Minister for his comprehensive reply on this.

Dealing with the issue to do with parking charges, when you have one, I do not see a problem there, sir, and may I ask that the Hon. Minister, perhaps, includes me and other Members of Douglas in consultation and site visitations for provisional sites that he may have in mind. I would be very grateful for that, sir, and I thank him once again.

**The Speaker:** Minister for Transport to reply.

**The Minister:** Thank you, Mr Speaker.

I would just like to put on record the appreciation of myself and the Department for the efforts of both Mrs Cannell, a Member in this area, (**A Member:** Hear, hear.) and Mr Rodney Christopher. There has been a lot of dialogue going on which is very productive within some local authorities, namely Ramsey, Peel and Castletown, where progress is being made.

**Mr Houghton:** What about Douglas?

**The Minister:** In Douglas, Hon. Member, I can announce that the new Parade Street long stay pay-and-display car park, which has been worked at by this division, is intended to provide overnight off-street car parking for light commercial vehicles. (**Mr Houghton:** Hear, hear.) These are the types of vehicles that currently cause problems when they are parked on the promenade or residential areas. This car park is not suitable for use as an overnight heavy goods vehicle park – in fact, that is actually precluded under the terms of the licence. However, it does show the Division is working with Douglas and the people in the area and, certainly, I am sure the Hon. Member for East Douglas has heard the comments this morning and will take that on board when taking further consultation.

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

**Mr Karran:** Vainstyr Loayreyder, could the Shirveishagh, the Minister, inform this Hon. House – this issue is not a new issue, it has been going on for the last 10 years or so – are there no more concrete plans, as far as this issue is concerned? At one time Port Soderick car park was discussed and other areas. Will he inform us: has he got any proposals, after 10 years of this going around in circles, and also what sort of grants would be available if other private individuals or other Government Departments were prepared to facilitate the land for such a process?

**Mr Houghton:** Find the land first.

**Mr Karran:** I'm finding the land.

**The Speaker:** Minister for Transport to reply.

**The Minister:** Thank you, Mr Speaker.

Yes, I think everybody in this hon. place is aware that this matter has been a problem for many years. The provision of off-street car parking for heavy goods vehicles is more difficult than the ones we are already dealing with in Douglas, as they require a larger space, with proper entrances and exits and a stronger surface. However, in reality, most people support the principle of providing parking, but they do not wish to see it in their area. Indeed, the Port Soderick car park is currently being adapted for use as a motorcycle basic training area, so anybody who has been in that area will see work has taken place.

Certainly, with the grants element, the Department and I think yourself, Mr Speaker, when you were in my position, talked about the encouragement of my Department to work with local authorities to potentially make monies available for purchase of land, in order to, possibly, vire that over to the local authority to support this type of activity. So the issue is not particularly one of a lack of attention on our part; it is trying to identify sites that will be accepted by local authority areas.

We are working with them and, again, I would reinforce that the amount of progress being made by my friend from East Douglas is considerable. We are making some progress; we do know this is a problem that we have to try and find a resolution to. So, grants can be made available. We are working with local authorities. It is not an easy problem – if it were, we would have solved it by now, sir.

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

**Mrs Cannell:** Thank you, Mr Speaker.

Would the Hon. Minister also not agree with me that the Properties Division of his Department is considering formulating a policy where, previously, for the last 10 years, the Department has not had a proper policy in respect of off-street car parking provision, and that, in so doing, the Division is actually looking with the help, assistance and support of the Department, to putting in place a sustainable policy for the Island for the future, not just in terms of dealing with the immediate problems, but the medium/long-term solutions for the whole of the Island?

And further, would the Minister agree with me that that Division does have a budget allocated towards this sort of resource, that it has to be spread over the whole of the Island and, currently, we have three requests in, but, further, would the Minister acknowledge that, if the Member for Onchan, Mr Karran, does have a particular idea in mind, or a developer who is keen to develop such a provision, that the door is open, he is very welcome to bring him in and we will talk about it?

**The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.

Obviously I am grateful to my colleague and friend, who has provided further information. It really is pushing at an open door in this case. We do know that there is a problem. It will not be easy to resolve, but it is not for the want of trying and, indeed, I would say that the Government Business Plan has been criticised in this place on occasions. However, we are committed to a timetable which says we will come forward with certain issues by December of this year and, if we fail to do so, then we will be held to account by this

House and another place. That is not directly relating to heavy goods vehicles, which is a further problem, but we are moving in the right direction.

**The Speaker:** Hon. Member for Ayre, Mr Quine.

**Mr Quine:** In order to provide the earliest possible relief, would the Minister confirm that the search will extend to land which is zoned for industrial use, but not yet required for that purpose, in respect of which, of course, car-park provision can be made for temporary car parks, which, in some cases, would be easier to provide and would provide some relief, albeit it in the interim period?

**The Speaker:** Minister of Transport to reply.

**The Minister:** Certainly, Mr Speaker, we are pleased to look at that. There is a shortage of this type of land in the Douglas, Onchan and Braddan area.

However, certainly we are looking at a whole range of possibilities where we can potentially use certain car parks that exist already, for heavy goods vehicles overnight, where appropriate. So, we are keen to look at all of those and I am grateful for the opportunity this morning of publicising more widely to Members that if they have views for their own areas, my colleague, Mrs Cannell, in the Division would be delighted to hear from them.

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

**Mr Quayle:** Thank you, Mr Speaker.

In referring to the Minister's replies so far, he seems to have broadened out the answer in considering parking for light commercial vehicles and so on, and I wonder: in tandem with all of this, is he or his Department considering, perhaps, the provision of parking for cars and, allied to this, the transportation of the drivers into Douglas?

**The Speaker:** Minister for Transport to reply.

**The Minister:** Thank you, Mr Speaker.

The principle of park-and-ride is very well known to the political and officer levels within my Department. Again there are difficulties with regard to identifying areas for such a purpose. However, we are delighted to be hearing the encouragement of the Hon. Member for Braddan in the Middle area that he will work with us to identify areas that both he and the Commissioners will support in this venture.

**A Member:** There is the old hospital car park.

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

## Orders of the Day

### Criminal Justice (Arrestable Offences) Bill Council amendments approved

2. Mr Braidwood to move the Council amendments:

*To accept the change to the long title as amended in the Legislative Council –  
Delete ‘; and to enable the Department of Home Affairs by order to add to the list of arrestable offences under section 27(2) of that Act in appropriate cases.’  
To accept deletion of clause 2.*

**The Speaker:** We now move on to Item 2 on the Order Paper, ‘Bill for Consideration of Council Amendments’. Can I advise Hon. Members that the procedures here are covered by Standing Order 160 and the options available to the House are defined there.

Hon. Members, Criminal Justice (Arrestable Offences) Bill, Hon. Member for Douglas East, Mr Braidwood.

**Mr Braidwood:** Thank you, Mr Speaker.

When this Bill was before this Hon. House, considerable debate ensued, particularly on clause 2, and that was subsequently amended. When it arrived in the Legislative Council, they removed clause 2 and deleted part of the long title (**A Member:** Hear, hear.) and the Council of Ministers are quite prepared to accept the amendment from Council, sir.

**The Speaker:** Now then, Hon. Members, we need to take the two amendments in two parts. The first part, if I can just ask the Minister to formally move this in relation to the long title and then, if that is approved, we then go on to the second part, which would be clause 2.

**Mr Braidwood:** Thank you, Mr Speaker.

I would like to propose that the long title of the Bill be adjusted to take into consideration the amendments by Council, sir:

**The Speaker:** Is there a seconder for that? Hon. Member for Middle.

**Mr Quayle:** I beg to second and reserve my remarks.

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

**Mr Karran:** Vainstyr Loayreyder, I am glad to see that common sense has prevailed over this issue. It has shown the Upper House to actually start doing the function that they

are supposed to be there for, (**Mrs Cannell:** Hear, hear.) in trying to revise legislation and I feel that they have actually done themselves a great service today, as far as many of us in this Hon. House, in that we have been criticising them for far too long, as far as rubber stamping things is concerned.

I have no objection to the proposal in front of us today, but it would have been nice if we could have had that debate in the Chamber with the elected Members, instead of having to wait until it goes to the Upper House in order to get common sense to prevail.

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

**Mrs Hannan:** Thank you, Vainstyr Loayreyder.

In a way, I agree with the previous speaker, but I think most of the work was done in *this* Hon. House, because those of us who objected to it still supported the amendments that were put forward. The amendments made the legislation unworkable, the Upper House saw that the legislation that was before them was unworkable, it was actually quicker to get legislation through in a Green Bill form than it was to go through the procedures, and that is why the Council of Ministers and the Department of Home Affairs is happy to accept this amendment that is before us today.

I think that this House and the Upper House have worked well on this piece of legislation. I just think it is a pity that the Council of Ministers were not prepared to listen to the elected Members.

**Two Members:** Hear, hear.

**The Speaker:** Hon. Member for Douglas East, Mr Braidwood, to reply to the debate.

**The Minister:** Thank you, Mr Speaker.

I would just like to thank the Hon. Member for Onchan, Mr Karran, and the Hon. Member for Peel, Mrs Hannan, for their comments.

**The Speaker:** Hon. Members, the motion before the House is the long title, which is there as an amendment by the Legislative Council and is laid out on your Order Paper. All those in favour of that amendment, please say aye; against, no. The ayes have it. The ayes have it.

I would now ask the Hon. Member for Douglas East to move the amendment in relation to clause 2.

**Mr Braidwood:** Thank you, Mr Speaker.

I would also like to move that the amendment to clause 2, as suggested by the Legislative Council, be accepted, sir.

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

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

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

**Mr Karran:** Vainstyr Loayreyder, I think that it should be appreciated by this House that the Council of Ministers have acted in maturity, as far as this legislation is concerned (**Two Members:** Hear, hear.) and I would just like to say that I am glad to see that this proposal has gone through as it is, as it is not just a matter of a way of strengthening the

parliamentary process within this Hon. House, but it is also a victory for civil liberties.

**The Speaker:** Mr Braidwood, do you wish to reply, sir?

**The Minister:** No, thank you, sir.

**The Speaker:** Hon. Members, the motion before the House is the amendment from the Legislative Council to clause 2. All those in favour say aye; against, no. The ayes have it. The ayes have it.

### **European Union (Accessions) Bill Amendment of long title Motion lost**

3. The Hon Member for Douglas East (Mrs Cannell) to move:

*That the long title of the European Union (Accessions) Bill 2004 be amended by adding at the beginning the words 'To amend section 1 of the European Communities (Isle of Man) Act 1973 and'.*

**The Speaker:** Now, Hon. Members, we move on to Item 3 on the Order Paper and it is the motion in the name of the Hon. Member for Douglas East, Mrs Cannell. Hon. Member.

**Mrs Cannell:** Thank you, Mr Speaker.

Members will recall the Second Reading of this piece of legislation that was presented to the House but a very short time ago. The motion before Hon. Members is that the long title of the European Union (Accessions) Bill 2004 be amended by adding at the beginning of that long title: 'To amend section 1 of the European Communities (Isle of Man) Act 1973 and'. Therefore that would precede the description of the long title that is on the back of Members' Green Paper at the moment. It would not remove anything that is within the long title. It is merely adding that we will also amend section 1.

So, Members will be thinking: 'Well, why amend the 1973 Act, section 1?' If we consider that it was passed in the House of Keys on 6th July 1973, the Act at that time received Royal Assent on 16th July the same year and it was announced to Tynwald on 7th August 1973. Members will, I feel sure, appreciate that all those years ago – and it is over 30 years ago – one, I suppose, might be forgiven – the Isle of Man, a parliament of that time might be forgiven – for having adopted the Act word-for-word equivalent to the United Kingdom Act at that same time. Everything that we endorsed and adopted during those days was exactly the same as the United Kingdom had done.

Of course, one can understand them having done that, because it was a new era. They did not have any previous experience in respect of these issues – the European communities – there was strong will that the communities should come together and everybody was working together.

But, of course, that part that was included in the Act at that time under section 1 – and it is also reiterated in the explanatory notes that accompanied today's Bill before

Members – restates that provision which was included in the original Act, and I will read it out:

‘... and any other treaty entered into by any of the communities with or without any of the member states or entered into as a treaty ancillary to any of the treaties by the United Kingdom’.

It is a power that was inserted in those days, a fairly sweeping power, which has carried all of these years, in excess of 31 years –

**Mr Corkill:** Mr Speaker, can I just make a point of order?

**The Speaker:** I call upon the Hon. Member for Onchan, Mr Corkill. A point of order, sir?

**Mr Corkill:** I am not clear whether we are talking about the motion to amend the long title, or whether we are actually talking about a clause which is not yet before the House, which is later on the agenda paper.

**The Speaker:** The motion is quite clear. It is about the amendment of the long title, which then relates to the amendment, if that is successful, which is laid out before us. So, in other words, we are debating the principle of amending the long title, in relation to that amendment.

Hon. Member, continue.

**Mrs Cannell:** Thank you, Mr Speaker.

I do hope the Chief Minister will be able to follow it, but, incorporated in the motion before Hon. Members, it does mention the European Communities Act 1973 and that is why I am talking about it just briefly.

**The Speaker:** Hon. Member, can I just say, I have made the point quite clear. I do not think you need to echo what I have said. Please present your motion and the reasons why you want the House to support it.

**Mrs Cannell:** Thank you, Mr Speaker.

It was a sweeping power that was incorporated within the UK Act which came into effect in the Isle of Man in 1973. I would suggest that Hon. Members consider that it is a power contained within that section that the Isle of Man does not need. In fact, the Isle of Man parliament has never used it. It is there for all sorts of reasons, I dare say, but, nevertheless, custom and practice has been for parliament within the Isle of Man to come forward to the House of Keys with Green Bills putting in amendments to the original 1973 Act, and, in fact, that has happened on no less than seven occasions.

My concern is that, as our custom and practice for 31 years is to bring changes or added treaties et cetera to the House for consideration by Green Bill – and that is the way that we do things in the Isle of Man – there is no need, therefore, to have this provision which has been contained for 31 years. If it is not being used, I cannot see that a case can be made for retaining it any longer than we currently have, and, further, it will also ensure that future parliaments in the Isle of Man will always be in a position to be able to consider any changes to treaties, whether existing or new treaties coming in, and anything else which may impact upon the Isle of Man in the future.

Mr Speaker, I beg to move.

**The Speaker:** Hon. Member for Douglas North.

**Mr Henderson:** I beg to second, sir.

**The Speaker:** Mr Henderson seconds. Hon. Member for Onchan, Mr Corkill.

**Mr Corkill:** Mr Speaker, there are a few points I would just wish to make about this particular motion – and the reason I sought clarification before is it is difficult not to talk about the substantive nature of this move today without referring to the clause which is on the agenda, because the reason the Hon. Member is actually moving to change the name of the Bill is because, without that change, the clause could not really fit in the Bill, because its purpose is different from the original purpose of the Bill.

So, I want to make it clear that the Council of Ministers and the Isle of Man Government is content with the current title of the Bill because it is very relevant to the single and, I believe, simple purpose that is before us. It is a Bill that we have put to the House – or the Government of the day has put to the House, on a number of occasions, when enlargement of the European Union has occurred.

We will not be supporting the new clause; therefore, we are not supporting the change of the name to the Bill.

The amendment will actually change the nature of what Protocol 3 does. Therefore, as a result of that, I had prepared for Hon. Members an information paper which was on their desks this morning. I had hoped to have it with Members over the weekend, but senior members in the Attorney General’s Chambers have been off the Island, so this was provided late on to me yesterday and I have got it to Hon. Members as quickly as possible. I think it is very important that Hon. Members read the whole context of how this legislation is framed because the Bill that is coming from Government does not in any way seek to impinge upon Protocol 3, but the amendment will do that.

The Hon. Member has made a case in relation to something which was drawn to Hon. Members’ attention in the explanatory memorandum which came with the Bill and there is this paragraph which talks about ‘any other treaty’. The paper that is before us from Chambers clearly states that that needs to be read in context.

I do understand that some Members are, perhaps, a bit fearful that the form of words is a gateway for a far wider application of EU law to the Island, but that is not the case. I am not a legal expert, which is why I have got the legal ruling and why I have had a briefing for Hon. Members. I know that was relatively short notice – that is all that is possible when you are between readings of a Bill – and the presentation was not particularly well attended, unfortunately, although I did have the whole line-up of Government there, including the Attorney General, to answer Hon. Members’ questions.

I do believe the vast majority of Members are content with the original Bill, and I think that is a good thing.

What I am concerned about is that there could well be a misreading of the legislation in the Hon. Member’s mind here. It is a complicated area of law and the Hon. Member has invited me to follow it carefully, and I spent most of yesterday boning up on this information.

What I would just like to ask Hon. Members to dwell on is what the clause, if successful, would actually remove from the 1973 Act, because it does look a relatively innocuous thing to do, but, as you will see in the briefing paper, we talk about primary treaties and we talk about ancillary treaties and it is not clear, in the way that things are drafted, as to what the amendment would actually achieve, because it would

leave some great deficiencies.

It would leave a situation where Government and the parliament would have no mechanism to implement our international obligations and that really concerns me. I think that is the core issue.

It could well be that Hon. Members want to revisit this particular situation, and I would suggest there may well be a time in the not-too-distant future where that will happen, because, if member states agree to the new convention, then the 1973 Act that we are obligated under will have to be amended and will have to come to the floor of this House for Hon. Members to consider. That, I believe, is the time to consider this broader issue of how we adopt our international obligations into Manx law.

I just want to reiterate that, in two other islands, this legislation has gone through without any debate because it is just an automatic process, acknowledging that the EU has enlarged, and it is very important that we have this legislation agreed before 1st May and I made that point at the Second Reading.

So, I am more than happy, if Hon. Members are willing to change the name of the Bill and we do get to the clause, to elaborate further on the paper that is being put before us, but I would ask Hon. Members not to support the motion before us, because it is not necessary for the simple purpose of this one-clause Bill.

**The Speaker:** I call upon the Hon. Member for Peel, Mrs Hannan.

**Mrs Hannan:** Vainstyr Loayreyder, I see this proposed amendment to the long title as being something that can actually get rid of the legislation that is before us, because, once the long title is changed, the amendment is then brought in which, to my reading, actually wipes out the legislation and defeats the object of bringing in this particular law, the European Union (Accessions) Bill 2004.

I am obviously not a lawyer, but that is how I read it, after my experience within the House, and I do think that a decision such as this will take longer than just a reading of legislation that is before the House now. I think it would take debate throughout the whole of our community – when I say ‘community’, the Isle of Man community – I think it would amend lots of the rest of our legislation, the way things work, the way we act, and, therefore, to bring in a piece of legislation on an amendment such as this, without proper consideration, I think is wrong.

As the Chief Minister said, with the enlargement and the possible introduction of a new community set-up within the European Community, I would have thought that is the time – and it might even not be the time at that stage – to go into this. We have, over the last 30 years... I think some people were quite surprised to get the agreement that came about at that particular time to give us Protocol 3 and to allow us to work on the outskirts of the European Union, to accept, if we want to trade, their standards, but, if we do not want to trade, we do not have to accept.

So we are in a position that lots of other places within the European Community might like to be at this particular stage, (**A Member:** Hear, hear.) where they can pick and choose what they use, they can pick and choose whether they trade with the European Union and what they trade. The only thing that we cannot trade is the finance services – I am not saying it is the only thing, but, as far as the Isle of Man

is concerned, that is something that we cannot trade, and it is something that I think maybe lots of areas within the Isle of Man would like to trade.

But we can trade in the areas that are laid down under Protocol 3 and I believe to introduce the amendment to the long title would do away with this legislation, it would not recognise the enlargement and, therefore, I believe it would cause many problems for us. To amend the long title, I believe, and to accept the amendment would do away with our legislation under the European Union (Accessions) law.

So I will be voting against this and I would urge Hon. Members to vote against it.

**The Speaker:** I call upon the Hon. Member for Garff, Mr Rodan.

**Mr Rodan:** Thank you, Mr Speaker.

I, too, would urge Hon. Members to think very carefully before supporting this motion on the Order Paper this morning. I think what we have to appreciate is that, when the Isle of Man put into law the European Communities (Isle of Man) Act 1973, what it effectively did at that time was accept the terms that had been negotiated for it by the United Kingdom. The UK Act of Accession 1972, as we know, amended the Treaty of Rome and contained articles specifically relevant to the Channel Islands and the Isle of Man to implement the Treaty of Rome, as far as provided for by the Protocol 3 that those articles introduced.

If we amend that Act of 1973, as this motion seeks to do by amending section 1 – and, certainly, if we then go on to repeal the section which commits acceptance in Manx law of ancillary treaties entered into by the Community, which are within the scope of Protocol 3 – what we have effectively done is to annul the Isle of Man’s original acceptance of the provisions negotiated for it by the United Kingdom.

Whether the issue in question is, as the mover says, a sweeping power that has never been used and, therefore, for which there is no need is not the point, it is completely beside the point. The point is that amending that 1973 Act would be an irresponsible thing to do. It would mean that the position of the United Kingdom ultimately for the external relations of the Isle of Man would be completely compromised, and in reality, the UK are not going to tolerate this sort of tampering at all.

I am all for running the risk of incurring the displeasure of the UK in respect of our legislation, where it is for good reason, but where it is not for good reason – and, certainly, no case has been made out this morning – it is a very dangerous thing to do.

For the last 30 years, the Isle of Man has enjoyed a position of privilege in its relations with the European Community, and now the European Union, which has brought considerable economic advantage and has served us well for over 30 years – but this is a two-way process. (**Mr Corkill:** Hear, hear.) With advantage also comes responsibility, and it is the Isle of Man’s and the Government’s responsibility to honour our international obligations and, certainly, it will not be able to do that if this motion goes ahead and with the amendment in its wake. It has certainly not been spelled out or hinted at how the Isle of Man will be able to carry out its international obligations if the Act is amended in the way proposed, because, albeit that it is a power that has not been used, it does represent a mechanism for which

an alternative will have to be sought, and that is not being made clear by the mover.

So, I do urge Hon. Members to reject this motion.

**The Speaker:** I call upon the Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, the issue is – let us be honest about what we have got here today – this is the European Union (Accessions) Bill 2004. When we signed up in 1973 it was for a treaty within the European Economic Community. Many things have changed over the years. I do not expect today the Hon. Member for East Douglas to win this debate – in fact, it would be impossible for her to do so, anyway, because she would have to have a mass revolt within the Council of Ministers, as far as the suspension of Standing Orders is concerned – but I do feel that it is a wake-up call –

**The Speaker:** Can I just clarify, Hon. Member, there is no suspension of Standing Orders required for any of this.

**Mr Karran:** Vainstyr Loayreyder, what concerns me, as far as this issue is concerned, is that it will be seen as a wake-up call for this Hon. House. I believe the Hon. Member is quite right to be bringing this proposal forward and I think it is quite concerning when we see: ‘Oh, don’t rock the boat, leave it how it is.’ The situation is we missed a glorious opportunity in a previous sitting, as far as having a select committee to investigate the concerns, as far as this legislation is concerned.

I feel that the facilities that we, as Members, with this very complex organisation... We have not got the information to hand, as Members of this Hon. House, in order to be able to be sure about the issues raised by the Member for Garff. But I also am concerned and have a deep concern that the danger is this ‘Trojan horse’ effect that could be happening, as far as the Isle of Man is concerned, and the security for our own people in years to come and our constitutional position.

I have already raised, many years ago, the issue of the Royal Assent and the issue that it should be on the advice of the Ministers of the Isle of Man and not the Crown Ministers of the United Kingdom Government. There are many issues that need to be addressed, as far as European Union legislation is concerned.

I understand that the Hon. Member today will almost certainly lose the vote, but I do hope that what it will do is waken up Members to the fact that we do not want the usual situation. Alright, I am not allowed to describe it how it is, but I do feel that with this House, Hon. Members, if we do not start taking on board the concerns of the Hon. Member for East Douglas, we are going to be taken by the scruff of the neck and end up being thrown in a direction that we do not want to go in, simply because we have not allowed ourselves the time or the ability to create the resources to know where we are going on this subject.

I will support the Hon. Member, as far as her motion is concerned, but what I am saying is that Members have got to start thinking seriously about this issue. The EU is going to become the new overlord, instead of the United Kingdom, and I believe that this House really did itself a disservice when it did not go for the select committee which was proposed by the Hon. Member for Ayre.

So, I shall support the Hon. Member and I shall also

support her because I am tired of the Ard-shirveishagh saying ‘Oh, we don’t need to. If it gets to the next stage, then we need the information.’ We need the information now, and I think it is wrong of the Ard-shirveishagh to try and make out that we will get the information at the next stage if he loses this debate now, and I think it just shows the arrogance that we have as far as the executive’s control over this parliament.

**The Speaker:** I call upon the Hon. Member for Douglas East, Mrs Cannell, to reply to the debate.

**Mrs Cannell:** Thank you, Mr Speaker.

I thank Hon. Members for their input. I thank the Member for Onchan for his support, the previous speaker.

Just for a sense of clarity and to make things clear, one thing I am not in the job of doing is to try to derail our relationship with Europe or any of the commitments that we have, or obligations under the Act in respect of Protocol 3. In fact, quite the reverse is my aim.

What I am concerned about is democracy within this place in this land. The memorandum that was circulated on the European (Accession) Bill through the Attorney General’s Chambers has been referred to and I would remind Hon. Members that on the back of that it states:

‘The amendment’s proposed omission of the words from section 1(1) of the 1973 Act will not affect the application of primary treaties to the Isle of Man nor the means by which the primary treaties operate or will operate as part of the law of the Isle of Man.’

So the motion to amend is not going to affect that situation whatsoever.

**Mr Corkill:** Because it is complying with Protocol 3.

**Mrs Cannell:** It then goes on to say:

‘It will apply only in respect of the ancillary treaties made by the European Community.’

Whether you call them ‘treaties’ or ‘ancillary to’ – which means in addition, too, ‘ancillary treaties’ – we, as Members of this House, do not have a mechanism in place to consider those because the 1973 Act contains the power for them to be considered not by the legislature, not by this legislature and not by Tynwald, but to be considered and applied. Custom and practice has been, for 31 years, that, when any treaty has come in, adding countries or provisions, it has come by way of a Green Bill.

I praise previous administrations for having handled those matters in that particular way, but I am not in the business of a wing and a prayer and a wish in the hope that future legislatures will also follow custom and practice and honour that type of thing by bringing a Bill, bringing in a change or a new treaty or a new country, before the House. It has been custom and practice, and praise to the previous governments and parliaments for having done it that way.

Nevertheless, they need not have done it that way and future parliaments may need not do it that way if the 1973 Act remains as it is, with the addition of including anything else that the United Kingdom decides will apply to the Isle of Man. If we had a situation or a mechanism in place whereby members of the legislature had input and had a say into this as and when ancillary treaties are coming in or

being promoted, I may not be quite as concerned as I have been over this.

**Mr Corkill:** There are obligations under Protocol 3.

**Mrs Cannell:** To recap, section 1 of the 1973 Act has been amended no less than seven times to include new treaties. The catch-all words repealed if this new motion were to be successful incorporate into Manx law, to the extent necessary for Protocol 3, any other treaties from time to time appropriate for the list. The words contained in that 1973 Act are unnecessary, in my view, because legislation is always passed, like the Bill that is before us today, to add treaties explicitly – or it is harmful, because they enable the House of Keys to be bypassed and to lose the chance to say no to any treaty being incorporated into Manx law. That is the situation we are in at the moment. *(Interjection by Mr Corkill)*

The words to be repealed are exactly those in the equivalent UK Act of 1972, which I restated at the opening of my comments and they may have been thought necessary then to cope with an unfamiliar situation. It is now a well-known situation, after 30-odd years of experience, and the practice of adding specific treaties each time there is a change shows that the practice that has evolved is now different from that expected in 1972 when the Bill was being worked on in those days. The words in question have been shown to be unnecessary and are undesirable in principle and that is why I am moving the motion.

Now, I knew there would be a fear factor in trying to support or even considering supporting anything like this, because we do have – and the Hon. Member for Onchan is right – relatively little information on these things.

**Mr Corkill:** Certainly on the amendment.

**Mrs Cannell:** We had the odd briefing, we had the odd rash of papers but I would consider that what we do not have, of course, is external scrutiny. We have Government officers, we have certain groups within Government itself doing an awful lot of work in respect of these issues – I know that and I acknowledge that. I do not underestimate the type of work and the study that has gone into it.

But what I am saying here is that the catch-all is unnecessary in this day and age; it does not affect Protocol 3 whatsoever, it does not jeopardise Protocol 3 whatsoever –

**Mr Rodan:** It does.

**Mrs Cannell:** – and I am surprised that the previous speakers would even contemplate that I would be so destructive as to get on my feet to damage our international obligations – far from it.

There still remains a question, though, in respect of the Attorney General's briefing paper. There are still questions because, in that paper, it does not express why the Isle of Man is being bound by treaties, which are not even laid before Tynwald, let alone approved by the House of Keys, and the basic question – and I put it again for Members' minds – is whether the legislature is to be involved in the commitments which affect the Island or not.

That is the question, I think, that the Council of Ministers have to go away with – it is quite clear I am not going to get their support today – and they have to come forward, and I

would ask, in the knowledge that this motion probably will not carry, but I am putting a marker down in respect of this. I want the Council of Ministers to consider and to come forward, a commitment to be made either to this House or to Tynwald, where policy issues are decided, with proposals for a mechanism for Members to be able to approve of treaty changes, whether they are ancillary or not, by way of policy decision matters, before legislation comes forward.

That is why I was seeking to amend the long title because this is the opportunity – now, today – to change that situation. I can understand that the Council of Ministers, or some of them at least, appear to be a little bit windy on the issue and that is probably because I do not believe that they have given sufficient time into actually studying what the implications would be if my motion was successful and we do get the amendment incorporated into this piece of legislation. It is a pity because the opportunity is here; the opportunity will be lost.

But it is the first marker I have put down and, by Jove, Mr Speaker, it will not be the last! I beg to move.

**The Speaker:** Hon. Members, the motion before the House is that standing at Item 3 on our Order Paper in the name of the Hon. Member for Douglas East, Mrs Cannell. All those in favour, say aye; against, no. The noes have it.

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

**FOR**

Mrs Cannell  
Mr Karran

**AGAINST**

Mr Anderson  
Mr Cannan  
Mr Rodan  
Mr Quayle  
Mr Rimington  
Mr Gill  
Mr Gawne  
Mr Henderson  
Mr Cretney  
Mr Duggan  
Mr Braidwood  
Mr Shimmin  
Mrs Hannan  
Mr Bell  
Mrs Craine  
Mr Corkill  
Capt. Douglas  
The Speaker

**The Speaker:** Hon. Members, the motion fails to carry, with 2 votes for and 18 votes against.

**European Union (Accessions) Bill**  
**Clauses considered**

**The Speaker:** Now, Hon. Members, we move on to Item 4 on our Order Paper, which is 'Bill for Consideration of Clauses': European Union (Accessions) Bill and I call on the Hon. Member for Onchan, Mr Corkill. Clause 1, sir.

**Mr Corkill:** Thank you, Mr Speaker.

As I explained to this Hon. House at the Second Reading and at a recent briefing, which, unfortunately, many Members were unable to attend, this really is a minor Bill because it has a single aim of taking account of 10 new countries joining

the European Union from 1st May and this Bill is no more and no less than for that purpose.

Now, obviously, with the debate we have had and other comments, I appreciate that many people are concerned about developments within the European Union, and I would like to agree entirely that the Island needs to keep a close eye on what is happening in Europe; indeed, it is the policy of the Isle of Man Government to maintain an extremely high level of vigilance and scrutiny in relation to the European Union.

But, at the same time, I think we have to be a little bit careful not to go over the top and to get some sort of EU neurosis that leads us to fear Brussels at every turn. The Island does need Euro-vigilance, no doubt about that, and I think we need to continue what has been a pragmatic approach in the best interests of the Island, and I believe the Island has had a pragmatic approach to it ever since 1972-73.

I am sure Hon. Members are, indeed, all pro Isle of Man before anything else, particularly in the context of the European Union. That means maintaining an informed approach that puts the Isle of Man first and refuses to be stamped into either the pro-Europe or the anti-Europe camps.

I think, importantly, it means being able to spot the difference between the routine and what is potentially harmful, and I think, to some extent, our debate has been confused because, no doubt about it, the convention, and any potential change to Protocol 3 is potentially harmful. That is an area that we have been addressing as Government and that is an area where there is an absolute commitment to come to Tynwald with that situation at a later date.

But this European Union (Accessions) Bill, I believe, is a good example of a routine and simply necessary piece of legislation which is required to update the Island's law in relation to the EU, in this case to take account of the fact that 10 new member states are joining, and can I remind Hon. Members, joining all agreed, all signed up, on 1st May.

The Bill does not change the nature of the Island's special Protocol 3 relationship with Europe, unlike the proposed amendment that was not, in fact, moved.

**The Speaker:** Hon. Chief Minister, could you just take your seat a second.

I am just a little bit concerned as to where you are going on this. I have asked you to present clause 1; it is not an opportunity for you to reflect on the decisions of the House (**Mr Henderson:** Hear, hear.) or, in fact, re-present the principle of the Bill. If you wish to make points that are important, you will have that opportunity at Third Reading.

I would just ask you, if you would, really, to concentrate on clause 1, which is the only issue before us at this time.

**Mr Corkill:** Thank you, Mr Speaker, for that guidance. I was trying to give assurance to Hon. Members about the simplicity of clause 1, that, in fact, clause 1 does not have a bearing on Protocol 3 and that we are obliged to make the change set out in this clause.

I think if I can refer quite simply to this clause 1, with the guidance of Mr Speaker, it clearly lays out the countries which are acceding to the Union and I can read them out,

as I have done at previous Readings. They are: the Czech Republic; the Republic of Estonia; the Republic of Cyprus; the Republic of Latvia; Lithuania; the Republic of Hungary; the Republic of Malta; Poland; Slovenia and the Slovak Republic. They signed at Athens on 16th April 2003 and this clause recognises that constitutional change to the European Union.

I beg to move clause 1, sir.

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

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

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

Clause 2, Hon. Member for Onchan, Mr Corkill.

**Mr Corkill:** This is a short clause, as is the way, Mr Speaker. This Act may be cited as the European Union (Accessions) Act 2004 and I beg to move, sir, the short title.

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

**Mr Rodan:** I beg to second, Mr Speaker.

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

Hon. Members, that concludes the clauses stage of the European Union (Accessions) Bill.

### Procedural

**The Speaker:** Before I adjourn the House, Hon. Members, I just have two points to make.

First is that I seek leave for myself from the House for next Tuesday afternoon's sitting, if the House is still sitting, to go off the Island on business for Manx National Heritage and the Manx Heritage Foundation in relation to a ceremony relating to the Manx language and the involvement of the Irish Government many years ago in safeguarding the language, so I hope Hon. Members would agree that I may have leave of the House for that afternoon. (**Members:** Agreed.)

And also, Hon. Members, could I advise the Members' Standards Committee, if all Members are available, could we meet at 12 o'clock this morning, bringing forward our meeting, if Members are available to do that?

Hon. Members, the House will now stand adjourned until Tuesday next, 30th March, at 10 a.m.

Thank you, Hon. Members.

*The House adjourned at 11.45 a.m.*