



**HOUSE OF KEYS
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHIARE AS FEED**

**PROCEEDINGS
DAALTYN
(HANSARD)**

Douglas, Tuesday, 30th March 2004

Present:

The Speaker (The Hon. J A Brown)(Castletown); Mr D M Anderson (Glenfaba);
 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 1.11 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 Ramsey, Mr Bell, the Hon. Member for Douglas East, Mr Braidwood, and, from this afternoon's proceedings, the Hon. Member for Rushen, Mr Gawne.

Questions for Oral Answer

CHIEF MINISTER

European Court of Justice Council of Ministers' recommendations and impact

1. The Hon. Member for Douglas East (Mrs Cannell) to ask the Chief Minister:

(1) Has the Council of Ministers made recommendations with regard to the European Court of Justice; and, if so

(2) what are the recommendations and what impact will they have on the Isle of Man?

The Speaker: Hon. Members, we now move on to Item 1 on our Order Paper, Questions for Oral Answer, and I call on the Hon. Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I beg leave to ask the Question standing in my name.

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

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

The answer to the first part of the Question is: yes, the Council of Ministers has made a recommendation with regard to the European Court of Justice.

This recommendation related to a proposal from the European Court of Justice last year that the Court should make public the decisions of national courts, requesting it to give a preliminary ruling on the interpretation of Community

Law, or on the validity of the Acts of the institutions.

There were no objections to the proposal when it was discussed with the judiciary of the Isle of Man, senior judiciary of England and Wales and the Attorney General's Chambers, except that the necessary safeguards to maintain anonymity in family proceedings should continue. This recommendation was made by the Council of Ministers to the United Kingdom Department of Constitutional Affairs.

The impact on the Isle of Man of this recommendation is that, in any case referred to the European Court of Justice by the Island's courts, Isle of Man law on anonymity in family matters will be respected.

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

Mrs Cannell: Thank you, Mr Speaker.

Bearing in mind, Mr Speaker, that the Hon. Chief Minister, in his reply, used the phrase 'make public', why did he not see fit to put a little bit more information into the minutes of the Council of Ministers proceedings, so that I ought, perhaps, not to have raised the query in respect of this particular Question? Why were we not given more information when he had the opportunity to give it?

The Speaker: Chief Minister to reply.

The Chief Minister: The Hon. Member is referring to the summary of proceedings, I believe, which is a résumé of Council of Ministers proceedings. If there was insufficient information for the Hon. Member, I apologise for that.

We do try to summarise the minutes so that they are not too lengthy. In fact, I have had a direction from the Council of Ministers to try and make the minutes – well, they are not the minutes, but the summary of proceedings papers – more succinct and more interesting. But, obviously, it is up to any Hon. Member, when we have the summaries of proceedings meetings, to raise questions which may not be covered in the text, and, if the information has not been readily available, as the Hon. Member might have wished, I apologise.

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

Mrs Cannell: Thank you, Mr Speaker.

Bearing in mind the sensitivities of the impending European Union constitution, will the Chief Minister give an undertaking to this House that anything in relation to the European Union, or legislation flowing from the same, will be brought to the immediate and swift attention of Members?

The Speaker: Chief Minister to reply.

The Chief Minister: The Hon. Member is referring to the impending European Convention, which may or may not, be agreed by the member states. I have already, on a number of occasions, made it quite clear, particularly in relation to Protocol 3 – but it relates to other matters as well – that any issues in relation to developing circumstances with regard to the European Convention will, in fact, be brought to Hon. Members of Tynwald as soon as possible and, indeed, we will be bringing information to Hon. Members, should the Convention be signed.

**Port Erin Marine Laboratory
Government-University negotiations**

2. The Hon. Member for Rushen (Mr Gawne) to ask the Chief Minister:

Following the University of Liverpool's news release of 24th February 2004 concerning the future of Port Erin Marine Laboratory, will you explain:

(1) what revenue and capital funding has the University requested from Government to support Port Erin Marine Laboratory;

(2) why was Government unwilling to meet the University's request;

(3) since the 24th February news release what, if any, negotiations have taken place between Government and the University with regard to the future of Port Erin Marine Laboratory;

(4) what, if any, compromise from its original funding proposal has been obtained from the University since 24th February; and

(5) do you believe that the University is actively seeking an agreement to ensure that Port Erin Marine Laboratory has a vibrant, secure future?

The Speaker: Question 2 and I call on the Hon. Member for Rushen, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder. Ta mee shirrey kied yn eysht y chur ta fo my ennym.

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

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

I can confirm that, over the last 12 months, the Government has had discussions with the University of Liverpool regarding the future operation of the Port Erin Marine Laboratory, which is owned and operated by the University.

In July last year, the University presented proposals to the Government, aimed at securing the future of the laboratory through the development of a partnership approach.

The proposal from the University sought substantial capital investment from the Government to refurbish the laboratory buildings, to operate it as a fisheries institute on an ongoing basis, and to meet the majority of the running costs. For their part, the University would commit to continue to use the facility as a teaching and research centre, albeit on a reduced basis, compared to the current operation.

The University's approach was made on a strictly confidential basis, and I undertook to preserve that confidentiality whilst discussions were taking place. For that reason, I regret I cannot, at this stage, disclose the precise details of the proposal and the specific funding sought, but I can say that we were somewhat disappointed at the lack of detail provided and that the extent of funding required seemed to be quite excessive for only a minimal positive return for the Isle of Man.

A number of meetings involving all relevant parts of Government were held between September 2003 and February this year to clarify the proposal. Unfortunately, the conclusion reached was that the proposal could not be

justified in the face of competing priorities for Government resources.

Accordingly, the Council of Ministers was unable to give its support to the proposal and this was communicated to the University on 19th February. However, I have made it clear to the University that I am willing to consider alternative proposals.

On 24th February 2004, the University of Liverpool issued a news release, which confirmed that it considered the laboratory was uneconomic to sustain and a decision may have to be taken to close the facility. The press release indicated that, together with the Isle of Man Government, the University had been exploring a number of opportunities for funding, but that, so far, it had been unsuccessful.

I can confirm that, since that release, I have had further informal dialogue with the University, but, in answer to the fourth part of the Hon. Member's Question, no compromise from its original funding has been received from the University.

In answer to the final part of the Hon. Member's Question, I think I should respectfully suggest that it is not appropriate for me to express an opinion on this part of the Question.

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

Mr Gawne: Gura mie eu, Loayreyder.

I appreciate the Chief Minister cannot give us all the information, perhaps, that we would like because of the confidentiality, but would he confirm that if, for example, a tertiary education establishment came with an offer to the Manx Government, asking for capital funding in the region of £2 million, including VAT, which, of course, Government does not pay, together with running costs in the region of £200,000, which are exorbitant and believed to be more than necessary, that the Government would, perhaps, consider the offer favourably, especially bearing in mind the substantial amount of goodwill and additional facilities that that tertiary educational establishment offers to the Island?

The Speaker: Chief Minister to reply.

The Chief Minister: Mr Speaker, I think we need to put the suggested figures in context, inasmuch as the current funding that the Isle of Man Government puts towards the Marine Biological Station in Port Erin is in the region of £200,000 per annum, and that has been the budget provision for some years now; £60,000 of that comes from the Department of Local Government and the Environment, in relation to environmental services that the Department receives, and somewhere in the region of £120,000 comes from the Department of Agriculture, Fisheries and Forestry. There are a number of purposes for that funding, but they are mainly to do with the research purposes necessary to maintain the Island's fisheries.

I want to say, Mr Speaker, I am very disappointed that, over a period of months, we have not come to a situation where we have been able to broker something in the middle of where the University was coming from and the position of Isle of Man Government, that I just mentioned, but it would seem that, for the last two or three years, indeed, the University has been reviewing the operation of the facility in Port Erin and I think there are political, budgetary and reorganisational issues going on within the University of

Liverpool itself, which are having an impact and are driving the decision in relation to the facility in Port Erin.

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

Capt. Douglas: Gura mie eu, Mr Speaker.

Can the Chief Minister assure this Hon. House that the Government is perfectly clear what the original agreement between the Isle of Man Government and Liverpool University contains, and, in the event of any new agreement being reached, will he ensure that such valuable items as the irreplaceable library and the database remain on this Island?

The Speaker: Chief Minister to reply.

The Chief Minister: The Hon. Member for Malew and Santon has, in fact, raised this issue with me in conversation, and, certainly, I would not wish to give the impression in my answers today that anything dramatic is going to happen with the facility in the short term.

In fact, there is a commitment which is stated in the University of Liverpool's press release that they will run it for the next two years, but it is the future after that that is in question.

I would hope that I may well be able to have continuing dialogue, on behalf of Government, with Professor Drummond Bone, who is the Vice-Chancellor of the University of Liverpool, and the authorities there, to see if we can actually find a formula which fits what the University is looking for.

But, over a period of a year now, almost, we have failed to do that, and I am afraid the sands of time have shifted, and I do believe that the facility in Port Erin has almost been forgotten about by the University. Of course, we do know - we see it in the media - that, indeed, the pressures and the budgets and the way that the businesses of universities operate these days, that climate in the United Kingdom has changed dramatically and, therefore, they are under pressure to make some certain decisions. I think the facility is a victim of that.

But, in terms of the intellectual material that the Hon. Member is raising, I certainly will raise that with the University, because I think it is important and, of course, it stretches back over many, many years.

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

Mr Gill: Thank you, Mr Speaker.

Could the Chief Minister confirm that Liverpool's contact with the Isle of Man Government was made just at a time when the Port Erin Marine Laboratory is acknowledged as a centre of academic excellence, and there is no adverse comment to be assumed with regard to the level of excellence at the laboratory?

And secondly, could the Chief Minister confirm that the bounds of confidentiality that he describes, and the Isle of Man Government has quite rightly adhered to, also extends to Liverpool University, and if he has any comments if they have adhered to them?

And, thirdly and finally, Mr Speaker, could the Chief Minister confirm that it is Government policy to actually run a fisheries institute based here on the Island?

The Speaker: Chief Minister to reply.

The Chief Minister: Certainly I would echo the comments the Hon. Member makes in relation to the quality of the work that has been done at the Port Erin Marine Laboratory Biological Station. The personnel there have worked well over many years, and I have got no reason to doubt the integrity of the work that they do.

In fact, in relation to comments that I have had from the University itself, that is not the issue that they are dealing with. So, it has nothing to do with the quality of the work.

This is purely budget driven and reorganisation driven, within the University faculty that is responsible.

So, in relation to... I have forgotten the other part of this question. Sorry, perhaps the Hon. Member could...

The Speaker: Does the Hon. Member wish to clarify?

Mr Gill: The second part related to confidentiality extending to Liverpool University, and the third part to the fisheries institute and the Government policy - about that, sir.

The Speaker: Chief Minister.

The Chief Minister: Thank you, Mr Speaker.

In relation to confidentiality, obviously, when sensitive issues of this nature are being talked about between Government and whoever, whatever institution, it is important to keep that confidentiality, and I think, for my part, that confidentiality was maintained on both sides of the equation, but, inevitably, of course, the University had to contact its employees in order to bring them up to date with the current situation.

That, I believe, was not an easy situation to handle, and so I have no other comment to make about the confidentiality. We have tried to respect that, but, more importantly, I think we have tried to be constructive, in terms of coming up with a number of potential issues that, perhaps, the University could help the Island with, but they, on their side, have not been able to move away from their original proposal.

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

Mr Gawne: Gura mie eu, Loayreyder.

Bearing in mind that a decision will be made by the University on 19th April as to whether or not to close the Marine Laboratory and, also, bearing in mind the positive comments about the positive role the Marine Biological Station plays in the Isle of Man, which I have had circulated to Members in this document, will the Chief Minister agree to contact the University once more to try to find a positive outcome for the future of the Marine Laboratory? Can you confirm that the Manx Government is still prepared to negotiate even at this late stage and what message of hope, if any, can you give to the people who work at the Marine Laboratory in Port Erin?

The Speaker: Chief Minister to reply.

The Chief Minister: I am more than happy to have contact again with the University, in order to see if the position has shifted from the present negotiated - or rather, unnegotiated - situation to something that is more positive,

and I would certainly look for a shift from the University, in relation to the position it has adopted.

I think the point that needs to be made is that, in trawling through all the Departments of Isle of Man Government which could and do, to some extent, have benefit from the operation of the facility there, in fact, the information and the services that Isle of Man Government requires can be sourced from a number of areas, and, in terms of what the taxpayer pays for, we get fair value for what we get now.

What we did not think was fair was the increased price – that it was worth paying for the same type of service that we receive now. We tried to add things to the package to make it more interesting – things that might be of interest to Isle of Man Government and to the people of the Isle of Man – but the University did not seem to be receptive to that.

But I am more than happy to put the proposals that Isle of Man Government came up with back on the table again to the University, to see whether they have shifted their position before they make their final determination.

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

Capt. Douglas: Gura mie eu, Mr Speaker.

For reasons already mentioned, Chief Minister, we have no idea of how much Liverpool University are asking the Government for, to be persuaded to retain the Port Erin Marine Laboratory, but has the Government fully assessed the cost of losing such a valuable education establishment and the special people involved at the Port Erin Marine Laboratory? Thank you.

The Speaker: Chief Minister to reply.

The Chief Minister: I think one of the disappointing parts of the proposal that the University put forward was that there was a great increase in cost for the Isle of Man taxpayer, but, in fact, in terms of the academic participation in the facility itself, part of the proposal was to run down that participation, anyway. So, it was not about maintaining the student activity that is there now; part of the proposal was actually to reduce that level of participation. I do believe that that is an organisational issue within the University itself, as to how it deploys its undergraduates within the courses that it provides.

The Speaker: A final supplementary on this Question, Hon. Member for Rushen, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Would the Chief Minister agree that if it is proposed at any point in the future to establish a fisheries institute in the Isle of Man the costs in establishing such an institute will be considerably higher than the amount of money which we are being asked to put in to support the marine laboratory?

The Speaker: Chief Minister to reply.

The Chief Minister: That is rather a subjective question, but, certainly, there is a requirement, as the Hon. Member for Rushen and his colleague, Mr Gill, have raised with these questions: this ongoing requirement for the Island.

The proposal that the University put forward included this fisheries institute idea, and, so, I do believe that Government

is aware of the basic, or the mainstream, costs for running such a situation.

I do not want to speculate any more at this stage, Mr Speaker. I think it would be unhelpful, particularly if, as I have already committed, I am going to go back to the University and speak to them again.

'Binge drinking' and anti-social behaviour Addressing difficulties

3. The Hon. Member for Onchan (Mr Earnshaw) to ask the Chief Minister:

- (1) *Would you make a statement regarding the difficulties the Isle of Man faces in relation to 'binge drinking' habits and the associated anti-social behaviour; and*
(2) *what steps can be taken to address the problem?*

The Speaker: Question 3 and I call on the Hon. Member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker. 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): Well, thank you, Mr Speaker, and I apologise for rather a lengthy reply, but this is a major social issue question that the Hon. Member, my colleague for Onchan, has asked. I welcome the Question, because it does give me an opportunity to say what we are actively doing to address the issue.

The difficulties the Island faces in relation to 'binge drinking' are similar to other jurisdictions, which are also seeking effective ways to change this pattern of alcohol consumption. There are many different definitions of 'binge drinking'. Some refer to those who drink twice the daily guidelines in one day in a single session – that is, eight or more units for men, and six or more units for women – or, as in the European survey project on drugs and alcohol for young people, which we have carried out in our schools, 'binge drinking' is defined as over five drinks in a single session.

Research carried out elsewhere shows that youngsters in the United Kingdom, Denmark and Ireland are among the heaviest teenage drinkers in Europe. They are more likely to drink, to get drunk and to report problems associated with drinking than their counterparts in other European countries.

Preliminary results from our studies would seem to indicate that our youngsters show a similar pattern to the United Kingdom and Northern European culture. With this pattern of drinking, there is a stronger likelihood of disorderly or criminal behaviour. This type of 'binge drinking' behaviour has long-term health consequences and behavioural consequences, not just for the individual but also for families and society as a whole. The type of behavioural consequences include accidents, violence, poor social behaviour, such as fighting, drunkenness, workplace problems, unsafe sex, possibly leading to unwanted pregnancies or sexually transmitted infections. These are

just some of the difficulties that we face in relation to binge-drinking habits and the associated anti-social behaviour.

Mr Speaker, on the Island we have taken a number of steps to reduce the harm resulting from this pattern of alcohol consumption. I believe we were ahead of other jurisdictions in bringing out an alcohol strategy which adopted a multi-agency approach and accepted that there needed to be a number of different approaches. These, obviously, relate to education, information and communication, help and treatment, managing supply and community safety.

There have been a number of different initiatives, with continuous efforts being made by Government Departments, statutory and non-statutory agencies, businesses and community groups working together to reduce the problem. Our Central Alcohol Unit, which was set up as a result of the Alcohol Strategy, have made major strides in working co-operatively with licensees, nightclubs and off-licences to prevent the harm that can occur because of this pattern of binge drinking.

We still have much to do and, this year, we are embarking on a review and updating of our Alcohol Strategy which should further pinpoint the various approaches that need to be taken, based on the evidence and on good practice.

We have also considerably improved our base of evidence on the Island, with the implementation of high quality and valid school surveys and data from our agencies working with the problem on the Island.

Mr Speaker and Hon. Members, I am sure that you can all appreciate that what we face in this area are problems the same as encountered elsewhere, but, happily, I can say that, with my colleagues on the Drug and Alcohol Strategy Committee, we are constantly looking to bring in initiatives to change this pattern of alcohol consumption. Members will be aware that drinking is cultural, as well as a matter of individual choice, and any change will, therefore, have to be part of a longer-term alcohol strategic aim.

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

Mr Earnshaw: Thank you, Mr Speaker.

I would like to start by thanking the Chief Minister for his comprehensive reply regarding this.

I think we are all aware that these problems are not confined to the Isle of Man. As a supplementary, I would like to ask him: what, in his opinion, has been the effect of the relaxation of drinking hours three or four years ago in relation to the problems we are now seeing in the Isle of Man?

The Speaker: Chief Minister to reply.

The Chief Minister: Well, Mr Speaker, the Question refers to 'binge drinking', and, certainly, one of the arguments for changing licensing hours over a period of years has been the fact that, if licensing hours are extended, then, in fact, the need for people, or the perceived need that people may have, to binge drink, perhaps in the run-up to closing time – and this has been proven in other places, particularly Scotland – by relaxing the hours the binge-drinking culture is alleviated.

In relation to why the hours were extended, I think the Department of Home Affairs at the time was being approached by a number of agencies, one of which was the police, that, by having variable closing hours, it was a

more manageable position from a policing point of view when people left establishments and started to find their way home, that it was easier for transport and it was easier for policing for variable closing hours to be available to different businesses around the Island, and I believe that was the main reason.

Whether it has been successful or not is being measured by the Drug and Alcohol Strategic Committee, Mr Speaker, and we are trying to improve our data in this area all the time.

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

Mr Cretney: Yes, could I ask the Chief Minister: would he agree with me that the only effective way to tackle this problem is by a multi-agency approach and, as such, when the consequences are felt by persons in, for example, accommodation owned by Douglas Corporation, it is unhelpful that they have a denial that it is anything to do with them, it is only a police matter? Would he not agree that it is a matter for all of us in society to try to resolve?

The Speaker: Chief Minister to reply.

The Chief Minister: Very much, Mr Speaker: alcohol is a society issue. I believe not just Government agencies and local authority agencies, as the Hon. Member has just alluded to, but, of course, we have a number of non-statutory and voluntary groups, who are also working very hard in this particular area, and we need to support all of these agencies, in order to acknowledge the problems that alcohol abuse does, in fact, engender.

I believe it is a problem that has got worse in my lifetime (**A Member:** Hear, hear.), and whether that is because there is a higher disposable income available to people and other factors... I think, obviously, education is a strong element in all of this.

Mr Speaker, the Question refers to binge drinking and the message I would wish to leave to anyone listening, particularly younger people, is that, I suppose, having being brought up with Methodist principles, abstinence of alcohol is probably the safest way to deal with alcohol. Moderation and safe drinking habits are something that the Strategic Committee tries to engender, so that it is harm reduction.

Certainly, with my pharmacist's hat on, I want to make it clear to people that young people who pass out due to bingeing on alcohol, who become unconscious and who are admitted to hospital to casualty on a Friday evening, or a Saturday evening, are almost nine tenths dead, because alcohol poisoning and alcohol levels of that nature are extremely dangerous to the physical wellbeing of people.

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

Mr Karran: Vainstyr Loayreyder, a supplementary.

Would the Chief Minister not agree that the fault lies at the feet of this Hon. House and not the Council of Ministers, for suggesting to support the legislative package that we brought in on the new licensing laws a couple of years ago?

Would the Chief Minister also consider asking his Council of Ministers to review the legislation, as far as off-licences are concerned, so that off-licences should be *purely*

off-licences, and that there should be a separation, as far as the selling of alcohol in supermarkets, in order to help those that do have this affliction?

And, thirdly, Vainstyr Loayreyder, would the Chief Minister not agree, in view of the recent announcement of the increases in prices and the increases in profits, as far as the brewery is concerned, does he not feel that a real justification for taxing anybody in this society – not just putting it on the rates – would be to bring in a tax on the brewery in order to cut down their profits, since they are the ones who are profiting from all the social problems that the taxpayers are having to pay for?

The Speaker: Chief Minister to reply.

The Chief Minister: I will do my best with those questions, Mr Speaker.

I think the last changes that this House responded to in relation to licensing law actually put a heavy responsibility onto licensees. Although there were changes to hours, over the last two licensing Bills that I am aware of, the responsibility and the fact that licensees can lose their licences, or have their licences suspended, effectively damaging their businesses, were all things that have been introduced by Government in the last administration. I think licensees are far more respectful of the licence that is granted to them in respect of alcohol sales, and I know, with discussions with the alcohol unit of the Isle of Man Constabulary, that they, in fact, have a good working relationship with nearly all of the licensing trade, including the brewery, but also the smaller off-licences.

With regard to separating sales away from other commodities – I think the Hon. Member refers to supermarkets where alcohol is in with general merchandise and the suggestion is to have alcohol-only shops – that is something certainly that I can bring to the attention of the Department of Home Affairs to see whether there is mileage in that. Certainly, in other jurisdictions, if you go to the United States of America, hard liquor is in separate liquor stores, with separate licensing, beers and wines are in with general merchandise in ordinary supermarkets, but you have separate doors, you have separate regimes controlling spirits.

With regard to taxing the brewery more, I will certainly bring that to the attention of the Treasury. Obviously, they do pay taxes now in relation to Customs and Excise and, indeed, income tax. I get the feeling, perhaps, that if taxes were raised, all it would do is actually put up the price of drinks to the consumer. That tends to be what happens with intervention of that nature: when one intervenes, all it does is pass the cost on. But, certainly, I can raise that issue. (*Interjection by Mr Karran*) I was not aware of the information that the Hon. Member has just said.

So, I thank Hon. Members for their interest. It is a society issue, it is a broad issue and I wish to give Hon. Members assurances that the Drug and Alcohol Strategy Committee is doing all it can to ensure that there is this inter-agency cross-Government Departments: Government Departments, local authorities and voluntary groups and others, we all have a job to do.

Mr Cretney: Hear, hear.

The Speaker: Before I call on the next Hon. Member, can

I just remind Members these are not questions on the whole of the licensing legislation in the Isle of Man. This Question is quite specific: it is about binge drinking, and I would ask Hon. Members to try and keep focused on that.

Hon. Member for Malew and Santon, Capt. Douglas.

Capt. Douglas: Gura mie eu, Vainstyr Loayreyder.

In relation to binge drinking, sir, can the Chief Minister indicate how many cases have been brought against sellers of alcohol in relation to under-aged persons purchasing alcohol-related beverages during the last 12 months; and is he able to give this Hon. House an indication as to how many people have been charged and convicted for being drunk and disorderly as a result of binge drinking during the same period?

The Speaker: Chief Minister to reply.

The Chief Minister: There are a couple of issues there, Mr Speaker, inasmuch as the Hon. Member, by the nature of his question, has associated binge drinking with young drinkers as one issue, but, in fact, binge drinking occurs in people who are quite legally entitled to buy alcohol, people who may be well over the age of 18 or 21. So the aspect of binge drinking is a health issue. It is a changing habit of how people consume alcohol, and, like all substances that have the ability to harm the body, if taken singly as a big dose they will do more damage.

But, in relation to cases prosecuted, I can furnish Hon. Members with that information. I do not have it before me today and I will come back to Hon. Members. I am aware of prosecutions of licence holders.

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

Mrs Craine: Thank you, Mr Speaker.

I am grateful for the Chief Minister's confirmation that the problem of binge drinking, or this culture of alcohol abuse that we have, is not confined to youth, but is by example from the more mature members of our community.

But I would like to ask him, in addition, if he could tell us if there has been a calculation as to the cost on our Health Services of the result of alcohol abuse?

The Speaker: Chief Minister to reply.

The Chief Minister: There is some information available in relation to that. How definitive it is and how useful it is I am not sure, Mr Speaker.

There is probably more information in relation to tobacco substance, in relation to what revenues it raises and what it actually costs in relation to the extra health services that are required to treat people who go down that road.

With regard to alcohol, of course, the cost is not just to the Health Services; it is criminal damage, it is all sorts of other areas where everybody has to pick up the bill for that alcohol situation.

But I will certainly get in touch with the Hon. Member and see if I have any data. In the Drug and Alcohol Strategy Committee meetings, we are getting more and more data now, which is really useful in terms of setting policy for the future and I will try to dig some information out on that aspect.

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

Mr Downie: Yes, thank you, Mr Speaker.

Could the Chief Minister confirm that, in a recent survey into under-age and binge drinking, significant amounts of alcohol were obtained in the domestic home, and would he, therefore, not agree that parents must accept some degree of responsibility for their children where alcohol is concerned and where it is ultimately obtained from?

A Member: Hear, hear.

The Speaker: Chief Minister to reply.

The Chief Minister: The issue of adults who are legally entitled to purchase alcohol but then who hand it on to people who are under that age, I think, is a real problem and one cannot blame, too much, licensees who legally, with proof of age and all the rest of it, sell alcohol to adults. There is a responsibility for those adults to use that alcohol or consume that alcohol sensibly.

The police tell me that, particularly when they have had to take young people home who are inebriated, more often than not, the drink has been obtained in the family home.

So, the Hon. Member is quite right. We can have all the licensing laws 'till the cows come home', but if the source of supply is somewhere else, then that is an issue that has to be tackled.

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

Mr Gill: Thank you, Mr Speaker.

In relation to adult misuse of alcohol, would the Chief Minister agree with the maxim that moderation is true temperance and the answer to alcohol misuse and binge drinking, in particular, lies in education and not prohibition?

The Speaker: Chief Minister to reply.

The Chief Minister: I cannot agree that moderation is true temperance, Mr Speaker, because temperance is abstinence, and there are a number of people who do not feel the need to drink alcohol and live happy, normal lives and enjoy themselves – and good on them – but, obviously, the Strategy does talk about safe habits. One of the main threads in the Strategy is about harm minimisation and, obviously, there are set levels that we are all aware of that are safe consumption.

The Speaker: And a final supplementary on this Question, Hon. Member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker.

If it is the final supplementary, would the Chief Minister agree with me that addressing the binge-drinking culture is as much a priority, perhaps more so, than drug abuse and would he, furthermore, agree that the binge-drinking problem, which seems to be worsening, is something we need to be getting to grips with as a matter of great urgency?

The Speaker: Chief Minister to reply.

The Chief Minister: I think it is an urgent matter, Mr Speaker. I think people's drinking habits have changed, particularly at the younger end of the spectrum but not

necessarily just juveniles: I mean from people when they first start drinking alcohol, perhaps up to the 30-to-35 age group. There is this understanding in that group of people that, in fact, binge drinking is an 'alright' thing to do.

As I have already said in my previous answers, it is a dangerous thing to do and people harm their bodies. People who are youthful in their way of life perhaps do not concern themselves with the future too much.

This message today, hopefully, if anyone is listening to it from that age group, they really need to be aware that over the top binge drinking damages your liver, damages your health, damages your ability to have a healthy life, throughout your life.

Revocation of Waste Management Board Order Absence of information in Government Plans debate

4. The Hon. Member for Middle (Mr Quayle) to ask the Chief Minister:

Was it an error, oversight, omission or a deliberate policy to have allowed Members of Tynwald (other than Ministers), to have voted for the Isle of Man Government Plans on 17th and 18th February 2004 without informing them that a policy decision had been reached by the Council of Ministers on 12th February 2004, when it had been determined not to proceed with a Waste Management Board and, as a consequence, to seek a revocation of the Waste Management Board Order?

The Speaker: Question 4 and I call on the Hon. Member for Middle, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker. I beg leave 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.

It was, indeed, an error, an oversight and an omission to have allowed Members of Tynwald to have voted to receive the Isle of Man Government Plans on 18th February without informing them that a policy decision had been reached by the Council of Ministers on 12th February 2004 not to proceed with the Waste Management Board.

The Plans were sent for printing just before Christmas and were distributed to Members on Tuesday, 3rd February; my speaking notes for the debate were completed on 13th February.

I accept that I should have noted and corrected the omission, and can only apologise, once again, for that omission.

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

Mr Quayle: Thank you, Mr Speaker.

In thanking the Chief Minister for that reply, can I refer him to the comments that he made to Isle of Man Newspapers in connection with the matter, when he is quoted as saying, 'We knew it was an awkward situation we were in, but I believe we have been open and transparent about our thinking'.

Could I, therefore, ask him as to how he can possibly think the Government and the Council of Ministers have been open and transparent when he and some of his Ministers, including the Minister for Local Government and the Environment, spoke in favour of the plans as they were put to Tynwald, without even mentioning the Council of Ministers' decision several days earlier to have revoked the Waste Management Board?

The Speaker: Chief Minister to reply.

The Chief Minister: I believe, Mr Speaker, that we were open and transparent, but it was late in the day. I apologise for the timings.

It was an evolving situation. We had the debate. If Hon. Members feel that they were not kept up to the minute with changes of policy thinking within the Council of Ministers, I have already apologised for that.

I do not want to rerun the debate. It is not the right time to do that, Mr Speaker, and I would wish to remind Hon. Members that the consultative period that was talked about in another place is about to start and the whole issue of how we regulate our waste is still a live issue. So, I look forward to Hon. Members' contributions to that consultation.

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

Mr Quayle: Thank you, Mr Speaker.

Would the Chief Minister not agree that this whole unfortunate business has, in effect, devalued democracy and led to a loss of faith in Government's integrity and commitments to agreements freely entered into between it and other parties, and could I ask the Chief Minister if he will give an assurance that if there are to be changes to any of the Plans in future, then, as a matter of courtesy, Members of Tynwald should be informed at the earliest possible opportunity?

Finally, Mr Speaker, could I ask if there are any other parts of the Government or Departmental Plans that have now been approved by Tynwald but, in fact, the Council of Ministers have, perhaps, quietly disposed of any other parts of any other Plans?

The Speaker: Chief Minister to reply.

The Chief Minister: In presenting Government Plans on the annual basis, Mr Speaker, one of the things I take care to include in every brief is that the Plans do need to retain a certain level of flexibility within them. They are a blueprint, but they are not necessarily something that all of the Members of Tynwald can necessarily sign up to.

As has been the way over the years with all policy documents, one hopes that the majority of people can sign up to the majority of things within those policy documents.

So, I would disagree with the Hon. Member for Middle about the rigidity of his interpretation of the plans, but, nonetheless, in terms of democracy failing, I believe we had a very open, public debate about where Government wanted to go in relation to regulating waste on the Island, and I think democracy was served.

In terms of how Government informed Hon. Members in the lead-up to that debate, I think it was not as good as it could have been.

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

Mr Karran: Vainstyr Loayreyder, a supplementary.

Would the Ard-shirveishagh not agree that the issue, as far as the actions of his Council of Ministers has just highlighted, what some of us has been saying for many years, as far as the whole Council of Ministers legislation was concerned: that, basically, it was a contempt of the parliamentary procedure to go ahead and a farce to talk about transparency and accountability to take such action as he did, as far as this Question is concerned?

Would he not agree that the situation has to change, that this Hon. House is not just to be a rubber stamp, on the hopeful need that they might get promotion within the executive part of this job, in order to try and get proper parliamentary scrutiny back in action in this place?

The Speaker: Chief Minister to reply.

The Chief Minister: Certainly, on the day, Mr Speaker, I felt that the parliamentary scrutiny was well in place.

But if I can just refer to the Hon. Member's first part of the supplementary, in relation to the Council of Ministers legislation, and the legislation that is in place which puts our Government structure in place, which is an agent of Tynwald: the Hon. Member, who has been in this House much longer than I have, was in a position to vote on that particular piece of legislation and he takes, on a number of occasions, the opportunity to remind us that he did not support the introduction of Council of Ministers legislation at that time.

I was not in the House at that time. I am charged, in my role as Chief Minister, with making the collective responsibility that I am responsible for, work, and I came to Tynwald with a resolution which was on the basis of collective responsibility within the Council of Minister and I had a duty to bring that to Tynwald, and so I did.

In relation to the powers of scrutiny of this Hon. Chamber and, indeed, in another place, that is a matter that is in the hands of Hon. Members, and I would agree with the Hon. Member and, indeed, the Hon. Member for Ayre, who raises this, that, in fact, if a better, more structured scrutiny operation was in place it would, indeed, make life easier for all of us, including the Council of Ministers and Government, because we would understand, as a Government, what areas of scrutiny that the scrutiny bodies were interested in.

At the moment we have a situation where the scrutiny is on a one-off random basis and you never know what is going to be scrutinised next. (**Mr Cretney:** Hear, hear.) It does not make it very easy for Government to respond to that scrutiny process, having the information ready, available timely so that Hon. Members can scrutinise Government's performance as to whether we have delivered policy, as promised in various Government documents.

I look forward to the day when the scrutiny roles are more keenly honed, so that the interface between Government and the scrutiny bodies, as we see in other jurisdictions, are in better order. I think that would be something worth doing.

Mr Cretney: Hear, hear.

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

Mrs Cannell: Thank you, Mr Speaker.

How can the Chief Minister reconcile with his often-used phraseology 'more open and transparent Government'?

when it was only five or six days before the sitting of the House when we had the policy debate that, in fact, his Council of Ministers had done a policy U-turn? Was it not discourteous to the Hon. Court at the time not to have made an announcement at the time (**Mr Quine:** Hear, hear.) when moving the policy document (**Mr Cannan:** Hear, hear.) that, in fact, there had been a rethink and there had been a U-turn, in order to pave the way for the motion that was put before Hon. Members the following month?

And, further, does he appreciate that the public out there have a total loss of confidence in him (**A Member:** Hear, hear.) and his Council of Ministers with regard to this, and very often the question they raise is, 'Well, if we have not got a Waste Management Board overseeing matters, who is overseeing matters at the moment?'

And, further, can you advise Hon. Members in this House what is now going to happen to the £5 million which was budgeted for, which we approved in the Budget, for the setting up of the Waste Management Board? Has his Minister for the Local Government and the Environment found another pet project to spend this money on?

The Speaker: Chief Minister to reply.

The Chief Minister: Mr Speaker, the Hon. Member talks about U-turns, and I just want to make it clear for the public of the Isle of Man that what we have been debating is the separation of the operation of the waste management of this Island and the regulation of the waste management of this Island.

The Hon. Member, in her supplementaries, says, 'What are we going to do now without the Waste Management Board overseeing matters?' The Waste Management Board was never going to oversee anything, Mr Speaker (*Interjections*); it was going to run the operation. And this is where the confusion has been in the public, it is being perpetrated again today, Mr Speaker, that, in fact, regarding the Waste Management Board, in some way, at a stroke, Government is removing the regulation of the waste strategy on this Island; far from it.

What we have been talking about is coming up with a separation of powers, where it is quite clear who is responsible for operating the Energy from Waste Plant and other aspects of waste management strategy and making it quite clear that the Government of the Isle of Man wants to see a robust regulatory framework in place to make sure that the health of every individual who lives on this Island is being looked after.

So, I just want to make it clear that there was no U-turn. The Hon. Member is trying to say that there was a U-turn in relation to separation. That was not the case –

Mrs Cannell: A policy U-turn.

The Chief Minister: – we have always said, Mr Speaker, that those two powers need to be well separated.

So, in relation to budgetary figures, the Hon. Member asks: 'has the Minister got pet schemes?' One of her pet schemes is to create affordable housing for the people of this Island, Mr Speaker, and the Hon. Member, who is the Chairman of the Water Authority, seems to be the only Member of this House who is actually frustrating the Hon. Minister for DoLGE's pet scheme –

Mrs Cannell: Shame on you!

The Chief Minister: – of affordable homes for people (*Interjections*) at the moment.

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

Mr Cannan: Mr Speaker, returning to the Question, which asked the Chief Minister, 'Was it an error, oversight, omission or a deliberate policy to have allowed Members of Tynwald to have voted on the Government Plans without informing them of the decision not to proceed with the Waste Management Board?', how is it that, on 12th February, all the Members of the Council of Ministers, plus the Chief Secretary, knew of the decision, we debated the matter on 17th, and, while the Chief Minister himself may have made an error, is he actually asking this House to believe that all other seven Members of the Council of Ministers forgot to mention it, that the Chief Secretary forgot to send a note to the Chief Minister that the policy decision had been made five days later? Are we being expected to believe that?

The Speaker: Chief Minister to reply.

The Chief Minister: What I would ask Hon. Members to believe, Mr Speaker, is that, after a very in-depth and long debate within the Council of Ministers on more than one occasion, it was decided that I would bring a motion to the Hon. Court of Tynwald to explain our latest thinking in relation to the separation of powers of waste management and waste regulation.

It was not an easy thing to do, but it was the right thing to do, in my view, to come forward with that latest thinking. If Hon. Members are concerned that there was some deliberate ploy to keep Members in the dark over this, then please, I wish to give an assurance that that is not the case.

In terms of how documents are prepared, the Government Plan was printed a long time before this decision was made. I have already said it would have been much better if Council had come to Hon. Members and explained what we were trying to achieve earlier.

We have got there in the end. I do believe we have explained ourselves now and I think the timing of it could have all been better, and I would hope the Hon. Member for Michael can accept the fact that, in politics, sometimes things do not always run smoothly day by day.

So, it is true to say that it could have been handled better. There was absolutely no agenda to keep Members in the dark.

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

Mr Quayle: Thank you, Mr Speaker, and I am grateful for the Chief Minister for the frank way in which he has dealt with this.

But does he understand, perhaps, the bewilderment I, certainly, feel, that around the Council of Ministers' table, once they were making that very important decision, did nobody ask the question, 'How are we going to communicate this decision to Members of Tynwald and the reasoning for such a change in the policy?'

And the other question that occurs to me, Mr Speaker, is in relation to the Waste Management Board: can I ask if this matter is being treated with urgency to seek an alternative to the Board and the various discussions that have been promised? My understanding is that nothing has happened since the decision was taken in the March Tynwald.

The Speaker: Chief Minister to reply.

The Chief Minister: Mr Speaker, the timetable of having to come to the last sitting in Tynwald, in relation to this subject, was driven by the Waste Management Board Order, which was approved a year ago and which would have legally put in place the waste management structure, as envisaged at that time on 1st April.

On that agenda we put down a Revocation Order, because, whether or not Hon. Members agree with the policy change, the fact is the Waste Management Board would have come into existence on 1st April. That is what was driving the timetable, otherwise we would have been able to bring to Hon. Members information on a more timely basis, and brought Hon. Members forward with the recommendations.

Mr Speaker, I would just like to recap that I was very pleased with the vote that Tynwald gave on that day, in relation to the motions that were before us, because I think it does give the Council of Ministers a way forward in relation to how we deal with the regulation.

I do not want to go on the policy issue too much. I have said sorry to the Hon. Member for Middle already in terms of how he learnt about the changes, and I know it is very sensitive in his particular constituency, but the timetable was not driven by anything else, other than the fact that the clock was ticking in relation to that Board Order.

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

Mr Karran: Vainstyr Loayreyder, a supplementary.

Would the Ard-shirveishagh not agree that the bottom line is either that his policy, as far as not informing this House or the other place, was a complete contempt, as far as the whole position as far as Tynwald Members and the parliamentary scrutiny side; or was it that, if it was raised – the Waste Management Board – he might have lost the Isle of Man Government Plan? So, how can he describe this policy as anything, as far as transparency is concerned, because I think that most outside this Hon. House would have a different definition, as far as transparency is concerned?

The Speaker: Chief Minister to reply.

The Chief Minister: Mr Speaker, the Hon. Member has more experience in this Hon. House and in another place in regard to issues of contempt, and, therefore, if the Hon. Member believes this is a contempt, then I would ask the Hon. Member to be more explicit about what he is suggesting. I do not believe I was in contempt (*Interjection by Mr Karran*), and it is an easy word for the Hon. Member to use.

The fact is we could have brought information to Hon. Members sooner than we did; we did not do that, we have apologised for that. We had the debate, we have made a decision and the consultation period in relation to how we regulate our waste is now in action, and I would ask Hon. Members, if they are interested to this depth in the particular subject, that they get in touch with the Department of Local Government and the Environment with their particular views as soon as possible. They will be getting invited to do so soon, anyway.

The Speaker: A final supplementary on this Question.

Hon. Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

Would the Hon. Chief Minister acknowledge that there is no confusion in the mind of this Hon. Member in terms of the role that the DLGE play and the role that the proposed Waste Management Board was to play, in terms of DLGE being responsible for the regulation under legislation for pollution and breaches of the same, and that the Waste Management Board was to oversee bringing in the infrastructure to deal and manage with the Island's waste, which included recycling, kerbside collection and everything else?

Will the Chief Minister further acknowledge that the understanding at the time when we debated all of this, on numerous occasions, was that the Waste Management Board would be made up of wide representation from all of the environmental groups and would have a local authority influence in there, as well, and that, therefore, it was going to be comprehensive? How was he going to replace that concept?

And, finally, Mr Speaker, will the Chief Minister please advise Members what is going to happen to the £5 million that has been budgeted for, which was going to help the Waste Management Board put in the necessary infrastructure I have just alluded to?

The Speaker: Chief Minister to reply.

The Chief Minister: In relation to the £5 million in the budget figure, that is obviously part of what is going to happen in the future. What the cost of that new solution will be, we are not sure yet, but I would certainly hope that we can actually spend £5 million, perhaps, a little bit better than that, in terms of the fact that we have a responsibility to look after the revenues that the taxpayer produces for this purpose.

In terms of the terminology, if the Hon. Member has clarified what she means by 'oversee' in her interpretation, that is fine; but, for many people in the community listening, when someone says, 'the Waste Management Board was to oversee the incinerator', what they take from that – as many people will understand from that – is that it would be the regulation of the operation of it, and that was the chestnut that we were trying to deal with, with that debate that we had last month, to make it quite clear.

Now, if the Hon. Member wants to have environmental groups included in the operation of the waste management plant, then that is news to me –

Mrs Cannell: Waste management *policy*.

The Chief Minister: – because the Waste Management Board would have been a Statutory Board, with members presented through the normal way by nomination and by voting through the Hon. Court of Tynwald and that would not necessarily guarantee any environmental involvement.

Certainly, it is key to me to make sure that all those with environmental interests... It is key to me that that we have a situation of regulation that makes sure that what we are embarking upon is regulated to the highest standards. That commitment is still there; I would say that commitment is probably at a higher level than it has ever been.

The Speaker: Hon. Members, that concludes Questions for Oral Answer under our Standing Orders.

**Standing Order 43(2) suspended
to continue Question Time**

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

Mr Quine: Mr Speaker, I beg to move the suspension of Standing Order 43(2) to permit the remaining Questions for Oral Answer to be taken at this sitting, sir.

Mr Houghton: I beg to second.

Mr Corkill: I beg to second, Mr Speaker.

The Speaker: Right, Hon. Members, I think it is, in fact, Standing Order 47. No? Standing Order 43(2). Okay.

Hon. Members, the motion before the House is that Standing Order 43(2) be suspended. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

TRANSPORT

**IMIB broadcasting licence
Removal of aerial upon termination**

5. The Hon. Member for Michael (Mr Cannan) to ask the Minister for Transport:

In respect of the full broadcasting licence granted to IMIB (Isle of Man International Broadcasting): what is the total amount of bond recommended by your Department to be in place so as to ensure the full cost of the removal of the aerial and platform in the event of IMIB withdrawing from operating, or failing to fulfil, the obligations of the licence?

The Speaker: Hon. Members, we then move on to Question 5 and I call on the Hon. Member for Michael, Mr Cannan.

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

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

The Minister for Transport (Mr Shimmin): Thank you, Mr Speaker.

Currently my Department is awaiting a final decision by Isle of Man International Broadcasting (IMIB) regarding the type of platform proposed to be used. A provisional decision has been made, but a detailed site survey remains to be completed. Once seabed conditions have been accurately identified, the final decision regarding the platform will be taken.

Prior to the issue of a seabed lease to IMIB, the company must provide, to the satisfaction of my Department, details of a bond sufficient to have the platform removed. Once IMIB have made a proposal, my Department will assess the amount in light of the information provided.

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

Mr Cannan: I thank the Minister for his reply, but will the Minister inform this House of the amount of bond when it is determined, as it is a matter of public interest that the public can be assured that the Government has, by virtue of bond, sufficient funds, without calling upon the public purse, to remove the aerial and platform in the event of the termination of the broadcasting licence for whatever reason.

The Speaker: Minister of Transport to reply.

The Minister: Mr Speaker, the issuing of the final amount which will be determined, I will take advice on at the time. I think it would be somewhat unwise to actually tell all potential future operatives who may be involved in the operation as to how much the budget actually exists.

My Department has, under its conditions, already negotiated with the company, got a guarantee and a commitment that the bond will cover: the preparation of the platform for decommissioning and towing; the jack-down of the platform until it is afloat; the towing of the platform to another destination and a survey and carrying out of remedial works to the seabed. Therefore, before the final lease will be approved, there will be a guarantee that the bond will cover all of those issues.

We are premature to say what that figure will be. However, we already have indicative figures and, once the company has come forward, we will be taking expert advice to ensure the taxpayers' money is safeguarded. My Department, when drafting out the lease, was very conscious of the requirements for this operation, and, indeed, the public scrutiny of the whole scheme has meant that certainly my Department will ensure that full compliance with all of those aspects, as required, will be completed, sir.

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

Mr Quine: Is there provision made for inflationary costs? I have in mind, of course, that the need for the removal could arise several years after it has been put in place. What mechanism is in place to take account of inflationary aspects impacting upon the cost of the removal?

The Speaker: Minister of Transport to reply.

The Minister: Mr Speaker, with a reasonably succinct but comprehensive list of the requirements on IMIB before they can actually commence any part of the construction, the wordage says:

'details of bond to cover full cost of removal of the structure platform and reinstatement of the seabed to the satisfaction of the lessor.'

Therefore, inflation would inevitably be a significant context in that regard. So, the safeguards are within the documentation and I would give the reassurance that my Department takes it very seriously – not just the cost of potential removal, but also the compliance with all environmental and good practices for this operation – if it goes ahead, sir.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder. Could I ask the Minister whether the bond is placed

with a UK or a Manx bank, so that it can be retrieved if necessary.

The Speaker: Minister of Transport to reply.

The Minister: I cannot, I am afraid, give that clarification. I will ensure that, as you would expect, the safeguards are in place for my Department and, on such matters, I will be taking legal advice to ensure the safeguarding of the bond for the future, for the benefit of the Island, if it is required, sir.

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

Mr Cannan: I thank the Minister for his fine words and assurances, but, in the interests of transparency of Government and in the interests of public confidence, will the Minister, when he has done all these wonderful things that he is going to do, actually tell the elected representatives of the people the amount of bond in place and the terms of the bond?

The Speaker: Minister for Transport to reply.

The Minister: Mr Speaker, I will not give that guarantee today; I will take it under advice.

I am aware now of the Member for Michael's comments, and, if it is appropriate, I will bring it forward; if it is not, I will not, sir.

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

Mr Cannan: Will the Minister – apparently now having disregard for the transparency of Government – give a guarantee, then, to inform Members whether he is going to inform Members of the value of the bond, or not going to advise the value of the bond, and the manner in which it is established?

The Speaker: Minister for Transport to reply.

The Minister: I am happy to give that reassurance, Mr Speaker.

My Department, as all Government Departments, is tasked with many responsibilities and they are onerous. Therefore, the Department will conclude its affairs in the best way it sees fit. I do not believe that I am attempting to fail to be transparent in this regard, but I would hate to mislead the House giving one answer today which, then, on advice in the future, I actually have to rescind.

Therefore, I will take on board fully the comments of the Member and, indeed, the members of the public who are concerned in this regard, as to whether it is appropriate for me to come forward and I will notify the House to that effect, sir.

HEALTH AND SOCIAL SECURITY

Overspend on new hospital

6. The Hon. Member for Michael (Mr Cannan) to ask a Member for Health and Social Security:

What is the estimated total budget overspend on the

construction and commissioning of the new Noble's Hospital?

The Speaker: Question 6 and I call on the Hon. Member for Michael, Mr Cannan.

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

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 for Health and Social Security (Mr Anderson): Thank you, Mr Speaker.

The total financial authority approved by Tynwald for the new hospital project capital budget is £111,687,000. Commissioning costs have a 'column 2' authorisation of £4,300,000.

The £111,687,000 capital budget breaks down into 12 separate budgets, the first budget of which is the total construction budget of £80.89 million. The Department is currently advised of an anticipated estimated overspend of approximately £14.4 million on the £80.89 million total construction budget. This figure includes works package contractors' claims, which are currently being evaluated to ascertain entitlement, although difficulties continue in receiving the requisite level of substantiation to confirm claims.

The other 11 budgets currently remain contained within their respective budgets. A review of these 11 budgets is currently being undertaken, with a view to identifying any surplus budget provision that could be potentially used, with the requisite approvals, to mitigate the effects that the current anticipated construction overspend will have on the total project budget.

The authorisation of £4,300,000 for commissioning is to cover the costs associated with the move to the new hospital, including the planning and introduction of new working arrangements, recruitment of staff, transitional arrangements, transfer of equipment and transfer of patients. Spend to date, to the end of February 2004 on this budget amounts to approximately £2.56 million. It is not anticipated that this budget will be exceeded.

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

Mr Cannan: The Member for Health acknowledges that there has been a £14 million overspend on construction, 17 per cent of the value. Who actually authorised this £14 million overspend and was it at any time referred to Tynwald?

The Speaker: Hon. Member for Glenfaba to reply.

Mr Anderson: Thank you, Mr Speaker.

This is a potential £14.4 million. There are many factors that still have to be sorted out. Some of these will be potential changes by the client and this has to be weighed up against the actual contract. This comes down to several different areas.

There is also the work they have done by the Department's Estates Division, which will offset this total as well.

So, the £14.4 million referred to is a worst-case scenario and it also takes into account things like the Crowe EPH

problem, where the bond has not been recoverable.

So, can I just say that this £14.4 million is a worst-case scenario, and that there has always been a member of Treasury at all the meetings concerned with the development of the new hospital and they have been well informed about the problems there have been, but, as yet, it is too early to say exactly what that figure will be.

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

Mr Karran: Vainstyr Loayreyder, a supplementary.

Would the Oltey, the Member for the Health Services, tell this Hon. Court what budgetary omissions on the construction of the commissioning of the new hospital have taken place? Would the Member not also agree that the real issue Members should be worried about: what omissions have had to come in, to get into this place in the first place, the price in the first place?

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

Mr Anderson: Thank you, Mr Speaker. I am not in a position to say exactly what budgetary omissions have taken place to come to the state where we are at today. I have no information, but if the Hon. Member... I can provide that to other Hon. Members as well.

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

Mr Cannan: In the matter of the commissioning of the new hospital, has the full value of all types of equipment and furnishings at the old Noble's Hospital been utilised in the new hospital? Or, alternatively, have the equipment and furnishings in the old hospital been set aside for public auction or private sale and, if so, what is the amount expected to be realised by the sale of the equipment and furnishings?

The Speaker: Hon. Member for Glenfaba to reply.

Mr Anderson: Thank you, Mr Speaker.

Many of the items that were left in the old hospital that are not being utilised in the new hospital have been transferred to other parts of the Department, where they are very much needed. Ramsey Cottage Hospital is one example, Southlands is another and there are many other areas within the Department, as well.

Not all, of course, have been utilised by the Department, but, when all items have been assessed as to whether they are suitable or not to be transferred, and are in a fit working condition, there will come a time when we will have items that will be put out to tender.

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

Mrs Cannell: Thank you, Mr Speaker.

Can the Hon. Member for the Department agree with me that, in this particular project, in building the new hospital for the Isle of Man, the concept of which was the first time Government had actually used a management company to oversee, i.e. Bovis Lend Lease Limited, apart from getting a management fee for overseeing the project at the time, they

were also on a percentage of the total out cost, once that was established, when the building was completed, and so, therefore, there was a feeling at the time that the higher the cost and more expensive the outturn costs, the more percentage, the more profit that this particular company would make?

Could he advise – and if he cannot today, could he give us an undertaking that he will advise Hon. Members – what percentage of the total cost, including the anticipated overspend, have Bovis enjoyed? What has it cost the Island to have Bovis oversee such a project?

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

Mr Anderson: Mr Speaker, I am not in a position today to say what percentage for the management of the hospital Bovis has received, but I can get that information in time for Hon. Members. I am not sure when that time will be, because mitigation is going on and the amount that they are bona fide to claim could be some time away. But I am sure, when that position is known, that information can be made known to Hon. Members.

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

Mr Cannan: Will the Member confirm that his Department is organising a grand official opening of the new hospital on 8th May and will he, at that time, therefore, provide at least draft accounts on the cost of the hospital, available to Members of Tynwald at the time of this grand official opening?

The Speaker: Hon. Member for Glenfaba to reply.

Mr Anderson: Thank you, Mr Speaker.

I regret to say that when the opening, which is not that grand – there is an opening of the hospital that is in keeping with such a building – takes place on 8th May, the information that the Hon. Member would like to have will not be available at that time.

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

Mr Karran: Vainstyr Loayreyder, would the Oltey, the Member, not agree that the real issue is not the issue of budgetary overspend, but it is the issue of omissions. Can he explain to this Hon. House: is this the reason why we are having to move more and more things back into the old Noble's, because of the omissions of the new hospital, in order to keep into the budgetary constraints of the end figure?

The Speaker: Hon. Member for Glenfaba to reply.

Mr Anderson: Thank you, Mr Speaker.

No, that is not the reason why several services are being moved out of the new hospital; it is because the provision of these services has grown significantly since the planning of the new hospital, and quite a lot of them naturally sit outside of the area for acute services, anyway. They have been more appropriately put in other areas but, no, it is not as a result of omissions to the hospital planning.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder.

Could I ask the Member for Health, with regard to the management of the contract, whether this was in some way to support the packages that were presented to local contractors, so that they could be included in the cost of building such a prestigious hospital, so making the most of this investment locally. And could he also not agree with me that having a management contract, in actual fact, supported that policy, which was a new policy for Government, in trying to spread the money around the place?

The Speaker: Hon. Member for Glenfaba to reply.

Mr Anderson: Thank you, Mr Speaker.

I do believe that the concept of working packages was put in place, and was, at the time, unique to the Island, and it was to give Manx companies the ability to play different parts in this significant new development of the Island. It was certainly a new concept at the time.

There have been problems as a result of that, but it was done with the best intentions and I think everybody should be very proud of the end product we have, Mr Speaker.

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

Mrs Cannell: Thank you, Mr Speaker.

Would the Hon. Member for the Department acknowledge that the concept, at the time, of having a management company oversee all of this with regard to the local packages may have been a good concept in the debate in Tynwald, but, in reality, it did not work, because the packages were far too large for our local construction industry to be able to get a bite of at the time, and that, in fact, the packages were so huge most of the work went off Island and most of the sub-contracting work, if a small local company could cope with it, they may have got a bit of a licking there?

But, further, can he advise whether the Department he is representing this morning is still keen on this approach for future projects, capital schemes in the future?

The Speaker: Hon. Member for Douglas East, I do find you are spreading out far too broadly on this. I will not allow that second supplementary. Hon. Member for Glenfaba to reply.

Mr Anderson: Yes, Mr Speaker, I do believe the breaking up into packages was done with the best of intentions. I am sure we all have lessons to learn from the way it was done. The Department will, no doubt, learn from the experiences, as it looks at future developments, but I cannot give a categorical answer to the Hon. Member here today how the Department will look at future developments. It will have to learn from the experiences from the building of the new hospital and other developments that have been built by the Department over the past couple of years.

New hospital's air conditioning

7. The Hon. Member for Douglas North (Mr Houghton) to ask a Member for Health and Social Security:

Why does the air conditioning system not work throughout

the new Noble's Hospital wards and clinics?

The Speaker: 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 Health and Social Security, Mr Anderson, Member for Glenfaba to reply.

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

Firstly, air conditioning, as referred to, incorporates the treatment of the air supply to control the temperature, humidity and cleanliness. That is heating, cooling, humidifying and filtration. Most ventilation systems do not incorporate all of these functions, incorporating only heating and filtration.

Air conditioning is not installed throughout the new hospital; it is only installed in areas where it is required for specific clinical needs, for example, operating theatres, intensive therapy unit, et cetera. General wards and clinics are not provided with air conditioning.

Other areas with air conditioning are coronary care, special baby unit and delivery, resuscitation and major treatment in accident and emergency (A&E). Wards, clinics and general patient areas have mechanical ventilation that also provides the heating, if natural ventilation cannot be provided or is considered inadequate. This is also the case with most hospitals in the UK.

Air conditioning and ventilation systems in the new hospital are the subject of regular maintenance and currently all are working correctly. The Estates Services Directorate deals promptly with any problems that occur.

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

Mr Houghton: Thank you, Mr Speaker.

I do find the Hon. Member's answer to be quite unbelievable. In rooms where there is no natural ventilation, does he not feel that those with no natural ventilation should have been included in the ventilation? Just as we let off steam in this Hon. House, there needs to be a differential in the control of temperatures in that hospital, where it gets quite hot, where the nursing staff and patients suffer discomfort from high temperature. Should that not have been taken into account in the planning of the hospital (**Mr Henderson:** Hear, hear.) and now that it has been identified as a matter of concern, could something not be done about it in rooms where there is no natural ventilation, sir?

The Speaker: Hon. Member for Glenfaba to reply.

Mr Anderson: Thank you, Mr Speaker.

Cooling has been provided, where required by the briefing documentation that was prepared with the input of clinicians and other staff representing the various departments and specialities.

Cooling has been provided, where required for operational reasons, for example, in the path lab to maintain the correct operation of equipment such as analysers, in

the pharmacy where pharmaceutical products exposed to temperatures outside prescribed ranges, where they would have to be destroyed if they got above a certain temperature, and internal waiting areas without natural ventilation that are likely to have high density occupation.

It is fair to say that, shortly after the new hospital was brought into use, some problems were experienced. Additional cooling has been installed in some areas and the provision of additional cooling is currently under review with the medical cardio-respiratory department, in the women's outpatient department (OPD), ultrasound, rehabilitation and fracture clinic plaster room. Additional ventilation is also being carried out for the medical secretaries.

The Department is not dismissive of staff concerns. Such concerns are investigated where appropriate and feasible action has been and will be taken to resolve the problem.

To provide cooling throughout the hospital would have cost an extra £2 million for a high maintenance distributed system, fan coil units, or approximately £5 million for cooling by the central ventilation plant. So, it would also be a continuous ongoing increase in maintenance and running costs, with an adverse environmental impact from the additional energy used.

Of course, it should be remembered that, in 2003, we did have some unusually hot weather, with maximum temperatures in the Island reaching 29 degrees centigrade. There are very few days like that on the Island, Mr Speaker, and we have to plan for what is best for the majority of the summer and not just odd days.

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

Mr Houghton: Thank you, Mr Speaker.

I am grateful to hear the Hon. Member state that they are now considering putting further ventilation into some of those areas.

Can I ask that he surveys the staff in the non-ventilated areas to see whether they would like or prefer the ventilation be put in their areas also, not just for them, but for them whilst they are working and also for their patients, the people whom we serve? Would he agree to do that; and would he also give me some form of explanation of where he states that it would cost anything between £2 and £5 million additional moneys to put this in? Was that an area that was stripped from the hospital plan for reducing the budget in the first place, sir? It appears as if that was so.

The Speaker: Hon. Member for Glenfaba to reply.

Mr Anderson: Mr Speaker, the staff always have opportunities to speak to management about problems, whatever, in the hospital and I do not think it requires a staff survey to show those problems to management.

Can I just say that, as I said in my earlier answer, this hospital's ventilation et cetera is planned with regard to similar hospitals and similar situations in the UK, and that there was not a cut made to the budget of £2 million to £5 million, from the original budget to bring it within the allocated amount. As far as I am concerned, and the information that has been provided to me, that was not a cut; it was always planned to be as it is.

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

Mr Karran: Vainstyr Loayreyder, a supplementary.

Would the Member revisit the issue that he has just replied to, in the fact that he wants to investigate whether, in the original specifications, there was more air conditioning in the hospital, and is this not another one of the omissions that has been allowed to happen, as far as bringing it into the price range it is at the present time, being only £14 million over budget?

Mr Downie: You were responsible for Health then; you should know.

The Speaker: Hon. Member for Glenfaba to reply.

Mr Anderson: Mr Speaker, if I can just refer to my previous answers, as far as I am aware it was an omission taken as a result of a potential overspend, but I will investigate and get back to the Hon. Member to confirm that.

The Speaker: Hon. Members, that concludes Questions for Oral Answer. We have Questions on our Order Paper for Written Answer, of which there are four Questions which will be circulated to Hon. Members.

Questions for Written Answer

CHIEF MINISTER

Interception of Communications Act 1988 (as amended)

Cases of and procedure for telephone interception

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

- (1) *What is the purpose of the provisions of section 8 of the Interception of Communications Act 1988 (as amended);*
- (2) *how many telephone installations have been intercepted during each year from 1998 to date;*
- (3) *what is the procedure for approval of such an interception; and*
- (4) *how is an application verified before approval?*

Answer: (1) Section 8 of the Interception of Communications Act 1988 provides for the establishment of a Tribunal, to which any person who believes that their communications, whether by post, courier service, or telephone, have been intercepted, may apply for an investigation be carried out.

The Interception of Communications Act 2001 amended section 8 to extend the scope of warrants, which may be lawfully issued under the Act. It also added 'courier services' to the types of communications, which may be intercepted.

Schedule 1 of the Act supplements section 8 by providing for the constitution of the Tribunal, its procedure and the appointment of officers. The Tribunal consists of three members, who are appointed by the Governor for a period of five years. It is a requirement for the chairman to be an advocate of at least 10 years' standing.

The investigation by the Tribunal will seek to ascertain

whether (a) a warrant or certificate has been issued to authorise the interception; and (b) whether there has been any contravention of sections 2 to 5 of the Act.

The Tribunal are given powers under subsections (4) and (5) to report a contravention to the Governor in Council and to make an Order quashing the relevant warrant or certificate, directing that any copies of the intercepted material be destroyed and directing the Treasury to pay compensation to the applicant.

If the Tribunal concludes that there has been no contravention of sections 2 to 5, subsection (7) requires the Tribunal to give notice to an applicant, stating there has been no contravention. The decisions of the Tribunal are final and cannot be appealed against or questioned in court (subsection (8)).

(2) The number of telephone installations which have been intercepted since 1998 are indicated in Table 1A.

TABLE 1A

Year	Interceptions	Applications to the Tribunal
1998	4	Nil
1999	9	Nil
2000	11	Nil
2001	11	Nil
2002	40	Nil
2003	23	Nil

(3) The procedure for approval of such an interception is for the person wishing to intercept a communication (usually a member of the Isle of Man Constabulary) to make formal written application to the Chief Minister, requesting the issue of a warrant and detailing the need for such. The Chief Minister will undertake the verification checks specified in paragraph (4) below. On being satisfied that the warrant may be properly issued, the Chief Minister signs the warrant. It is valid for the period of two months from the day on which it is issued, but it can be renewed for a further period or periods of one month, cancelled or amended by a further instrument, likewise made by the Chief Minister.

(4) Before issuing a warrant, the Chief Minister is required to verify that the warrant is necessary in the interests of national security, or for the purpose of preventing or detecting serious crime and whether the information could reasonably be acquired by means other than interception of the communication. As part of the verification process, the Chief Minister is required by section 6(4) of the Act to consult with the Attorney General. He must also ensure that the extent to which and the number of persons to whom the intercepted material is disclosed and the extent to which the material is copied and the number of any copies of the material is limited to the minimum necessary. Any copies made are required to be destroyed as soon as their retention is no longer necessary.

In the absence of the Chief Minister, the above functions may be exercised by the Minister for Home Affairs.

As a final verification check, the Commissioner appointed under section 9 of the 1988 Act (usually the First Deemster) makes an annual Report to the Governor in Council in which he certifies that he has examined the warrants issued and whether he is satisfied that the Chief Minister was justified in each case in issuing the warrant for the purpose of preventing or detecting serious crime.

COMMUNICATIONS COMMISSION

Athol Radio broadcasting licence progression Consultation with Attorney General

2. The Hon. Member for Douglas North (Mr Henderson) to ask the Chairman of the Communications Commission:

Have the Communications Commission consulted with HM Attorney General in relation to the progression of the 'Athol Radio' Broadcasting Licence, and especially following the emergency Tynwald debate on radio broadcasting of 17th March 2003?

Answer: No, but the Communications Commission has taken legal advice and is acting in accordance with it.

Review of Commission's aims and objectives

3. The Hon. Member for Douglas North (Mr Henderson) to ask the Chairman of the Communications Commission:

In the light of the recent Tynwald debate on radio broadcasting and consequent unanimous resolution, will you be reviewing the Communication Commission's aims and objectives at page 1 of the Commission's Business Plan, where it is stated that: 'New stations are expected to launch', and at page 7 of the same document where it states at 'How we know we are successful' – 'licence new telecom operators and broadcasters subject to statutory restraints.'?

Answer: The Communications Commission keeps its Departmental Plan under review and will be taking into account the views of Tynwald and any subsequent changes in legislation.

LOCAL GOVERNMENT AND THE ENVIROMENT

Local Government Act 1985

Actions taken re Port St Mary Commissioners

4. The Hon. Member for Rushen (Mr Gawne) to ask a Member for Local Government and the Environment:

With regard to the default powers available under the Local Government Act 1985, will you explain –

(1) how many actions have been taken by your Department under part 1, section 5, subsections (2) to (4) since 1985;

(2) how many actions have been taken by the Department of Local Government and the Environment under part 1, section 5, subsections (2) to (4) since 1998 specifically with regard to Port St Mary Commissioners; and

(3) please give details of these actions and under which subsection they have been taken?

Answer: (1) One.

(2) One.

(3) The answer provided to parts (1) and (2) relate to the

same action, whereby an Order was made by the Department on the 25th March 2004, using powers conferred under section 5(2) and (3) of the Local Government Act 1985.

The decision to make the Order followed receipt by the Department of an independent report from accountants, PKF (IOM) Ltd, indicating deficiencies in various functions of Port St Mary Commissioners, including the rate setting process. In addition, the Department was made aware of considerable public concern about the Commissioners' financial management, and the fact that Port St Mary now has the highest level of rates on the Island.

The Department, for the purposes of remedying the current problems, has directed that Port St Mary Village Commissioners should carry out certain actions by the dates specified in the Order.

Details of these actions are shown in Table 4A.

TABLE 4A:

Actions	Date to be completed by
To introduce systems to ensure monthly reviews of the management accounts by the local authority of actual expenditure versus estimated rate income	30th April 2004 and monthly thereafter until 31st October 2004
To introduce systems to ensure housing income, expenditure, maintenance, deficits and reserve transfers are accounted for correctly and reconciled on a monthly basis	30th June 2004
To install adequate management control systems, as detailed by the Department, to control income, expenditure, stocks and materials	30th June 2004
To ensure adequately trained staff are in place to enable the local authority to carry out its function under section 353 of the Local Government Act 1916	31st October 2004

Orders of the Day

Bill for First Reading Constitution Bill

The Speaker: We now move on to Item 3 on the Order Paper and I call on the Secretary of the House: Bill for First Reading.

The Clerk: Mr Speaker, the Bill for First Reading is the Constitution Bill, introduced by the Hon. Member for Garff, Mr Rodan.

European Union (Accessions) Bill Third Reading approved

The Speaker: Hon. Members, we now move on to Item 4 and Bill for Third Reading: European Union (Accessions) Bill and I call on the Hon. Member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker.

Mr Speaker, this Bill is purely to allow for the enlargement of the European Union that will take place on 1st May.

On each of the occasions that the European Community, and, more recently, the European Union, has enlarged, an accession treaty between the existing and prospective members has had to be negotiated. These accession treaties provide the legal base for the enlargement, make adjustments to earlier treaties to allow for new countries and set out transitional measures to smooth the introduction of the new members into the club.

For an accession treaty to come into force, it has been ratified by all the current and new members. In other words, the governments of all the countries that have signed the treaty have to formally agree to be bound by its terms, including any rights or obligations that are set out therein.

Following the completion of negotiations between the present 15 EU member states and 10 candidate countries, a new accession treaty was signed in April 2003, the ten countries in question being Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

As all 10 accession countries and all 15 existing EU countries have ratified the Accession Treaty, it will come into force, as planned, on 1st May.

Following ratification, the Accession Treaty has to be implemented in each country's national law and, if it at all possible, this process should be completed well before the date set for the Treaty to come into force.

The Isle of Man Government implemented the special Protocol 3 relationship that was negotiated as part of the 1972 Accession Treaty for the UK, Ireland and Denmark, through the European Communities Isle of Man Act 1973 and, as a direct result of the obligations that were accepted as part of the Protocol 3 relationship, each time that new countries have joined the community and there has been a new accession treaty, the Island has had to amend its 1973 Act to take account of the treaty and implement any adjustments to the earlier treaties made by it in Manx law, but – and I must stress this – only to the extent that any changes fall within the current scope of Protocol 3.

The Bill that is before the House today for Third Reading is the fourth such Bill since 1973 and all it does is to take account of the increased number of EU countries from 1st May. It is routine and a necessary piece of legislation to update the Island's law in relation to the EU and it does not change the nature of the Island's special Protocol 3 relationship with Europe, except in terms of the number of countries to which it applies.

And as long as we want to keep Protocol 3 – and I strongly suggest we do, Mr Speaker – we cannot decide that we want to have that special relationship with some EU countries but not with others.

Mr Speaker, the Isle of Man Government believes that it is in the Island's best interests to keep Protocol 3. Whilst Protocol 3 may not be perfect, the Government believes that it has served our Island well over the years and that it continues to do so. Indeed, the Government has fought hard in recent months to ensure that the Protocol 3 relationship will be kept intact and unchanged, should the draft EU Constitutional Treaty ever come into force.

Mr Speaker, it is not possible to be sure what effect the 10 new countries will have on the EU. Perhaps, as the Union gets larger, it becomes more likely that the whole thing will

fall apart. There again, perhaps some politicians within the Union will see the enlargement as an opportunity to push forward the federal integrationist agenda. It is also not at all certain that the renewed efforts to agree the Constitutional Treaty will be successful, and even if the governments can agree a draft text, there is likely to be a great deal of difficulty with getting everyone to ratify it.

The Isle of Man Government does not have a crystal ball and we cannot accurately predict, any more than anyone else can, which of the many scenarios for the future of the EU will actually materialise. But what the Government does know for certain is that vigilance will be required and the position kept under constant review.

I can appreciate, Mr Speaker, that Hon. Members of this House do, indeed, have genuine concerns about the EU, as do members of the public, but I can assure people both in this House and outside it, the Isle of Man Government has not been, and will not be, complacent in respect of developments within Europe.

To conclude, Mr Speaker, this Bill makes a small change to our European Communities Act 1973 to allow for the enlargement of the EU that will take place on 1st May. There is an obligation to make this change under our Protocol 3 relationship with Europe. It is an obligation that cannot be avoided without changing our relationship, and the Government believe that that relationship should not be jeopardised unnecessarily. But, in any case, the Government does not believe that this Bill adversely affects the Island.

Mr Speaker, although consideration of the Island's relationship with the EU will most definitely continue, I would now beg to move that the European Union (Accessions) Bill 2004 be read for a third time, sir.

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

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

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

Mrs Cannell: Thank you, Mr Speaker.

Mr Speaker, I have looked into this whole matter as far back as 1970, 1971, 1972 and, subsequently, right up to present day and I did that for a number of reasons. I think, at this point, I have to say I am neither anti-European or pro-European, but what I am is a Member of this hon. place concerned with the Isle of Man and its future, medium-long term, which I believe most Hon. Members should have at the centre of their hearts and minds.

Mr Speaker, it was interesting that, on 31st October 1972, there was a special sitting of the Legislative Council. It was not a regular day. It was not a regular sitting, but there was a special sitting of the Legislative Council. There was great disquiet amongst Members at that time because the Deputy Governor introduced the very first European legislation before Members in the Upper House.

As it was, in common with many occasions, Bills such as this were moved in the Upper House, but, towards the end of the 1960s, early 1970s, it was more the lower House that introduced legislation for First, Second, clauses and Third Readings, and then went off to the Upper House. But, on this occasion, it was initiated in the Legislative Council – with some speed, I must say.

There was disquiet and one of the Hon. Members, a Mr Nivison, said:

‘it is a little unfair to Members to have a Bill of this nature given to them about three days before it should be moved, and not only that it should be moved, but that we should be asked to subsequently, possibly, suspend Standing Orders and take further readings. A further protest I would like to make is that the literature relating to the Treaty of Accession and to the Protocol No. 3, which is quite complicated material, is placed on our desks as we enter this afternoon.’

And so the Legislative Council of the day decided that – the Governor was not present at that time – the Deputy Governor would, in fact, not only take the Bill through the Legislative Council for all of its Readings, but he prepared this particular piece of legislation and this was in the absence of there being any detailed information or consideration on the impact of Protocol No. 3, as it was referred to in those days.

And, in addition to that, Mr Speaker, there was no Attorney General present at this particular sitting, either. There was no Attorney General there to advise in respect of this matter and the Deputy Governor said:

‘I think I ought to say this. In the absence of an Attorney General, I have taken the responsibility of drafting this Bill.’

So he proceeded and there was quite a lengthy debate about it. Mr Nivison said – and this is most important and caught my eye, Mr Speaker –

‘One of these days somebody is going to draw attention to the fact that we hastily passed the European Communities (Isle of Man) Bill 1972, we had only one afternoon to do it in because of various reasons and we have made this mistake, that mistake and the other mistake. Those words will come out sooner or later and this is one, why in our Constitution we have such things as a Standing Order which does not permit, as a general rule, Bills of this importance to be rushed through.’

The Deputy Governor tried to reassure Mr Nivison and said:

‘probably by the time the Manx Bill is on the statute book the detailed terms of the effect of the Protocol will be known.’

So, there was great pressure, great speed, great haste during this particular sitting, and I think this is important also to state, because the very small change in this Bill which will affect the Act could have, potentially, grave implications for a little place like the Isle of Man.

The Speaker: Hon. Member, could I just, again, please remind you that you really should be speaking through the Chair and you do not need to look at the mover of the Bill as you are putting your points over. I know it is difficult, but it really is not appropriate to continue to do that.

Mrs Cannell: Mr Speaker, my apologies. I am inclined to always look to the left and perhaps I should be looking more to the right.

The Speaker: I appreciate that. (*Interjections and laughter*) I understand the difficulty but, please, if you can.

Mrs Cannell: Right. Thank you, Mr Speaker. Mr Nivison, during the same debate said:

'Now we have been told this afternoon, in no uncertain terms, that the Isle of Man is part of the European Community, but we are not a member. We are not a member. I have never had any illusions about that although I may have had illusions about other things. It is the United Kingdom that is a member and so far as I understand it is by association with the United Kingdom that we, for the purposes of the United Kingdom communities, are a part of the United Kingdom for certain purposes and that is so far as we are a member. We have no jurisdiction, we have no representation in the United Kingdom Parliament, we have no jurisdiction about anything that might be done to alter these customs with the Community, whereas the United Kingdom has.'

Now, Members will recall last week, Mr Speaker, I attempted – unsuccessfully, I might add – to move an amendment to bring a little bit of clarity into that particular situation, where the United Kingdom has the power and the Isle of Man appears to be at the mercy of the United Kingdom, in terms of what they may bring in by way of treaty.

At the same sitting, Mr Kerruish had a great concern – there were lots of Members who had concerns – and he said:

'I feel it more than ever necessary that some proviso should be written into this particular piece of legislation, with regard to Tynwald being acquainted with what is taking place.'

Now, bearing in mind at that time the legislation that was being rapidly rushed through with such haste and speed, there was no form of courtesy by way of the Hon. Tynwald Court, the highest Court in this land and he went on to say:

'That is a very wide remit, sir, and in order to ensure that Tynwald is acquainted with what is going on and in the whole matter of the E. E. C., where we are sailing uncharted seas...'

He promoted and moved an amendment, and the amendment was worded:

'Orders made by the Board' –

and the Board in those days, Mr Speaker, was the Finance Board; today we have the Department of Treasury –

'under the foregoing subsection shall be laid before Tynwald as soon as is practicable after the same has been made.'

Now, Mr Nivison also promoted an amendment to that amendment and he said:

'under the 1958 Act, alterations in duties, which are, in effect, carried out by the Customs and Excise people, we always have a note of these and these are duly laid before Tynwald. We have a list of them and we approve them. I do not think it would be a retrograde step if we added these words and it would not be cumbersome in any way. They are to be laid before Tynwald, why not have it as if we appear at least to be governing our own Island. As if we appear at least.'

So, he was asking that not only should they be laid before Tynwald, but Tynwald should be required to approve them. Clearly, the first amendment was successful in the Legislative Council for such Orders to be laid. The second, calling for the approval of the highest Court in this land, was rejected by a majority but, nevertheless, the move was first made back in 1972.

I looked back, Mr Speaker, because I have the same uncomfortable gut feeling and I have not been given any relief from that, by way of medicine from the hon. mover of

the Bill, that is going to settle my stomach, and this is why I looked back to see: where were the hearts and minds of the House in those days? What did the House say?

Well, it is interesting, because, on 14th November 1972, the House of Keys sat. The Legislative Council had already passed it: First Reading, Second Reading, clauses, Third Reading, they did the lot in an afternoon and it went through.

Then it came to the House of Keys in 1972 and the mover of the Bill in the House of Keys, Mr Irving, said:

'In December last, in Tynwald, we agreed that the Isle of Man would join the European Economic Community with the United Kingdom, on the understanding which is clearly shown in Protocol number 3, of which hon. members have a copy, that our commitments in the Community are in respect of free trade only. I think we should recall that, when it was first considered that the Isle of Man should join with the United Kingdom we had great fears that common policies of the Community would be imposed upon this Island and that we would lose the right here to create the right policies for our particular requirements. We were concerned, perhaps, above all, in the common policy of harmonisation of taxation.'

Ironic, Mr Speaker, that here we are in excess of 30 years later and we still have the same concerns and we still feel the same sort of pressures coming to bear upon us.

Mr Radcliffe, during the same sitting of Keys, said:

'I see the difficulty that can arise with the Isle of Man going in. I can see also, as the Hon. Member for Glenfaba has said, we may possibly be signing a blank cheque for at present we do not know exactly what we are committing ourselves to. I think it is time some positive statement was made as to how the Isle of Man is going to be affected if and when today, we do pass the third reading of this Bill.'

Now, they had concerns then. I have a concern today, all these years later.

Mr Bell, at the same sitting, 14th November 1972, said:

'I know I am voting against the Bill, the hon. member for Peel is voting against this Bill because we are not prepared to take a carbon copy of something and a promise that we sign a hire-purchase agreement with the door to door salesmen, that the goods when they arrive will be everything that we desire. We do not know. We are told that we must have trust. Well, on a question so vital to the future of the Island, I am not prepared to put my trust in the European Community so early.'

Mr Clucas went on to say – from my reading and going back and researching this, Mr Speaker, Mr Clucas seemed to come over to me as a fairly gentle soul – but, nevertheless, he said:

'I should like to draw attention to a matter which was stated which I believe to be wholly wrong. The hon. member for Council referred to the fact that literature relating to the Treaty of Accession and to the Protocol number 3, was placed on their desks as they entered the other place. The hon. member for Council, Mr. Bolton, who was in charge of the Bill, said that he must protest, this was merely for their convenience that he had copies made. The Protocol and the Treaty of Accession have undoubtedly been in the hands of members for months, and His Excellency the Deputy Governor said, "For a year". Well, I can honestly say, as a member of Tynwald, I have never seen a copy of the Treaty of Accession or Protocol 3 until I received four sheets of the Treaty in my mail last week.'

So, again, Members were not well informed. They were not advised. There was no Attorney General present that they could probe and question on all of this.

Mr Irving went on to say:

‘Now, members of the Common Market Committee’ –

and, let us not forget, Mr Speaker, that when all this thing started, it was because the Isle of Man, together with the United Kingdom and the Channel Islands, wanted to join the Common Market –

‘of Tynwald have complained in Whitehall. Why cannot we have these details? They have not got them. The situation of the Isle of Man and the Channel Islands is unique and the details are still being worked out in Brussels, but they are only details. They are not the principles. We know by Protocol 3 how far we are involved in the European Community.’

Now, again, they were not getting the information. They were being bulldozed into approving and not only that, into suspending Standing Orders to take all of the Readings.

Mr Irving made a point which has given me concern, because when we have all been debating about this and looking at press statements that have been made by the Hon. Chief Minister, he said we are protected by our work permit regulations and so on and so forth, but Mr Irving said:

‘We can retain work permits, provided we exercise the issuing of work permits without discrimination. Providing we treat the Italians, the French, and so on exactly as we would treat a person from the United Kingdom, we can retain this right.’

Well, again, of course, by approving this Bill today – and I have no doubt it will go through by probably quite a hefty majority – we are asking... well, in fact, what we are agreeing to, Mr Speaker is the inclusion of another 76 million new European citizens having a right to come to our shores, apply for jobs and apply for the consideration of work permits.

At this particular sitting it is also interesting to note, Mr Speaker, that the chairman of the then Executive Council, ‘Exco’ as we remember them, was very unhappy and wanted to... He opposed the Bill proceeding any further. He was actually speaking against it. It was the Legislative Council who appear to be moving it.

They did push the issue of Standing Orders and it was lost, so they could not take the Third Reading. The Third Reading of that was delayed, but that particular piece of legislation was heavily flawed, because they had to amend it in 1973. On 19th June it came back and they had to amend it.

There are a number of very interesting readings in what Members of that day said, but I was looking for, somewhere within all of this, in respect of the provision that the United Kingdom has over us, the supremacy they have in terms of applying any of the treaty or convention with or without the communities, as long as it is through the United Kingdom onto us and that we have no redress of that situation. If we do not like it, we can say we do not like it, but, in law – and this Bill is reiterating that same provision in law – we have no right.

Now, it was raised by a female Member of the House, Mr Speaker, I have to say. It was a Mrs Quayle in the House of Keys, on 3rd July 1973, who said:

‘the Tynwald Common Market Select Committee made it plain that the impact of the Common Market is going to be felt in all walks of Manx life. In fact’ –

Mr Downie: She was right there.

Mrs Cannell: –

‘so many Community rules are likely to affect us that we have agreed in this Court to set up a special department to deal with this situation, and, as we all know, clause 2 of this Bill gives the force of law in the Island to present and future Community law’,

and that is without our say so. We have to apply because our forefathers have agreed to this.

And, again, Mrs Quayle said – and she was talking about... This is where we get down to the meat of it, in terms of the treaties:

‘we have no option of saying whether we agree to accept the new Treaty, one that at the moment is not in existence, evidently as far as I can make out the U.K. has that right. The same thing is going to come up in the subordinate legislation about Statutory Instruments. That is taking us a little bit ahead, but it says that any statutory instrument containing an Order in Council or regulations needing the exercise of a power so conferred have got to be approved in draft form by each House of Parliament. Again, we do not have that right. What I am trying to say to the hon. mover is that it does appear to me that Westminster has more say in what it accepts than we in the Island have.’

I think it is important that Hon. Members consider that this is not just a simple piece, a small Bill, legislation. The consequences of it could be quite significant, indeed.

Mr Speaker, in drafting the amendment a week ago for consideration of Members, I did so with the able help and expertise of your learned Counsel. Our learned Clerk helped me in the drafting and also in the presentation of the amendment that I moved and he did that because I asked him to do it, in view of the fact that I was unable to avail myself of the Attorney General’s Chambers, having been indisposed for a week following the operation, the surgery, that I had, sir. So, I had a week in which to prepare and your Counsel, Mr Speaker, was very willing to help me and this he did.

Now, Hon. Members may not be aware that when they came to their desks in this Chamber last week, there was a paper on Members’ desks, Mr Speaker, which came from the Attorney General’s Chambers and it was advising Hon. Members that if they were to consider supporting my amendment at the time, that it could do all sorts of damage to our international standing within the community, it could damage Protocol 3 – all of this shroud-waving was contained within the brief, I believed.

Now, at that time, I approached our Clerk and I asked him had he seen the brief and he had not. What followed, therefore: there has been communication, Mr Speaker, between our learned Clerk in this House and the Attorney General’s Chambers since the sitting of the House last, and there is a different and varying opinion, a legal opinion, in terms of the advice that Members were given through the Chief Minister by the Attorney General’s Chambers, and I think it is important to put on record that the two legal sides have a differing of opinion on the interpretation of the advice that we were given, Mr Speaker. There is correspondence and you, I know, Mr Speaker, have very appropriately and correctly been copied in on that correspondence, as has the hon. mover of the Bill and, so, therefore, I think it is important to put on record that there is a difference of opinion.

Of course, the sad thing is that, because of the shroud-waving and the reluctance by Hon. Members to even challenge the guidance given in the Attorney General’s Chambers’ paper, the Bill went through with very little protest or cross-examination, or study or regard and, in fact, I

think Members were probably disinclined to consider further the implications of the amendment that I was putting before the House. In fact, I was accused by some Hon. Members in this House of being fairly dangerous and destructive in my action, which I had to put right when summing up.

No doubt the Bill will go forward. I, for my own conscience, Mr Speaker, will be voting against the Third Reading, as I did in the principle of Second Reading. I did have the courtesy of not challenging it at clauses, and I took it on the cheek that I had lost my amendment, so, therefore, I felt that a protest at that stage would be inappropriate and not statespersonlike. So, I did not challenge it at clauses.

But I think it is important that *Hansard* recorded that there was a challenge, there was a reminder to Hon. Members in this House of the implications of just nodding these things through. I did call upon the hon. mover of the Bill last week to give us some kind of assurance that Tynwald will have a say in these matters, at the very least, before they agree to them, before they are enforced in law and not just merely laid. They are laid with a description, and the explanatory memorandum that accompanies them does not explain appropriately enough, in my view, Mr Speaker, what the implications may present for the Isle of Man, its people, its industries, and the sooner that is addressed for all Hon. Members, the better.

I think it is discourteous merely to give Members the briefest of information, or lay it on a Tynwald agenda, without any supporting – and preferably independent, impartial – analysis of the same, if we are going to make an informed judgement on the content and whether or not we need to raise it at a future sitting of Tynwald Court. That needs to be addressed.

Things are hotting up in the European Union. The leader of the Government in the United Kingdom, Tony Blair, is on record this week as saying he cannot wait to get it signed, this new European Constitution – the sooner the better. He is rushing in. Whatever the Government in the United Kingdom do will have an effect on us. It might be a very positive and beneficial effect. It may have a very negative effect, but, nevertheless, we are at the mercy of the Labour Government in office at the moment, and I think, once that has been tried and agreed, then you have a two-and-a-half-year period in which all of the member states must comply with what is laid down within the European Constitution and that is, of course, where we will have problems. There is no doubt that there will be problems.

Nevertheless, I felt all of this had to be said. I apologise for the length I have taken in today's sitting of the House, but felt it important that this House, in this day, in the 21st century, should be aware of what their forefathers said when the very first Bill went through.

And, let us not forget, it came from the Legislative Council, was written and moved by the Deputy Governor of the day, without having an Attorney General present to advise, and it was bulldozed through all of its Readings in one afternoon of the Legislative Council and then slammed on the desks of Members of the Keys.

Mr Speaker, I am concerned about our tax situation, I am concerned about our financial industries, because, by the retention of Protocol 3, it does not extend to the services. It extends to agriculture and all of those things that the Isle of Man was so right to try to seek the protection of back in the 1970s, but it does not include the financial services. So, again, the Government have made comments within the

press. We have a fresh press statement that was on my desk today, dated 26th March, entitled: 'Chief Minister – Island is sticking with Protocol 3'.

Now, again, Mr Speaker, I said at the beginning I am neither pro- nor anti-European –

The Speaker: May I just remind you, Hon. Member, please. This Bill is not about Protocol 3 per se. There is a link to it and I do not want to open that debate. By all means debate the Bill, not Protocol 3, please.

Mrs Cannell: Thank you, Mr Speaker.

No, I do not want to have a debate on Protocol 3, because I am still in the process of studying that also.

Mr Speaker, I will just wind up by saying that we had an opportunity (*Interjections*) on 2nd March 2004, when the Hon. Member for Ayre, Mr Quine, moved that the European Accession Bill 2004 be referred to a committee of three Members to consider and report. That, unfortunately, was defeated, 18 votes against and only 5 for.

This is not the end of the matter, Mr Speaker. The Bill will proceed. It will be duly signed and agreed and approved in another place, no doubt, on time, on schedule. It will not go away and I, for one – and I know it is shared by some other Hon. Members – will keep a very close eye on this, and if there is an opportunity and if it is timely to do, I will be moving again to seek the protection of this Isle of Man; but also I do not want the Island to be hampered from being prosperous in the future.

Thank you, Mr Speaker.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder.

This legislation is about extending the European Union. It is about including other countries within the European Union and within trade and all the aspects that the European Union is involved in. We also see one or two of our Commonwealth partners within the British Isles and Mediterranean region becoming full members of the European Union, like Cyprus and Malta, and I think we should rejoice for them. Cyprus may get peace. It might open up its borders. Malta has had a referendum and it is joining just in the same way as the UK had a referendum when it joined.

History is a wonderful thing, Vainstyr Loayreyder, and if we look at Standing Orders of those days – and the same could be said today, but not so much – legislation was introduced into the Legislative Council. It was seen as constitutional. The constitution of the Isle of Man was different then. Standing Orders allowed for Legislative Council to deal with issues such as this and also for Members of Legislative Council to move Bills. I do not think we should be looking on it as being something that is strange, or something that is unacceptable, because it happened in those days and because Standing Orders allowed for it.

I think history has shown us that the concerns, which are rightly expressed, in those days proved that, yes, there has been some downsides of being a member through our relationship with the UK, but there have also been some ups. When you look at 30-odd years ago, the poverty that was in the Isle of Man at that particular time was quite significant and that carried on for some time, although we were on the coattails and been able to trade with the European Union, but things did improve. Things have improved – maybe

not necessarily being a member of the European Union or through Protocol 3 or relationship with Protocol 3 with the UK, but there are other issues which are outside our relationship with the European Union that we have entered into perfectly legally and taking a decision to do that through Customs and Excise and the like, and through other agreements which we have reached outside our relationship through Protocol 3 with the UK.

So, our relationship through Protocol 3 is one thing. The expansion of the European Union is another thing, and I think that we should rejoice that these countries are being welcomed into the European Union and that, in the long term, we are able to trade with these countries. I do not think we should look on it as a negative issue. The European Economic Community was set up purely on a trading basis and our relationship with the European Union is for trade; that does bring in other things but if we are going to trade, we have to trade on their basis. It is just the same as a farmer wanting to trade with Safeway, Tesco, Marks and Spencer, whatever – that farmer or producer has to reach their standard to trade. So, in that situation, we are virtually the same as that farmer wanting to trade.

It has allowed companies to open up here and trade with the European Union. It has allowed our people to access the workplace to raise their standard of living, and I think most people would accept that this legislation going through today, allowing us to trade even further, will be welcomed, and I think we should also welcome that.

That does not mean to say that our relationship, or the European Union, is not going to change in the future. We know that there is another raft of countries who also want to join. They see the advantages of joining the European Union. That is not to say that there will not be any changes, but I would suggest to the Member for Douglas East, who has just resumed her seat, if she has got concerns –

Mrs Cannell: I have been here all the time.

Mrs Hannan: – Vainstyr Loayreyder, she raises them with the Chief Minister, instead of blaming other people for the moves that she has made.

Thank you, Vainstyr Loayreyder.

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

Mr Karran: Vainstyr Loayreyder, I have found this debate quite interesting this morning. I think the Hon. Member for Doolish Shiar, Douglas East, has come to show me one thing about the situation and that is one of the things that I have always complained about, is the fact that all we have changed is the colonisers to new colonisers. Nothing seems to have changed in the 30 years from the origination of that legislation.

One thing that it has highlighted is that, when reading the *Hansards* of the Legislative Council from 30 years ago, all we have managed to change is, maybe, change the Governor in one form to another form.

But what I have been brought to my feet for was not just the issue that I do agree with her about that, I think a select committee was a missed opportunity as far as this legislation is concerned, but the Member for Peel talks about Malta – and I totally agree with her, on the basis that we are all human and we are all citizens of the world, I have no problem with that, but I do think that Members might be

being a little bit naïve.

We talk about Malta: Malta could potentially be one of the biggest threats to the finance sector in the Isle of Man. We must not forget that the economy of the Isle of Man... and she is quite right that we can take great pride in 30 years from being an absolute poverty-stricken place, where many of our citizens were forced out because of the economics of the situation, but to somehow, maybe, put some sort of tangible link with the EU, I think, is being a little bit naïve.

I think the point is also that the issue of the... well, it is only to do with the trading basis that we have to worry about the EU over. The fact is that it is not just the trading basis that is starting to have an effect, as far as other issues on this Island, and we will see that some of the issues might be good for this Island, but we are increasingly seeing the effect that it has.

So, this idea that it really does not matter, it is purely a trading situation and then we get told, 'Oh, we have got this wonderful access to all these wonderful nations, as far as the EU is concerned', but the fact is, maybe, one of the dangers that some of us have been talking about within this Hon. House for many years is the diversification of the economy and the fact is that something like 80 per cent – if the truth be known – of the economic activity of the Manx economy comes from the finance sector; it does not have any access at all to the EU, as far as the services are concerned.

Mr Downie: It doesn't need it.

Mr Karran: So, I do really think that, whilst we might have one side of the House, 'Oh, everything is woe, as far as the EU is concerned', on the other side of the House, the situation is that everything is a utopia, I do not think... And if I seem to be misrepresenting the Hon. Member –

Mrs Hannan: You are!

Mr Karran: – then I apologise, but it does seem to me that it does look, from the situation of starry eyes, as far as the EU is concerned. It *is* a threat. It *is* a danger to the Isle of Man and we have to stop this blasé situation that seems to have occurred 30 years ago and nothing has changed as far as: 'Well, it does not really matter, Members, we don't really need to know anything about the issue. We can depend upon our good friends in the adjacent island to look after our interests.'

Well, they might have looked after the interests of the people that have sat in these seats for generation after generation, but they certainly did not look after the interests of the people who did not sit in this Hon. House, or in the Hon. Court, and what concerns me greatly is that we do not have another repeat of that history, of where the United Kingdom Government, in whichever way it works, Vainstyr Loayreyder, does not come along and pull the rug from under the feet of the Manx people in the Island, whilst the other people in the past got paid hefty, hefty wages for being part of the then set-up that they had set up, as far as this so-called representing the people of the Isle of Man.

So, Vainstyr Loayreyder, I feel –

Mr Downie: Point of order, Mr Speaker. Is the Hon. Member alleging that there was some corrupt practice 30 years ago? Could you ask him to clarify that, please?

The Speaker: I do not know if the Hon. Member can

clarify it, but I think it would be helpful if the Hon. Member came a little bit closer to the Bill. (**Mrs Cannell:** Hear, hear.) You have spread out a little bit, Hon. Member, into society in the Isle of Man but, maybe, if you would like to just focus into the Bill.

Mr Karran: Vainstyr Loayreyder, what my input into this debate is about is the issue of how little things have changed from the input from the Hon. Member for East Douglas, about the Members in this House and my point is, Vainstyr Loayreyder, it is crazy for anybody in this Hon. House to give the impression that the prosperity in this Island has come through some sort of association with the EU. That is what I am saying, Vainstyr Loayreyder.

Mrs Craine: Then say it!

Mr Karran: Vainstyr Loayreyder, I feel that, as a Member that raised this issue about the extension of the EU some time ago, about the effects as far as the work permit legislation is concerned, all I am saying, as far as this Third Reading is concerned, I know it will go through today, but my concern is that that attitudes have got to change within this Hon. House that somehow someone else will look after us.

We have got to look after not ourselves, but our people. That has been a major deficiency with the system of government in this Island for decades and for hundreds of years and we have to make sure that this generation of Members of this Hon. House do not just say, 'Oh, well, it is alright, the UK will look after our affairs', because they will not, Vainstyr Loayreyder, no more than the... And the EU will not even know where the Isle of Man is in the first place.

The Speaker: Hon. Member for Onchan, Mr Corkill, to reply to the debate.

Mr Corkill: Mr Speaker, I did expect some debate about this Bill when we got to the Third Reading. I do not believe I expected it to go down the route it did.

I would like to thank Hon. Members for their observations on EU matters – obviously, because of this Bill, there has been a focus created in relation to EU matters. But I want to reiterate a point that I made at several stages through the progression of this Bill and that is that this is a routine piece of legislation which is simply acknowledging that the EU is enlarging on 1st May, and I have made that quite clear.

Now, I would like to thank the Hon. Member for Douglas East for all of her research in relation to *Hansard* all those years ago – although, in my mind, it is not all those years ago, because October 1972 only seems like yesterday to me!

Mrs Cannell: It means you are getting old.

Mr Corkill: And I can remember, as a long-haired student, (**Mr Cretney:** Hear, hear.) at the University of Bradford, in 1972 actually going on a demonstration through the middle of Bradford supporting workers' rights, because, once the EU was signed up to by the UK, there was going to be this mass immigration of people taking all the jobs away from the people of West and South Yorkshire, and so I did not think that was a very good thing and I went on the march and so made – as someone who was residing in the UK at that time – it quite clear that I was not a very great European, and

can I say, Mr Speaker, I am still not, because I think there are dangers in the European Union process.

But that is really all of another issue and I did say, at the clauses stage, that in relation to the 1972 Act... and it is interesting to see how it was moved through the branches and I have read parts of the *Hansard* in relation to that debate not just recently, but years ago, when I first became an Hon. Member of this House, because I wanted to understand what Protocol 3 really meant. One of the things one often gets asked on the platform when standing for election is: do the candidates understand the constitutional relationships that the Isle of Man enjoys? And, obviously, one of those is Protocol 3, so, when standing for the House of Keys, I actually got the stuff out on Protocol 3 to read it and understand it, because I thought it was important to do that, and it would seem that the process that it went through the branches was less than perfect at the time, in terms of how Members reacted to it. That was in 1972.

Now, the point that I want to make, Mr Speaker, is that the 1972-73 situation, which this Bill today builds upon, could well be open for debate, because, if the UK and all the other member states sign up to this new convention, then it obviously opens up that area of legislation in the future and I would say that, for these contributions that Hon. Members have made today, that is the time for those to surface again.

They are interesting issues, but I come back to the point that I do not in any way believe, in practical, real political terms, that the Island can negotiate anything better than the Protocol 3 relationship that we enjoy (**Two Members:** Hear, hear.) at the moment and I really need to say that over and over, I think, Mr Speaker, because of the European Union change that is afoot – the enlarging of the Union, but also this deepening of ties because of this proposed convention – I do get the feeling that one or two Members are dabbling around the edges of Protocol 3, with a view, perhaps, that we can get something better.

Now, I just do not believe that we can negotiate through the United Kingdom's officers – good officers – anything better, and the Hon. Member who has just resumed his seat, said 'members of the EU do not even know where the Isle of Man is'. Well, yes, we are not important to them, so why should they? And that situation would, no doubt, prevail in terms of how they would treat us with regard to Protocol 3 if we determined to open that up for debate.

So, I just want to make it clear that, all along, over the last year or two, as this convention process has been coming forward there has been absolutely no suggestion from the Isle of Man Government's side or, indeed, the United Kingdom's side, or, indeed, from within the European Union, that Protocol 3 needs to be changed. It is not the only protocol that sits around in the legislation. Other small jurisdictions, which have countries that they are associated with which are full-member states, also have protocols. So, we are not unique and I daresay they, in their territories, are also having similar discussions to the ones that we are having.

So, I was interested in the history lesson, as one Member put it, that the Hon. Member for Douglas East gave to us and she came up with a couple of expressions: 'sailing into uncharted seas'. Well, yes, we still are, Mr Speaker. The Union is getting larger and, as I said in my opening remarks, we do not quite know how the new enlarged Union, the 25-member states, what sort of a being it is going to be. The point I would make is that the actual population rise is not

going to be that significant, compared to the population of the EU as exists at the moment.

Now, we did deal with the Hon. Members' suggested amendment at the clauses stage of this Bill and the Hon. Member did refer to legal opinion and differing views between the learned Clerk and our Attorney General, and I would suggest that, in the months ahead, before we, perhaps, get to a position where we need to debate this legislation – the 1972 Act – in relation to any convention that may or may not be signed by member states, we need to be clear on these legal opinions, because, as Hon. Members, it is difficult for us when we have advice from one source, which may be slightly different from advice from another source. We will have to address that as Hon. Members and, certainly, I intend to have clarity over that situation before we start to amend – if it is necessary – the 1972 Act. But, of course, if the convention does happen, then some sort of amendment to that area of legislation will be required in due course, anyway. So, I think it will be very important that we have clarity of legal opinion by that time.

Coming back to this Bill: this is a simple Bill, Mr Speaker. This is just doing what we have done before, when the Scandinavian countries joined. It is not looking at, and there was never intended to look at, the purpose of the original legislation that the Hon. Member for Douglas East went back in time on and looked at the origins of.

And the Hon. Member said it is an issue of UK supremacy over us: well, yes, in a political real world, Mr Speaker, the UK does have supremacy over us, and I would not like to consider what the response of the United Kingdom Government might be if, for some reason, we decided not to support this legislation before us – as, indeed, the other Crown Dependencies just considered and dealt with... They had no debate, they just approved it, because they are very aware of their international obligations under Protocol 3. It was simply approved some months ago.

I would not wish to provoke the United Kingdom in any way by not acceding to this simple technical legislation, because, in terms of UK supremacy, Mr Speaker, I cannot believe that the UK is going to stand to one side and let us have a different view on Europe to what we already agreed to back in 1972. They are certainly going to put us back in line in terms of the debate.

Mrs Cannell: Shroud-waving, again.

Mr Corkill: Now, the Hon. Member also referred to the explanatory memorandum. In fact, I was criticised by one Hon. Member that it said too much. I thought the explanatory memorandum was very detailed, personally, and the Hon. Member criticised it and, of course, to help with the explanatory memorandum, briefings have also been arranged, and it is a shame the Hon. Member was unable to make that briefing.

Mrs Cannell: Point of order, Mr Speaker. A point of order.

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

Mrs Cannell: Thank you, Mr Speaker.

The Hon. Chief Minister has totally misunderstood the criticism that I made. The criticism I made, Mr Speaker, was

in respect of instruments of European legislation being laid before Tynwald without an appropriate memorandum to go with it, not the House, sir.

The Speaker: Chief Minister.

Mr Corkill: Well, I understand what the Hon. Member refers to now, but, of course, with regard to the way that Orders come to Tynwald, they are 'laid before' and they are voted upon the following month and they are in draft form on the 'laid before' occasion. So, that is the way we have always done those Orders over the last 30 years, but it was interesting to note the comments made in *Hansard* at that time.

The Hon. Member is concerned about how the UK considers the situation. The Hon. Member is concerned about taxation and the impact on financial services and I think her final words were, 'This is not the end of the matter.' I could not agree any more, myself, Mr Speaker, with all those concerns. I am sure all Hon. Members are keen to protect the Island's interests.

The Hon. Member for Peel, Mrs Hannan, I think, got us back to the purpose of the Bill and I thank her for that, and the fact that there is life outside the EU: yes, there is, Mr Speaker, because our financial services generally trade throughout the globe and we have very limited access to EU markets, unlike some of our competitors. If you look to the west, to Dublin, where they are a full member state of the EU and yet they have special dispensation as part of their negotiated entry into the European Union, they have the Dublin Finance Zone, where they have a derogation for a period of time, which, hopefully, from the Isle of Man's point of view, the EU will honour at some point, and the time it will run out.

I think the Hon. Member referred to the political stability issues that the EU enlargement process is designed to facilitate, but those are Foreign Affairs issues, Mr Speaker, and they are dealt with, on our behalf, by the United Kingdom.

The Hon. Member for Onchan, my colleague, Mr Karran, also talked about the economic aspect and there being no access to the EU. Certainly, we are always trying to find ways to allow our financial services industries – plural – banking, shipping, insurance et cetera, to trade within the EU, but certainly, if one looks at the basis of Protocol 3, they are deliberately excluded, and so we have to be careful to acknowledge that the Protocol is a two-way commitment. It is an obligation that we are committed to.

I do not want to dwell on the Bill too much longer, (**Mr Henderson:** Hear, hear.) Mr Speaker. I thank Hon. Members for their comments. I hope that we can have a unanimous vote for this routine piece of legislation. I think it is important that we give the right external message, and I ask Hon. Members to support it, with the knowledge that the broader EU issues will be back for a more informed and wider debate, at a later date, should the EU Convention process gather momentum.

But for now, Hon. Members, please support this Bill at its Third Reading.

The Speaker: Hon. Members, the motion before the House is that the European Union (Accessions) 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	AGAINST
Mr Anderson	Mr Duggan
Mr Quine	Mrs Cannell
Mr Rodan	Mr Karran
Mr Quayle	
Mr Gill	
Mr Houghton	
Mr Henderson	
Mr Cretney	
Mr Downie	
Mr Shimmin	
Mrs Hannan	
Mrs Craine	
Mr Corkill	
Mr Earnshaw	
Capt. Douglas	
The Speaker	

The Speaker: Hon. Members, the motion carries, with 16 votes for and 3 votes against.

Statement by the Speaker

The Speaker: Now, before we go on to the next Item, Hon. Members, I would just like to comment on some of the points that we raised during the Third Reading debate on the last Bill.

I just want to make it clear that the debate that ensued complied fully with Standing Orders. This Bill was to amend the 1973 Act and, therefore, it was quite correct for any Member to refer back to that piece of legislation and, as Hon. Members know only too well, if that was not the case, I would not permit it to happen.

Constitution (Amendment) Bill 2003

Long title amended

5. The Hon. Member for Onchan (Mr Corkill) to move:

That the long title of the Constitution (Amendment) Bill 2003 be amended by inserting at the end ‘; and to amend the Promulgation Act 1988.’

The Speaker: Hon. Members, we now move on to the next Item, which is Item 5, ‘Motion’, and I call on the Hon. Member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker. Hon. Members will be fed up with my voice this morning, but it is the way the Agenda has fallen!

The long title of this Bill, Mr Speaker, that is before the House, which it is about to consider, is a Bill to provide that the Governor shall cease to preside at sittings of Tynwald held at St John’s, except on Tynwald Hill, in order to accommodate a new clause that is on the agenda, Mr Speaker, that I shall be moving later when this House gives consideration to the clauses and proposing a motion that the long title be amended by inserting at the end: ‘and to amend the Promulgation Act 1988.’

It is difficult with these introductions, Mr Speaker, not

to err into the actual substance of the amendment, which is later on the agenda, but I would wish to say a few words in relation to why the new clause amending the Promulgation Act is necessary, and, hopefully, be helpful to Members in asking their permission to extend the long title.

Following the Second Reading of the Bill, further consideration was given to the most appropriate means for adjusting the ceremonial arrangements, to best give effect to Tynwald’s wish that the President preside over the session that takes place in the chapel at St John’s. The Promulgation Act 1988 requires the Governor, President of Tynwald and the Speaker of the House of Keys to sign a certificate of promulgation, attesting that the promulgation of Acts took place during the ceremony on Tynwald Hill.

There is no legal requirement for the certificate to be signed at a sitting of Tynwald, but the signing takes place directly after proceedings on Tynwald Hill, as a matter of custom and practice.

If the Governor’s role in the parliamentary session in the chapel is to be curtailed, it follows that the Lieutenant-Governor should not participate in the signing of the certificate that takes place there. To remove the Governor’s obligation to attest the promulgation I shall be moving later, at today’s sitting, Mr Speaker, a debate for a new clause that will require the certificate to be signed only by the President of Tynwald and, indeed, the Speaker. To allow this to take place, the long title of the Constitution (Amendment) Bill, therefore, requires amending.

Mr Speaker, I beg to move the motion standing in my name.

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

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

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

Mr Karran: Vainstyr Loayreyder, my concern with this piece of legislation has been the way that it is changing the structure, as far as the legislation is concerned. It is not doing the real issue, which should be about the people’s representative there, not replacing one form of patronage with another.

But what concerns me with this proposal, whilst I will not vote against it, is the fact that, once again, it is on the hoof. Tynwald Day is the national day of the Island and we have, as a piece of legislation: ‘Oh, whoops, we have just forgotten about the promulgation. We are going to take the Governor out.’ And I *really* think that that is not the way that we should be addressing the national day, as far as the legislative package is concerned.

I will talk about the issue of the contents of the Bill at the clauses stage, but my concern is that here we have a situation, where we are allowing the extension of the long title. Whilst it is better to have good legislation that gets amended, it is also very concerning that, somehow, we have got this piece of legislation dealing with our national day and: ‘Oops, we have forgotten that, even if we did change the law, we have not changed other primary legislation, as far as the Promulgation Act 1998.’

The situation is that I am concerned about this, because this piece of legislation should have been a piece of legislation that was something that the people would really want. All the people will see from this is a matter of one form

of patronage being turned into another form of patronage, and the people outside this Hon. Court have no input, as far as it is concerned.

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

Mr Quayle: Thank you, Mr Speaker.

I would just like to add my support to the motion before us, because I think it is very important to help to address some of the matters that were actually raised at the Second Reading, and I think, with this motion, which will amend the long title, if approved by this House here today, I think that, in fact, we should all agree that, as a result, with the amendments, if they are passed, we will actually be making greater constitutional progress than had been envisaged with the original Bill.

So, I entirely welcome the motion from the Chief Minister and hope that Hon. Members can give their support wholeheartedly.

The Speaker: Hon. Member, Mr Corkill, to reply to the debate.

Mr Corkill: I would like to thank the two Members who have supported the motion.

In relation to the comments from my colleague, Mr Karran, Member for Onchan, that this is on the hoof and it was something just forgotten: that is not the case, Mr Speaker, as the Hon. Member who is the mover of this Bill has intimated quite clearly. This was further consultation, following on from comments and opinion that was received by Government in the follow up to the Second Reading, which we are grateful was afforded by this Hon. House, and so it is ongoing, good legislation, in my view, Mr Speaker.

The Speaker: Hon. Members, the motion before the House is that standing at Item 5.1, in the name of the Hon. Member for Onchan, Mr Corkill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Constitution (Amendment) Bill Clauses considered

The Speaker: Now, Hon. Members, we move on to the Bill for Consideration of Clauses and it is Item 6.1 on our Order Paper, Constitution (Amendment) Bill, and I call on the Hon. Member for Middle, Mr Quayle. Clause 1, sir.

Mr Quayle: Thank you, Mr Speaker.

As Hon. Members may recall, the debate at Second Reading raised some interesting points that required clarification, and from our Order Paper before us, you will, hopefully, see that these have been addressed by the amendments and the new clause to be moved later on by the Hon. Member for Onchan, the Chief Minister.

The Tynwald ceremony is, in fact, three separate events happening one after the other: part 1, divine worship in the Chapel; part 2, the state assembly on Tynwald Hill, comprising the Court of Tynwald, plus the Deemsters, the Captains of the Parishes, the Coroners, clergy and other public officials, presided over by the Lord of Mann, or his or her Lieutenant; and, 3, a sitting of Tynwald Court, which happens to be held in the Chapel.

As we see in the Bill, it is only stage 3, the sitting of Tynwald Court in the Chapel, that is really affected by this Bill, albeit that the details of stage 2, the state assembly on Tynwald Hill are, in themselves, clarified.

Turning to the clauses, Mr Speaker, clause 1 makes the necessary amendment to section 1 of the Constitution Act 1990, to allow a change to the proceedings of Tynwald Day, so that the President of Tynwald, rather than the Governor, shall preside over the sitting of Tynwald that takes place in the Royal Chapel at St John's. Under the new subsection (1), the Governor is to preside only at that part of the ceremony taking place on Tynwald Hill.

A new subsection (1A) also preserves the right of Her Majesty, or a person authorised by her, for example another member of the Royal Family, to preside at any sitting of Tynwald.

Clause 1(2) makes a consequential amendment to section 4 of the Constitution Act 1990, and that is: in section 4(1) of that Act, for 'sections 1(1) and (5)', substitute 'sections 1 and 5'.

The changes embodied in clause 1 are designed to give effect to the wishes expressed by Tynwald in 2001 that proceedings for the day allow for the President to fulfil his role as presiding officer at the parliamentary element of the Tynwald Day ceremony, whilst enabling the Governor, as representative of the Crown, to preside over the section of the Tynwald ceremony on the Hill, which is the state element of the occasion.

Put simply, this arrangement would reflect the position of the President as presiding officer of Tynwald, whilst allowing the traditional elements of the Tynwald Day ceremony to be retained.

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

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

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

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

Mr Karran: Vainstyr Loayreyder, I have to say that this idea that this is some great constitutional development, I really do think this House is deluding itself, if it thinks that that is the case.

What I feel is so sad about this piece of legislation is the fact that it has not addressed the core issue, and the core issue, for the Manx people outside this Hon. House, is the issue that they had resentment in many parties about the fact that it was part of the privileged system that they had to live under, because of the gunboat in the harbour.

What we have now, Vainstyr Loayreyder, is we are only changing the procedure slightly, and we are going to put in somebody else that is in a position of privilege, that has no mandate from the people of the Isle of Man, and my concern is that, yes, this tumble forward, if it can be described as anything – not some great development for the constitution – we are going to end up with a matter-of-fact situation in that, yes, you will, more than likely, get the Governor off the Hill one day, but what are we going to replace him with, Vainstyr Loayreyder? We will replace him with another form of privilege, unaccountable privilege, that we should not have.

The person who sits on top of the Hill on Tynwald Day, in my opinion, Vainstyr Loayreyder, should be the person who has a mandate from the people of the Isle of Man, not the person who manages to keep on the right side of the majority in this Hon. House, and I feel that that is the basic line, and when we come down to the second part of this clause, when he talks that Her Majesty can delegate anybody to preside over the sitting, as far as this legislation is concerned. What concerns me, Vainstyr Loayreyder, is: is that delegation a real delegation? Can she delegate that, without it being, de facto, by the UK Government?

My concern, Vainstyr Loayreyder, is that we are deluding ourselves if we think that this is some great constitutional development; it is not. I believe, as we have seen today, where we have allowed the Ard-shirveishagh to make some more sense of this piece of legislation, that what we should be doing is addressing the real issues – the real issues that our people outside this Hon. House want, as far as their national day is concerned – and I think that this piece of legislation is not dealing with the real issue. All we are going to end up with is the situation and a matter of fact that we will get rid of the Governor off the Hill, and we will put somebody else, who has no mandate from the people of the Isle of Man, on top of the Hill.

What we should be addressing here today is addressing the real issue, which is giving the Manx people the input into who sits on top of the Hill. I understand that this is not in this piece of legislation at the present time, but this is what this piece of legislation is working towards, Vainstyr Loayreyder.

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

Mr Corkill: Thank you, Mr Speaker.

It may be helpful, in terms of the debate on the particular clause, if I move at this juncture the amendment in my name. I do believe it actually deals with some of the issues that the previous speaker, Mr Karran, has just alluded to, although I just want to make it clear that this Bill was never about replacing the Lieutenant-Governor on the Hill or, indeed, the Lord of Mann, in any way whatsoever – although I am aware that, on a previous agenda paper, the Hon. Member, Mr Karran, had tabled an amendment, which is not before us today.

So, I understand the Hon. Member's feelings in relation to that.

This, I believe, is not a great constitutional development. I would agree with the Hon. Member with those comments, too. It is a small step and it is a step of clarification.

Mr Speaker, I do have an amendment in my name, which is that:

Page 1 line 3, for new subsections (1) and (1A) substitute –

'(1) The Governor shall preside at that part of a sitting of Tynwald at St John's which takes place on Tynwald Hill for –

(a) the promulgation of Acts in pursuance of the Promulgation Act 1988,

(b) the swearing and admission of coroners, and

(c) any other business of Tynwald customarily done on Tynwald Hill.

(1A) Nothing in this section or section 4 affects the right of Her Majesty to preside in person, or to authorise any other person to preside, at that part of such a sitting of Tynwald.'

Mr Speaker, the amendment is to clarify matters, which were raised by some Hon. Members during the Second Reading and has also been alluded to by the previous speaker.

The Bill, in its original form, provided for the Governor to preside over the proceedings on Tynwald Hill for the promulgation of Acts, in accordance with the Promulgation Act 1988. Quite rightly, Members were looking for clarity on what this would mean in practical terms, and whether the ceremony on Tynwald Hill would retain its traditional elements.

The new subsections which I am proposing, Mr Speaker, for clause 1, would make it absolutely clear that the Governor would continue to preside over any business that is customarily undertaken on Tynwald Hill, including the promulgation of Acts and the swearing and admission of Coroners.

Mr Speaker, concerns were also raised during Second Reading that section (1A) would allow Her Majesty the Queen, or anyone she chose to authorise, to preside at any sitting of Tynwald. To answer this concern, the amended section (1A) removes any doubt that Her Majesty's right to preside in person, or to authorise someone else to preside, applies only to the proceedings on Tynwald Hill and not to the Court's sitting on Tynwald Day, or at any regular sitting of Tynwald in Douglas. This amendment reflects the intention of Tynwald when, in June 2001, the Court accepted the recommendations of the Council of Ministers' Second Report on Precedence at the Tynwald Day Ceremony.

Mr Speaker, I beg to move the amendment to clause 1.

The Speaker: Hon. Member for Garff.

Mr Rodan: I beg to second, sir.

The Speaker: Hon. Member for Peel.

Mrs Hannan: Yes, could I ask the mover of the amendment to clarify the situation with regard to the sitting in the church, where the legislation is signed: can Her Majesty preside there? I just think that should be made quite clear, with regard to presiding over such a sitting of Tynwald. I think it should be made quite clear, and I am unclear about that provision. Thank you.

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

Mr Cannan: Mr Speaker, I was one of the minority that did not support the Report in 2001.

I just wonder why we are debating such a trivial matter (**A Member:** Hear, hear.), when outside, the public are not concerned (**Several Members:** Hear, hear.) about who is signing what in the Chapel in Tynwald, but what they are concerned about is the delivery of services which they are not getting (**Mr Houghton:** Indeed.) (**Mr Henderson:** hear, hear.) medical, dental et cetera. That is what they are concerned about, and here we are.

I know what the secret agenda is: it is a quasi-republican agenda, as the Hon. Member for Onchan, Mr Karran, says, of diminution of the Governor's role and a replacement of somebody else, as Mr Karran says, who is also unelected. And are the public concerned?

Do we want a state occasion for Tynwald to be as it is now, or do you want it as a parliamentary occasion? But what you are trying to do is somehow diminish the role of

the Governor, slowly, softly. We have had a Report: he is not to be called the Lieutenant-Governor in future, he is to be called the Queen's Commissioner. Oh, we have had the Report, debated it in Tynwald and that is why I wonder what the secret agenda for the amendment of the long title is.

There are matters going on, while people just do not have the full transparency – we have had it already this morning at Question Time – or the courage to stand up and say exactly what their agenda is.

I deplored this morning's answer from the Chief Minister, when the whole of the Council of Ministers were acting in concert to withhold information during a debate, to which they were party, and I wonder what the Chief Minister's secret agenda in all this is.

I will not be voting for it, because you are not replacing what you should replace. If you want it replaced, then put somebody there to replace it with an elected person of the people; but the bottom line is: the people of this Island just wonder what we are wasting our time on this minor, trivial matter, when they want delivery of services at an efficient cost and not something like we have just had – £14 million overspent on the hospital through, I suggest, carelessness, or not proper attention to detail.

These are matters that Members can choose on. I certainly will not support it.

The Speaker: Hon. Member for Onchan, Mr Corkill, to reply to the amendment.

Mr Corkill: Mr Speaker, the Hon. Member for Peel, Mrs Hannan, wanted clarification with regard to the Lord of Mann, Her Majesty the Queen's situation, in relation to the right of precedence within the sitting that occurs when we process back to the church, and what happens within the Chapel.

I want to make it clear that the whole idea of this clause, Mr Speaker, is to put beyond doubt that this is a state occasion. Tynwald Day is obviously a state occasion, and it is made up of many parts: the judiciary, clergy, parliament, and many other groups of people, who all come together for our national day, but one component of that is a sitting of Tynwald Court within the Chapel, when we have finished with the state occasion elements in advance of that. This makes it quite clear where the rights of the Crown are, in terms of precedence on Tynwald Hill, and the fact that, in 1990, the law was passed, the Constitution of the Island was changed, whereby the Crown, or the Crown's representative, the Lieutenant-Governor, does not preside, and so to make it clear to the Hon. Member for Peel: this makes it clear that Her Majesty would not preside over a sitting.

I hope that makes that clear. I believe the fundamental change occurred in 1990, but, because of what is proposed today with this Bill, this clause is to just create clarification.

Now, the Hon. Member for Michael says that this is a trivial matter, and it may well be, in the eyes of some, Mr Speaker, that this is a trivial matter, but it is a constitutional amendment Bill that is before us, Mr Speaker, and I believe that it is a piece of legislation which many will regard as a small change. It is not an upheaval. It is a clarifying piece of legislation.

I will not respond to the Hon. Member's comments about public services; policy and finance issues are generally a matter for debate in another House. I know the Hon. Member

is frustrated about the delivery of certain public services and we can all strive in that area, of course.

But he made reference to a quasi-republican hidden agenda, and I think, surely, if the Hon. Member is paying attention to the amendment that is before us –

Mr Cannan: Oh, I am paying attention alright, sir!

Mr Corkill: – because the Hon. Member is not picking up on the fact that this is clearly stating who should preside on Tynwald Hill into the years ahead, and the quasi-republican agenda that he is referring to, where there might be a popularly elected president, or whoever, replacing the Crown, which he referred to in his submission, is not contained within this Bill, and not intended to be part of this Bill.

So the Hon. Member has said that he would have preferred the democratic alternative, I believe, in terms of a précis of the words he used.

Mr Cannan: I would not have preferred it, if you were going to be honest.

Mr Corkill: The Hon. Member is referring to my honesty. This Bill is quite clear. This amendment has been before the House some months ago, it has been out there, it is quite public, it is quite open. This business of accusations about withholding information is not right.

This Bill is quite clear. It is a small constitutional step forward, in my view. It is acting upon a Council of Ministers' Report which was accepted by Tynwald Court, which was a response to a Select Committee, which did, indeed, talk about having a President sat in place of the Lieutenant-Governor or the Crown. That was not accepted by the Council of Ministers and remains not accepted by the Council of Ministers, but we are enacting a Report that Tynwald did approve, Mr Speaker, and it is not something I am referring to as a trivial matter in any way. It is something that I believe Council of Ministers has a duty to follow through on, because it was a Report accepted by Tynwald Court.

The Speaker: Hon. Member for Middle, Mr Quayle, to reply to the debate – clause 1.

Mr Quayle: Thank you, Mr Speaker, and I thank Hon. Members for their valuable input, not only today but, in fact, at Second Reading, where various Members outlined their various concerns and, as I said earlier, I think a lot of hard work has been completed to consider carefully their concerns and, hopefully, to satisfactorily address them.

Nobody is putting this forward as a great constitutional development, but I happen to believe that we should have the confidence to move further forward, making small incremental advancements, if we can, and I do think that, in terms of the limited nature of these proposals, it certainly does make that advancement, and probably complies with the Government's Plan, which we have supported. The aim and aspirations of it is to move further forward constitutionally, in small incremental advancements, and this certainly complies with that.

What I would also like to say is what the Bill, as now to be amended, does is to align the sitting of Tynwald Court with all other sittings of the Court that take place throughout the year. I believe it is an historical anomaly that, when the Lieutenant-Governor ceased to preside over Tynwald Court, he remained involved in the sitting in the chapel and presiding there.

Whatever the reason, I believe it is illogical for the Lieutenant-Governor to preside over this one sitting. All he contributes to it at that time, really, is a signature, witnessing the promulgation of the Acts which has taken place on the Hill, and it has been accepted on all sides that the signature of the promulgation certificates, the actual captioning, as we know it, need not take place, even, at that sitting or, indeed, at any sitting of Tynwald. It could actually be done legally by each of the current witnesses, the Lieutenant-Governor, the President and the Speaker, back in their own offices in Douglas, if they so wished.

I think, later on, we will be dealing with it, but if only the President and the Speaker are left signing the Certificates of Promulgation, the practice then aligns exactly with section 8 of the Constitution Act 1990, which provides for all resolutions of Tynwald to be signed by the President and the Speaker and, indeed, every month they do just that, as a matter of course.

Just referring, too, to a comment about a quasi-republican movement and a diminution of the Governor's responsibility: I happen to think that, if that was the attitude that pervaded over the last 120 years, then, certainly, we would not be in the situation we are now, running in its entirety our own economy and virtually being independent in every respect, as a self-governing dependency of the British Crown, but relying on the Crown for our defence and foreign representation. I am one of the people around the Island, who value very much our links with the British Crown, and feel that we have, to date, had the best of both worlds by having our link with the Crown, and enjoying the great autonomy that we undoubtedly do have.

So, with that, Mr Speaker, I would encourage everybody to support this clause.

The Speaker: Hon. Members, the motion before the House is that clause 1 do stand part of the Bill. To that we have an amendment in the name of the Hon. Member for Onchan, Mr Corkill. All those in favour of the amendment, say aye; against, no. The ayes have it. The ayes have it.

Now, Hon. Members, I put clause 1, as amended. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Now, Hon. Members, I think, with a fair wind, if you wish, we could complete (**Several Members:** Hear, hear.) this Bill, this early part of the afternoon, so could I call on the Hon. Member for Onchan, Mr Corkill. New clause principle, sir.

Mr Corkill: Thank you, Mr Speaker, and I thank Hon. Members for agreeing to the change in the long title.

This new clause, the Certificate of Promulgation – the amendment in my name adds a new clause to the Bill:

'Certificate of promulgation

(1) For section 4 of the Promulgation Act 1988 substitute –

"4. Certificate of Promulgation

A certificate of promulgation shall be signed by the President of Tynwald and the Speaker in attestation of promulgation."

(2) Paragraph 7 of Schedule 1 to the Constitution Act 1990 is repealed.'

As we have alluded to, the purpose of this new clause is to remove the Governor's obligation, as required by the

Constitution Act 1990, to attest the promulgation, and to provide that the certificate be signed only by the President of Tynwald and the Speaker.

As I indicated earlier, this change would mean that the Governor would not be required to participate in the signing of the certificate that takes place in the chapel. In other words, the function requiring the Governor's attendance in the chapel would be eliminated.

This change is consistent with Tynwald's intention to extend the President's right to preside over Tynwald sittings to all Tynwald sittings, especially that one that is held as part of Tynwald Day.

Mr Speaker, I beg to move the new clause standing in my name.

The Speaker: Hon. Member for Garff.

Mr Rodan: Mr Speaker, I beg to second.

The Speaker: Can I just clarify, it is the new clause in principle, not the clause in detail.

Right, Hon. Members, the motion before the House is that the new clause in principle in the name of the Hon. Member for Onchan, Mr Corkill, is approved. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Now, Hon. Members, I call upon the Hon. Member for Onchan, to present the new clause in detail – which he may find he can do quite easily now!

Mr Corkill: The detail has gone before me, Mr Speaker, and I formally move the clause standing in my name.

The Speaker: Hon. Member for Garff.

Mr Rodan: I beg to second, sir.

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

Mr Quayle: Yes, thank you, Mr Speaker.

I very much welcome this particular clause. I do think that it is enhancing the original Bill and makes, by this amendment, even greater constitutional progress than had been envisaged with the original Bill.

The Speaker: Hon. Member for Onchan, Mr Corkill, do you wish to reply, sir?

Mr Corkill: No, sir. I thank the Hon. Member for his support in the moving of the clauses of this Bill so far, and thank him for his considerations.

The Speaker: Hon. Members, the motion before the House is that the new clause in the name of the Hon. Member for Onchan, Mr Corkill, 'Certificate of Promulgation', do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Now, Hon. Members, Hon. Member for Middle, clause 2, sir.

Mr Quayle: Thank you, Mr Speaker.

Clause 2 of this Bill is supplemental, providing the short title, the Constitution (Amendment) Bill 2003, and providing for it to come into force in time for the next Tynwald Day, 5th July 2004.

Mr Speaker, I beg to move that clause 2 do stand part of the Bill.

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

Mr Shimmin: 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 business before the House today. The House will now stand adjourned until Tuesday next, 6th April at 10 a.m. here in our own Chamber.

Thank you, Hon. Members.

The House adjourned at 1.11 p.m.