



**HOUSE OF KEYS
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHIARE AS FEED**

**PROCEEDINGS
DAALTYN
(HANSARD)**

Douglas, Tuesday, 1st February 2005

Present:

The Speaker (The Hon. J A Brown) (Castletown); Mr D M Anderson (Glenfaba);
 Hon. A R Bell and Mrs A V Craine (Ramsey); Mr W E Teare (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 Hon. R W Henderson (Douglas North); Hon. D C Cretney and Mr A C Duggan (Douglas South);
 Hon. R P Braidwood and Mrs B J Cannell (Douglas East); Hon. A F Downie and Hon. J P Shimmin (Douglas West);
 Capt. A C Douglas (Malew and Santon); Hon. J Rimington, Mr Q B Gill and Mr P A Gawne (Rushen);
 with Mr M Cornwell-Kelly, Clerk of Tynwald.

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The House adjourned at 12.40 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*]

WELCOME BACK TO MESSENGER, JOHN CROOKS

The Speaker: Hon. Members, can I just welcome back John Crooks, our Messenger, his first day back after his illness and I am sure we wish him well.

Several Members: Hear, hear.

LEAVE OF ABSENCE GRANTED

The Speaker: Hon. Members, I have granted leave of absence, from later on this morning to the Hon. Member for Garff, Mr Rodan.

Questions for Oral Answer

CHIEF MINISTER

Properties leased to Government Identifying beneficial owners

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

Since you have become Chief Minister, have you reviewed Government policy with regard to the desirability of identifying the beneficial owners of the landlord's interest in properties leased to Departments and other public agencies and, if not, will you now do so?

The Speaker: We now move on to Questions for Oral Answer and the first Question: Hon. Member for Onchan, Mr Karran.

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

The Speaker: The Question is being answered on behalf of the Chief Minister by the Hon. Member for Rushen, Mr Rimington, Minister for Local Government and the Environment.

The Minister for Local Government and the Environment (Mr Rimington): Mr Speaker, at its sitting in December 2004, Tynwald considered a motion from the hon. questioner which dealt with, amongst other things, the desirability of identifying the beneficial owners of the lessors' or grantors' interests in premises leased to Departments, Statutory Boards or any other publicly owned business.

The motion was amended, and a subsequent resolution invited the Select Committee of Tynwald on the Scrutiny of the Public Accounts Committee's Functions to consider the issue.

I recall that, during the debate, Mr Speaker expressed some concern, as Chairman of that Select Committee, at being requested to look at this particular issue, but, nonetheless, it was agreed to include it within the Committee's remit.

I am, therefore, a little surprised that the hon. questioner has followed up the motion in the other place with a Question in the Keys, little more than six weeks later. However, I should, perhaps, make the point that the proposal here is not as straightforward as it seems.

Consideration needs to be given to the data protection implications, and to contingency arrangements that would need to apply should the landlord of a building the Government wished to lease be unwilling to provide such information.

A further point is why the questioner is seeking to pursue knowledge on the beneficial owners of companies operating as landlords, as opposed to a great many other companies from which we purchase goods and services. (*Interjection by Mrs Hannan*)

It is the Government's view that this issue should be considered holistically, along with the other issues raised in the resolution in December 2004, and reported to Tynwald by the Select Committee in due course.

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

Mr Karran: Eaghtyrane, would the Shirveishagh not agree that, with the fact that we have a new Ard-shirveishagh, the policy of new leasing arrangements does not affect any chance of affecting, as far as data protection? It is a matter of a change of policy.

And would he also not agree the fact that we have, just in the few offices, as far as civil servants are concerned, well over £50 million of our national reserve has to be tied up, as far as the financing, the leasing arrangements over the next 20 years? That is without these other sidelines of police stations, warehouses, workshops, and all the other things that have a copper bottom return basis, for all these secretive investors, at the expense of the taxpayer.

The Speaker: Minister for Local Government and the Environment to reply.

The Minister: I thank the Hon. Member for the statements he makes in his question. Possibly, he could have made more statements in his question than I am going to give information in my reply. (*Interjection by Mr Karran*)

The top and bottom of this is that this matter is being looked at. It is being looked at by a Select Committee of Tynwald in a rounded fashion. The change in Chief Minister has not, essentially, changed the policy of the Government in relation to this item. It is an area of complexity and of difficulty, and the Hon. Member has been making Questions

in relation to this item for a few years now, and it has been looked at and is being looked at by officers of my Department, in particular, who have responsibility in this area. They are exploring, quite seriously, the possibilities that can be taken in this area, but there are immense practicalities and problems associated with the proposal that is put forward.

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

Mr Earnshaw: Thank you, Mr Speaker.

Whilst this is a well-meant Question, from a practical point of view, if the name of a beneficial owner is provided, would the Minister explain: how will he finally confirm the beneficial owner stated is the real beneficial owner?

The Speaker: Minister to reply.

The Minister: The Hon. Member highlights some of the practical problems associated if we were to institute this policy, and there are many others. It is not an easy area. It looks simple on paper, and I am concerned that, possibly, this constant questioning in this area is building up an air of distrust, when we have no reason to see that that distrust should be engendered.

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

Mr Karran: Vainstyr Loayreyder, a supplementary.

Would the Shirveishagh not agree that the statement from the Treasury Member of the previous question is somewhat bizarre, when the fact is that he expects people in the finance sector to know who they are dealing with, as far as the issue is concerned, and is this not a case of wanting one law for one section of the community, and another law for the other?

Would the Shirveishagh take on board, bringing back the issue that new leases on anything should be a matter of a Council of Ministers' decision, that you should know who the beneficial owners are. Why are you so frightened to develop a new policy, seeing as you have tied up £50 million of our national reserves on rental for just civil servants alone?

The Speaker: Minister to reply.

The Minister: I do not think the statement by the Hon. Member, colleague in Onchan, Mr Earnshaw, was at all bizarre, but highlighted various practical applications, (*Interjection by Mr Karran*) difficulties.

I would question the figure that the Hon. Member is putting out – with great bravado – of £50 million, which is an easy figure to pluck out and scare the public with. I think that should be substantiated in some form, if that is constantly going to be repeated.

It is not a matter of being secretive, it is not a matter of being scared; there are ways and means of dealing with such complex matters, and the Hon. Member should appreciate that.

I am mindful of the Order Paper today, and the next Question which refers to over-regulation and concerns in that area, and then what the Hon. Member is possibly suggesting is that, in another way, we put in another body of regulation and obstacles to people. The Hon. Member feels very strongly on this issue, and I appreciate his views, but I think, at some point, there ought to be substantiation of what

those concerns are, which we can look at in a considered and balanced manner.

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

Mr Earnshaw: Thank you, Mr Speaker.

I started off by acknowledging the intent in my hon. colleague's Question, but the point I am alluding to is proof of beneficial ownership. If a beneficial owner is named, would the Minister accept that the named person may well be a front person, a front man for the real beneficial owner and that there is no real way of checking this?

The Speaker: Minister to reply.

The Minister: Yes, I would acknowledge the validity of what the Hon. Member says. There is no real way. You feel you might have the information clearly in front of you of who is the beneficial owner, but then that might, as the Hon. Member said, be a front for somebody else, and that highlights the difficulties operating in this area.

To refer to a previous point that was made – and we are talking about putting in 'Know your Customer' regulations for the finance sector – the Hon. Member has brought this up in Questions before: we are about face, in this particular area. We are the customer in this case, in taking leases out from various private companies. We are the customer, not the person who is assigning us the lease, and so it is inappropriate to use that analogy, in this particular case.

The Speaker: Members, before I call on the next questioner, I wish to make the point, as has been raised, because it is an important point. The line of questioning is going down a road of a matter that is before a Standing Committee of Tynwald, referred by Tynwald Court, therefore it is inappropriate for Members to question the actions of Government vis-à-vis that Standing Committee.

Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that the income, as far as these rentals are concerned, is well over £4 million? Would he not agree that he would have to invest something in the region of well over £50 million, in order to be able to cover the costs, as far as these long-term rentals that go on to something like the year 2026?

Would he not agree that that is not high finance, but, actually, if anything, my estimations are being on the under side, not the over side?

Would the Minister not agree that, without this transparency – and there seems to be any lack of doing so – it does cause concern outside that there could be a situation of nepotism, as far as these prime rental sites, which ones we are going to? And would the Shirveishagh not agree that it is you, in the Council of Ministers, who are helping to make the economy uneconomic when you are taking on top dollar rentals – ?

The Speaker: Hon. Member, Hon. Member, I just warned you, before I invited you to ask your question, not to go into the area that is before a Standing Committee of Tynwald. It is totally inappropriate. (**A Member:** Hear, hear.)

Hon. Minister to reply.

Mr Earnshaw: Question 2.

The Speaker: Minister to reply.

The Minister: Thank you.

First of all, I would like to dispute any concept of nepotism, and as I have said before, if the Hon. Member has serious concerns, then there are mechanisms –

Mr Karran: I have for years.

The Minister: – within executive Government and within the parliamentary framework for those serious concerns to be put in a balanced and substantiated manner, and then they can be dealt with by the appropriate people –

Mr Karran: Well, do it!

The Minister: – in the appropriate way, rather than making what appear to be wild statements across the floor of the House.

In respect of the figure the Hon. Member is talking about, i.e. we would need to invest so much to give a return of £4 million for this particular expenditure, I think the Hon. Member is using economics in a strange way. (**Mr Karran:** No.) Because I do not say, for instance, that I have, in the coming year, say, over £6 million of expenditure on housing deficiency. I do not say this is tying down reserves to meet that expenditure. That expenditure is being met, (*Interjection by Mr Karran*) that expenditure is being met –

The Speaker: Hon. Member.

The Minister: – by taxation revenues, as, indeed, are the rents for the particular properties that we lease. They come out of revenue. They do not have a relationship with reserves.

If you say there is a long-term commitment there, which ties up reserves, in the same way, we have a long-term commitment to the people of the Isle of Man in the services that we provide. (**A Member:** Hear, hear.) So, we are constantly tied up with financial commitments to the people, and the Hon. Member bringing in reserves, on this occasion, is bringing in a distraction.

The Speaker: A final supplementary. Hon. Member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder.

Could I ask the Minister for the Department of Local Government, answering on behalf of the Chief Minister, to consider looking at changes of land registry, to see if the true beneficial owner could not be identified through that method, when these changes have been fully brought in, right the way across the Island?

The Speaker: Minister to reply.

The Minister: Yes, I presume the Hon. Member... the suggestion that she is making, and I do believe, without knowing the precise detail, I am sure that will be one of the methods that the officers from my Department will have been looking at in relation to this issue. They have been exploring what the options are, in determining beneficial

ownership and what the practical problems related to that determination, and the desire or necessity to publicise that, what complexities and possibilities that we might come across, by implementing such a policy.

It is a very complex area, and as the Hon. Member for Onchan, Mr Earnshaw, has indicated, even when you think you know you have got the truth, you may not.

The Speaker: Question 2, Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, –

The Speaker: Question 2.

Mr Karran: A point of order, Vainstyr Loayreyder. I think it is wrong that I cannot ask supplementaries on such as this issue. This has been going on for three years.

The Speaker: You may think that, sir.

TREASURY

Complex financial regulations Concerns of finance sector

1.2. The Hon. Member for Onchan (Mr Karran) to ask the Minister for the Treasury:

In view of the amount of concern regarding the increase in complex requirements and new Regulations by the Financial Supervision Commission in their recent policies for the finance sector, which some people doubt affords real protection to the consumers, will the Treasury arrange meetings for people within the finance sector in order to discuss, on an open basis, the industry's concerns?

The Speaker: Question 2. Hon. Member for Onchan, Mr Karran, Question 2.

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

The Speaker: Hon. Member for Ramsey, Mr Bell, Minister for Treasury.

The Minister for the Treasury (Mr Bell): Thank you, Mr Speaker.

I believe that both the Treasury and the Financial Supervision Commission already have well-established extensive and broadly accepted consultation mechanisms, with all sectors of the finance industry which accord many opportunities for concerns to be raised on an open basis.

For example, the Treasury has quarterly consultative meetings with representatives of the banking, insurance and professional services sector, plus with the Finance Committee of the Chamber of Commerce.

The Financial Services Division of the Treasury has recently set up a steering group with extensive industry representation. I meet with industry representatives on a regular basis to discuss their concerns and issues, and, as

far as I am concerned, I have not detected any hesitation in them bringing forward such issues and returns to me, in a frank and open manner.

The Financial Supervision Commission has its own consultation processes, where industry representatives can, and do, raise their concerns. All major new policy proposals, including on legislation, are fully discussed in advance with the industry, and I am currently seeing this first hand, for example, with the Fiduciary Services Bill.

Last year, the Financial Supervision Commission introduced and published a more transparent process for evaluating the costs and benefits arising from the regulatory proposals which, among other things, is specifically designated to weigh the costs and inconvenience of the new measures against the likely benefits of protection for the consumer.

The external report previously commissioned by the Financial Supervision Commission into outstanding issues with the Fiduciary Services Bill was also a useful example of how the Financial Supervision Commission tries to make sure that different interests are objectively balanced, when considering change.

Mr Speaker, I believe that the Financial Supervision Commission tries very hard to canvass the views and concerns of people and organisations, in respect of their areas of responsibility, and is more than willing to listen, on an open basis, to concerns raised. Clearly, though, one must accept that improvements can always be made to procedures, and one must always be open to considering specific and well-articulated proposals for such improvements.

In that spirit, I would ask the Hon. Member, if he has specific examples of concerns regarding the increase in complex requirements in new regulations, the areas of doubt regarding the protection of consumers, or where he believes that the existing consultative processes could be improved, I would welcome him in bringing them to my attention. I will look at them with an open mind.

Mr Speaker, in conclusion, I reiterate there are already many formal and informal channels whereby concerns or issues can be raised with either the Financial Supervision Commission or the Treasury, on both a frank and open basis.

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

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that it is up to the Shirveishagh himself to build up confidence, so that people can feel that they can openly discuss issues and concerns on a frank basis – just like estate agents have complained well over three years ago over the issues of the previous Question, and the madness?

Would the Shirveishagh consider that many in the industry feel that the Treasury and the Financial Supervision Commission talks more *at* them than with them, and whilst I would agree that I have had people saying that it has improved in recent time, there is a need for some more significant improvement?

The Speaker: Treasury Minister to reply.

The Minister: Mr Speaker, there is very little I can add to the Answer I have already given.

There are already extensive mechanisms available for the industry to consult with all the various Government bodies, including myself, and do so on a regular basis. Once again,

Mr Speaker, I would ask the Hon. Member, if he has specific examples that he is concerned about, will he bring them to me and we will have them investigated.

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

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that this is an opportunity for the Minister to tell this Hon. House, and the people listening, of the opportunities there are, at the present time, as far as the... whilst improved dialogue there is with the industry, would he not agree that this is the opportunity to explain what facilities are available –

A Member: Done that.

Mr Karran: – as far as that issue is concerned, and tell us which committees, which organisations there are, at the present time?

A Member: He has done it.

Mr Karran: No, he hasn't.

The Speaker: Treasury Minister to reply.

The Minister: I am sorry, Mr Speaker, I did explain that, quite clearly, in my Answer.

Manx Electricity Authority Reports on expenditure of 2004

1.3. The Hon. Member for Michael (Mr Cannan) to ask the Minister for the Treasury:

During the period 1st January 2004 to 4th November 2004 have the Manx Electricity Authority supplied the Treasury with –

- (a) any financial returns of any description regarding the revenue and/or capital expenditure;*
- (b) any reports of any description regarding the capital programme of work being carried out and, if not,*
- (c) did the Treasury request any reports or information of any description from the Manx Electricity Authority and if not, why not?*

The Speaker: Question 3, Hon. Member for Michael, Mr Cannan.

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

The Speaker: I call on the Hon. Member for Ramsey, Mr Bell, Minister for Treasury, to reply.

The Minister for the Treasury (Mr Bell): Mr Speaker, in answer to the first part of the Question, I would advise that the MEA has provided items of information during the period in question, as it is obliged to do, in respect of the settlement of the capital programme. The information supplied is included as part of the Government's estimate in the Pink Book.

In addition, the MEA supplies quarterly returns to Treasury of actual capital expenditure expended. In Treasury's opinion,

the reports do not provide any indication that additional borrowings would be required by the MEA to fund those projects that were referred to in their estimate submissions.

With regard to the second part of the Question, the MEA provides updates on the progress of the capital programme at its quarterly liaison meetings with the Department of Trade and Industry, which are normally attended by a representative of Treasury's capital projects unit.

In answer to part (c), the MEA has always indicated, at quarterly liaison meetings with the DTI and Treasury, that there were no issues or problems of a financial nature that would cause the Government any concerns. Therefore, Treasury has had no reason to request any further financial reports.

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

Mr Cannan: Mr Speaker, I am pleased that the Treasury Minister now acknowledges that the Budget and Policy Executive of the Budget and Financial Management Division of the Treasury did receive quarterly and half-yearly capital expenditure returns from the accounting manager of the MEA during the period July 2002 to June 2004; but will the Minister agree that analysis of the quarterly and half-yearly returns sent to the Financial Management Division of the Treasury will show that further loans to the amount of over £100 million would be required to meet the expenditure, as shown in these quarterly returns, and has the analysis of these MEA financial returns been conveyed, at any time, to the Chief Financial Officer and to yourself?

I repeat: was the analysis of these MEA financial returns conveyed to the Chief Financial Officer and yourself?

The Speaker: Treasury Minister to reply.

The Minister: In the normal course of events, Mr Speaker, they would not be conveyed to me. This would be routine financial management.

As far as I am aware, the indications which were very clearly made in the return on the capital expenditure showed that the expenditure to date was £179 million which, in fact, is less than the original £185 million bond.

So, there were no indications, Mr Speaker, at all that have been brought to my attention that any further expenditure was going to be undertaken.

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

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that with the issue that has now come about that the Council of Ministers must review its policy, after this issue being raised time and time again, in this and other Chambers, that they must take on the legitimate concerns of Members of this parliament in future, instead of this situation where the Council of Ministers act just as the Government, the parliament and everything else in this country?

The Speaker: Treasury Minister to reply.

The Minister: I can assure the Hon. Member that he does not hold the sole concern for the financial wellbeing of this Island –

Mr Karran: Should have listened.

The Minister: Treasury does that, and we are doing our best, at the moment – as soon as this recent situation came to light – to identify exactly what the real situation is.

Mr Speaker, the independent auditors have now started their work in assessing the situation, and it would be wrong for me, at this stage, I think, to really pre-empt what might actually come out of that report.

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

Mr Cannan: Will the Treasury Minister tell us what useful purpose was served when the MEA sent their quarterly and half-yearly expenditure statements to the Budget and Finance Management Team in the Treasury, when they were not analysed, the results were not conveyed to the Chief Financial Officer or to the Minister?

If they had been properly analysed, the Treasury would have been aware that there was expenditure greater than the capital income. Why was nothing done, and what was the purpose of these returns being sent to the Budget Department, if they were not being analysed in the Treasury itself?

The Speaker: Treasury Minister to reply.

The Minister: Mr Speaker, the figures which were received by Treasury were analysed and, as I say, as far as the capital spending is concerned, it showed – at the last figures which were circulated to us – a total expenditure of roughly £179 million, and that gave no grounds for concern, at this point.

Mr Speaker, I have made it very clear in Tynwald that, as part of the independent review of the MEA's accounts, alongside that, we will be reviewing Treasury's own mechanisms, and if there have been – and I have no grounds at all, to think there have been – any shortfalls, at this stage, but if they do need to be strengthened, we will be taking the appropriate action.

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

Mr Karran: Vainstyr Loayreyder, would the Treasury Minister not agree: to say that he has done all his actions since it came to light is like expressing concern about someone getting run over outside this House, when they know that the juggernaut has left Ramsey, and we have a situation that now we still manage to get a fatality – namely the taxpayer – over this situation?

And would he not agree that this question highlights the issue that parliamentary input needs to be taken on more seriously?

The Speaker: Treasury Minister to reply.

The Minister: Mr Speaker, there is not very much I can add to what I have already said. Treasury's primary role is to protect the interest of the taxpayer. That is what it is doing at the moment, and that is what it will continue to do.

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

Mr Cannan: Is the Treasury Minister aware that I asked him the following question in the House of Keys on Tuesday, 30th November and I quote:

'Can the Treasury Minister give a categorical statement that no member of the Treasury staff, no official within the Treasury, was ever advised

that further borrowing was taking place, as detailed in this £120 million, and that the first knowledge of it by any member of the Treasury staff was, as in your statement, 5th November?

You replied, Minister:

'I can only repeat my knowledge of the situation as far as the borrowing is concerned. The first time this was brought to my attention, and I believe to my officers' attention, that there was a very substantial amount of extra borrowing was when we received the draft annual accounts for the year 2003-04, which we received on 5th November.'

Minister, in the light of the quarterly and half-yearly returns being sent to the Treasury, do you still stand by that statement?

The Speaker: Treasury Minister to reply.

The Minister: Mr Speaker, for the third time, the indication given to Treasury of the total capital spending notified to us totalled £178,625,000. That was a cumulative actual total, and, at that level, it was within the £185 million original bond that was borrowed.

The first I heard of any extra borrowing was at the beginning of November when – as the Hon. Member has quoted my answer to his question – we saw the draft annual accounts, which indicated that a further borrowing had taken place.

I stand by that, and that is my position, and I have no reason to think there is any reason to qualify that.

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

Mrs Cannell: Thank you, Mr Speaker.

Is the Hon. Minister saying that, in fact, the quarterly returns that were going to his Department were not revealing the additional spend that was being sought, as bills were being paid and the money was being drawn down? Is he really telling Hon. Members here this morning that those quarterly returns gave no indication of any additional borrowings –

Mr Corkill: He's said that three times.

Mrs Cannell: – and, if he is saying that, would he kindly substantiate that by copying those quarterly and half-yearly reports to all Members of the House of Keys, please?

And further, when he said earlier that it is routine financial management, is it also routine financial management for someone in Treasury, when acknowledging that there is an increase in expenditure – therefore, an increase in loan sought by a utility – not to report it to the Chief Financial Officer, at the very least, if not himself? Is that part of routine financial management, and did he only jump when the total spend had got to £179 million?

The Speaker: Treasury Minister to reply.

The Minister: Mr Speaker, I have answered the question, I think, as clearly as I can do. The figures which have been given to me show an annual expenditure of £175 million, and I am sure the Hon. Member who has just asked this Question will remember that the original bond was for £185 million, and, therefore, there is no indication in these figures,

as presented to me, that there was any further borrowing to have taken place.

Had there been any further borrowing, or evidence of further borrowing, my officers would have responded immediately, and, certainly, the Chief Financial Officer would have been informed.

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

Mr Cannan: If the returns had been properly analysed, would it not have occurred to the Treasury that their expenditure to date, on an uncompleted project, had completed the moneys available, and, therefore, to complete the project they would be requiring other funds. Did it never occur to anybody in the Treasury to lift the telephone, and ask them what was happening in their financial management?

The Speaker: Treasury Minister to reply.

The Minister: Mr Speaker, I think when it comes to lifting the telephone, the boot is on the other foot, and I think, if the MEA felt it appropriate to borrow a further £128 million, (**A Member:** Hear, hear.) the simplest thing, which would have avoided most of this, would have been to pick up the telephone and tell Treasury what they were doing, so that we would have been fully in the picture. (**Mrs Craine:** Hear, hear.)

Bearing in mind the collapse of Enron in the middle of the development programme, I am sure Treasury and, indeed, Hon. Members would have been very sympathetic to the position of the MEA; but that did not happen. That simple telephone call from the MEA did not take place, and, therefore, we are in a position we are today.

But, many of these Questions which are being asked now will be clarified, I believe, on the completion of the work by PKF, the independent auditors, and, at that point, Mr Speaker, I think we will be in a better position to have a more informed debate. (*Interjections*)

The Speaker: Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Minister not agree that, when we set up the £185 million, the fact is that the MEA was something like a £30 million, maybe £40 million, turnover, at the maximum?

Would he not agree that, on reflection, the issue is that you had to use your capital for revenue purposes, apart from the poor value for money, and that it was going to happen this way, anyway, because of basic common sense of the way that they were allowed to borrow far more money than it was possible for common sense? Many in this Hon. House were taken in – and some of us were not.

The Speaker: Treasury Minister to reply.

The Minister: Mr Speaker, hindsight is a wonderful thing. (*Interjection by Mr Karran*) This Item was approved and debated by Tynwald at the time. I was not in Treasury at the time, and I do not know what internal debates took place –

Mr Karran: You were in the Chamber.

The Minister: – before it went to Tynwald.

But, once again, I simply reiterate, (*Interjection by Mr Karran*) all these points will be investigated by the independent auditors, and we will have a far clearer picture. If Members will be patient until this exercise is finished, we will have a better idea of what the true position is, and then, if there are further problems, we can address them with better clarity.

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

Mr Cannan: Two points: one is why is the Treasury Minister twisting the responsibility to say that the MEA should have telephoned the Treasury, when the Treasury has a fundamental duty of care for the protection of public money, (*Interjection*) and should have telephoned, at least, the MEA (*Interjection by Mrs Hannan*) to find out what was happening with their capital programme? Because they were being supplied with quarterly returns and nothing was done. They were simply being filed. Is that not true, Minister?

Secondly, the Minister has just said, 'leave everything until the report of the accountants', in which case why did the Minister send a circular letter to all Members last Thursday, (*Interjections by Mr Downie and Mr Cretney*) detailing the whole expenditure of the MEA, and now saying they do not want questions on his letter?

The Speaker: Treasury Minister to reply.

The Minister: Mr Speaker, the Hon. Member is so desperate to cast blame on Treasury on this, he has lost sight completely of what is going on. (*Interjection by Mr Cannan*)

I cannot add any more than I have already done as to the analysis of the capital expenditure. I have told that, I am not going over that ground again. We have no indication in the figures given to us that any further expenditure over and above the £185 million bond has taken place, and that is why no questions were asked at that time.

The Hon. Member, clearly, has a very short memory, because the letter I circulated to Hon. Members last week was at the specific request of Members of Tynwald for this information, and it took us a few days to get it, and it is on that basis that the information was circulated, which I think Hon. Members only expect us to do. When Members ask any Minister for that sort of information, of course we are going to circulate it, and there was no reason to hold it back.

Manx Electricity Authority Waiving VAT for consumers

1.4. The Hon. Member for Onchan (Mr Karran) to ask the Minister for the Treasury:

In view of the effects of management of the Manx Electricity Authority, leaving a massive debt and liabilities for their consumers, with lack of checks and balances from Government, will Treasury waive VAT on bills to ease the increased costs for Manx consumers?

The Speaker: Question 4. Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the

Question standing in my name.

The Speaker: I call on the Member for Ramsey, Mr Bell, Minister for the Treasury, to reply.

The Minister for the Treasury (Mr Bell): Mr Speaker, before answering the Question, I must point out to the Hon. Member for Onchan that, until the outcome of the current review of the MEA's affairs, being undertaken by Pannell Kerr Foster, is known, any comments in respect of the management of the MEA or the role of Government should be deferred. I am as anxious as any Member to receive the outcome of this review, and, until then, we must refrain from making such public comments.

With regard to the Question, I cannot agree to the suggestion, for the following reasons. (*Interjection*) Under the Customs and Excise Agreement with the United Kingdom, the Island is obliged to maintain its rates of VAT, with very few exceptions, in line with those in force in the UK. The agreement also requires the Island to keep any conditions and reliefs pertaining to VAT, again, with very few exceptions, in line with those applying to the UK.

Secondly, in Community law, which governs the application of VAT in the UK and in the Island, electricity supplies are not included in the list of types of supply that may be allowed under annex H, to the sixth VAT Directive, and with a suitable derogation from the Commission, a reduced rate of VAT.

Any waiver of VAT on electricity supplies would, therefore, have to be agreed with both the UK and the European Commission, and would require a formal derogation from the Commission. Qualifying supplies of electricity for domestic fuel and power, including heating and air conditioning, already qualify for a reduced rate of VAT of 5 per cent.

This is the minimum rate of VAT allowed under Community law and zero rating of any taxable supplies, other than those already provided for, and in existence since the introduction of VAT in 1973, is not permitted.

Any waiving of the VAT on electricity supplies could constitute unfair treatment, as oil and gas suppliers would not equally benefit from that concession.

Finally, Mr Speaker, furthermore, Island manufacturers and producers of products sent to the UK and the rest of the European Union, could face accusations of unfair subsidies and illegal state aid, with the risk of legal action being taken by the Commission.

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

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that the issue is that the Treasury can pay this, so long as they make up any void? Would he also not agree that this Hon. House heard all these excuses when we started on the campaign to get the VAT reduced from 17½ per cent, as far as building work was concerned, on extensions et cetera?

And would he also not agree that the situation is that the Council of Ministers, as a matter of urgency, has to look at ways of how we are going to help both domestic and commercial consumers, in order to relieve the increased amount of money that someone is going to have to pay for the insanity over this proposal in the first place?

The Speaker: Treasury Minister to reply.

The Minister: Mr Speaker, Treasury, in conjunction with the DHSS and the Joint Low Income Group, has already moved swiftly to help those in the lowest incomes survive the increases which have taken place. Those extra benefits have been in since 1st January, and have been the subject of a Tynwald debate, so the Hon. Member is aware of our concerns for those at the lower income levels.

I really cannot add very much to what I have already said. Our hands are tied on the VAT issues, and, whilst there has been marginal flexibility in one or two areas, such as tourist accommodation and building repairs, getting a derogation on such a major issue as electricity supplies is something which I believe is unachievable.

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

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that everybody in this House welcomes the initiatives that are done for the low paid, but would he not agree that the effects of this madness that has been inflicted onto our people over this affair, are that they are going to end up with a situation where you are going to have massive increases in a basic commodity of life?

Would he not raise the issue at the Council of Ministers of what he is going to do, not just for domestic consumers, but also for business in this Island, as, would he agree, the priority has to be to create work? That has to be the number one priority, and to make sure people do not suffer over this affair.

The Speaker: Treasury Minister to reply.

The Minister: Mr Speaker, Treasury's concerns mirror those concerns of the Hon. Member, and we are as anxious as anyone to, first of all, protect the domestic consumer. That is why we moved so quickly to help those on the lowest incomes when, not just the price of electricity went up, but the price of fuel, generally, went up, towards the end of last year.

But, obviously, we are very concerned about the impact of higher fuel costs, in particular electricity costs on the business community, at a time when margins are under pressure, and there is a concern that if it continues at this level we may see further job losses. So, of course, Treasury is concerned about this, Mr Speaker.

What I would suggest though, once again, we are still in the process of analysing precisely what the long-term commitments and implications of the MEA's actions are on the tariff. We will know that better when the PKF report is returned to us, which I hope will be in the next few weeks. At that point, we will be able to see whether there is a need for further action, and, indeed, if there is any further action which can be taken to alleviate the situation.

HOME AFFAIRS

Policy for senior appointments

Selection of non-Manx Deputy Chief Constable

1.5. The Hon. Member for Rushen (Mr Gawne) to ask the Minister for Home Affairs:

Following the inability of the Manx police force to find a suitably qualified internal candidate for its Deputy Chief

Constable post, will you explain –

(a) what measures, if any, your Department will introduce to enable more senior posts to be filled by locally trained candidates;

(b) who was involved in selecting and approving the non-Manx candidate for the Deputy Chief Constable post; and

(c) will you confirm that your Department does not have a policy of discriminating against Manx/local candidates for senior appointments?

The Speaker: Question 5. 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 on the Hon. Member for Douglas East, Mr Braidwood, Minister for Home Affairs, to reply.

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

By way of providing an answer to the Hon. Member, I feel it would be worthwhile spending a little time on the history of this issue.

The Chief Constable identified the professional skills gap within the Isle of Man Constabulary soon after his appointment. The Force then quickly set about developing a response that was aimed at satisfying this need, but, having regard to the extent of the work that was required, could only aim to minimise the risk of service delivery in the first instance.

Having achieved this aim, the focus is now very much on personal development, and this has been the case for some time. There are a number of excellent examples of how this approach has been in evidence. Mr Speaker, I offer the following, purely by way of example: an extensive programme of training detectives in investigative skills, right up to and including the role of Senior Investigations Officer, to thus accredit officers to investigate the most complicated of murder cases; a programme to develop professional skills for more senior uniformed duty constables, who had not been exposed to this type of training before; locally delivered UK-based management training for sergeants and inspectors; advanced leadership training delivered by the prestigious Work Foundation, primarily for senior officers, but in the case of the Isle of Man, the Chief Constable has sent sergeants on this course; exposing middle and senior officers to modules of the highly acclaimed Senior Leadership Development Programme in England; and seconding officers to Her Majesty's Inspectorate of Constabulary to undertake base line assessments of English forces.

These examples clearly demonstrate the importance and priority afforded by the Force, and the Chief Constable to the personal and professional development of people who work for the Isle of Man Constabulary.

I might add that, whereas the Question seems to be focused on police officers, members of the police support staff have been exposed to training opportunities and, again, by way of example, the Director of Corporate Services has attended the advanced leadership course delivered by the Work Foundation.

Mr Speaker, the Chief Constable inaugurated a special development and training management group that meets on

a monthly basis to consider the training and professional development needs of individuals. This group has a budget, and is empowered to spend on individuals who have an identified need.

Mr Speaker, I digress for a moment, but, perhaps, it is relevant to the Question, as I take this opportunity to congratulate the Constabulary and its considerable support to local officers in their preparation and study to sit promotion examinations. Twelve constables have just passed their examinations for sergeant and this is a considerably higher number than ever before.

So, and in answer to the first part of the Question asked by the Hon. Member for Rushen, Mr Gawne, I am pleased to have this opportunity to confirm to Hon. Members that the Chief Constable is highly conscious and alert to the need to provide training and development opportunities to local Manx officers.

Hon. Members will be pleased to note that there is a comprehensive and broad range of measures already in place and many members of staff have benefited from this approach. However, in simply providing the encouragement, leadership, money, facility and opportunities for training and personal development, the Force is only providing 50 per cent of what is required, if Manx officers are to excel and reach the senior ranks of the service. Individuals must provide the remaining 50 per cent of what is required, by, first of all, taking ownership of their career development, accompanied by a strong appetite, desire and genuine drive and determination for their personal learning. If individuals are not enthusiastic to learn and are not prepared to meet the Constabulary half-way, in what is effectively a partnership, then, inevitably, full potential is not likely to be realised.

I now turn to part (b) of the Question, Mr Speaker. Both the Chief Constable and my Department have a clear citizen focus and are united in their ambition to deliver absolutely top-quality policing to the Manx community. The results speak for themselves and, only recently, Hon. Members will have seen headline news that crime levels have fallen for three consecutive years, that crime is nearly one third lower than just three years ago (*Interjection by Mr Houghton*) and that the detection rate is higher than it has been for four years. These results do not happen by coincidence or accident, they happen because the Constabulary has excellent people within its ranks. (*Interjection*)

So, the appointment of the new Deputy Chief Constable was always a keen issue for my Department and the selection process precisely mirrored this ambition. The advertisement produced six applications and, under the observation of the Chairman of the Isle of Man Police Federation, the Chief Constable and the head of human resources within the Constabulary short-listed three of the applicants to go forward to the next stage.

The short-listing element considered the written evidence provided by the six candidates, against a job description and person specification. The person specification defines the skills, experience and behaviours required of people for the rank, pursuant to what is known as a national competency framework. Those competencies and behaviours of the three candidates were then tested against a set of written and verbal exercises and assessed by senior, suitably-qualified police officers from Manchester Police. This ensured total objectivity and independence in this crucial phase of the process, that produces a high level of predictability in selecting people for jobs.

Following on from this, the candidates were interviewed by a panel chaired by the Chief Constable. Those present during the interviews also included myself, the Chief Executive of my Department, the Chairman of the Isle of Man Police Federation, the head of human resources, and the staff development manager for the Constabulary, and as a special adviser, Sir Ronnie Flanagan, the much respected ex-Chief Constable of the Royal Ulster Constabulary and now one of Her Majesty's Inspectors of Constabulary.

The selection process undertaken was done with the rigour, challenge, independence, scrutiny and transparency which is required. In considering all the evidence emanating from the whole process, there was unanimous agreement that an applicant from Merseyside Police, Chief Superintendent Michael Langdon, Queen's Police Medal, was the preferred candidate. Under the provisions of section 3(2) of the Police Act 1993, my approval of Mr Langdon's appointment as the Deputy Chief Constable is required, and I am happy to confirm that I have given that approval. My Department has absolutely no policy, explicit or implicit, whereby discrimination in any form can exist. We believe in equality and fairness, but also open competition and consistency of approach, as we achieve our ambition of appointing top-quality people to serve our community.

Finally, Mr Speaker, I trust my answer is comprehensive. In answering, I have aimed to demonstrate quite unequivocally that there is commitment beyond any doubt or suspicion whatsoever, within the Force, to develop local talent, and that, in liaising closely with my Department, the Chief Constable developed an impeccable selection process to appoint a new Deputy Chief Constable.

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

Mr Gawne: Gura mie eu, Loayreyder.

I obviously thank the Minister for a very full and comprehensive answer, though I do have a number of supplementary questions. Could the Minister confirm that his Department has always accepted – or approved, indeed – approaches from the Force, for funding towards meeting the professional skills gap, which I understand from his Answer, the Chief Constable identified at a very early stage?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

My Department has put resources of, I think, £285,000 into training and, in actual fact, £60,000 has been spent on sergeants at the moment on professional development training.

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

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Would the Hon. Minister for Home Affairs agree to look at a proposal whereby, if it is the Department's wish, officers of whatever grade in our Police Force are seeking promotion and it is considered that a wider experience base is something desirable by the senior management, then his Department would agree to look at ways of secondment, as part of the professional development process, (**Mr Houghton:** Hear, hear.) to UK or Irish police forces, so that they can build up the relevant levels of wider experience base that seems to

be expected. That would then give our officers a very good and even chance at interviews.

Mr Houghton: Hear, hear.

The Speaker: Minister for Home Affairs to reply.

The Minister: Thank you, Mr Speaker.

In actual fact, when Sir Ronnie Flanagan was over, when we were conducting the interviews, I actually approached him to see if it would be beneficial for officers from the Manx Constabulary to be seconded, if possible, to other forces to gain experience.

A Member: Hear, hear.

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

Mr Duggan: Thank you, Mr Speaker. Could I ask the Minister: is the appointment subject to a work permit?

The Speaker: Minister for Home Affairs to reply.

The Minister: No, Mr Speaker.

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

Capt. Douglas: Thank you, Mr Speaker. I thank the Hon. Minister for his comments.

I have two supplementaries: has the Chief Constable himself, sir, been on any courses since he was first appointed to the position? And my second one is, in listening to the Minister's statement that crime has fallen, according to the Chief Constable's Report, can the Minister confirm that, in every case, when an alleged crime is reported, a crime number is automatically given to a victim of a crime, real or perceived.

Thank you.

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I am not aware if the Chief Constable has been on any courses since his appointment. Secondly, what I can say is that any crime which is reported to the Isle of Man Constabulary is given a police number and also what happens is, that unlike the UK, the Constabulary will investigate when possible.

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

Mr Houghton: Thank you, Mr Speaker.

The Minister makes comment about there being a professional skills gap in his Force. Is he to be made aware that senior officers always went on courses in order for them to gain promotions in the future? This has happened since Adam was a lad. *(Laughter)*

Also, if that is the case, if what he is saying is the case, why did he, in fact, then interview Chief Inspector Roberts, who is to be congratulated on his promotion to Superintendent? But why did he allow Superintendent Roberts, or Chief Inspector Roberts, to actually be short-

listed, when, from what the Minister has said this morning, he had no chance, anyway?

Mrs Hannan: That is right, he should not have been interviewed.

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I did not say that at all. I said that, in actual fact – and I do not want to get in to personal cases, which I feel is totally inappropriate, when officers' names are mentioned. All I can say is that the internal candidate performed exceedingly well, in that the internal candidate, less than eight years ago was a constable and has been promoted to superintendent, which in any force is a meteoric rise –

Mr Houghton: He is a high quality officer, that is what.

The Minister: – and can I also say that there is drive with the internal candidate: as I was trying to say, he has been on courses which only allows for 50 per cent of the training. It is the drive and ambition of the internal candidate which has driven him into this high position and the internal candidate was promoted to the position of superintendent.

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

Mr Gawne: Gura mie eu, Vainstyr Loayreyder.

Two supplementaries, if I may. The first is, is the Minister aware of a view which has been expressed to me, certainly over the course of the last week, amongst certain officers, that promotion is actually more to do with whether your face fits, than ability? **(Mr Houghton: Yes.)** Also, could he confirm what steps are in place and what training has been given to local candidates for the post of chief inspectors, which are likely to be coming up in the near future.

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I do not take that view 'if your face fits you will be promoted.'

There are assessments, there is training, you have to pass examinations, if you are going to be promoted. You do not get promoted from constable to sergeant if just your face fits, you have to pass examinations and you have to be assessed. It is the same from sergeant to inspector and also inspector to chief inspector, which has been mentioned by the Hon. Member for Rushen.

Again, normally from inspector to chief inspector there has to be an assessment, which is normally carried out by Greater Manchester Police, and you have to reach a certain level, before you can be promoted. But it is entirely up to those officers, as well, to have that ambition and drive to achieve the marks which will allow them to go forward for chief inspector.

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

Mrs Cannell: Thank you, Mr Speaker.

Is the Hon. Minister aware of the comments that were made fairly recently on Manx Radio by the Chairman of the

Police Federation, expressing disquiet about the interview process and, of course, the successful candidate? If he is aware of this, what is his response to that concern and did he, in fact, or did anybody within the Department, have any consultation with the Police Federation when drawing up the list, or the consideration of who would be interviewed for this particular post?

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I do not think my hon. colleague from Douglas East can have been listening to my answer, because I said, when the applicants were short-listed, the Chairman of the Isle of Man Police Federation was present. He was also present during the interview sessions with the three applicants.

Mrs Cannell: Why is he unhappy then?

The Minister: In actual fact he said to me after the appointment, that he would have no problem in selling this to his members.

Mrs Cannell: Why is he unhappy, then?

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

Mr Houghton: Thank you, Mr Speaker.

Bearing in mind that Superintendent Roberts is the only Manx officer on the senior management team at Police Headquarters, can the Minister tell me whether he is proud of that or otherwise?

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I have already mentioned I am very proud that one officer has been promoted to superintendent and I can see, in the future, that a Manx officer could be Chief Constable. I hope, in the future, that there will be an officer who becomes Chief Constable. In actual fact, Mr Speaker, the last Deputy Chief Constable was a Manxman and was appointed by myself.

Mr Houghton: You have got a man suspended who is capable of that!

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

Mr Gawne: Gura mie eu, Loayreyder.

Yes, I suppose in response to the supplementary I asked earlier, in which it appears to me that the Minister did confirm that he was unaware of the view amongst officers, that it is whether your face fits. Could he, perhaps, carry out an investigation to, actually, become aware of this particular issue, because it is certainly something that has been expressed very strongly to me. I think it is something that perhaps he and his management team need to know about.

Mr Houghton: Hear, hear.

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, if the sitting of the House

finishes today, I hope to be present at the Isle of Man Police Federation Annual Meeting, and I will certainly raise this with officers who are there.

Mr Houghton: They'll savage you in there.

The Minister: I go every year.

Mr Houghton: You won't come back from it.

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

Mr Gill: Yes, thank you, Eaghtyrane.

The practice that the Minister has described of including the Police Federation in the process of selection and appointment of senior posts, is that one, sir, that he will extend to other staff associations, in other posts throughout his Department?

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, it depends on the seniority of the post. I think, on an appointment of a Deputy Chief Constable, it was most appropriate that the Chairman of the Isle of Man Police Federation should be present.

The Speaker: The Member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder.

Could I ask the Minister: could he clarify the situation with regard to the interview which took place for the Deputy Chief Constable, when he states that the local applicant had a meteoric rise, over very few years from being a constable to now being an inspector. Could he clarify the situation with regard to this interview for Deputy Chief Constable, when the local person was then appointed to superintendent. Was the position for superintendent not advertised and appointed separately?

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, with the reorganisation of the Force on the national intelligence model, it was agreed that there should be a superintendent post. Following on from the interviews with the three candidates and the appointment of Mr Langdon as the Deputy, it was felt that, in actual fact, the internal candidate who had performed well, should be just appointed, instead of going through an assessment, because there was no other suitably qualified Manx candidate to be promoted to, in actual fact, superintendent.

The Speaker: Member for Rushen, Mr Gill.

Mr Gill: Yes, thank you, Mr Speaker.

Further to my previous question, could the Minister advise: what seniority does any position, within any of the Divisions within his Department, have to be to warrant the inclusion of a staff association or similar group? I appreciate he will not be in a position to advise us specifically now, but could the Minister undertake to circulate (**Mr Houghton:** Hear, hear.) that definitive list to Members, sir.

A Member: Hear, hear.

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I am aware that the Chairman of the Isle of Man Police Federation would be involved in the process of promotion from inspector to chief inspector, but will clarify that position, and circulate it to Hon. Members.

**Standing Order 43(2) suspended
to allow continuation of Question Time**

The Speaker: Hon. Members, that concludes Questions as allowed under our Standing Orders – Standing Order 43. Hon. Member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg to move:

That Standing Order 43(2) be suspended to permit the remaining Questions for Oral Answer to be taken at this sitting.

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

Mr Earnshaw: Yes, Mr Speaker, it would appear we have got a fairly modest Order Paper here today in terms of length, and, in the circumstances, I would like to second that.

The Speaker: Hon. Members, the motion before the House is that Standing Order 43(2) be suspended, to permit the rest of the Questions on the Order Paper to be taken. All those in favour, say aye; against, no. The ayes have. The ayes have it.

**Police Headquarters
Christmas and the New Year closure**

1.6. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Home Affairs:

Why was Police Headquarters closed for business during most of Christmas and the New Year?

The Speaker: Question 6. Hon. Member for Douglas North, Mr Houghton.

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

The Speaker: I call on the Hon. Member for Douglas East, Mr Braidwood, Minister for Home Affairs, to reply.

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

I can confirm to the Hon. Member that Police Headquarters was not closed for business over the Christmas period.

Whereas many of the supporting administrative functions would not be staffed on the bank holidays, there were always police officers on duty in the custody suite 24 hours a day.

These officers were available to attend to any callers at the public counter, just as they currently do during the night, all year round, when they have no receptionist on duty.

If at any time the front door was closed, Mr Speaker, any member of the public could raise the attention of the police officers inside the building by simply picking up the telephone that is situated adjacent to the inner door. *(Interjection by Mrs Hannan and laughter)* Again, this mirrors the arrangements that apply during the night-time throughout the year.

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

Mr Houghton: Thank you, Mr Speaker.

So, any customers that came to Police Headquarters, Mr Speaker, during Christmas, came in via the van dock into the custody suite *(Interjection)* – otherwise they had to ring a bell. Can the Hon. Minister come to reason on this, for the fact that the public had no access to Police Headquarters during very many of the days over Christmas, and a less number of days during the New Year. They had no access for place of safety, and they could not gain access into Police Headquarters. There was no-one to see them. Would he admit that for once? *(Interjection by Mr Downie)*

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I was not down at Police Headquarters during the festive season, so, therefore, I can only go on the information that is supplied to me.

Officers are always in attendance at the custody suite, so people could get through to the reception area, if the front door was open. If there was not a receptionist on, an officer from the custody suite would come down.

If that officer was busy, then he would lock the front door, and then the phone would be for use for any member of the public who would arrive, to notify the custody officer that there was somebody outside.

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

Mr Houghton: Thank you, Mr Speaker.

One final supplementary: can the Hon. Minister not agree with me that it was most inappropriate to use an officer from the custody suite, in fact, who was locked in his own area, for obvious security reasons? It was most totally inappropriate to even use that as a lame excuse – would he not agree to that?

And can he also confirm that he actually approved this to go ahead? He approved the closure of the front door of Police Headquarters over the Christmas and New Year period. Can he let this Hon. House know that?

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I was not informed of the closing times –

Mr Houghton: So, you did not know.

The Minister: – over the Police Headquarters, but all I am saying is what happens over the bank holiday period

is the same as what happens at night throughout the whole year. It is the officer in the custody suite who would come down to attend to a member of the public.

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

Mr Karran: Vainstyr Loayreyder, could the Shirveishagh tell us: at what time does this arrangement happen at night? And would the Shirveishagh not agree that this would just look like, to many in this Hon. House, bad management?

Why was this done? Was it done due to the costs of employment? Would the Minister not agree that there were issues of paying out insane contracts of £1 million up front, and £176 index-linked for the rental, for the police station site at the bus depot, which must put pressure on his budget, as far as the issue of overtime and other issues?

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, on the last part of the question first, on the revenue implications of renting lower Douglas (Interjection by Mr Karran) Police Station, which is out of the question, all I can say is that it is in the capital programme that the Department will attempt to buy this property.

Mr Karran: Which is nonsense.

The Minister: Secondly, on the times that receptionists are on duty at Police Headquarters, I believe it is from 8.00 a.m. to 8.00 p.m. but I will check those facts.

The Speaker: Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

Can I ask the Minister whether or not the closure of Police Headquarters has ever occurred before, with regard to the Christmas period and the New Year period. Has this ever occurred before, to his knowledge? Is it likely to happen again? Can we expect the similar sort of closures at next Christmas and New Year?

And, finally, how can he, in the light of this, consider that the service that the Police Headquarters are providing for the public is a good service when, in fact, it is not accessible by the public, possibly at a great time of need.

Mr Houghton: Hear, hear.

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, in answer to the question, all I can say is I believe that the times and closures were risk-assessed on demand and the number of people who call at Police Headquarters. I am not sure how they compared this year to last year, but I will check those facts.

But I have already stated that, in actual fact, what happened is the same that happens during the night when there is no receptionist on duty, no matter if it is a bank holiday, or on nights.

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

Capt. Douglas: Thank you, Mr Speaker.

As crime and accidents do not stop on Christmas and New

Year holidays, could the Minister inform this Hon. House how many officers were actually on leave over the Christmas and New Year period? (Interjection by Mr Karran)

Mr Houghton: How many were on duty?

Mr Earnshaw: How many were there?

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I will try to gain the amount of officers who were on duty during the Christmas and New Year festivities.

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

Mr Gill: Thank you, Mr Speaker.

Would the Minister agree with me that, notwithstanding any difficulties that may or may not have been experienced with the purported closure of the Police Headquarters, the police were in position, as with the other emergency services and Civil Defence, and many other colleagues in the Department of Transport, and across the Island, in providing a sterling service during the extremely dangerous and unprecedented poor weather that we experienced in the period in question?

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I totally agree with the comments by the Hon. Member for Rushen, Mr Gill.

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

Mr Earnshaw: Yes, thank you, Mr Speaker.

I have listened to the Minister's responses to the various questions this morning, and I would like to ask him: can he honestly say he was comfortable with the arrangements that were in place for the Christmas period last year, and will he, perhaps, review the strategy for next year in the light of the comments that he has heard here today?

The Speaker: Minister for Home Affairs to reply.

A Member: It is not going to make any difference.

The Minister: Mr Speaker, I have no problem in taking back the comments that have been expressed by Hon. Members today, and we will look at how the arrangements worked compared to the previous years, and how this risk assessment on demand... you could say, if it worked satisfactorily or not.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder.

Could I ask the Minister for Home Affairs whether he will also review the position of other police stations regarding their opening hours and their accessibility from the members of the public? Would he also not agree that is not just the Police Headquarters in Douglas that, maybe, has restricted opening, or people have to lift up the telephone, but also other areas. Other areas also should have equal access to police and places of safety?

Mr Houghton: Hear, hear.

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I am aware that there is restricted opening of other offices around the Island –

Mrs Hannan: Not just at Christmas.

The Minister: – not just Police Headquarters, but Peel, Port Erin, or whatever, and normally what would happen, as the Hon. Member for Peel is aware, is: if a person turns up at such as the police station in Peel, and there is not an officer there, the person can pick up the phone, which will go through to Police Headquarters. Then the police officers who are on duty in the area would be notified by Police Headquarters. But I am quite happy to take the comments back.

Investigation re listening device Results and apology to Tynwald

1.7. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Home Affairs:

Can you confirm –

- (a) that investigations by the Cheshire Constabulary into the allegations regarding the listening device in an interview room at Police Headquarters are complete;*
- (b) as a result no Manx Officer is subject to any disciplinary procedure; and*
- (c) if so, will you make a statement giving an unreserved apology to Tynwald Court to correct the statement you made in October 2003?*

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

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

The Speaker: I call on the Hon. Member for Douglas East, Mr Braidwood, Minister for Home Affairs, to reply.

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

I thought I had made it plain in my Answer at January Tynwald that I am to make a statement at the February Tynwald once requisite documentation had been processed, the inference being that the investigation was now completed.

However, for the sake of clarity for the Hon. Member for North Douglas, I can confirm the investigation into the alleged use of a covert listening device in an interview room at Police Headquarters is now finished.

Mr Houghton: With no result.

The Minister: Mr Speaker, although I am in receipt of the full detailed report which is currently with Cheshire Constabulary's legal advisers, I cannot confirm or otherwise, that, as a result of the investigation, no Manx officer is

subject to any disciplinary procedure. (**Mr Houghton:** Hear, hear.)

Finally, Mr Speaker, I can see no reason as to why I should make a statement apologising for the statement I made to Tynwald Court in October 2003 on the subject.

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

Mr Houghton: Thank you, Mr Speaker.

Well, perhaps, the Hon. Minister will change his mind if I read just one small section of the statement he made on 22nd October 2003, sir. It stated that:

'One of the serious allegations being investigated by the Cheshire team relates to a report that a covert listening device was deployed and used in an interview room in the CID office at Police Headquarters.'

He stated that, so can he answer: why was that stated in Tynwald Court on that date, without supporting evidence, with regard to the serious allegations that he said. Who made these serious allegations, that have now come to nothing, after hundreds of thousands of pounds worth of enquiries and money wasted?

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, I am not going to comment on the investigation –

Mr Houghton: I am going to run away.

The Minister: I said, in October 2003, that there was going to be... An investigation was going to be initiated into the alleged use of a covert listening device in an interview room at Police Headquarters. That has been carried out and, until I receive the final report, I cannot make any comment.

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

Mr Houghton: One final other section, Mr Speaker, in this: the Minister went on to say that the investigation included the allegation that the device was used to listen improperly to privileged conversations between advocates and clients, which has come to nothing.

Can the Hon. Minister now clarify what that allegation was about and, perhaps, can I ask him again to change his mind and give an apology, in Tynwald – in the next sitting of Tynwald – for the complete waste of money, the demoralisation of officers, both retired and present, and also the lack... or the misleading that he was given by putting this statement together here, that he will end up having to eat his hat over.

The Speaker: Minister for Home Affairs to reply.

The Minister: Mr Speaker, once again, I believe that the Hon. Member for North Douglas and myself have to disagree. If I was told that there was an alleged use of a covert listening device, if I had brushed this under the carpet, which I think the Hon. Member for North Douglas would like to have happened –

Mr Houghton: Rubbish, absolute rubbish.

The Minister: – so there was no investigation. I never had a choice –

Mr Houghton: Never existed in the first place.

The Minister: – never an option.

Mr Gill: You certainly did.

The Minister: – never a choice, never an option. If I had not carried out this investigation, we would have been accused of a cover-up. One thing, in actual fact, since I have been Minister of Home Affairs is try to be open and transparent.

TRADE AND INDUSTRY

Manx Electricity Authority board Political representative

1.8. The Hon. Member for Onchan (Mr Earnshaw) to ask the Minister for Trade and Industry:

When is the Government going to appoint a political representative to the board of the Manx Electricity Authority?

The Speaker: Question 8, Hon Member for Onchan, Mr Earnshaw.

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

The Speaker: I call on Hon Member for Douglas West, Mr Downie, Minister for Trade and Industry.

The Minister for Trade and Industry (Mr Downie): Thank you, Mr Speaker.

As Hon. Members will be aware, it is not the responsibility of my Department to appoint the board members for the Statutory Boards of Government. The Electricity Act 1996, under which the constitution of the Manx Electricity Authority is outlined, states in schedule 1 that:

‘The authority shall consist of a Chairman and not less than four and not more than six other members, all of whom shall be appointed by the Council of Ministers, subject to the approval of Tynwald.’

In addition to the Chairman, there are currently four other board members, hence up to two more board member appointments could be made. Before doing so, however, I believe we need to allow the review of the MEA by PKF to run its course, to enable us to take an informed decision. I believe a political appointment to the MEA board is an idea that deserves, and will receive, further consideration.

The Speaker: Member for Onchan, Mr Earnshaw.

Mr Earnshaw: Yes, thank you, Mr Speaker. I would like to thank the Minister for his reply. I am quite

sure he shares my concerns, and the public’s anxiety over this matter and I would ask him if he would take back to the Council of Ministers my concerns and urge them to look at this opportunity as soon as possible, to appoint the political member without further delay.

The Speaker: The Minister for Trade and Industry to reply.

The Minister: I am more than willing to take back the comments of the Hon Member and, as the picture becomes clear and more information is available to us, particularly following the investigation, I am absolutely certain that we will be making further recommendations to Tynwald, which may include the involvement of someone from Tynwald on the MEA board.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder.

Could I ask the Minister for Trade and Industry, who the board members are at the moment, who the Chair is and who the board consists of?

The Speaker: Minister for Trade and Industry to reply.

The Minister: If I may, Mr Speaker, I will give Members the information about the constitution of the board, and then I will give a list of the members, so that everybody is quite clear how the board is set up and who the members are.

The members of the board are appointed under the Electricity Act 1996 under schedule 1 which says that, in section 1(2),

‘the authority shall consist of a Chairman and not less than four and not more than six other members, all of whom shall be appointed by the Council of Ministers, subject to the approval of Tynwald’.

In (1), substituted by the Gas and Electricity Act 2003:

‘in appointing members of the authority, the Council of Ministers shall secure, that so far as practical, members of the authority include one or more persons having substantial experience in the generation and distribution of electricity, and one or more persons having substantial financial experience.’

The current board members: the Chairman is Mr John McCallion, and then we have Mr John Taylor, Mr Charles Fargher, Mr Trevor Ferrer and Mr Terry Mackay.

The Speaker: Hon Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that it would be amazing to people outside this House, as to me, as a former Chairman of a Statutory Board, namely the Water Authority, how he now declares that it is nothing to do with him, but it is to do with the Council of Ministers? Would he not agree that the fact is that his Department has lead responsibility for the MEA, just on the same lines as the Water Authority had and that he is in the lead, as far as that issue is concerned?

Can he give this Hon House a timescale for this issue to be raised in the Council of Ministers, so that it can be reported back to this House about the appointment of a political member, if not the political Chairman of the MEA

and would he, maybe, like to reflect on the issues that have been raised by this Hon Member, of the importance of having a political member on Statutory Boards to bring some dimension of where they are supposed to serve the people and not serve themselves.

The Speaker: Minister for Trade and Industry to reply.

The Minister: Thank you, Mr Speaker.

In dealing with the first part of the Hon Member's Question, the DTI is not, and has never been, the supervisor or watchdog over the MEA.

Mr Karran: You have got lead responsibility under legislation.

The Minister: The Authority has its own functions and powers granted by statute and the DTI cannot impinge on the way in which the Authority carries out these functions, provided that the MEA does not act in breach of the law.

The Department is not the regulator in respect of the MEA. Indeed, this has been recognised recently in Tynwald, following a resolution to bring forward legislation to establish an energy regulator.

The DTI does, however, have certain limited powers with regard to safety and supply. These include, under section 7 of the Electricity Act, regulations which deal with securing that supplies of electricity are regular and efficient, for public protection from electricity cables and stations, eliminating or reducing the risk of personal injury or damage to property. Therefore, we have no direct control, as the Hon. Member is intimating today.

As far as dealing with the matter about putting a Tynwald Member on the board, I have no problem with that. In fact, personally, I would welcome that and I can give the Hon. Member for Onchan an assurance that this matter will be raised at the Council of Ministers meeting on Thursday and full consideration will be given to the possibility.

The Speaker: Hon Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Minister just clarify the question? The question is to do with the appointment as to the board of the MEA. His Department has lead responsibility, as far as the Council of Ministers is concerned.

The Speaker: Minister for Trade and Industry to reply.

The Minister: I think, Mr Speaker, discussions take place with the Department of Trade and Industry regarding the make-up of board members. I have never been involved with the appointment of any member to the board of the MEA. The only involvement I have had recently, is a replacement member for the Water Authority.

To put the matter quite clearly, the appointment of these members does rest with the Council of Ministers, but ultimately, the authority rests with Tynwald Court and if Tynwald Court or Members of Tynwald Court are not happy with the appointment of certain members to any of the four Statutory Boards that we have dealings with, there is a very good mechanism (*Interjection by Mr Karran*) of making their views known at that particular time. In fact, I do not think it would be impossible for a Member to come

and speak to the Chief Minister, should he have concern about a person's name who had been nominated to serve on a Statutory Board.

The Speaker: That concludes Questions for Oral Answers, Hon Members. We have a Question for Written Answer at Item 2 on the Order Paper, and that Question will be circulated in due course.

Question for Written Answer

CHIEF MINISTER

Government training procedures Appointment of locally trained candidates

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

Following the inability of the Manx police force to find a suitably qualified internal candidate for its Deputy Chief Constable post, will you explain –

(a) what procedures your Government has in place for progressing planning to a senior level;

(b) are you satisfied that such procedures are adequate;

(c) will you urgently introduce procedures and training programmes to ensure that more senior posts will be filled by locally trained candidates; and

(d) do you recognise the frustration and irritation felt by people working for Government when such outside appointments are made?

Answer: In responding to the Hon. Member's Question, it might help to set it in the context of those Government employs. Government is extremely diverse and has a range of senior posts – some are leadership and management roles with broad responsibilities, while others lead and manage within much narrower professional or specialist areas of operations.

Government's employee development policy covers all staff and, within that, there is a shared commitment to employee development, non-discrimination and equal opportunities. Employee development is not just about attendance on training courses: a wide range of activities is encouraged to help and prepare individuals to take on higher roles. It must be remembered, also, that employee development is a shared responsibility between the employer and the individual employee. Providing the opportunity for training, resources and personal development is the responsibility of the employer. Individuals must be responsible for ownership of their own career development, coupled with a desire to learn and develop. Without this commitment, their full potential will not be realised.

In support of Government policy, there are performance management systems which help to identify skill gaps in current and future roles, linking into the delivery and improvement of public services.

Because of the diversity across Government, there is no one solution which fits all. However, the Civil Service

Commission is proactive at looking at how it can manage and develop those at senior levels to ensure a pool of leaders who might be the leaders of tomorrow.

A number of Departments are similarly looking at their own specialist areas. All of this accords with the principles of developing people, with the right skills, to do the right things in the right way. Appropriate procedures are in place, but all of this requires resources and these have to be prioritised and carefully balanced with the delivery of public services.

Government already has in place a full range of management development programmes from supervisory level to executive level. These are provided centrally through the Personnel Office, which also has an extensive programme in support of employee development across the whole spectrum of management and leadership skills, best practice, et cetera. Secondments into and out of the organisation also support development and are becoming more common.

It is recognised that people working for Government can feel frustration, irritation and even disappointment when outside appointments are made. Whether that is because they themselves have been unsuccessful, or just because of their own views, can also have a bearing. But there are also those who recognise that bringing in new blood can re-energise an organisation and help it to grow and develop in an ever changing world.

Order of the Day

BILL FOR CONSIDERATION OF CLAUSES

Tribunals Bill

Clauses considered

3.1. Mr Houghton to move.

The Speaker: Hon. Members, we now move on to Item 3 on the Order Paper, Bill for Consideration of Clauses and we have the Tribunals Bill in the name of the Hon. Member for Douglas North, Mr Houghton.

Hon. Member, I invite you to take clause 1, sir, and schedule 1.

Mr Houghton: Thank you, Mr Speaker.

As I explained to the House at the Second Reading, the Council of Ministers has proposed this Bill to ensure that Manx tribunals are constituted in compliance with the European Convention on Human Rights, in particular article 6(1) of the Convention gives all individuals the right to a fair trial. Any proceedings before a tribunal, in which the civil rights and obligations of a person are an issue, must fulfil two conditions, if the European Convention on Human Rights is to be complied with.

The first condition is that the court or tribunal must be independent and impartial and the second is that, as a general rule, the hearing and judgment must be in public and be brought within a reasonable time.

Once the Human Rights Act 2001 is brought into force, if these conditions are not fulfilled, the proceedings may be held to be unlawful under section 6 of that Act. The Bill amends the constitution of 19 administrative tribunals to

ensure compliance with article 6 of the Convention.

I will now address each of the clauses in detail.

Mr Speaker, Clause 1(1), sets up an independent Appointments Commission, which will appoint members of the 19 tribunals which are listed in schedule 2. The clause also introduces schedule 1.

Clause 1(2) provides that the Commission will consist of five members appointed by the Council of Ministers, subject to Tynwald approval.

Clause 1(3) ensures that the Commission will be independent of Government, by disqualifying Members of the Legislative Council and the Keys from appointment to, or membership of, the Commission.

Clause 1(4) introduces schedule 1, which makes detailed provision for the constitution, tenure of office, members, and proceedings of the Commission.

Schedule 1, paragraph 1, provides for the members' term of office, which will normally be five years, but the first members will be appointed for one, two, three, four and five years, to ensure that all subsequent regular appointments are staggered. This will limit the power of any future Council of Ministers to pick the Commission with its prepared, preferred nominees. Casual vacancies will be filled for the remainder of the term of the former member, and retiring members will be eligible for reappointment, if otherwise qualified.

Paragraph 2 provides that a member may resign from the Commission by giving written notice of his intention to resign to the Chief Secretary. The Council of Ministers may remove a member from the Commission on grounds of persistent absence for a period longer than 12 consecutive months, bankruptcy, mental or physical incapacity, or inability or unfitness to act. In order to ensure the Commission's independence, the removal of a member by the Council of Ministers is only effective if it is approved by Tynwald.

Paragraph 3 provides for the Commission to elect and remove its own chairman. If the chairman is absent from a meeting of the Commission, the Commission may choose another member to act as chairman. Various standard provisions dealing with the conduct of the Commission's meetings, quorum of members, voting, keeping of minutes and the execution of documents, which are set out in the Statutory Boards Act 1987, will be applied to the Appointments Commission.

Paragraph 4 requires any appointment of a person to a tribunal or the removal of a member from a tribunal by the Commission to be a written document, which is to be filed in the General Registry.

Mr Speaker, I beg to move that clause 1 and schedule 1 stand part of this Bill, sir.

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

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

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

Mr Gill: Thank you, sir.

Can I just ask one general question of the mover? When he talks about the persistent absence of a member over 12 months, could he advise what that 12-month period actually means? Is it 12 consecutive calendar months? Is it a financial year? And, secondly, sir, what would his advice be in considering persistent absence?

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

Mr Houghton: Thank you, Mr Speaker.

It is in regard to 12 consecutive months, sir, starting from the date of his absence, his persistent absence. But, of course, if that is broken at any time, then the clock would start again, sir.

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

Clause 2 and schedule 2, sir.

Mr Houghton: Thank you, Mr Speaker.

Clause 2 specifies the tribunals to which clauses 3 to 7 apply – these are listed in schedule 2 – and makes general provision with respect to tribunal chairmen and members.

Clause 2(1) provides that the rules as to tribunal chairmen and members in clauses 3 to 7 apply to the tribunals listed in schedule 2, unless special provision to the contrary is contained in the enactment by which a particular tribunal is set up. These enactments are all amended by schedule 3 and further amendments can be made by Order, under clause 10(3)(a).

Clause 2(2) enables the Council of Ministers, by Order, to amend schedule 2, so as to add a further body to either part 1 or part 2. Such an Order requires Tynwald approval and may include transitional provisions and consequential amendments and repeals.

Clause 2(3) provides that, where a tribunal has a standing deputy chairman, as well as a chairman, the rules in clauses 3 to 7 about chairmen, for example: qualifications, appointment and removal et cetera, will also apply to the deputy chairman.

Clause 2(4) provides that the proceedings of a tribunal are not invalidated by a defect in the appointment of any member of the tribunal, or of the panel from which a member is drawn.

Clause 2(5) provides that, so long as there is a quorum of members of a tribunal present at a sitting, the fact that there is a vacancy in the members does not affect the validity of the proceedings of the tribunal.

Part 1 of schedule 2 lists the tribunals which consist of a standing chairman and members. For convenience, these tribunals are referred to as ‘part 1 tribunals’ in the Bill.

Part 2 of schedule 2 lists the tribunals, some or all of whose members are drawn from panels, usually two panels: one representing employers and the other workers. In some cases, for example, the Employment Tribunal, the chairman is also drawn from the panel, called a ‘panel chairman’ in the Bill. These tribunals are called ‘part 2 tribunals’ in the Bill.

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

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

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

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

Mr Gill: Thank you, sir.

It was touched on by this mover sir, but I did not get the answer that I specifically sought previously, sir: the definition in this Bill of persistent, in terms of absence. Would the mover now be in a position to advise what that definition is, and if not, would he circulate it to Members in due course?

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

Mr Houghton: Thank you, Mr Speaker.

I am very happy to answer the Hon. Member’s question. It is: persistent – as he would know it, as stated in the dictionary, and as anybody would understand it – is someone who persistently ignores their duties, fails to turn up, fails to let the secretary of that particular tribunal know, and just is completely ignorant of his or her responsibilities, sir.

I beg to move.

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

Clause 3, Hon. Member.

Mr Houghton: Thank you, Mr Speaker.

Clause 3 deals with tribunals which have a standing membership, i.e. not drawn from one or more panels.

Clause 3(1) provides that the members of a part 1 tribunal – one listed in part 1 of schedule 2, those with a standing membership – are to be appointed by the Appointments Commission.

Clause 3(2) requires the chairman to have a legal qualification as a barrister, advocate or solicitor of not less than seven years’ standing. i.e. he must have been called or admitted to the Bar at least seven years ago.

Clause 3(3) disqualifies Members of Tynwald, members of Statutory Boards, civil servants and the staff of Departments and Statutory Boards from membership of a tribunal. Since Government is often a party to proceedings before a tribunal – in the case of some tribunals, it is always a party – all members of the tribunal must be from outside Government, if it is going to be independent and impartial, particularly having regard to the small and relatively close-knit nature of the population of the Island. This is an essential provision, to ensure that the Isle of Man complies with article 6 of the Human Rights Convention.

Clause 3(4) specifies a standard term of office of three years for all tribunal members, subject to retirement or removal under clause 5 below.

Mr Speaker, I beg to move that clause 3 stand part of this Bill, sir.

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

Mrs Cannell: Mr Speaker, I beg to second and, in doing so, sir, the wording of this, there is before Members – or there will be shortly before Members – an amendment to actually clarify this particular clause, better than it is worded in the Bill, but I am happy so to move, sir.

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

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

With special regard to this clause, some quite important concerns were raised with me, some considerable time ago now, with regard to the effects that this clause will have. Certainly, to that end, I have been working closely with the Transport and General Workers' Union, with the Isle of Man Trades Union Congress and, together, we have been in close liaison with the Chief Secretary's Office and, indeed, include close liaison with the Attorney General's Office, with regard to our concerns and how we could move forward with something we saw as more user friendly, but we are still respecting fully article 6 of the Human Rights Convention.

The main bone of contention is with clause 3(3)(b) and (c) and at clause 4(3), which excludes all Government employees from the membership of 18 tribunals/committees and notably from the employment tribunal. That is the one notable effect of this particular clause. The fundamental question is this: why does the Tribunals Bill, in order to comply with the European Convention, need to go to such lengths, when more modest provisions would easily satisfy article 6? It is difficult to see why an employee, say, of the Department of Education should not be eligible, in principle, to sit on an employment or any other tribunal, hearing a case concerning the Department of Tourism and Leisure.

There is another point: why should there be a blanket ban on all Government employees from sitting on tribunals that adjudicate also on cases concerning non-government employees? In what sense would the fairness of their cases be otherwise prejudiced?

If this principle were to be taken to its logical conclusion, therefore, then it should apply to many employers and employees in the private sector, too. For example, why should the owner, or his or her employees, of a business with a trading contract with a Government Department be eligible to sit on a tribunal that would hear a case about a Government employee, or about a competitor? Thus, according to the Bill's reasoning in clauses 3(3) and also 4(3), it could be that virtually everyone in the private sector ought to be disqualified, as well.

So, Vainstyr Loayreyder, surely the remedy lies in provisions being enacted to prevent a conflict of interest from arising in a particular case, rather than a wide-ranging ban and that is precisely the purpose of my following two amendments.

I have to say, and just to stress to Hon. Members, that we have been in liaison with the Attorney General's Office and the Chief Secretary's Office and ultimately with the Council of Ministers to get this right. Notwithstanding all of that, the proposal before you today, Hon. Members, has also been assessed, at the Council of Ministers' request, by Mr David Anderson QC, who is an expert in European legislation and legal opinion has come back from Chambers – from Mr Anderson – to state that our proposals are, in fact, article 6, EU-compliant.

The effect of what I am proposing is quite simple and also we must understand that there are a certain number of public service employees at the minute, who have given great service (**Mr Karran:** Hear, hear.) to the various tribunals, much of their own time volunteered into this work. No doubt, in the future, other public service sector employees will be giving their own time, as well, to the input to these tribunals and ultimately service to the community.

The other very important point is that, if we close the door, as the current clause is suggesting, on exclusion of all public-service sector employees and the possibility of knock-

on effects to the private sector, then the pool of appointees to these tribunals obviously will drastically reduce and trying to find interested parties for committee or tribunal selection then will become a major logistical headache for those trying to form these committees and tribunals.

Therefore, my first amendment to clause 3 is, basically, to rearrange the wording of clause 3 and just make mention at (a), (b), (c), Member of Council, Member of Keys, member of Statutory Board, and drop off 'member of the Isle of Man Civil Service', and drop off 'an officer or employee of a Department.' Thereby, that would mean, then, that public sector service employees could actually be picked for tribunals.

Now, having said that, clause 4 is closely linked to clause 3, but, by constructing my amendment in this fashion, by just, basically, deleting (b) and (c), that would make the clauses run technically together without any problem or causing any further drafting problems, should this amendment be successful.

I do also have to say that, in moving this particular amendment, I am quite conscious that we still have the conflict of interest issues to be resolved and I am proposing, at a later point, following this clause, that I move, in principle, a new clause, which will help to address the conflict of interests issues that my hon. colleague, who is moving this Bill, has mentioned. At that point, I will be able to explain to Members how that is addressed, and how it links into the Bill and, obviously, makes it Human Rights compliant.

So, without further ado, Vainstyr Loayreyder, I beg to move the amendment in my name:

Clause 3

Page 2, lines 33 to 36: For paragraphs (a) to (c) of subsection (3) substitute –

'(a) a Member of the Council;

(b) a Member of the Keys;

(c) a member of a Statutory Board.'

The Speaker: Hon. Member for Rushen, Mr Gill

Mr Gill: Thank you, sir. I am pleased to second, and reserve my remarks.

The Speaker: Hon. Members, can I just clarify that the hon. mover of the amendment did, in fact, quote from subparagraph (c), which said, 'an officer or employee of a Department'. In fact, it is deleting, as well as that: 'or Statutory Board'.

Mr Henderson: 'Or Statutory Board'. That is correct, Vainstyr Loayreyder.

The Speaker: Just to clarify it. The Hon. Member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker.

I rise to support the amendment and, indeed, support the whole Bill, and I am pleased that, in fact, the Attorney General's Chambers has shifted its position, quite dramatically, in relation to its original stance in relation to a number of these amendments.

The mover of this amendment has made reference to Mr Anderson QC, and his advice, which, I think, has been sought on two occasions now –

Mr Henderson: That is correct.

Mr Corkill: – to put alongside the original advice that the Attorney General’s Chambers put forward.

So I, really, in supporting this amendment, would also feel comforted if the mover of the Bill would confirm to the House that the Attorney General has changed his mind in relation to a number of these proposed amendments on the Order Paper today, in the light of Government requesting a second opinion from Mr Anderson, because I think it is unfortunate that there has been this hiatus, this difference of legal opinion, offered to Government.

I think it is unfortunate that that has delayed the progress of this Bill for so many months now, and, of course, indirectly, that has delayed progress in relation to the signing of the Human Rights legislation, although there is another piece of legislation required before that can be done.

So, I am content to support all of these amendments on the Order Paper today, but I would seek the comfort of the mover of the Bill that the officers within the Attorney General’s Chambers have shifted their position 360 degrees on this matter.

A Member: *Three hundred and sixty?*

The Speaker: Hon. Member for Douglas North, Mr Henderson, do you wish to reply to the amendment, sir?

Mr Henderson: Thank you, Vainstyr Loayreyder.

Only to say, perhaps I can provide the comfort that the Hon. Member for Onchan, Mr Corkill, is seeking, inasmuch that, indeed, the legal section of the Isle of Man Trades Union Council and myself, when we made our representations to the Council of Ministers and the Attorney General’s, and, ultimately, two legal opinions from David Anderson, now the Attorney General’s Chambers are entirely happy with the amendment, and it also has the endorsement of the Council of Ministers.

Thank you.

The Speaker: Hon. Member for Douglas North, Mr Houghton, do you wish to reply to the debate, sir?

Mr Houghton: Thank you, Mr Speaker.

I thank the Hon. Member, Mrs Cannell, for seconding this clause and her helpful comments towards that.

Mr Henderson has given an excellent explanation as to why this clause, in front of us for consideration now, requires amendment. I do, wholeheartedly, support it and, in so doing, also, I congratulate him for pursuing this matter, both before he was a Minister and through the Council of Ministers, as, indeed, he has.

Also, moving on to the Hon. Member, Mr Corkill, during the time he was Chief Minister he had the wherewithal at the time, and I must congratulate him on that, to see that there was something materially wrong with the Bill, as it was actually written, and it did require such an amendment.

I do have to say that Mr Murcott is to be congratulated for the assistance he gave, in the early days, to Mr Henderson for moving this forward.

Now, Mr Corkill has mentioned the fact that, of course, we had taken advice, needless to say, by the Attorney General’s drafting department and, in the early days, we pursued this matter, both myself and Mr Henderson, in order for myself, as the mover, to be quite clear in my mind that, although we must stick with all the responsibilities that article

6 provides, we needed to see and seek appropriate superior professional advice – is the way that I would put it – from a very experienced professional in this area, and that is one Mr David Anderson QC.

In the end, after a number of toing and froing from Mr Anderson, he came back with a very clear opinion, allowing the subsequent amendments that Mr Henderson wishes to bring forward, and that is what happened.

Now that, of course, was traded back to the Attorney General’s Office, through the officers of the Chief Minister’s Office, the Chief Secretary’s Office, and, needless to say, then that gained support from them. That was the undertaking and the course of events that took in that.

So, I am very pleased, and I would ask this Hon. House to support the Hon. Member’s amendment, so it can be linked with this clause, sir.

I beg to move.

The Speaker: Hon. Members, the motion before the House is that clause 3 do stand part of the Bill. To that we have an amendment standing in the name of the Hon. Member, Mr Henderson. All those in favour of the amendment, say aye; against no. The ayes have it. The ayes have it.

I now put clause 3, as amended. All those in favour, say aye; against no. The ayes have it. The ayes have it.

Hon. Member for Douglas North, Mr Houghton, clause 4, sir.

Mr Houghton: Thank you, Mr Speaker.

Clause 4 deals with tribunals whose members are drawn wholly, or in part, from a panel or panels. It provides that all the panel members and any standing members of the tribunal shall be appointed by the Appointments Commission, and requires the chairman, or each of the panel of chairmen, to have a legal qualification. It disqualifies anyone currently connected with Government from membership, and specifies a standard term of office of three years.

Subclause (1) provides that a standing chairman of a ‘part 2 tribunal’ – that is, one listed in part 2 of schedule 2, whose members are drawn from a panel or panels – and all the members of a panel are to be appointed by the Appointments Commission, and are to have a standard term of office of three years.

Subclause (2) requires a standing chairman and any member of a panel from which the chairman is drawn to have a legal qualification. As indicated in relation to clause 3(2), the chairman must be a barrister, advocate, or solicitor, of not less than seven years’ standing.

Subclause (3) disqualifies the same persons as are listed in clause 2(3) above, Members of Tynwald, members of Statutory Boards, civil servants and the staff of Departments and Statutory Boards from chairmanship of the tribunal, and from membership of a panel.

Mr Speaker, I beg to move that clause 4 stand part of this Bill.

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

Mrs Cannell: Mr Speaker, I am happy to second, and reserve my remarks.

The Speaker: Hon. Members, the motion before the House is that clause 4 do stand part of the Bill. All those

in favour, say aye; against no. The ayes have it. The ayes have it.

Clause 5, Hon. Member.

Mr Houghton: Mr Speaker, clause 5 provides a standard code under which members of tribunals and panels can resign or be removed by the Appointments Commission on specified grounds. It also enables the Commission to appoint a temporary substitute for a standing member of a tribunal.

Subclause (1) specifies the persons to whom this clause applies: (a) any standing member of a 'part 1 tribunal'; (b) a standing chairman of a 'part 2 tribunal'; (c) a member of a panel from which members, including a chairman, of a 'part 2 tribunal' are drawn.

Subclause (2) enables any such person to resign by giving written notice to the Commission.

Subclause (3) gives the Commission power to remove such a person from office on the following specified grounds: persistent absence from the Island for a period in excess of six months, bankruptcy, medical incapacity, inability or unfitness to act. This provision mirrors the removal powers in respect of the Appointments Commission in paragraph 2 of schedule 1. The removal must be exercised in writing.

Subclause (4) gives the Commission power to appoint a temporary substitute for a standing member of a tribunal who is ill, absent, or otherwise unable to act. Such temporary appointments may be for periods of up to six months at a time, or for specified proceedings – for example, proceedings in which a standing member has a conflict of interest.

Subclause (5) provides that the substitute member is to have the same powers as the real member, for that period or in relation to those proceedings.

Mr Speaker, I beg to move that clause 5 do stand part of this Bill.

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

Mrs Cannell: Mr Speaker, I am happy to second, and reserve my remarks.

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

Mrs Hannan: I wonder if the mover can explain, in relation to removing someone from office: if somebody is absent, obviously, and is not interested, as per some of the other comments that have been made, or is absent for six months, or is bankrupt, that is okay, but it is the incapacity by physical or mental illness which concerns me.

It might not be that somebody is declared mentally ill and unfit, but their behaviour could deteriorate or whatever. Is there any procedure for voicing concerns about someone's activities, or the way that they are acting during a tribunal?

It could be that somebody is concerned about somebody, and they might not be mentally or physically ill, but just acting strangely or bizarrely, or whatever. How would they be removed from a position of quite considerable responsibility, in relation to a post such as this, which carries quite a lot of responsibility?

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

Mr Houghton: Thank you, Mr Speaker.

I acknowledge the issues that the Hon. Member, Mrs Hannan, states here. Obviously, it has to be written in that somebody suffering under what are, I would say, items under the Mental Health Act, would have to be removed and, of course, it would be done in a very careful and caring manner, but that goes without saying.

Someone acting in a bizarre manner who was not mentally ill, possibly – because I am sure that you would appoint seasoned people and experienced people to these panels and tribunals – would probably not be appointed in the first place, if their behaviour was so bizarre, is all I can say.

So, if there is a turn in the way that some person behaves in the time that he is in office on a tribunal, I am quite sure that really, mainly, that would have to lead to one or other issues under the Mental Health Act, so, therefore, we would be covered. Other than that, I think, in cases like this and many others, a great deal of discretion needs to be used in removing people who fall ill of their responsibilities, sir.

I beg to move.

The Speaker: Maybe, just to assist the hon. mover and the House, in fact, if Hon. Members look at clause 5(3)(d), there is a provision there which would enable, in the circumstances that I think the Hon. Member for Peel is describing, for the person to be removed.

Mr Houghton: Yes. Very grateful, sir.

The Speaker: I am sure the hon. mover can confirm that at Third Reading, if necessary. (**Mr Houghton:** Yes.) (*Interjection by Mrs Hannan*)

Hon. Members, the motion before the House is that clause 5 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, we have a new clause on our Order Paper in the name of the Hon. Member for Douglas North, Mr Henderson, which appropriately fits into the Bill at this point and, therefore, I invite the Hon. Member for Douglas North to first move the new clause in principle. If the House agrees to the principle, then, of course, the Hon. Member will be invited to move the clause in detail.

Hon. Member for Douglas North, Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

The need to move a new clause in principle, and I hope the Hon. House can support this: because of the amendments we made to clause 3, basically, and accepted. We removed or deleted 'civil service employees', 'public service sector employees' and so on, then we need to address the balance by that to ensure that the Tribunals Bill is Human Rights compliant, by the insertion of a new clause which will set out various points of how to address the conflicts of interest issues that the Bill is trying to address, but, in a fashion that is more balanced and will respect public service sector employees, as previously stated.

So, it is, basically, to introduce a new element to the Bill that will ensure it is Human Rights compliant, but without the overall wide-ranging ban that was first envisaged in the clause, and something that is more proactive instead.

I beg to move, sir:

New Clause

(It is suggested that the new clause be inserted after clause 5)

'Conflicts of interest or duty.

[]. (1) *Immediately a member of a tribunal becomes aware that he has or will have a material conflict of interest or duty in respect of any proceedings of the tribunal, the member –*

(a) shall declare the nature of his conflict of interest or duty; and

(b) shall not take part in, or any further part in, the case in which the conflict of interest or duty arises.

(2) *If a member of a tribunal has declared the nature of his conflict of interest or duty as required by subsection (1)(a) and all the parties to the proceedings consent, the member may, notwithstanding subsection (1)(b), take part in those proceedings.*

(3) *Rules under section 6 may –*

(a) provide for the time and manner in which, and the persons to whom, –

(i) members of tribunals shall declare the nature of any conflict of interest or duty;

(ii) members of panels shall declare the nature of any conflict of interest or duty or any potential conflict of interest or

duty; and

(b) specify circumstances in which members of panels and tribunals are to be treated as having a conflict of interest or duty.

(4) *Subsection (3)(b) and rules made under section 6 do not limit the generality of subsection (1).'*

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

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

The Speaker: Hon. Members, I put the new clause, as has been proposed by the Hon. Member for Douglas North, Mr Henderson, in principle. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

I now invite the Hon. Member for Douglas North, Mr Henderson, to put the clause in detail. Hon. Member.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

I thank Hon. Members for supporting my amendment in principle, and, really, at the risk of repeating myself, I would just like to say, to ensure Hon. Members are fully aware, this clause has been assessed by the Attorney General's Chambers. It has been assessed by David Anderson, QC, and it has the approval of the Council of Ministers, as well.

I have to say, also, that, in work hereto, there was liaison with the Chief Secretary's Office and the Council of Ministers, prior to this being progressed, and, as a joint liaison group, working towards a common goal, it has worked most effectively. I am very grateful to the officers who have put the time into this, that of the non-government organisations and those within Government and, certainly, Michael Boyd of the Attorney General's Office, who has taken the time to construct something which I hope Members will find favour with.

Basically, this addresses the issue of conflicts of interest in more detail. I think it is simply laid out and fairly easy to understand, as Members will have cast their eyes down it already, and does not need a great deal of explanation, other than the points that we originally made at the outset of this Bill, that the remedy lies in provisions being enacted to prevent a conflict of interests from arising, rather than a

wide-ranging ban, as sort of an afterthought.

So, this blends nicely into the Act, addresses the Human Rights issues, but in a better and more appropriate manner, recognising the valuable work of public sector service employees and others, and also the fact it increases the pool from which tribunals and committees can be drawn.

So, without further ado, Vainstyr Loayreyder, I beg to move.

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

Mr Gill: Thank you, sir. I beg to second and reserve my remarks.

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

Mr Houghton: Thank you, Mr Speaker.

Needless to say, this is a clause that I am not handling at all, so all I am doing is adding my full support to this clause, sir, and hope that it is successfully moved, and becomes part of the Bill, sir. (A Member: Hear, hear.) Thank you.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder.

I wonder, could I ask the mover of this amendment and, maybe, the Bill – it might be in the Bill, but I am not aware of it – whether members of any of the tribunals have to declare their interest prior to this. This new clause says:

'Immediately a member of a tribunal becomes aware that he has or will have a material conflict of interest or duty in respect of the proceedings of the tribunal, the member – (a) shall declare...'

Now, do all of the members of any tribunal have to register their interests? Do they have to state, when they are appointed to a tribunal, what any conflict might be in relation to... say, someone is serving on the Department of Health, maybe as a nurse or something like that, would they have to declare that? Would they also have to declare that, maybe, they have a family member who works in another Department? Would they have to declare that they have an interest in, maybe, a local society, where they might know other people? Would that form part of it, as well as, maybe, business interests and the other interests that I have mentioned – family and social?

It would seem that it is being left up to the member of the tribunal to decide whether there is a conflict or not, and I would have thought that Members of this Hon. House and another place, we have to record a register of interests, and I would have thought that something like this – where it is left to individuals at each time that they have to declare – maybe along with that, a register of interests – but, maybe, the mover can clarify that situation.

The Speaker: Mr Henderson to reply to the debate.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

The simple answer to the Hon. Member for Peel's Question is yes. 'Immediately' is immediately, and if it is prior to entering onto a tribunal or panel, yes, that particular person would. Also, on appointment, obviously, the code of conduct and the issues within the Tribunals Bill would

be made known to them, anyway, and they would be very aware of the situation and the nature in which they should conduct themselves.

Having said that, this is the whole point of the amendment because, originally, it was a blanket ban on just about everybody, whereas this now allows, in cases, a wider pool for tribunals and committees to be drawn on, but, following a special code of conduct, basically, that is laid down in legislation, that that committee, panel, or tribunal will be well aware of, and any new members on it will be made aware of.

The instant that they know of any particular conflict, then they have to declare it, and it will be assessed as to whether they should stay, on consent of all parties, or leave that particular situation, and declare an interest and leave and some other member will then have to be picked.

Having said that, Vainstyr Loayreyder, you are always going to find an issue where a conflict of interest may arise, even with the most stringent of regulations imposed. There is always the unexpected or outside chance of something happening, and I think you can also make regulation down to the finest detail and just take it too far, really.

So, this is a middle of the road, balanced situation that is, as I say, Human Rights compliant. It has the stamp of approval from a QC, the Attorney General's Chambers and, obviously, my hon. colleague who is moving the Bill, sir.

I beg to move.

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

The Speaker: Hon. Member for Douglas North, Mr Houghton, can I invite you to take clauses 6 and 7 together, sir.

Mr Houghton: Thank you, Mr Speaker.

Clause 6 deals with rules of procedure for any tribunal.

Subclause (1) enables the Council of Ministers to make rules of procedure for any tribunal listed in schedule 2. The Council must consult the Deemsters on any rules before they are made. The rules must be approved by Tynwald and can make transitional provisions and consequential amendments and repeals.

Subclause (2) sets out specific matters with which the rules can deal. These relate to requiring the tribunal to hear the matter within a reasonable time period; the production of proof, witnesses and evidence; conducting proceedings without a party or without a hearing; prescribing the quorum of the tribunal; the awarding of costs; registration of decisions and the publication of reports; and the enforcement of the tribunals summonses and orders by the High Court.

Subclause (3) requires the rules to provide for the tribunal to sit in public, except in cases involving national security or where the tribunal decides to sit in private – but note article 6 of the European Convention on Human Rights: the grounds on which a tribunal can sit in private are to be noted, sir.

For example, it might be appropriate for the Income Tax Commissioners to sit in private, where sensitive financial and taxation information were being discussed.

Mr Speaker, clause 7 empowers the Council of Ministers to make regulations dealing with two important matters affecting tribunals. Firstly, their staffing and secondly, in the case of part 2 tribunals, the selection of members from a panel to deal with particular cases. The regulations require Tynwald approval and can make transitional provisions and consequential amendment and repeals.

Mr Speaker, to be helpful, at present, the administration of tribunals is split among the various Departments, officers and Statutory Boards, under whose auspices the tribunals operate. This is inconsistent and inefficient, and also encourages the impression that some tribunals are not independent and impartial, but merely offshoots of the Department on whom they are supposed to sit in judgement.

It is envisaged that, in future, a unified and independent tribunal service will be set up, probably as part of the General Registry, to improve consistency and efficiency and to ensure independence.

Mr Speaker, I beg to move that clauses 6 and 7 stand part of this Bill, sir.

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

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

The Speaker: Hon. Members, the motion before the House is that clauses 6 and 7 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

The Speaker: Clauses 8 and 9, Hon. Member.

Mr Houghton: Thank you, Mr Speaker.

There are four tribunals which do not have an official name, being merely referred to as 'a tribunal' or 'the tribunal' in the Acts under which they are constituted. Clause 8 renames these tribunals as: the Tourist Premises Appeal Tribunal; the Work Permit Appeal Tribunal; a Social Security Appeal Tribunal; and the Residence Act Tribunal.

Clause 9, Mr Speaker, gives the Treasury power to pay for the training of members of tribunals and panel members, and also to pay allowances to members who attend training courses. This power will be particularly necessary in the short term, because of the need to make all tribunal members aware of the Human Rights implications of their work, but will also be useful to enable members to keep up with developments in the relevant law.

The Payment of Members' Expenses Act 1989 is not appropriate for this purpose, as it does not cover the cost of training, allowances are only payable on a sessional basis, which is inappropriate for residential training courses, and the Treasury is given no discretion as to eligibility for amounts.

Subclause (1), Mr Speaker, specifies the persons to which the clause applies: standing members of tribunals and members of panels from which members of part 2 tribunals are drawn.

Subclause (2) gives the Treasury power to pay the cost of approved training sessions for such persons, and to pay allowances for such persons attending training sessions.

So, therefore, Mr Speaker, I beg to move that clauses 8 and 9 stand part of this Bill, sir.

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

Mrs Cannell: Thank you, Mr Speaker.

I am happy to second, and would also draw Members' attention to clause 9, in respect of the training, that (2)(a) does give the Treasury the power to defray the whole or part of the cost of attendance, and also of a course. So, it does, in fact, give Treasury quite a considerable amount of discretion, which is a good thing in terms of training people up to be represented on such very important tribunals, having to be fully aware and fully au fait with Human Rights legislation; happy to second.

The Speaker: Hon. Members, the motion before the House is that clauses 8 and 9 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

The Speaker: Clause 10, Hon. Member for Douglas North, Mr Houghton.

Mr Houghton: Thanks, Mr Speaker.

Clause 10 deals with the subordinate legislation to be made under this Bill.

Subclause (1) specifies the legislation to which the clause applies: Orders under clause 2(2) add a tribunal to schedule 2; procedural rules for tribunals under clause 6; and regulations providing for the staffing of tribunals and the selection of members from panels under clause 7.

Subclause (2) requires Tynwald to approve to the subordinate legislation made under the Bill before it can come into operation.

Subclause (3) enables such legislation to amend or repeal any previous legislation, both primary or subordinate, which is inconsistent with it. For example, where an Order adds a tribunal to schedule 2, the enactment under which that tribunal is set up would be amended, so that its members will, in future, be appointed by the Appointments Commission; also, to make consequential, transitional and supplemental provisions, for example, where new procedural rules are made for a tribunal, any pending cases would be dealt with under the previous rule.

So, therefore, Mr Speaker, I beg to move that clause 10 stand part of this Bill, sir.

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

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

The Speaker: Hon. Member for Douglas North, Mr Henderson: move an amendment, sir.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

This particular amendment to clause 10 addresses some further concerns that I have had, and others. Basically, this particular clause concerns what lawyers call a 'Henry V, Henry VIII clause' and, certainly, clause 10 gives the Council of Ministers delegated powers to:

'amend or repeal any statutory provision, other than this Act, appealing to the Council of Ministers to be inconsistent with or to be unnecessary or to require modification in consequence'

et cetera. Moreover clause 10(3)(a) is somewhat vaguely worded and has a potentially wide and an uncertain application.

It is true that any legislation to amend or repeal an Act of Tynwald has to be laid before Tynwald, but the objection to this type of provision is that delegated legislation does not receive the same degree of scrutiny or publicity as does primary legislation. Anyone looking at any Tynwald Order Paper will already find a large number of pieces of delegated legislation and it makes it difficult to reasonably research or appreciate the significance of all of them.

So, therefore, my amendment proposes to omit part (a) from this particular clause. It does not interrupt the flow of the Bill, addresses the concerns, but leaves some balance in it, Vainstyr Loayreyder.

I beg to move, sir.

Page 6, lines 21 to 26:

omit from '- (a)' to 'and (b)'.

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

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

The Speaker: Hon. Member, Mr Houghton, do you wish to reply to the clause, sir?

Mr Houghton: Thank you, Mr Speaker.

Very happy to support Mr Henderson's amendment as part of previous explanatory reasons given.

The Speaker: Hon. Members, the motion before the House is that clause 10 do stand part of the Bill and to that we have an amendment in the name of the Hon. Member for Douglas North, Mr Henderson. All those in favour of the amendment, say aye; against no. The ayes have it. The ayes have it.

I now put clause 10, as amended. All those in favour say aye; all those against say no. The ayes have it. The ayes have it.

Hon. Member, Mr Houghton, clause 11 and schedule 3.

Mr Houghton: Thank you, Mr Speaker.

This clause introduces schedule 3, which amends the Act under which the tribunals listed in schedule 2 are set up, so that their members will, in future, be appointed by the Appointments Commission. It also makes further amendments to comply with the European Convention on Human Rights. Transitional provision is made for existing members of tribunals to remain in office for up to 12 months after commencement.

Clause 11(1) introduces schedule 3, which amends the constituent Acts of the tribunals listed in schedule 2 so that their members will, in future, be appointed by the Appointments Commission and hold office under clauses 3 to 5.

Clause 11(2) provides that members of tribunals and members of panels in office when the Act is brought into force shall remain in office until the day fixed under clause 11(3) below. There are also transitional arrangements under clause 11(4) below, in relation to pending cases before a tribunal.

Clause 11(3) specifies the date when a member of an existing tribunal will go out of office. It is whichever of these

dates is the first to occur. Firstly, when the first member of the relevant tribunal or panel is appointed under clause 3 or clause 4, or, secondly, 12 months after the commencement date of the Bill, or, thirdly, the date when the member's term of office would have expired, notwithstanding any requirements of this Bill: finally, the date of resignation or removal, if he resigns or is removed.

In respect of review committees, a panel will need to be replaced whenever the first appointment falls to be made under the Bill and, at the latest, within 12 months after the commencement date. In order to ensure compliance with article 6 of the Human Rights Convention, it is important that existing tribunals are reselected at the earliest opportunity. This, of course, would not debar existing members from being reselected by the Appointments Commission, but the reconstituted tribunals need to be seen to be sufficiently independent from the executive for compliance with the Convention requirements.

Clause 11(4) provides transitional arrangements, where a hearing has begun on the date fixed under clause 11(3) above, for the termination of the term of office of existing members. Those members hearing the case will remain in office for the purpose of completing the hearing and deciding that case.

Schedule 3 amends the Acts under which the tribunals listed in schedule 2 are set up, so that their members will, in future, be appointed by the Appointments Commission. It also makes further amendments to comply with the Human Rights Convention.

Mr Speaker, there are 22 amendments set out here, to these items in the schedule, and, for the sake of *Hansard*, I would like to comment on each of them briefly, but I would ask for the indulgence of Hon. Members so I may do so, for the sake of *Hansard*, sir. Now, number 1 -

The Speaker: Hon. Member, just to clarify. You are wishing to comment on the amendments to be made?

Mr Houghton: Yes. The amendments to all of these Acts that are set out in the schedule, sir, and for the sake of *Hansard*, I wish to make comments on each of these which are amended in the schedule, to various Acts that these tribunals each relate to.

The Speaker: Not the amendments that stand in the name of the Hon. Member for Douglas North.

Mr Houghton: No sir, not any amendments that may be moved on the floor this morning.

So I turn to number 1, Riding Establishments (Inspection) Act 1968: section 5(1) is amended so that the Riding Establishments Appeal Tribunal is appointed in accordance with this Bill.

Item 2, Income Tax Act 1970: section 88 is amended to the effect that the Income Tax Commissioners will be appointed under the Tribunals Bill and consist of a chairman and four other Commissioners. It is considered that it is no longer appropriate for the chairman to be a Deemster. Officers serving in the Income Tax Office are debarred from membership of the Commission. Before taking up their duties each Commissioner has to make a declaration on statutory form before a Deemster.

Item 3, Tourist Act 1975: sections 15 and 21 are amended to rename the tribunal the 'Tourist Premises Appeal

Tribunal'.

Schedule 2 is amended to provide that the Tourist Premises Appeal Tribunal is appointed in accordance with the Bill and will consist of a chairman and four other members, two of whom will be representatives of the tourist industry.

Item 4, Employment Agencies Act 1975: section 12(1) is amended to rename the tribunal, the 'Work Permit Appeal Tribunal'.

Item 5, Control of Employment Act 1975: subsections 5(5) and 5(5A) are amended to provide that a person aggrieved by a decision relating to a work permit may appeal to the renamed Work Permit Appeal Tribunal.

The Work Permit Appeal Tribunal is reconstituted to consist of (a) a chairman, appointed in accordance with the Tribunals Bill, (b) one member drawn from a panel, appointed in accordance with the regulations representing employers and self-employed persons, and (c) one member drawn from a panel appointed in accordance with the regulations representing employees.

Item 6, Control of Employment (Amendment) Act 1978: consequential repeal of paragraphs (a) and (b) in section 2, which amended 5(5) of the Control of Employment Act 1975.

Item 7, Rent and Rating Appeals Act 1986: section 1 is amended to provide that the Isle of Man Rent and Rating Appeals Commissioners are appointed by the Appointments Commission under the Tribunals Bill. Subsections (3), (4) and (5) are made redundant by provisions in the Tribunals Bill.

Item 8, Copyright Act 1991: section 142 is amended so that the Isle of Man Copyright Tribunal is appointed by the Appointments Commission under the Tribunals Bill. Sections 142(3) and 143 are omitted as redundant, being replaced by provisions in the Tribunals Bill.

Item 9, Investment Business Act 1991: section 15(5) is amended to provide that the members of the Review Committee are appointed under the Tribunals Act.

Item 10, Employment Act 1991: paragraph 1 of schedule 4 is amended to provide that the three panels from which the chairman and members of the Employment Tribunal are selected, are all appointed by the Appointments Commission in accordance with the Tribunals Bill.

Paragraph 2 of schedule 4 is amended to provide that Tribunal membership is appointed by the Chief Secretary from the panels. This is an interim measure to balance administrative convenience against the need for patent independence and impartiality in the selection of Tribunal members.

Item 11, Value Added Tax Act 1996: paragraph 5 of schedule 13 is amended to provide that the panel of Tribunal members are appointed in accordance with the Tribunals Bill, after consultation with the President of the VAT and Duties Tribunals. The President is also the Chairman of the Isle of Man Tribunal. Existing rules of procedure could be replaced by rules under clause 6 of the Tribunals Bill.

In items 12, 13, and 14, which is the Mental Health Act 1998: sections 80 and 81, which deal with the discharge of a patient by the Tribunal, are amended to take into account a decision in 2001 by the English High Court, which declared that the corresponding United Kingdom provisions were incompatible with article 5 of the Human Rights Convention – right to liberty – because they imposed a burden of proof on the patient to show that he ought not to be detained. The amendments are based on a remedial order, which amends

the UK 1983 Act to reverse the burden of proof.

Paragraph 3, schedule 3, is amended to provide that the Mental Health Tribunal consists of (a) the High Bailiff as Chairman, (b) two persons of seven years' legal standing, (c) three persons who are medically qualified, and (d) three persons suitably experienced in administration and social services. The members of the Tribunal, other than the High Bailiff, are appointed by the Appointments Commission under the Tribunals Bill.

Item 15, Banking Act 1998: section 24(5) is amended to provide that the Review Committee shall be drawn from a panel appointed by the Appointments Commission in accordance with the Tribunals Bill.

Item 16, Health and Safety at Work Order 1998, which applies UK Health and Safety at Work, etc. Act 1974 with modifications: section 10 of the schedule is amended to provide that the Health and Safety Tribunal shall consist of a chairman appointed by the Appointments Commission in accordance with the Tribunals Bill, and two other members, each appointed by the Chief Secretary respectively from the two panels under the Employment Act 1991.

Item 17, Corporate Service Providers Act 2000: section 18(5) is amended to provide that the members of the Review Committee are drawn from a panel appointed by the Appointments Commission in accordance with the Tribunals Bill.

Item 18, Retirement Benefits Schemes Act 2000: section 38(5) is amended to provide that the members of the Review Committee are drawn from a panel appointed by the Appointments Commission in accordance with the Tribunals Bill.

Item 19, Social Security Act 1998 (Application) Order 2000, which applies the UK Social Security Act 1998: a new section 4 is substituted in the schedule which transfers functions of the Social Security Appeal Tribunals and Disability Appeal Tribunals constituted under part II of the Administration Act to Social Security Appeal Tribunals, newly constituted under the Tribunals Act.

A new section 5 is substituted in the schedule to provide that the chairmen of the appeals tribunals shall be appointed by the Appointments Commission, in accordance with the Tribunals Bill.

A new section 6 is substituted in the schedule to provide for the appointment, by the Appointments Commission under the Tribunals Bill, of a panel of potential members of the appeals tribunals.

Item 20, Residence Act 2001: section 5 is amended to (a) refer to the unnamed tribunal by the title 'Residence Act Tribunal', (b) provide that the Residence Act Tribunal is appointed by the Appointments Commission under the Tribunals Bill, (c) omit subsection 5(8) to (12) as redundant, being replaced by provisions under the Tribunals Bill.

I have two further ones to read out, Mr Speaker.

Item 21, Education Act 2001: section 44 is amended to provide that the Independent Schools Tribunal shall consist of a chairman and two other persons appointed by the Appointments Commission under the Tribunals Bill. Serving teachers in provided, maintained, or special schools are disqualified from being appointed to the Tribunal. schedule 6 is made redundant by provisions in the Bill and is, therefore, omitted.

Item 22, Data Protection Act 2002, section 4 is amended to provide that the Isle of Man Data Protection Tribunal is appointed by the Appointments Commission under the

Tribunals Bill.

Subsection 4(5) and paragraph 6 of schedule 5 are omitted as redundant, being replaced by provisions in this Bill.

Mr Speaker, I beg to move that clause 11 and schedule 3 stand part of this Bill.

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

Mrs Cannell: Mr Speaker, I am happy to second and reserve my remarks.

The Speaker: Hon. Member for Douglas North, Mr Henderson. Move your amendment, sir.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

I wish to move an amendment to this particular clause and, certainly, with it, amending section 88 of the Income Tax Act 1970, to provide that the Income Tax Commissioners are appointed by the Appointments Commission under the Tribunals Bill.

The first part of the amendment increases the number of Income Tax Commissioners to eight members, the current membership being a Deemster as chairman and four other members. This amendment has been drawn up following consultation with the Treasury and the Income Tax Division, subsequent to the Bill being printed.

The Treasury has had concerns over the number of Income Tax Commissioners available to hear appeals, whether for ease of scheduling of meetings, or because of a declaration of interest in a particular case. For that reason, it is proposed that the number of Commissioners, excluding the chairman, be increased to eight.

The Tax Office envisages that some complex technical appeal hearings may merit the appointment, on a case-by-case basis, of a Commissioner with the standing of an expert witness. It is not envisaged that, to provide for such an appointment, should give rise to any conflict with the Bill's provisions.

The Income Tax Act 1970 currently provides that:

'no person who is an officer or has been an officer of any Government Department in the Isle of Man or in the United Kingdom dealing with income tax shall be eligible as an appointed commissioner.'

The second part of the amendment provides that this restriction on officers – in a similar way to my earlier amendments, with regard to public service sector employees – of the Income Tax Office serving on the Income Tax Commissioners will now only apply to serving officers, and those who have ceased to be so employed for a period of not less than three years. This change will remove the criticism that the restriction on former officers of the Tax Department may be depriving the panel of Commissioners of well-qualified candidates, whose impartiality would not be in any doubt.

I beg to move, sir:

Clause 11 and Schedule 3

Page 11: In paragraph 2 –

(a) in sub-paragraph (a), in the new subsection (2), for 'four' substitute 'eight';

(b) in sub-paragraph (a), for the new subsection (3) substitute –

'(3) No person who is an officer; or in the preceding 3 years has been an officer, of any Department dealing with income tax shall be eligible to be a member of the Commissioners.'

Page 17: after paragraph 22 insert –

'The Inquiries (Evidence) Act 2003'

23. After section 5 insert –

"Rules of procedure.

5A. (1) The Deemsters may by rules make such provision as appears to them to be necessary or expedient in respect of the conduct of proceedings before an inquiry to which this Act applies ("inquiry").

(2) Without limiting the Deemsters' powers under subsection (1), the Deemsters may make rules regulating or providing for–

(a) the practice and procedure to be followed on, or in connection with the hearing or consideration of any matter by an

inquiry (including, where applicable, the mode and burden of proof and the admissibility of evidence);

(b) any matters preliminary or incidental to, or arising out of, the hearing or consideration of any matter by an inquiry;

(c) the forms of hearing or consideration to be adopted by an inquiry in relation to any matter;

(d) the keeping of records by an inquiry and the form of such records;

(e) the functions, powers and duties of an inquiry in relation to –

(i) the service of documents and giving of notices;

(ii) the enlargement of dates of hearing;

(iii) the adjournment of proceedings;

(f) the giving of evidence to an inquiry, including the giving of evidence from a distance (for example by video link or

telephone conference);

(g) conducting the proceedings of an inquiry in the absence of persons appearing to be interested in the subject matter of

the inquiry;

(h) the determination of the proceedings of an inquiry without a hearing;

(i) the transfer of proceedings from one inquiry to another.

(j) the withdrawal of references;

(k) the recording, registration, publication and proof of an inquiries proceedings, decisions and reports.

(3) Rules under this section may –

(a) require the inquiry to give to persons appearing to be interested in the subject matter of the inquiry, a reasonable

opportunity to see and comment on a copy of a report of the inquiry (including any interim reports) before it is published;

(b) require the giving of reasons for decisions, conclusions and recommendations of an inquiry;

(c) enable or require the inquiry to exercise its jurisdiction, and to exercise and perform the powers and duties conferred

or imposed on it (including, in particular, in relation to the giving of reasons), in such manner provided for in the rules as

prevents or limits the disclosure of particular

matters;

(d) make provision as to the persons who may appear on behalf of persons appearing to be interested in the subject

matter of the inquiry.

(4) In making rules under this section the Deemsters shall have regard, in particular, to –

(a) the need to secure that matters which are the subject of proceedings or consideration by an inquiry are properly

heard and considered;

(b) the need to secure that information is not disclosed to an extent, or in a manner, that is contrary to the public interest

or prejudicial to national security, the prevention or detection of serious crime or the economic well-being of the Island;

(c) the need to secure fair treatment for all witnesses and any other person appearing to be interested in the subject

matter of the inquiry.

(5) Rules under this section may make provision by the application, with or without modification, of any provision from time to time contained in specified rules of court.

(6) Rules under this section shall not come into operation unless they are approved by Tynwald.

(7) Rules under this section shall not apply to an inquiry if there are rules in force under any other statutory provision that are specific to that inquiry or its subject matter."'

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

Mr Gill: Mr Speaker, I beg to second and reserve my remarks.

The Speaker: You cannot reserve your remarks, Hon. Member.

Mr Gill: I apologise, sir.

The Speaker: Okay, just in case you wish to speak now.

Mr Gill: No, thank you very much. *(Laughter and interjections)*

Mr Rimington: Go on.

Capt. Douglas: Go on, go on, go on.

The Speaker: Hon. Member, Mr Houghton. Do you wish to reply, sir?

Mr Houghton: Only to say that these are consequential amendments, sir, and I am very happy to support, as the mover, sir. Thank you.

The Speaker: Hon. Members, the motion before the House is that clause 11 and schedule 3 do stand part of the Bill. To that, I have an amendment in the name of the Hon. Member for Douglas North, Mr Henderson, that section 11 and schedule 3 be amended. All those in favour of the

amendment, say aye; against, no. The ayes have it. The ayes have it.

I now put clause 11 and schedule 3, as amended, do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Now, we move on to clause 12, Hon. Member.

Mr Houghton: Thank you, Mr Speaker.

This clause deals with the short title and commencement of the Act.

Subclause (1) gives the Bill its short title.

Subclause (2) provides that the Bill will come into force on a day appointed by order of the Council of Ministers, but clause 1 and schedule 1 relating to the Appointments Commission, this clause will come into force on Royal Assent being announced to Tynwald, in accordance with section 10 of the Interpretation Act 1976, so that the Appointments Commission can be set up and be ready to make appointments when the rest of the Act is brought into force, sir.

Mr Speaker, I beg to move that clause 12 stand part of this Bill, sir. Thank you.

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

Mrs Cannell: Thank you, Mr Speaker.

I am happy to second, and I would also ask the hon. mover, when he finally deliberates on clause 12, to advise Hon. Members when he is hoping that we might be able to get Royal Assent on this, and what the timeframe is, bearing in mind the very important nature of this particular piece of legislation, in respect of bringing into being, finally, all sections of the Human Rights legislation, which we have waited a very long time for.

This is an important piece of legislation. I wish it well, and I wish the Member well taking it to Third Reading and on to another place, but can he give Hon. Members an idea of the possible time schedule, in terms of bringing this into force, so that we can move, once and for all, and bring in the Human Rights legislation for our own people, here in our own courts?

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

Mrs Hannan: Yes, simply because of this part of the Human Rights legislation – this legislation is only part of the Human Rights issue... The mover will not have any idea when the other piece of legislation is to be enacted, but, maybe, another Minister could inform us when the other piece of legislation is available. I believe it should come before us very soon.

So, is Government hopeful of getting the Human Rights legislation in before the end of the year? We are looking at the Surveillance Bill which will be coming before the House shortly. So, do we have a timetable for that, and one of the Ministers may be able to tell us what the timetable is for this.

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

Mr Corkill: Thank you, Mr Speaker.

Some of my comments have already been answered by the Member for Peel, but I would just wish to congratulate the

mover of the Bill in relation to his persistence on this matter, and, perhaps, he will be a bit more wary of messages from the Council of Ministers next time, saying that there is a simple Bill for the Hon. Member to take forward (*Laughter*) –

Mrs Cannell: It is a simple Bill.

Mr Corkill: – but I, personally, would like to thank him for his persistence.

Mr Houghton: Thank you.

Mr Henderson: Hear, hear.

The Speaker: Hon. Member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker.

In response to the question from the Hon. Member for Peel, Mrs Hannan: she is quite right, in that the other piece of legislation which is holding up the Human Rights Act is, of course, the ROS Bill – which is the Regulation of Surveillance Bill – and I am hoping to introduce it into the House at the end of next month, or the beginning of April.

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

Mr Houghton: Thank you, Mr Speaker.

I thank the Hon. Member, Mrs Cannell, for seconding the final clause, sir, and also her comments about the Royal Assent, which I feel may have been answered somewhat by her hon. colleague, the Minister, Mr Braidwood, insofar as, of course, all of this Bill, and everything else is consequent on the Human Rights Act actually being given its Appointed Day Order and being brought into force.

So, really, until all the Bills – that is the Surveillance Bill, of course, is the final Bill that is now waiting to go through – are there and through the gate, there really is no rush for this matter to, actually, receive its Appointed Day Order.

I have no problem on it receiving its Royal Assent, which is what the Hon. Member asked for. That, I am quite sure, will come through quite quickly, but the Appointed Day Order, obviously, has to meet the time and the conditions as I set out in this speech, which is the requirement to put all these matters into order, and the Bill, as far as the organisation, and the setting up of the tribunals, and all the consequent work that is required to do that, in time for the Appointed Day Order to be put into effect, sir.

So, it is consequent on that, but it will not, I do not see, delay the Human Rights Act from coming into force, and that is the real purpose behind the moves that have been taken today.

I thank the Hon. Member for Peel for her helpful comments towards dealing with the timetable of that, and I hope that I have answered that.

Also, I thank the Hon. Member for Onchan, Mr Corkill, for his support and his appreciation, because although the Act has only taken – what? – about 80 minutes to go through this Hon. House this morning, there have been many dozens of hours that are being worked on behind the scenes, both with the Attorney General's department and the legal draftsmen's area, putting the Bill together, then all the work that myself, Mr Henderson, Mr Murcott and others in the

Chief Secretary's Office have done. We have had meetings galore, with a lot of correspondence going through, and then, of course, finally, I am very grateful to Mr Anderson QC, for his advice that he has given. That, really, has set this Bill on a fair and even manner.

To that end, Mr Speaker, I am very pleased and happy, and beg to move, sir.

The Speaker: Hon. Members, the motion before the House is that clause 12 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. The House will now stand adjourned until 8th February, Tuesday next, at 10.00 a.m. in our own Chamber.

Thank you, Hon. Members.

The House adjourned at 12.40 p.m.

Corrigendum

On Page 270 K122 add Hon. R P Braidwood to the list of those present.