



**HOUSE OF KEYS  
OFFICIAL REPORT**

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**PROCEEDINGS  
DAALTYN  
(HANSARD)**

**Douglas, Tuesday, 7th December 2004**

**Present:**

The Speaker (The Hon. J A Brown) (Castletown); Mr D M Anderson (Glenfaba); Hon. A R Bell and Mrs A V Craine (Ramsey); Mr 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.

**Business transacted**

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*The House adjourned at 3.40 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*]

### LEAVE OF ABSENCE GRANTED

**The Speaker:** Hon. Members, I have granted leave of absence to the Hon. Member for Ramsey, Mrs Craine for part of this morning; Hon. Member, Mr Bell, for part of the morning; and the Hon. Member for Garff, Mr Rodan, for part of this afternoon.

## Questions for Oral Answer

### CHIEF MINISTER

#### Constitution (Amendment) Bill Submission for Royal Assent

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

*Can you confirm that the Constitution (Amendment) Bill, passed by the House in the last Session, has now been submitted for Royal Assent?*

*Note: Following the earlier resignation of the Chief Minister, Questions addressed to Mr Corkill were answered by the Treasury Minister, in his capacity as acting Chairman of the Council of Ministers.*

**The Speaker:** Hon. Members, we move on to our first Item on the Order Paper, Questions for Oral Answer, and I call on the Hon. Member for Middle, Mr Quayle. Question 1, sir.

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

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

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

I can confirm that the Constitution (Amendment) Bill was submitted for Royal Assent in May of this year.

However, as the Bill underwent several changes during its passage through the legislative branches, information has been sought by the United Kingdom Department of Constitutional Affairs on how the changes proposed under the provisions of the Bill will be implemented as part of the

Tynwald Day Ceremony.

The Tynwald Ceremony Arrangements Committee is currently considering this matter, and it is anticipated that a full response on the revised protocols and arrangements will be agreed by all considered, within the Island, in the near future. This will thereby allow a consensus view to be submitted to the Department of Constitutional Affairs.

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

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

Just to give reassurance, could I ask the Treasury Minister: in last night's *Examiner*, it, unfortunately, gave the impression that this Bill would provide for the President to preside on Tynwald Day for the whole of the proceedings on that day, instead of just in the church, as is envisaged in the Bill; will he make it clear that this Bill, if enacted, still allows for his Excellency, the Lieutenant-Governor, to preside for the whole of the proceedings on Tynwald Day – including on the Hill – except for the sitting of Tynwald Court which happens each year after the ceremony in church?

**The Speaker:** Hon. Member for Ramsey, Mr Bell.

**The Minister:** Yes, Mr Speaker, I have to say I have not seen the article in the *Examiner* yet, but I can confirm to the Hon. Member that there are no changes in the Bill, at all, since it was passed through the legislative process here on the Island. The Department of Constitutional Affairs is merely seeking further clarification as to how the actual layout of the Tynwald Ceremony will take place. But there are no changes whatsoever to the Bill that was passed through this legislative assembly, so I can confirm the comments made by the Hon. Member: things will remain as we described.

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

**Mr Gill:** Yes, thank you, Mr Speaker.

When the acting Chairman of Council talks about 'in the near future' could he reassure the House, sir, that the provisions of this Bill, if enacted, would afford the provisions to be incorporated into the Tynwald Ceremony for 2005?

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

**The Minister:** Yes, Mr Speaker, I believe the response from the Island is imminent, and if that does take place, I am confident that the changes envisaged in the Constitutional Bill will be in place for Tynwald of next year.

#### Ex-civil servants/Members not permitted to hold directorships related to previous Government interests Enforcement of rule

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

*What is your Government going to do about enforcing the rule that ex-civil servants and ex-Members should not take on directorships which are related to areas with which they have had an interest through their role in Government?*

### Leave of Absence Granted

#### Constitution (Amendment) Bill – Submission for Royal Assent

#### Ex-civil servants/Members not permitted to hold directorships related to previous Government interests – Enforcement of rule

**The Speaker:** Question 2: 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 Hon. Member for Ramsey, Mr Bell, Minister of Treasury, to reply.

**The Minister for the Treasury (Mr Bell):** Mr Speaker, I can confirm that the regulations which govern the acceptance of outside appointments by former civil servants apply to those officers who have held posts at open structure grade 7 and above.

On retirement or resignation, those officers are reminded by the Civil Service Commission of their obligations under the Official Secrets Act, the general laws of confidentiality, not to breach the trust which has been placed in them during their appointments, and, on cessation of appointment, the expectation that they will behave with integrity. Such officers are also advised of the need to seek the Commission's approval to take up an outside appointment in the 12 months following their ceasing to be a civil servant.

As with any reported alleged breach of regulations, the Civil Service Commission would take steps to investigate the position and would seek to resolve the matter following dialogue with the individual concerned and the relevant employer.

In the event of failure to resolve the matter, the Commission would need to consider whether legal action was warranted.

In relation to former Ministers, should provisions similar to those applicable to civil servants be introduced, then I would envisage Members would be reminded of their obligations, and would be similarly dealt with.

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

**Mr Karran:** Vainstyr Loayreyder, would the Minister explain why the Council of Ministers has allowed a former Chief Executive of the Tourist Department, who will be on an exceptionally good pension, to be a director of Sleepwell Hotels, breaking the rules.

Can the Shirveishagh assure this Hon. House, regarding the issue of the Summerland redevelopment, where there were several companies interested in this development, that this did not have any effect? And will the Council of Ministers not just review this policy, but also include the issue of civil servants and ex-Members and ex-civil servants in the issues of including other things such as finder's fees, business fees and associate benefits, to be part of any review of any code?

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

**The Minister:** Mr Speaker, I am aware of the case that the Hon. Member refers to, but I have to state that the decision to approve an ex-civil servant joining any private business is, in fact, a decision of the Civil Service Commission. It is nothing to do with the Council of Ministers and, therefore, this issue is not one which has arisen before the Council of Ministers for consideration.

On the second point, Mr Speaker, I am at a complete loss to understand his linkage of his Question with the

Summerland development, and if the Hon. Member could clarify what it is he is asking, I may be able to give him some assistance.

And thirdly, Mr Speaker, the Council of Ministers does review, from time to time, the regulations relating to a raft of issues, but this one is raised periodically, and I am sure that if there are anomalies identified to the Council of Ministers, the incoming Chief Minister will no doubt take them up.

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

**Mr Karran:** Vainstyr Loayreyder, with the reply from the Shirveishagh, as he was aware of the issue of this former Chief Executive of the Tourist Department being allowed to be part of a very prominent part of a hotel chain on the Island, does he feel that it is acceptable that, after such a short time of being in such a strategically important position within Government, he is allowed to benefit, as far as this is concerned?

And would he also not agree that, if the Council of Ministers and the new Chief Minister will do a review on the present arrangements – the absurdity of having chief executives of the MEA with direct links with banks, getting multi-million pound loans, and alleged former Ministers being involved with banks who appoint the chief executives being involved, as far as the Manx Electricity Authority situation – that this has to be addressed as a matter of urgency?

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

**The Minister:** Mr Speaker, I have to say, although I am aware that the individual the Hon. Member refers to has been appointed as a non-executive director, I am not aware of the circumstances surrounding it, and I am not aware as to the response which came from the Civil Service Commission, as they, clearly, are the body which would need to be consulted on this.

I have no knowledge at this stage whether, in fact, that application was approved, or whether in fact the Civil Service Commission made any comment on it. I have not been involved in that and neither has the Council of Ministers.

As far as the second point, Mr Speaker, in relation to the Manx Electricity Authority situation, then I do take the point the Hon. Member has raised and, undoubtedly, if the Chief Minister decides to have a review of these regulations, this issue will be one that will be considered along side it.

But I do think we just need to have one note of caution, Mr Speaker, that if Government is willing to see a free movement of employees between the private sector and the public sector, there has to be some flexibility to enable those who are currently working within Government to go back to their chosen profession in the private sector, if that is their wish at some time in the future. If we were to put a complete restriction on this, then, clearly, any introduction of private sector ethos into Government, or, indeed, the employment of key professionals in certain elements of Government service delivery, would be more problematic.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that no-one in this Hon. House wants to stop the issue of allowing people to come in or go out from the private

sector into Civil Service, but there are acceptable levels of principles that we should be addressing, as a matter of priority within this Hon. House? And it brings all of us as Members of this Hon. House, not just the Council of Ministers, into total disrepute, when we find out that these –

**The Speaker:** Question Hon. Member.

**Mr Karran:** – issues are happening, and we find out months or years after the event.

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

**The Minister:** Well, I can only... There was not much of a question in that, Mr Speaker, but I can say that I understand where the Member is coming from, and I will certainly refer the issue to the Chief Minister for consideration, when he takes office.

### **£300M raised by Manx Electricity Authority Details of spending**

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

*Can you give details of where the approximate £300M raised by the Manx Electricity Authority has been spent?*

**The Speaker:** Question 3. Hon. Member for Onchan, Mr Karran.

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

**The Speaker:** Hon. Member for Ramsey, Mr Bell, Minister of Treasury to reply.

**The Minister for the Treasury (Mr Bell):** Yes, Mr Speaker, in recent weeks the Treasury has been requesting details of the moneys expended by the MEA, and I am please to confirm to the Hon. Member the information we have now received.

The breakdown of the expenditure incurred to date, which totals some £295 million, is as follows – and, Mr Speaker, I should say, before I read this out, I have copies of this Answer for Members, and I am prepared to circulate it, to make it easier for them to understand where I am coming from on this.

So, the breakdown, Mr Speaker, is that: the new power station cost £87 million; the gas pipeline construction was £23 million; power cable costs, £54 million; electricity network reinforcement, £50 million; the gas spur and gas pressure reduction station, £20 million; MEA project costs, £9 million; the Douglas station workshop, £3 million; repayment of Government loan, £5 million; repayment of lease finance, £3 million; repayment of existing bank loan, £5 million; bond issue costs, £2 million; loan interest capitalised, £26 million; and Bord Gáis Éireann – which is an annual payment re capacity agreement in respect of gas pipeline – £8 million.

That brings it to a total of £295 million, Mr Speaker.

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

**Mr Karran:** Vainstyr Loayreyder, can the Shirveishagh Tashtee tell this Hon. House – the likes in some of these issues, obviously, we have got more time to look at this, over Christmas – but the likes of the loan costs: were there any finders' fees, commissions or anything, as part of that breakdown?

Would the Shirveishagh, the Minister, not agree that this is an absolute tragedy, as far as this nation is concerned, especially over the fact that this Hon. Member has been raising concerns about the spending of the MEA's money for some considerable time, both in letter and in Question form, in this Hon. House, since 2002, with the Chief Executive, the Trade and Industry Minister and even the Chief Minister?

Would he not agree that there needs to be a review of legitimate Questions asked in this Hon. House, in order that these serious issues can be addressed much more quickly, rather than just being side-lined?

**The Speaker:** Just before I call on the Hon. Member for Ramsey, I think it would be most helpful for everybody, if the Hon. Member did not continue to make long statements in his Questions.

Hon. Member for Ramsey, Mr Bell to reply.

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

The Question refers to a breakdown of the £300 million pounds capital raised by the Manx Electricity Authority, and how it has been spent. I have been able to give that breakdown, Mr Speaker, but in relation to finders' fees, I do not have that information this morning, and that is something else which would need further investigation.

As far as the comment that it is an absolute tragedy for the Manx nation, Mr Speaker, I think we need to put it into context that the work that has been put in by the MEA has secured the long-term provision of electricity supplies for the Isle of Man, and this is a huge and complex and, hopefully, virtually once-in-a-lifetime exercise which the utility has to carry out. Therefore, from a practical point of view, Mr Speaker, the Manx Electricity Authority has done a superb job in delivering, in exceptionally difficult circumstances – particularly as the contracting company went broke in the middle of the contract – the facilities for the Island, bring natural gas ashore and ensuring the continuity of electricity supply.

As the Hon. Member knows, Treasury has had some issues over the financing of this project. Those issues now are becoming clearer, and we believe we are now getting a better understanding of how this exercise has been structured and paid for.

In the final point, as to a review of how Questions are answered in this Hon. Chamber, then certainly, again, if the Hon. Member has concerns about that, I am sure there are routes that the Hon. Member could follow to ensure, if he is unhappy with the process, that the process is improved; but it is not for me really to comment at this stage.

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

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

Could I ask the Minister, for the sake of clarity and nothing more, could he advise whether the original loan, which was obtained by the Manx Cable Company, is still in place?

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

**The Minister:** Mr Speaker, if the Hon. Member is referring to the loan which was in place prior to the bond, then I understand that that loan has been wrapped up in the restructuring of the MEA's finances, and has been overtaken by further financing.

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

**Mr Cannan:** Acknowledging the details of the loans and borrowings of the MEA, is the Treasury Minister saying that all the detailed knowledge of the loans has come to his knowledge, and the Treasury's knowledge, only in the last 10 days; or was the expenditure of this money in the knowledge of the Treasury prior to the last 10 days?

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

**The Minister:** Mr Speaker, we have been trying to get an understanding of the overall spending of the MEA for, I think, the last four weeks. The information we have been seeking has been arriving in Treasury at different times, and I cannot give a categorical statement as to when it was finally in our hands, but it has come in, on a piecemeal basis, I think, over the last few weeks. We have, I think, probably for the first time only in the last few days got a clear picture of what the overall spending pattern is.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that, really, putting a spin on it, about the situation of what the MEA has done, the fact is: is it not true that we have paid two and a half times what the power station should have cost and, even allowing for the fact that the building is something to be applauded and should be an opera house rather than a power station, it still represents two and a half times more cost than it should have done by professional people from outside the Island, who have complained? And I have raised this issue for the last two to three years in this Hon. House.

Would the Shirveishagh explain: how does he think it is good management when the likes of National Grid has appeared to have made something in the region of well over £10 million – I have not got the figures in front of me at the present time, Vainstyr Loayreyder – in two years, from when the initial outlay as far as the issue is concerned, to then the buying of the National Grid's share within that cable. They have made well over £10 million in profit?

Can the Shirveishagh explain to this Hon. House, as Treasury is people who are in charge of finance, and assure this Hon. House that the cost of the interest as far as the bonds, really, should be part of the equation, as far as the costs, where the money has gone, as far as the bond is concerned.

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

**The Minister:** Thank you, Mr Speaker. It is quite difficult to answer those questions. The Hon. Member alleges that the power station has cost two and a half times the average figure. I do not have any evidence whatsoever to confirm that, and if the Hon. Member has specific evidence which

can identify that, on a like-for-like basis, this power station has been overpriced, then I am sure we would like to hear from him.

My comments are simply in response to the MEA's figures which identify that the power station has cost £87 million. Those are the figures given to us, and, at this point, that is as much as I can comment on that, other than to say this is not a spin, in terms of my comments on the delivery of the project by the MEA. They have done a first-class job in difficult circumstances and have safeguarded the long-term future of electricity supplies on the Island. But as to the Hon. Member for Onchan's own figures, I have not seen them and we would need to have some expert comparisons to be able to confirm that.

In terms again of the profit that National Grid made on the sale of the cable, I do not have those figures with me this morning. It is a separate issue, it was not part of the Question, but I am sure my officers will investigate that.

The final point, that the cost of the interest should be included in these figures, again, I am not quite sure what the Hon. Member is referring to. The capitalised loan interest is referred to in the Answer I gave. If, in fact, the Hon. Member is also referring to finders' fees, I am now informed that no fees were paid on that basis.

So I hope that goes some way to answer the Member's questions.

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

**Mr Cannan:** Acknowledging that the board of directors of the MEA have done a first-class job in securing the generation and supply industry of electricity, will the Minister clearly state that it was only four weeks ago that he became aware of the expenditure of the £295 million of the MEA, that he and his officials only then became aware of it. And further, will he confirm that, as at 10 days ago, when he made an announcement, he had no knowledge of the expenditure of £120 million of this money – in fact, nobody but nobody in the Treasury was aware of the figures that we have before us today?

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

**The Minister:** Mr Speaker, I have answered this question before. The Treasury only became aware of the extra £120 million borrowing some four weeks ago, on receipt of the draft audited accounts for the year 2003-04, when they were passed on to Treasury, and the figures that I have given today I only became aware of in the last few days, in response to my officers pressing the MEA to give more clarity on the expenditure figures.

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

**Mr Karran:** Vainstyr Loayreyder, would the Treasury Minister not agree that, whilst he may not know about the letters that I have already passed on to his Department, the fact is that letters have been going for the last two to three years to the Department of Trade and Industry, and to the MEA? There have been Questions raised in this Hon. House. Has this issue of the out-of-control spending of the MEA never been raised at the Council of Ministers, even allowing for the fact that it has been mentioned in this Hon. House on several occasions?

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

**The Minister:** Mr Speaker, I am, of course, aware of the Hon. Member's Questions over the last couple of years, and I am aware he has very recently given copies of correspondence which he has had with the Chief Executive of the MEA to my officers, although, I have to say, in the last few days I have not had time to read them myself. But I am aware that what he is saying is true.

I am sure the Council of Ministers, in the same vein as Treasury, was not aware of the £120 million extra loans and, therefore, the extra expenditure until we found the evidence in the annual figures that were released to us. So, this issue has not been raised with the Council of Ministers prior to this issue coming to public attention recently.

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

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

On Sunday, during a Manx Radio programme, Mr Roger Watterson claimed that in February he had put to the Treasury Minister the fact that there had been extra borrowings by the Manx Electricity Authority: I wonder if the Treasury Minister recalls the questions that were put to him and, if so, what action did he take to investigate the claims made by Mr Watterson?

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

**The Minister:** Mr Speaker, I have no recollection of what went on on a radio programme nine months ago, but if Mr Watterson says that, then I have to accept it.

## HEALTH AND SOCIAL SECURITY

### Nursing, residential and Elderly Mentally Infirm Units Complaints system

1.4. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Health and Social Security:

- (1) *What complaints system is in place for nursing, residential and Elderly Mentally Infirm Units; and*  
(2) *when were they last reviewed?*

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

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

**The Speaker:** I call on the Hon. Member for Garff, Mr Rodan, Minister for Health and Social Security, to reply.

**The Minister for Health and Social Security (Mr Rodan):** Thank you, Mr Speaker.

In relation to those EMI units provided by the Department – Surby and Gansey at Southlands, and Gardner House at the Ramsey Cottage Hospital – we are currently following the Isle of Man DHSS NHS complaints procedure. The objectives of introducing new procedures were for ease of access for patients, simplified procedure, separation of

complaints from disciplinary procedures, more rapid open processes with an emphasis on early resolution, fairness for staff and complainants alike, an approach which is honest, thorough and with the prime aim of resolving the problem and satisfying complainants' concerns, and making it easier to learn from complaints, in order to improve services and standards.

In relation to those nursing residential and EMI homes in the independent sector on the Island, under section 9 of the Nursing and Residential Homes Regulations 1989, all private and voluntary homes have to inform every resident, in writing, of the person to whom and the manner in which any request or complaint relating to the home may be made, and the registered person shall ensure that any complaint so made by a resident or a person acting on their behalf is fully investigated.

Also, the person registered shall inform every resident, in writing, of the address of the Department to which complaints in respect of the home may be made by a resident or a person acting on their behalf. All nursing and residential homes must display the complaints procedure in a conspicuous place in the home.

With the agreement of the complainant, complaints received in the Department's Inspection Unit are investigated, and, if the complaint is found to be substantiated, appropriate action is taken. These requirements under Regulation 9 are checked at the time of inspection.

In respect of the Department's residential homes, an approved complaints procedure is in operation and is explained to residents and their families on admission, and an explanatory leaflet is available within each residential unit.

Part (2) of the Question: the NHS complaints procedures applying to those EMI units run by the Department have recently been reviewed, and revised procedures are awaiting final Department consideration. The complaint procedures for those nursing, residential and EMI units in the independent sector, as specified in the Nursing and Residential Homes Act and Regulation 1989, are presently being reviewed, and the new provisions will be contained within the Regulation of Care Bill that is in the legislative timetable for 2005.

The Department's complaints procedures which apply to the Department's own homes were last reviewed in November 2002.

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

**Mr Karran:** Vainstyr Loayreyder, will the Minister not agree that the present complaints procedure for the DHSS Social Services website just does not happen at the present time? For example, complaints are to be investigated within two weeks, as far as an in-house investigation. Would the Shirveishagh not agree that before they implement the review, they circulate the new procedure, if there is a new procedure coming about, to interested parties, not just to Hon. Members, but organisations that are concerned about the elderly, in order that we can make sure that we get something that is more effective?

Thirdly, Vainstyr Loayreyder, whilst I congratulate the Minister on the fact that he is bringing in a new Bill, can he give a more specific time of when we are going to have a Bill to make sure that we have the legal structure to protect this very vulnerable section of the community?

**The Speaker:** Minister for Health and Social Security to reply.

**The Minister:** Yes, thank you, Mr Speaker.

Yes, if, indeed, it is the case, and that the Hon. Member for Onchan is correct in saying that procedures as set out in the Department's website are not, in fact, being adhered to, in terms of the periods for investigation, this is something that I would wish to know about; and if the Hon. Member has specific instances of this, we would be pleased at the Department to take these up on his behalf, because, clearly, procedures are procedures, and there is no reasonable excuse for deviating from them.

As far as new procedures are concerned, within the context of the Regulation of Care Bill that I refer to, I would anticipate some further consultation on these, and I take on board the Hon. Member's points, and have no difficulty at all in having his or any other input into new draft regulations.

The Regulation of Care Bill that I referred to, that is in the programme for 2005, has been getting worked up for some time and will, of course, very importantly, provide for independent inspections of the Department's own homes, and I believe this is the point that the Hon. Member is focusing upon.

I am not able to be more specific as to the timetable, except to say that the legislation is well advanced, will be brought before the Department, and it is our firm intention – certainly, in the context of events in recent times – to ensure that a legislative framework of inspection for Department homes is in place sooner rather than later, Mr Speaker.

### **Nursing, residential and Elderly Mentally Infirm Units Safeguards and audit of care**

1.5. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Health and Social Security:

*(1) What safeguards are in place in nursing, residential homes and Elderly Mentally Infirm Units to ensure that the residents receive adequate care, food and fluids; and*

*(2) is there an audit in place to protect this vulnerable sector of the community?*

**The Speaker:** Question 5. Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder. Would the Shirveishagh –

**The Speaker:** Question 5, Hon. Member. You did not indicate before you wished to –

**Mr Karran:** I beg to move Question 5. Sorry.

**The Speaker:** Hon. Member, Minister for Health and Social Security to reply.

**The Minister for Health and Social Security (Mr Rodan):** Yes, Mr Speaker.

For those EMI units funded by the Department, each EMI unit currently employs between 16 and 18 members of staff,

with a current skill mix of 40 to 60 per cent registered nurse to health care assistant per shift.

Each shift has at least one registered nurse on duty, and currently overlap twice on a daily basis, where the condition of each individual resident is discussed in detail. This ensures a smooth transition of care throughout the day.

Each individual registered nurse is responsible for ensuring each resident in their case load has adequate, up-to-date nursing care plans, in order to meet the care needs of each individual. These care plans are audited three-monthly by both the unit managers or their deputies, and are formally audited annually. Each individual resident has the opportunity to see a psychiatrist weekly, and a general practitioner three times a week, when any changes in condition that are likely to affect their quality of life are discussed.

Each resident's physical condition is reviewed every 28 days and documented by a GP. Currently, the Department operates an adult's protection policy and associated procedures, issued of 31st January 2004. This is in respect, as I say, Mr Speaker, of the Department's EMI units.

In respect of those nursing, residential and EMI units in the independent sector, as part of the inspection process, the care plans would be inspected. Included in the care plans, an assessment of the individual's need in respect of care and dietary needs should be stated, and a periodic review of these needs should be undertaken. Menus are also inspected to ensure that an appropriate balanced diet is provided, and that residents' special dietary needs are being met. Then, if these needs were not being met, requirements would be made for the home to meet these needs.

As part of the inspection process, the care plans would be inspected and, again, an assessment of individual needs in respect of care and diet should be stated, and a periodic review of these needs undertaken. Menus are also inspected to ensure an appropriate balanced diet is being provided.

In relation to the Department's residential homes, each resident has a care plan which is closely monitored by their designated key worker and records are checked routinely by the senior staff on each unit. Medical advice and information and input is readily available from a GP and community nursing staff as required.

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

**Mr Karran:** Vainstyr Loayreyder, can the Shirveishagh just clarify what he means by a 'registered nurse'?

Can the Shirveishagh also explain to this Hon. House that there is a nurse that is trained in all nursing homes – maybe not so much in residential homes and elderly mentally infirm units – so that if patients get dehydrated, they can be re-hydrated by trained staff who can do this. Does this happen at the present time, and can he just clarify the issue of what he is classing as a registered nurse?

**The Speaker:** Minister for Health and Social Security to reply.

**The Minister:** Yes, Mr Speaker.

My information is, as I say, that a registered nurse must be on duty with an overlapping of shifts. My understanding of the definition of a registered nurse, I would assume, is a state-registered nurse with qualifications. I will check on the definition, to ensure that I am correct.

As far as special procedures for re-hydration are

concerned, if this is within the ambit of a registered nurse, it is that nurse who would carry out the procedure. But I would, again, check to ensure whether this is, perhaps, a delegated procedure to a health care assistance.

If the Hon. Member, again, has specific (*Interjections*) instances in mind that cause him concern, I will only be too happy to have these investigated.

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

**Mr Karran:** Vainstyr Loayreyder, will the Shirveishagh review the issue of what is being classed as a registered nurse for these institutions; and will he also review the way that the audit of care plans are done for this particularly vulnerable section of the community? Maybe we could see some sort of public discussion document, as far as a review for homes – we are best to do this with interested organisations, as well as Hon. Members.

**The Speaker:** Minister for Health and Social Security to reply.

**The Minister:** Mr Speaker, I am not aware of any difficulties at the present time with the registered nurses on duty or, indeed, the audit procedures, but if the Hon. Member would like to bring to my notice specific incidents that are giving him any concern, I will have these investigated, and if the process, either of the overlap period or the proportion of registered nurses on duty compared with care assistants, or the audit procedures are open to question, I have no difficulty in having these looked at. But I do need specific evidence, Mr Speaker.

### Nursing, residential and Elderly Mentally Infirm Units Audit of health care

1.6. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Health and Social Security:

*What audit is done and by whom on residents in nursing, residential homes and Elderly Mentally Infirm Units over their health care?*

**The Speaker:** Question 6. Hon. Member for Onchan, Mr Karran.

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

**The Speaker:** I call on the Hon. Member for Garff, Mr Rodan, Minister for Health and Social Security to reply.

**The Minister for Health and Social Security (Mr Rodan):** Mr Speaker, in relation to the EMI units funded by the Department, the health care records are audited formally by practitioners not currently employed within that field of practice annually.

The audit tool is devised from national frameworks associated with each profession, for example the Royal College of Nursing or the BMA, and an equal percentage of residents' care plans and case notes are audited – both nursing and medical – respectively.

Informally and more frequently – for example, every three months – audits are undertaken by the Unit Managers. The Service Delivery Audit, however, was suspended for 2004, and is currently being redesigned, using the Health and Social Services standards from the Health Care Commission of the UK.

In relation to those nursing, residential and EMI units in the independent sector, under the 1989 Regulations, all homes in the private sector have to be inspected at least on a twice-yearly basis by the Inspections Unit. Part of the in-depth inspection process involves the inspection of the individuals' care plans to ensure that physical and psychological needs of residents are being met.

The inspectors would also look at the support services being received from the community nursing service, community psychiatric nursing service, psychiatrists, occupational health, physiotherapy, tissue viability, continence advisor and pharmacists, et cetera to enable the individual's needs to be met.

Should additional support services be required, the inspector will incorporate this requirement or recommendation in the inspection report to the home, for them to action.

In relation to the Department's residential homes, there are quality assurance systems in place that monitor all aspects of care. These systems have been audited, both internally and externally, and we also have a continuous cycle of internal audit.

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

**Mr Karran:** Would the Shirveishagh not agree that his statement to this Hon. House may be seen as being incorrect, in the fact that the inspectors do this spot check on one or two residents? There is no independent inspection on all residents in nursing homes: there is no ability, as far as that is concerned.

Would the Minister not agree that the present care plans of adult review forms are not good enough, and will he change the policy to give a copy of a care plan, not just to the next of kin, but the individual concerned? Will he investigate having a lay body, which I wanted to put in place when I was former Member of Health but was vetoed by the then Minister?

Would the Minister also initiate some sort of independent body to undertake individual assessment audits in elderly persons' facilities, in order to make sure that this very vulnerable section of the community is getting as many people from as wide a scope from society, making sure that their welfare is being looked after?

**The Speaker:** Minister for Health and Social Security to reply.

**The Minister:** Yes, I mean essentially, Mr Speaker, the Hon. Member is suggesting that the present audit procedures are inadequate. Now, I explained, in some detail, the frequency of these audits, and who undertakes them, and I am set... I would not agree with him that the present care plans are not good enough.

He is asking for a review of the procedures, he is asking for a lay body and he is asking if I will initiate an independent inspection or audit process. Mr Speaker, these are all matters that fall within the framework of audit, and best practice, and best Health and Social Services standards laid down by the Health Care Commission. We have no reason to believe that

those standards are inadequate, and do not meet the needs of individual residents or their care plans or their carers within homes, whether Department or independent homes.

I am aware that the Hon. Member has consistently called for lay input into the management of homes, and I know the Hon. Member, in years past, was himself involved in respect of children and young persons homes, and is a believer in that particular system.

Now, things have moved on. It is right that lay people and politicians have an input into the broad policy principles, but the management and the assessments of the needs of individuals in our care are best left to professionals, I would suggest, and the role of lay bodies and lay persons, no matter how dedicated or interested, we have moved on from that now.

I accept where the Hon. Member is coming from on this, and would say to him that if he has evidence that the present system of audit is inadequate and not meeting the needs of individuals in the care of the Department, or in the independent sector, I would be very happy to discuss individual cases with him.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that the issue as far as the nursing homes, in particular, is an issue of where we have had tragedies in the past, whilst I was Member for Health? One of the reasons why I wanted a lay body in, which was vetoed, was the issue that we have to have a better review of how these institutions are policed. Will the Shirveishagh at least discuss this issue with the different organisations, to make sure that this very vulnerable section of the community is getting the best protection it can have, in these institutions?

**The Speaker:** Minister for Health and Social Security to reply.

**The Minister:** Mr Speaker, I go back to my answer to the first of the Hon. Member's questions, when I did make clear that a Regulation of Care Bill is being prepared at the present time, which will bring about a system of systematic inspection of the Department's own facilities, underpinned by legislation, as opposed to being underpinned by purely administrative procedure. This is a major step forward and in drawing up that legislation, yes, we will consult with interested parties, with operators of homes, with professionals, with professional bodies and so on.

I have no difficulty in the sort of discussion that the Hon. Member is referring to, and I think he and Members of Tynwald can be confident that the Regulation of Care Bill, when it comes forward, will prove to be legislation that will ensure the adequate regulation, inspection and policing of the homes that the Hon. Member is talking about.

#### DHSS units No right to independent policy

1.7. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Health and Social Security:

*Can you confirm that all the units in your Department have no right to an independent policy which would go*

*against your Department's policy?*

**The Speaker:** Question 7, 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 Hon. Member for Garff, Mr Rodan, Minister for Health and Social Security, to reply.

**The Minister for Health and Social Security (Mr Rodan):** Mr Speaker, the Department would certainly be concerned if any component part of the Department was applying a policy or policies that were inconsistent with policies expressly adopted by the Department.

If the Hon. Member has a concern that this is happening, then I would encourage him to raise the matter specifically, and my Department will then be in a position to respond.

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

**Mr Karran:** Vainstyr Loayreyder, I thank the Hon. Member for making it clear that all units have to follow the policies of the Department and they cannot be overruled. I will be happy to discuss one particular case that went all the way to the Attorney General's Department, as far as the unilateral policies of a unit within the Department, and I do hope that the Shirveishagh will make it quite clear that residents that are in any of these elderly people's homes or units – or whatever you want to call them – the responsibility for their health care cannot be overruled by the staff in those units, and that the GP is still responsible for the health care of the elderly persons within these units and they have the final say, not members of the staff within any units, whether nursing, mentally infirm units or whatever. That is what I want, and people have complained, like they have complained over the other issues.

**The Speaker:** Minister for Health and Social Security to reply.

**The Minister:** Yes, Mr Speaker, I do agree that GPs have a responsibility for the ongoing health care of elderly persons in these units. He and Hon. Members will be aware that in recent times there *had* been some difficulty with a particular unit in the south of the Island, which has been resolved, I hope. So, I am aware of previous difficulties. I am aware of certain complaints that have been made, and have been followed through: the Hon. Member refers to one before the Attorney General, and that is the case, and proper procedures are being followed in these cases.

If he has further instances to bring to the Department's attention, I will be very happy to discuss them with him.

#### HIV infection Campaign to highlight dangers

1.8. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Health and Social Security:

*In view of the ever increasing numbers of people from all*

*walks of life being infected with HIV on the Island and with it being the season for Christmas and office parties, will your Department do a campaign to highlight the dangers of HIV infection?*

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

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

**The Speaker:** I call on the Hon. Member for Garff, Mr Rodan, Minister for Health and Social Security to reply.

**The Minister for Health and Social Security (Mr Rodan):** Mr Speaker, the Hon. Member, I am sure, will be aware of the many health promotion initiatives undertaken by the Department, throughout the year, to raise public awareness of the risks associated with sexually-transmitted diseases, including HIV infections.

In this context, I am pleased to confirm that over the next few weeks, and in association with World Aids Day, which was held on 1st December, further actions are being taken to promote information and increase knowledge concerning sexual health matters to the general public. These will include initiatives organised jointly with the Department of Education, at the Isle of Man College and schools, aimed at young people in particular, who are often those most at risk.

In addition, the Department is co-operating fully with the National Aids Trust in stepping up its poster campaign promoting safer sex. The relevant material will be distributed widely in the run-up to Christmas.

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

**Mr Karran:** Would the Minister not agree that we should all thank his Department and the recent initiatives by the media in the last week or so, as far as the issue of HIV infection, for doing a good job?

But would the Minister not agree that the time has come to inform the general public of the rapidly increasing numbers of HIV infections, and the importance that we must get it over to our people that this is actually a bigger problem in the heterosexual community, as far as numbers are concerned, in the Isle of Man, than in the homosexual community; and how are we getting that message over of the relevance of HIV infection to the heterosexual community?

**The Speaker:** Minister for Health and Social Security to reply.

**The Minister:** Yes, Mr Speaker, the Hon. Member does raise a very important point, and I would agree with him that the media are to be applauded for highlighting the issue both of HIV infection and sexually-transmitted diseases which are on an upward trend – there is no doubt about it – both in the Isle of Man and in the United Kingdom.

This is a very, very serious matter, and the Department's Sexual Health Strategy that was published in 2002 does aim to provide a:

*'comprehensive range of sexual health services for all sections of the Island's community based on the high standards of care, education, treatment and support.'*

I have highlighted some of the ways the education and training aspects are being promoted. I think, also, that standards of treatment and support are of a very high order within the hospital, but there is an ongoing continuing need, not just at specific times of the year, while this is important in highlighting matters, but there needs to be, really, a 12-month partnership campaign between the statutory and various non-statutory agencies involved in health promotion to, in fact, promote sexual health awareness as a matter of course amongst the adult population, particularly the young adult population.

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

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

I wonder if the Minister for Health would care to comment on something that was issued by the Director of Public Health, recently, where he said that the free issue of condoms would be politically unacceptable. I wonder if he could make a comment on that, please, on the basis that it is accepted that condoms are essential in the prevention of sexually-transmitted diseases, and I wonder if he would care to bring that issue to the attention of Members for discussion.

**The Speaker:** Minister for Health and Social Security to reply.

**The Minister:** Yes, I think the Director of Public Health was making a comment that the widespread use of condoms in prevention of sexually-transmitted disease is a given: that is a fact.

Now, the role of politicians is to determine strategy, the proper application of the health awareness strategy, sexual health strategies, and the various means by which this is done. The issue of condoms may or may not have a particular part to play in it. I think evidence is that their use does have an effect in preventing sexually-transmitted disease, and I think the job of the strategy is to ensure that that information is made widely known.

The free issue, in a sense, is a political question. I have no particular views on it, except to say that the campaign for a greater and heightened awareness, within the context of the campaign, should be sustained and an ongoing programme.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that maybe the time has come for us to inform the general public – obviously not of individuals, but the numbers that are increasing, as far as the infection is concerned, to get over the importance, the relevance of this disease, and the blighting of its doing for our young people, if they get caught with this? It is a death sentence, no matter what they say.

Would the Minister not agree that it is important that we highlight – and I am sure other Hon. Members are dealing with individuals who have the infection who have got children, and have got an awful time to go on with – the importance of getting it over that this disease is relevant to everybody who is not in a permanent relationship with one person.

**The Speaker:** Hon. Member for Health and Social Security, the Minister to reply.

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

The Hon. Member quite rightly highlights HIV, but just as serious and on a most concerning upward trend are cases of chlamydia, which can have absolutely devastating effects on persons, including women's fertility.

Now, he says about issuing figures: figures on their own do not mean anything, unless they are interpreted and set in the context of trends, and percentages, and that is what is important. I believe the media, in conjunction with the Public Health Department, is doing an effective job in getting across the message to the public that there is a problem in the Isle of Man, and the Hon. Member is correct to continue to highlight it, as he has done, for many years.

HIV though, is only one part of the problem of sexually-transmitted diseases, which are on an upward trend, and figures and percentages, I think, are in the public domain, and they provide the evidence of that.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that that is the reason we increased the IVF treatment over here, better than the UK, about the issues of infertility, the likes of chlamydia, but chlamydia is one issue that everybody understands? The issue of HIV simply still has the persona of being a gay disease, and that is the issue that we have got to get over to our kids: that it is not.

Will the Shirveishagh not agree that the only way to try and highlight that is to release the figures of the number of people who are getting this disease, which is a death sentence?

**The Speaker:** Minister for Health and Social Security to reply.

**The Minister:** Mr Speaker, I think what is important is that the public understand what is happening in terms of sexually transmitted diseases, that a process of public health education continues, so that some of the incorrect assumptions and prejudices related to sexually transmitted disease and HIV, in particular, are overcome. This is a process for education.

The issue of figures, that may or may not be a part of that – I cannot say whether they are. If they are, then it would be appropriate for figures to be released. What is important is to get information about trends and to make sure the awareness is out there and health promotion and information continues.

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

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

Could I ask the Minister for Health and Social Security: if we are asking for numbers of persons with HIV and Aids today, maybe tomorrow we will be looking for names and to stigmatise people. Maybe the best way to bring this home to people, the difficulties that people have, when they

have HIV and Aids, is a much better way of trying to get public responsibility to sexually transmitted diseases and maybe, because of that, we should be making condoms freely available, as they do in other countries, recognising that there is a problem with sexually transmitted diseases, especially when we are not highlighting the problems of sexually transmitted diseases generally.

I mean, we should make it quite clear, especially to young people, and not just as a one off, but continually bringing it to their attention. Would the Minister not agree?

**The Speaker:** Minister for Health and Social Security to reply.

**The Minister:** Well, Mr Speaker, yes, I would agree that the message is too important to be left to sporadic publicity campaigns at particular times of the year. I think a proper strategy... The Department has a strategy and this is a public health issue that is assuming greater importance, and I think would warrant deeper, wider examination by the Department. I would agree with her and with Hon. Member for Onchan, and there are various aspects to the Strategy which may or may not be appropriate.

I think it would be ironic if, in focusing on numbers of persons with HIV, we may, indeed, simply be stigmatising such persons, when we do not particularly go out of our way to release numbers of persons with specific other conditions or ailments.

What is important are the trends, that the Strategy is addressing the situation. I do not believe we are doing enough to tackle this situation, at the present time, and the Hon. Member for Peel will be aware that, in the Department, we are quite anxious to give greater focus on this particular topic.

**The Speaker:** Hon. Members that concludes Questions for Answer as laid out in our Standing Orders.

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

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

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

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

**Mr Houghton:** Thank you, Mr Speaker. I beg to second, sir.

**The Speaker:** Hon. Members the motion before the House is that Standing Order 43(2) be suspended, to enable all the Questions remaining to be answered orally. All those in favour say aye. Against, no. They ayes have it. The ayes have it.

## TRADE AND INDUSTRY

### Work Permit Committee board members' dismissal Independence of Committee and complaints received

1.9. The Hon. Member for Rushen (Mr Gill) to ask the Minister for Trade and Industry:

*(1) Why was it felt necessary to dismiss the entire current board of the Work Permit Committee;*

*(2) do you agree that the independence of the Work Permit Committee would be enhanced if appointments to the Committee were subject to the concurrence of Tynwald;*

*(3) have you received in the past five years any complaints from aggrieved parties about the work of the Work Permit Committee, if so, how many and when; and*

*(4) have all such complaints been processed through the official complaints system?*

**The Speaker:** I continue, then, Hon. Members, with Question 9. Hon. Member for Rushen, Mr Gill.

**Mr Gill:** Thank you, Vainstyr Loayreyder. Ta mee shirrey kied yn eysht y chur ta fo my ennym.

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

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

As Hon. Members will appreciate, serving on the Work Permit Committee is an important and sometimes difficult public service and it is, in my view, unreasonable to expect the same individuals to bear this burden indefinitely.

Therefore, in July of this year, I met with the Chairman and members of the current Committee to explain to them my view on this matter. During our discussion, I indicated that, while I recognised and very much appreciated the conscientious way in which they had served the Department over many years, indeed they had served for eight years, 12 years and 16 years respectively, I considered that I could not continue to burden them with this onerous responsibility indefinitely.

I also indicated that it was my view that the time was right to introduce a new committee and that the Department would, in due course, place notices in the local press seeking nominations. Having advertised, nominations were considered and I appointed a new committee who are scheduled to take up their duties with effect from 1st January next year.

Following the appointment of the new Committee, I wrote personally to the Chairman and members of the existing Committee expressing, to them, my thanks for their conscientious service. Hon. Members will want to know that I have already had replies from two members of the existing Committee thanking me for my comments, wishing our successors on the new Committee well and no indication, whatsoever, that they feel that they have been summarily dismissed.

Turning now to the second part of the Hon. Member's Question: before answering this, it is important for me to make clear that the Work Permit Committee is a non-

statutory body, appointed by myself, as Minister for Trade and Industry, under the powers vested in Ministers, under section 3 of the Government Departments Act 1987. The Committee simply exercises operational functions of the Department under a Ministerial delegation. This is a normal mechanism used in many Departments of the Isle of Man Government to delegate functions of the Minister to other individuals.

The Work Permit Committee is not an independent body and it is obliged to apply the policy of the Department to its functions, in relation to the interpretation of the provisions of the Control of Employment Acts and the Department's discretion to make decisions under that legislation. In view of this, I do not consider it to be appropriate for the appointment of individuals to the Committee to be subject to the concurrence of Tynwald, and I can see no value in such a process, given that the Committee is simply exercising operational functions, already vested in the DTI, for which I am, at the present time, Minister and, therefore, accountable.

Turning now to the third part of the Hon. Member's Question: as I have already said, the work of the Committee is sometimes difficult and the decisions made by the Committee are not always well received by individuals or employers. Nonetheless, it is rare for adverse comments and the Committee's decisions to be taken beyond the level of informal expressions of disappointment, made to the members of the Committee themselves or to the officers of the Department. In the last five years, I am aware of only one formal letter of complaint being received, which was subsequently withdrawn.

With regard to the final part of the Hon. Member's Question, I can confirm that all complaints received by the Department are dealt with in accordance with Government's complaints procedure.

Thank you, Mr Speaker.

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

**Mr Gill:** Thank you, Mr Speaker, for that interesting answer.

Could the Minister advise us that the new Committee, which he has unilaterally determined upon, previously had recommendations, nominations from the employers' side, the employees' side and an independent Chair? Who was the previous employers' side which he sought those nominations from, and who is the current source of the employers' side nomination?

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

**The Minister:** There are three members of the Work Permit Committee. Two of these new members have been appointed following nominations received, through the Department, following the advertisement in the local newspaper. The other nomination, representing the employees, has traditionally been done through the Trades' Council. The Trades' Council provided the Department with a list of names and we looked through the list of names and we accepted one of those persons who was nominated by the Trades' Council to make up the third member of the Work Permit Committee.

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

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

Can the Hon. Minister advise Hon. Members here today, when he delegates, particularly under the Government Department Act 1997, the responsibility of judgments to be exercised over work permit applications by the Committee, whether or not there is, built within that particular Act or any other Act, a provision for the Committee, if aggrieved at such a dismissal, can make an appeal? Is there an appeal process either with the DTI or with some other function within Government there?

Further, he referred to the fact that the responsibilities and the work is onerous, it was an onerous responsibility and he wished to relieve the Work Permit Committee of it. Can he advise whether or not the members of that Work Permit Committee actually lobbied him in respect of this, in terms of the responsibility being onerous? Did they ask to be relieved of their duties?

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

**The Minister:** Dealing with the first part of the question, Mr Speaker, the setting up of the Work Permit Committee rests with the Minister of the particular Department, which is myself. As far as I am aware, there is not an appeal mechanism in place, for members of the existing Work Permit Committee when their period of office is considered to be finished.

However, very much like the present planning system, one needs to be aware that there are actually two committees in place within the Department: one following an initial separation by the officers, who look through every work permit application; where there is doubt, applications are referred to the actual Work Permit Committee. Following their decision, an applicant can request a review, very similar to the situation we have in the planning process at the present time.

Following a review of a decision by the Planning Committee, if the applicant still feels aggrieved, he can then make a further application or an appeal to the Work Permit Employment Tribunal. So there are lots of safeguards within the mechanism that the Department operates under, but this is a very high profile position and the job can be considered onerous.

Having given this matter a lot of consideration, it was me that determined that, after eight years, 12 years and 16 years respectively, the time had, in fact, come for a change. And that is why I –

**A Member:** Sacked them!

**The Minister:** – took the decision. I hope that deals with the Hon. Member's question, Mr Speaker.

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

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

Reverting to my previous question, the question specifically related to the employers' side, could the Minister now advise that the previous source of nominations was the Employers' Federation and could he advise if it is correct, or not, that now the employers' side nominations are sought from the Construction Forum?

Secondly, sir, in relation to the one formal complaint, could the Minister advise us what role he, as a Minister,

and his Chief Executive, at his direction, had in relating complaints which had been heard informally, as he has described, rather than go through the formal process, and why it was felt appropriate to relate those questions through that system, rather than the official system which we have heard described as being strong and purposeful?

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

**The Minister:** I must correct the Hon. Member: there has never been a place on the Work Permit Committee which has been offered to the Employers' Federation or the Construction Forum. In fact, people serving on the Work Permit Committee can really come from a number of walks of life.

On this particular occasion, it was thought that, by advertising it for the first time ever, we would be looking for people who had come from quite a broad and varied background, but we were also mindful that we had to try, when we looked at the new Work Permit Committee, to put people into the position who, if possible, understood a little bit about employment law.

We also wanted to make sure, for the first time ever, that there was a lady represented on the Committee, because in the past it has always been a male dominated committee and we wanted to reflect in our choice what was happening in the work place at present and put more focus onto how the Isle of Man's economy was based, rather than with the present Work Permit Committee, link it with, possibly, a person who had a lot of experience in construction. That is why that particular decision was made and that is why we have a new format.

In dealing with the complaint that was made, I do not want to go into personalities or to individuals, Mr Speaker, I think this would be totally wrong, but following a decision by the Work Permit Committee, the person felt aggrieved enough to come back and say that they wished to make a complaint. I asked the Chief Executive to look at this, I did not want to get involved in it at this particular time.

However, following discussion with the Chief Executive, the situation regarding the Work Permit Committee and how they operated was fully explained to the person who felt aggrieved. Could I say, it was not the applicant, it was the applicant's employer, and without going into any detail, the person who had originally sought to make the complaint had a better understanding of the work permit system and, therefore, acknowledged that they were, perhaps, a little hasty, and they withdrew their complaint. I am satisfied that the matter was dealt with amicably and properly, and had that person felt aggrieved, they could have made a complaint through the normal complaints process which the Department has had. I am content that the issue was dealt with properly, and, in fact, the situation was reviewed and no criticism actually did fall on the Work Permit Committee.

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

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

Can the Hon. Minister advise in terms of the delegation which he has referred to this morning – the delegation that was afforded to the former Work Permit: can he advise how long that delegation actually stood for? Was it an annual thing and did he renew it on an annual basis, or was it for

longer than that, or was it open-ended?

And in terms of the new Work Permit Committee to be established, what is going to be the procedure in terms of delegating them with the responsibility? Again is it going to be annually, two years, three years, five years, or whatever; is it going to be open-ended?

Following on from that, as he has changed the entire membership of the Work Permit Committee in one fell swoop, rather than do it on a renewal basis over a period of time, can he advise whether this new Work Permit Committee is now going to be in situ for five years, 12 years, or longer, or whether it is now his intention to renew the whole of the Work Permit Committee on a regular basis, in order to rejuvenate it, as is the case the Minister has made this morning?

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

**The Minister:** Yes, thank you.

Dealing with the old Work Permit Committee, who without a doubt have stood us in very good stead, I think they were actually appointed by the Hon. Member of Council, Mr Lowey – at least two of them. I think the other change came about with a previous Minister, Mr North.

There is a delegation that a new Minister signs when he goes into the Department and in fact, when I took over my role as Minister for DTI, one of the Work Permit Committee actually said to me then, nearly two and a half years ago, that they felt perhaps the time was coming for a change and would I consider this at some time. They were willing to stay on in their present guise, as it were, but it was indicated to me then that there was a review pending. I let that run for nearly two and a half years, I had discussions with the Work Permit Committee in July, and then I explained to them, what it was my intention to do.

In looking for a replacement committee, the new Work Permit Committee have been advised that their situation will be reviewed on a regular basis. Probably after three years, we will look at the Committee, the amount of work they have had to deal with and review the situation then. I think that one of the problems that Government does have from time to time, there are a lot of people who put their names forward for these Committees, and, in fairness, it is very easy to leave people there when they are doing a good job and let them stay in this position for years and years, really, in some circumstances.

I think that what we have to do now, as Government policy, is to try and encourage as many different and varied people as we can, to take part in some of these quite onerous roles, and I think for the first time ever we have seen that, by advertising for this position, there is considerable interest and people do want to get involved in issues relating to work permits and, in fact, other areas of Government interest.

So I think it is very healthy, and it takes the stigma that some Members say that perhaps people have been there for too long a time. I think we have got to be as broad as we can in our approach to this and give people in the Isle of Man an opportunity to come forward and serve, should they wish.

**The Speaker:** Final supplementary on this Question. The Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that we all agree that there should be change, as

far as memberships of Boards, but would he not agree that the situation is, by throwing all three out, he has now strengthened the situation of the Civil Service that runs that Committee, in the fact that there is no continuity on this Committee?

How can he assure us with the way that that Committee has stood up to executive, as far as issues like Directors of Education, the issue of the Chief Fire Officer and other issues, that we can take assurance that this is not yet another political act, in order to try and silence any opposition when the executive is never held to account?

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

**The Minister:** Mr Speaker, I just wish Hon. Members would try and get a better understanding of the role of this Committee and, as I explained earlier, on, how this Committee actually does work with the tribunal.

The Hon. Member said that he felt that it was completely wrong to remove all these people at the same time. That was considered in some depth by myself. The continuity is with the officers of the Department: there is a lot of expertise in the Department, relating to work permit issues, and I personally thought that the time was appropriate for a change. *(Interjection)* It does occupy a lot of the Committee's time and their personal time, and I am very grateful for that, but I can tell Hon. Members categorically that these members of the Work Permit Committee were not dismissed, they have done an excellent job for Government.

In fact, the Chairman has gone on to take up another very senior position on another committee within Government, and I have actually indicated to the other two remaining members that I would be more than willing to recommend them, or put their names forward, to be of service in some other way on some other Government committees, so their actions as far as I am concerned have been excellent. They have been good supporters for the Committee and we should look, where possible, to use their expertise in some other field, if they are willing to do it.

**The Speaker:** The Hon. Member for Rushen, Mr Gill, the original questioner, very final supplementary, sir.

**Mr Gill:** Yes, thank you, Mr Speaker.

In relation to the comments that the Minister has made about this Committee, would he agree with me: he has described them as providing a conscientious service, that they have all done a good job, that they have three and a half decades of service between them, that the continuity, that the rotational replacement of the Committee is something he considered and dismissed – equally in the same manner that he has dismissed the whole of the Committee, they have been sacked – and that the new Committee should take stock of the fact that their tenure is at his gift, which is as it is, but that gift seems very much to be reliant on them doing what is required of them by the Minister of the DTI and not their duty to the Isle of Man workforce?

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

**The Minister:** As I said early on, Mr Speaker, the Committee works independently from me, but there are criteria, which are clearly outlined in the Employment Act,

that they must work to. They cannot make decisions which fall outside the law. I would just like to, finally, dispel this myth that this Committee has been sacked. I am very alarmed and annoyed that this is the perception that some Members of Tynwald are trying to get across. I have had permission from the members of the Committee to quote from their letters, which I am more than happy to circulate and for the record:

'Crofton House,  
'Bradda Road,  
'Ballafesson,  
'Dear Alex,  
'May I sincerely thank you for your personal thanks for my period of service on the Work Permit Committee which I have enjoyed, as it has been very important and interesting work and we have always tried to carry out our duties diligently and under the terms of the Control of Employment Act.  
'As a committee and under a marvellous Chairman, Mr Robert Quayle, who was so ideally suited and qualified for the position, we almost always came to a unanimous decision. I very much appreciate your letter, which now means a lot to me and may I confirm to you that I did not ask Mr Quintin Gill to ask any questions in Tynwald.  
'May I wish both yourself and your wife and all of your Work Permit Committee staff, especially our secretary, Sue Ash, who was a brilliant help and supported us all.  
'A very happy Christmas and healthy New Year,  
'Sincerely,  
'Keith.'

You know who that is from, and the other one I want to make reference to: this is from Mullen Beg, Patrick:

'Work Permit Committee.  
'Thank you for your letter of 26 November and for the kind comments both in the letter and in the press release, which I much appreciate. My two colleagues have given immense support to me and I have greatly valued their wise advice throughout my chairmanship of the Committee. I hope we have been able to do something useful for the Island through our work, not always so easy at times of full employment. We wish our successors well. Perhaps a degree of overlap with one or more of the existing committee might have helped them in the learning process, but I understand' –

**(Mr Houghton: Hear, hear.)**

– 'you did not feel this was necessary.  
'I had heard from the press that the question was being asked about our departure and I am sad that attention has been drawn to it in this way. I have had no contact with Mr Gill and would propose to make no comment.  
'I remain ready to serve the Government and the Island however and whatever way I can.  
'Yours sincerely,  
'Robert Quayle.'

## TRANSPORT

### IRIS pumping and power costs for central valley and Meary Veg

10. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Transport:

- (1) *What was the original estimated pumping cost for IRIS to the central valley site;*
- (2) *in what year was the decision taken to go to Meary Veg;*

- (3) *what is the pumping cost for IRIS to Meary Veg;*
- (4) *what was the original estimated cost of power to run the system to the central valley; and*
- (5) *what is the actual cost of power to run the system to Meary Veg?*

**The Speaker:** Question 10, Hon. Members. I call on the Hon. Member for Onchan, Mr Karran.

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

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

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

The answers to parts (1), (2) and (4) of the Question are contained in a statement by the Minister of the Department of Highways, Ports and Properties to the October 1992 sitting of Tynwald. The statement was entitled 'The Strategy for the Collection and Treatment of Sewage' and detailed a total electricity operating cost for IRIS, with a sewage treatment works located in the central valley, at £1.22 million per year at third quarter 1992 prices, and compared this against the sum of £1.23 million per year for IRIS with the sewage treatment works at Meary Veg.

Whilst not detailed in the statement, the estimated cost of electricity for the pumping stations was £730,000, and £490,000 for the sewage treatment works in the central valley.

With IRIS at Meary Veg the figures are £740,000 for pumping, and £490,000 for the sewage treatment works.

Relating to part (2) of the Question, the Tynwald statement in October 1992 detailed that the preferred site for a single sewage treatment works to serve all the sewage catchment on the Island should be in the vicinity of Santon Head. This was further detailed at a presentation to Tynwald Members on 29th July 1993 entitled 'IRIS Project – The way forward'.

The financial resolution for designed fees for IRIS stage 1 was approved at the December 1993 sitting of Tynwald.

In answer to part (3) of the Question, the cost to date for pumping sewage from Douglas and Onchan to Meary Veg is currently estimated at £275,000 per year, and deals with some 46 per cent of the Island's population. This is estimated to rise to a figure of approximately £500,000 per year, when the pumping stations from the south are commissioned in the early part of next year.

As the designs have not been completed to connect all the sewage catchments to Meary Veg, the total electricity pumping costs of £750,000 is still very much a budget estimate.

In answer to part (5) of the Question, the cost to date of the electricity consumed at Meary Veg is approximately £238,000 per year. It is not envisaged that power consumption will rise significantly until there is a need to extend the sewage treatment plant, which is currently programmed for 2012, at which time the cost of electricity is estimated at £400,000 per year.

I would advise the House, Mr Speaker, that this is based prior to the MEA's announcement of an increase in electricity charges, which has not been added to those figures.

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

**Mr Karran:** Vainstyr Loayreyder, can the Hon. Shirveishagh circulate the statement that was made in Tynwald as far as in October 1992?

Is the Hon. Member aware that one of his predecessors was talking about the fact that it was only going to cost less than £100,000 to pump the sewage to Meary Veg? As the former Chairman of the Water Authority, I am somewhat alarmed now to find out that we have these sort of updated figures that are been in the public domain. Is the Shirveishagh not aware: was that not going to be the running costs of the plant, and not the pumping cost?

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

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

Certainly, I will be delighted to circulate that statement. It has been an interesting week politically, and I have not gone back to that initial statement myself; therefore, it would serve my purpose, as well as the House. I will give a commitment to circulate the statement which is referred to in that, which gives the figures I have announced this morning.

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

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

In relation to the pipeline going to Meary Veg, could I thank the Minister for updating us, from time to time, to do with the problems concerning White Hoe; but I wonder would he be able to share with us any further information as to when the unfortunate residents in that area might expect the problems they are experiencing to come to an end?

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

**The Minister:** Yes, Mr Speaker.

I am grateful for the opportunity, although not linked to this Question, prior to Christmas, to update the House and, indeed, the public in that area. I have a meeting arranged with my director of drainage and Braddan Commissioners the first week in January, where we will give an update to the Commissioners. The Hon. Member is invited to that meeting. I will make arrangements after this meeting.

We are currently looking at what operational issues we can do over the Christmas period. However, as the residents have been informed, the resolution of this problem is ongoing, and is a top priority within the Division. We are doing everything possible; however, as the Hon Member is aware, there is no quick solution, but there is significant progress being made, sir.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not only circulate that statement that was made, but also any other statements, as he has got more resources than ordinary Members of this Hon. House of statements that have been made as far as the revenue implications of pumping by previous Ministers of the DHPP and DoT, in order that this House can have a clear picture of what was supposed to happen? Now we find out what is happening today.

And will the Shirveishagh also tell us: what is he intending to do in order to find ways for the link costs for this

system for Meary Veg, and has it been raised in the Council of Ministers – the importance of revenue implications on all projects of different Departments, in order to try and alleviate debt problems at a future date for the taxpayer?

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

**The Minister:** Mr Speaker, I am somewhat confused by the Hon. Member. The figures that I have outlined from 1992 I take in good faith and have committed to circulate. I am quite happy in getting my Division to look through the statements regarding the implications of pumping, because it would benefit both my Department and the Members and the public to have that clearly open.

From the figures that have been given this morning, I believe it is quite admirable that the estimate put in in 1992 is in no way being compromised by the figures I have given for the actual running costs today.

The Hon. Member then links that into other areas of Government expenditure, and I can only say that my Department has budgeted for this, based on the requirements for this Scheme over a number of years. The variations in costs and prices is always going to be an issue but all Departments – regardless of whether the Hon. Member for Onchan likes it or not – are attempting to make sure that all operations of those Departments are efficient.

The implication is that there is a casual nature to this, which does not apply – certainly as far as my experience goes. So, I am quite happy getting my Division to look through. I will do it in two phases, Mr Speaker. I will initially, within the week, circulate the statement from October 1992 to the issues I referred to today; and I will then arrange for a search to go on regarding future statements that may have been made on revenue implications.

But I do believe that the Department has budgeted for these. The figures are as estimated in our revenue budget at the moment; therefore, there is not an issue here that really causes anybody in this House concern.

I would be very grateful, and in due respect to the Hon Member for Middle, I have not promoted positively the benefits that IRIS is now currently taking on for the Island, on the main grounds that White Hoe remains an embarrassment to the Department which we need to resolve. There are many positives that I could be promoting in IRIS, and I would welcome the opportunity of doing that in the near future, sir.

**The Speaker:** Hon. Member, final Question, Mr Karran.

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

The Shirveishagh... I have to say that in his response today is quite surprising in the fact that I was under the impression, from a predecessor of his – and we have been complaining for years about the true costs of pumping, as far as Meary Veg is concerned – but I am sure that the predecessors have said it would only cost a £100,000, and I am glad to see that there is some reality, as far as the revenue implications as far as pumping costs are concerned, and I shall be reading the *Hansards* with interest.

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

**The Minister:** Yes, certainly, Mr Speaker, I do not

wish to have, in any way, any doubt about this. I cannot personally recall it. It was prior to my time in the House – the statement I particularly referred to. Therefore, I think it would be better to get that into the open so that if the Hon. Member for Onchan is incorrect, he will have the good grace to acknowledge that and we will all go forward, sir.

## EDUCATION

### Special Educational Needs Budgetary breakdown 2004-05

1.11. The Hon. Member for Ayre (Mr Teare) to ask the Minister for Education:

*For the budgetary year 2004-05 will you give a breakdown both in terms of number of individuals and amount allocated to the three categories of Special Educational Needs users?*

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

**Mr Teare:** Well, thank you, Mr Speaker.

**The Speaker:** Question 11.

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

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

**The Minister for Education (Mr Anderson):** Thank you, Mr Speaker.

In order to give the Hon. Member a full answer, it is necessary to quote quite a lot of facts and figures. So, I hope Hon. Members will be forbearing.

The Department does not generally use three categories special needs, but identifies children according to six special needs stages. These describe degrees of difficulty increasing from stage 1 upwards.

Stages 1 to 3 are school-based stages, and are provided for within the resources allocated to primary and secondary schools. Budget amounts used by schools for this purpose are not collated separately from their other expenditure.

Stages 4, 4+ and 5 are generally supported by additional resources from the Special Needs and Psychology Service of the Department. This additional funding is allocated to schools through team leaders. Team leaders have responsibility for supporting all of the schools in a particular area of the Island.

The amounts allocated in the financial year 2004-05 are as follows: Douglas North, £636,200; Douglas South, £730,000; Ramsey, £670,700; the south, £667,900; and the west, £662,700.

In allocating funds between teams, account is taken of: the number of children in each area; the number identified as having special needs; the numbers identified at stages 4, 4+ and 5; the demands and the degree of difficulty experienced by individual students with very marked special needs.

In addition to this funding, further resources are made available to the schools as follows: primary behaviour

support, £690,500; and secondary behaviour support £809,900. These amounts will not be the only support made available to the schools to support those with social, emotional and behavioural difficulties. The amounts do include the funding for nurture groups in primary and secondary school, individual support, Cronk Souree and the Secondary Behaviour Support Centre opening in the new year.

Every secondary school also provides support to those with behavioural difficulties from other resources that are available to it from the Department. The amounts involved in this work are not recorded separately from other expenditure of schools.

Separate funding is also shown for children with significant sensory difficulties of vision, hearing or both and this is to the extent of £370,900. The numbers of students supported by this are not yet available.

With respect to numbers, a census is conducted each autumn as to the number of children identified at each stage in schools. The numbers in each stage in October 2003, which reflect the position in the school year 2003-04, and cover the first part of the financial year 2004-05, were: stage 1, 433; stage 2, 680; stage 3, 506; stage 4, 358; stage 4+, 78; and stage 5, 59. The figures in total identify about 17 per cent of the whole school population.

The numbers in each stage in October 2004, which reflect the position in the school year 2004-05, and cover the latter part of the financial year 2004-05, are: stage 1, 447; stage 2, 713; stage 3, 498; stage 4, 439; stage 4+, 72; and stage 5, 47. These stages when added together identify about 18 per cent of the whole school population.

The Department does not directly collate data on the number of children presenting social, emotional or behavioural difficulties, but our data does allow us to suggest that about 19 per cent of those identified as having special educational needs have a behavioural component to their difficulties. This 19 per cent, therefore, represents about 420 children out of a school population of 12,500.

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

**Mr Teare:** Could I thank the Minister for his Answer, and, although it was much more detailed than I was expecting, it did not come up with the information I was hoping for.

Could I ask the Minister why the numbers of children in special education educational needs on the Isle of Man appear to be nearly 10 times as high as the UK equivalent; and also, whether his Department is considering a change of policy towards those children in special educational needs, in view of a recently published UK school inspectors' report which criticised government policy of inclusion as, and I quote:

'failing a significant number of children'.

Thank you.

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

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

The Hon. Member refers to us being up to 10 times higher, our numbers compared with the UK, but our information does not appear to show this at all. In fact, as far as we can find out, the UK data suggests that schools in the UK are identifying up to 22 per cent of all children on

average, as having some form of special educational needs, and that compares with ourselves about 18 per cent, so I would not go along with the Hon. Member's interpretation that we are 10 times higher than the UK in this area. In fact, we are marginally below.

I think we have to recognise that the range within special education needs is quite varied and when we are talking to stages between stages 1 and 3, we are only talking about quite small effects and things that can quite easily be turned around, if they are given priority in the education system. It is only in the stages 4 to 4+ and 5 that the significant input is going in from the Department and costing quite a lot of money.

As far as the School Inspectors Report in the UK that says schools are failing children with special educational needs, I can only refer him to the Ofsted Reports that took place in the Island over the last two years which actually showed that the Department of Education was doing well in meeting the needs of these SEN children.

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

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

Would the Shirveishagh Ynsee not agree that it is a sad situation that special educational needs users at Ballakermeen School have to access their unit from by the bins store, instead of having decent disabled access on this school? What assurances can we have of the special educational needs priorities as far as budget is concerned, that we do not just look at statistics, as far as education is concerned – these ones are never going to make good statistical information – that they will not be forgotten? And would the Shirveishagh assure this Hon. House under his new command as Shirveishagh that he will bring in a 'traady liooar' policy as far as anything new coming from the United Kingdom's educational system, that we will have a wait-and-see, evaluate it and make sure that we do not jump in with both feet as we recently have been doing in the last several years, which has been to the detriment of the Manx educational system.

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

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

As far as the first point, the Hon. Member refers to about the sad situation as he calls it, about special educational needs children having access to the unit at Ballakermeen, I am unaware of that situation, but I will look into it and get back to the Hon. Member.

As far as following what is happening in the UK, I can reassure the Hon. Member that we will not simply follow everything from the UK, but we will sit back and study and see what effect UK policy is having, before changing any policy on the Island.

**A Member:** Hear, hear.

## HOME AFFAIRS

### Isle of Man Constabulary 'Issuing crime numbers, not investigating crimes'

1.12. The Hon. Member for Douglas North (Mr Houghton)

to ask the Minister for Home Affairs:

*Why is the constabulary issuing crime numbers to victims of burglary instead of investigating the crime scene?*

**The Speaker:** Question 12. 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.

The policy of the Isle of Man Constabulary is, and will remain, to attend all burglaries. The robust investigation of burglary, using all means available, is at the core of the Force's Community Safety and Crime Management Strategies. There would be few exceptions to this rule, such as the aggrieved party specifically refusing the attendance of police officers. Victims of crime are often provided with a crime reference number by investigating officers: this assists the victim in any claim against an insurance policy that may be made, as insurers often seek this information. It also assists in speeding up any follow-up telephone enquiry to police headquarters the victim may make.

Mr Speaker, I believe the Hon. Member's Question is related to an incident concerning a theft, not a burglary, the details of which I am aware. I understand that the situation has now been resolved to the satisfaction of all those involved. I can assure the Hon. Member for Douglas North and all Hon. Members, together with members of the general public, that in all cases of burglary, the Constabulary investigate the incident and there is no plan to change this.

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

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

For possibly the very first time ever, I rise to welcome the Hon. Minister's Answer, and I would be very pleased to compare notes with him after this sitting, sir, in respect of his query on the complaint that I have received, sir.

But I do thank him for that Answer: it is most important for the good of this Island. Thank you.

## OFFICE OF FAIR TRADING

### Gas and electricity price rises Ensuring genuinely due to raw material costs, not inefficient management

1.13. The Hon. Member for Onchan (Mr Karran) to ask the Chairman of the Office of Fair Trading:

*What checks will you now do, to ensure that price rises of gas and electricity to the Manx consumer are genuinely as a result of an increase in costs of raw materials rather than to cover the cost of inefficient management?*

**The Speaker:** Question 13. I call upon the Hon. Member for Onchan, Mr Karran.

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

**The Speaker:** I call on the Chairman of the Office for Fair Trading, Hon. Member for Rushen, Mr Gill to reply.

**The Chairman of the Office of Fair Trading (Mr Gill):** Thank you, Mr Speaker.

Almost exactly this Question has already been asked by the Hon. Member for Onchan in another place on 16th November and was consequently answered in full. In the intervening period of 22 days, nothing has changed in relation to the function or responsibility of the Office of Fair Trading.

**A Member:** Hear, hear.

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

**Mr Karran:** Vainstyr Loayreyder, with the sad response of the Question I asked in another place, and the issue of the fact that we are now getting the full revelations of what the interest liabilities are going to be as far as this is concerned, will his Office make sure that regarding the implications of £500 to £600 interest charges, in perpetuity, on each household, to cover the cost of the MEA spending, his Department will take on seriously the issue of making sure that it is a thorn in the side of the Council of Ministers to protect the consumers, and make sure only genuine costs as far as the energy costs go up and not the costs of bad management?

**The Speaker:** Chairman of the Office of Fair Trading to reply.

**Mr Gill:** Yes, sir, I would not characterise the role of the Office of Fair Trading to be a thorn in the side of Council, but, certainly, we have a responsibility to consumers which we always undertake extremely seriously, sir, and we will continue to do that. We will continue to exercise our responsibilities as fully as we possibly can, in all cases, sir.

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

**Mr Karran:** Vainstyr Loayreyder, will the Office of Fair Trading make public a statement after the Chairman has consulted with his board, on the implications, as far as the consumer is concerned, on this necessity of life, namely energy? And can he assure us that it will not be a matter of 'matey, matey', as it seems to be far too much in this Hon. House, and he will do his role without fear or favour, and make sure that the consumers can rely on the Office of Fair Trading to make sure that the facts are well advertised for individuals – the consumers outside – telling them where the genuine increases are, and where the increases will have to be, because of bad management?

**The Speaker:** Chairman of the Office of Fair Trading to reply.

**Mr Gill:** Yes, sir, I refute any suggestion that myself, my political colleagues or any of the other Members of the Board are engaged in some 'matey matey' exercise with other members of Government. However I can assure the Member for Onchan and anybody else, that we will always behave in a professional and independent manner within the role that we are tasked to do.

As far as the issue about genuine price rises, I have answered, as fully as I possibly can, the role of the Office of Fair Trading within that, (**Mr Karran:** Appalling.) and also outlined the role of other parts of Government sir, and we will continue to work with them to ensure that the consumers' interests are always best served.

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

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

Can I ask the Chairman of the Office of Fair Trading to give an assurance to the hon. questioner in that the Board of the Office of Fair Trading use up most of their time in consideration of these matters in respect of energy, the impact on the consumers and, moreover, the impact on the vulnerable, who perhaps cannot afford to be using the energy that is piped or supplied to their homes, and that, in fact, the Board spends an awful lot of time on this issue, does a great deal of research, does apply a great deal of consistent pressure, which has been sustained for more than two and a half to three years in respect of this issue.

Further, would the Chairman agree with me that the hon. questioner might be best to direct his pressure, together with ours, onto the Department of Trade and Industry and the Council of Ministers to bring forward the necessary legislation to provide for an energy regulator, so that we can all have very sharp teeth?

**The Speaker:** Chairman of the Office of Fair Trading to reply.

**Mr Houghton:** Well, take them over, which is what I wanted to do in the first place.

**Mr Gill:** Yes, Mr Speaker, thank you for the question from the Member for Douglas East, who is also the Vice-Chair of the Office of Fair Trading, and I would concur, of course, wholeheartedly with the comments that she makes.

**The Speaker:** Hon. Members, that concludes Questions for Oral Answer. We have one Question for Written Answer, which will be circulated.

## Question for Written Answer

### TREASURY

#### International Business School Total cost and debt to taxpayer since creation

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

*What is the total cost and debt to the taxpayer since the*

*creation of the International Business School?*

**Answer:** The total cost to the taxpayer of subvention from the Department of Education made to the International Business School since its creation has been as follows:

	£
1999/00	200,131
2000/01	1,039,831
2001/02	480,000
2002/03	490,000
2003/04	700,000
<b>Total</b>	<b>2,909,962</b>

The International Business School also receives income for services provided. The amount of course fee income and room hire fees, for example, which were paid by Government Departments is not recorded separately but has been estimated to be £622,080 for the five year period.

An additional sum of £1.2 million was spent on the acquisition of land known as Sangster's Fields in 2002 by the Department of Local Government and the Environment.

The above information was provided in response to a Question asked at the November sitting of Tynwald.

In terms of debt, there is no cost to the taxpayer at present, as the company is a separate legal entity, although by holding a guarantee in the sum of £5 million, Government could be liable for any sum up to this level in the future. This would be offset by the value of any assets obtained should the guarantee be exercised.

## STATEMENT BY THE SPEAKER ON PROCEDURE

### Statements to the House by Members

**The Speaker:** Hon. Members, I undertook, when the House sat last, that I would clarify the procedure to be adopted in future cases, in which urgent statements are to be made.

In the absence of full provision in the House Standing Orders, and pending a full revision of the Standing Orders, which is taking place, I make this ruling under Standing Order 2, which provides for Mr Speaker to determine procedure where Standing Orders are deficient.

Hon. Members, on 30th April 2002, I gave a direction about statements in the House, which, for ease of reference, I am incorporating into my present ruling, so that all the material relevant to statements is in one place.

Firstly, all statements made by Members shall, unless they are made with the consent of Mr Speaker as a matter of urgency, be noted on the Order Paper for the sitting at which they are to be made, which shall indicate their subject matter, if it is related to the business of Government or any public body, or indicate that the statement is made by the Member in his or her personal capacity. The text of the statement, except in relation to a personal statement, shall be provided to each Member of the House at, or before, the time that the statement is made.

Secondly, if the need for a statement arises after the Order Paper has been printed, the Member wishing to make the statement should inform Mr Speaker or the Secretary of the House, as soon as possible before the sitting. It will then be

determined at what point in the proceedings the statement can best be admitted, but if it is urgent, that point will usually be immediately after Prayers.

In the event of such a statement which is not on the Order Paper being one that is not deemed urgent by Mr Speaker, the Member wishing to make it will be required to move the leave of the House to do so, pursuant to Standing Order 37(4) which requires the vote of 13 Members. If that leave is granted, the Member should then proceed to make the statement.

Hon. Members, I am referring this matter to the Standing Orders Committee, so that full provision can be made in the revised Orders now being prepared by that Committee. I hope that clarifies it, Hon. Members.

## Orders of the Day

### BILLS FOR THIRD READING

#### Trees and High Hedges Bill

##### Third Reading approved

3.1. Mr Rimington to move:

*That the Trees and High Hedges Bill be read a third time.*

**The Speaker:** We now move on to the next Item of business on our Order Paper, Bills for Third Reading, and I call on the Hon. Member for Rushen, Mr Rimington – Trees and High Hedges Bill, sir.

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

I would like to thank Hon. Members for their support at both Second Reading and through a very quick clauses stage, and indicate that the level of concern with the Bill, as stands, is not that high.

Just to reiterate that the Bill is designed to provide a means of resolution of disputes between neighbours, where there is a high hedge or a high tree, or group of trees, which might adversely affect the reasonable enjoyment of the person's property, the emphasis being on resolution by mediation in the first instance, but with a body of law and a decision-making process which backs that up, so that with that knowledge, that resolution process might be actually more forthcoming than stands at the moment.

I thank people for their support, and I beg to move.

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

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

I rise to second this, and insofar as the Third Reading is concerned, I think this is a wonderful start to doing something about this nuisance that has been affecting many people for many years. (**A Member:** Hear, hear.) As far as blocking people's natural light out of their gardens and elsewhere, with people who could not care less about the cause and the effect that they have on their neighbours, this is something

that I wholly support, and I do congratulate the Member for Rushen, Mr Rimington, for the way that he has gone about it. He brought this about by careful consultation through Members of this House, long before the Green Bill was published, and all I can say is that I wish this Bill through the rest of the branches and through into law.

Let us hope this does something. Thank you.

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

**Mr Karran:** Vainstyr Loayreyder, I hope that the Bill actually does the spirit of what many Hon. Members in this Hon. House feel it will do. I fear that this Bill will end up creating a Pandora's box, as far as this issue is concerned. I appreciate what the seconder for Doolish Twoaie has said, but I do feel that this Bill will still be defective, as far as that is concerned.

**The Speaker:** Hon. Member for Rushen, Mr Rimington. Do you wish to reply, sir?

**Mr Rimington:** No, thank you.

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

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

FOR	AGAINST
Mr Anderson	Mr Karran
Mr Cannan	
Mr Teare	
Mr Rodan	
Mr Quayle	
Mr Rimington	
Mr Gawne	
Mr Houghton	
Mr Henderson	
Mr Cretney	
Mr Duggan	
Mr Braidwood	
Mrs Cannell	
Mr Downie	
Mr Shimmin	
Mrs Hannan	
Mr Bell	
Mrs Craine	
Mr Corkill	
Mr Earnshaw	
The Speaker	

**The Speaker:** Hon. Members, the motion carries with 21 votes for, 1 vote against. The Bill is, therefore, read a third time.

### Fiduciary Services Bill Third Reading approved

3.2. Mr Bell to move:

*That the Fiduciary Services Bill be read a third time.*

**The Speaker:** Hon. Members, we now move to the next Item for Third Reading, the Fiduciary Services Bill, and I call on the Hon. Member for Ramsey, Mr Bell.

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

As I explained at the Second Reading of the Fiduciary Services Bill, the purpose of the Bill is to extend the licensing and supervision of corporate service providers to persons who provide professional services to trusts. The expression 'fiduciary' is used as a collective term to refer to both trust service providers (TSPs) and corporate service providers (CSPs).

The Bill was the subject of a lengthy consultation process. This may be reflected in that, in fact, it attracted very little comment at the clauses stage. There was one amendment during the clauses stage to schedule 3. This amendment was moved by Treasury to address an omission in the Financial Supervision Act 1988 identified by the Attorney General's Chambers. The amendment gives Treasury explicit powers to make regulations in relation to provision of information to the Commission by operators, managers and trustees of collective investment schemes.

Mr Speaker, the main features of the Bill are as follows: the Bill amends the Corporate Service Providers Act 2000, to make it an offence for any person to engage by way of business, in any of the trust service activities listed in schedule 1 of the Act, unless he is exempted. The exemptions are listed in part IA of schedule 2 to the CSP Act as amended by this Bill. The Bill also restricts the use of words with a TSP connotation in the name or title of any local business or company, unless that business is a holder of a TSP licence.

The Bill amends the definition of a trust corporation under section 65A of the Trustee Act 1961. A trust corporation is a company that is permitted to undertake functions being related to a grant of probate in respect of a deceased person's estate. Trust corporations will, in future, be required to hold a TSP licence. The legislation is aimed at professional trustees and trust administrators and will not apply to trustees who are doing a favour for a friend or a family. The Bill extends the definition of CSP regulated activities to include providing services to partnerships and expands the definition of companies to include some foreign types of entity, which are established and administered on the Island by CSPs, for example, Panamanian foundations.

The Bill also amends the Financial Supervision Commission's (FSC) other regulatory legislation, to bring it in line with internationally accepted standards of public protection, to take account of human rights issues and to standardise procedures and rights. The Bill also grants additional rights to complainants to apply for a review of certain of the FSC's decisions and amends the procedures for the release of customer information to other regulatory authorities.

Mr Speaker, there are no outstanding questions to be answered following the clauses stage and, therefore, I beg to move the Third Reading of the Fiduciary Services Bill.

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

**Mr Earnshaw:** I would like to second that, Mr Speaker, thank you.

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

**Mr Karran:** Vainstyr Loayreyder, I would just like the Shirveishagh Tashtee, to explain to this Hon. House, where the safeguards are, as far as individuals who end up being legitimate trustees, either for family bereavements or for charitable things. Where are the safeguards that they do not end up being tied into this regulatory situation? And would the Shirveishagh just clarify the issue of consultation with the finance industry, that regarding the complaints that I had from individuals, as far as it was concerned, it was a matter of once again the FSC talking at people, instead of with people, and whilst this Bill will go through the stages today, I do hope that there will be some PR given to individuals in the industry of how we see the implementation of this legislation. But it is important, if he could just clarify, so that we are not ending up regulating people who do someone a favour, that then end up in a nightmare of being tied up in a load of procedures.

I appreciate the balance is very difficult between you wanting to regulate and making sure that the Island's good name is protected, but we also do not want a situation where people are not prepared to take on things on trust because of the horrendous liabilities.

**The Speaker:** Hon. Member for Ramsey, Mr Bell to reply to the debate.

**Mr Bell:** Mr Speaker, I made it very clear I think in my comments on the Third Reading that this legislation applies solely to those who provide professional services for trusts. It does not, in any way, impact on the right of the individual to act as a trustee for family or friends or limited services of that type. So there should be no concern, Mr Speaker, on that: the Bill is quite explicit that it excludes those individuals.

Mr Speaker, as far as consultation is concerned: the consultation exercise, I think, has gone on for some two years with the industry. There has been probably more extensive consultation on this than any other Bill for quite some time. (**Mr Earnshaw:** Hear, hear.) The Financial Supervision Commission ultimately came up with a draft Bill.

There were concerns expressed by the industry at that time and, as a result of Treasury intervention at that stage, Mr Speaker, an off-Island legal practice, Stikeman Elliott and, in particular, a well-known partner in Stikeman Elliott, Richard Hay, was brought to the Island to act as a mediator and facilitator to enable further consultation to take place. Mr Hay has a world-renowned reputation for trust work, he is a world expert in this, and he was acknowledged wholeheartedly, I think, by the industry and welcomed as part of the consultation process. He mediated a further period of several months' consultation with the industry. At the end of that time, Mr Speaker, there was a consensus approval for this Bill to go forward and that is what happened.

So, Mr Speaker, far from there being no consultation, there has probably been more consultation on this, as I have said, than many financial services Bills for a very long time. My belief now, Mr Speaker, is that, in the main, the industry is comfortable with this legislation and welcomes its introduction, which will now bring the Isle of Man in line with the Channel Islands.

So, Mr Speaker, I beg to move the Third Reading.

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

## BILL FOR CONSIDERATION OF CLAUSES

### Coastline Management Bill Consideration of clauses commenced

4.1. Mr Cannan to move.

**The Speaker:** Now, Hon. Members, we move on to our next matter which is Bill for consideration of the clauses, and I call on the Hon. Member for Michael, Mr Cannan. Clause 1, sir.

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

A fortnight ago, we read the Coastline Management Bill for the second time, and clause 1 sets out the purposes or the aims of the Bill. These are to provide for the sustainable management of designated parts of the coastline that are, or may be, subject to changes by natural forces; to provide functions that may be exercised in the public interest and intended to be of social and environmental benefit; to provide functions that may be exercised in a manner that balances economic cost with the social and environmental benefit and ensure that in respect of coastline management, decisions about planning policies are taken on an informed basis.

So, Hon. Members, the Bill refers to coastline management and is to give the Department of Transport powers to manage a coastline or coastal land in a sustainable way, where it is subject to natural change and is accordingly being designated for this purpose in the Bill.

I beg to move clause 1, sir.

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

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

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

**Mr Karran:** Vainstyr Loayreyder, I am very concerned about this piece of legislation. My concern is, as I still have not had a clear undertaking, of what liability do we put on the rest of us, as far as any proposed legislation over the management of the coastline? With this piece of legislation, what concerns me, whilst there is no commitment here, the authority is here for Government to do something, to designate. Does that mean that we end up with a liability, Vainstyr Loayreyder, at a later date when somebody sues us, because we have been not responsible in that we should have designated an area for management in the public interest?

I am all, as it says in here, for the social and environmental benefit. My concern is to Hon. Members is: I think it needs to be clearly expressed in *Hansard* by the Minister of Transport that there is no commitment, no legal responsibility, as far as this Government is concerned, in years to come, that we will not end up with somebody bringing in some sort of court case, because we have got the power to do this piece of legislation; will he then be able to argue that, because we have not used the power, we have been negligent in our responsibilities?

It concerns me greatly, this, and I think Members need to be aware about this issue, and until I have got assurances that that is the case, I will not support this Bill.

To be honest with you, Vainstyr Loayreyder, we put up an alternative to put a situation where instead of building an incinerator, we wanted to do a coastline management scheme, years ago, before the incinerator. So, I understand the value of the thing, but my concern is the fact that there is a function put down now in black and white and what I do not want is to find, that the taxpayer will find it is in a big multi-million pound court case at a later date, especially with somebody who has not got any resources, in particular where we would have to pick up the bill and we will end up with a situation of a liability.

I do feel, Members, I really think, that this issue, whilst it would not get support, should go to a committee with the Attorney General in front of it, to make sure that there is no way that there can be a hook put in to the taxpayer. We have allowed enough hooks into the future generations' taxpayers, through the way we have handled, as a Member of this Hon. House and the executive has handled things, without creating any more, and that concerns me.

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

**Mrs Hannan:** Yes, thank you, Vainstyr Loayreyder.

In looking at this Bill initially, it looks as if it really does not cause any problem at all, because the provisions of this Bill are: to manage designated coastline zones; to regulate development in such zones; to confer functions on the Department of Transport in respect of such zones; to modify the effect of enactments relating to town and country planning in respect of such zones; and for connected purposes.

That sounds fine; it allows the Department, it allows Government, in certain areas, not to allow planning, to modify the enactment, and the like, with regard to coastline zones. But then when you go on and look at the Bill in detail, when you look at the purpose of the Bill and the purpose of the Bill is sustainable management in 1(a), that is fine. If you look at it: 'sustainable management' – what does that mean? Well, it comes then with a caveat: 'public interest intended to be of social and environmental benefit'. This is 1(b), 'The purpose of the Act is to:

'provide functions that may be exercised in the public interest and intended to be of social and environmental benefit;'

So what, in actual fact, does that mean? That could form any particular issue. It comes back to the situation spoken about by the Member for Onchan, when he was discussing it prior to me – 1(c), 'is to:

'provide functions that may be exercised in a manner that balances economic cost with the social and environmental benefit'

Who is to say what environmental benefits bring, in these sort of issues? It would have been very helpful if the Minister, not waiting to answer issues, but addressing the issues that are in this particular Bill. Clause 1(d) says to:

'ensure that in respect of coastline management, decisions about planning policies are taken on an informed basis.'

And we look further over in the legislation where Department of Transport has to be informed of all coastal lines or zoned developments, which is fine, but that is a bit late when you are actually looking at the approvals. You are

looking at the approvals in clause 6. Should it not be before that? Should it not be in conjunction with the Department of Transport, if they know of a coastal area, not necessarily zoned at this particular time, but an area that might not be zoned for development?

But the Department of Local Government and the Environment actually giving planning approval and within 14 days telling the Department of Transport, who are responsible for this Bill, we understand, acting on this: I am concerned about these terms, Vainstyr Loayreyder: 'sustainable management', 'the public interest', 'social and environmental benefit', 'balances economic cost with social and environmental benefit' and then we come down to this 'coastline management'. It really worries me that in future, when we look at clause 3 – I know we have not come to it yet, but it says:

'(1) The Department shall review a designation under section 2 –  
'(a) whenever directed by Resolution of Tynwald'.

So, it is not on need. It is being directed by Tynwald. So any Member – I could come along and say, 'You are not looking after Peel foreshore properly, you have got to pour money into Peel foreshore, because every day we are losing sand, and we are getting left with seaweed or grit, or whatever, which is not conducive to what people expect in Peel', and I just wonder where this is going to lead us.

I had hoped the Minister would actually come in and explain the thinking of the Department of Transport, so that I would not need to raise these issues in this way, and we do not really know whether we are get answers to these sort of conundrums, until maybe we get down the clauses in legislation, and by that time Members have actually got into this scenario of actually supporting coastline management, which is what clause 1 is all about.

It really concerns me, and unless I hear something from the Minister which actually spells out the depth and breadth of this legislation, the actual costs of it, that could be incurred, knowing what has been investigated within the Department of Transport to date and the actual costs of sustainable management or managing a coastline area, as suggested by certain people within this House and within the community.

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

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

Last time we did this, I attempted to be helpful to the Hon. Member for Peel and then everyone else spoke afterwards. So, I hope I have judged it right that the main issues have been identified by the two Hon. Members.

Can I firstly put down on record, that this is a Department of Transport Bill, which we have allowed the Hon. Member for Michael, Mr Cannan, to take on our behalf, by agreement between the Department and himself. The background to that is because the Hon. Member, for years, has been complaining about the lack of this type of enabling legislation in his own particular area and the Department felt that this needs to go on a much wider basis to cover the whole Island and does reflect an aspiration of the Department over many years.

All of the issues raised by the Hon. Members for Onchan and Peel are ones which are fully alive and alert, within the Department, as to the potential financial implications of

doing anything on the coastland. The fact is, at the moment, we do not have these powers to try to prevent any of the works being carried out and this will actually give us the enabling legislation to designate an area that we consider to be vulnerable to inundation of some form of coastal erosion. Ministers are often criticised that they will lead these issues and I regret the fact that the Hon. Members feel that maybe I should have been taking this more up front. However, the Hon. Member has my confidence, as a person who has been involved, working with the Department and getting to this stage.

The issue, currently referred to by the Hon. Member for Peel, is in, quite rightly, clause 1. I think that the danger is that we look for the alternative interpretations in isolation in this part, without looking at the safeguards which are built in throughout the whole of the Bill.

The main section of benefit is the security of Tynwald. This Bill, unlike many others, puts Tynwald in the driving seat at a number of stages, prior to it actually being enacted or any monies being expended. In schedule 1, it refers to a designation of a zone shall be by public notice procedure, followed by Tynwald procedure, a minimum of six weeks' period for public objections to any draft order that my Department would put forward. Then, if there are objections, we can hold an inquiry, and it is only then that we would come to Tynwald for their approval to designate an area. After that, if any monies were to be expended, it does not give my Department powers unless again it has Tynwald approval.

So in the issue that the Hon. Member for Peel refers to in clause 3, which I apologise we have not got to yet, Mr Speaker, but has been referred to, again clause 3(1)(a), 'whenever directed by resolution of Tynwald'. That would require the majority of Members of Tynwald voting to agree with the Hon. Member for Peel's contention that there may be a problem in her or anybody else's area. If that argument is persuasive for Tynwald, then it does, indeed, force my Department to review the designation. It will also give us powers to review it in our own right, because we have the responsibility.

The difficulty is that we do not have the powers on private land to discourage and prevent works being carried out which may then, actually, create a greater liability to Government.

The whole principle of this Bill is to do the very thing the Hon. Members for Onchan and Peel are requesting, which is to protect the taxpayers from a liability to being held into the future, where we would be forced to actually take remedial actions for developments that are taken. The Hon. Member for Peel disagrees with that interpretation and hopefully the Hon. Member for Michael, going through the clauses stage will be able to reassure her, as I will attempt to, that it is giving us the recognition that changes will occur around the shores of the Island into the future. We can predict some of those areas that are most vulnerable and this gives us the powers to designate those areas to ensure that no further development takes place. It is quite possible that the powers of this Bill will actually have an effect of reducing or obviating any necessity or need for work and expenditure, because normally the zone would actually pave the way for actually carrying out works.

Realistically, what we are talking about here, in many areas, will be a phased withdrawal from that area, to manage it, to ensure there is no loss to public or private areas of

expenditure. So, I do believe that the Bill, which has the full support of my Department, is not a fop to the Hon. Member for Kirk Michael. He has identified an area, which we have expanded into a larger area. The safeguards are in place that it can only be done through the approval of Tynwald, and I believe the majority of Hon. Members feel Government should revert to Tynwald for those powers.

There is no involvement in any expenditure of money, other than the £20,000 it would take to investigate a designated area, should that be determined. Any further works would have the authority of Tynwald to do it, in order to prioritise the expenditures of money.

The Hon. Member will move on to the section regarding Kirk Michael which was raised before in the Second Reading, and I will come in on that point again, if necessary. But I would reassure Hon. Members that this is deliberately to protect taxpayers' money, rather than the interpretation being put on, which implies that it will designate an area which will then give a liability to Government. That is fundamentally misunderstanding the powers that we need, in order to be able to prevent further development, in order to then expend monies on fighting a case brought from the private sector.

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

**Mr Cannan:** Thank you very much, Mr Speaker.

I thank my seconder, the Minister for Transport, in responding to both Members, Mr Karran and Mrs Hannan, who had queries. The Minister has responded in detail and there is little further for me to say.

The only thing I can say is that any Member here can come to Tynwald with a motion requesting the Department of Transport to declare a management zone in their area. It is not just for one area of the Isle of Man.

**Mrs Hannan:** Yes, it is.

**Mr Cannan:** This Bill is for the whole of the Isle of Man.

**Mrs Hannan:** No, it is not.

**Mr Cannan:** That is the Department's policy that any part of the Isle of Man can, with the approval of Tynwald, be declared a coastal management zone. This Bill does not declare any part of the Isle of Man a coastal management zone, it is only with Tynwald approval and that is what the Bill says and that is what the Minister has said.

While the Bill identifies one area which has severe coastal erosion, and it does not matter who was representing an area, we have a duty, an all-Island duty, to spend money to take protection. How many millions have been spent on Gansey and I have voted for it and supported it? It is in the south. I have voted for it and supported it. It is in the Island's interest and this Bill is giving the powers to the Department of Transport to declare a zone and that has got, before anything further can be done, has to be endorsed by Tynwald and how many times the Minister and I are going to have to say that during the course of this debate, I am not quite sure. But that is what the Bill says. It does not declare any part of the Isle of Man a coastal management zone. It gives the powers to do so to bring the notice to Tynwald and

Tynwald will determine.

Mr Speaker, I beg to move clause 1.

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

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

**FOR**

Mr Cannan  
Mr Teare  
Mr Quayle  
Mr Gill  
Mr Gawne  
Mr Henderson  
Mr Cretney  
Mr Duggan  
Mrs Cannell  
Mr Downie  
Mr Shimmin  
Mr Bell  
Capt. Douglas  
The Speaker

**AGAINST**

Mrs Hannan  
Mr Karran

**The Speaker:** Hon. Members, clause 1 is passed by the House, with 14 votes for and 2 votes against.

We move on now, Hon. Members, to clause 2 and schedules 1 and 2. Hon. Member for Michael.

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

Clause 2, schedules 1 and 2: this is the designation of coastline management zones and the test of whether it is necessary for a zone to be designated, and it also includes, in the schedule, special provision for preparing an order to designate coastal lands at Kirk Michael, which is an area that needs attention – just as Gansey needed attention, Ballure in Ramsey needed attention, other parts of the Island and before any area – and I am only repeating what I said a moment ago – can be declared a zone, you have to come back to Tynwald. This order gives the Department the power to prepare a draft and come to Tynwald and say, ‘This part should be made a zone.’ It does not give the Department the power to make a zone: only Tynwald can declare a zone.

Subclause (1): the Department of Transport may designate by order any area of coastal land as a coastline management zone, though the powers are not quite as unfettered as might suggest. The designation of a zone has to be for the purposes set out in clause 1 and clause 9, which we will come to, defines coastal land as the coast and land adjoining, or near to the coast and which is, or may be, subject to erosion, inundation or coastal subsidence. Inundation means flooding; that means low-lying areas and coastal subsidence.

So, it is not just the areas that the people are getting worked up about Kirk Michael, which does not have low-lying areas, but there are areas in the Isle of Man which do get flooding from the sea and will need protection, sometime in the future or maybe at the present and this Bill again I say is for the whole of the Isle of Man.

A coastline management zone cannot be designated in respect of a coastal area that is not under threat, nor likely to be under threat of erosion, inundation or coastal subsidence; nor can a coastline management zone be designated in relation to a river flood plain, unless it is alongside an estuarial river, i.e. the tidal length of a river. This is because

‘coast’ is also defined in clause 9 as meaning the foreshore and estuarine cliffs or banks, where there is a river which is tidal – and that could be the Sulby River at Ramsey where the Sulby River backs up into Lezayre. That is tidal and has, from time to time, caused flooding.

Schedule 1 states designation of a zone shall be by public notice procedure followed by Tynwald procedure set out in schedule 1. It has all been explained; you have read the public notice, as set out in schedule 1 and a minimum of six weeks’ period for public objections to the draft order is to be given, and an inquiry may be held if the Department thinks fit. Unusually, it is the *draft* of the order that is to be put to Tynwald for approval: that is what we have said, that the Minister has emphasised time and again. It is not the order to Tynwald which normally happens with all orders; it is only the draft of the order, and if Tynwald approves the final draft of the order, the Department may make it and it will then come into operation on the day stated in the order. The order then has to be given public notice and served on Department of Local Government and the Environment, the Department of Agriculture, Fisheries and Forestry and Manx National Heritage.

Subclause (2) provides that the Department shall not designate by order, any area of coastal land as a coastline management zone unless the Department is satisfied that it is necessary for and there it is:

‘protecting land from coastal change; or preventing or limiting coastal change; or preventing or limiting the likelihood of any danger arising from coastal change; or preventing or limiting the likelihood of damage to buildings, structures or works on or near coastal land as a result of coastal change; or preventing or limiting the likelihood of interference with the use of coastal land by reasons of coastal change; or preserving or improving the amenities of coastal land or land near coastal land.’

Subclause (3) provides for fences and penalties to prevent any interference with authorised works in a coastline management zone – and that is quite reasonable. The Department has power in a coastline management zone, then they cannot have people interfering. A coastline management zone order may include provision for preventing interference with coastal works that are planned, being undertaken, or in the course of construction, or completed and for preventing unauthorised use of coastal works. The contravention of such provision is an offence and the penalty is a fine on summary conviction of up to £5,000 – and that is quite reasonable. When the coastal works are being done – it is the same with any other Government Department – when the Government is doing works, it is to prevent public interfering in those public works.

Subclause (4) defines coastal change as meaning changes in the coastline caused by erosion, inundation or coastal subsidence.

Subclause (5) and schedule 2 provides for special provisions set out in schedule 2, to apply for an order under schedule 1, to designate a coastline management zone for coastal land at Kirk Michael. In terms of schedule 2, the parts of the Kirk Michael coastal land that should be included in the zone are to be determined by the Department of Transport within three months of clause 2 coming into operation, and this is in relation to coastal land, or is in the vicinity of the village of Kirk Michael.

Looking at the Isle of Man now and in the future, forget the personalities of who represents the constituency, we are looking at the land and the map of the Isle of Man, whether,

as I have already said, it is parts of Ayre, or parts of the east coast of Ayre between the Point of Ayre and Ramsey or other parts which may need attention, this is a Bill for all-Island, but the most important part at the moment is for attention at Kirk Michael.

Schedule 2, Mr Speaker: it is the recession of the Kirk Michael coastline and the boundary of the coastline management zone and the draft for the Kirk Michael order has also to be prepared within the three months period, after clause 2 coming into operation. The procedure then to be followed is in accordance with schedule 1. That is after a six-week public notice consultation period and a possible inquiry, the final draft order is to be laid before Tynwald – and I emphasise again *draft order*, not the order, the draft order – and Tynwald approval sought. The order cannot be made by the Department unless Tynwald has first approved it.

Now, Members might say to me: ‘Well, why has Kirk Michael been singled out for immediate preparation of a coastline management zone under the Department of Transport and the process of the order to Tynwald?’ This is because, unlike anywhere else in the Island, a substantial part of a large community with extensive infrastructure and development, is located on or near to coastal land that is under threat of erosion and that community needs assurance that Government can be in a position to manage the coastline accordingly, and put in place a regime, by which the coastal lands can be managed for that purpose. Over the years, large numbers of planning approvals have been given and a whole area of hundreds of houses and hundreds of people have been allowed to live on these cliffs.

What this Bill is seeking in the first instance – and there are other areas in the Island, just as I have repeated several times, in Gansey where all those houses along there came under threat – this is making preparation for a managed scheme and to prevent, hopefully, any further development in the managed coastal scheme of houses on those cliffs. Every Government has a duty of care to its people.

The core of Kirk Michael village and the village eastwards of the main road is all situated on or over rock strata that will not erode and, in any case, is sufficiently inland from the present coastline or not under any kind of threat from recession of the coastline, but the coastal plain on which the various developments have taken place from time to time over the decades is continuously squeezed by the coastline recession.

That is what we have been emphasising over the years, and the Tynwald debates and the photographs and the buildings in my lifetime which have gone in, from the old mill to bungalows, all gone into the sea, and it is getting closer and closer to developments. You all know that only a few months ago a 60-house development was approved on the cliffs, to the concern of everybody. Whether or not the houses are able to be sold is a matter upon which I am not commenting.

So, Hon. Members, I would like to move now clause 2 and schedules 1 and 2.

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

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

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

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

I think we are naïve in the extreme, if we think by passing this legislation today, we can stop coastal change and I think for Members to pass this legislation today quite frankly is an insult to our intelligence.

We cannot protect land from coastal change. We cannot prevent or limit coastal change. We cannot prevent or limit the likelihood of any damage arising from coastal change and we are naïve in the extreme, if we think that we can. If we think that we can pour money into the sea to stop this sort of thing happening, we are naïve, because if we could do it, if we could find enough money to do it, do you not think other much wealthier countries would do the same? We cannot do it. To have legislation which says that we can, to my mind, is an insult to us and I think we are trying to fool the public that we represent.

The Member who is moving this legislation says that he has supported the work – he calls it Gansey; in actual fact, it is not part of Gansey, but I know where he is talking about – the Department already has legislation to protect that, it is a highway. The legislation is there. It does not need your approval or my approval, the legislation says the Department shall and if the roadway was affected in the area round about the north west then the Department would have to safeguard it and they have done work in that area to safeguard it. So, to use that as an excuse for supporting this legislation is way off mark.

The mover has quite clearly said Kirk Michael needs attention, but we have to come back to Tynwald for a draft, but is also going to be wonderful because it is going to affect tids and rivers, so Ayre is going to be protected by having Sulby protected, because there could be erosion and it could be inundation from the sea going right up the river. However, most of the problems that have been there – and it has been talked about in this House and other places for quite a long while, not only with just this recent flood, but floods before – is actually water coming down the river hitting the tide. I know I am only playing with words, but the tidal flow is there most of the time – well, it is there twice a day. It is only when there is heavy rain, which is absolutely exceptional, which caused that, and if we think that we are going to be able to stop all of that, then I am sorry, we just think we are God and we can do these things.

I cannot accept that we can, and especially when you look at schedule 2. The suggestion of schedule 2 is that within a period of three months of the date on which section 2 comes into operation, ‘the Department shall’. So, we are into it there with this piece of legislation. This is all about Kirk Michael and the Member is suggesting that it is about planning and halting planning in these particular areas. We are not going to halt the planning that is there. It has been given approval. It has been given approval, because the houses that have been developed at the moment, the lifespan of them is reduced quite considerably, over what was suggested that houses would be built for in the past and, therefore, within the time. That is about the time limit of these particular properties.

So, I can understand the concern of the Member: it is his area. His local authority have been saying that something must be happening, but they are not going to be suggesting that they pay for anything to do with this at all. It is all going to be Government, and I would like Government, especially the Treasury Minister knowing about finances and where the money is, to say where the money is going to come from in

the future for this sort of development.

It could be suggested – and we know the cost of this, because it has been costed out in recent times – the Member moving this suggested that we had a duty of care to its people. We do, and the Member next week will be criticising Government for not putting enough funds into waiting lists or schools or whatever. What I would like to know from the Treasury Minister, has he got money to fund this Bill that we have in front of us at the moment? I would like to know how much money is being set aside for this. The mover has said that that does not come into the equation, but if we are going to get into spending £20,000 to do a study on Michael of what is needed, then I think there must be some projection in the future, should Tynwald be asked and we keep coming back to being told that it is Tynwald that will decide.

We have seen the debate that we have had over this initially this morning. There have been two Members discussing it – two Members – the Minister for Transport, who will not be there when this legislation is getting into full force, when this money is needed to be found, and will need to be found from health and education and policing and all the rest of the things and housing that we need. And I just think that just to sit here and accept this legislation, willy-nilly, is a dereliction of duty.

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

**Mr Karran:** Vainstyr Loayreyder, I want to make it quite clear that I come from maybe a slightly different angle from the Hon. Member for Peel. But her last statements are very relevant, as far as liabilities and priorities of this Hon. House. I applaud the way that we are giving Tynwald the power and, as the Minister has said, I would be delighted. I am delighted to see that, Vainstyr Loayreyder, in this piece of legislation.

It is the fact that Tynwald and this parliamentary setting has been so marginalized, which is the answer to the Hon. Member for Peel, that there are only two of us on our feet here today. But the fact is: what concerns me, Vainstyr Loayreyder, is that all I have asked for... I resent the Hon. Member for Michael saying that it is personal. It is not personal. I try to be consistently objective – some maybe say... (**Several Members:** Objectionable! *Laughter*) – with everybody in this Hon. House, because I believe in the issue of ‘without fear or favour’. I am not prepared to let him have this smokescreen of saying that it is all personal, I support the protection, trying to protect everybody on this Island. My concern is that, if we allow this clause to go through like the previous clause to go through, and we do not then zone, we come to the debate and the issue of the Hon. Member for Peel says about the cost. I disagree that virtually anything can be withstood, if you are prepared to throw enough money at it, but it is about priorities.

But if we then decide, after passing this piece of legislation, that we do not then zone it, because, as the Hon. Member for Peel says, we want more money for nurses, for whatever, for Health Centres or whatever, does that mean that because we have passed this piece of legislation, we have put a hook into the taxpayer?

That is all I want from the hon. mover or the Hon. Member for Transport. That is what I want. I cannot understand why they can simply not give us that assurance: that by bringing in this enabling legislation, that we do not create a liability for future generations, taxpayers, that we

can end up with a situation. If they say that, I will sit down and I will be quiet.

I understand, as a former chairman of the Water Authority, when land was designated for planning, which was a nonsense in a mill race, people made all the profit out of it, all the money out of it and then, the next thing is, I have got another ex-Member of this Hon. House playing the parish-pump routine of how terrible. And I do not blame him; I totally do not blame him at all, he is looking after his constituents, but the fact is, it could have been a very dangerous liability on the Lught-reill Ushtey, ratepayers, who are innocent, all the profits been made, all the abuse of the planning system has been made and fortunately, common sense and justice worked out, that there was a liability on the water ratepayers, that would have been horrendous.

I do feel in this Hon. House, that the Hon. Member for Peel is quite right, as far as what she says about scrutinising legislation, to make sure that liabilities do not ... We have caused enough liabilities on future generations of how we have allowed things to happen and all I want from the Minister of Transport, when he gets up here, that he tells me the Coastline Management Bill 2004, Vainstyr Loayreyder, there will be no legal liabilities that will turn up in the future as far as the taxpayer ending up saying, ‘Oops!’, because we passed this piece of legislation, and because Tynwald decided, like the Hon. Member for Peel says, we would rather spend it on special needs kids, or we want to spend it on whatever, that there will be no liability that then, we are tied up in a heavy litigation situation.

I want to see the people of Kirk Michael protected as much as anyone else in the environment, but I also want to see, which is more important, that before we pass this Bill, and I hope the Minister will give that assurance, that I will be protecting the taxpayer from ending up being sued, because it has not used this enabling piece of legislation. That is all I want – the structures, everything else, only that assurance and I will keep quiet then.

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

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

The only point I would like to raise, in addition to those by the two previous speakers, is the use of the phrase ‘need’ that the mover employed on a number of occasions, and he linked the need that had been identified and addressed in Gansey, as almost a precedent to the need, which is identified in Kirk Michael. Perhaps the seconder of this Bill, sir, as Minister of Transport, could just reassure myself on that point, that there is no particular arrangement or understanding in relation to any particular part of the Island, but specifically, as we are discussing the Kirk Michael area, which is in any way separate or particular, special, as opposed to any other area of the coastline or the areas covered under the provisions of this Bill.

**The Speaker:** Hon. Members, I think that is an appropriate time to adjourn for lunch. The first to speak after lunch, at 2.30, will be the Hon. Member for Douglas West, Mr Shimmin.

*The House adjourned at 12.58 p.m.  
and resumed its sitting at 2.30 p.m.*

## Coastline Management Bill

### Consideration of clauses concluded

**The Speaker:** I call on the Hon. Member for Douglas West, Mr Shimmin, relating to clause 2, schedules 1 and 2.

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

Really, addressing comments once again to the Member for Peel and the Member for Onchan, Mr Karran: I do not believe that the three of us are as far apart from our beliefs and thoughts as one might at first think.

I would certainly not argue with the comments from the Member for Peel regarding how naïve it would be to attempt to consider that we could stop the ravages of nature by artificially trying to interfere with the process. What we can do is attempt to manage it in a more meaningful way than is available to us at the moment. The comments that the Hon. Member made did become a little bit problematic for me when she implied that we were fooling the public if we supported this legislation. I would argue far from it. I would say that, in reality, it is fooling the public if we consider that we have the powers currently to actually manage this situation. I would ask Hon. Members to realise we are not talking about 5 or 10 years hence; we are talking possibly 20, 40 or 60 years into the future, and having the powers available for us to prevent problems being created during that time which people who follow us will have to deal with.

The Department currently has some powers to deal with those areas in public ownership to maintain in order to protect roads, public services or the property which is currently vested in the Department or in Government. What we do not have are the powers invested in us for private lands where development can take place. The Hon. Member said we think we are God if we believe we can do this. I honestly believe that without these powers we will be leaving the situation open to errors into the future which will then have to be borne by the people who follow us. These powers will enable us to come to Tynwald to designate those areas that we believe should be prevented from having further development works done on them. The other option to that is do nothing and, therefore, allow nature to take its course and private individuals to develop on property or on land which we believe is likely to have some significant difficulties into the future.

One of the main thrusts of both Hon. Members is the involvement of money, and I can reassure the House that this enabling legislation does not give liability to the Department or to the Government, nor do I ever envisage expending millions of pounds in order to try and find mechanisms to try and hold back the ravages of... to take powers which would give a liability for millions of pounds to be expended in order to try and restore or maintain the land as it is now.

The Hon. Member for Kirk Michael is quite right, and read out papers which have been prepared and approved by my Department which point out why we have put Kirk Michael within the Bill as is now, rather than using that as an area that we would designate in the future. It is singled out because the Department, for some time, has been aware that Kirk Michael does exhibit those most easily identifiable risks that, if development as has currently been proposed were to continue further towards the coast land, then that would be, in my view and the Department's view, negligent for Government not to try and make its views known in a more formal manner than can currently be done through the

planning process.

Unlike anywhere else in the Island, a substantial part of a large community with extensive infrastructure and development is located on or near to coastal land that is either being eroded or could erode. We will come back to this House within the designated period, if this legislation goes through, to evaluate that that area should be designated as a management zone and, within that, what proposals the Department believes would be appropriate to try and prevent further erosion or, more likely in most areas that we will ever look at, to make sure that no further development takes place.

There is no liability... and when we get to clause 11 that will be made clear, that the powers vested within Tynwald will not be liable for any further levels of financial responsibility to the Government if it does or does not take actions. I would argue that we would be negligent if we did not identify those areas that we believe could be vulnerable. I can give the Hon. Member for Onchan my assurance – and that is as far as I can go, because lawyers will always attempt to interpret things differently – but I believe that, through the officers of my Department and the drafting people in the Attorney General's Chambers, this gives us all the safeguards for the public purse into the future to ensure that no monies would need to be expended.

This will actually give us a protection rather than a liability. The reason for saying that is that once an area is designated as an area of special scientific interest (ASSI), if I look towards the Department of Agriculture, Fisheries and Forestry, if I look towards certain conservation areas within the Department of Local Government and the Environment, what it does is put into place special provisions which restrict certain levels of development. That is what we are looking for.

The prospect of expending large amounts of money will always be competing against the health services, education and all the other requirements for the public purse and neither I, nor the Council of Ministers, nor my Department particularly have any intention to give a liability which is going to give us any problems into the future. We in the Department of Transport know that we have difficulties in getting monies for renewal and maintenance of our current infrastructure, and this is deemed to be a way of ensuring that we do not get that liability into the future.

The Hon. Member for Rushen, Mr Gill, referred to what has been referred to as Gansey and the need. I think I have covered that aspect but yes, that is in public ownership; it is a highway and, therefore, we have a liability in that circumstance and will retain that liability wherever Government land is involved. That does not mean that we will always need to put in prevention and protection, but it does mean that we have a responsibility to manage that area.

The other areas we are talking about particularly are currently in private ownership. I apologise for repeating this so often, but it gives us powers over private areas so that the development can be restricted. Some powers we have already; this will give us the panoply of powers we require for any area that we believe is suspect to erosion or inundation by waters.

I hope I have answered some of those questions the Hon. Members have asked and at that stage I will sit down, sir.

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

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

I did speak to this Bill at the Second Reading stage and I expressed then my uneasiness and concerns about, perhaps, being held as a hostage to fortune if we progressed with this Bill in terms of liabilities and so on for the future. I know, to a large extent, those concerns have been addressed by the Hon. Minister during this morning and a few minutes ago. The question I do pose in a way, though, is that, for clause 2, I am still unaware as to why there has been specific provision for Kirk Michael. If this is just general legislation then I would have thought that schedule 1 would have given enough provision for the whole of the Isle of Man and it would be for the Department, if it wished – and it obviously does wish – to identify Kirk Michael and perhaps consider that in its precedence. So, for that reason alone, I fail to see why Kirk Michael should have been set out and put specifically in the Bill.

It is not, either, the case that it could well have been put as a further clause, and specific provision for Kirk Michael could then have been put in a separate clause and schedule; whereas at the moment we are faced with clause 2 and both schedules 1 and 2, so there is no opportunity for anybody here, if they so wished, to actually not vote for subsection (5). They either have to vote for clause 2 or not. I realise that, perhaps, could have been addressed by an amendment if it had been put previously, but it is just a general concern that I would have thought this is legislation which is designed for the whole of the Isle of Man and it seems somewhat unusual just to have a specific mention of a particular area of the Island.

But at the moment I am minded to support it, but with the caveats that I have mentioned.

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

**Mr Gawne:** Gura mie eu, Loayreyder.

I was quite happy, and probably still am quite happy, to support this Bill, but the Hon. Members for Onchan and Peel have raised a certain degree of apprehension with me. I would be grateful if the mover would maybe clarify a few points. I suppose specifically looking at clause 3, I note that parts (1)(a) and (b):

- ‘(1) The Department shall review a designation under section 2 –  
 (a) whenever directed by resolution of Tynwald;  
 (b) otherwise at such intervals as the Department thinks appropriate.’

Now, would reviewing a designation include, for example, if an order had been made... Well, I suppose I need to really clarify partly part of clause 2 before I ask this question. In clause 2(2), it mentions that an order shall be made by the Department. Now, I was working under the assumption that that order would be coming to Tynwald for approval. I would like to know if that is actually the case. If it is, then that would be a certain amount of reassurance.

But going back to clause 3, then: if an order came to Tynwald and was rejected by Tynwald, could –

**The Speaker:** Hon. Member, can I just indicate we are not on clause 3. It really is premature to debate that unless you are specifically referring to how it affects clause 2.

**Mr Gawne:** Sorry, I thought we had got to clause 3.

**The Speaker:** Clause 2, Hon. Member.

**Mr Gawne:** It shows the lack of attention that I am showing on the matter, in which case I will mention my concerns on clause 3 when we get to it.

**A Member:** You have already mentioned it.

**Mr Gawne:** No, I nearly had. I was within –

**The Speaker:** In fairness to you, Hon. Member, a couple of Members did actually touch on clause 3 without going into any detail.

**Mr Gawne:** Right, okay. Well, clause 2, certainly. I would be grateful if we had clarification that, in fact, the orders made by the Department will be going to Tynwald for subsequent approval.

**The Speaker:** Hon. Member for Michael to reply to the debate on clause 2.

**Mr Cannan:** Clause 2, schedules 1 and 2, thank you, Mr Speaker.

The Minister has, I believe, very comprehensively answered the query of the Hon. Member for Peel, Mrs Hannan and, indeed, Mr Karran. The point I would just like to re-emphasise is that this Bill is not fighting the elements, it is preventive action to prevent man-made acceleration. In other words, buildings on the cliffs could accelerate erosion, damage, so on and so forth. This Bill is to take measures to prevent any acceleration of coast erosion or flood inundation and so on and so forth.

When the Hon. Member said nowhere else in the world is doing it, I suggest to her that she will find that in the United Kingdom many areas on the east coast of England, where there is a conurbation, are taking action. Other areas where it is pure land, they are not; they say that the cost is too much. But the purpose of creating coastal management zones, wherever they are on the Island, is to prevent conurbation or a whole area of urban dwelling.

I want to emphasise now, particularly to Mr Karran, that there is no hook into the taxpayer with this legislation whatsoever; it is purely a Bill to say what can be done, if Tynwald decides.

It is the same answer to Mr Gawne. I think we have emphasised it already several times: no order can be made without Tynwald approval. It is not a case of making an order to seek Tynwald approval, which is the normal way at the present in many aspects of our public life; it is, in this case, a draft that comes to Tynwald to decide if it should be made an order, and there is a big difference in that.

I repeat to the Hon. Member for Onchan, and I hope he will now support the rest of this Bill, there is no hook into the taxpayer. If after the Department has a draft order for a coastal management zone, and Tynwald approves the zone, that does not mean any expenditure either; it is only if Tynwald then decides to spend money. It is all in the hands of Tynwald. It is all in the priorities of Tynwald, and as has so rightly been said on health, education, highways, whatever, whether it is a camera obscura or a café at Niarbyl, all these matters have Tynwald priorities, all have Tynwald priorities. The Bill has no implications for spending any major funds whatsoever. It is purely enabling legislation for areas of

coastline declared a management zone.

Schedules 1 and 2: why Kirk Michael? Well, how many times have we had major debates in Kirk Michael? We have Posford Duvivier's report and assessments, and so on and so forth, because the people of the Isle of Man, and the majority of the Members of Tynwald looking on an Isle of Man basis, recommend and realise that this is the one part of the Isle of Man where there is a conurbation that has a very, very serious problem.

Mr Speaker, I move force to schedules 1 and 2 of the Bill, sir.

**The Speaker:** Hon. Members, the motion before you is that clause 2 and schedules 1 and 2 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it.

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

FOR	AGAINST
Mr Anderson	Mrs Hannan
Mr Cannan	Mr Karran
Mr Teare	Mr Speaker
Mr Quayle	
Mr Gill	
Mr Gawne	
Mr Houghton	
Mr Henderson	
Mr Duggan	
Mr Braidwood	
Mrs Cannell	
Mr Downie	
Mr Shimmin	
Mr Bell	
Mrs Craine	
Mr Earnshaw	
Capt. Douglas	

**The Speaker:** Hon. Members, the motion carries, with 17 votes for and 3 votes against.

Clause 3, Hon. Member for Michael.

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

Clause 3 is a review of designation of a coastline management zone. After Tynwald has approved a coastline management zone – after it has approved a coastline management zone – the Department has the right to review that zone in the light of circumstances in future years.

So, what it is saying is that a coastline management zone is not written in articles of stone for ever and a day. Review will be necessary because, as time goes by, the natural changes to the coastline, and changes to land use of the coastal lands, and various social and environmental occurrences and developments may require the boundaries of the designated zone to be amended.

Review of a designated zone can be carried out by the Department when it considers it to be appropriate to do so, but – let me emphasise this – it must carry out a review if Tynwald so resolves at any time.

Subclause (2): in conducting a review of a zone's designation order

'the Department shall take into account –

'(a) any evidence of any erosion, accretion or inundation of the coastline and of any coastal subsidence that has occurred since the order was made...'

Quite clearly – this is a fairly short clause, Hon. Members – it is quite clear that coastal management zones, if in the years and years ahead the environment changes, the Department has the right to vary those zones in accordance with the need.

Mr Speaker, I have pleasure in moving clause 3.

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

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

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

**Mrs Hannan:** Thank you, Eaghtyrane.

This is obviously a continuation of what we have had before, because it does not matter what anybody says in this Hon. House today in relation to this Bill, it is as the Bill is written before us. It does not matter what assurances have been given, this Bill, when it becomes law, is law and it does not matter what assurances have been given. This particular clause is absolutely no different whatsoever.

We have got two situations here: we have got 'as directed by Tynwald' and also 'at such intervals as the Department thinks appropriate'. So, you have two areas there. If it fails in the Department and the Department says 'No, we do not need to', all a Member has got to do is to go to Tynwald and ask for this to be carried out. It is just a continuation.

Again I say... I am not suggesting that anybody is naïve when it comes to this legislation about erosion and all the rest of it; we are naïve getting into this legislation in the first place. If the Department wants to control planning, and wants to put that down as one of the areas where it should be consulted on planning, that is what the Department should have done, not to bring forward legislation such as this when it says, 'Oh, it is only going to be like this, it is only going to be designated like this'. It is much deeper and more controlled, this legislation, than just going for something like a designation when it comes to having a conservation area or something else. If that was the case, I would not object to it as being designated on a map to say these are areas which should not be... and the Department getting work for that to be done so that can be put on a development plan; but not in this way.

I do not think it matters what anyone says; it does not even matter what I say during the debating. This is a debating issue, and we can all have debates, but it is exactly what the legislation says. So, at the end of the day, we are either approving legislation that is written in this way or we are not, and I suggest it to this House that we are passing legislation that will be used in the future, no matter what anyone says, to pour money into the sea.

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

**Mr Gawne:** Gura mie eu, Loayreyder.

Yes, we finally get to clause 3 and I can make the point I was trying to make earlier. Effectively, I would like to be absolutely sure that, on this definition of designation, in fact, the designation as mentioned in the first line of this clause refers to a designation which has been actually approved by Tynwald, not a designation exercise which has been undertaken and subsequently rejected by Tynwald.

Also, in part (b) of subsection (1) there:

‘otherwise at such intervals as the Department thinks appropriate.’

a review of designation can take place. Would it therefore be possible for, perhaps, 10 yards of coastline to be designated following the procedure outlined in clause 2 and then subsequently the Department could come along and think, ‘Ah, yes, well actually, the whole five-mile stretch along here really needs to be designated, so we will review the designation and massively expand the area which will now be designated’? So I would be very, very interested to hear from the mover exactly what this part (b) of subsection (1) actually will allow the Department to do, because I think it is a very important point.

This is a very, very permissive bit of legislation and I think, unless I hear some very clear reassurances, both from the Minister, perhaps, if he wishes to speak and the mover, on this particular point, I would be somewhat loath to support this particular clause. It is potentially opening the Department up to quite considerable expenditure if, as I am suggesting, we can take a relatively small stretch of coastline which has been designated, review it and then decide actually the whole stretch of the coast has to be designated.

So, I would be very interested to hear the response of the mover.

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

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

Taking the Hon. Member for Rushen’s comments first, in schedule 1 it gives a clear outline as to the order and the mechanism in which we, as a Department, would come forward with any designation. Within that, it makes it clear that if we determine that there is an area that is worthy of consideration, we would do a draft order, which would have to be published and advertised for six weeks. Following that, we would come back to Tynwald and that would be the first time Tynwald had formally been invited to express an opinion on it. Therefore, if the case had been made by the Department, it would be up to Tynwald to determine whether or not the draft order was appropriate.

I would also point out that that would be the same were we to have any direction by Tynwald, or as the Department viewed, for re-looking at an area. The purpose of that is purely because in time, and again this is 20, 30 or 40 years hence, an area that we have put as a management zone may well actually be eroding at a greater or a slower rate, therefore, we would have to be able to revisit that area to make sure that the area designated as a management zone was still appropriate.

Tynwald retains the control on the original designation, control on the expenditure of any monies, and a control on any variation. A Member would not just need to come back to Tynwald with a resolution; it would have to be a persuasive argument which would then engender the support of the House.

Hon. Members are still concerned about the liabilities of the monies. The point I would still try and urge is that it is to give us the ability to have some influence and control over private land – no different from the Land Drainage Act where we have main rivers: at the moment a main river is designated on a map, and if we, for whatever reason, whether

it be flooding, or the issue in Sulby is a classic example, have had to come back to designate a larger area as ‘main river’ in order to give us powers to have some control over what happens in that area. At present, we have no powers to go onto private land to carry out any works or not to carry out any works. It is enabling legislation to give us those powers. Other jurisdictions are doing this, not in order to give a liability to carry out works but to give the powers to actually have some element of control.

It is a fundamental difference between those who are opposing this Bill and myself as to whether this actually gives a liability, or assists us in having an opportunity of management. I do believe that we are all aware of the future climatic changes and this legislation, if it is not here now, will merely have to be brought in at some stage in order to give us the very powers we are after. The safeguards are in place.

I think I have answered the Hon. Member for Rushen’s question, I hope so; if not, I will revert to the mover of the motion.

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

**Mr Karran:** Vainstyr Loayreyder, I think we all agree with the Shirveishagh, I mean the Minister, that the idea of giving more powers is a good idea for his Department; it is just the issue of liabilities. My only concern is, with the designation, if we decide to designate for a coastal erosion zone, for a management zone, one of the issues that concerns me is the fact that if we found out that we have designated, then found out that we are not able to protect the coastline sufficiently, surely if we then decide to de-zone that land, would there be any liability as far as the taxpayer is concerned? So long as that is clearly put down in *Hansard* that that is not the case then... this is just something that I am concerned about with this legislation.

Where you have got rights, you have responsibilities, we are always told; and if we have a responsibility as far as if we have the right for the management of this area to do what we want, then we will end up with a responsibility. My only concern is that it is a hook in, because I will be honest with you, Vainstyr Loayreyder, if I bought a property in the knowledge that it was going to be a management zone as far as the coast erosion is concerned and then I find out that ‘Oh, it doesn’t work, we’ve underestimated the resources in order to stop the erosion’ or the flood plain or whatever, I would feel aggrieved enough, maybe, to try and litigate for you taking on that responsibility, especially when I purchased that property in that area on the back of knowing that it is going to be a managed area as far as the coastline is concerned, or a flood plain is concerned.

Whilst I am a lot easier with my concerns with the Minister and the mover about the liability, I still think that before the Third Reading stage, somebody needs to get a categorical assurance out of the Attorney General’s department, because I see this clause actually developing a potential liability for the taxpayer. We came very close to this; as Chairman of the Water Authority, innocent as we were, we could have ended up losing millions of pounds of ratepayers’ money on this issue. I am just concerned that it is a bit too tally-ho at the moment, as far as this Bill is concerned.

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

**Mr Cannan:** Mr Speaker, referring to the Hon. Member, Mr Karran, there is no tally-ho in this Bill whatsoever (*Laughter*), no tally-ho. I, and the Minister, have emphasised again and again that there are no liabilities in the Bill, that the Bill is simply enabling legislation. The Bill does not provide for any orders at all. The draft order is a separate issue which will come to Tynwald. It will come to Tynwald and Tynwald will decide whether the draft order should be made or not made.

The Hon. Member talks about buying in a management zone but if you buy a house anywhere – and all Members know about buying a house – you engage a lawyer to do the conveyancing, and a lawyer doing your conveyancing has a duty to inform you of the conditions of where you are buying the house. If you were buying in a coastal management zone, he would give you legal advice on any risk implications for buying in a coastal management zone. It would be his duty to (a) tell you it was a coastal management zone and (b) what the terms of the coastal management zone were before you signed to buy your house. This is standard procedure. Standard procedure. I cannot emphasise too often to the Hon. Member that he is looking for something that is not in the Bill.

As regards to Mr Gawne, the Minister has answered, and quite clearly indicates to him, that no stretch of land can suddenly be enlarged without going through all the procedures.

**Mr Gawne:** It is not clear in that clause.

**Mr Cannan:** Well, if you have read the clauses before, we say the procedures for designating land. It would only become endlessly repetitive, and legal terms Bills do not become endlessly repetitive. We deal with a lot of legislation which goes on in other clauses which, once those other clauses have been passed, by implication moves on to the next clause, and that is the standard way in which legislation has gone through for as long as I have been here. So, Hon. Members, this is quite simply a clause about the review of designation of a coastline management zone. A coastline management zone can be declared with the approval of Tynwald and any review of that zone will require the approval of Tynwald.

So I move clause 3 and hope that it will be supported.

**The Speaker:** Hon. Members, the motion before the House is that clause 3 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it.

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

**FOR**  
Mr Anderson  
Mr Cannan  
Mr Teare  
Mr Rodan  
Mr Quayle  
Mr Rimington  
Mr Houghton  
Mr Henderson  
Mr Duggan  
Mr Braidwood  
Mrs Cannell  
Mr Downie  
Mr Shimmin  
Mr Bell  
Mrs Craine  
Mr Earnshaw  
Capt. Douglas  
The Speaker

**AGAINST**  
Mr Gawne  
Mrs Hannan  
Mr Karran

**The Speaker:** Hon. Members, the motion carries with 18 votes for and 3 votes against. Therefore, clause 3 carries.

Clause 4, Hon. Member for Michael.

**Mr Cannan:** Clause 4, Mr Speaker, is the regulation of development in a coastline management zone. Now, subclause (1) states that, subject to subclause (2), which I am coming to in a moment, which provides for the exceptions, no building, engineering, mining or other operations may be carried out in, on, over or under a coastline management zone.

Subclause (2) sets out the exceptions to the prohibition on the development and works in a zone. It should be noted that, by virtue of clause 1, any such operations that are allowed must be consistent with the purpose of the Bill set out in that clause, and they remain subject to any planning approval that may be required in addition.

So here we are: what cannot be done and what can be done. And what cannot be done, it cannot be done by anybody other than by the approval of the Department.

The exceptions to the prohibition on developments and works in a designated coastline zone are under the clauses in the Bill, and the operations pursuant to a planning approval where a development plan has been made in respect of the relevant coastline management zone or the relevant land within that zone and the plan contains a statement that it has been formulated having regard to the existence of the relevant coastline management zone. So, in other words, the only works permitted are those, basically, by the Department, and that, I think, sums up this clause.

I will answer if there is any detail in the clause, but the overall picture is, as I have set out, in the prohibition in subclause (1) and the exceptions in subclause (2), which are basically the Department going on the land to carry out works

and any works carried out properly and under supervision of and in the control of the Department as it relates to a planning approval that may have been given, but the planning approval would have only been given with the full knowledge that it was in a coastal management zone.

Mr Speaker, I move this clause 4 standing in my name.

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

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

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

**Mrs Hannan:** Thank you. I just really want to ask a question for clarification.

The first part says:

‘Subject to subsection (2), no building, engineering, mining or other operations may be carried out in, on, over or under a coastline management zone.’

Does that mean that the Department, too, cannot do any building, engineering, mining or other operations within this area? Or does it allow for the Department to do those sort of issues within an area so zoned under this piece of legislation? I would be interested in hearing what the mover and the Minister have got to say on this subject.

**The Speaker:** Hon. Member for Michael to reply to the debate.

**Mr Cannan:** In reply to the Hon. Member for Peel, she asks does that prevent the Department. It does not prevent the Department from carrying out works in the zone in pursuance of the purpose of the Bill, which is to alleviate and take whatever steps possible in terms of coast protection. It prevents the private world from doing works; it does not prevent the Department from going in on a coastal management zone to do controlled works for the benefit of the management zone, and I think that answers the query.

Mr Speaker, I move clause 4.

**The Speaker:** Hon. Members, the motion before you 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 for Michael.

**Mr Cannan:** Clause 5, Mr Speaker, is the powers to do coastal works. Now, subclause (1), the Department of Transport is given power, which I have already just explained in summing up on clause 4, to

‘undertake, construct and maintain coastal works within a coastline management zone or on any foreshore if the Department is of the opinion that it is necessary for any of the purposes set out in section 2(2).’

that is, the purposes (a) to (f) itemised in that clause. I think I said in the summing up which I have just done, the only powers to do coastal work are for the Department for the purposes of the Bill.

Once a coastline management zone has been designated with Tynwald approval, it will become statutorily feasible

for engineering works to be carried out in that zone for the purposes of the Act, and I have explained that to the Hon. Member a moment ago. The technical and engineering processes required to bring any scheme to completion may be of a revenue or capital nature but costs will depend upon the location, scope and extent of the scheme and its engineering features. Treasury concurrence will be required at each stage, in accordance with the Government’s budgetary procedures and, ultimately, Tynwald approval will be required before capital expenditure could be incurred. All the safeguards are there.

Now, subclauses (2) to (4) deal with the matter of compensation to landowners or occupiers or persons having interest in land who are injuriously affected by any operations carried out pursuant to the Department’s powers in subclause (1). In other words, if the Department, in doing these works, carries out something that is injurious, then there is some sort of compensation.

Then subclause (5) defines coastal works and it means:

‘any works of construction, alteration, improvement, repair, maintenance, demolition or removal for the purpose of the protection of any land or the management of the coastline within or adjacent to a coastline management zone, and includes the sowing or planting of vegetation for that purpose.’

So, here we have a power, as I have already explained, to do the coastal works. If anybody is adversely affected then they can be compensated, and also, in determining the amount of any compensation, there shall be taken into account any increase in value of the land attributable to any operations carried out under the Bill. This is bearing in mind that works on the coastline to reduce the rate of erosion of land may well increase the value of the land further inland which has become protected from erosion for a period as a consequence of these works. So, that in itself is self-evident.

I think, Mr Speaker, this clause, the powers to do coastal works, is self-explanatory and I will answer any questions. I move clause 5, sir.

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

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

**The Speaker:** 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.

Clause 6, Hon. Member for Michael.

**Mr Cannan:** Clause 6, Mr Speaker, notification of development or change of use of land. Subclauses (1) to (3) retrospectively authorise the Department of Transport, by notice, to require information from the Department of Local Government of all planning approvals relating to land within a coastline management zone, and from the Department of Agriculture, Fisheries and Forestry about changes of land use of which the Department becomes aware in agriculture or horticulture land in a coastline management zone, and requires the Department to comply accordingly – in other words, cohesion of Government. The Department of Local Government and the Department of Agriculture advise the

Department of Transport of information that they may wish to acquire when making a coastline management zone.

That is to enable the Department of Transport to manage the coastline in a designated zone. It is vital that the Department of Transport is aware of the planning approvals and agricultural changes of land use in a zone. It is appreciated that, in practice, the Department of Transport may very well be already supplied with this information for other purposes, but by putting this in this Bill, it ensures that the information is supplied and received for the purpose of coastline management in a designated zone.

Mr Speaker, this is basically a clause about the responsibilities of Government and Government Departments to liaise with each other. Mr Speaker, I move clause 6, sir.

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

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

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

Hon. Member for Michael, clause 7, sir.

**Mr Cannan:** Clause 7 is the surveys of land and land use and it is the powers of entry to coastal land for surveys, inspections and works.

Subclauses (1) to (3), Mr Speaker, empower the Department to carry out or commission surveys of land and land use in any coastal land – any coastal land. An officer or an employee of the Department of Transport or person authorised in writing may, at any reasonable time, enter any coastal land for survey, for inspections, for ascertaining whether action should be taken, or for works to be undertaken by the Department of Transport, for taking action or undertaking works, and generally for the purpose of the Bill.

A person entering land may not demand a right to do so unless notice has been served on the occupier at least 24 hours beforehand. He shall not enter any dwelling on the land which is occupied, and that is important. He shall not enter any dwelling on the land, he shall give 24 hours' notice that he is coming along, and basically, Hon. Members, I see no harm in that whatsoever. He is only coming along to look at the coastal land to see if something needs doing, not going to take over the land or give instructions about anything. He just wants to come along and see, on any coastal land on the Island, does it need attention, or otherwise.

This clause, also, Mr Speaker, is self-explanatory, and if there are any questions, I will be happy to answer them. I move clause 7, sir.

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

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

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

**Mr Quayle:** Yes, thank you, Mr Speaker.

Just noticing there on clause 7 where it says, subsection (3)(b):

'may take on to the land such other persons and such equipment as are necessary for the purpose in question;'

I just wonder, presumably it is relying on the fact that if any damage was caused that that would be rectified?

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

**Mr Cannan:** Yes, I am quite happy to give that assurance. If he came on with his Land-Rover or a theodolite or anything other, that is his purpose, his equipment, or he came on with his assistant, and if you look at the previous clause it gave that, if they injuriously caused any damage, there would be compensation or they could claim compensation for any works, and that would be the same. But as he is only just walking on the land and carrying out a survey, I cannot really see any problem in this whatsoever. If there was any cause for a claim, there would be; but you will notice that he is giving 24 hours' notice, and they are not entering any dwelling.

Mr Speaker, I beg to move clause 7.

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

Clause 8, Hon. Member.

**Mr Cannan:** Clause 8, Mr Speaker, is offences by bodies corporate. We know that if a person commits an offence they are liable to a fine, we have already passed that clause, and this is to say that if it is a company, and the argument is that the company committed an offence, then it is proved that an offence is committed with the consent or the connivance of an officer of a body corporate. And that means that the officers or persons responsible for the body corporate would be... or was attributable to the offence on the part of the officer of the body, the officer as well as the body should be guilty of an offence. The fine may be imposed on such officer as up to £5,000, and that is what we have already approved in the previous clauses.

This is to stop abuse of the Bill by saying a company committed an offence in relation to this Bill and not a person. This says that the person responsible for the company, if it is proved that there was something done wrong, has to accept responsibility.

Mr Speaker, I move clause 8, sir.

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

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

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

Clause 9, Hon. Member.

**Mr Cannan:** Clause 9, Mr Speaker, is interpretation,

and it provides for the general interpretation of expressions used in the Bill. 'Coast' means the foreshore and estuarine cliffs or banks. 'Coastal land' is defined as meaning the coast, that is the foreshore and estuarine cliffs or banks, and land adjoining or near to the coast and which is or may be subject to erosion, inundation or coastal subsidence. 'Coastal subsidence' is defined as meaning any subsidence or land slip affecting coastal land, whether or not caused by erosion or inundation. 'Coastline management zone' has the meaning given in clause 2, and 'Department' means the Department of Transport.

Mr Speaker, I move clause 9, which is purely interpretation.

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

**Mr Shimmin:** I beg to second, and reserve my... (**The Speaker:** Remarks?) remarks. (*Laughter*)

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

Clause 10 and schedule 3, Hon. Member.

**Mr Cannan:** Clause 10 and schedule 3: clause 10 is the basis for the amendments to other legislation. It provides for the amendment to the Town and Country Planning Act. Schedule 3 accordingly inserts new subsections 2A to section 2 and section 3 of the Act of 1999, and any other amendments relevant.

I move clause 10 and schedule 3, sir.

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

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

**The Speaker:** Hon. Members, the motion before the House is that clause 10 and schedule 3 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 11, sir.

**Mr Cannan:** Clause 11 is the statutory indemnity in the Human Rights Act.

Subclause (1) contains a statutory indemnity in respect of the actions of the Department of Transport and its members, officers, employees and agents when exercising functions under the Bill in good faith.

Subclause (2), the liability of the Department of Transport and its members, officers, employees and agents is not excluded in respect of acts that are unlawful under the Human Rights Act 2001. The indemnity does not apply to prevent the award of damages made in respect of an act or omission on the ground that is was unlawful as an action of a public authority as a result of section 6(1) of the Human Rights Act.

I hope all Members will support this clause. It gives the necessary protections to the Department and to people. Thank you very much.

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

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

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

**Mrs Hannan:** Yes, maybe the mover could explain a little bit more about the Human Rights Act and section 6(1) of the Human Rights Act in relation to public authorities, just so that we can get an understanding of how it is going to work within this piece of legislation?

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

**Mr Gill:** Yes, sir, that was the point I was going to make. Perhaps I could further add if the mover could be kind enough to advise us of the current status of the Human Rights Act and whether it is enacted on the Isle of Man and, therefore, is this a paving element of this Bill, or is it a Bill to reflect current legislation, sir?

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

**Mr Downie:** Time starts now.

**Mr Cannan:** With great respect to the two Members, this Bill is about coastline management, it is not a debate on the Human Rights Act. Having said that, sir, I cannot answer Mr Gill's question on the wide aspects of the Human Rights Act as it applies to the Isle of Man. All I can respond to is in this Bill, is section 6(1) of the Human Rights Act. Unfortunately, Mr Speaker, I do not have at my disposal at this moment in time section 6(1) of the Human Rights Act, but I give an undertaking, I give an absolute undertaking, that I will – (**A Member:** Unequivocal.) – well, yes, thank you, an unequivocal undertaking that not only will I read out to Members, at the Third Reading, section 6(1) of the Human Rights Act, I will circulate it in writing, so that they can digest it prior to the Third Reading.

Mr Speaker, I beg to move, sir.

**The Speaker:** Hon. Members, the motion before the House is that clause 11 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clauses 12 and 13 together, I think, Hon. Member, if you are happy?

**Mr Cannan:** Yes, sir, just a moment.

Now, clause 12 provides that expenses to the Government under the Bill and any increase attributable to it in the sum so payable under any other Act shall be paid out of monies provided by Tynwald. On occasions when a periodic survey of a coastline management zone is required, costs will be incurred for which a budget commensurate with the nature and scope of the survey will be necessary. Costs will depend upon the extent and nature of the survey required for the area and locations concerned.

Where a coastline management zone is designated, and the Department of Transport acquires powers to undertake coastline management works, this may, from time to time,

lead to the Department of Transport submitting proposals to the Treasury for applying revenue or capital monies to fund such works, and such works as are, from time to time, proposed will initially be discussed with the Treasury. If the Treasury agrees them, this will lead to provision of funds in the budget for the years in question.

If capital works are agreed by Treasury, there would be a submission of a DoT motion to Tynwald to seek approval to the expenditure. In other words, if the DoT, as all other Departments, have in their annual budget a sum set aside for coastline management zones and the budget is approved, then that is approved in the budget. If they want capital works, just like all Departments with capital works, it comes to Tynwald for approval, the normal routine way in which we function in Government.

So that is clause 12.

I would prefer to take clause 13 separately if I may, Mr Speaker.

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

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

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

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

This is not as straightforward, I do not think, as the Member said. Is the money going to be in the budget, or is it going to be approved by Tynwald as a special resolution? There are two ways of doing it, as the Member says. If it appears in the budget, and it appears in the budget as only nominally being awarded to the Department of Transport – I am not sure, I think it is in column 3 – it then has to come to Tynwald. I think that is right, but the Minister for the Treasury can confirm that or not, as the case may be. So it is possible, from what the Member is suggesting, that it is just part of the budget, and to vote against a specific issue within the budget means voting down the whole budget, and this could be quite a sizeable sum within the budget on a year-on-year basis.

I am not at all happy about this because it is just another way of lining the money up for this coastline management, which is just something that is before us, it is just something to give the Department more power. I think it could give the Department more power in getting more funds for issues such as this, especially with the help of the Member for Michael.

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

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

The issue is really to do with giving us the powers to receive monies in order to pay for this. The figures that have been given in the explanatory memorandum indicate that a survey at today's prices is estimated to be in the region of £20,000. We would not come back to Tynwald for £20,000 revenue expenditure; that would be in the powers within this Bill to give us those monies.

There is estimated to be in the region of a half member of staff's time involved, which is already under-utilised, or the land drainage section is already under-staffed, and we

will manage that within our existing resources or we would have to buy in that service.

So the figures that are identified in the Green Bill are £40,000 on manual costs, £20,000 per survey included within that figure. Therefore, any other monies that would need to be borne by the Department would have to be approved by Tynwald on the capital schemes. We already use revenue schemes for rivers, roads, drainage, various other issues. If there are small items, we would be able to manage that within our existing revenue budgets. Anything beyond that, the exceptional issues that the Hon. Member is talking about, would need to come back for Tynwald approval.

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

**Mr Cannan:** I thank the Minister for his reply. Again, I say to Hon. Members that the Minister has said you need Treasury approval and you need Tynwald approval, and I hope Hon. Members will support this clause, as with the other clauses. I 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.

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

**FOR**

Mr Anderson  
Mr Cannan  
Mr Teare  
Mr Rodan  
Mr Quayle  
Mr Rimington  
Mr Gill  
Mr Gawne  
Mr Houghton  
Mr Henderson  
Mr Cretney  
Mr Duggan  
Mr Braidwood  
Mrs Cannell  
Mr Downie  
Mr Shimmin  
Capt. Douglas  
The Speaker

**AGAINST**

Mrs Hannan

**The Speaker:** Could I just clarify, Hon. Members, that Mr Corkill has leave of absence from me this afternoon. The motion carries with 18 votes for and 1 vote against. Hon. Member for Michael, clause 13.

**Mr Cannan:** Mr Speaker, clause 13 is the relationship to other legislation and activities and savings for other legislation. It basically means the full co-operation in legislation terms. It ensures that this Bill adds to the existing powers of the Department, not detracts from them, and preserves the power of the Department to acquire land by compulsion.

The Bill is not circumventable by existing legislation but special regard is given to certain legislation mentioned in subclauses (3) to (5). Subclauses (3) to (5) require the Department of Transport to comply with section 36(2) of the Wildlife Act 1990 as regards the duty to have regard to the conservation and enhancement of the natural beauty and

amenity of the countryside, protection of wildlife habitat and the conservation of flora and fauna with geological or physio-geological features of interest, which is also covered by the Manx Museum and National Trust Act 1959.

And similar attention should be paid to the specific responsibilities of the Manx Museum and National Trust under the 1959 Act by keeping a balance between the Department of Transport functions under the Bill and conservation and protection of archaeological objects and national monuments, in addition to the regard to be had for the landscape, flora and fauna, previously mentioned, in respect of the Wildlife Act 1990 and the Manx Museum and National Trust Act 1959 containing a corresponding provision.

In other words, all the works, whatever the Department does in this, it shall take due care and notice of the Wildlife Act and the Manx Museum and National Trust Act. I beg to move clause 13.

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

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

**The Speaker:** Hon. Members, the motion before the House is that clause 13 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 14, Hon. Member.

**Mr Cannan:** Clause 14: may I thank Hon. Members for supporting this Bill throughout, and clause 14:

'(1) This Act may be cited as the Coastline Management Act 2005.

'(2) This Act shall come into operation on such day as the Department of Transport may by order appoint and different days may be so appointed for different provisions and for different purposes.'

This is the standard final clause of almost every Bill, and, as I say, I thank Hon. Members for supporting this Bill through its clauses stage. I beg to move.

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

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

**The Speaker:** Hon. Members, the motion before the House is that clause 14 do stand part of the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it.

#### **Re Answer to Question 10 Statement by Mr Shimmin**

**The Speaker:** Now, Hon. Members, before we conclude

our proceedings, the Hon. Member for Douglas West, Mr Shimmin, has requested to clarify the response to a Question that he gave this morning. Hon. Member.

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

May I apologise to the House. Following this morning's commitment where I arranged to circulate the statement referred to in the first part of my Answer this morning to a Question from Mr Karran, in that Answer I referred to the statement in the October 1992 sitting of Tynwald in that I said this morning:

'The statement was entitled "The Strategy for the Collection and Treatment of Sewage" and detailed a total electricity operating cost for IRIS with a sewage treatment works located in the central valley of £1.22 million per year at third quarter 1992 prices, and compared this against a sum of £1.23 million per year for IRIS with the sewage treatment works at Meary Veg.'

On researching that statement at lunchtime in the time available, that statement referred to a report, but the report was not referred to in the statement that was given to the House. The figures are accurate, but if the Hon. House will allow me a few days to arrange for further clarification to be made available. The figures, I would repeat, are accurate, but they were not released to the Court on the occasion that I said. I am checking on that, but, as I leave the Island tomorrow until Saturday, it will be next week before I can rectify it.

**Several Members:** Agreed.

#### **Timeliness of Members Statement by the Speaker**

**The Speaker:** Thank you, Hon. Member.

Now, Hon. Members, before I adjourn the House, I just wish to express a concern at the lateness of some Members returning to the proceedings of the House. There were nine Members who were late after lunch, and I have to say that there is no excuse for being late and, in fact, it is a requirement of Standing Orders, clearly specified in Standing Order 26, that every Member, unless he has leave of absence, shall attend the service of the House. Hon. Members, it is not an acceptable practice, and I hope it will improve.

Furthermore, some Members are going out during the proceedings and staying out, what I term to be, far too long. Going out is not meant to be to go and do other work. Your attendance here in the House is important, and I expect it to improve.

The House will now stand adjourned until 14th December in Tynwald Court at 10.30 a.m. Thank you, Hon. Members.

*The House adjourned at 3.40 p.m.*