



**HOUSE OF KEYS
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHIARE AS FEED**

**PROCEEDINGS
DAALTYN
(HANSARD)**

Douglas, Tuesday, 10th May 2005

Present:

The Speaker (The Hon. J A Brown) (Castletown); Hon. 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, Mr 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. 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, Secretary of the House.

Business transacted

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The House adjourned at 11.19 a.m.

House of Keys

The House met at 10.00 a.m.

[MR SPEAKER *in the Chair*]

PRAYERS

The Chaplain of the House of Keys

Questions for Oral Answer

TREASURY

Customs and Excise vessel, *Panther* Days at sea and costs, 2004

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

(1) *How many days did the Customs and Excise vessel the Panther spend at sea in 2004;*

(2) *what were the costs associated with this vessel, and, in particular –*

(a) *the direct costs of running and maintaining the vessel;*

(b) *the man hours spent in maintenance and on patrol;*

(c) *the cost of these hours; and*

(d) *the proportion of these hours that were worked as overtime?*

The Speaker: Hon. Members, the first Item on the Order Paper this morning is Questions for Oral Answer, and I go to Question 1. 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 Ramsey, Mr Bell, Minister for the Treasury, to reply.

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

Mr Speaker, in answer to the Hon. Member for Onchan's Question, I can advise that, in respect of part (1), the Customs patrol vessel, *Panther*, was at sea for 41 days in the year to 31st December 2004.

With regard to part (2)(a), the direct cost of the maritime operations conducted by the Customs and Excise Division, in 2004, was £29,829. This figure includes costs for the operation of the Division's small rigid hull inflatable boat, although the majority of the cost will relate to the patrol vessel, *Panther*; £14,068 of the total relates to fuel, repair and maintenance costs for maritime operations, and £15,761 to radio licence

fees, servicing and purchase of health and safety equipment, such as life-rafts, flares, immersion suits and waterproof clothing.

In relation to part (2)(b), the vessel normally has a crew of three or four officers, and the total man-hours spent, in 2004, was 1,413. Broken down, these were 1,107 hours spent on patrols and 306 hours on maintenance.

In response to part (2)(c), it was indicated in the letter dated 13th October 2004 to the Hon. Member from the Chief Financial Officer of the Treasury:

'It would be extremely difficult to accurately give a financial value for the cost of the hours used on patrols or maintenance. This is because the vessel is crewed on a part-time basis during normal working hours by 14 VAT, Excise and Customs officers as part of their various day-to-day duties. These officers are on different salaries at different grades.'

In reply to part (2)(d), again, as previously advised to the Hon. Member, Customs and Excise officers engaged on law enforcement work do not work overtime or receive payment, in the conventional sense, for the excess hours on duty. Officers who perform such work are paid an annual allowance, which covers attendance outside of normal hours, at weekends and at bank holidays.

They are also rostered on 24-hour call for a number of weeks of the year. No other allowances, for example, on-call, anti-social hours, night allowances, et cetera, are paid to staff engaged in law enforcement work. The allowance paid to officers covers all outside-of-normal hours law enforcement work.

In addition to maritime work, other outside nine-to-five duties undertaken by officers include attendance at ports and airports, road fuel testing, multi-agency work, surveillance, coastal patrols, intelligence gathering and investigation work. Because of the range of duties undertaken, extraction of a financial cost purely for maritime work, whilst possible, would be extremely difficult. However, the total amount of allowance paid, in 2004, for all law enforcement related work was £50,969.

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

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh consider that it is not value for money, if we have a situation where we have Departments with boats, and three different Departments duplicating resources? Does he feel that, maybe, the time has come for the Council of Ministers to consider having them all in a form of Manx Coastguard, similar to the way that the US runs, in order that we can maximise the efficiencies of providing the services by his Department?

Mr Houghton: Hear, hear.

The Speaker: Minister to reply.

The Minister: Mr Speaker, the Hon. Member is fully aware that discussions have taken place between his officers at the Fisheries Division and my Customs and Excise officers, as to how they can better co-ordinate their operations for the future. I understand these discussions are ongoing, and it may well be that, ultimately, changes in practice may take place.

However, there are some practical differences between the two bodies, particularly in the range of powers available to Customs and Excise officers, as opposed to his Fisheries

officers, and, therefore, there would need to be some major change, I think, in legislation to enable that to take place.

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

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that, if the Council of Ministers was to take on board this idea with some sort of spirit, maybe we could see some way of rationalising and cutting down on the duplication of resources?

And would he not agree that it is quite crazy that he has a boat out there that comes across somebody who is illegally fishing and cannot do anything about it; or, vice versa the Department of Agriculture, Forestry and Fisheries has somebody who is out there smuggling drugs and they cannot do anything about it? Does he not feel that the Council of Ministers should be looking, with its spirit against trying to stop drug increases in the Island, to create a more effective and more efficient and value-for-money service for the taxpayer?

The Speaker: Minister to reply.

The Minister: Mr Speaker, I have answered that question. There are discussions taking place, at the moment, or have been, between the various bodies, but there are practical difficulties in relation to the range of powers available to the respective bodies. I am quite sure that there is some merit in this thought, and it will be considered as these discussions continue.

HEALTH AND SOCIAL SECURITY

Residential/nursing home deaths Mandatory inquests

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

Will you give consideration to introducing legislation similar to that introduced in Ireland, to make an inquest mandatory following the death of a resident of a residential or nursing home?

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 Garff, Mr Rodan, Minister for Health and Social Security, to reply.

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

Mr Speaker, legislation on the Island covering inquests is the Coroners of Inquest Act 1987. This Act provides for the notification to the coroner of the death of a person in certain circumstances, largely in cases of unexplained or sudden death. The purpose of an inquest is to establish the cause of death. Approximately 35 per cent of all deaths are notified to the coroner, but it has been estimated that fewer than 5 per

cent of all cases would proceed to an inquest.

The Hon. Member is wrong in his observation that, in the Republic of Ireland, all deaths in a nursing or residential home are referred to an inquest. The law concerning inquests in Ireland is contained in the Coroners Act 1962, which is very similar to the Manx Coroners of Inquest Act 1987.

I understand from enquiries that the Irish Minister of Justice, Equality and Law Reform is currently examining proposals for the comprehensive reform of Irish coroners' legislation. The possibility of a mandatory inquest following a death in a residential or nursing home is an issue which I am told may be examined in the context of the reform of legislation.

On the Island, there were approximately 50 deaths in residential homes in the year ending 31st March 2005, of which one was classed as a sudden death. There were 128 deaths in nursing homes, of which three were classed as sudden deaths.

An additional safeguard contained in the Coroners of Inquest Act 1987 is that, under section 6A(c), the Attorney General may direct the coroner to hold an inquest where there has been reason to believe that the deceased person died in circumstances which, in his opinion, make the holding of an inquest desirable.

I would also suggest, Mr Speaker, that, if inquests were held for all those who died in residential or nursing homes, this would cause many families unnecessary distress. It is my belief that the current powers available to the coroner, and the Attorney General, to require the coroner to hold an inquest, appear to ensure that proper inquiries in respect of deaths are made, and that inquests are only held where appropriate or necessary.

Thank you, Mr Speaker.

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

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that the Coroners Act 1962 in the Irish Republic... there is a major law review and they are intending to introduce legislation on these grounds in the Irish Republic? Would he not agree that the fact is that we are talking about a most vulnerable section of the community?

We have a very concerned record, over the years, about having adequate safeguards for this very vulnerable section of the community, with the number of cases that have been highlighted. Does he not feel that there needs to be some other way, in order that, when deaths occur in these institutions, there is more of a proactive than a reactive decision, in order to make sure that the standards are being maintained?

The Speaker: Minister to reply.

The Minister: Mr Speaker, as regards the first part of the Hon. Member's supplementary, I did indicate that, in the Republic of Ireland, the Irish Minister of Justice is currently examining proposals – and they are only proposals – for the comprehensive reform of their 1962 legislation. So, it is not the case that mandatory inquests are necessarily going to come in. It is one of the issues amongst many which are currently being examined.

I am satisfied, Mr Speaker, that, in the Isle of Man, our 1987 Act does provide the sufficient safeguards that the Hon. Member seeks. The Act is quite clear as to the duty to hold an inquest: first of all, the duty to notify the coroner of death

and the circumstances in which that should be done and who can do that; and secondly, Mr Speaker, having been so notified, the duty on the coroner to hold an inquest. Again, the circumstances for that to take place are clearly set out in the Act, with, as I have said, the additional safeguard – and it is a real safeguard – that if the Attorney General has reason to believe that the deceased died in circumstances which, in his opinion, make the holding of an inquest desirable, he can direct the coroner to hold such an inquest. That is a very important safeguard, and I believe, and the Coroner of Inquests office believes, and everyone else concerned believes, that that gives adequate safeguards for all the circumstances.

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

Mr Duggan: Thank you, Mr Speaker.

As the Minister says, if the GP is satisfied, he will issue the certificate in the normal circumstances, and to have an inquest on every person would cause an awful lot of stress (**Mr Houghton:** Hear, hear.) and hassle for people, (**Mr Houghton:** Hear, hear.) and delay funerals for one to two weeks, if not more.

Mr Houghton: Hear, hear.

The Speaker: Minister to reply.

The Minister: Yes, I thank... The Hon. Member is quite correct. The GP is one of the persons who can make reference to the coroner, and the Hon. Member is quite right that, as for nearly all residents of residential and nursing homes this is likely, by definition, to be their last home, then it would be, indeed, oppressive – oppressive – to have an inquest in every case of death.

I believe – I think most reasonable people believe – this would add unnecessarily to the grief and suffering of the families concerned.

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

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that the present situation, we have to find a reasonable way forward, allowing for the fact that these are very vulnerable people, and allowing for the fact that we have not got a great record, as far as the inspection, independently, of these institutions within the Island, and it is long overdue, its review?

What is he going to do, in order to reassure people in our society that these people are getting the proper protection, with their status of being very vulnerable?

The Speaker: Minister to reply.

The Minister: I do not think, Mr Speaker, there is any question about the vulnerability of the group of persons the Hon. Member refers to and the need to look at this situation reasonably. The reassurance that I can give the public is that the Coroners of Inquest Act that we have has built within it, in statute, adequate safeguards to strike the right balance between causing unnecessary worry and suffering to families by having a mandatory inquest, and the provision in it that reference can be made by the Attorney General, on request, to look at the facts. If necessary, he can refer the matter to

the coroner.

So, I believe our Act is reasonable and works in all reasonable circumstances.

Breast screening Recall appointment service

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

When do you intend introducing a call/recall appointment service for breast screening at Noble's Hospital?

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

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

The Speaker: I call on 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 responding to the Hon. Member, I can confirm that the Department does recognise, and has accepted, the benefits of breast screening as an important factor in achieving a reduction in breast cancer mortality. As the Hon. Member will know, the Island's National Health Service has, for a number of years, now, operated a self-referral service, under which all women over the age of 50 are encouraged to have a breast screening mammogram, every two years.

Having accepted the rationale for breast cancer screening, the Department is committed to increasing a greater participation in the service and, to that end, has agreed, in principle, to the introduction of a full call and recall system, to be introduced as resources become available.

I can say, Mr Speaker, that funding for the introduction of a full screening service was included, with some other headings, in the Department's current year's budget submission but, as with a number of proposed developments, was overtaken by other priorities. Nonetheless, the Department remains committed to a call/recall service, and we will continue to explore options as to how this might be resourced, so that progress can be made in this current financial year.

Thank you, Mr Speaker.

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

Mr Earnshaw: I would like to thank the Minister for his response. I am sure he would agree with me that early identification of this disease can often replace major surgery by minor surgery.

I would like to ask the Minister: would he confirm the introduction of this service has been in the pipeline since 1997, and it has been sliding forward, a year or so at a time, since then? And will he agree this length of time is totally unacceptable, and raise the priority of the introduction of the service?

The Speaker: Minister to reply.

The Minister: Yes, Mr Speaker, I do agree with the

Hon. Member that, on the evidence we have available, the treatment of breast cancer is best started when they are small and node-negative, because such cancers are more likely to be picked up before they are palpable, with breast screening, than in the symptomatic services, where breast tumours are usually large and palpable.

Having said that, and agreed with the case for the value of early detection, I do undertake to accord, within the Department, this call and recall service the highest priority. It has been a priority item. I accept that, since we introduced the service in 1987, ideally, we would have wished an automatic recall system, because the value of it is proven.

As the Hon. Member is well aware, from being a Member of Treasury, it is not always possible to progress those service developments that we would wish to, no matter how compelling they are to ourselves and to the public. I have no doubt that the Hon. Member will support the Department, as we come forward, again, in seeking to make the resources available for breast screening recall services.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder.

Would the Minister agree with me that women can attend themselves for mammograms every two years, and, to increase the percentage of women that the Department would like to see attend, that more resources are needed to do that; and, along with other issues which Members also wish to see extended, that it does place this initiative on a waiting list, you could say, of initiatives that the Department can afford, within the resources that the Department has?

The Speaker: Minister to reply.

The Minister: Yes, Mr Speaker, the Hon. Member for Peel is quite correct. There is, as I said in the original Answer, a self-referral service and any woman over the age of 50 may, and can quite easily, make an appointment on their own initiative.

At present, I think the problem is only about 20 per cent of eligible women do attend the self-referral service, and there is no doubt that, from a medical point of view, if that was higher – and the target for referral is of the order of 70 to 80 per cent, that is the target for the uptake – we would be able to detect problems that much earlier, and, in the longer run, provide a higher standard and quality of care, as far as breast cancer is concerned.

The Hon. Member is also correct that, having accepted the value of this system, we are in the realms of priority setting, and service developments of any sort have to be paid for. All I can repeat, Mr Speaker, is that the Department does recognise the priority and will, as soon as we have the resources, introduce such a service.

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

Mr Gawne: Gura mie eu, Loayreyder.

Would the Minister agree that Health Division is taking very seriously the message from Treasury that there is only so much money to go around, and that we can only spend what we are provided? Would he extend an invitation to the questioner, and, indeed, anyone else who wishes to expand the services provided by the Health Service, to come to Health Division meetings and explain where we could, perhaps, cut

certain areas of the service?

Mr Henderson: Right.

The Speaker: Minister to reply.

The Minister: Yes, I thank the Hon. Member, Mr Gawne, who has delegated responsibility, of course, for Health Services. He is only too well aware of the competing pressure upon the Department from intended service developments, and the degree of frustration we feel that we cannot do things as quickly as we would like, because of the constraints of resources.

But we have to operate in the real world, the real world of budgets and balancing the books, and if we did not have such financial discipline, things would very quickly deteriorate. But he makes the point very well that this is a priority.

I have no doubt that, having heard the comments, the Hon. Member for Onchan, as a Member for the Treasury, will wish, perhaps, to acquaint himself further with the efforts that are being made in the Division and in the Department, to bring into being these service developments that we would like to see.

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

Mrs Cannell: Thank you, Mr Speaker.

Following on from what the Hon. Minister has just said, it sort of took my wind away a little bit. Nevertheless, bearing in mind that the questioner is a Member of Treasury, I was going to ask the Minister: does he agree with me that this is certainly a sign this morning from a Member of Treasury, at least, that there is a willingness and an eagerness there to increase the budget for this year, so that this particular service can be enhanced this year?

The Speaker: Minister to reply.

The Minister: Mr Speaker, I am filled with greater optimism that the service is that bit further along the road than it was before I rose to speak.

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

Mr Earnshaw: A final supplementary from me, Mr Speaker.

I do not want to put any sort of spin on this, which is a very serious issue and affects a lot of people in the Isle of Man. As a Treasury Member, I am supportive of this being introduced, and I can confirm that right here and now.

Regarding the self-referral that the Minister spoke about a few moments ago, can he confirm that, in the Isle of Man, there is only a disappointing number of people self-referring, at the moment – around 20 or 25 per cent – and that, in the UK, can he also confirm that there is a very positive response from ladies there to the call/recall service, at around 90 per cent? If the UK can offer this fairly straightforward service, which comes at a relatively modest cost, I believe, why can't we?

The Speaker: Minister to reply.

Mrs Hannan: We cannot afford it.

The Minister: Yes, Mr Speaker.

As I indicated to the Hon. Member, the present uptake of eligible women is only around 20 per cent. Of course, it is much higher in the UK, and our target is 70 to 80 per cent. It is a serious issue and I do not wish to, in any way, make light of the issue and I would not like that impression to be given out; but, equally, the Hon. Member will appreciate that we simply cannot bring in this service until such time as we have the resources.

I have said that such is the priority for this that we are seeking, within the current financial year, to look at our other budget headings, to see if there are savings we can make in other areas of the Department to at least get the service initiated, or get some of the groundwork started this financial year. (*Interjection by Mr Earnshaw*)

If I had had my way, the service would have been up and running this financial year, but because of financial constraints that has not been possible, notwithstanding that the Department does regard it as important. We are looking at such resources as might be available in other parts of the Department, but that is no easy matter, Mr Speaker.

LOCAL GOVERNMENT AND THE ENVIRONMENT

Policy re Sellafield

Concern at shipping radioactive waste to Cumbria

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

(1) *Has your Department's policy in relation to the closure of Sellafield changed in any way since you have been in office;*

(2) *is your Department concerned at proposals to ship low-level radioactive waste from Dounreay to Wrigg in Cumbria; and, if so –*

(3) *what action has your Department taken?*

The Speaker: Question 4. (**Mr Houghton:** Hear, hear.) Hon. Member for Rushen, Mr Gawne.

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

The Speaker: Hon. Member for Rushen, Mr Rimington, Minister for Local Government and the Environment, to reply.

The Minister for Local Government and the Environment (Mr Rimington): Mr Speaker, my Department has been following the policy on Sellafield that was established by a resolution in Tynwald in October 2002. That policy has not changed since I became Minister.

I share everyone's concerns about the site, and I know we all wish to see the site completely closed. I recently visited the site and have spoken to senior managers, and, even more recently, I have had a meeting with the Chairman and Chief Executive of the Nuclear Decommissioning Authority, which, from April 2005, has assumed responsibility for decommissioning all nuclear sites, including Sellafield.

Throughout these discussions, I restated the Isle of Man's position on Sellafield. Whilst it is clear from all these

discussions that the final closure of the site is a very long way off, I have been able to ensure that the Isle of Man Government will be consulted, at each stage, throughout the decommissioning process.

The proposal referred to in the second part of the Hon. Member's Question, to transfer low-level radioactive waste from Dounreay to the national low-level waste site at Drigg, came to light as a result of my Department's representation on the Sellafield local liaison committee. The proposal to transfer waste was put forward as an option to implement the UK regulators' requirement to make the stored waste at Dounreay safe.

The UK regulators did not say that the waste had to be transferred, but that it had to be made safe. The transfer of the waste was seen as a convenient and cheaper option, compared to leaving the waste at Dounreay and improving the storage facilities at that site.

Up to 5,000 cubic metres of waste will be transferred per annum and the transfer of such a large quantity of decommissioning waste to Sellafield is, properly, a matter of some concern to all of us on the Isle of Man. There is no immediate need to transfer this waste; it can be dealt with at Dounreay, and our position is that it should be dealt with at Dounreay.

That transfer has been sanctioned by the Scottish Environment Protection Agency and the position is such that both the UK Environment Agency and the nuclear regulators are powerless to stop it. Although exploratory talks have taken place, the final decision to transfer the waste has not yet been made. That final decision can be influenced by the Scottish Ministers, who are able to issue directions to the Scottish Environment Protection Agency.

With this in mind, on 19th April 2005 I wrote a personal letter to Mr Ross Finnie, MSP, the Scottish Minister for the Environment and Rural Development, about this proposal, making the Island's position very clear and asking him to consider the wider issues and use his powers to intervene in the process, in order to effect an interim storage solution for this waste on the Dounreay site. Isle of Man Government's concerns are also shared by all of the local communities in Cumbria, and I can only hope that Mr Finnie will be sufficiently persuaded to put a stop to these proposals.

I have circulated a copy of the letter to Mr Finnie to Hon. Members for their information.

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

Mr Gawne: Gura mie eu, Loayreyder.

I think it would help if I could just clarify on 4(2) that there is a spelling mistake. It should have been 'Drigg', spelt with a 'D' and not a 'W'.

Two supplementaries for the Minister. I noted that, in various press comments, a column pundit quoted that a spokesman for Dounreay mentioned that this is an 'interim measure' and a 'temporary measure'. Can the Minister confirm that 'interim' and 'temporary' mean that the waste could be returned to Dounreay? I suspect that this would not be the case.

Also, could the Minister explain whether he has had, as yet, a response from Mr Finnie to his letter of 19th April?

The Speaker: Minister to reply.

The Minister: Yes, Mr Speaker. Obviously, we have had

an acknowledgement of the letter but, no, we have not had a detailed response from the Scottish Minister, Mr Finnie, as yet. The Hon. Member is quite right to point out that the comments, which can be attributed to a spokesman for the Dounreay site, do amount to what I would consider to be spin, in that, if you transfer what is 5,000 cubic metres of waste from Scotland to Cumbria, it is unlikely to be transferred back again. (A Member: Hear, hear.)

We wish that it could be dealt with at the Dounreay site and not brought to Drigg.

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

Mr Karran: Vainstyr Loayreyder, does the Shirveishagh feel that we have adequate checks for any proposed transfer, as far as this radioactive waste is concerned?

Is he intending to see whether he is going to work with the Irish Republic, who have no vested fiscal interest, as far as this plant is concerned, in order to see whether we can make sure that we have sufficient monitoring there? So, if there is any increase in activity at this plant, especially allowing for the fact that we are spending something like £160,000 now of taxpayers' money on the British-Irish Council, the taxpayers should get something out of it, apart from trips for politicians.

The Speaker: Minister to reply.

The Minister: Yes, I can inform the Hon. Member that the taxpayer does get something out of our membership of the British-Irish Council. I know that there are many aspects to that membership, and I will not go into those, but, in respect of the Sellafield issue, it has been very productive. It is through that agency that we have been able to put ourselves much more firmly on the national agenda in the United Kingdom, and to get ourselves involved with the decommissioning and with all aspects of the Sellafield site, far more strongly than we have been in the past.

I can confirm to the Hon. Member that we do work with the Irish Government, most strongly, on this particular matter, and that we are the joint authors of a paper with the Irish Government – that is a standing paper and it is one that is updated – which is presented through the agency of the British-Irish Council on this matter, and that I know that my officers have ongoing, continuous links with the Irish Government and their appropriate professionals, in terms of monitoring and in terms of developing policy in relation to our policy, which is similar to theirs, which is for the closure of that site. It has been very productive, in that respect.

I could, by way of doing a small advertorial, Mr Speaker, just remind Hon. Members that representatives of the United Kingdom Atomic Energy Authority are here on the Island next Monday, and an invitation has been sent to Members for a short presentation on their decommissioning plans at the Sellafield site.

The Speaker: Hon. Member for Onchan, Mr Karran, before I invite you to ask your question, Hon. Member, can I remind you that you are asking a question, not making a statement. Hon. Member for Onchan.

Mr Karran: Would the Shirveishagh inform this Hon. House, has there been any sort of audit of our facilities, as

far as detection, as far as any effects from the Windscale or Sellafield site?

Does the Shirveishagh know whether the Irish Republic have, in these conversations...? Have you ever asked them over, to make sure that we have got sufficient facilities for the monitoring of any proposed increase of activity, as far as this site is concerned? Will he look into that?

The Speaker: Minister to reply.

The Minister: Yes, Mr Speaker, obviously, it is a matter that is constantly being looked into, but I can assure the Hon. Member that, yes, we do audit and we do make sure that we have the appropriate equipment, both on the Isle of Man and by linkage with Ireland, so that we can monitor any radiation that would, or might be, coming from the Sellafield site, and we do work in very close co-operation on that.

It is fairly well known that, recently, there was an agreement with the Irish Government and the United Kingdom, in fact, just making public what had been put in place for some time, so that the Irish Government has and, by definition, so do we, because of our linkage through the Irish Government, that ability to monitor activities on the Sellafield site, and those have been put more formally in that agreement.

So, yes, where there is always room for improvement – there is always room to keep on monitoring and auditing and making sure that we do have the best analysis available – I can assure the Hon. Members that this is one area in my Department where we are very active. The response has been very good, and we have been very proactive in ensuring the Island's position is secured.

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

Mr Karran: Supplementary, Vainstyr Loayreyder.

Could the Shirveishagh inform this House, has there been any consideration of, maybe, some sort of programme of working a dual response, as far as a cross-border situation, where we actually work with the Irish Republic, and part of their monitoring and our monitoring works together so closely?

At the end of the day, would the Minister not agree it is in their interests, as they are actually further away from this plant than we are? The issue has to be asked whether we need to be working as one, instead of as two, trying to bite at the same cherry.

The Speaker: Minister to reply.

The Minister: Mr Speaker, obviously each independent jurisdiction, to a certain extent, controls their resources and their facilities in the manner that they see best, but with that caveat, I do believe that we do work very closely with the Irish Government on these matters and that there is an interchange of information on a regular basis and, if necessary, on a much more immediate basis.

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

Item 2 on our Order Paper is Questions for Written Answer, of which there are five, which will be circulated in due course by the Office.

Questions for Written Answer

Lack of legislation before House Improving current procedures

CHIEF MINISTER

Manx Electricity Authority Formal business meetings with Treasury

2.1. The Hon. Member for Michael (Mr Cannan) to ask the Chief Minister:

(1) Did you, during your period of office December 1989–November 1996, as Minister for the Treasury together with the political Members of the Treasury and the Chief Financial Officer, meet senior management of the Manx Electricity Authority on a yearly or twice yearly basis at formal meetings of the Treasury in order to discuss the business of the Electricity Authority; and

(2) was this practice of meeting the senior management of the Manx Electricity Authority continued by your successors as Minister for the Treasury?

Answer: I can confirm that during my period as Minister for the Treasury, between December 1989 and November 1996, I and the political Members of the Treasury together with the Chief Financial Officer, met the Manx Electricity Authority on an annual basis as part of the estimate process. These meetings were continued by my successor as Treasury Minister until 2002.

At that point the policy and estimates processes were combined under the new estimates and planning process which has involved the Departments and Boards meeting annually with the full Council of Ministers. Under the new process, three such meetings have taken place with the Council of Ministers, in November 2002, July 2003 and July 2004. It is anticipated that a further meeting under this process will take place in September 2005.

The full list of the meetings held between the Manx Electricity Authority and the Treasury between 1989 and 2002 and with the Council of Ministers between 2002 to date is given in Table 2.1A.

Table 2.1A

ESTIMATES MEETINGS WITH TREASURY	
1st February	1989
6th February	1991
15th January	1992
3rd February	1993
17th December	1993
12th December	1994
8th December	1995
17th January	1997
15th December	1997
14th December	1998
25th November	1999
20th November	2000
9th January	2002
PLANNING AND ESTIMATES MEETINGS WITH THE COUNCIL OF MINISTERS	
29th November	2002
4th July	2003
1st July	2004

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

(1) Will you give an explanation as to why so little legislation is being brought before the House from the various Departments of Government; and

(2) consider any improvements to the current procedures which may improve the current situation?

Answer: In answer to the first part of the Hon. Member's Question, I acknowledge that, in recent months, there has been a reduction in the number of Government Bills being brought before the House from the various Departments. There are numerous reasons for this.

First, within the Attorney General's Chambers time has recently been taken up drafting large and complex Bills, such as the Employment Bill (176 clauses, 9 schedules – 286 pages) which is scheduled for introduction in the near future, as well as Income Tax Bills and the Regulation of Surveillance Bill. The impact of these Bills has meant that other projects have had to suffer. Furthermore, it had been necessary to contract out the drafting of the forthcoming Companies Bill, due to its size and complexity and the pressure of work falling to Chambers.

Second, there is a growing tendency to produce legislation which is unique to the Isle of Man, rather than simply being based on paradigms from the United Kingdom. They include Tax Bills, Online Gambling Legislation and Liquor Licensing, which is clearly of benefit to the Island but, by its nature, more resource intensive to produce.

The Attorney General's Chambers has also spent time conducting drafting work for Bills that have not subsequently been introduced due, for example, to changes in policy or the need to conduct further consultation. Chambers has also identified an increase in the time needed for subordinate legislation, advice and other matters, which diverts the time of the draftsmen away from their primary role of drafting primary legislation.

In some cases, within the Departments themselves, there has been a need for a period of consolidation following the introduction of a large quantity of legislation in a relatively short space of time. In the Department of Home Affairs, for example, it has introduced 11 Acts in the last five years. More recently, there have been fewer Bills, due to the Department concentrating its administrative and legislative resource into bringing into force all aspects of the Acts promulgated in the last five years. The Department still has, however, 12 Bills in its long term legislative programme. A further difficulty within Departments is the additional pressure of work placed on the administrative staff to address new responsibilities that have fallen to them by virtue of previous legislation passed by Tynwald. Such issues include Equal Opportunities, Data Protection and Human Rights. It is for this reason, among others, that Government has introduced relatively new, but entirely proper, practices of assessing the resource implications of Bills and ensuring funding will be available before they are progressed. Where Departments are constrained by limited resources, it is important that they should not be seeking to progress legislation that they would not have the resource to implement.

Turning to part (2) of the Hon. Member's Question, I

do intend to consider the development of a more effective corporate system for managing the legislative programme to ensure the timely and regular introduction of Bills into the House of Keys. However, I believe the key to success in this area is ensuring the resources dedicated to legislative drafting are increased. Additional posts have been created, but legislative drafting is a notoriously 'hard to fill' area of the legal profession and advertisements have been placed recently without success. The Personnel Office and the Attorney General's Chambers are actively working on the matter to find innovative ways of recruiting to these posts.

TREASURY

MEA expenditure

Breakdown for last five years and accounts 2003-04

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

- (1) Will you provide a breakdown of the capital expenditure of the MEA for each of the last five years showing –
 - (a) the purposes for which the loan of £185M has been used, and the amounts involved;
 - (b) the purposes for which the loan of £120M has been used, and the amounts involved;
 - (c) the purposes for which the expected further loan of £50M are to be used, and the amounts involved;
- (2) will you provide a breakdown of the MEA's revenue account income and expenditure for each of the last five years; and
- (3) can you state when the accounts for the year 2003-2004, either audited or un-audited, will be published with whatever qualifications the Auditors wish to include?

Answer: (1) As has been the situation with previous questions of this nature, I have requested that the MEA provide me with the necessary information to answer the questions raised.

With regards to parts (a) and (b), the MEA has re-stated that it cannot segregate the purpose for which the loans of £185 million were used, as the loan proceeds were inter-linked with other funds.

Therefore, the information provided in respect of the answer given to the same question in December 2004 has been re-stated in Table 2.3.A.

Table 2.3.A

	£m
New Power Station	87
Gas Pipeline Connection	23
Power Cable Costs	54
Electricity Network Reinforcement	50
Gas Spur and PRS	20
MEA 'project costs'	9
Douglas Station Workshop	3
Repayment of Government Loan	5
Repayment of Lease Finance	3
Repayment of existing bank loan	5
Bond Issues costs	2
Capitalised Interest	26
Bord Gáis Éireann Payments	8
TOTAL	295

With regard to part (c), the MEA is forecasting a general shortfall in cash in respect of total revenue expenditure of £50 million over the next five years.

The purposes of this funding will, if it is confirmed as being necessary, relate to the entire range of revenue expenditure. In view of the uncertainties relating to the manner in which such funding may be provided, or indeed the level of funding itself, it is not possible to state in any more detail how the £50 million will be allocated, if indeed the £50 million is confirmed as being required. Discussions are ongoing between the Treasury, the MEA and various institutions regarding the amount and possible funding options.

(2) The MEA provides statutory accounts each year, in accordance with the requirements of the Audit Act. These accounts have been laid before Tynwald and are held in the Tynwald library, with the exception of the 2003-04 accounts, which are the subject of discussions with the auditors, and the 2004-05 accounts, which are in the process of being prepared. Any information requested in this Question is included in these documents.

(3) In accordance with standard procedures, the accounts for 2003-04 will be published once they are signed-off by the external auditors, KPMG and the Board of the MEA. The latest discussions with KPMG indicate that there are several issues that remain outstanding and, while they are anxious that the matters are resolved at the earliest opportunity, a definitive date for the sign-off has not yet been provided.

LOCAL GOVERNMENT AND THE ENVIRONMENT

Tourism planning policy Adoption of UK guidelines; definitions; discussions with DTL

2.4. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Local Government and the Environment:

- (1) Will the Planning Division of your Department incorporate into its policy, the 'United Kingdom Planning Policy Guidance Note 21 Tourism' and, if not, how long will it be before this type of policy is adopted and will your Department consult with the Department of Tourism and Leisure in relation to these matters;
- (2) in terms of property lettings, what is the definition, measured in weeks, used by planners, of 'long lets' and 'short lets';
- (3) has the Planning Division of your Department issued a public definition of what is meant by tourism/holiday/visitor accommodation;
- (4) will your Department initiate discussions with the Department of Tourism and Leisure regarding the integration of the planning processes regarding tourist accommodation, with that of the registration of tourist premises process, in an attempt to demonstrate that 'joined up Government' can happen; and
- (5) what is the definition of –
 - (a) 'bona fide tourist'; and
 - (b) 'holidaymaker'?

Answer: (1) The Department of Local Government and the Environment is not intending to incorporate into Isle of Man planning policy the United Kingdom Planning Policy Guidance Note 21 on Tourism. The United Kingdom Government publishes a range of Planning Policy Guidance Notes as advice on various matters of planning policies to Local Planning Authorities in the United Kingdom. While useful as guidance on a range of issues, they are designed for a different planning system and are not always suited to circumstances on the Island. The Department has not adopted any other United Kingdom Planning Policy Guidance Notes.

In the Island, the Department is the Planning Authority for the whole Island. Planning Policy is set out in the draft Strategic Plan, which was the subject of a Public Inquiry in March 2005 and which the Department hopes to submit to Tynwald for approval before the end of the year. The Department consulted the Department of Tourism and Leisure fully in the course of preparing the draft Strategic Plan.

(2) The terms 'long lets' and 'short lets' are not used in planning. Where deemed necessary and appropriate, planning permission for tourist or holiday accommodation may be subject to a condition restricting occupation to bona fide tourists and specifying the length of any individual tenancy during parts of the year.

(3) I am not aware that my Department's Planning Section has issued a public definition of what is meant by tourism/holiday/visitor accommodation.

(4) Officers of the Department are in discussion with the Department of Tourism and Leisure regarding the different requirements for planning permission and the registration of tourist premises. While it may not be possible to integrate the two processes, which have different statutory and policy requirements, I would hope that any distinctions between the two can be made clear and understandable. I consider that that would demonstrate 'joined up Government'.

(5) I am not aware of any specific definition of 'bona fide' tourist or 'holidaymaker'. I am aware, however, of the definition of 'tourism' included in the Department of Tourism and Leisure's Tourism Strategy 2004-08, which was approved by Tynwald in April 2004.

TOURISM AND LEISURE

Registration of tourist accommodation Tourism definitions; discussions with Planning Directorate

2.5. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Tourism and Leisure:

(1) Does your Department require landlords, who intend to let residential properties for periods of two to five days to tourists/visitors who are on business within the Island, to register their properties under the legal requirements of the tourist premises registration legislation;

(2) does your Department work to a publicly declared definition of what constitutes a 'bona fide tourist' and is your Department aware of the United Nations definition of tourism which is: 'Tourism comprises the activities of persons travelling to and staying in places outside their

usual environment for not more than one consecutive year for leisure, business and other purposes not related to the exercise of an activity remunerated from within the place visited. The 'activity of persons' refers to the pursuits of those individuals who qualify as "visitors";

(3) does your Department differentiate between visitors, holiday makers, tourists, business visitors, film and TV personnel, leisure arrivals and sporting competitors, people visiting friends and family etc in terms of which tourist accommodation these people may stay in;

(4) for how many weeks of the year are registered self-catering establishments required to be open as part of the registration requirements;

(5) has your Department's investment into the provision of tourist accommodation been successful and does your Department consider self-catering holiday/tourist accommodation to be a sustainable all year round business or are short winter lets a necessary part of the overall viability of such business, thereby ensuring the continued availability of that type of accommodation; and

(6) has your Department had any discussion with the Planning Directorate of the Department of Local Government and the Environment in relation to any of the above matters and what consultation with the Directorate occurred regarding the most recent Tourism strategy document?

Answer: (1) If a person is accommodating paying tourists/visitors who are on business within the Island, then that accommodation is required to be registered as tourist premises with the Department under terms of the Tourist Act 1975.

(2) The United Nations definition of tourism, to which you refer, is included at item 3.1 on page 11 of the new Tourism Strategy 2004-08, 'Fit for the Future', approved at the April 2004 sitting of Tynwald. The Department is currently working on new primary legislation for tourism which will clearly define this modern day definition, but, in practice, has already embraced it in its day to day activities, albeit informally.

(3) Tourist accommodation can and does accommodate all of the groups to which you refer. The Department does not differentiate in terms of which tourist accommodation these people may stay in.

(4) Self-catering premises register to operate as tourist premises for a specific registration year, which, currently, runs from 12th February 2005 to 11th February 2006. There is no minimum operational period for self-catering premises under the registration system. This is a commercial decision which is made by the operator/owner of the accommodation.

However, one of the requirements of the Tourist Development Fund Scheme is that, in respect of projects which receive financial support, 'the premises will operate for a minimum of 30 weeks in every calendar year'.

(5) The new tourism strategy 'Fit for the Future' places particular emphasis on product development, communication, quality and service. Indeed, the tourism industry's contribution to the economy is of vital importance, as the Island seeks to develop a strong and diverse economy, and it is through the new tourism strategy that the Department hopes to support and encourage this growth – indeed, growth which saw the contribution the tourist industry makes

increase from £102.5M in 2003 to £112.7M in 2004.

One of the mechanisms it uses to deliver on the Strategy and improve the quality and standard of existing accommodation or bed-stock through direct financial support is by way of the Tourist Development Fund. Success of this investment is recouped in terms of creation of new bed-spaces and improvement in the quality of the product offered. This support can be judged as successful, in that the projects that have been completed have provided either new or substantially improved accommodation or visitor facilities.

Regarding sustainability of the tourist industry, and, in particular, the self-catering sector, the new Strategy makes specific mention of sustainability and year round tourism, so that we can maximise on occupancy levels.

However, the Department recognises that some self-catering businesses do accommodate short winter lets, and if this is necessary or, indeed, helpful in keeping these

accommodation providers in business, then there is no objection to this.

(6) The Department enjoys a good working relationship with the Planning Directorate. The industry and all business partners, including Government agencies, were consulted as part of the development process relating to the new Strategy. The Department currently works to a directive from the Planning Directorate dated 9th October 1997 which states that planning permission is required for the change of use, or additional use, as a dwelling for self-catering accommodation. Indeed, the law of the Isle of Man is such that the use of particular buildings is determined by planning law, and then, should a person wish to use certain premises which are permitted under planning law to be used as tourist accommodation, they must, as a further requirement, register it with the Department, after meeting minimum standards set down in secondary legislation.

Orders of the Day

Regulation of Surveillance Bill Second Reading approved

3.1. Mr Braidwood to move:

That the Regulation of Surveillance Bill be read a second time.

The Speaker: Hon. Members, we move on to Item 3 – Bill for Second Reading, Regulation of Surveillance Bill. I call on the Hon. Member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker.

The Regulation of Surveillance Bill 2005 is a Bill that will put a range of existing investigatory powers on a statutory footing and ensure that, for the very first time in the Isle of Man, there is an independent judiciary oversight of the powers contained within the Bill.

The Bill is *not* designed to provide the Police, or other public authorities, with additional powers, but to provide a Human-Rights-compliant, regulated mechanism for authorising the use of current Police and other public authority investigatory powers. The Bill is consistent with the Island's Human Rights Act and will, if it is approved, remove one of the last hurdles that has prevented the Human Rights Act coming into force in the Isle of Man.

The Bill creates a system of safeguards reflecting the requirements of article 8 of the European Convention on Human Rights. It contains provisions for providing powers in relation to specific, investigative techniques or establishing systems of scrutiny, oversight and redress. The Bill relates to the use of covert surveillance, agents, informants and undercover officers.

The provisions themselves do not impose a requirement on public authorities to seek or obtain an authorisation where, under the Bill, one is available. Nevertheless, the consequence of not obtaining an authorisation, under this part, may be, where there is an interference by a public authority with article 8 rights and there is no other source of authority, that the action is unlawful by virtue of section 6 of the Human Rights Act.

My Department has conducted a public consultation exercise on the Bill, and the Regulation of Surveillance Bill has been drafted as a result of an extensive review of the United Kingdom's Regulation of Investigatory Powers Act. The review clearly identified that the United Kingdom Act, as a whole, was driven by the National Crime Squad, dealing with serious cross-border and international organised crime, whereas the parts of the Regulation of Investigatory Powers Act that are included in the Isle of Man Bill are entirely in response to Human Rights requirements, and are deemed necessary for compliance.

Therefore, the purpose of the two legislative instruments is quite different, with the Isle of Man Bill being limited to ensuring that the Police and other public authorities continue to operate surveillance, et cetera, as they do now, but in a statutory-based, regulated manner that will ensure compliance with the Human Rights Act.

For example, the United Kingdom Act provides for

the interception of electronic communications, which are additional powers to those required for Human Rights compliance, and have, in fact, caused considerable problems in the United Kingdom. Therefore, these powers have *not* been included in the Isle of Man Bill, because it purely relates to Human Rights. Any additional powers sought by the Police or other public authorities will be considered for inclusion in another future Bill, progressed for that specific purpose – if deemed necessary – and not in a Bill that is designed to regulate existing powers.

In summary, therefore, Mr Speaker, the one and only purpose of this Bill is to provide a Human-Rights-compliant, regulated mechanism for existing investigatory powers of public authorities to enable, at long last, the Human Rights Act to be brought fully into force in the Isle of Man.

Mr Speaker, I move that the Bill be read a second time.

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

Mr Houghton: Thank you, Mr Speaker.

I rise to second this Bill. No doubt, there will have been a departmental seconder, but I am first on my feet in order to do so.

I second it with a degree of scepticism with the outturn of the way matters are going, whereby offenders are being protected by this Bill, when it is enacted. It simply protects the offender, but does nothing for the innocent person. We all know that it has to be done for Human Rights compliance reasons.

Those who attended that excellent presentation – and I do thank the Department for putting that presentation on – saw that this, obviously, other than be an extremely heavy increase in financial burden and resource burden on the Government, will not add any additional powers to what the Police use already. So, the Police are already very, very widely using this type of work. It is just bringing it under a law, as the Minister has stated in his opening speech.

But, as I say, because of the heavy additional resource expense, I just wonder whether the Council of Ministers have got a running tally of just how much in additional resource and finance, it is costing for things to be Human Rights compliant – and, as I say, giving those rights more to the offender than the innocent.

What about the human rights of the innocent? What is being done about that? That is not under the Bill and the Minister could put me right by replying to that.

I have one or two questions, too, for the Minister. In respect of the Interception of Communications Act, how does this Bill interrelate with that? I know there was some mention at the presentation about it.

It is just a matter for recording on *Hansard*, Mr Speaker – what is the interrelation with this Bill and the Interception of Communications Act which currently stands? If the Minister does not have that information to hand, could he bring that forward at the clauses stage, of course?

I know that nobody has anything other but the responsibility to support this Bill this morning, but it brings *no* additional ability whatsoever to the Constabulary, other than the bureaucracy of having to record everything and gain permission for everything, which I have just a slight concern about the time it may take, in a case where they need to do urgent interceptions, et cetera – that it may hold the investigations up. That is the problem I have.

I have been assured otherwise, but we all know how bureaucracy can grow and grow and that slows down the ability to effectively investigate matters.

But I will, obviously, be supporting, Mr Speaker, thank you.

The Speaker: Member for Michael, Mr Cannan.

Mr Cannan: No, sir.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder.

Parts of this legislation I welcome. Unlike the Member for Douglas North, I think that we should be protecting people's rights, and I do not think we should be allowing the Police to carry out this sort of surveillance without being answerable to someone. Therefore, it is that part of the legislation that I welcome.

We know that surveillance has gone on. We know that there have been informers. We know that, through all the other forms of surveillance of people, in very many different ways, this has gone on over the years, and through legislation which we have enacted in this Hon. House in the past. But I do have very many concerns.

The Minister, when he was moving this, talked about public authorities; public authorities are fine, and the Member for Douglas North has spoken about the Police. But we are talking here about the Treasury, we are talking about the Assessor of Income Tax, and for very many reasons, under this legislation, yes, you would give the Treasury and the Assessor of Income Tax the wherewithal to be able to get taxes which are due to them, and for other areas, too, where information is necessary.

The Financial Services Commission: yes, because they have a responsibility, too, to make sure and to protect the public in very many ways and to protect the good name of the Isle of Man, and that comes under the legislation. The Insurance and Pensions Authority: you know, I accept that. And protecting the public, you have got the Post Office.

But I would like to query with the Minister why a Department other than Treasury... I cannot think of another Department other than Treasury who would need this right to be regulated, (**Mr Houghton:** DHSS.) to be able to bring surveillance onto individuals. I would have thought that Government –

Mr Houghton: Benefit checks.

Mrs Hannan: – is there to serve the people.

But my main concern – my main concern – is local authorities. Which local authorities are going to be given this, and why should local authorities be allowed? Which local authorities actually carry out surveillance at the moment?

I think we ought to be told, and I think it is beholden on the Minister to inform us of that. Not only that, but I think the Minister says that it is not extending any responsibilities or any actions that are taken, at the moment. This extends absolutely nothing. All it is doing is safeguarding and making it Human Rights compliant, and it is safeguarding people under article 8 and article 6.

Mr Houghton: Safeguarding offenders.

Mrs Hannan: We are not talking about offenders, Member for Douglas North; we are talking about local authorities being able to carry out this form of surveillance and being able to ask this body that they can carry out surveillance.

I would like to ask who in a local authority, because it says 'members', even... A member of a local authority, a member of a Department can actually ask for this sort of surveillance to be carried out, as well as officers.

I understand about making them answerable; but I want to know why, in the first place, local authorities and Departments are carrying out this surveillance now, because this is what this legislation says. It is –

Mr Houghton: It is protection.

Mrs Hannan: – not extending anything, but local authorities and Departments other than Treasury are actually carrying out this surveillance, at the moment. What I want to know is why?

And what I also want to know is who is going to be added in the future to the list that can be added to under the schedule? Which other local authorities can it be extended to?

That is in the future. But, at the moment, we are saying, under this legislation, that a local authority, or a Department, can carry out, and has been carrying out, this surveillance now.

Mr Houghton: Bring back the birch.

Mrs Hannan: Member for Douglas North says, 'Bring back the birch.' It is ridiculous. We are talking about surveillance. We are not talking about... We are talking about public authorities. It is absolutely ridiculous. (*Interjections*)

Under section 12, adding a public authority to that schedule, I would like to know which other local authorities could be added to this schedule. I know it has to be –

A Member: With Tynwald approval.

Mrs Hannan: But I want to know *who*. Who are you going to add to it?

The Minister said this is going on at the moment. All of this surveillance, all of everything, is going on at the moment. All this is going to do is make the surveillance that is going on at the moment answerable to a commissioner, and down the line to all of these... the deemster and the tribunal and all of that. So that is bringing that in.

But this legislation says that more can be brought in. We can add local authorities to that schedule. One Order to Tynwald, that is all it takes; and we all know that an Order to Tynwald can add something, and it has to be a majority voting against to vote that out, to reject that. It cannot be amended on the floor of the House.

I see this legislation as being of great concern in the future because it is not... That is why I say I can support it today, I can support the regulation of surveillance that is going on today; but I want to know what surveillance has been going on in other Departments, other than Treasury, and I want to know what local authorities have been carrying out surveillance to date, and why they need to come under this, why they should be allowed to carry out surveillance.

If the Minister is not able to satisfy me on that, Vainstyr Loayreyder, I am going to have to vote against this legislation, because I can understand and I accept what we are

saying today – it is going to be regulated under compliance with Human Rights legislation; but to extend this into the future, without making clear which public authorities and why local authorities... The Minister will say, ‘Well, they would have to be regulated’, but I want to know why and for what reason they are going to carry out surveillance. I find it extremely worrying and concerning that we have these public authorities listed.

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

Mr Gawne: Gura mie eu, Loayreyder.

I would agree with the Hon. Member for Douglas North when he talked about the human rights of the innocent; but I suspect I would be looking at a different set of innocents from the Member for Douglas North.

I am a little bit concerned, I have to say, first of all, to read that the Police already have these powers, effectively unregulated. I am very surprised, looking through this. It looks more like a handbook for the KGB than what I would have thought would have been necessary for reasonable investigation of crime.

However, I have been to various briefings, I have read the different briefing papers that the Department of Home Affairs has provided, and I am prepared to be convinced that these measures are required for fighting crime. I am a little bit anxious about supporting that, but if that is what they are saying, I am prepared to be swayed by that.

Of course, the good news is if you are an innocent victim of surveillance by the Police, and you are lucky enough to find out that you are an innocent victim of surveillance, you can actually appeal against the surveillance and have it stopped; but, bearing in mind this is all covert surveillance, I do wonder what the point of having an appeal section is, because if the covert surveillance is done properly, you will never know, will you? (*Laughter*)

I think the major point that concerns me about this is you are going back to the idea of... Surveillance for criminal matters, I would agree with. I think that is, perhaps, a little bit more than I would like, but if that is what the Police reckon they require, fair enough.

But there is a very thin line which divides surveillance for criminal matters and surveillance for political matters, (**Mr Karran:** Hear, hear.) and I do not see anything in this Bill that protects people. The worry I have is that we actually need to have something that protects against surveillance for the suppression of legitimate expression of political opinion and free speech.

It is not unusual to find countries where surveillance and various tactics, as described by this Bill, are used very much for the purposes of suppressing free thinking, political opposition and free speech. I am very concerned that this Bill does not seem to address the issue of getting that very thin line, getting the protection there to make sure that we know that this is surveillance about criminal matters and not surveillance about political matters.

I might have missed something in the Bill and in the various presentations that we have had. If I have missed something, I would be very grateful for the Minister to clear this up at this stage. If I have not missed something, then I will find it very difficult to support the Bill, as it is written, at this stage.

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

Mr Karran: Vainstyr Loayreyder, let us be perfectly honest about it. When it comes to surveillance in this nation, we have an appalling record, as far as it is concerned. I have to be fair to the Shirveishagh son Cooishyn Sthie, the Minister, who has the unenviable task, at the present time, being in charge of that Department, to try and get some sort of standards of decency, as far as the issue is concerned.

Maybe today, Vainstyr Loayreyder, they might not be able to get away with what they have done in the past, as far as surveillance is concerned, but what has been more of a sad reflection, as far as this Bill is concerned, is the fact of the lack of any credible proper structures of audit. What I talk about is the fact of the lack of the parliamentary audit and the issue of the executive virtually controlling this Hon. House.

That is why I am concerned about regularising this issue. In my opinion, as far as this Bill is concerned, I fear that what we are going to see, whilst the well-meaning and good-heartedness of the mover of this Bill... He has already seen, in his own Department, the minefields that he is innocently taken up on, over issues to do with bugging and other things; and those are only the ones that have been done in the recent past.

My concern is the fact that the issue of economic... The Hon. Member for Rushen is quite right to be concerned about the position, as far as political surveillance is concerned, because if there is an issue of economic, then that covers a multitude of sins. The other Ministers that have left this House believe that they had the right to do whatever they wanted, to misrepresent and, yes, Vainstyr Loayreyder, not to tell the truth, as far as issues are concerned with other Members.

So, if they were prepared to do that, I could see this piece of legislation being used against such individuals as they see as a threat, a threat which the general public are slowly catching on to, and the fact of how much money is spent, and how badly it is spent, and who it is with.

But, Vainstyr Loayreyder, as far as this Bill is concerned, I find myself very concerned, because of the issue that one should be supporting the principles of anything that brings in Human Rights compliance. We should be supporting that. As I have said many years ago, Vainstyr Loayreyder, if I had a choice between a bunch of ‘froggy’ judges, and not being able to speak a word of French, I would prefer having them protecting my human rights than the vast majority that are in this Hon. House, and the record shows that.

My concern is that I feel this Bill needs to go to a committee of five Members. I think it needs to be looked at, in order to make sure the safeguards are there. If there are issues... Economic means anything. We heard the Member for Peel on about local authorities. How far will they be given the right, as far as surveillance is concerned?

Mrs Hannan: They have got it at the moment, from what the legislation says.

Mr Karran: How far can that go? I think it is important that the Hon. Minister needs to come back – is it going to be intrusive or is it going to be outside, as far as that is concerned? These are the issues that need to be addressed in my opinion.

I am concerned that the Hon. Member for Rushen is quite right. The danger will be – especially when there are big troughs of public money – that the same few people seem to

be helped to get their hands on, time and time again, when it comes to public money – my concern is that they will put pressure on the executive to use this piece of legislation against any opposition that is in this Hon. House.

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

Mrs Cannell: Thank you, Mr Speaker.

Overall, I am, unwittingly, in a way, I suppose, supportive of the piece of legislation, because I am very, very keen, as are a number of other Members in this place, to see the Human Rights Act completely in force. This is the last piece of legislation, as the hon. mover explained at the opening of his contribution today, that is required, before we can bring all of those sections of the Human Rights Act into force.

But there are just a number of things that I would ask the Hon. Minister to elaborate on, perhaps, when he is summing up after Second Reading.

In respect to part 3 of the legislation, it is (3)(c) – in fact, clause 10(3) says:

‘An authorisation is necessary on grounds falling within this subsection if it is necessary –
(a) in the interests of national security;’

which, I think, we all have to accept –

‘(b) for the purpose of preventing or detecting crime or of preventing disorder;’

I think Hon. Members will quite sensibly accept that. But then we have:

‘(c) in the interests of the economic well-being of the Island;’

Nowhere, even in the explanatory memorandum, does it give an example of what that means. Could the Hon. Minister, when he is summing up, give us an example of ‘the interests of the economic well-being of the Island’? That, in fact, is a catch-all – it could bring all sorts of things in there. I would like some explanation as to why it is in this piece of legislation, whether or not it features in the UK legislation, because I do not seem to recall having seen it before and why, in fact, it is there and how, in fact, it will work by giving us some examples.

Turning to the explanatory memorandum on clause 9, dealing with the cancellation of authorisations, it seems to be overly bureaucratic for the Department to administer, which concerns me a little bit, because it is a very serious piece of legislation, Mr Speaker, and it has to be taken seriously and administered seriously and fairly, and people’s rights and privileges and all the rest of it, of course, have to be properly protected. It is the administrative aspect of it which I would like him to explain to us.

I believe it is important if somebody is authorised... because we have got all sorts of different spaces of time within which a person can be authorised to be an agent. An oral authorisation can be granted or a designated deputy can be granted permission for surveillance, but, after 72 hours, it normally would then fall. But then it goes on to say, with regard to urgent cases, that the intelligence – the human intelligence source – will last for 12 months. Then, again, we say, in all other cases, the authorisation will last for three months, beginning with the day on which the grant

or renewal takes place.

So, we have got one, two, three, possibly four, different ways in which a person can be authorised and for three, four different periods of time. Then again, we have all of that – who will be overseeing all of that?

Then we come to clause 9, the cancellation of those authorisations, all or some, or one or two, or whatever. It seems to me that the Department is going to have to put regulations together setting out the duty for the cancellation of authorisations. I just wonder what is in the mind of the Minister and the Department, in terms of those regulations, whether or not they are already in preparation. Have they been out to public consultation? Who has been able to assist in those, or is the Department simply going to pluck regulations which are in force in another jurisdiction?

Turning back again to part 3, clauses 10 and 11, this is regarding authorisations that cannot be granted unless specific criteria are satisfied and then it goes on to give a list of specific criteria – which is fine – but then, again, I have the question on the economic prosperity.

Then it goes on to say that there are two further criteria, in relation to covert human intelligence sources. It says, the sources ‘independently managed and supervised’. So, I would ask the Minister: who is going to independently manage and supervise that the records are kept, of the use made of the source, that the source’s identity is protected from those who do not need to know it, and that arrangements will also exist to satisfy such other arrangements as may be imposed by Order made by the Department of Home Affairs?

I understand why that provision is in this legislation, because what it means is that, sometime in the future, if it was felt appropriate – and we do not know what we are facing, in terms of the global situation, in the future – but, perhaps, the surveillance aspect of it could be extended, to take in other areas or, perhaps, even extended to allow other authorities, which is the point the Hon. Member for Peel has some concern about.

I think the only safe caveat to all of that, Mr Speaker, is that it would have to come before Tynwald and Tynwald would have to approve.

But I think, perhaps, those are the main areas of concern for Hon. Members. If the Minister could give us a little bit more information – a bit more background to the thinking in respect of these provisions – I think Members might feel more comfortable with it.

Overall, I give it a cautious welcome. It seems a complicated piece of legislation. It is one that is required. It does need to be compliant. It is compliant, we are told, and once this legislation has passed, there is no excuse in the world for not bringing into force, completely, the Human Rights Act in the Isle of Man, which is going to benefit our own people. But I think the Minister needs to work, perhaps, a little bit harder on giving us the comfort that we need in respect of these provisions.

Thank you.

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

Mr Braidwood: Thank you, Mr Speaker.

First of all, I would like to thank the Hon. Member for Douglas North in seconding the Bill. He was concerned about the additional resources but, in all legislation, there is going to be an impact on the cost, particularly in this legislation,

where everything is going to have to be an audit trail. So, everything has to be compliant.

We have to... if there are going to be authorisations, why the authorisation was given, and, of course, the Surveillance Commissioner will be looking at those authorisations. There will be additional personnel and resources.

The Hon. Member for North Douglas also mentioned the difference between the Interception of Communications Act and this Bill and, in actual fact, under clause 3, the communication under this Bill can only be intercepted, if one of the people consents to that communication being intercepted. Otherwise, under the Interception of Communications Act, the only people who can actually sign a warrant are the Chief Minister and myself for an interception of a telephone communication.

Mrs Hannan welcomed the majority of the Bill, but she had concerns, particularly over local authorities, which are named in the schedule at the back of the Bill – under section 12(3). I can say that no local authorities to date have this authority. We were only putting it in the schedule, because, at the present time, some local authorities have CCTV cameras, such as – if we take Douglas Corporation – through the Strand, they have CCTV cameras, but they are not directed. They are just normal surveillance.

If, for instance, in the future, the Douglas Corporation take out an anti-social behaviour order against a person and they had cameras which were able to be monitored – that means by directing it at an individual, magnifying that individual – and if they said that the Police would like to give them a direct surveillance, which is then an authorisation to look at that individual – then that is where the local authority would be for an anti-social behaviour order. However, I can say that no local authorities, to date, have this authority.

Mrs Hannan: It should not be in the legislation, then.

Mr Braidwood: Mrs Hannan, again, under the Bill, it has to have Tynwald approval and she has already mentioned it – that any of these public authorities can be removed. They can be added to or removed by an Order coming in front of Tynwald.

So, in actual fact, we could remove that local authority at any time. No matter what, if a named local authority came forward, then Tynwald would have to give approval, but only under those circumstances would they be given an authorisation.

Mr Gawne and Mr Karran were quite concerned about political interference – of ‘Big Brother watching you’ syndrome. Can I say that, with this Bill, we have to have an audit trail. If there is an authorisation for intrusive surveillance, that has to come from the Chief Constable or the Collector of Customs and Excise. This would only be used under circumstances for serious crime. Also, that authorisation has to go the Surveillance Commissioner, who can quash that authorisation, and then the Chief Constable or the Collector of Customs and Excise can appeal to a Deemster.

But can I say, quite categorically, that there is no way that this legislation would be used for intrusive surveillance – or directed surveillance – on any individual who is voicing his own opinion, which might be different from that of the Government.

Mrs Hannan: We do not know that.

Mr Karran: We do not.

Mr Braidwood: But there has to be an audit trail. It all has to be authorised and we have a Surveillance Commissioner. We are not talking about previous eastern bloc countries, (*Interjection by Mrs Hannan*) where there was no political freedom. We do have political freedom in the Isle of Man.

Mrs Cannell is a little bit concerned that, when she was going through, she could understand crime – why it was going to be used concerning the economic well-being of the Island. Again, this would be under the Collector of Customs and Excise, if there is any fraudulent abuse of VAT or anything which would have an impact on the Island.

She was also concerned with the different times of the authorisations and particularly under a covert human intelligence source. In actual fact, the Chief Inspector of the Financial Intelligence Bureau would review and decide who to authorise. Then he registers the use of that covert human intelligence source. He appoints a handler, who must be nationally qualified to deal with the individual, a risk assessment is undertaken, and the informant is registered under strict conditions, so nobody else knows who that individual is.

On the authorisation, if it is oral, she was quite right, it is 72 hours. It can be a year for a covert human intelligence source. But the authorisations can be cancelled at any time, because the authorisations are reviewed every month. The surveillance commissioner will review all authorisations, so he can quash that authorisation at any time.

Mr Speaker, as I said right at the beginning, we are only bringing in this Bill to put it on a statutory footing, so that there is a clear audit trail which can be followed. The only reason we are bringing this Bill in is, as I have said previously, for the reason that it will be compliant with the Human Rights Act.

Mr Speaker, I beg to move.

The Speaker: Hon. Members, the motion before the House is that the Regulation of Surveillance, Etc. Bill 2005 be now read a second time. All those in favour, say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

FOR

Mr Anderson
Mr Cannan
Mr Teare
Mr Rodan
Mr Quayle
Mr Rimington
Mr Gill
Mr Houghton
Mr Cretney
Mr Duggan
Mr Braidwood
Mrs Cannell
Mr Shimmin
Mr Bell
Mrs Craine
Mr Corkill
Mr Earnshaw
Capt. Douglas
The Speaker

AGAINST

Mr Gawne
Mrs Hannan
Mr Karran

The Speaker: Hon. Members, the motion carries, with 19 votes for and 3 votes against.

Procedural

The Speaker: Now, Hon. Members, that concludes the business before the House this morning.

Can I just, before we adjourn, remind Hon. Members that next Tuesday, 17th May, at 9.30 a.m., Members are invited to join Mr President and myself to welcome guests from Norway, who are marking their 100th anniversary of independence and will be processing up to the Courts of Justice patio area. I hope, and I am sure Mr President does, that as many Hon. Members as possible will join us on that morning.

Mr Braidwood: 9.30 a.m. when?

The Speaker: 9.30 a.m. on the 17th, before Tynwald,

Hon. Members.
Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.
On a point of clarification, did I not understand that Members would be invited to process from the War Memorial at 9 o'clock?

The Speaker: Whether Hon. Members do that is a matter for Hon. Members. I am just making the point that Hon. Members are invited to be at the patio in front of the Courts of Justice.

Mr Quayle: Thank you.

The Speaker: Hon. Members, that concludes the business before the House. The House will now stand adjourned until 10.30 a.m., in Tynwald, on 17th May. Thank you, Hon. Members.

The House adjourned at 11.19 a.m.