



**HOUSE OF KEYS  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
Y CHIARE AS FEED**

**PROCEEDINGS  
DAALTYN  
(HANSARD)**

**Douglas, Tuesday, 14th June 2005**

**Present:**

The Speaker (The Hon. J A Brown) (Castletown); Hon. D M Anderson (Glenfaba); Hon A R Bell (Ramsey); Mr W E Teare (Ayre); Hon. S C Rodan (Garff); Mr P Karran, Mr R K Corkill and Mr A J Earnshaw (Onchan); 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 (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.

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*The House adjourned at 12.36 p.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*

### LEAVE OF ABSENCE GRANTED

**The Speaker:** Hon. Members, I have granted leave to: the Hon. Member for Ramsey, Mrs Craine; the Hon. Member for Michael, Mr Cannan; the Hon. Member for Douglas East, Mrs Cannell; the Hon. Member for Peel, Mrs Hannan; and the Hon. Member for Middle, Mr Quayle.

Also, I have granted leave, from later this morning, to the Hon. Member for Garff, Mr Rodan.

## Questions for Oral Answer

### CHIEF MINISTER

#### MEA Bond issues Audit by UK National Audit Office

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

*Will you bring the UK National Audit Office in to do a value for money audit and technical audit on the money spent by the MEA over Bond issues?*

**The Speaker:** Hon. Members, we go on to the first part of our Order Paper, Questions for Oral Answer. Question 1, I call on the Hon. Member for Onchan, Mr Karran.

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

**The Speaker:** I call on the Hon. Member for Ramsey, Mr Bell, Treasury Minister, to respond on behalf of the Chief Minister.

**The Minister for the Treasury (Mr Bell):** Mr Speaker, in response to the Hon. Member's Question, I can advise that, at the present time, it is not the Chief Minister's, nor indeed the Council of Ministers', intention to request the UK National Audit Office to conduct a value for money audit and technical audit of money spent by the MEA over bond issues.

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

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

Would the Shirveishagh not agree that the issue is when you see that we have paid twice as much for the likes of power stations, we have been signed up to all sorts of crazy long-term commitments, we need somebody to do a proper technical audit, in order to get the truth out, about this affair?

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, I think the Hon. Member for Onchan is very well aware of our concern over these matters. I have done my best over the last few months to keep Members fully up to speed with the progress which we are making.

But the Hon. Member must, also, recognise that we have already appointed Pannell Kerr Forster to do an assessment of the expenditure taking place by the MEA, and we also await the final results of the audit for the year 2003-4, which is still outstanding, and KPMG, the auditors, I believe, are very close to completing that now.

So, Mr Speaker, I think it would be premature to start yet another hare running, until we have at least (**A Member:** Hear, hear.) the results of these first inquiries, so we have a basis to start from.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that the audit that is being done, now, is not a technical audit?

Would the Shirveishagh not agree that it is not unreasonable that the Council of Ministers and the Ard-Shirveishagh should be considering a technical audit? At the end of the day, this is the last of a long list of scandals of badly paid out money for the taxpayer.

Would he go back to the Council of Ministers and report the issue that we should have a technical audit, to get proper value for money, with all the amounts of badly spent money, as far as the MEA is concerned – especially in the light that he will be coming to ask for money from the national reserve, to bail out the MEA to a considerable amount of money, if not between £100 million to £200 million to do so, to make it viable?

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

**The Minister:** I can only reiterate my Answer, Mr Speaker. I do believe that we need to wait until we get the audit report back, and the PKF Report, before we decide on any further action.

There will be a full presentation to Members – I think it is planned next week – which will give Members a full update on where we stand, and these issues, perhaps, Mr Speaker could be raised, at that point. (*Interjection by Mr Karran*)

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

**Mr Karran:** Vainstyr Loayreyder, sorry.

Would the Shirveishagh not agree that the audit that we have had is not a technical audit? It is an audit as far as the financial affairs, as far as the MEA is concerned.

Is he not doing a disservice to this House by not having a technical audit, in order to see how badly paid... how badly

costed issues have been done by the MEA, as it is not an isolated affair?

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

**The Minister:** It is not a technical audit, Mr Speaker, in the sense that the Hon. Member I think is referring to, but the Hon. Member knows, full well, what the terms of reference of the PKF Report are, because Tynwald supported it.

Mr Speaker, I can only reiterate that these issues will be considered when we get these two reports back. This is a very complex issue that we are dealing with at the moment. It should not, at this stage, be used as a political football in this forum, (**A Member:** Hear, hear.) until we have (*Interjection by Mr Karran*) full access to all the information. (**Mr Karran:** Scandal!) It is all very well shouting 'It is a scandal' –

**Mr Karran:** It is.

**The Minister:** – it is Treasury which has had to carry the brunt of the work and responsibility for this, Mr Speaker. (**Mr Cretney:** Hear, hear.)

My officers have been working full time, virtually, for the last six months, to try and get on top of what has actually gone on.

It has been an exceptionally difficult and complicated procedure and one which I can only reiterate, again, to Hon. Members, Treasury are exceedingly unhappy about.

But it would be foolish to start off down other courses of action, until we, at least, at the first stage, have these two – the audit report and the PKF Report – in our hands, so that we know what the next step needs to be.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that the DTI and the Treasury should have held the MEA to account, and to try and blame the messenger for trying to get a technical audit is the wrong excuse in this Hon. House?

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, the Hon. Member for Onchan makes a profession out of being a martyr in this place. I am not blaming the messenger at all, I am trying to respond to this Question in a rational, logical sense.

This is a hugely delicate, complicated issue we are dealing with, which, if we do not get the balance right, at the end, though, can and will impact on every single man, woman and child on this Island. Therefore, it is most important that we progress in this issue on a stage-by-stage basis, so we know exactly what has taken place up there, and then what further investigations need to take place, to further clarify the level of expenditure which has gone on.

I can only repeat, Mr Speaker, that Treasury are exceedingly unhappy about the performance of the MEA, and we are working as best we possibly can, under quite difficult circumstances, to identify not only what has happened, but also an effective remedy, to enable the MEA to continue trading without severely impacting on the domestic consumer and, indeed, the business consumer on this Island.

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

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

Can the Minister give the House categorical assurance that the PKF Report has not been received by Treasury, at this time?

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, the PKF Report, in its entirety, has not been completed yet. Treasury now has had sight of elements of that Report, which refer to... or need clarification from Treasury's perspective.

The MEA has already gone through that exercise. Treasury and the DTI, now, are in a similar position, and, when those responses go back to PKF, I would expect the final Report to emerge shortly after.

But I cannot be clear, at this stage, when the final Report will be available. It will be really down to PKF.

It has taken considerably longer than was anticipated and, again, in the main, the delays have been promoted by the attitude of the MEA, in their response to this.

## TREASURY

### MEA media advertising Expenditure

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

(1) *Why, in view of the fact that the MEA is a State monopoly, is money being spent on advertising, and how much has been spent in the last two years; and*

(2) *are you satisfied that MEA media advertising expenditure is not being used to discourage adverse coverage of MEA affairs?*

**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 for the Treasury to reply.

**The Minister for the Treasury (Mr Bell):** Mr Speaker, in answer to the first part of the Member's Question, the MEA is a state monopoly in respect of the supply of electricity, but not in the supply of electrical goods, and it is for this reason that it decides to advertise its retail operations.

The MEA has sold electrical goods on the Island for over 70 years. Its costs of advertising are met in the main from contributions from the manufacturers.

The gross cost of the last two years has been £195,573. The net cost, after contributions from suppliers, has been £51,923.

In respect of the second part of the Question, I cannot claim to have detailed knowledge of all the MEA advertising over the last year. However, from what I have heard and read,

I have no immediate concerns that the advertising spend is related to anything other than the MEA's retail operations.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that many outside this Hon. House are confused? Allowing for the fact that the Treasury has known about the dire situation, as far as the MEA is concerned, for the last nine months, why are they still allowing them such a free hand, in order to do what they are doing, where the consumers will be picking up the tab? The likes of it is only £50,000, but it is a lot of money, as far as the consumers are concerned.

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

**The Minister:** It is quite clear, Mr Speaker, that the Member for Onchan has little understanding of the role Treasury plays in its relationship with the MEA, and might also be directing some of these questions to the DTI.

My understanding of this particular issue – the amount they spend on advertising – is that, clearly, the MEA are advertising at the moment to try and generate new business, which, in turn, they would expect to make profits on. I can only assume it is part of the business plan of the MEA, and they have costed it in such a way that they believe they can support this level of advertising, because it will be recouped through increased sales. This is no different from any other retail operation.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that, apart from the sales of domestic products, basically, the MEA's prime business is a state monopoly? Would he not agree that the fact is that, allowing for the dire financial situation, this is one way you could be protecting the consumers?

Would he, also, not agree that whilst the DTI is the lead responsibility, and must take the majority blame for this scandal, the situation is, he and the Treasury have known about the situation for the last nine months, and should be doing something about it?

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

**The Minister:** I find it absolutely astonishing, Mr Speaker, for the Member for Onchan to make such outrageous statements as he has just made. He is in the blame game, constantly, on issues that arise here. He is always looking for a scapegoat, and (*Interjection by Mr Karran*) for someone who has probably been better briefed by Treasury than any other single Member of this Chamber, I find it quite outrageous to hear the Hon. Member saying that Treasury should be doing more.

Treasury is doing all it can, and has done for more than six months, now, to try and unravel this mess that the MEA has put us in. My senior officer, in particular, has been working virtually full time on this to the exclusion of a lot of the work he should have been doing.

We are fully aware of what the situation is, Mr Speaker. We do not need preaching from the Member for Onchan, to be told of that, and we are doing our very best, at the moment, not only to identify and unravel what has gone on at the MEA, but clearly recognising the very serious financial situation

they now find themselves in. Treasury are trying their best to find a rescue package which will enable them to continue trading in a solvent manner, whilst minimising the impact on the consumers.

**Mr Cretney:** Hear, hear.

**The Speaker:** Question 3... Hon. Member for Onchan, Mr Karran, on Question 2 – and can I ask the Hon. Member to keep to the basis of the Question, which is about advertising, not about the other issue. Hon. Member.

**Mr Karran:** Vainstyr Loayreyder, thank you.

Would the Shirveishagh not agree that the fact is that, if it was a trading company on the Stock Exchange, you would not have been allowed the luxury of nine months of being able to carry on like it is, and it would have had to be resolved and in the public domain long ago, if it had been a public company?

**The Speaker:** Minister to reply.

**The Minister:** That may well have been the case, Mr Speaker, but we are not a public company, we are dealing with a Statutory Board of Government and we are doing our best, at the moment, to try and resolve this issue as effectively as we possibly can for the long term.

This is not just a short-term issue that we are dealing with, (*Interjection by Mr Karran*) which will respond to soundbites in this Chamber. It needs some very careful consideration, to both secure the very long-term supply of electricity and essential power to the Isle of Man and also to put a new financial structure together, Mr Speaker, which will minimise the impact on the consumers on the Island, to minimise the impact on the business community, which is equally being impacted by this, to minimise the impact on the rate of inflation, which, in itself, can have further implications for the economy and, indeed, to ensure the minimum impact on Government's future public expenditure commitments, because, clearly, that has to come into the equation, as well as all these other issues.

## TOURISM AND LEISURE

### Hospital visitors from south Progress re transport

1.3. The Hon. Member for Rushen (Mr Gawne) to ask the Minister for Tourism and Leisure:

*Since the Members for Rushen met with your Department's Director of Public Transport on 1st December 2004, what progress has your Department made in meeting the needs of passengers from the South wishing to visit the hospital?*

**The Speaker:** Question 3, Hon. Member for Rushen, Mr Gawne.

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

**The Speaker:** I call on the Hon. Member for Douglas

South, Mr Cretney, Minister for Tourism and Leisure to reply.

**The Minister for Tourism and Leisure (Mr Cretney):** Thank you, Mr Speaker.

The guiding principle behind the structure and layout of bus routes and timetables is, essentially, that most services operate to and from, or within, Douglas, which acts as a public transport hub. Bus users wishing to travel to the hospital from the north and south of the Island must, therefore, journey to Douglas and then proceed from there.

During most of the day, on Mondays to Fridays, up to four bus journeys an hour are provided between Lord Street, Douglas, and Noble's Hospital. Journeys to and from the west of the Island are able to call in at the hospital, as it is conveniently situated on the way.

The weekday half-hourly bus service from the south of the Island to Douglas is a very busy service, and it is not possible to extend the journey times to accommodate a fairly lengthy diversion via Braddan, within existing bus and crew duty schedules – a journey which, in any case, would be unpopular with many existing passengers, due to the additional journey time.

It would be my desire to increase the frequency of the Douglas to Port Erin bus services on weekdays, during the day. However, this would require additional resources, especially in respect of staff costs, which are not presently available without diverting them from elsewhere.

My Department has received relatively few requests for additional services to Noble's Hospital since it opened. Comments from existing users are encouraged, through the completion of our customer satisfaction survey forms, included in every free timetable book issued.

This summer our survey of services will extend to non-bus users, from which we will receive valuable feedback to tailor our routes and timetable to provide a service which meets the needs of the travelling public, within existing resources, and plan for future service provision.

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

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

I thank the Minister for his Answer. Is he aware that a number of imaginative solutions were discussed with his Director of Transport, with myself and the Hon. Member for Rushen, Mr Gill, back in December, which would not have required extension and journey time for the bus travelling in from Port Erin, but could have used existing Douglas services to improve the service? Can he explain why there has been no progress in actually trying to progress any of these ideas?

**The Speaker:** The Minister for Tourism and Leisure to reply.

**The Minister:** I think I have already explained that it is impossible, as far as my advice is, to improve additional services within the existing resources.

I am not aware of what conversation took place between the Hon. Members for Rushen and the Director of Public Transport, because I was not present at the meeting. If, in the future, the Hon. Members would like me to be present at such meeting, I would happily do so.

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

**Mr Gill:** Thank you. Could the Minister advise that it is usual practice for his Director of Transport not to report the contents and outcomes of meetings with elected representatives, initially?

Could he also confirm that the additional resources or divert routes – alternatives that he advised us about in his initial Answer... When he is considering the busy southern routes, as he has mentioned, could he confirm that there are some routes which are served by a bus, which could be met by the seating capacity of a minibus or, perhaps, even a smaller vehicle, and has he considered that in his considerations?

**The Speaker:** Minister to reply.

**The Minister:** As things stand presently, Mr Speaker, we do not have any minibuses. What has happened, over the past several years, has been extensive investment into a modern fleet of environmentally-friendly, user-friendly buses, combined with bus shelters all over the Island. Nobody can fail to have missed them. What actually happens, with the larger buses, is you get the maximum use of the manpower, in terms of the bus provision.

It may well be that, in the future, such services can be used to supplement that, but the main direction and drive, over the past several years, has been in the manner which I described.

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

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

Does the Minister find it acceptable that the patients from the south who wish to visit the hospital in the early afternoon have to, effectively, have at least a five-hour round trip, and does he recall us mentioning this to him over 10 months ago? Will he not use his best endeavours to try to resolve this, as I would believe, intolerable situation?

**The Speaker:** Minister for Tourism and Leisure to reply.

**The Minister:** I think the situation has been a little overplayed, although I have expressed sympathy in my original response, and I have said that I will try and do whatever I can.

We have to be realistic here. We have no additional resources, and we have to look to be flexible, in terms of what we can do.

I will continue to do that, and I will happily meet with Hon. Members for Rushen, but I have to say that, in the last six months, there have been no complaints whatsoever from the users of the buses, about services from the south.

## EDUCATION

### International Business School 'revenue implications' Departmental cutbacks

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

*Is your Department cutting back on costs in order to pay*

*for the added revenue implications of the International Business School?*

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

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

**The Speaker:** I call on the Hon. Member for Garff, Mr Rodan, Minister for... no, sorry. I call on the Hon. Member... (*Laughter*) Times do change, don't they? (*Interjection by Mr Cretney*) (*Laughter*) I also saw the Minister for Health go pale! (*Laughter*)

I call on the Hon. Member for Glenfaba, Minister for Education, Mr Anderson, to reply.

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

The situation with regard to the revenue implications of the purchase of the Nunnery Estate and its impact on the finances of the International Business School was clearly set out in the explanatory memorandum presented to Tynwald Court in March 2005, supporting the motion for funding of the purchase of the Nunnery Estate.

Mr Speaker, no matters have arisen since then which have had any impact on the resource implications set out in that memorandum.

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

**Mr Karran:** Vainstyr Loayreyder, could the Shirveishagh Ynsee, Minister for Education, explain to this Hon. House: has there been a marked increase in his budgetary amounts within his Department as a whole, in order to cover the increases for the IBS, or has that had to come out of other services, in order to balance the books?

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

**The Minister:** Mr Speaker, the short answer is no.

The net revenue spending for the IBS is expected to be within the budget for the current year. That revenue is the same as it was in the previous year, of £700,000, and it is expected to be within budget.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh

Ynsee like to inform this Hon. House about the complaints about commitments to pay agreements, commitments to other student affairs, as far as courses are concerned, that are having to be cut back in his Department? Is this purely a budgetary situation, as far as his Department's bad financial planning, or is it because of the extra liabilities of the IBS?

**The Speaker:** Minister to reply.

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

Unless the Hon. Member for Onchan brings forward individual circumstances, I cannot respond on the hoof to them.

However, I think he is implying that there have been some changes at the Isle of Man College, but in regard to that, can I say that, quite clearly, their budget is quite separate from the IBS, and any change to the budget at the Isle of Man College is only because of the lowering of the numbers of people taking part in courses at the Isle of Man College.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that issues such as cutting back the amount of lessons on these part-time courses, cutting back on places on these courses for individuals and cutting courses out might have some relationship, as far as the cutting back of the students going to the College in the first place, if there are no places there for them?

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, it is a demand-led service. If there was demand for increased places, the courses would be put on, but where there is a fall in numbers in certain courses, the College has had to take prudent measures, to keep within their budgets.

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

Hon. Members, the next Item on the Order Paper is Questions for Written Answer, of which there are 21 Questions. I would advise Hon. Members that the Questions may not be able to be distributed in time, while we are sitting, depending on what time we conclude. However, they will be, of course, distributed, if necessary through the pigeon holes in the Clerk of Tynwald's Office or through the post.

So, Hon. Members, they will be distributed as soon as they are available.

## Questions for Written Answer

### CHIEF MINISTER

#### Parents' rights and responsibilities Ensuring equality

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

- (1) *In Manx law, do fathers have the same rights and responsibilities as mothers in respect of their natural and/or adopted children; and*  
 (2) *if not, what action is your Government taking to bring equality to this area?*

**Answer:** Section 3(1) of the Family Law Act 1991 ('the Act') provides that the mother and father of a minor, who is a marital child, each have parental responsibility for the minor. The definition of a 'marital child' is set out in section 5 of the Act and includes (1) any child whose parents were married to each other at the time of his birth or, if the marriage was terminated before his birth, at the time of his conception, (2) any child whose parents married each other subsequent to his birth and (3) any adopted child.

In the case of a non-marital child, i.e. one whose natural parents were not married to each other at the time of his conception or birth or subsequently, the mother alone has parental responsibility, but the father can acquire parental responsibility by applying to the court under section 4 of the Act, or by entering into a parental responsibility agreement with the child's mother.

Parental responsibility is defined in section 2(1) of the Act as meaning all the rights, duties, powers, responsibilities and authority which, by law, a parent of a minor has in relation to the minor and his property.

Thus, question (1) can be answered in the affirmative, in which case question (2) needs no reply.

#### Cheshire Constabulary's seizure of papers Securing return

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

- (1) *Have you demanded the immediate return of papers seized by the Cheshire Constabulary, if not, why; and*  
 (2) *what further action do you plan to take to secure their return?*

**Answer:** In relation to part (1) of the Question, the answer is yes.

In view of the answer to part (1), part (2) does not apply.

#### Sellafield alleged leaks Manx communications with British Government

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

*In relation to Sellafield and the alleged leak of thousands of litres of highly radioactive liquid which went unnoticed for up to 9 months –*

- (a) *when was the leak detected by British Nuclear Group and was this immediately communicated to the Manx Government, and if not, why not;*  
 (b) *was this matter discussed at the recent Summit of the British-Irish Council held in the Isle of Man, and, if not, why not, and if so, what was the result of the discussions;*  
 (c) *what appropriate measures will be brought forward to address any identified shortcomings in communications between the British Government and the Manx Government; and*  
 (d) *has the Manx Government communicated to the British Government, its shock and profound dismay at the apparent leakage, and called for the immediate closure of the Thermal Oxide Reprocessing Plant (THORP)?*

**Answer:** A leak of radioactive liquid at the THORP Plant was first found on 19th April 2005, following a camera inspection, but it took about two days for British Nuclear Group to gain a full understanding of the nature and quantities involved.

A mixture of uranium and plutonium dissolved in concentrated nitric acid was leaking from a pipe in the feed clarification cell. The liquid was contained within a steel cell and no radioactivity has been released from the site. The leak was subsequently classified as a Level 3 (Serious Incident) on the International Nuclear Events Scale.

The internal inquiry has concluded that the cause of the leak was metal fatigue in a pipe, which may have started to fail in August 2004, but significant quantities of material had been leaking since January 2005. The spilled material is being retrieved and full recovery is anticipated in about three to four weeks.

British Nuclear Group notified the Department of Local Government and the Environment, together with all the members of the Sellafield Local Liaison Committee, on 21st April 2005. Although first found on 19th April, it took to 21st April to get a sufficient understanding of the nature and quantities involved.

Isle of Man Government channels of communication with British Nuclear Group are well established and very effective, but if we feel they can be improved then we would take the matter up with the Company. In this instance the channels of communication worked very well and we were notified in timely fashion.

The matter was not on the formal agenda of the recent British-Irish Council Summit Meeting. Sellafield, though, is a standing item on the agenda of the BIC (Environment) Sectoral Group.

However during a private meeting I had with the Deputy Prime Minister, John Prescott, I raised the Island's concern on this matter. In doing so, I reiterated that we have always

known that some of the activities undertaken at Sellafield are potentially very dangerous, and this incident confirmed the Isle of Man Government's policy on Sellafield is entirely justified.

**Domestic rates revaluation  
Options, costs and consultation**

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

*In relation to the Government's proposals for domestic rates revaluation, before they come back to Tynwald for consideration –*

*(a) will you arrange for Hon. Members to be provided with comprehensive details on the various options that have been fully appraised and the reasons as to how the preferred option has been selected for recommendation;*

*(b) will you state the full anticipated costs including any computer costs of the rating revaluation;*

*(c) will you ensure that all local authorities are invited to submit their written views on the proposals and that these be communicated to Members of Tynwald prior to debate;*

*(d) do you agree that the rateable system is not based on an individual's ability to pay, and that those on low or fixed incomes and elderly single people or retired couples may have difficulties, and will you ensure that these matters are addressed before the proposals are finalised;*

*(e) will you ensure that members of the public are made aware of the implications so that any impact is known and may be assessed; and*

*(f) will you consider making available to the local authorities and Members of Tynwald, the trials conducted in Michael and Onchan, if necessary protecting the identities of individuals before publication?*

**Answer:** (a) Yes.

(b) Yes.

(c) Yes.

(d) Any property based system of taxation cannot be directly linked to an individual's ability to pay, although individuals can, of course, choose the size of property they live in.

It remains the policy of the Treasury to ensure that we spread the benefits of growth throughout the population, including the groups mentioned above, and, therefore, it would be wrong to single out individual taxes or charges as being 'unfair', without considering the wider overall impact of all taxes and benefits on each sector of the population.

This is why the Treasury, in conjunction with the DHSS, has formed the Low Income Working Group, which will continue to monitor the implications on vulnerable groups of any changes to the system of rateable values.

(e) I will do so at the appropriate time.

(f) I will consider how best to provide the information without revealing individual property values.

**TREASURY**

**Housing and land sales  
Monitoring effects of monopolies**

2.5. The Hon. Member for Rushen (Mr Gawne) to ask the Minister for the Treasury:

*(1) How does the Treasury monitor the effects of monopolies on housing and land sales; and*

*(2) at its regular department meetings, how often in the past year has Treasury considered the effects of monopolies on housing and land sales, and what form did this consideration take?*

**Answer:** (1) The Treasury has no formal functions in respect of private land and property deals. Although it monitors conditions in the housing market, particularly with respect to sales volumes and trends in property prices, it does not specifically monitor what effects the structure of the property market – notably the respective size of the various parties to transactions – has on sales and sales values.

(2) At its weekly Treasury Board, the Treasury often has reason to discuss matters relating to housing. However, it has not, in the past year, had occasion to consider the effects of monopolies (or perceived monopolies) on housing and land sales.

**Late tax returns  
Fines for individuals and companies**

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

*Can you inform this Hon. House if the £50 fine imposed for late receipt of tax returns will be applied to companies as well as individuals?*

**Answer:** Treasury does intend that there should be a penalty system in respect of the late submission of tax returns by companies. We are currently working on the policy aspects of the system and will carry out a public consultation exercise once that work has been completed. As the system will require new law, Members of this House will be able, in due course, to consider any proposals in detail.

**TOURISM AND LEISURE**

**TT 2005 radio coverage  
Exclusive contract**

2.7. The Hon. Member for Ayre (Mr Teare) to ask the Minister for Tourism and Leisure:

*(1) Will you confirm that an exclusive radio contract has been issued for coverage of the 2005 TT motorcycle races, and, if so, are you satisfied that the contract represents good value for money and that the proper*

*tendering process has been followed; and  
(2) can you confirm that the arrangement is in the best interests of the Isle of Man as a whole?*

**Answer:** I would refer the Hon. Member to the Answer I gave at the February 2005 sitting of Tynwald, which I reproduce below:

'My Department entered into contractual arrangements with Manx Radio regarding coverage of the TT Festival and Races for a period, initially, of three years, commencing with TT 2003, and concluding with TT 2005.

This contract is subject to renewal annually for a further two years, to a maximum of five years in total. When the contract was initially negotiated and agreed, there were no other local providers capable of delivering the service required at that time. The contract was not, therefore, advertised for competitive tendering for this reason.

Hon. Members will be aware that there are now three radio stations operating on the Island and, in line with the terms of the contract, my Department will review the situation following TT 2005, with a view to extending the contract for a further year, or undergoing a process of competitive tendering, whichever we deem to be appropriate.'

In addition to the above, I can confirm that I am satisfied that the arrangements we have entered into are of benefit to the Island as a whole, as we engaged the most suitable radio broadcaster at the time, to provide this service. Similarly, I am content that the arrangement does represent value for money, since TT fans (both Island residents and visitors alike) are provided with a quality service, and the financial arrangements are such that there is no net cost to the Department.

## EDUCATION

### Teaching posts

#### Preference for Manx workers

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

*Is preference given to Manx workers for teaching posts as is required under the terms of the Work Permit legislation?*

**Answer:** In compliance with the Work Permit legislation, Manx workers are given preference for teaching posts, provided that the Manx worker concerned is capable of doing the job to the required standard, i.e. provided that the Manx worker meets the essential criteria set out in the person specification for the post.

Another factor taken into account is attendance, as clearly, if an applicant's attendance is very poor, then they will be incapable of doing the job to the required standard.

All teaching posts are advertised in the local press and the Department's weekly information sheet. Secondary teaching and all headteacher vacancies are also advertised in the Times Educational Supplement.

Each Work Permit application is accompanied by:

- the job description and person specification for the post;
- a copy of the advertisement and confirmation of the dates on which the post was advertised;

- the titles of the newspapers and any other publications in which the advertisement appeared;
- the total number of Manx and non-Manx applicants for the post;
- copies of the application forms, longlisting and shortlisting forms and selection panel assessment forms for the successful candidate and the unsuccessful Manx candidates.

Consequently, the Work Permit Office is provided with the information necessary to decide whether or not a Work Permit should be granted and to verify that the Department has complied with the Work Permit legislation.

### Teaching positions during 2004 Manx/non-Manx successful applicants

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

- (1) *What percentage of applicants for teaching positions regarded as Manx workers were successful in their applications during the calendar year 2004; and*
- (2) *what percentage of non-Manx applicants were successful?*

**Answer:** (1) 55% of applicants for teaching positions regarded as Manx workers were successful in their applications during the calendar year 2004.

(2) 45% of non-Manx applicants were successful.

The 94 teaching posts in question comprised 53 in secondary schools, 35 in primary schools and 6 with the Special Educational Needs and Psychology Service.

22 Manx workers (42%) and 31 non-Manx workers (58%) were successful in their applications for the secondary school posts.

28 Manx workers (80%) and 7 non-Manx workers (20%) were successful in their applications for primary school posts.

5 Manx workers (83%) and 1 non-Manx worker (17%) were successful in their applications for Special Educational Needs and Psychology Service posts.

As can be noted, and as has also been the case in previous years, the majority of Work Permits are sought for secondary school teaching posts, given that subject specialists are required and it is not always possible to recruit to such posts locally.

### Isle of Man College and International Business School Comparison of costs

2.10. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Education:

- (1) *What is the budget cost for the Isle of Man College of Further Education for the last financial year and in this financial year;*
- (2) *what is the budget cost for the International Business School in the last financial year and this financial year;*

(3) what is the cost for a full-time student attending the College of Further Education; and  
 (4) what is the cost for a full-time student at the International Business School?

**Answer:** (1) The net revenue budgets for the Isle of Man College were as follows:

	Net Revenue	Loan Charges
2004/05	£7,181,600	£313,200
2005/06	£7,180,400	£286,100

(2) The net revenue budgets for the International Business School were as follows:

	Net Revenue	Loan Charges
2004/05	£700,000	£nil
2005/06	£700,000	£521,300

(3) For the purposes of consistent comparison, as far as possible, the cost per full time student has been calculated using the net 2005/06 revenue budget excluding loan charges, divided by the equivalent full time number of students (total number of students – 8,300):

Net revenue budget =	£7,180,400
Equivalent full time students =	1,761
Average cost per full time student =	£4,077

(4) The calculation has been made on a basis consistent with the response under item (3) above.

Net revenue budget =	£700,000
Equivalent full time students =	121
Average cost per full time student =	£5,785

The internal economics of the Isle of Man College and the International Business School have very different characteristics. For example, the Isle of Man College has a student population ranging from Key Stage 3 through to 16-19 and adult education, whereas the International Business School runs courses at graduate and post-graduate levels, as well as professional development courses for the finance sector. For these and other reasons, financial comparisons between the costs of the two institutions are difficult.

## LOCAL GOVERNMENT AND THE ENVIRONMENT

### Primary developer on Island Land owned, options to buy; improving policies

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

- (1) *Approximately, what percentage of zoned residential land is currently owned by the Island's primary developer;*
- (2) *on what acreage of land does the Island's primary developer currently have 'options to buy'; and*
- (3) *if legislation was introduced requiring all 'options to buy' land to be registered, how might your Department use the information obtained through these registrations to formulate improved policies in relation to housing?*

**Answer:** (1) The Department has a register of zoned residential land but does not record land ownership. The Department believes that this information would be useful. Over the next month or so, the Department will investigate ownership and then supply the Hon. Members with the information, as requested.

(2) Over the next month or so, the Department will endeavour also to seek out and report this information, as requested.

(3) Mr Speaker, I would like to point out that this part of the Question is contrary to Standing Order 49(7). However, in order to be helpful, I can provide an answer.

The development of policy with regard to land ownership and development should be based on factual information, wherever possible. In this respect, the information on 'options to buy' would be helpful. However, before considering the introduction of new legislation, the Department would wish to consider how existing legislation, such as compulsory purchase, might be applied to mitigate any land ownership problems.

## HOME AFFAIRS

### Cheshire Constabulary inquiries Liaison between DHA and IoM Chief Constable

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

- (1) *Has the Chief Constable of the Isle of Man liaised with your Department on any inquiries undertaken by the Cheshire Constabulary, if so, what was the purpose and outcome, if any; and*
- (2) *have all such investigations been independent?*

**Answer:** (1) On a needs basis, the Chief Constable has liaised with my Department for discussions that have been necessary in pursuance of Cheshire Constabulary being appointed to investigate certain Police Discipline matters within the Isle of Man Constabulary. More recently, he has liaised with my Department to jointly develop and implement an exit strategy for the Cheshire Officers.

(2) I can confirm that all the investigations have been investigated independently of the Chief Constable.

### Seizure of papers from Chief Secretary's Office Authorisation of Cheshire Constabulary; details of persons present

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

- (1) *Who authorised the most recent inquiry to be launched against an officer by Cheshire Constabulary from which their enquiries led to the seizure of papers from the Chief Secretary's Office;*
- (2) *precisely how did this come about;*
- (3) *who was present when the envelope containing documents was handed over; and*
- (4) *who opened the envelope?*

**Answer:** (1) I can confirm that the Chief Constable of the Isle of Man Constabulary authorised the inquiry. This was a legitimate, proper and appropriate course of action in the circumstances.

(2) The Chief Constable launched the inquiry to determine whether serious breaches of confidentiality that were critical for policing purposes, had occurred and if so, by whom.

In relation to questions (3) and (4), I am unaware as to who was present and who opened the envelope.

#### **Seizure of papers from Chief Secretary's Office Persons involved, opening and return of papers**

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

*With regard to the seizure of papers from the Chief Secretary's Office –*

- (a) who handed the papers to the Police;*
- (b) were they authorised to open the sealed envelope, if so, by whom; and*
- (c) have the papers been returned to the Chief Minister, and if not, why not?*

**Answer:** Mr Speaker,

(a) Cheshire officers visited Government Office after the Chief Minister had agreed that arrangements could be made for the envelope, which was still sealed, to be properly handed over. It is understood that the Cheshire Officers did not leave the offices of the Chief Secretary until after she had spoken with the Chief Minister and confirmed with him that she was providing the correct sealed envelope.

(b) & (c) I do not know whether Cheshire were authorised to open the sealed envelope, by whom or whether the papers have been returned to the Chief Minister.

#### **Seizure of papers from Chief Secretary's Office Arrangements and details of task**

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

- (1) Who made the arrangements for Cheshire Constabulary Officers to attend upon the Chief Secretary's Office and seize papers;*
- (2) when did this take place; and*
- (3) was the task fulfilled on that day?*

**Answer:** (1) As agreed by the Chief Minister, arrangements were made for Cheshire Officers to visit Government Office and collect the sealed envelope.

In relation to questions (2) and (3), I am unaware as to when it took place and whether the task was fulfilled on the day.

#### **Cheshire Constabulary's interviewing of witnesses Briefing of officers**

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

*Is someone tasked with briefing Cheshire Constabulary Officers before they interview witnesses who are not members of the Constabulary, if so, who?*

**Answer:** There is no person tasked with briefing Cheshire Constabulary Officers before they interview witnesses who are not members of the Constabulary. However, Officers from the Cheshire Constabulary have interviewed many members of the public, on the Island, in terms of all the investigations they have been requested to undertake.

#### **Cheshire Constabulary disciplinary inquiries Breakdown of costs to date**

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

*What are the costs to date of all disciplinary inquiries by the Cheshire Constabulary since they arrived on 1st September 2003 in respect of –*

- (a) hire of offices together with transport and accommodation;*
- (b) all legal costs borne by your Department in connection with their inquiries; and*
- (c) any other relevant costs?*

**Answer:** (a) The costs to date in relation to the hire of offices, with transport and accommodation is £76,299.

(b) The legal costs to date are £19,583.

(c) Other relevant costs include:

Subsistence	£43,781
Travel	£43,286
Salary	£295,270

#### **Cheshire Constabulary officers Numbers operating on Island and ranks**

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

- (1) How many officers from the Cheshire Constabulary are regularly operating on the Island; and*
- (2) what ranks do they hold?*

**Answer:** (1) Officers from the Cheshire Constabulary no longer regularly operate on the Island. In order to reduce the level of costs being incurred as much work as possible, where a presence is not required on the Island, is undertaken from the Force's offices in Cheshire, and they will continue to do so until the completion of all the investigations.

(2) The ranks of the officers concerned are:

- 1 x Detective Superintendent
- 1 x Detective Chief Inspector
- 2 x Detective Sergeants
- 1 x Detective Constable

**Liaison with DHA Members  
Minister's 'refusal'**

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

*Why do you refuse to liaise on important matters with your Department Members?*

**Answer:** Members are kept informed of important matters both at the monthly Department meetings and with briefs, where it is necessary, between meetings.

I have never refused to provide information on important matters to Members unless I am legally required to withhold such information.

**HEALTH AND SOCIAL SECURITY**

**Hepatitis inoculation for babies  
Introduction before UK**

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

*In view of the recent input from the British Medical Association concerning the issue of inoculation for Hepatitis for babies, is your Department going to introduce this before the United Kingdom?*

**Answer:** The issue of universal vaccination against Hepatitis B is being examined by a sub-committee set up by the Joint Committee on Vaccination and Immunisation (JCVI). JCVI is an independent committee of scientific experts which provides advice on immunisation and vaccination to UK health departments. The Isle of Man has a representative who attends this Committee and our vaccination policies have been based on JCVI recommendations.

While we agree with the BMA recommendation in principle, there are several practical issues to be considered, such as how best to deliver the vaccine and who should

be targeted, et cetera. Adding yet another vaccine to the Childhood Immunisation Programme needs careful consideration; there is also the issue of cost-effectiveness of various approaches.

The sub-committee on Hepatitis B (set up under JCVI) to examine these issues, in its last meeting concluded that:

General immunisation programmes would not be cost-effective unless:

- there could be targeting to high risk population groups;
- the vaccination is undertaken as a part of the childhood programme as a component of an existing vaccine.

Further discussions are in progress to examine the second option.

Through representation at the JCVI, a close eye will be kept on the developments in this area and the vaccination programme will be introduced when it is appropriate.

**National Insurance contributions  
Waiving upper limit to increase revenue**

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

*If the upper limit on National Insurance contributions were to be waived, could the increased revenue to the National Insurance Fund be used for non-pension purposes to the benefit of your Department's other expenditure?*

**Answer:** It is assumed that the Hon. Member's reference to my Department's 'other expenditure' relates to the cost of providing health and social services and not to the cost of providing contribution-based benefits to people of working age.

Section 162 of the Social Security Administration Act 1992 provides for, inter alia, fixed percentages of National Insurance receipts to be allocated to the health services. No provision is currently made for an allocation from National Insurance receipts to social services.

Clearly, removing the upper earnings limit for National Insurance contributions payable by employed earners would substantially increase total receipts and would, in turn, provide an increased allocation to the health services.

However, neither my Department nor the Treasury has any plans at this time to remove the upper earnings limit, nor to finance any part of social services' expenditure from National Insurance receipts.

## Orders of the Day

### LEAVE TO INTRODUCE

#### Land development A Bill to deal with options to purchase and anti-competitive practices Leave to introduce granted

3.1. The Hon. Member for Rushen (Mr Gawne) to move:

*That leave be given to introduce a Bill to amend the Land Registration Act 1982 to provide for the establishment of a central register of options and similar rights affecting land of such categories as may be prescribed; to amend the Housing Act 1955 to provide for a prior statutory option to purchase to arise for a limited period in favour of the Department of Local Government and the Environment in respect of land zoned for residential development when any agreement for the sale of such land is made; to amend the Fair Trading Act 1996 to apply with modifications the provisions of that Act relating to anti-competitive practices to dealings affecting land; and for connected purposes.*

**The Speaker:** We move on to Item 3, 'Leave to Introduce'. I call on the Hon. Member for Rushen, Mr Gawne.

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

Members may well have noticed that I have taken a keen interest in the regulation of land sales and the monopolistic practices of certain property developers, since I was elected to the House two years ago.

Indeed, over the past year, I have asked eight Questions on the subject, which have elicited some particularly helpful Answers. The former DoLGE Minister, Mrs Crowe, gave me great heart when she answered a Question I put to her in May 2004 Tynwald, with the following characteristically forthright statement:

'The Government must not allow one developer to have a stranglehold on land available for development and, ultimately, to be able to control the construction market and, therefore, the price of residential and commercial property.'

There will be more from Mrs Crowe later, but, first, I think it is important to make clear my motivation for seeking leave from the House to introduce a Bill which will endeavour to control some of the abuses relating to this complicated, but hugely important issue.

My primary reason is that I feel there is strong evidence that the housing market is being manipulated by a handful of developers, to maximise their profits at the expense of the house-buying Manx public.

Secondly, there is growing evidence that the Island's main developer is abusing its monopolistic position, by offering less than satisfactory conditions to house purchasers, who, in most cases, have little choice but to accept what is offered to them. Like many Members of this House, I regularly have to deal with complaints from constituents with regard to the poor standards employed by certain developers.

The Answers I have been given in Keys and Tynwald, over the past 12 months or so, show, fairly clearly, that one developer, in particular, is using various means, not least of which is taking out options to buy land, so that the vast majority of zoned development land will come into the said developer's ownership.

Here is some more of what Mrs Crowe had to say in answer to my Question, a year last May, now:

'I do not believe, in the past, that options taken out on land have been a significant factor on whether that land has been developed or not, with one or two exceptions. I am, however, concerned about the future. It is quite clear that the Island's main developer has taken a strategic decision to try to obtain a significant proportion of land with development potential by taking out options, or outright purchase, and my Department's view is that, whilst this is good for the developer's business, it could, quite possibly, be detrimental for the people of the Isle of Man'.

Some eight months ago in Tynwald in October 2004, the new DoLGE Minister, my Rushen colleague, Mr Rimington, explained that he shared the sentiments expressed by his predecessor, that he was concerned about land being controlled by relatively few businesses and individuals, and would consider how best to deal with the situation.

Indeed, the Minister has included in the 2005-06 DoLGE Business Plan that, by September 2005, his Department will bring forward proposals which would ensure that land could be purchased, or made more easily available, for the provision of affordable homes.

I very much welcome this commitment from DoLGE and, if DoLGE meets its September deadline, there may well be no longer any need for the Bill I am suggesting today. I am concerned, however, that Departments' best intentions are often overtaken by events, target dates slip and the next thing you know, the issue is forgotten.

That is not a dig at DoLGE, incidentally. Members will know from their own experiences in Government Departments, that even with the best will in the world, complex issues are reluctant to comply with tight timescales.

I also feel that it is important to pursue this Private Member's Bill, as DoLGE, being the Department which works closest with developers, may be less inclined to upset developers, and so feel inhibited in introducing the stringent regulations and conditions needed to deal with the problem.

A Keys Member who does not rely on developers to assist in meeting his key performance indicators, I would suggest, is likely to feel less restricted in the range of measures he might wish to introduce.

Further evidence of the need for some form of regulation was provided in a number of Answers to Questions I put in the past month or so. The Treasury Minister told us, on 31st May, that the average sale price for housing has increased by £134,242 in the past 15 years, from £82,000 in 1990 to £216,000 in 2004 – a 163-per-cent increase.

Interestingly, over the same period, average earnings have only increased by 102 per cent.

Mr Bell also pointed out that DoLGE was supporting first-time buyer purchases up to £40,000 in 1990 and £145,000 currently – a massive 262-per-cent increase.

Mr Rimington explained in Keys, on 24th May, that the average price per acre paid by his Department for residential development land had increased from £34,000 in 1990 to £265,000 in 2004, almost an eightfold increase in 15 years.

The DoLGE Minister also explained that there is currently full permission granted for the building of an additional 1,437 housing units, which are yet to be completed. These would go a long way to meeting unmet housing need, but the main developer claims that the reason that we have a housing shortage is that there is not enough zoned development land available. (**A Member:** Hear, hear.)

I would suggest that the evidence strongly suggests the contrary, and that, rather than there being a lack of available development land, in fact the main developer is cynically manipulating the housing market, to increase company profits.

By drip feeding the market with houses, the main developer is able to obtain higher prices than a truly free market would naturally accept. This is an intolerable position, which must be addressed, and it is for this reason I am seeking leave to introduce a Bill, as outlined in the motion before us.

The proposed legislative changes which I would wish to pursue cover three specific areas and would assist in identifying the extent of the problem, would allow the Department, at least, to offer an alternative to the main developer's properties and provide a more robust system of regulation.

I would envisage that the structure of the proposed Bill would be such that it could still stand if Members chose to support certain provisions of the Bill, but reject others.

The first part provides for the registration of options to buy land. It has been identified by the Treasury Minister, the DoLGE Minister and the DTI Minister that the scale of this practice is, at present, very difficult to assess. Yet, as Mr Rimington pointed out, in October 2004 Tynwald, it is important to understand the scale of the problem, if you are going to effectively deal with it.

I believe that an amendment to either part 3 or part 4, perhaps both, of the Land Registration Act 1982, requiring registration in a central register of all options held on land, if properly drafted, would allow a thorough understanding of the scale of the practice. The cost of establishing such a register would, of course, be paid for through registration fees.

The second part of the proposed legislation would require a first option to buy newly zoned development land to be given to DoLGE. This would, perhaps, to a limited extent, inhibit the practice of developers taking out options to buy land, but would also allow DoLGE the opportunity to offer an alternative source of new housing, without recourse to compulsory land purchases.

This would also bring a degree of free market competitiveness back to the currently restricted housing market, which would, hopefully, drive forward improvements in the quality of the product, as well as reducing prices, or at least inhibiting increases in house prices.

DoLGE, with Tynwald approval, designates the new areas for development, so bestowing on the owners of that land a substantial increase in capital value of their land. It seems to me entirely appropriate that DoLGE, having granted this enormous financial concession to the landowner, should at least be given first option to buy the land, should its owner wish to sell.

Amendments to the 1955 Housing Act or, indeed, the 1984 Acquisition of Land Act, might also be used to make the compulsory purchase of land a little easier to achieve. Again, in Keys, on 31st May, the DoLGE Minister explained

that, since his Department came into being in 1986, no compulsory purchase has been made, as far as his officers were aware.

The main reasons cited for this inactivity were a reluctance on the part of Members of the legislature to approve the exercise of compulsory purchase powers, and increased costs, due to existing legislation requiring an additional 10 per cent above market value to be paid for compulsorily purchased land.

The final part of the proposed Bill would look to amend the 1996 Fair Trading Act, to make clear that this legislation could be extended to land and property sales, and to make sure that the legislation could be used effectively, to deal with anti-competitive practices relating to trading in land and housing.

I have, I believe, clearly presented the case for change and hope that Members will be prepared to support this motion. I recognise that this is by no means a simple issue to deal with, and am pleased to note that DoLGE is also looking to resolve this problem, from perhaps a slightly different angle.

I am happy to confirm that, if successful in gaining the House's support today, I will consult with all the agencies of Government who are involved in these matters, as well as any developers and/or landowners who wish.

It is important to remember, however, that while we consult, draft and debate, real people's lives are being affected by the self-centred financial interests of a handful of individuals and companies. Their unregulated monopolistic practices must be brought under control, in the interests of our economy, and, most importantly, in the interests of the Manx people.

I beg to move.

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

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

I have pleasure in rising to second the motion standing in the name of the Hon. Member for Rushen, Mr Gawne.

There is a suspicion that the supply of land zoned for development is controlled by a small number of investors who would be able, if they so desired, to control the market for their own benefit.

Now, I have to say, at the outset, I have no difficulty whatsoever with options, per se, but there should be a degree of transparency. Options, I acknowledge, are a widespread business practice, and they have served a useful purpose in the past.

My memory goes back considerably further than the Hon. Member for Rushen, and I can understand people's concerns, as, during my lifetime, the price of development land has moved strongly upwards, both in monetary terms and as a percentage of the value of a completed property. I think that, if we express it as a percentage of the value of completed property, then it gives a much sharper illustration to the issues that we are looking at here.

When I started work in the 1960s, and I was involved in a very junior role in financing the acquisition of land banks for developers, the price of the land upon which a bungalow stood represented 10 per cent of the ultimate selling price, and that was widespread, at the time.

Currently, the cost of the land represents over one third of the selling price, and sometimes considerably more. I feel that we must introduce transparency, and the motion now before us does give this House an opportunity to achieve this.

It would also assist to clarify a developer's interest when local zoning issues are being considered. We could well be considering zoning land which was all in the control of a single body, leading to a local monopoly situation. This may have undesirable consequences.

Hon. Members may ask: what is the difference between outright purchase and an option? When a person acquires land, they purchase all the rights and privileges associated with that property, and pay the agreed value. The transaction has to be recorded at the Land Registry, or recorded at the Deeds Registry, as the case may be. The information and ownership can be ascertained, as it is public knowledge and falls within the public domain.

An option is a right to purchase at a predetermined price, at a predetermined date, or within a predetermined timescale.

Whilst, in the case of an outright purchase, the purchaser has to pay the full value up front, with an option only a small deposit is paid, and that gives the developer an opportunity to assemble a controlling interest in a wide portfolio of land, without a major financial stake or a major risk.

This does reduce the financial exposure of the person acquiring the option, and can be an attractive method of securing control over land. If the holder of the option decides not to purchase the land, then they can merely walk away from it, and forfeit the cost of the option.

In the case of an option, as has been previously mentioned, there is no requirement to record the document in the public domain. I feel that there should be a requirement to record this type of transaction. This would ensure transparency and, also, protect investors from unfounded allegations, as the matter would be of public record.

I also feel that this is essential, if the Treasury is seeking to tax profits arising from land, because they can track who has had an interest in land, and the financial benefit that they have received from that transaction.

In summary, therefore, I feel that this motion does represent a pragmatic approach, and I have no hesitation in asking for the support of this Hon. House.

**Mr Houghton:** Hear, hear.

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

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

Mr Speaker, I rise primarily in the role of Chairman of the Office of Fair Trading, just to really put a mark down for certain concerns that I feel it would be appropriate to reflect, particularly in relation to the motion where it talks about amending the Fair Trading Act 1996:

'to apply with modifications the provisions of that Act relating to anti-competitive practices to dealings affecting land; and for connected purposes.'

If, Mr Speaker, I could briefly advise Members, the relevant section of the Fair Trading Act 1996 defines an anti-competitive practice as:

'a course of conduct which [...] has or is intended to have or is likely to have the affect of restricting, distorting or preventing competition in connection with the production, supply or acquisition of goods [...] or the supply or securing of services in the Island'

This section, therefore, does not cover property or land

at present, as land is not 'goods'. So, I begin with that observation, Mr Speaker.

It should also be remembered that the Act provides for an investigation into anti-competitive practice, but this is only after the alleged event has occurred, and so does not prevent such practice occurring in the first place or even, interestingly, Mr Speaker, penalise the offender. It only serves to identify the practice and to possibly remedy the situation for the future, by placing particular restrictions on the supplier, by means of either an undertaking or a Tynwald Order.

In any small community, it is almost inevitable that monopolies will develop in key sectors, particularly those requiring significant capital outlay, and I am conscious of the comments from the Member who has just resumed his seat, in relation to his advice in that matter.

However, the mere existence of these monopolies, or smaller bodies of interested parties, should not be seen as a problem, necessarily, in itself, only the possible abuse of the dominant market position that they hold.

Furthermore, it must not be forgotten that there is a substantial risk in the development of land, and we do need entrepreneurs who are prepared to invest in the future, and meet the demand for housing. Whilst that demand has, undoubtedly, been present in recent years, it was never guaranteed.

The large scale purchase of land is not the problem, necessarily, in itself, but it, obviously, does impact on the availability of land for small builders and private individuals and, ultimately, impacts on the overall cost of housing, where demand outstrips supply. It is this banking of land that represents the greatest problem, as it enables a developer to drip feed finished properties onto the market, knowing that purchasers can only get the house from him, which keeps the prices high.

So, to avoid this banking and drip feeding, it would be possible to restrict the purchase of land to parcels equivalent to that sold in the previous 12 months, or equivalent to that purchased by DoLGE.

The proposed amendments to the Land Registration Act 1982 will provide a register of options or notices of agreements to purchase which will provide transparency, but would that necessarily enable another party to make a counter offer? If it does, then surely this would evidence the fact that there is competition in the marketplace; and if not, then it shows that there is no competition. Unless we can find evidence to show that, somehow, the purchaser frightened off that competition and thereby restricted, distorted or prevented that competition, within the meaning of the Fair Trading Act, then the sale should go through.

If a new offer was made by a competitor, would that mean that this new offer had to be registered and, if so, would every offer made need to be registered and a period of notice given? Of course, this could cause lengthy delays, and I am sure that is not the purpose that the mover would be proposing.

Similarly, Mr Speaker, if DoLGE also has a right to purchase the lands registered as above, how could the Office of Fair Trading argue that the purchase by private enterprise was anti-competitive?

We do not know what the amendments that my colleague in Rushen, Mr Gawne, has in mind, and it is difficult to know what the impact of these might have, certainly on the Office of Fair Trading, but, in view of this, I would want to give a

cautious approval to the principles contained in the motion, on the understanding that the Office of Fair Trading will, as we have heard, have full consultation on the detail to be included in any amendment.

I will conclude, sir, on a personal note, by saying that I fully recognise and respect the motivation that my colleague has, in progressing this motion, and it is, certainly, one, I am sure, which would have the sympathy and support of the whole of this House and another place, no doubt.

The details that I have flagged up are not flagged up to be difficult, they are not flagged to be awkward or, in any way, to deter Members from supporting the principles, but they are just simply as an indicator of some of the issues. It is not a straightforward matter, and, I dare say, if members of Government had identified a simple way of providing a ready supply of the cheapest possible housing for Manx people, no doubt they would have done that.

I would simply conclude – and I know that this is not a housing debate, Mr Speaker, and I would not propose to go down that route – but I would simply propose that maybe another motion that, in progressing this, the mover might care to consider the merits, or otherwise, of a housing association, in his discussions with the relevant bodies. Legislation currently exists for that, so it would not be a requirement for new legislation – we have been assured of that by the former DoLGE Minister, despite her antipathy towards the suggestion.

Therefore, I would provide my cautious support to this – my wholehearted support for the principles, but my cautious support for some of the details – and I hope that reflects not only my own views, but that of the Office of Fair Trading, sir.

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

**Mr Karran:** Vainstyr Loayreyder. I will support this proposal, because I think it is long overdue. There is a need for more debates, as far as the issue which this is to address, which is a major social cancer within our society – the lack of affordable housing. I have no problem with that.

I think that the one thing is as far as the hon. mover is concerned is: maybe we will have the structure in place to minimise the damage that has been caused to so many in our society, through the ‘let it rip’ policy of allowing the market to do whatever it wants, and where responsible Government loses sight that what we want for housing is nests for homes for families, and not nest eggs for the investors.

Vainstyr Loayreyder, I have some concerns about the Bill. I hope the Hon. Member will make sure that, when he talks about the Fair Trading Act 1996, the resources are put in place in the Office of Fair Trading, in order that it can actually do the job.

I understand the problem that the Office of Fair Trading has, in the fact that it is this Hon. House, and another place, where often it is the actions that we take that cause the problems, as far as the consumer not getting best value for money. The likes of recent events of nodding through a user agreement. Nodding through the issue, as far as the Manx Telecom extension of another 15 years, was another own-goal as far as the consumers are concerned.

So, I do hope that the Hon. Member will check up that there is the ability and the resources for the Fair Trading Act to actually do anything, as far as that is concerned.

The other issue that concerns me about the Bill is... I am

quite happy, as far as giving the opportunity of more ability for compulsory purchase, but as I have said in this Hon. House before, when there is not a healthy democracy, where there is an executive held to account, as far as his actions are concerned, through the parliamentary process, giving more powers, as far as that is concerned, is a worry.

When the Member talked about compulsory purchase, it has been used by this nation, by this Government, in the past – it might have only been once and, actually, in my opinion was not used on the correct basis it should have been used on, but that is another issue, for another day.

So, I do hope that the Member must take advice on how, by increasing the compulsory purchase powers, that the checks and balances are there, allowing for the fact that we are moving in the right direction, as far as transparency is concerned.

But an unaccountable executive: that can be as destructive, in the wrong hands, as the situation where we have allowed the competitors to have it too easy, too good for too long.

Vainstyr Loayreyder, I hope the House will support the Hon. Member. I am afraid that I feel that the issue, for the next several years, will be battling against negative equity and the issues of protecting people who have had to pay the top dollar, because of the lack of us, within this Hon. House, being willing to address the issue of the monopolies, as far as this important issue is concerned.

Vainstyr Loayreyder, I hope that we will see this Bill sooner, rather than later, because one thing that one of the epitaphs of this House will be, almost certainly, the lack of us being able to hold Dandara to account. I think it will do one thing, Vainstyr Loayreyder: if it does nothing, it will get rid of the *lhiam-lhiat*-ism of being with them and being with the other side, as well. It will pin people's colours to the mast, whether they are going to support looking after the people, instead of looking after the vested interests that, for far too long, has been of more of a priority by too many in this Hon. House, in my opinion.

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

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

Only a brief comment, I think: I think the motivation behind the resolution before us this morning is a very valid one, and one, in principle, most of us could consider. But I do have a degree of caution about the level of confidence the Hon. Member for Rushen has, as to whether or not the proposals he is putting forward will actually make any real difference, in substance, to the issue which is before us at the moment.

He, for example, has quoted, and, I think, indirectly blamed, the high costs, or big increases in the price of property, both land and houses, over the last few years, on the mechanism that has been applied to release land into the market. As part of the exercise, the research he is doing for this Bill, I would be interested to see comparative changes in figures in the United Kingdom, because, in many respects, the growth in property prices in the Isle of Man have, by and large, reflected the growth in property prices in the United Kingdom, as well, which, in turn, is a reflection of the success of the economy. As we can see, even in the United Kingdom, they are having major problems with housing in certain parts of the country now.

So, I would just be interested to see a comparative exercise carried out between the Isle of Man and elsewhere, just to see how far out of line the Isle of Man may or may not be, with the way the market has driven property prices elsewhere.

My one concern, I suppose, Mr Speaker – and there are still one or two Members, I think, in this Hon. House who might remember it: there was a similar move in the end of the 1970s, early 1980s, to address the problem then. The property speculation tax was brought in, which was designed with the best of intentions, at that time, to inhibit what was seen, at that period, to be unacceptable increases in property prices.

It was wholeheartedly endorsed by the House of Keys, and brought into play, but the upshot of it was that, far from actually helping the people it was intended to do, it actually caught the people it was not intended to do – those who were first-time buyers, those in lower value properties who were compromised by this Bill and so much so, it was seen to be totally unworkable in the end, and was subsequently repealed.

I would hate for us, with the best of intentions, Mr Speaker, to drift into that situation, whilst outwardly taking actions deemed to assist the situation, at the same, in the reality, making it very much worse. I think that we need to be very careful that we do not, in fact, end up transferring the monopoly of land, as it is alleged, from one body to Government, and, in effect, Government becomes the monopoly landowner, because Government can only, at any particular time, develop a relatively small amount of housing. We only have a certain amount of finance ourselves for these issues, and it would be unrealistic to expect Government to snap up for its own land bank all this land the Hon. Member is referring to.

As I say, it worries me, in case Government, itself, turns out to be in a similar situation, at some point, or is expected to turn out, to be in a similar situation, in the future, to that which is being levelled at certain developers, at present.

I still have to be convinced that the proposals for registering options will, in fact, uncover all the options which are privately taking place. There will be some that are quite open and could be registered somewhere; we will never, ever, know the unofficial options which take place behind the scenes, and you will never be able to put legislation together, it seems to me, to effectively identify that.

So, there are a number of areas, Mr Speaker, which I have concerns about, not with the principle of what the Hon. Member is trying to do, but the practical impact of what he is doing.

There is always a danger... I know Government is being accused about leaving the housing situation to market forces, and I, in the past, have been a strong critic of that myself, but there is also a danger, I think, Mr Speaker, in trying to distort the market so much we can actually end up in delivering fewer houses in the areas we are trying to assist than, perhaps, we are doing so at present.

It is worth looking at the number of houses which have been built, over the last few years, and whilst, certainly, we desperately need more first-time buyer properties – there is no doubt about that, and I am suffering from that in my own constituency, at the moment – but we need to recognise that there have been more houses built over the last five years than, I think, at any time, previously, in our history.

So, there is not actually a shortage of houses coming

on the market. There is, perhaps, a shortage of the type of house we would all like to see on the market, which is very much targeted at first-time buyers, and that section of our community.

As part of the exercise, too, Mr Speaker, I would hope, very much, that the hon. mover would look at the role of the Planning Department in releasing land and zoning land in an effective way, because it seems to me that, certainly in my experience, in the past, in local plans, when they have come up for discussion, it is, in many ways, the insistence of the planners of low density housing in many of these areas which has actually mitigated against the development of more high density, lower cost housing in our communities – particularly in our village communities which, in effect, have been turned over to the more wealthy members of our community, who have no problem getting approval for expensive bungalows or expensive houses, in some of these areas, whilst the planners themselves are actively mitigating against the ability to build higher density, lower cost houses alongside that.

So, I do believe that, whilst, as I say, I can support the principle of this, at the moment, it is not a black and white easy issue to deal with. There are many complications and possible ramifications in what the Hon. Member is trying to do, and I would like to think... I welcome his offer of widespread consultation, but I do hope that consultation is effective and does actually test the possible outcomes of what he is proposing to do, against the realities of what may be delivered on the ground, at the end of it. We would be very much criticised, I think, if we, albeit with the best of intentions, build up expectations on the Island that we are, at last, going to be able to get to grips with some of these issues, when, in fact, the reality might be that we could, unwittingly, make the situation actually very much worse.

So, I hope that there will be genuine extensive consultation on this, so that we can be absolutely clear when the Bill finally comes to this Hon. House for discussion that these issues have been addressed, and that we can, if we do support this Bill, vote in confidence, knowing that it will have some meaningful effect on the housing market, and enable our Departments to deliver much needed housing in the areas that it is required.

It will take a lot of work, and a lot of thought, I think, Mr Speaker, and I wish the Hon. Member well. I will support the leave to introduce today, but I think it does leave a lot of questions unanswered. Before I support the Bill in its final form, I need to have those answers given to me and the reassurance that the Bill will actually work, and not simply work as an element of window dressing, to try and give the impression that we are doing something, when, in fact, we could be doing quite the reverse.

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

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

Yes, I rise to support the leave to introduce. It is an area that we have discussed and discussed many times, also with the Hon. Member himself, and, indeed, when I joined my current Department a year ago, I did, actually, highlight this as one of the priority areas for the Department to address.

I can report that they are finding it difficult to address this area, and I believe that the current situation is that we are still awaiting some legal advice on some of the proposals and

matters that we are, and have been, looking at, and I hope that the introduction of this debate gives that an added spur, and that we, too, can actually clarify and look at these matters, as well. Hopefully, we will look forward to discussions with the Hon. Member on his proposals.

A lot of the issues may well centre round issues such as compulsory purchase. There has been a reluctance by Tynwald, generally – Tynwald Members and this branch – to go down that route. That reluctance has not been really spelled out or challenged, in recent times. It is there and underlined. Now, how strong it is, at this current time, I am not sure.

There is an issue with compulsory purchase and that is the valuation, in that, if you take that route, then you are, under the terms of the Act, likely to be paying 10 per cent more than the value of the land, so there is an additional cost of going down that route, as the legislation is currently structured.

I do find that, to myself, an issue or a problem. I find it where we have what is considered to be called ‘development land’ and, therefore, it has a development price, and there does not seem to be any distinction on that pricing. It is the development price at the top end.

Yet we are expected to pay those prices, whether that is for housing, and you can then see a capital return on that housing, or at least a value per house, and make some more rational assessment on that, or whether it is for a community facility. Whether it is for the health services or education or whatever, we are still having to pay top end prices.

I find that a problem and that is something I do believe that, possibly, in his deliberations, the Member might also consider addressing and, certainly, it is one that I feel very strongly about.

In essence, what the Hon. Member is doing is actually looking at the end of the process, with this Bill, and we ought to recognise that it is ourselves, through our own legislation, and our controls through planning and whatever, that have created the very situation which the Member is now trying to ameliorate. We have created, by the control of land, through planning, the restricted market and, essentially, that is what we have.

Therefore it is not a free market, it is not an open market in land. It is very much a restricted market and, therefore, anomalies and distortions are far more likely to take place.

In agreement with the previous speaker, there is an issue there of looking at the beginning of the process, which is planning itself – and which, no doubt, somebody will remind me that I am responsible for! I wish I was solely responsible for it, in that respect, but that is actually not the case. In a sense, any Minister coming into DoLGE inherits a whole body of legislation and policies, in relation to planning, and any desires to change that is a long and complicated process.

But it is right that, at the beginning of the process, in terms of... it is planning which releases land and if it does not release sufficient land, or releases it in dribs and drabs, then we are creating this restricted market. We need to, possibly, reconsider how we release land, and on what terms we release land, through the planning system, to possibly create a more open market.

But, there again, that brings in other issues, which are complicated and not readily accepted by the general population, which is the rate of growth, and there is a feeling amongst a lot of the population we do not want to

see any more estates. That is a body of opinion. We do not want to see great areas developed, especially if it is in our neighbourhood. We do not mind if it is somewhere else, possibly, but if it is in our area there are 101 good reasons why it should not be.

We need to address this as a community, not just within this House itself, about what we consider to be socially acceptable, in terms of our rate of growth, and what then will be the consequences of that, in terms of land being released and houses to be built.

I, also, have my own particular views in the way that we have released land over the years, and we have done it in such a way that it encourages high density development, so that when land does become available, we stick as many houses upon it as we possibly can, by and large. Yes, we have taken moves, in recent years, to put obligations for greater public open spaces within developments, and that is very positive, but, in fact, that is only a drop in the ocean, and we are still... in the way that we develop in society, at the moment, we take land and, basically, we stick as many houses upon it as we possibly can, and then we complain because it looks ugly!

So, there are lots of complexities and difficult areas for us to address in this. I do welcome the Hon. Member tackling this very complex area – complex socially, complex economically, complex legally – and I look forward to consultation and to seeing if we can make some progress in this direction.

**The Speaker:** Hon. Member for Rushen, Mr Gawne, to reply to the debate.

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

I thank everybody who has contributed. I am certainly very happy to thank my seconder, Mr Teare, who gave us a very helpful lesson in the processes relating to land sales and options – it is very useful, I think, to have that.

Then my colleague for Rushen, Mr Gill, in his remarks as Chairman of OFT, managed to identify the particular area that I feel needs to be amended, in the particular piece of legislation, which I have not got to hand, at the moment – what is your Act, Quintin? – the 1996 Fair Trading Act. Indeed, he identified that land is not covered by the definition ‘goods’. Not surprisingly, that was one of the areas, probably the main area, that I was looking to amend, so that land could be covered.

Yes, absolutely right, this would not be an immediate remedy to any particular problem, but it would, hopefully, address longer term issues. So, I certainly recognise the areas that Chairman of the OFT identified, and am happy to take the concerns of the OFT on board, and look forward to, no doubt, lengthy consultation with OFT, on the matter.

It is interesting, though, that OFT seems to take a slightly different take on the significance of the issue of the main developer getting so much control over land. It seems to be a slightly different position to the current DoLGE Minister and the previous DoLGE Minister, who both seem to think that this is an area of concern.

Mr Karran: again, I thank him for his contribution – absolutely right to raise the concerns of extending the powers of compulsory purchase. It is important to make sure that if we are giving to the executive these extended powers, assuming that that is what we end up with in the Bill, then we must make sure that there is a mechanism to hold the

executive to account, to make sure that the executive does not abuse its position.

He also identified the issue with regard to the OFT, that, in fact, if we are going to introduce or open up the regulations, the 1996 Act, to allow for land to be considered, then there will be a resource implication. I think that it is very clear to me, anyway, that that is something that I would wish to support, because I feel that OFT, perhaps, needs more resources in that area – certainly would need more resources in that area, if I was successful in moving that particular part of the Bill.

So, I recognise that it is important to realise that this is not... that particular section, anyway, would have a certain amount of a price tag to it.

Mr Bell explained that this is not a black and white issue, and seemed to think that I had complete confidence that what I was proposing, at this early stage, will be the panacea to all our problems. That is not the case. I am not convinced what I have proposed will work, i.e. that is the whole point of having consultation processes, and talking to people and trying to iron out any areas of concern.

I do recognise that this is an enormously complicated area. I also recognise that interfering in land and housing issues has never been a particularly successful practice for any Government that I have managed to identify so far. However, it is equally important to recognise that, when a monopoly exists, the only person who is going to stand in to protect the consumer – in this case, the house purchaser – is the Government.

Government has responsibilities, as well as rights, in certain areas, and I think we need to make sure that we act on our responsibilities, that we actually ensure that we protect the people that we are elected to represent and we try to, at least, modify some of the abuses that are currently taking place of the system.

I would hate to think that I was giving an impression – I suppose I am giving an impression, to a certain extent, that this is all the developer's fault. I do not actually believe that to be the case. I, personally, believe that it is our fault that the developer is in the position that he is in. We have done nothing to ensure that he cannot abuse his position, and I believe that some of the things that I am suggesting here *may* be the answer to trying to bring some kind of control.

I also thank Mr Rimington for his contribution. I am pleased to note that it is a priority area for DoLGE, and not surprised to hear that this is a very difficult area, and proving to be quite difficult for his officers to address.

He also identified the issue that this is not purely... or my Bill is looking at the end process, the position that we are in at the moment, rather than looking at how the beginning of the process, which is, of course, the planning system, the initial zoning of land, might be altered to improve the situation.

Certainly, he is absolutely right in saying that it is ourselves who are, to a certain extent, causing the problem by restricting the availability of land, and there are certainly issues, in terms of the way in which Government policy, particularly in relation to planning, is affecting the price of agricultural land. To a certain extent, the way in which land policy, or lack of a consistent and coherent land policy, is driving farmers out of the countryside.

There are a number of areas, in relation to this whole issue, which I would be very happy to look into, and talk to the DoLGE Minister about, but I suspect that if those were to be incorporated in the Bill, as proposed, it could be another

10 years before we get back to the House, (*Laughter*) rather than what I hope to be given leave to introduce in the next legislative session.

So, this is not supposed to be a direct go at the developer. The developer is a business. The developer needs to make money. The developers need to make as much money as they possibly can, and when we allow them to abuse their position, then they will do so. They are purely a business and businesses are there to make money. We cannot be surprised when that is what they do.

Unfortunately, however, we are here to protect our people, and I feel that at least some of the suggestions that I have put forward, in this leave to introduce, will do just that, that they will identify the extent of the problem, and offer some remedies, in terms of bringing some control over the existing housing market.

I beg to move.

**The Speaker:** Hon. Members, the motion before the House is that standing at 3.1 on our Order Paper, in the name of the Hon. Member for Rushen, Mr Gawne, leave to introduce. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

### Voluntary Euthanasia Bill

#### Leave to introduce extended to Session 2005-06

3.2. The Hon. Member for Rushen (Mr Gill) to move:

*That, notwithstanding Standing Order 150(2), the leave of the House given on 13th May 2003 for the introduction of a Bill to enable a competent adult who is suffering as a result of a terminal or a serious and progressive physical illness to receive medical help to die at his own considered and persistent request, to make provision for a person suffering from such a condition to receive pain relief medication, and for connected purposes, be extended to the Session 2005-06.*

**The Speaker:** Now, Hon. Members, we move on to Item 3.2. Can I advise the House that this requires 16 votes in favour for the motion to be successful, as it is a suspension of Standing Orders.

Hon. Member for Rushen, Mr Gill.

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

Mr Speaker, the House will recall that, at the sitting on 26th April this year, the election of a Member to replace Mr Downie as a member of the Select Committee on Voluntary Euthanasia was moved, since he had recently been elected to the Legislative Council.

On a motion by the Hon. Member for Rushen, Mr Rimington, it was decided not to replace Mr Downie, in view of the fact that the Committee had now concluded its hearings of evidence, and had gathered a very large amount of material which was familiar to the existing Committee, but would be difficult for a new member to assimilate.

The Committee, therefore, remains as myself as Chair, the Hon. Member for Glenfaba, Mr Anderson, the Hon. Member for Peel, Mrs Hannan and the Hon. Member for Rushen, Mr Rimington.

Mr Speaker, the Committee had hoped to be in a position

to report to the House by the end of this session and, indeed, our timetable had envisaged that. The Secretary of the House, however, has now reported to the Committee that, after two officers had attempted the work of preparing a fully argued report and failed, it was now clear to him that much more time for the job was needed than was, in fact, available to the Tynwald Office.

In the circumstances, the Committee had two options: firstly, to report to the House in short form that there appeared to be credible and arguable views going broadly for and against the merits of voluntary euthanasia, and that there seemed to your Committee no reason why leave given by the House should not now become unconditional; second, to present the full analysis and reasoning that I have described.

Since your Committee first sat, there have been two major reports published on this subject: one in Guernsey, where a similar kind of exercise has been taking place; and one interim report by a Select Committee of the House of Lords. Both are available to Members in the Tynwald Library, if they wish to consult them at this stage, together with the voluminous evidence that we have received. They do not, in our judgement, make it necessary to render to the House a fully argued report.

In view of the resource problems which the Secretary of the House has reported, the Committee has decided that the work should be outsourced, and that process is now underway. Your Committee are meeting again during the coming recess, and it is intended that their report should be before the House early into the next session.

Mr Speaker, I, therefore, seek the House's approval to the extension of leave for the introduction of a Bill to that session.

I, therefore, beg to move.

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

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

**The Speaker:** Hon. Members, the motion before the House is that standing at Item 3.2 on our Order Paper in the name of the Hon. Member for Rushen, Mr Gill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

**Mr Corkill:** Divide.

**The Speaker:** Too late, Hon. Member.

## BILL FOR FIRST READING

### Dogs (Amendment) Bill

**The Speaker:** Right, we move on to the next Item, Hon. Members, Item 4. I call on the Secretary of the House, First Reading.

**The Clerk:** Mr Speaker, the Bill for First Reading is the Dogs (Amendment) Bill, introduced by the Hon. Member for Rushen, Mr Rimington.

## BILL FOR SECOND READING

### Noise Bill

#### Second Reading approved

5.1. Mr Houghton to move:

*That the Noise Bill be read the second time.*

**The Speaker:** Hon. Members, we move on to Item 5, Bill for Second Reading, and I call on the Hon. Member for Douglas North, Mr Houghton – Noise Bill.

**Mr Houghton:** Thank you, Mr Speaker. I will be as quiet as I possibly can, today, sir!

Mr Speaker, on 26th October 2004, this House gave me leave to introduce a Bill intended to deal with domestic noise nuisance. I explained to Hon. Members, at the time, that I had been working up a Bill within my former Department, whilst I was Chairman of the Environment, Safety and Health Division over the past four years and the Minister, Mr Rimington, kindly allowed me to take the draft Bill over, as a private Member, to which leave to introduce was then gained.

Mr Speaker, the principal objective of the Bill is to proscribe offences relating to noise nuisance in domestic surroundings during the night time, between 11 p.m. and 7 a.m. It gives powers to police and environmental health officers, who, in the latter case, would deal with any protracted noise complaints.

The Bill also addresses vehicle alarms which sound continually, giving annoyance to persons in the vicinity during any time of the day. Provision is made for an offender's vehicle to be entered, by using force, if necessary, or the removal of the vehicle, at the owner's expense.

I have received numerous complaints, as, indeed, I am aware that many other Hon. Members have, from the public about noise nuisance incidents, based in domestic surroundings, which the Public Health Act 1990 fails to adequately address.

Domestic noise may include loud music, the use of power tools, door banging, screaming and shouting, dogs barking uncontrollably and birds kept in a domestic environment which continue to make a loud noise. The Bill addresses any such noise which can be considered as being unreasonable.

However, any instance of babies and young children who are crying during the night would not be considered as causing unreasonable noise. This Bill does not address noise from industrial or commercial sources.

The Bill sets out a clear procedure for bringing forward staged enforcement action upon those occupying the offending premises until the unreasonable noise is stopped. It is envisaged that police officers will deal with most domestic related complaints at the sharp end, in order to silence that unreasonable noise or remove the noise source from the offending premises. It will be for a court to decide upon the forfeiture or return of any seized noise equipment, animal or bird, back into the possession of the offender.

In conclusion, Mr Speaker, the Bill sets out clear and practical powers for officers to bring an immediate halt to excessive, unreasonable noise late at night.

I must point out, however, that most offenders are likely to stop the noise, once they have been warned, but if

they have to be revisited, following a further complaint of noise, they will be issued with a £100 fixed penalty notice, which I feel certain will then put the matter to an end, in the majority of complaints. However, the Bill does provide further powers, which would only be used in extreme cases, if necessary.

Mr Speaker, I hope my additional notes on the Bill assist Hon. Members with their understanding on the meaning of my Bill, and I would have pleasure in offering further clarification to anyone, if required.

Mr Speaker, I beg to move.

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

**Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

I am quite happy to second this particular Item. I think my colleague, Mr Houghton, is presenting something to the House which is reasonable, practical and in keeping with current legislation, to bolster it in a reasoned approach. I think that is the way for Hon. Members to look at this this morning.

As my hon. colleague has said, everyone at some point or other around their constituencies has suffered noise problems, and, in some cases, severe noise disruption problems, and it is very, very difficult to remedy sometimes. It is obvious that the various Acts in question need to be bolstered with an adjunct, which my colleague is presenting to us here this morning.

I would, however, ask my hon. colleague, in progressing this matter, if his proposals will cover the incidents of something I have certainly been plagued with, over the last couple of years, with complaints, and that is from noisy exhaust systems from cars, especially with those vehicles that fit specialised, customised exhausts to the vehicles.

Now, that in itself is fine, but if that vehicle is parked in a street, or on private property, and the owner is quite happy to tune the engine and rev continuously the car, with a customised exhaust on, then the noise is absolutely unbearable for neighbours in the close vicinity. I think that is something that could be done, to have a look at.

I know the existing legislation to cover exhausts really does have a grey area, in this case, and certainly in the cases that I have been handling. It has been unable to effectively address the issue, and I think a little more teeth in the situation would enable the Environmental Health Section, and the Police to more proactively address such situations, and the others, as my hon. colleague has mentioned, such as power tools being used past 11 o'clock and music centres and parties going on till 3.00, 4.00, 5.00 in the morning at really, really incredible noise levels that have to be endured by the neighbours.

So, as I say, it is a practical and reasoned approach, and I would ask all Hon. Members to support what it is that is being put to them this morning.

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

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

The antisocial nature of noise nuisance, I think, is an issue over which we have got to have considerable sympathy. For those concerned, who have to put up with such nuisance, it must be pretty bad, and I think I have got great sympathy with them.

Fortunately, it is not a problem that is particularly common amongst the people I represent, but I can certainly accept that, in more densely populated urban areas, it could, indeed, be a more frequent problem.

So, I do have sympathy with the intent of the mover in this legislation, and I would commend him for the considerable work he has obviously put into researching the issue and bringing forward legislation.

I think, though, that when, on the other hand, one considers the extensive powers that are being proposed in this legislation, to be given to the Police, in respect of entry into premises and seizure of equipment and fixed penalty notices, on-the-spot fines of £100 and, ultimately, up to £2,500 penalties, which some would consider very draconian measures, when this is embodied in any sort of legislation, I think we have to be satisfied about levels of proof of noise nuisance that are being required. I think we have to be very clear in our own minds that we are not unintentionally producing over-the-top legislation, which has the potential for misuse or vexatious complaint.

Now, one of the phrases used throughout the legislation, not surprisingly, is that of 'unreasonable noise'. I think practically every clause in the Bill refers to unreasonable noise. Therefore, the first thing we must do is find out what 'unreasonable noise' actually means. In clause 8, it is defined as:

'a level of noise of any kind which adversely affects the amenity of any person present in a dwelling'.

Clause 1 of the Bill, in respect of noise at night, states that a constable, or other authorised officer, has to be satisfied, as a result of an investigation into a complaint, that noise is unreasonable. It would seem to me, from this, that the onus and responsibility very much rests on that constable, in agreeing with the complainant that there is unreasonable noise, and that an offence is thereby taking place.

I would ask the hon. mover if he could clarify: how will the constable, or the officer, satisfactorily assess what is reasonable and what mechanism is open to him to dispute that any noise is not reasonable? What happens if he is not satisfied that the noise is unreasonable?

Now, in his opening remarks, the hon. mover, I think, made reference to the existing situation, which *is* unsatisfactory. In the past, I have had experience where complaints have been made about regular noise, or protracted noise nuisance, as the Hon. Member referred to, and the only options open have been to go to the environmental health officer, who will invite the complainant to keep a log of noise, it is monitored and it is a long drawn-out process.

But can I ask the mover to explain how the constable will assess that noise is unreasonable? Will the complainant be invited to keep a log? Will there be a noise meter about the constable's person, so he can check decibel levels?

What the law actually is saying, in effect, is that all that needs to happen is that a complainant who genuinely believes that his amenity is being adversely affected, whether or not that actually is the case, it is enough if he believes so and says as much. If it is a genuine belief and a genuine complaint and somebody is, in good faith, bona fide, making a complaint, he believes his amenity is being affected, if the constable does not have any means or mechanism to prove that, it is sufficient only that the complainant believes his amenity is being affected.

I mean, if I believe I am suffering from a nuisance, who is the constable to dispute that, if I genuinely believe it?

So, I see that as being a difficulty, because how is that situation to be differentiated from a vexatious complaint, where the noise may not, in the opinion of the constable, be a nuisance – it may seem not unreasonable – but the complainant absolutely insists that his amenity is being affected and it is an intolerable noise, but is doing so not for genuine reasons, but for malicious neighbourly dispute, a vexatious type of reason.

So, if the mover could clarify that point, because it is important that we do not inadvertently go down a route of inviting vexatious complaints or start to broaden the definition of what is unreasonable. I think we are familiar with cases – fortunately, not, to my knowledge, common in the Isle of Man, but certainly common in certain rural areas in the adjacent island – where we have town dwellers, moving to the countryside, being woken by the quite normal country sound of cockerels and complaining about environmental noise nuisance. (*Laughter*) Let us hope we do not get into that situation!

So, perhaps the hon. mover could comment on these matters.

Broadly speaking, provided there are sufficient safeguards, I am quite prepared to support the Second Reading, but I am not entirely persuaded, at the moment, that there are sufficient safeguards within the Bill, because of the definitions of reasonable noise, or lack of clarity as to how nuisance is proved, that we are in a position, perhaps, to just give bland acceptance of this.

But I congratulate the mover for the work he has put into this legislation.

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

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

The previous speaker has echoed much of what I was going to say, and I just wish to reinforce some of the areas that he has drawn attention to.

Certainly, my experience with constituents, in relation to noise, has been a most unacceptable outcome, and I congratulate the mover of this Bill in trying to address a problem which... with a number of people I have come across over the years, we have not ended up with proper resolution to the situation.

I have often thought that it was quite wrong for the complainant about a noise scenario to be expected to keep a diary over months and months and months. (**Mr Houghton:** Absolutely.) It is a burden on that individual, who is already distressed, but, secondly, it is open to criticism, because it could always be said, 'Well, this person made the diary up', or 'They would write that in, wouldn't they?' It has never been independent enough, for my way of thinking.

Certainly, in terms of noise monitoring, I think the Department of Local Government have always done their best in relation to the rules that sit there, but, certainly, I have had calls from one particular constituent who used to get very irate at 1.00 in the morning, and he used to hold the phone up in the air, in his front room, and you could hear the noise from a commercial establishment which was just over the back fence. It was very obviously a disturbance, and yet the monitoring of that never really produced anything.

So, there is frustration in this area but, like the previous speaker, I am concerned about the onus of responsibility in

determining what is reasonable and what is unreasonable, in terms of a noise. I would be appreciative if the hon. mover would help me, in terms of how the Police view this particular legislation, because this is putting a burden on them to determine what is reasonable, on the doorstep, as it were.

Now, in some cases, that will be blatantly obvious, but, without the monitoring and the measurement, I do wonder whether we are expecting too much of the Police. If the person who is producing the noise responds by saying, 'I think it is reasonable, what I am doing,' that then puts, of course, that person in conflict with the police officer's determination of the situation. Really, the police officer will need some sort of protection – when I say 'protection', some sort of proof that his determination of the situation has been a proper one and accurate.

I am concerned that the Police may well not be very comfortable with this. But if they are comfortable with it, I would appreciate if the Hon. Member could expand on what consultation he has had, in this regard, to give me some comfort in relation to that.

I think the previous speaker has covered the other points that I was going to say, Mr Speaker.

I think it is a valiant attempt to deal with an issue that is hell for some people, (**Mr Houghton:** Absolutely.) and that it is important that we do that in this Hon. House.

On the other hand, the practicalities of it, I do wonder, if someone objects to the way this is applied, how the courts would actually deal with it, bearing in mind that a decision is made on the spot, and there is no permanent record of the event, other than the police officer's opinion on the night.

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

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

Could I just ask for some clarification, please, sir, from the hon. mover? Does the definition of 'dwelling' and also 'premises' include tents? (**Mr Houghton:** Yes.) I have got particular interest in campsites, and I do receive numerous complaints about one particular one, (**Mr Henderson:** Hear, hear.) in my constituency.

I think it will be very helpful, if the provisions of this Bill apply to that area, sir.

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

**Mr Karran:** Vainstyr Loayreyder, I will obviously be supporting the Second Reading, because I think, like the input from the Hon. Member for Garff and my colleague here, over the years, we have to endure an awful time with different issues over the issue of noise nuisance.

But I do fear that the Bill is a little bit unrealistic in the fact that, on item 20 of the explanatory memorandum, there will be no financial consequences. I would be interested to know, if this is going to be policed right, how there will not be any further financial consequences, as far as the issue is concerned.

I am interested in this issue of what 'premises' are. I know one can condone and understand the issues of the Member for Garff about cockerels, and the issue of who owns the cockerels in an area! I know of the issues of the problems of having noisy extraction plants in residential areas. I am a little bit concerned about what 'premises' and 'emergency services' are.

I know, from my being Caairliagh Lught-reill Ushtey,

Chairman of the Water Authority, I can remember one particular occasion where I was quite upset, having to go out to see somebody, because we had an emergency situation, as far as one of the mains, and the fact that they needed emergency lighting out. Will this Bill have an effect on the likes of the Statutory Boards, the Water Authority having to repair...? Does 'premises' cover public roads?

We have heard that it covers, maybe, my friend's problem, as far as Sulby Claddaghs is concerned. When we talk about premises, will it cover gardens, back gardens, glens, fields, public roads? My concern is: will we need an exemption for the likes of the Water Authority and the MEA, and if it comes to the DoT, if there is an emergency repair needs to be done on a major road, in an area, as far as the repair is concerned?

Technically, if that is not the case they do need an exemption, because having an emergency generator banging out all night... And I know, funnily enough, in the Hon. Member for Ayre's constituency, where a major trunk main collapsed and had to be repaired at unsociable hours, it caused a lot of noise pollution.

So, I wondered if the hon. mover can just clarify that issue, because how far do we go, as far as premises are concerned? What I would not like to do is have a situation where people can legitimately object to the likes of the repair work being done – it might not be on a public road, it could actually be a main that is next door to an individual in a field, where they have got to work at night, in order to get a major trunk main sorted out.

I think it is important that we do clarify what premises are, how far we go, as far as premises is concerned. The issue of noise pollution is something that is important.

If it does cover the likes of public roads or repairs, the issue of a badly fitted manhole cover can be something of real annoyance and of noise pollution for individuals. If it does cover roads, will this mean that there will be implications for the DoT, as far as having to do that job a lot more quickly? It is a very important issue, if you are on a busy road and there is a manhole cover that keeps your child awake all night. I think, like Members, as the Hon. Member for Garth has raised, the definitions under this Bill needs to be really sorted out.

Vainstyr Loayreyder, the other issue is: whose enforcement? Like the issue I raised on the item 20 of the explanatory memorandum – no financial consequences – if this power is here, will this power be added not just to police officers, but actually to the DLGE officers? Will local government officers have any delegated function, as far as the implications of noise from this proposed Bill?

At the end of the day, Vainstyr Loayreyder, really, I want police officers having to deal with... well, 'real' crime – even though I have to say that this can drive people to actions that are criminal, if it does not get resolved –

**Mr Henderson:** It does.

**Mr Karran:** – because people take the laws into their own hands.

I am concerned that I think the definition of 'premises' needs to be clarified, because, if the Hon. Member for Ayre is right, that we will class the Sulby Claddaghs as a premises, where do you draw the line, as far as a premises is concerned?

I am concerned that, if there are going to be exemptions

for the emergency services, then issues such as the repairs for MEA, the Water Authority and the DoT, if there was a position, there might be a need for an exemption for those individuals, as well, as far as this Bill is concerned.

I would give it a Second Reading. I have no problems in giving it a Second Reading. I think the Hon. Member has a very legitimate point, as far as the base concern of the issue.

But I do feel, Vainstyr Loayreyder, that what we must be careful of is that, if we give these powers, we have the checks and balances, so that everybody can live in a tolerant society.

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

**Capt. Douglas:** Thank you, Mr Speaker.

Many of the points that I wanted to raise have been asked already, sir, but I have just been recently dealing with a problem, in my constituency, which is both a noise and a nuisance problem, with hens, where hens have... (*Interjection*) Well, I once, in my garden, had 16 – and no offence to the Lon Dhoo Male Voice Choir – cockerels in my garden, and they certainly made quite a considerable noise, and they will go through a sod hedge just as easy as a JCB.

But the point I am making, sir, is that I seek clarification from the Hon. Member for North Douglas, the mover of this Bill: who would be responsible? It has just taken me about six months to actually find somebody who would be responsible to stop, basically, the noise of these many hens, numbering in excess of 100, (**A Member:** Roosters.) running round Newtown estate.

I know that the suggestion I got from one person in Douglas was that they should put chicken netting over the houses. I do not think they realise that hens and roosters can fly!

So, who is actually responsible, Hon. Member, when somebody is failing in their duty and they are allowing the hens to wander far and wide, shall I say? I should be grateful if you could explain that to me. Thank you.

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

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

I rise to support the Second Reading. Obviously, the Members in their contributions have raised a number of issues and they are genuine issues, and I am sure my colleague will respond to many of them.

Certainly, my colleague has kindly agreed that we would have the opportunity, from the Government Department point of view... that we would have further time to look out the issues which the Hon. Member for Onchan, Mr Karran, has raised, such as the impact on the service providers of Government, the Department of Transport, MEA and so forth, just so that we have got that area clearly sorted out.

My colleague, Mr Houghton, has agreed that these are things that can be addressed, and it may or may not require any changes, but at least we will have that opportunity to give that further consideration.

It is not anticipated that there will be any additional cost to the Department of Local Government and Environment, through the Bill, or if there were any additional, they would be what I would call immaterial, and additional costs that

should be legitimately absorbed within the normal operation of the Department.

The legislation is primarily to give the Police powers, in certain circumstances, to act in certain ways, and that the activities of the Departments and its noise experts, and environmental protection officers, would continue in the manner that they do now, and will also be there as a second line, where greater technical expertise is required, in relation to these matters.

Certainly, in relation to issues such as protracted noise, which is the issue where it would be unreasonable for a police officer to adjudicate in that sort of area, what the legislation is primarily concerned with is not so much that protracted noise issue but the one-offs – the irregular one-offs – which are considered to be unreasonable.

This question of unreasonableness will always be there as an issue about what is reasonable and what is unreasonable in that area. Indeed, you have the same, in a different manner, level of subjectivity, in relation to legislation put forward on high hedges. At a certain point, you get into an assessment and that assessment is dependant upon the quality of the officer, whether they are a police officer or whatever, who is making that assessment.

Now, I do understand that we have had advice from the Attorney General's Chambers on this matter, in previous times, that it is right for a police officer to be able to make that (**Mr Houghton:** Judgement.) judgement of reasonableness.

Obviously, in any area like that, as the Hon. Member for Garff has pointed out, there will be at the extreme... well, not at the extremes, there will be what is clearly unreasonable and what is clearly reasonable, and then there will be that fine dividing line, that grey area, in between, and that, obviously, is the area for potential conflict.

But insomuch as you have issues relating to breach of peace, for instance, who determines what is the breach of peace, how is that so determined? It is the assessment of the appropriate officer, at that point of time. If one has a police force and they are properly and sufficiently trained in these matters, then, at some point, you have to allow those officers to make appropriate decisions.

Obviously, yes, there are going to be grey areas where there may be concern and, obviously, the Hon. Member will respond on those.

The other issue I would, perhaps, just like to address, from a personal point of view, and I think it is one that other Members will probably pick up, as the legislation goes forward – and perhaps the Hon. Member will explain his thinking – is where a police officer, from the rank of sergeant or above, is able to give permission for an officer to enter premises to seize equipment.

Now, I would be interested to hear the Member's comments: why should that not be a Justice of the Peace who gives that permission, and should it just be left within the power of that officer within the Police Force and that raises, probably, areas in terms of civil liberties or checks and balances, which I would be interested to hear the Member's comments on.

But, overall, the position from the Department is that it is a reasonable and fair attempt to deal with particular problems. Therefore, I would wish to support that, and I do welcome the opportunity the Hon. Member has given for us to address some of these issues and look at them a bit more closely, rather than rushing in the next week or so.

Thank you.

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

**Mr Cretney:** Yes. I will be brief, Mr Speaker.

Can I say, first of all, I am supportive, and have been, I hope, throughout the process that we have got to today. In particular, it seems to me that noise nuisance is part of a general deterioration, in terms of anti-social behaviour, and has been one which has, over the last several years, deteriorated, which is a very sad reflection on society, I guess.

But the one question I have today, in support as I am, is in relation to activities, perhaps late night sporting activities, for example, late night car rallies or fireworks: there will be exemptions for those kind of activities, I presume. I just wanted confirmation of that.

Thank you.

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

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

I, too, like other Members, support the legislation before the House. It will, hopefully, deal with these people that come in from the pub at night, drunk, with music on. That is the problem we get in South Douglas, (**Mr Henderson:** Hear, hear.) – not too many, but maybe four or five a year. The Police have to be called, Mr Speaker, and things will quieten down – it is as bad as ever, half an hour later.

There is not enough enforcement, I think, and, hopefully, this Bill will give more power to the Police.

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

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

Mr Speaker, I have very much enjoyed the debate today. It has been packed full of interesting points that do require clarification, and a great deal of interest, for which I do commend all Hon. Members.

If I may begin by thanking my Hon. Colleague, Mr Henderson, for seconding the leave to introduce, and the question that, of course, he began to raise, that started working its way through the debate, was about the revving of these high-powered vehicles with these large exhausts.

The answer that I can give to that is: if this behaviour is going on in someone's garage, or in the precinct of their house or about their property – anywhere about their domestic property – where the vehicle is in situ, yes, that can be dealt with.

If it is someone passing in the road or waiting at a traffic light and revving up and so on, at that time of night, that is not considered as domestic noise nuisance.

Yes, it is coming from road noise, which I will go into a little bit further, because other Hon. Members had some very interesting points that they made on that. It is whether it actually happens within the domestic premises, and we will go into the meanings of those, very soon, which are set out in the Bill, Mr Speaker.

So, to clarify, noise: any idiot – if I can refer to them as that – revving up any engine between the hours of 11 p.m. and 7.00 a.m. on, or around, their premises, would be committing an offence. I hope that assists the Hon. Member with his queries on that.

Then, Mr Rodan, really, in many cases, set the scene then for the debate. I do thank him for the interest, and he has gone into this in quite some depth, in order to bring forward all these points that do require reassurance. I do thank him for that, Mr Speaker.

Mr Rodan, of course, because of his constituency – lucky for the Hon. Member in that particular case, but I am sure he has many other problems that constituent MHKs in towns do not have – of course, he did confirm that this is welcome to his constituents, but uncommon in rural areas is anti-social noise like this. It does tend to happen in and around flats and housing estates and so on – of which there are some in the Hon. Member's area, of course, and something could flare up. I am pretty sure, if I go back in my mind, I am sure I have actually been, as a police officer myself, in the Special Constabulary, round to deal with these things.

But one of the questions raised during this morning is: what do I know of it, and how do I know it? I know it all through my past life, Mr Speaker, because what used to happen, when we have had noise incidents like this, which have grown tremendously over the years, was the police officer would knock on the door and use the 'Bluff' Act!

Now, that Act never came through this House of Keys as a Bill, of course, and people have found out since that such an 'Act' is bluff, and that is why they do not do as they are told any more, and the reasons why – (*Interjection by Mr Cretney*) absolutely – the reasons why we need to now legislate more precisely in certain areas, to deal with these issues.

Now, he also mentioned about the extensive powers of entry and of seizure and, indeed, another Hon. Member did, later on in the debate. Now, that is in the case where the noise is so severe and the person is being so unreasonable as to allow... or decide to switch the noise generating equipment off, if it is a ghetto blaster or what have you.

If that is not so... and in this day and age, I hear, on many occasions, that nobody even bothers to open the door to the Police any more, these days.

But in the case of extreme excessive noise... and I would like to explain it in this way: where they are keeping the street awake. We are not talking about a minor issue, but there have been occasions – the last one I heard was in Castlemona Avenue – where the whole of the street was awake. Loud noise with an open window to an absolute idiot, and families could not sleep at three o'clock in the morning.

Now, that person – and I am just making up the scenario here – if he fails to open the door – perhaps he cannot hear the door being banged on or the door bell going – or also, if there is a telephone in the house, the Police ring the telephone in the house, they try every reasonable and feasible effort to get somebody to open the door, so they can speak to them. Normally, after they are able to speak to them, and get some sense in their heads, then the noise goes off and the staged events of having to force an entry in those exceptional circumstances in order to do that, would then, of course, not necessarily need to be made.

So, that is the reason there, where those powers need to be there, but, of course, in that case, an officer would not actually be on his own doing that. He would be calling for assistance, assistance would be there, there would be a number of police officers and there would be a supervisor of a sergeant or above, who would have to approve it, anyway, and as to the reason for him issuing a Police-issued warrant to force an entry... So, we are really at the case here where the case is so excessive, but I can quote incidents like I have

today, and earlier in my reply, that it is needed on those very unusual occasions which I set out in my opening speech.

I do hope that that does reassure the Hon. Member for Garff, in his concern about that. It would not be used flippantly, there would be Police supervision and the wheel would be off, as far as noise at that time of night was concerned – very much so.

So, that is the reason why I have built it up very carefully in the Bill, that they do have those ultimate powers to make entry, in those very, very unusual occasions – but they do happen, and they do happen a number of times in the year.

Of course, Joe Public, the offender: if, for instance, he knows that the Police have got the absolute powers, if at all necessary, to stop that noise in its tracks there and then, then they are more likely to do as they are told, rather than otherwise, which is what is happening now.

Of course, that is the reason why I have brought this Bill forward, to have these prescriptive offences and clauses, in order to stop the noise right away.

The Hon. Member, of course, mentioned about penalties, and we will go into the point of unreasonable noise very soon, but the penalties are there, the penalties of maximum £2,500 are maxima for the courts to issue, should they decide that. So, if somebody is a persistent nuisance, yes, he is going to get heavily fined, and if he keeps getting brought back to court, then, of course, the fine can go up to the maximum of £2,500, if so needed – or, indeed, an anti-social behaviour order may be issued against that offender as a sanction, Mr Speaker.

Anti-social behaviour orders, at the moment, have to be built up with weeks and months of building up on evidence-based information and so on, which is unwieldy and takes a long time.

Here, when you have got excessive noise, it has got to be stopped there and then. When the public get on the phone to the Police and say, 'I cannot get to sleep because of this racket', or 'this idiot revving his engine' or whatever the noise source is, then something... it is a duty of this Hon. House to do something about it, there and then.

I cannot tell you how embarrassing it is to stand there in a police uniform and not be able to do anything, because there are no laws to do it. It does not quite, in some circumstances, cause a breach of the peace, Mr Speaker, and that is the reason why we need the prescriptive legislation.

Now, the Hon. Member, Mr Rodan, also mentioned – and he was one of the first ones to mention – about vexatious complaints, un-neighbourly conduct, et cetera, which he is absolutely right in bringing forward, and I am so pleased that he has, in order for me to clarify these issues. That is the reason why you have an independent person who is called to the premises for the unreasonable noise.

Now, the Hon. Member, Mr Rimington, very kindly clarified that, but I am quite willing to re-clarify that point, because it is based on unreasonable noise.

And Hon. Members, I do not know of one sober person, who would be working in the Force, in the Constabulary or within the Department of Local Government and the Environment, if they were involved in those circumstances, who would not agree –

**A Member:** Oh, right!

**Mr Houghton:** – that, in his own opinion, if noise was so unreasonable, something must be done about it, and I

think we all really know about that. I think we are all quite aware.

And, late at night, the sound of noise travels even further when the road noise drops, as we all know. You can hear a pin drop in your own house at night; you cannot during the daytime. So that noise... it is a judgement of an independent person, who will not obviously allow himself to get embroiled in neighbourly disputes in this, that and the other.

So, the course happens this way: a complaint is made – yes, if you like, by a neighbour who is not friendly with his neighbour next door – the call is made, the independent person arrives. If that independent person is questioned by the complainant, when he says, ‘Sorry, that noise is not unreasonable’ – such as a baby crying, that type of thing – then that independent person, that police officer, could then call his sergeant and let him come and listen to it, and then tell the complainant, ‘Sorry, Mr Complainant, that noise is not unreasonable. It is somebody with a little bit of a transistor radio switched down, it is not unreasonable and so we are taking no further action.’

The Hon. Member for Garff, asked: what happens when the complaint is made and the judgement is made, when that independent person arrives and says, ‘I am sorry, we do not deem that noise to be unreasonable – we do not’. The matter drops. There is no further action.

Hon. Members, the Hon. Minister for Home Affairs will tell you that people dial 999 for non-emergency issues. They dial 999, then, of course, the Police have to come and say, ‘The issue you have told us about did not require a blue light job coming to you. It did not require that, and for the issue you are going on about, there is no further action. So, please do not abuse the telephone system.’

But people are out there to do that. And that is the reason why, coming back to this ‘unreasonable noise’ issue, that unreasonable noise – which, of course, is set out here in the schedule, and I will state it, as it is set out in the Bill –

“‘unreasonable noise’ means a level of noise of any kind which adversely affects the amenity of any person present in a dwelling’.

So, when the Hon. Member for Garff mentions ‘how is it proved?’, I hope that I have explained: by a neutral independent person, a police officer, at that time of night – because we are talking about the wee small hours of the morning now – arrives and he decides, on receipt of the complaint. He does not discuss it. He does not discuss his judgement with the complainant – it would be unfair for him to do so. He decides, he takes action from there on, or he calls in someone else, if you have got an awkward complainant who is more insistent.

It is quite easily done, and I have seen it done before in other issues, where another officer will arrive, of a senior nature, and he will give you his judgement, and only when they adjudge that the noise is unreasonable will they take the action in the staged way, as I have mentioned.

Now, so that deals, I hope, with the Hon. Member’s query about the fact ‘do they carry noise meters around?’. Now, the reason why I have kept away from noise meters and things like this is because, to operate a noise meter, you have to be fully qualified to do so. That would cause an enormous amount of financial consequences to make police officers ‘noise officers’. We are getting into a whole new world here, to get into decibels and so on – or the fact that you call out the Department of Local Government and Environment’s

environmental health protection officers. By the time all that happens, it could be hours and hours, or the next day, if the noise goes on into the following night, which sometimes it does, and so on.

The whole issue here, Hon. Members, is to get that noise stopped, simple as that. As soon as the noise stops, the Police action backs down, amazingly. But if it does not, then they pile on the pressure on that offender, and that is what we are after here, in order to do this.

And also, of course, the Hon. Member, Mr Rodan, I think, and some other Hon. Members mentioned, too, about the keeping of a log. Now, the keeping of a log, which is what is asked for, at the moment, I think was mentioned by the Hon. Member for Onchan, Mr Karran, as to how accurately logs are kept, but also that means that an agreed person has to sit and listen to this noise going on and on and on, on a number of nights, before he brings his diary to the Department of Local Government and Environment, to try and get something further done. It just does not work. (**A Member:** Hear, hear.)

What we are talking about is stopping that noise in its tracks: ‘Now, you do that, no more further offences are disclosed, but if you keep going, then we start working up against you’, in the Bill, to the top area of the excessive circumstances that I have just mentioned, which I would feel would be very few and far between.

So, I do hope that does reassure Hon. Members, because a number of comments were made on that.

Now, finally, the Hon. Member, Mr Rodan, mentioned about, really, noise in rural areas. There was mention of hens – the Hon. Member for Malew and Stanton mentioned that – cockerels and so on. (**Mr Cretney:** Roosters.) Roosters, and other agricultural animals, (**Mr Cretney:** Pigs.) because you are out in an rural area, with agricultural animals in this area, and provision has been put in the Bill to exclude this.

We cannot have people who live near farms... and sheep, as you know, make a racket at five o’clock in the morning – (**A Member:** Pigs.) many, many animals – the whole idea here is to deal with the urban area idiot, revving, hammering, playing loud music and that sort of thing (**A Member:** Hear, hear.) – not to interfere with the goings on in the rural areas with that

I have to say, the likes of hens... I mean, I would love to see a load of hens and things that, going about with cockerels –

**Mr Anderson:** Can be arranged.

**Mr Houghton:** Can be arranged – sounds lovely. (*Laughter.*) But how have people living in rural areas gone on this long?

I completely, Mr Speaker – by clause 10 in my Bill – excluded that from it. It was mentioned in the leave to introduce, and I was more than pleased to deal with that. It is excluded by clause 10 saying:

‘The provisions in this Part do not apply to any noise emitted from land used as agricultural land within the meaning of section 33 of the Animal Health Act 1996.’

The Hon. Member for Onchan, Mr Corkill, had similar thoughts to Mr Rodan – I hope it has helped to reassure him. He also mentioned about the diaries of incidents as no good. I mean, that is just something that does not work – I do not

think it ever worked.

Now, the Hon. Member got into other issues about commercial establishments, for instance, noise – and I remember this occasion – from a public house in his constituency. This Bill does not deal with commercial noise or industrial noise.

I think, someone later mentioned about fans – it was the Hon. Member for Onchan, Mr Karran – mentioned about extractor fans. That is industrial noise on industrial premises, which has to be left to the Department of Local Government and the Environment, using noise monitoring equipment, et cetera.

This is domestic noise, from that very side. As we know, noise coming from commercial establishments can be complained about as regards their licence, and so on and so forth. This area, that I wanted to deal with here, was purely the noise from *unreasonable* people in domestic surroundings, and I do hope that that has reassured Members on that.

The Hon. Member mentioned about the Police view to this, that he thought it may well be a burden on the Police. I can inform the Hon. Member, I have spoken to many police officers, been there myself – which is vitally important – and found that you had nothing that you could do about it in many occasions. It was a case of, ‘Get on to the Commissioners and try and have that tenant evicted’, and things like that, rather than deal with the issue there and then – if the ‘Bluff’ Act did not work.

Now, the Police on the ground welcome it. I have had a lot, over a four year period, of consultation with police officers, and they were invited to the Department of Local Government and the Environment, where the consultation was made on a proper, formal basis. They are most supportive of it. They need the tools to do the job that this Hon. House wants, Hon. Members, and so there is no burden on the Police.

The Police have to attend those incidents now, and can do so very little. So, if they have the power, and the public, the offenders, know they have the power, then I am sure offences and incidents will start dropping off, as this actually happens, Mr Speaker.

The Hon. Member mentioned also about the measuring and monitoring, and I hope I have mentioned that already, Mr Speaker in that particular area.

Also the Hon. Member for Onchan, Mr Corkill, will remember that I gave a thorough explanation, during his time as Chief Minister, January 2004, where the Council of Ministers did agree to support the Bill, as it was actually in draft there. It has not really changed much from the Green Bill that is before you today, but, as I say, I even remember that when the Hon. Member said he used to hold his telephone away from his head, about noise coming from an entertainment establishment, but also –

**Mr Corkill:** It is closed now.

**Mr Houghton:** – the Hon. Member cannot forget that lady in a lower part of his constituency who was never off his phone and my phone about this noise, about this *idiot* who was hammer drilling in a semi-detached house, next... (**Mr Corkill:** Yes.) It is that lady who has got to be protected, and I ask the Hon. Member’s support – which I feel I know I have got, anyway, and I thank him for that – for dealing with that person, at that time of night.

I cannot stress that enough, Hon. Members.

Now, moving on to there, the Hon. Member for Ayre, Mr Teare, raised a very interesting issue that I have gone to quite some great extent on, to deal with issues. If I can deal with these two areas that he was concerned about, or the two meanings in the Bill, because he wanted to know, ‘what about tents?’ and he is so right.

That is people living in one tent to another, (*Laughter*) – well, other people like to get a bit of rest, when they are staying on Sulby Claddaghs and the likes! – and also houses nearby. I went to a lot of trouble to make sure this was clearly put in there, because that is where an awful lot of anti-social conduct does go on, late into the night, with drunkenness and so on – not necessarily on Sulby Claddaghs, but in that sort of scenario.

In the interpretation, Mr Speaker:

“dwelling” means any accommodation, or part of accommodation, used or intended to be used as human accommodation, whether on a temporary or permanent basis’.

Then we went further, to deal with premises:

“premises” means any building or structure, permanent or temporary, whether or not used or intended to be used as a dwelling’

– and to be absolutely more specific, so we have got the matter pinned right down –

‘and includes road vehicles, trailers and caravans, whether or not converted to use as dwellings’.

So, there it is Hon. Member, that is where the issues the Hon. Member makes there are fully covered.

The reason why we went on about road vehicles and trailers is the likes of someone with a wagon, with a band on the back of it playing and making an absolute racket, down at the Sulby Claddaghs, or what have you. I even put thought into that, when it is completely outrageous that something like that in the wee small hours of the morning should be allowed to go on.

Now, the Hon. Member, Mr Karran – and I thank him for his support – he mentioned a number of issues – I feel I have covered now about premises – but he got onto roads. I want to get onto roads and road issues, in a moment, but I have covered the issue to do with premises, cockerels and so on, and I have mentioned industrial extraction plants, and so on, would *not* come under the Bill.

But he did mention, and it was an excellent point he made... and it is a point for the Hon. Minister for the Department of Transport, too, and I am quite willing to speak with him further on this, to be absolutely sure that we are dealing with domestic circumstances of noise and not anything else.

So, coming to the Hon. Member for Onchan, Mr Karran’s issue to do with emergency repairs and road drilling and this, that and the other, that would not, under this Bill, be looked upon as *unreasonable* noise. It is reasonable, it has to happen. It is not unreasonable.

We are after the idiot with his unreasonable noise. That is not unreasonable noise – it has to happen, doesn’t it? If the Water Authority has got to fix a water main late at night, it has to be done, and people have to put up with it.

And the same with the Minister for Transport’s generators, which they do now, because I have seen it, even in areas in town where they use those generators. They get

the quietest generator possible, and they keep it as far away from people's houses as possible. I have not, in my time – and I have received a lot of complaints over the years I have been in, just like other Hon. Members – I have never had anybody complaining about, or making vexatious complaints about, road equipment, generators and this, that and the other, late at night, while they have got traffic lights while they are doing emergency road repairs and so on.

That work has to be done, it cannot be considered as being domesticated in any way, shape or form, and it could not, by any reasonable person, be construed as being unreasonable. It is as simple as that, and that is why we worked on the definition of 'unreasonable'. No independent reasonable person – I am pretty sure – would ever say that drilling an emergency main one-off job like that, whatever it is, in the road, at those hours at night – whatever they are – would ever be considered as being unreasonable, not one, and it would never get anywhere near or through a court.

**A Member:** Well done.

**Mr Houghton:** The Hon. Member, Mr Karran, also made a point about crime – the Police are there to deal with crime – and so they are, absolutely right. But they do get an awful lot of calls to domestic properties to do with noise, and also domestic disputes and all the rest of it.

The Police are attending, most of their time at night... They are attending, obviously, to the main functions, which is looking after life and property and so on, but, after that, they are going round to neighbourhood disputes and *noise* problems. That is where they are going. That is what a motor patrol is doing, most of the time, unless he is on his ordinary patrols or attending road accidents and what have you.

So, therefore, it is required. It is not an additional burden for the Police – they are already called to that.

I do not know what I can do, Mr Speaker, about Capt. Douglas's hens running all over the Newtown estate – (**Two Members:** Roosters.) and roosters, and all the rest of it. I am sure if he has got a good dog that he could let out the back doorway (*Laughter*), it might just be a bit more helpful, but I do not see that coming under the Bill, in that particular area.

I would also like to thank the Hon. Member, Mr Rimington – the Minister – for his supportive comments, and for the clarification of the issues that he actually makes. Of course, as he has stated, we clarified, clearly, a right for a police officer to make a judgement, an independent person and, of course, he made the excellent comparative point about driving issues.

A police officer now decides on his judgement about the way somebody is driving a vehicle, and if he does not like it, he causes the vehicle to stop, by his judgement, and that can work its way through to offences which can be proved in court. It is as simple as that.

He, also, mentioned issues to do with a breach of the peace, and whether weaknesses were there, and I am grateful to him for that.

Now, he did ask one question, and it is an important question, about the fact that: 'Why does the Bill give a provision for a sergeant or above to issue a warrant to enter premises?' This, again, is simply because of my time – and I have asked police officers, operational police officers – to find a JP to sign a warrant late at night is a total and utter failure. They do not answer their doors.

In fact, if we want them to sign it, I should put a power in the Bill, so that –

**Mr Cretney:** Break down the door.

**Mr Houghton:** – the Police can force entry into *their* house, drag them out of bed to sign the document! (*Laughter*) We need somebody to give them a warrant in the first place, Mr Speaker.

But, quite honestly, the reason why I fought, and I fought heavily against this – in fact, when I say fought, I went into a lot of work with the legal draftsmen on this issue, because to get this Bill to receive Royal Assent, it has to be Human Rights compliant and they want – everybody wants – a warrant to be signed usually by a Justice of the Peace, or a member of the judiciary.

But in the Police Powers and Procedures Act, Mr Speaker, Hon. Members will recall there is an area in that where Police, again, for emergency reasons, may require to get access into a premises, to search it in pursuit of serious offences, and that warrant can be issued, only in those strictly narrow areas, by a senior police officer, so that they can go and search an offender's property, rather than try and locate a member of the judiciary or a JP.

So, the purpose of this is, because the noise is so excessive, a senior police officer – sergeant or above – can be found, and also to gain a small document, a very small form which acts as a warrant, which he duly signs, and is produced as evidence, in order to take to the premises to break into those premises, if that is required.

The purpose, Mr Speaker, too, is that that also stops a police officer going, of his own volition, for whatever reason, and doing it. He has to consult with higher... who have to provide him with that certificate, that warrant, in order to do it, and that means they will be on the premises, too.

So we are not talking about police officers kicking doors in or this, that and the other. There is a safety device here, inbuilt, in the Bill here, for that to be done, but because we are dealing with excessive noise late at night with the sole purpose of stopping the noise in its tracks, that power needs to be provided in this particular area.

I hope that that helps to answer the Hon. Member's query on that, and I thank him again.

I thank the Hon. Member for South Douglas, Mr Cretney for his supportive point as, indeed, Mr Duggan. Both Hon. Members come from an area – South Douglas – which has similar problems to North Douglas, but in the built-up areas – of anti-social behaviour, we are all getting it. I had a complaint from the Hon. Member's constituency last week, where the Hon. Member himself had received that complaint also.

It is going on, Hon. Members, and it has got to be stopped.

But to answer the Hon. Member, Mr Cretney, about late night sporting issues and so on, if they are after 11 o'clock sporting, it would only, I would have thought, be rallies. Rallies are driving cars on roads, it is not a domestic environmental thing, so there is not a problem there.

Fireworks are already contained under the Fireworks Act and, also, unless it was actually happening in a domestic surrounding – and I do not think any of those issues would be in the domestic surrounding – then it would not come under part of the Bill, Mr Speaker.

So, Mr Speaker, I thank all Hon. Members for their

concerns and points. I can see, quite clearly, how supportive they are, Mr Speaker, of the Bill. Without any further ado, Mr Speaker, I thank you, and I thank Hon. Members.

I beg to move.

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

### **Standing Order 49(7) Ruling by the Speaker**

**The Speaker:** Hon. Members, before I conclude the business before the House, I have a number of matters which I wish to mention.

The first one, Hon. Members, is if I can relate Hon. Members to Question 11 for Written Answer, and I would wish to clarify a point in there, so that it is clear, regarding part (3) of the Question and the Answer that has been given by the Minister.

Part (3) of Question 11 states, and I quote:

‘if legislation was introduced requiring all “options to buy” land to be registered, how might your Department use the information obtained through these registrations to formulate improved policies in relation to housing?’

The Answer given by the Minister states, and I quote:

‘(3) Mr Speaker, I would like to point out that this part of the Question is contrary to Standing Order 49(7). However, in order to be helpful, I can provide an answer.

The development of policy with regard to land ownership and development should be based on factual information, wherever possible. In this respect, the information on “options to buy” would be helpful. However, before considering the introduction of new legislation, the Department would wish to consider how existing legislation, such as compulsory purchase, might be applied to mitigate any land ownership problems.’

Hon. Members, I make the point, in the Answer, the Minister refers to the development of policy. Therefore, he accepts Standing Order 49(7) does *not* apply to the Question before him on the Order Paper.

Standing Order 49(7) states, and I quote:

‘A Question shall not ask for an expression of opinion, or for the solution of an abstract legal question of a hypothetical proposition.’

Hon. Members, I would also refer the Hon. Member and other Ministers – because I have to advise the House that I have had this issue raised on a number of occasions, recently, by Ministers, in relation to Questions that come before the House – that they also need to look at the introduction to Standing Order 49.

Standing Order 49 states:

‘The right to ask Questions shall be governed by the following rules, as to the interpretation of which Mr Speaker shall be the sole judge’.

(*Interjections*) Now, Hon. Members, can I make it clear, again, that, if a Question did not comply with Standing

Orders, it would not appear on the Order Paper. (**A Member:** Hear, hear.) I make that very firmly to Hon. Members, because I can advise Hon. Members that I do go through the Question Papers very carefully, and the Questions would not be permitted to be asked, if they did not, in my judgement – and my sole judgement – comply with Standing Orders.

I make that point to clarify the position, as I take the point that the Minister makes: of course, he makes an absolute statement that it is contrary to Standing Order 49(7). I make the point, sir, it is not.

Now, Hon. Members, if that, I hope, clarifies the position, so that, in future, Ministers and their Departments will be clear on how matters such as Questions appear on the Order Paper.

### **New Member for West Douglas Swearing-in to be broadcast Motion carried**

**The Speaker:** Hon. Members, I would also like to advise you that the swearing-in for the new Member for Douglas West will take place at a special sitting of the House, to be held at 9.30 a.m. on Tuesday 21st June.

First, I would seek the approval of the House, as has been our practice in recent times, for that proceeding to be broadcast on Manx Radio. Is this agreed?

*That the swearing-in of the new Member for Douglas West at the next sitting be broadcast.*

**Several Members:** Agreed.

**The Speaker:** Secondly, Hon. Members, could I advise Hon. Members, and please remind them, not to be late to the early sitting at 9.30. The last time that we had a swearing-in ceremony, there were a number of Members absent, which I think is discourteous to the new Member.

I would also remind Members that Standing Orders require Members to attend at the time designated. The time designated, Hon. Members, will be 9.30 a.m. and I would ask Members to be in their seats at that time – of course, unless they have been granted leave of absence. Then they will be exempt.

### **Speaker’s Lunch Adjournment of the House at 1.00 p.m. on 28th June Motion carried**

**The Speaker:** Hon. Members the next Item – hopefully a bit happier – is just to remind Hon. Members: as Hon. Members will be aware, I will be hosting the Speaker’s Lunch on Tuesday, 28th June at 1.30 p.m. I, therefore, propose to adjourn the sitting of the House on that day at 1.00 p.m. Is that agreed, Hon. Members?

*That the House do adjourn at one o’clock at the sitting on 28th June.*

**Several Members:** Agreed.

**The Speaker:** Thank you, Hon. Members. You have your

invitations on your desks, Hon. Members. (*Interjections*)

Hon. Members, the House will now stand adjourned, until Tuesday 21st June, at 9.30 a.m. in the House. Thank you, Hon. Members.

**Several Members:** Thank you, Mr Speaker.

*The House adjourned at 12.36 p.m.*