



**HOUSE OF KEYS
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHIARE AS FEED**

**PROCEEDINGS
DAALTYN
(HANSARD)**

Douglas, Tuesday, 14th March 2006

Present:

The Speaker (The Hon. J A Brown) (Castletown); Hon. D M Anderson (Glenfaba);
 Hon. A R Bell and Mrs A V Craine (Ramsey); Mr W E Teare (Ayre); Mrs H Hannan (Peel);
 Mr P Karran, Mr R K Corkill and Mr A J Earnshaw (Onchan); Mr G M Quayle (Middle);
 Mr J R Houghton and Mr R W Henderson (Douglas North); Hon. D C Cretney and Mr A C Duggan (Douglas South);
 Hon. R P Braidwood and Mrs B J Cannell (Douglas East); Hon. J P Shimmin (Douglas West);
 Capt. A C Douglas (Malew and Santon); Hon. J Rimington, Mr Q B Gill and Hon. P A Gawne (Rushen);
 with Mr M Cornwell-Kelly, Secretary of the House

Business transacted

	<i>Page</i>
Leave of absence granted.....□	775
1. Commonwealth Day Message from Her Majesty The Queen	775
Questions for Oral Answer	
2.1. Civil Service salary increase – Costs and details	775
2.2. Gun crime – Preventing guns coming to Island	778
Welcome to Mr A Rossendale, MP...□	780
Good wishes to House of Commons Speaker Martin	780
2.3. Part-time staff pensions and sick pay – Effect of House of Lords ruling	780
2.4. Penal review – Findings□	781
Questions for Written Answer	
3.1. Revised GP contracts – Details of changes	783
3.2. Governor’s Hill ‘ghost island’ proposal – Consideration of mini-roundabout	784
3.3. Heather moorland and semi-natural habitat – DAFF and public owned land.....	784
3.4. Housing – Braddan Commissioners’ stock and deficiency	785
Orders of the Day	
4.1. Dogs (Amendment) Bill – Council amendment approved	786
4.2. Employment Bill – Council amendments approved	786
5.1. Income Tax (Corporate Taxpayers) Bill – Second Reading approved.....	790
6.1. Insurance Companies (Amalgamations) Bill – Third Reading approved	791
7.1. Merchant Shipping (Amendment) Bill – Clauses considered.....	791

The House adjourned at 12.11 p.m.

*All published Official Reports can be accessed on the Tynwald website
www.tynwald.org.im
 Official Papers/Hansards – please select a year*

*Reports, maps and other documents referred to in the course of debates may be consulted
 upon application to the Tynwald Library or the Clerk of Tynwald’s Office,
 Legislative Buildings, Douglas, Isle of Man IM1 3PW.*

House of Keys

The House met at 10.00 a.m.

PRAYERS

The Chaplain of the House of Keys

LEAVE OF ABSENCE GRANTED

The Speaker: Hon. Members, I have granted leave of absence from today's proceedings to: the Hon. Member for Michael, Mr Cannan; the Hon. Member for Douglas West, Mr Delaney; and the Hon. Member for Garff, Mr Rodan.

COMMONWEALTH DAY MESSAGE FROM HER MAJESTY THE QUEEN

The Speaker: The first Item on our Order Paper, Hon. Members, is the Commonwealth Day Message from Her Majesty The Queen:

'Health and Vitality – The Commonwealth Challenge

A message from Her Majesty The Queen, Head of the Commonwealth

THERE are few feelings more satisfying than waking to a new day with a sense of wellbeing. Good health is a precious gift.

Yet many do not share in this. Some 40 million people today are living with HIV/AIDs, well over half of whom are Commonwealth citizens. Half a million women die each year in pregnancy and childbirth – and the death of any mother has huge consequences for the rest of the family. Yet very many of these deaths are preventable with adequate healthcare. Ignorance and lack of understanding about these issues sometimes breed uncertainty, even fear and the inclination to turn from those who are unwell. But we know, for example, that someone who is HIV positive can, with proper support, lead a full and rewarding life.

I am pleased that Commonwealth governments are playing their part in tackling disease and improving health for all. Polio, for example, used to cast its shadow across many countries. Today, thanks to concerted international action, just a handful still need to eliminate polio. The same approach and commitment to other global scourges, such as malaria and tuberculosis, can achieve equally impressive results.

There is also much we can do through non-governmental organisations and especially as individuals. Poor health is sometimes linked to the way we choose to live, but many of us can often take steps to eat better food or take more exercise. We can also, as communities, work to improve our surroundings to make them cleaner, safer places in which to live.

The importance of good health is so wonderfully exemplified on the sports field. Sporting events can be the spur to extraordinary human achievement. Sport also demonstrates the value of co-operation and team-work and the importance of mental and physical control. In Melbourne, in just a few days' time, I will be opening what are known as 'The Friendly Games'. Commonwealth athletes will gather once more in a spirit of goodwill and fellowship and will strive to achieve new heights of excellence. As we watch our finest sportsmen and women compete, we will see clearly what exercise, at the very highest level, can contribute to both body and spirit.

There is a traditional proverb which says, "He who has health has hope, and he who has hope has everything." This year, as governments search for new ways to tackle these important challenges, we, as individuals, can also play our part so that, in pursuing health and vitality for all, we bring hope to the world.

Elizabeth R.

13 March 2006'

Questions for Oral Answer

CIVIL SERVICE COMMISSION

Civil Service salary increase Costs and details

2.1. The Hon. Member for Ayre (Mr Teare) to ask the Chairman of the Civil Service Commission:

Will you advise –

(a) the cost for the financial year ended 31st March 2006 of the salary increase given to civil servants under the terms of the recent agreement, and also include within that figure the additional cost in respect of the removal of overtime capping, the revision to the pay for the AA related grades and, additionally, the financial cost of the extra annual leave; and

(b) the equivalent information for the year commencing 1st April 2006, assuming that the rate of salary increase is 3.75%?

The Speaker: Hon. Members, Item 2 on the Order Paper, Questions for Oral Answer, and I call on the Hon. Member for Ayre, Mr Teare.

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

The Speaker: I call on the Hon. Member, Chairman of the Civil Service Commission, the Hon. Member for Douglas North, Mr Houghton.

The Chairman of the Civil Service Commission (Mr Houghton): Thank you, Mr Speaker.

I am pleased to provide Hon. Members of this House with the estimated increased costs of the pay agreement for the Civil Service, on which a formal agreement has been concluded by the Joint Negotiating Committee for the Civil Service.

The agreement is in the form of a package of measures covering both the settlement for 2005 and 2006 and the estimated costs of the component parts of what is being sought by the Hon. Member. However, I should just like to add that, primarily, those measures are directed by huge benefits for those in the lower levels of the Civil Service.

Mr Speaker, in the financial year to 31st March 2006, the increased cost to the pay bill relating to salary and allowance amounts to £1.87 million. The revision to the pay of the lowest level, i.e. the AA grade and related grades does not increase the maximum salary for the grades, but introduces a lower starting point and evening out of the lower incremental steps within it. Therefore, given these minor adjustments, the Commission estimates that this will increase the cost to the pay bill by some £12,260.

Also, there should be no further increase in 2006-07 due to staff turnover. The removal of overtime capping affects a minimal number of staff and the requirement for overtime working is under management's control. Therefore, the Commission has assumed no increase to the committed cost of the pay bill.

The overall harmonisation of annual leave does not affect

the maximum leave entitlement, but the period within which it is accrued and has been amended. The main impact is for those in the lower levels, whose entitlement is less than the maximum. The immediate benefit of additional annual leave is dependent on staff's current service. The Commission's estimated cost, based on two additional days' leave in 2005-06, amounts to some £350,000 as a one-off cost. Therefore, the overall estimated value in 2005-06 amounts to £2.232 million.

In answer to the second part of the Hon. Member's Question, assuming an increase of 3.75 per cent, the increased cost of salary and allowances, during the period 2006-07, will amount to £2.756 million. Mr Speaker, budget provision has been made by the Treasury to meet these additional costs.

Thank you.

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

Mr Teare: Thank you, Mr Speaker.

Can I thank the Hon. Chairman of the Civil Service Commission for his long response, but does he not realise that this claim, from my perspective, appears to be difficult to justify, when a Government survey has already indicated that public sector employees are already 14½ per cent ahead of the private sector? Is the Chairman aware that many in the private sector have received no salary rises and, indeed, restrictions on their pension entitlements and benefits? Does he not feel that the Civil Service pay structure is now out of line with market conditions, sir?

The Speaker: The Chairman to reply.

The Chairman: Thank you, Mr Speaker.

I do concur with the Hon. Member's concerns in this particular issue, but it is somewhat historical that people in the public sector, especially in the Civil Service, have been paid on a higher rate, in comparison to a number of private pay bodies. This particular issue, Mr Speaker, has been really brought forward long before my time. As I say, it is historical and it is, really, I would say, a rather proud Government paying its civil servants, who run the Government and all those Government services that we expect high standards to be provided and are very proud of paying such a level.

So, yes, it is the case – it always has been the case. In closing, Mr Speaker, I possibly do concur with the Hon. Member, and I am sure he will concur with me, in that, really, there should be, in the future, a common pay policy throughout the public sector, rather than different negotiation bodies negotiating different amounts and, therefore, there are differentials in those pay streams, sir.

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

Mr Teare: Will the Chairman of the Civil Service Commission not agree with me that, if the 4 per cent pay rise was extended right across the public-sector payroll, then the annual salary increase, or the increased cost to Government, would be approximately £12 million?

The Speaker: Chairman to reply.

The Chairman: Mr Speaker, because I only have responsibilities, of course, in my particular issue for the Civil

Service and also for Whitley Council, I am unable to state what the total amount for that... Perhaps it would be wiser, if that question went to the Treasury Minister, sir.

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

Mrs Cannell: Thank you, Mr Speaker.

Can I ask the Chairman of the Commission, when he was discussing the pay negotiations, during the pay negotiations, did the Chairman at any time threaten the Government Officers' Association, in stating that they must not disclose details of such pay negotiations to any of their membership? Was it true or is it untrue?

The Speaker: Chairman to reply.

The Chairman: Thank you, Mr Speaker.

I am very pleased to be able to state to this Hon. House that those allegations were completely untrue. If I can explain quite clearly as to why, again, historically, the Chairman of the Civil Service Commission has not, until the very last end of pay negotiations, actually negotiated the pay in the early days. This is done at pay subcommittee level with the JNC of the Civil Service and the Government Officers' Association.

So, I neither threatened the Government Officers' Association on any of the nine or 10 times that they met, because I was not there, nor did I ever ask anyone else to do that. I have a much greater and higher thought, and I have much higher regard for the Government Officers' Association. Indeed, I would like to take this opportunity of commending Mr Paul Harper, who it is a pleasure to work with in the Government Officers' Association. I am quite sure that he would confirm exactly everything I have said this morning, Mr Speaker.

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

Mr Karran: Vainstyr Loayreyder, a supplementary.

Would the Caairliagh, the Chairman, not agree that one of the problems we have got with the Civil Service pay increases, over the last few years, is the fact that we have been too keen on looking after the ones at the top of the Civil Service?

Will he not agree that the time has come that, at least once a decade, we should have a pay increase – not on percentages, because 4 per cent of a lot is a lot and 4 per cent of nothing is nothing – but that we have an across-the-board pay increase on the basis that everyone gets the same from the top to the bottom, allowing for the fact that the ones at the top of the Civil Service want private sector pay, but they do not want the private sector responsibilities and accountability that should go with it?

The Speaker: Chairman to reply.

The Chairman: Thank you, Mr Speaker.

The Hon. Member has raised this point with me before and it was something that actually took place, I understand, across the British Government some 20 years ago –

Mr Karran: Thirty.

The Chairman: Thirty years ago, my apologies, and, of

course, he makes valid claim that, obviously, someone on the lower end of the scale does not gain as much as someone on the higher end of the scale.

Mr Speaker: I can but do this for the Hon. Member: copy him into my speech, that I have just read out to this Hon. House, sir, because it actually states we are enhancing the scale of those on the lower end. So, I do hope that that assists the Hon. Member with his concerns, Mr Speaker.

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

Mr Quayle: Thank you, Mr Speaker.

I wonder if I might ask the Chairman of the Civil Service Commission if he believes there would be lessons to be learned by looking at our competitor, Jersey, where, I understand, they are, in various ways, trying to reduce the staffing of the Civil Service, to become ever leaner and fitter in a competitive sense? I would ask if that could be considered, whilst preserving the numbers of staff in essential services.

Also, I wonder if he could give his thoughts on the cessation of the Final Salary Pension Scheme for new entrants to the Civil Service, which would, presumably, save the Government millions of pounds and the taxpayer?

A Member: Hear, hear.

The Speaker: Chairman to reply.

The Chairman: Thank you, Mr Speaker.

We are always looking beyond the coasts of the Isle of Man to see how other organisations operate themselves. Taking Jersey into account, Jersey are simply doing this because they are going bust, sir, and I feel that they have to cut their staff. They are also cutting services. I put across to the Hon. Member who is involved in a number of Departments, does he want to see service cuts in his own areas? If he does, perhaps his Department will come to the Civil Service with a list of those staff he wishes to shed, sir.

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

Mr Teare: Thank you, Mr Speaker.

Could the Chairman of the Civil Service Commission kindly confirm that one of the members of the Commission is a senior civil servant and, if that is correct, does he not feel that the person has a potential conflict of interest, as he or she would benefit from the eventual outcome of the Commission's negotiations?

The Speaker: Chairman to reply.

The Chairman: Thank you, Mr Speaker.

It is vitally important, this point, because, of course, every time there is an issue to do with Civil Service pay increases, it is always looked on as, 'Oh, yes, and look, all the Members of this House will get the same increase'. I cannot – I just cannot – believe the immaturity of anyone stating that the Chairman of the Civil Service, or indeed, the Chief Officer in the Personnel Office would look to that end.

In fact, Mr Speaker, in order to give balance to this particular area, we have, on the pay subcommittee, Mr Ian Jarrett, who is our professional adviser, from the private sector, who is there to do the negotiations and he actually

tends to lead up the negotiations, instead of me. One of those reasons, again, historically, is to allay fears, from where the Hon. Member is actually stating.

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

Mr Gill: Thank you, Mr Speaker.

When the Chairman puts it to the Member for Middle, in response to his question, that if the Member for Middle could identify the savings within any Department... would the Chairman accept that that is, frankly, a nonsense, because the rigid structure that his Personnel Office and his Civil Service Commission have inflicted on the Civil Service means that managers have no leeway to make any cost savings? Indeed, because of the head count, which the Civil Service Commission seems intent on retaining, their managers' ability to actually make cost savings and to manage resources and particularly their staff resources, within the most efficient manner, is severely curtailed.

Would the Chairman give an undertaking that he will consider this and he will debate it and discuss it in more detail, the pros and cons of his current position, with the committee looking into the scope and views of Government?

The Speaker: Chairman to reply.

The Chairman: Thank you, Mr Speaker.

I would always be open to do that. I note one or two of the Hon. Member's situations where, of course, the Civil Service is so rigid that they would not give variation to head count within Departments. Mr Speaker, it is Departments who themselves compete for further head count. They do not compete to the Civil Service Commission at all, and they do not compete with the Personnel Office. They compete for further head count to the Council of Ministers' Personnel Control Committee, of which I have no say. So, that is the first issue, because it is a very serious position.

If the Hon. Member – because it appears that he does – is aware that there are civil servants or, indeed, any staff in Government who are extraneous to the positions that they hold in that they should really be deployed elsewhere, I would invite the Hon. Member to come back to me immediately after this sitting, with the names or the posts, and they will be urgently looked into. If that is the case, then things do want to change and he does have my word.

So, I will await that list of posts from the Hon. Member, immediately after the sitting, so I can take urgent action in that case, sir.

The Speaker: A final supplementary, Hon. Member for Middle, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.

I wonder if I may return to the question that the Chairman failed to answer: that was about the Final Salary Pension Scheme, and whether or not that could be brought to an immediate end for those new entrants to the Civil Service. If I could reassure him that I am not seeking to cut essential services, I merely... could I ask him if he would agree that, if the private sector is having to be economical and remain fighting fit by shedding staff, maybe through natural wastage, should the Civil Service not be doing the same, so that would be keeping us in a competitive position with our competitors?

A Member: Hear, hear.

The Speaker: Chairman to reply.

The Chairman: Thank you, Mr Speaker.

As to the last question first, sir, I would support him wholeheartedly in that, and ask him to come forward with any concerns he has, in his Department, in particular.

I do need that information, sir, because of course, I cannot dream these particular situations out of thin air. I do need the support of Hon. Members, if they see overstaffing in Departments. I need to know that.

As regards the situation with pension schemes, can I state, Mr Speaker, that this, at this time, is being very, very, seriously looked into. We are having a full, in-depth look into this, simply because of the circumstances of the past, relating to administration matters with the pension scheme, not money.

So, if I can just take this opportunity, Mr Speaker, as far as that is concerned, the whole issue will be under review, and I will come back to another place in due course, with a full account, after we have had all the full consultations and negotiations with, of course, all the interested parties.

But I have to say this, Mr Speaker, at this point – because people, when they hear about pensions, get wound up that there is not enough money in the pension fund – this is not a financial issue with pensions, Mr Speaker. It is simply an issue that we need to look at previous legislation and how that has been brought up through the years. That and only that, sir, on an administrative basis. Thank you.

HOME AFFAIRS

Gun crime

Preventing guns coming to Island

2.2. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Home Affairs:

In view of the increased gun crime involving police in the United Kingdom, what steps are being taken by your Department to stop guns coming into the Island in order to stop us having the same problems?

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 Douglas West, Mr Shimmin, Minister for Home Affairs, to reply.

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

I am pleased to reassure this Hon. House that the Isle of Man Constabulary are very much aware of the increased firearms-related crime in the United Kingdom, over recent years, and, as such, have in place measures to minimise the risk of such crime creeping into our Island. I would also like to take this opportunity to remind Hon. Members that Customs officers also make a significant contribution to

protecting the Island by their work at the ports.

Mr Speaker, the rise in firearms-related crime in the UK is largely driven by the drugs trade. The use of firearms by those engaged in the supply of controlled drugs or serious crimes is a major concern in the adjacent isle and we have all seen recent events in West Yorkshire and Nottinghamshire, where police officers have been shot whilst responding to reports of criminal activity. Needless to say, Mr Speaker, my Department are determined to keep our Island safe and free from such serious criminal activity.

Many interested Departments within Government and, indeed, the charity sector work hard and in a very focused way to combat the threats posed to our community from drugs. If we are successful, then the prospect of firearms being brought into the Island will remain relatively low.

Also, I am pleased to reassure this Hon. House, and the community we serve, that the Island is currently free of other non-drugs related crime that may be associated with the use of firearms. Whereas we now live in a fast changing world, Mr Speaker, the Constabulary is absolutely determined that this highly desirable position is preserved.

Mr Speaker, the effective use of criminal intelligence, together with policing strategies that use disruptive tactics against offenders, is at the forefront of the policing response. This is supplemented by a close working partnership with Customs officers.

In addition, in relation to legislative controls, my Department is reforming the Firearms Consultative Committee, with a view to introducing Isle of Man solutions to providing greater controls on guns in the Crime, Disorder and Youth Justice Bill, which is planned to be introduced into the Keys in early 2007. In the short term, the Criminal Justice, Police and Courts Bill contains measures to control BB guns and imitation weapons, to remove these from the streets, to avoid a potential tragedy if these guns are mistaken for the real thing by the Police, and to minimise the risk or alarm to the public.

In conclusion, Mr Speaker, I thank the Hon. Member for Onchan, Mr Karran, for the relevant Question and affording me the opportunity of reassuring the public that we closely monitor the situation and that we are ever vigilant to ensure our quality of life is preserved.

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

Mr Karran: A supplementary.

Would the Shirveishagh explain to this Hon. House: how often does the Customs boat go out? Does he not fear that he is giving this House more spiel than actual reality?

Will he assure this House that this issue will be seriously looked at, as there is none so blind as those that do not look? I would like more assurance of what actually is happening to make sure that this stuff is not coming into the Island, in order to stop arms coming in at the present time.

The Speaker: Minister to reply.

The Minister: I am sorry, Mr Speaker, I have no information on the Customs boat. I had not had that prepared, so I apologise for that.

The difficulty is always that, whilst there is no evidence of guns coming into the Island, it can be accused that this is spiel, rather than reality. At the moment, what we are doing is successful. We are not complacent. The Hon. Member talks

about seriously looking at this issue. I can reassure him that we are seriously looking at it.

It is the officers of the Constabulary who would be in the front line, were these issues to start developing. I know the Hon. Member wants more assurances about what is being done. However, there are certain things which it would be helpful to the criminal fraternity if they were aware of the policing tactics. All I can say is that we are investing, within the Constabulary, in issues related to gun crime.

We are putting legislation into the will of the House to support, because we are aware that we cannot remain complacent or untouched by such issues. The means and the mechanisms of getting firearms on to the Island are many and varied.

We do look and work very closely with the Post Office. However, we are aware, probably better than the Hon. Member is, as to how these arms may come into the Island, and which elements of the criminal fraternity would use them.

I do want to reassure the public this is preventative, to try and avoid the Island being placed in a position of fear from such weapons and, at the moment, we are doing well, but not complacent. So, we have got to get the balance right, that we reassure the public, but give them the reassurance that we will be monitoring this as closely as Hon. Members would expect us and I would ask the House to trust the Constabulary and my Department to fulfil the role, working with others to keep our Island as safe as possible.

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

Mr Houghton: Thank you, Mr Speaker.

Noting what the Hon. Minister has just said, how does he compare that with the lack of a port unit at the airport and the seaport at this time? Should that not now be restored and strengthened, in line with his very sensible recent policing policy that he has brought in now, where we have got inspectors in charge of their own divisions throughout the Island? His Department and the Constabulary are to be commended for that.

So, now, does he not think that the port unit should be re-established, for those very reasons that he has given, sir?

The Speaker: Minister to reply.

The Minister: Mr Speaker, I can understand the Hon. Member's comment and it is often portrayed by members of the public and Members of this House that the absence of a permanently located port unit at the harbour and the airport is an element which would allow issues to get onto the Island we would wish that would not.

We have to balance that alongside the utilisation of those officers and the intelligence that we get, and it is, as I have said before, a far more sophisticated criminal world who are importing, whether it be drugs or proceeds of crime or weapons, who are not going to walk through the sea terminal or the airport, carrying these items in their possession. There are already drug searches carried out at the ports. There is presence of Police officers, Customs officers and port security at both of those areas and it is the efficiency of that operation, rather than merely the reassurance of having people sitting there all day.

So, yes, the Police are aware of concern. I have taken it up with them, and will take it up with them again, as to whether

officers can be effectively deployed in those areas, but with the resources available it is felt that the intelligence model that we utilise means that we have a clear understanding of who is travelling to and from the Island in the criminal fraternity. Therefore, we target those specifics, rather than having people sitting there all day, every day, on the off-chance of catching somebody.

I do not make light of it. I am aware that it is a balancing act, but Hon. Members are trying to best guess what the police operational processes should be. I would urge them to talk to myself or the Constabulary, if they have concerns, so that we can bottom out why we operate in the way that we do and, hopefully, that would give the reassurance.

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

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that Members have written on a regular basis to him, in his former guise as a Minister of Transport? Would he not agree that some people are horrified at the lack of any sort of control on material that is coming through the ports in the Island?

You could get, I would suggest, an Exocet through Heysham or Liverpool, allowing from my personal experience the last time I went through Liverpool. I was, frankly, horrified.

Will he not start looking at doing, if not regular checks, spot checks on all luggage coming into the Island on a regular basis, in order to stop guns getting into the hands of criminals in the Isle of Man?

The Speaker: Minister to reply.

The Minister: Mr Speaker, the Hon. Member again refers to this as if this is current practice and is happening. There is no evidence that these guns that he alludes to are getting in. That does not mean we are complacent about it, but as I have answered in another place to the Hon. Member now, just recently and previously, the security at the ports where passengers travel to the Isle of Man comply with the standards of Transport Security and Contingencies (TRANSEC), which we also comply with on the Isle of Man.

It is obvious to any of us that the greater risk is for people moving on to the Island, than the security for which we are responsible at the ports. Therefore, we have partnerships with these authorities and we work with TRANSEC to ensure that they do a sufficient level of screening of both the passengers, the freight and the baggage coming to our Island. We know that there is a danger.

I would also try and urge the Hon. Member to accept that, just because he and a few of his people he discusses this with consider that this is the route where drugs or weapons will come into the Island, either by the Steam Packet or the planes, it is probably not the case. I wish the Hon. Member would accept that what we are trying to say is there is a variety of ways of getting these things into the Island, and it is no longer a simple case of somebody carrying in hand baggage where they have a high risk of detection, when there are other methods of getting it into the Island.

We will do the screening, we will do the work with the other ports, but the Hon. Member is again stretching into a fear to the elements of the public that we are taking this complacently. The level of security we operate for the Island is appropriate.

The Hon. Member would imply from his questions regarding the harbours that every vessel that comes to the Island, every vehicle leaving and freight that leaves, should be stopped and searched. If you were disguising a substance of drugs or a weapon within a vehicle, it would not be sitting on the back shelf; it would be buried deep within that vehicle. If the Hon. Member wants to put down a motion that we stop and search every vehicle coming off the boats, then he can put that down and we will see whether the House and the public are prepared to take the extra impact on the public for what we consider to be an excessive reaction to a low level of risk.

The Hon. Member forces me to imply that I am complacent about this, but only because his argument is flawed, Mr Speaker.

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

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree the bottom line is there is far more security on stuff going out of the Island being searched than ever is coming into the Island? Would he not agree that, as from personal experience, your bags are checked, are scanned going out of the Island, but they are never... I have never seen my bags being checked coming into this Island?

And would he not agree that allowing for Liverpool, in particular, with its drug culture and the lax way it is going, that he is being irresponsible, both as Minister of Home Affairs and former Minister of Transport?

Would he also circulate to this Hon. House the issue of how often the Customs boat goes out, how often it does its job and whether it is not just another ornament to give the impression, as far as this issue is concerned?

Finally, Vainstyr Loayreyder, will the Shirveishagh put pressure onto the Council of Ministers to stop the duplication, get the working party together to sort out the Manx Coastguard proposal that we have been trying to get sorted out, so that we can combine effort and make sure that we get value for money and protect the people of this Island from the danger that will come here, if we stay complacent?

The Speaker: Minister to reply.

The Minister: Mr Speaker, I will liaise with the Treasury regarding the Customs boat and circulate whatever information is deemed to be appropriate to go into the public circulation, without tipping off those who may be involved in criminal activities.

The Hon. Member, again, is portraying this as a battle between him fighting for the protection of the public and me being complacent and irresponsible. I can, for the umpteenth time, attempt to reassure the Hon. Member that, as the father of two teenage sons, a former teacher, a Member of this House and a member of our community, I, along with every other Member of this House share the concern of drugs, crime, guns and every other aspect which will put fear into our community and will also potentially damage the fabric of our society. So, it is not complacency.

However, the Hon. Member has got a number of issues that he has raised frequently in the past regarding the level of security in the ports coming into the Island. I have looked into that: they comply. I will go back to the Department of Transport and to the Police to, once again, affirm the concerns the Hon. Member has. However, he is portraying himself as

being the only person who is aware of the risks, and I find that offensive to the entire House, Mr Speaker, because we are all concerned about this.

The issue regarding the duplication, again, has been raised in the past. I give the Hon. Member an assurance I will talk to all of those bodies and the Ministers involved, who have vessels, to see if there is adequate overlap that we can actually coordinate. However, the Hon. Member implies that there is no dialogue going on already. These people work closely together and the Hon. Member is attempting to police (**Mr Karran:** Rubbish.) via the House, rather than allowing the professionals to get on.

I would far prefer him, if he has got questions on the policing of the Island, to come and talk to us, not in open House, so that I can then explain some of the tactics which the Police do use to disrupt and detect criminality on the Island, sir. (*Interjection by Mr Karran*)

Welcome to Mr A Rossendale, MP Good wishes to House of Commons Speaker Martin

The Speaker: Hon. Members, before I move onto the next Question, can I just take this opportunity to welcome, in our public gallery, Mr Andrew Rossendale MP, the MP for Romford, who was our guest at the CPA dinner last evening.

He is a good friend to the Island, he is Chairman of the UK-Isle of Man All-Party Parliamentary Group and has a great interest in our affairs and our way of life. We thank him for everything that he does on our behalf and giving the support he provides.

Can I, sir, also ask you to extend the good wishes of myself and the House back to Speaker Martin, and hope that he is recovering well from his serious operation?

Several Members: Hear, hear.

TREASURY

Part-time staff pensions and sick pay Effect of House of Lords ruling

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

With reference to the recent House of Lords ruling over the pensions and sick pay of part-time staff, does this have any effect on the Isle of Man Government or further liabilities?

The Speaker: Hon. Members, we move onto the next Item on the Order Paper which is Question 3. 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, Treasury Minister, to reply.

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

I presume the Hon. Member is referring to the judgment made on 1st March 2006, in the House of Lords, in the case of *Matthews and others v Kent and Medway Towns Fire Authority and others*. My understanding is that this case was brought under the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000, introduced by the Department of Trade and Industry in the United Kingdom, based on an earlier European Union Directive.

The Regulations give part-time workers the right, in principle, not to be treated less favourably than full time workers who work for the same employer under the same type of employment contract.

The Regulations also provide examples of areas of less favourable treatment, which include access to sick pay and to pension schemes. It was in respect of these items that the House of Lords judged that the retained fire fighters, as part-time workers, had been treated differently.

The situation in the Isle of Man is that similar legislation has not been brought into effect, although enabling powers are contained within the Employment Bill 2005. The majority of part-time public sector employees already enjoy the benefits of pension and sick pay schemes on the same terms as their full time colleagues. Therefore, if such Regulations are given legal effect in the Isle of Man, the impact on Government liability may be limited to a relatively small number of staff.

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

Mr Karran: Vainstyr Loayreyder, can the Shirveishagh just inform this Hon. House whether we could be forced, under Human Rights legislation, to bring in this implication?

Can the Shirveishagh, also, inform this Hon. House whether the issue is that we need to be proactive, instead of reactive, if we end up with a situation where we are under a lot of pressure, budgetary-wise, in the future, over our existing commitments, that we should find out what implications that will have, as far as the people who are working for us on a part-time basis?

The Speaker: Minister to reply.

The Minister: Mr Speaker, the Hon. Member raises some valid points.

I am sure, though, that although this judgment has only just been made, the Government will be considering the implications of that, in relation to Human Rights and, indeed, whether or not there is an obligation on the Island to introduce further improvements on the employment legislation that we have.

I did, Mr Speaker, say, in my Answer, that the Employment Bill, which is before us again today, contains some enabling provisions which would allow further subordinate legislation to come in, to possibly fill any gaps, should there be any.

In terms of what the wider implications to Government are, Mr Speaker, at this stage, I have to say it is too early to say, but I am assured that this situation is being looked at, and we will have a better idea in due course.

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

Mrs Cannell: Thank you, Mr Speaker.

Mr Speaker, will the Treasury Minister agree with me that there is a moral obligation in the Isle of Man to ensure that

our part-time workers, especially in our services industry, are treated equally with their equivalent counterparts within the United Kingdom? Does he agree with me, we would not want to treat our own workers any less favourably than the British Government are treating theirs?

The Speaker: Minister to reply.

The Minister: I would agree with the Hon. Member, Mr Speaker, and I would just reiterate what I said in my Answer. As far as we understand, at the moment, the vast majority of Government workers are treated – full and part-time workers, rather – are treated equally under our legislation, as it is. If there are any areas to be investigated, they are only, really, a tiny minority of Government workers.

HOME AFFAIRS

Penal review Findings

2.4. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Home Affairs:

In the light of the new prison, when are we to see the findings of the promised penal review?

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

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

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

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

I make no apologies for the length of this Answer, because it is an important issue, and it does give me the opportunity of updating the House with our current position and thinking.

As the Hon. Member is aware, it has, previously, been stated that my Department is committed to this review and is mindful of his interest in the review coming forward. To date, we have addressed the issue, with the first draft of the remit for the penal review, and have made approaches to ascertain who of suitable calibre and experience would be available to carry out the review.

We have already concluded that a penal review should be wide ranging and should cover, as a starting point, the criminal justice legislation of the Island, with a view to looking at legislation elsewhere, which may be more effective. We have already begun this process, and I hope to be shortly bringing the Criminal Justice, Police and Courts Bill to the Hon. House.

Moving on, there would be a need to review sentencing practice, to ensure we are sentencing the right people in the right way, subject to evidence on what reduces offending and protects the public best. We need to be aware that criminal justice is not a one fit to all situations. Young offenders will respond differently to certain punishments than do, say,

older offenders, and I am keen to ensure these differences in effectiveness are recognised. Ultimately, we will also need to address the issues of effectiveness and the cost involved, in terms of a wide range of resources.

In terms of criminal justice, these are exciting times. Currently within England and Wales there is the establishment of NOMS, which is the National Offender Management Service, which is, in essence, the joining of the probation and prison services. Already, a Member of the Department, Mr Gill, MHK has been in consultation with the appropriate UK Department and has visited the United Kingdom on this matter.

This is an attractive option for the Island, given the finite resources at our disposal and the long-term aspiration of the Department to establish a joined-up criminal justice system. If we can not do it, Mr Speaker, on a small Island, then we deserve to be criticised.

It may well be that a joining-up of these services would entail better use of staff resources and economies of scale, in terms of training, not to mention a more joined-up awareness of risk assessment and the possibility of a seamless service for offenders, from sentence to rehabilitation.

In Northern Ireland, there are technological advances which allow various elements of the criminal justice system to communicate across divisions, in essence activating the recommendations of the Bichard Inquiry relating to the Soham murders. A reliable computer system which eradicates duplicity, but maximises information sharing, will surely be a must for any review to look at. There are, of course, other IT systems elsewhere and these also need to be evaluated.

I am keen to ensure that, when we move into the new prison in Jurby, we do so with the best and most appropriate information system available that will unify our probation and prison information systems, that will allow the Police to talk to these services, and will allow the courts to interface, so that we can track offenders from arrest to the end of post-release supervision. I can, certainly, see, Mr Speaker, the saving in both input time and duplication in terms of staff hours that such a system would provide.

In addition, there are new sentencing options in legislation in England and Wales, albeit not yet enacted, and these relate to intermittent custody, incorporating executive release and statutory supervision. Again, the Hon. Member will appreciate that the most up-to-date snapshot available will better inform the review itself.

We have, as a Department, already embraced electronic monitoring, and are due to evaluate this, in the next two months, in terms of value for money. I am aware, through advice from my officers, that we are only scratching the surface, in terms of technological support, in terms of safeguarding the public. The extension of such measures as electronic monitoring need to be looked at very carefully. The tracking of offenders, for instance, could assist in safeguarding against the most dangerous offenders we have on the Island.

Mr Speaker, I would add that the Department is due to host both probation and prison HMI inspections during the month of March 2006. I will be taking the opportunity to gain advice and information from both these bodies, in relation to the planned review and, indeed, to gather information about contacts in other jurisdictions to ensure we have as wide-ranging an evidence base as possible.

I would, finally, inform the Hon. Member that I am keen to both progress this issue and will do as soon as I have to hand the information I feel is comprehensive enough for a

detailed brief.

Thank you, Mr Speaker.

The Speaker: Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that there is a lot of concern what safeguards there are going to be that the extra beds in the new prison will not end up with more social inadequates being put there, turning the prison into some sort of Social Services unit – for example, the number of alcoholics who seem to end up in our prison?

Would the Shirveishagh not agree that it is a shame that the block vote stopped my motions, over the years, for a penal review, before the building of a prison? Will the Shirveishagh make sure that that does not cloud the issue, allowing for the fact that we are spending millions on a prison that we will look for the most progressive and positive way of dealing with crime on the Island?

Can the Shirveishagh tell me: do we have to wait until the working party on this penal review that should have been done 10 years ago... before we see any extra accommodation of facilities for a new halfway house, to try and get these people who then get out of prison from being forced back into the hands of the very people who got them into the crime, in the first place?

The Speaker: Minister to reply.

The Minister: Well, Mr Speaker, again, it is a useful opportunity for me to extend to the House some of the active considerations the Department is doing. This is not in regard to merely questions from the Hon. Member, but is what is actively going on throughout the year within my Department.

We are graphically aware of the inadequacy, albeit a superb facility, which we have in the David Gray House. I have met, only recently, with the Salvation Army, once again, in order to discuss options to take forward for a wet house for the alcoholic problems; we are already dealing with the DHSS, regarding the homeless situation; we have had meetings in the Council of Ministers' subcommittee regarding this very issue.

It is something that we are all graphically aware of: that, in the past, the David Gray hostel has, in my opinion, bailed out the Government from providing adequate services for certain people in our community. (**Mrs Hannan:** Hear, hear.) The facilities and the premises there are in need of some work and my Department is contributing monies towards that work, in order to maintain it in an interim period until an agreed solution can be found between my Department and the Salvation Army.

As Hon. Members will understand, these do not happen overnight, but I would urge the Hon. Member to realise a lot of us would like to work with him, if he comes and talks to us, to explain what is actually going on behind the scenes.

I, and I am sure the majority of this House, would prefer the most successful means of operating our prison would be with the fewest inmates possible. Even if it has got to be scaled to a certain size, there is no intention of my Department to fill it.

If we can get rehabilitation right, if we can work between probation and prison right, then we do have an opportunity of genuinely reducing the number of offenders and, particularly, re-offenders.

So, I am quite happy talking further, but I will leave it at that, Mr Speaker.

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

Mr Karran: Vainstyr Loayreyder, a supplementary.

Would the Shirveishagh remember that we were promised, over 18 months ago, that there was something going to be done about a wet house by the Department of Local Government and the Environment? Will he raise the issue with the Council of Ministers on that point?

Can the Shirveishagh tell us where we have got to, as far as getting the extra beds that are needed for the David Gray House facility? Can we have some timescale? I would be more than happy to work on any working party if the Rheyynn son Cooishyn Sthie, Department of Home Affairs, wanted us to do so, as far as the issue.

Can we have a timescale for the bail hostel? It has been going on for the last 10 years, more than likely, that there has been a need for a review and an increase in its facilities.

The Speaker: Minister to reply.

The Minister: I am not going to be committed, Mr Speaker, to timings, other than to say that my Department, at officer level, and now political level, are discussing with appropriate Departments to find out these options. It is my belief that the whole of the House acknowledges our responsibility to deliver a service in this area. I cannot conjure it out of a hat, and I accept and would share the frustration that these things take too long.

But I would assure the Hon. Member that discussions are ongoing, regarding the wet house and other facilities. I am not privy to all of what has gone on before, but I will take it up with the Member outside of the House.

Just a reassurance: the political and officer level of the appropriate Departments are actively looking at this and are attempting to find a solution. Any support from the Members would be appreciated.

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

The next Item on our Order Paper is Questions for Written Answer, of which there are four and will be circulated to the House, in due course.

Questions for Written Answer

HEALTH AND SOCIAL SECURITY

Revised GP contracts Details of changes

3.1. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Health and Social Security:

- (1) When did the revised GP contracts come into operation;
- (2) what are the specific changes as compared to the previous contracts; and

(3) would you circulate a copy of the new contract to all Members?

Answer: In answer to the Hon. Member's Question:

(1) The new general medical services contract came into effect on 1st April 2004.

(2) Before April 2004, the Department maintained a list of general practitioners who were required to provide general medical services in accordance with the National Health Service (Isle of Man) Medical and Dental Services Regulations 1978. From 1st April 2004, the Department has entered into a number of contracts for the provision of general medical services with individual single-handed general practitioners, partnerships, or companies, for the provision of services.

In accordance with the regulations, general practitioners were remunerated for services, in accordance with a statement of fees and allowances which, in general terms, rewarded them for the number of patients they had registered and the number of items of service provided to those patients.

The new general medical services contract offers many benefits for contractors and other members of the primary healthcare team, but its ultimate purpose is to improve patient care.

The contracts consist of a core payment which, rather than being based solely on numbers, rewards contractors for providing general medical care, with payment being weighted by a number of factors, such as the age and sex of patients, morbidity and mortality, high dependency patients such as those in nursing and residential homes, and list turnover.

However, the main change compared to the previous contract is seen as being the greater focus on quality and outcomes, and the introduction of a framework designed to record and assess these measures. Practices have the opportunity to receive additional remuneration, following the achievement of a set range of quality standards. This quality framework has four main components focusing on:

(i) Clinical standards, covering coronary heart disease (CHD), stroke or transient ischaemic attacks, hypertension, diabetes, chronic obstructive pulmonary disease (COPD), epilepsy, cancer, mental health, hypothyroidism, and asthma.

(ii) Organisational standards covering records and information about patients, information for patients, education and training, practice management, and medicines management.

(iii) The patient experience of how services are provided and their involvement in service development plans.

(iv) Additional services, such as minor surgery, vaccinations and immunisations, child health surveillance, and cervical screening.

The quality framework is measured through an annual review, which includes a practice report and a visit by an audit team. The team includes a representative of the Department, a General Medical Practitioner and a lay person.

The Department is satisfied that the introduction of remuneration based on the achievement of certain quality standards provides better services to patients.

There are a number of other slight variations introduced in the way contractors are paid, or the way services are provided, all of which are aimed at enhancing patient care.

(3) The contracts issued by the Department for general medical services, although containing some core elements

are individual to each contractor. However, the Department would be happy to circulate a copy of a typical contract to all Members, if that is the wish of the House.

TRANSPORT

Governor's Hill 'ghost island' proposal Consideration of mini-roundabout

3.2. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Transport:

Will you reconsider your Department's proposals to introduce a 'ghost island' at the junction of Governor's Hill – Hailwood Avenue – Watterson Lane and introduce a mini-roundabout instead?

Answer: The mini roundabout option was rejected on grounds of cost and land requirements. In addition, traffic surveys had demonstrated that there was a very light right turn flow out of Hailwood Avenue.

As a result of a letter from the Hon. Member to the Department, the design process was re-visited and with a view to validating the design decision, the following traffic figures (see Table 3.2A) were obtained for the junction between 7.30 a.m. and 9.00 a.m. on 5th January:-

Table 3.2A

Vehicles travelling north up Watterson Lane	222
Vehicles travelling south down Watterson Lane	745
Vehicles turning right off Watterson Lane	200
Vehicles turning left off Watterson Lane	44
Vehicles turning left off Hailwood Avenue	289
Vehicles turning right off Hailwood Avenue	11

Maximum queue length on Hailwood Avenue at any one time: six vehicles – queue length cleared in 42 seconds.

These results agree with the previous survey undertaken and support the contention that, because the flows are unbalanced, a mini-roundabout is not the appropriate design solution.

The full range of design options were placed before the Department's Policy and Strategy Committee, where all options were subjected to questioning from Departmental Members. The Committee approved the recommended option.

Accordingly, the Department's intention now is to progress this option through the planning process and land acquisition, such that the final section of the Douglas outer link can be provided, in accordance with the Department's business plan, as a scheme in the Government capital programme.

The design options for the junction of Watterson Lane with Hailwood Avenue were prepared by staff in the Department of Transport's Design Services Division. It is normal practice, when tasked with a highway improvement, for the design engineer to examine all feasible options which would deliver the desired safety and capacity aim. The improvement of Watterson Lane was a typical brief in that respect.

The criteria which the design options are checked against are cost, land requirements, environmental impact and buildability.

AGRICULTURE, FISHERIES AND FORESTRY

Heather moorland and semi-natural habitat DAFF and public owned land

3.3. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Agriculture, Fisheries and Forestry:

- (1) *Can you confirm that the Manx heather moor is of European significance;*
- (2) *approximately what is the square mileage of the Isle of Man and also in hectares;*
 - (a) *what approximate percentage is heather moor of the overall land mass;*
 - (b) *what percentage of land left approximately would be classed as semi-natural habitat in terms of our overall land mass;*
 - (c) *approximately how many acres/hectares of land does your Department own (excluding acres of coniferous forestation) or have in public ownership;*
 - (d) *what percentage of Department of Agriculture, Fisheries and Forestry land is in public ownership and classed as upland;*
 - (e) *what percentage of Department of Agriculture, Fisheries and Forestry owned land is in –*
 - (i) *heather moor; or*
 - (ii) *blanket bog;*
 - (f) *overall, in percentage terms, how much of Department of Agriculture, Fisheries and Forestry owned land is classed as semi-natural habitat, and does this include heather moorland; and*
- (3) *can you confirm that semi-natural habitat is some of the most special and important land/habitat in respect of our natural heritage?*

Answer: (1) Yes. Manx heather moor is among the Manx habitats which have been recognised as internationally important for wildlife conservation.

The European Community Habitats Directive lists internationally important habitats. They include Northern Atlantic wet heath, European dry heath (most of our moorland falls into this category) and blanket bog, which is a special priority habitat.

(2) The Land Area is 227 square miles (from IoM Government website). This is 57,200 hectares or 141,300 acres.

(a) The percentage overall is 11per cent (including both bilberry and heather areas).

The DAFF Biological Database has figures both for pure heather moorland (15,738 acres or 6,371 ha) and for heathland which is mostly moorland but with scattered grassland patches (nearly 17,000 acres or 6,864 ha). Hence the percentage is slightly higher, 12 per cent, if you include all the heather within more mixed grassy areas. The figure for pure heather moorland coincides fairly well with the figure for registered heathland.

(b) The DAFF Ecological Survey showed that semi-natural habitats make up 29 per cent of the land area of the Island. If you take away the pure heathland element from this, the semi-natural habitats come to 18 per cent of the overall land mass, so heathland is clearly a dominant feature (making just over one-third of semi-natural habitat on the Island).

(c) Excluding plantations, the Department owns around 20,650 acres or 8,360 hectares (Ha.)

The Department is responsible, through ownership or lease, for the management of a forestry, hill-land and National Glen estate of some 28,000 acres (11,340 hectares) spread across all regions of the Island. This comprises the following:-

Hill-land owned by DAFF extends to around 19,700 acres (7,975 Ha.) plus land leased, amounting to around 300 acres, (120 Ha.) as follows:

- Eary Cushlin, owned by Manx Museum and National Trust,

National Glens and amenities owned by DAFF such as Sulby Claddaghs, The Ayres and the Tynwald National Park, extend to around 950 acres (385 hectares), plus land leased amounting to around 50 acres (20 Ha.), as follows.

- Groudle Glen, owned by Onchan Commissioners
- Lhergy Frissel, owned by Ramsey Commissioners
- The Raggatt, owned privately
- Lower Silverdale Glen, owned by Manx Museum and National Trust

Plantations owned by DAFF extend to around 6,700 acres (2,700 ha.) plus land leased amounting to around 300 acres (120 ha.) as follows:

- Earystane Plantation, owned by IOM Water Authority
- Ballure Plantation, owned by IOM Water Authority,
- Fleshwick Plantation, privately owned

(d) The DAFF owned estate is entirely in public ownership.

The hill lands vested in the Department (which are open to public ramblage by virtue of the Forestry Act 1984) extend to approximately 20,000 acres (8,000 ha.), or 71 per cent of the total owned and vested estate.

(e) (i) Approximately 50 per cent of the DAFF estate consists of heather moorland, almost all of it within the hill land holdings.

(ii) Just under 1 per cent of DAFF land is strictly classified as blanket bog, according to the DAFF Biological Database; however, this increases to just over 4 per cent if other, similar kinds of wet, mire habitats are included, such as valley mires in upland areas.

(f) The figure is estimated at around 55 per cent, including heather moorland, which makes up the majority of the semi-natural habitat on DAFF land. Other semi-natural habitats include parts of the National Glens, the Ayres, some of the less-improved pastures, and river corridors through DAFF land.

Many coniferous plantations also contain a proportion of semi-natural habitat (locally a high proportion, in cases such as Stoney Mountain), either around or within the planted area or as broadleaved species planted since cropping the conifers and natural regeneration of heather, in the case of Conrhenny.

(3) Yes. Semi-natural habitats occur when plant and animal communities develop naturally on areas which are influenced by human activities – such as managed uplands – and form ecosystems which may be just as rich and diverse as a completely unaltered, ‘natural’ habitat. Hence semi-natural habitats are of great importance for the conservation of – and public enjoyment of – Manx biodiversity. This is not to devalue the importance of more intensively-managed areas of the Island, as they also offer a home for many wild plants and animals. However, without the semi-natural habitats, both the biodiversity and the landscape of the Island would be deprived of its great richness and unique beauty.

Map of heathland proposed for registration



LOCAL GOVERNMENT AND THE ENVIRONMENT

**Housing
Braddan Commissioners' stock and deficiency**

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

- (1) What is the total housing stock held by Braddan Parish Commissioners;
- (2) of what do the accommodation units comprise; and
- (3) what is the latest housing deficiency?

Answer: (1) 185 units.
(2) See Table 3.4A.

Table 3.4A

	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	Total
Houses	3	69	67	2	0	141
Apartments	4	16	0	0	0	20
Bungalows	0	24	0	0	0	24
Total	7	109	67	2	0	185

(3) £421,443 (forecast figure for year ended 31st March 2006).

Orders of the Day

BILLS FOR CONSIDERATION OF COUNCIL AMENDMENTS

Dogs (Amendment) Bill **Council amendment approved**

4.1. Mr Rimington to move:

That the Council's amendment be agreed and that the Bill do now pass.

*Clause 3 –
Page 2, lines 15 and 17: in the proposed new section 24 in subsection (1)(a) and (b) omit the words 'at any time of day'.*

The Speaker: Item 4 on the Order Paper, Bills for Consideration of Council Amendments. I call on the Hon. Member for Rushen, Mr Rimington. Dogs (Amendment) Bill, sir. Item 1.

Mr Rimington: Thank you, Mr Speaker.

I hope the House will support the amendment that has come from the Legislative Council. It is a very limited amendment which was introduced, indeed with the support of the Department, when they were actually starting to work on the model byelaws for local authorities.

They identify what might be a lack of clarity or a weakness in the way that the legislation was framed by the reduction of the phrase 'at any time of day'. It removes what could be a contradiction, in the few lines above, where it says 'during a specified period of time'.

So, it is a minor technical amendment to assist with the making of byelaws under the Dogs Act. I beg to move.

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

Mr Henderson: Gura mie eu, Vainstyr Loayreyder. I beg to second, sir, and reserve my remarks.

The Speaker: Hon. Members, the motion before the House is that the House do accept the Council amendments to the Dogs (Amendment) Bill, as set out on our Order Paper. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Employment Bill **Council amendments approved**

4.2. Mrs Craine to move:

That the Council's amendments be agreed and that the Bill do now pass.

Clause 131 –

Page 112, line 7, after 'the age of 65' add 'or such other age, not being less than 65, as may be prescribed.'

Clause 134 –

*Page 114; line 22, for sub-clause 134(2) substitute –
'(2) In relation to a complaint under section 132 (complaints to tribunal) that a dismissal was unfair by virtue of section 124 (dismissal : protected industrial action), or where the circumstances of the dismissal were either of those specified in section 129 (2) (a) or (b) (selective dismissal or re-engagement arising out of industrial action), no order shall be made under subsection (1) until after –*

(a) in relation to a complaint under section 132, the conclusion of protected industrial action by any employee in relation to the relevant dispute; or

(b) where the circumstances of the dismissal were either of those specified in section 129 (2) (a) or (b), the conclusion of industrial action by any employee in relation to the relevant dispute.'

Clause 141 –

Page 120, line 10, after 'the day of the employee's birth,' insert 'or such later anniversary as may be prescribed.'

Clause 148 –

Page 126; line 35, in sub-clause (3) of clause 148, insert before 'The sum payable', the words 'Subject to subsection (6).'

Page 127; line 16, after sub-clause (5) of clause 148 add –

'(6) Where the scheme in question is a money purchase scheme, the sum payable under this section by virtue of subsection (3) shall be the lesser of the amounts mentioned in paragraphs (a) and (c) of that subsection.

(7) The Department shall not make any payment under this section unless an application under subsection (1) is made before the end of the period of 12 months beginning with the date on which the employer became insolvent.

(8) In this section –

"on his or her own account", in relation to an employer, means on his or her own account but to fund benefits for, or in respect of, one or more employees; and

"money purchase scheme" means a pension scheme under which –

(a) all the benefits that may be provided are money purchase benefits

(b) all the benefits are made in relation to a member of a personal or occupational pension scheme or, in respect of such a member, his or her widow, widower or surviving civil partner as defined in section 1 of the Civil Partnership Act 2004 (of Parliament);

(c) the rate or amount of those benefits is calculated by reference to a payment or payments made by the member or by any other person in respect of the member; and

(d) the rate or amount of those benefits is not calculated by reference to the average salary of a member over the period of service on which the benefit is based.'

Clause 152 –

Page 131; line 4, in clause 152(6), for 'against' substitute 'of'.

Schedule 6 –

Page 184; Schedule 6, in paragraph 10 for ‘£385.00’ substitute ‘£420.00’.

Schedule 8 –

Page 190; Schedule 8, in the amendments to the Trade Disputes Act 1985, for paragraph 2(i) substitute –

‘(i) in subsection (1) for “Council of Ministers shall forthwith establish a court of inquiry” substitute “Council of Ministers shall forthwith direct the Appointments Commission to establish a court of inquiry”’.

Page 192, Schedule 8, in the amendments to the Redundancy Payments Act 1990, after paragraph 2 insert the following and re-number subsequent paragraphs accordingly –

‘3. In section 2(1) –

(a) in paragraph (a)(i) after “less than 65” insert “or less than such other age not less than 65, as the Department may by order prescribe,”

(b) in paragraph (b) after “the age of 65” insert “or such other age, not being less than 65, as the Department may by order prescribe.”’

Page 196, after paragraph 16 insert the following and re-number subsequent paragraphs accordingly –

‘17. In Schedule 1 paragraph 2 after “the 64th anniversary of his birth” insert “or such later anniversary as the Department may by order prescribe,”’.

Page 196; Schedule 8, in the amendments to the Trade Unions Act 1991, in paragraph 1(ii) for the proposed new section 13(3)(ba) substitute –

‘(ba) the trade union has, as soon as reasonably practicable, notified all persons entitled to vote in the ballot, the employer and an industrial relations officer, of the result of the ballot (in this section referred to as “the official ballot result”), namely –

(a) the number of persons entitled to vote in the ballot;

(b) the number of votes cast in the ballot;

(c) the number of individuals voting “Yes”;

(d) the number of individuals voting “No”;

(e) the number of spoiled ballot papers;’.

Page 196; Schedule 8, in the amendments to the Trade Unions Act 1991, in paragraph 1(iii), in the substituted wording after ‘received notification of industrial action’ insert ‘under paragraph (bb)’.

Page 197; Schedule 8, in the amendments to the Trade Unions Act 1991, after paragraph 1 insert a new paragraph 2 as follows and renumber subsequent paragraphs:

2. For section 14(4)(i) substitute –

‘(i) after the expiry of a period beginning with the day on which the employer and an industrial relations officer received notification of industrial action within the meaning of section 13(3)(bb) and ending on the notification to the trade union of the decision of a court of inquiry under section 3A(3) of the Trade Disputes Act 1985; and’.

Page 199; Schedule 8, in the amendments to the Trade Unions Act 1991, in paragraph 7 of Schedule 1, delete sub-paragraph (e).

Schedule 9 –

Page 203; Schedule 9, in the repeals relating to the Trade Unions Act 1991, in the third column for ‘Schedule 1 paragraphs 2(3), 2(4) and 2(6)’, substitute ‘Schedule 1 paragraphs 2(3), 2(4), 2(6) and 4.’.

The Speaker: Item 2 – Employment Bill. Hon. Member for Ramsey, Mrs Craine.

Mrs Craine: Thank you, Mr Speaker.

The Employment Bill is returned to us today for consideration of several amendments that have been made by Legislative Council. The amendments which have been made by Council all have the support of the Department and, indeed, the Department sponsored most of them. I will go through these amendments.

The first amendment, which was moved by Mrs Christian, MLC, concerns clause 131(1)(c). Under that clause, employees may not normally bring a case of unfair dismissal if they have attained the age which, in the particular undertaking, is the normal retirement age for an employee holding the position he or she held. Where there is no normal retiring age, employees aged 65 and over may not normally bring an application for unfair dismissal, except if the dismissal is for a reason prescribed by clauses 114-127, such as whistle-blowing or racial discrimination.

The amendment to the clause allows the Department to alter the default retirement age of 65 by Order. This would be useful, if the retirement age were ever to be increased, because it would protect employees under any new retirement age against unfair dismissal.

Other consequential amendments are elsewhere, in both the Employment Bill and the Redundancy Payments Act 1990.

Moving on, clause 134 presently prevents the Employment Tribunal from ordering re-employment in a case where lawfully organised official industrial action is ongoing. This is in order not to inflame a difficult situation further.

A Department sponsored amendment to the clause deals with a gap, whereby the Tribunal could order an employee to be re-employed, where other forms of industrial action were ongoing, for example, where the industrial action was unlawful or unofficial.

The next amendment is to clause 141(3) and is consequential to the amendment to clause 131(1)(c), which concerns the default retirement age. Again, this was moved by Mrs Christian, MLC.

Amendments to clause 148 make certain technical changes, regarding the right of employees to have unpaid pension schemes contributions paid, where their employer becomes insolvent. These amendments were made by the Department, at the request of the DHSS and achieved the following.

A new subclause (6) provides that the method of calculating the sum payable under subclause (3) of clause 148, in respect of unpaid pension contributions, is modified where the pension scheme in question is a money purchase pension scheme, rather than a salary related pension scheme, to take into account the different ways in which the rate or amount of benefits are calculated under the two types of scheme.

A new subclause (7) inserts a time limit of 12 months from the date of the employer’s insolvency for applications to be made for sums to be paid by the Department of Health and Social Security, in respect of unpaid pension contributions under clause 148. This corresponds to the same time limit

which applies to other sums to be paid by the DHSS under clause 146. A new subclause (8) defines certain terms as they appear in clause 148.

Moving on the amendment to clause 152, which the DHSS asked the Department to make, corrects a drafting error.

Clause 169 introduces schedule 6, paragraph 10, which is amended to increase the maximum amount of a week's pay from £385 to £420, which is the approximate value of median earnings in 2005.

The Department chose to bring forward this amendment in response to Members' concerns at the clauses stage of this House. Whilst the Hon. Mr Gill would, no doubt, have liked the Department to increase the limit still further, I am sure he will be pleased that the Isle of Man limit is now 50 per cent greater than the corresponding UK limit. (**Mr Duggan:** Hear, hear.)

Clause 175 introduces schedule 8, which amends other Acts. A number of amendments have been made to this schedule.

First, a drafting clarification is made to the amendment to the Trade Disputes Act 1985.

Secondly, section 2 and schedule 1, paragraph 2, of the Redundancy Payments Act 1990 are amended to allow the default retirement age to be amended, by Order, in line with the other amendments made by Mrs Christian, MLC, which have already been discussed.

Thirdly, some drafting errors are corrected in the amendments to the Trade Unions Act 1991, and there is a consequential amendment to the list of appeals.

Mr Speaker, I beg to move that the amendments proposed by the Legislative Council be approved, and the Bill now go forward for Royal Assent.

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

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

The Speaker: Hon. Member for Rushen, Mr Gill, to move your amendment, sir.

Mr Gill: Thank you, Mr Speaker.

Mr Speaker, the figure at schedule 6, to which I have an amendment to again put before the House, should read £500:

*Schedule 6 –
Page 184; Schedule 6, in paragraph 10 for '£420.00'
substitute '£500.00'.*

It should read £500, because the calculation for this figure was always done on the basis of an average.

The figure that was previously in the Bill, £385, was based on an average. It was six years out of date. The DTI accepted that this was out of date.

So, now we have a change, not only in the figure, but a change in the calculation method and the change in the calculation method is to base it on a median figure, which is £420. So, at least, it is an admission by the DTI that their initial figure was flawed.

I have to say, in my discussions, with the Department, they voiced some concern that anybody would actually check the figure. Well, surely, that is the role of this House, and, having checked it, surely it is the role of this House to

accept a fair figure.

The fact that the DTI did not consult on a fair figure and that the DTI consulted on a figure which is six years out of date, frankly, is a matter for them to resolve and not for this House to concur with.

I do take the point from the mover that the figure, as proposed, may be in excess of another jurisdiction, but, at the end of the day, this is a figure to reflect Manx circumstances. That figure, to reflect Manx circumstances, up until six years ago was based on an average. If we are intent on breaking that calculation method, and, instead, introducing a median method, which is what the Department is now proposing, then we will be short changing people who are entitled to fairness that this Bill was purported to be based upon.

That means that £80 per week is the shortfall that people who would need this figure will find themselves in. I cannot believe that that is the intent of the DTI. However, that is the effect of it.

So, Mr Speaker, I do have the amendment. The amendment is to say £500. That is the average figure which has, traditionally, been the calculation. It is a shame that the Department has not seemed to maintain that arrangement and, whilst I acknowledge that £420 is towards it, it is still not the proper amount.

Mr Speaker, if I use the analogy: if you were to lend somebody £5, and they gave you £3.85 back, I do not think you would accept it, because £5 is what you are due. Then we will say, 'Well, we will call it £4.20 – now stop moaning! At least you are getting a bit extra than what I was previously going to short-change you!', I do not think that would satisfy you, and you would be quite right to be dissatisfied.

Mr Speaker, the working people who this will affect, sadly, but as and when it does, are entitled to the fair average figure. That fair average figure is £500. That is the effect of my amendment. I do hope that the Department will actually lead this and will actually accept this figure. It is consistent with their previous practice and reflecting a contemporary figure. I beg to move.

The Speaker: Member for Onchan, Mr Karran.

Mr Karran: Point of order.

Can you explain how we are having an amendment to this situation? I do not understand it, and I have been in here 20 years. Can we consult with the Clerk?

The Speaker: Hon. Members, the House... Well, I am happy for the Secretary of the House to give advice, but I can advise you that an amendment to Council amendments is an appropriate way forward, if the House so wishes.

Mr Karran: Is it a suspension of Standing Orders? Is it a 13 clear majority?

The Speaker: No, Hon. Members, it is not a suspension of Standing Orders, taking the precedent set by the House when we are dealing with motions, where matters come before the House where there is not an opportunity to put amendments in the way that would happen in our normal procedure for dealing with Bills at their clauses stage.

Mr Cretney: Mr Speaker.

The Speaker: Hon. Member for Douglas South.

Mr Cretney: Further clarification: my understanding was that, if a Member was dissatisfied with the decision that the Legislative Council had arrived at, there would be a move to disagree with the amendments proposed by the Legislative Council, rather than the method which is being used here.

The Speaker: There are opportunities, Hon. Members, for a Member to move that the House disagrees with the amendments from the Council, or there is an opportunity to amend the motion before the House.

The opportunity the Hon. Member wishes to take is to amend the motion before the House. I take the view, which the House has accepted previously, that where we have something on the Order Paper which does not allow for the normal provisions... and our Standing Orders, Hon. Members, are being updated and have been sent round to Members for consultation, these provisions will all be tidied up.

The House has tended to take a lenient view, to at least enable a Member to put that before the House. I, therefore, as Speaker of the House, have taken the view that that has been the precedent.

I do not know if the Secretary wishes to add anything more which may help.

The Secretary: Mr Speaker, the only thing I would add is – it may confuse Hon. Members a little – if Mr Gill, as the Hon. Member for Rushen, was moving an amendment which was entirely new, he would, indeed, need suspension of Standing Orders.

But this is an amendment to one of the Council's amendments, and Standing Order 160 quite clearly provides that such an amendment may be moved, and there is no requirement, as in the case of the clauses stage, for prior notice.

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

Mr Henderson: Gura mie eu, Vainstyr Loayreyder. I beg to second, sir, and reserve my remarks.

The Speaker: You cannot reserve, Hon. Member.

Mr Henderson: I beg to second.

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

Mrs Craine: Thank you, Mr Speaker.

Hon. Members will remember that, when we were bringing forward these clauses, the clauses stage of the Bill, Mr Gill was particularly keen that this figure should be set at £500. This was based on average earnings.

At that time, we undertook that we would go back and we would consult with the DHSS, on which this has a knock-on effect. The consultation with DHSS and, in fact, also with Treasury, because these do have an effect with regard to payments, concluded that, at the present time, it was appropriate that the figure that we should agree to come to was £420 – £420 is the median earnings, the estimated value of median earnings for 2005.

I accept the criticism, and we accepted the criticism back before Christmas, of the Hon. Member, that the initial figure was out of date. That is why we agreed that we would have a form of revision.

The revision has been made, and the revision stands at £420. As I said, in moving the amendments, that is, in fact, now a figure which is 50 per cent more than the comparable figure in the UK. The DHSS has estimated that increasing the existing limit to £420 will already result or could already result in an additional burden on the National Insurance Fund of approximately £20,000 per year.

I would suggest, Mr Speaker, that if we were to readdress this, in seeking to raise this even further, then we would need to go back and consult further, both with DHSS and with Treasury.

We obtained the agreement of the Department of Health and Social Security to go with that figure, and Treasury confirmed that concurrence was not required for that proposed increase. However, if that were to increase further, I feel that we would have to return to Treasury.

I would say, Mr Speaker, that whilst the Hon. Member has been arguing this point, I would point out, first of all, that there is no prescribed statutory basis for calculating the maximum of a week's pay. There is a good case for linking the limit to median earnings, as opposed to average earnings, because median earnings are inflated by a small percentage of very high earners.

Again, I would point out that the maximum amount of a week's pay in the UK is set only at £280, and we are already agreeing to pay up to a maximum of £420. There is a considerable difference, and employees here are already far better off than their UK counterparts.

I think I will leave it at that, Mr Speaker. We do not concur with the amendment put before us today, for the reasons stated, and I hope that the House will agree.

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

Mr Quayle: Thank you, Mr Speaker.

I rise in support of the speaker who has just resumed her seat. Mrs Craine has given a very clear emphasis on the additional facts that she has been able to provide this Hon. House.

I think it needs to be borne in mind, too, that the Hon. Member for Rushen, Mr Gill said that the figures were six years out of date. Well, in fact they were last increased in 2001, when the employment legislation was going out to consultation and was being worked up. Then, obviously, that was in 2005, so it was really a four-year gap, not the six years that he claims.

I think, also, that in terms of the concerns, the Department is concerned about the effects of increasing the existing limit by 30 per cent at such short notice, particularly on small employers. At the time when it was set at £385 – and the Department has accepted that that could well have increased – in fact, even at £385, the UK was set at £280, and by now going to £420, that is 50 per cent higher than the United Kingdom figure.

So, I hope that Hon. Members will support this amendment from the Legislative Council, which is very helpful and should enable the Employment Bill to go forward and, hopefully, receive Royal Assent without any delay.

The Speaker: Hon. Member for Rushen, Mr Gill, reply to your amendment, sir.

Mr Gill: Thank you, Mr Speaker.

Really, I have very little else to add, other than: 'Yeah, so what?' You have not told us anything new. We have heard

about the £280 figure in the UK: that may reflect their needs. It does not have any bearing on the Isle of Man. That is evidenced by the fact that the figure was £385 to begin with. So, 'so what?' about the £280 – that is what the UK choose to do. That is a matter for them.

The fact that it is short-term consultation is really not an issue for this House; that is an issue for the Department. The Department may say there is a compelling reason to move from the average calculation method to the median calculation method – of course, there is, and that is because it is cheaper. But that does not mean it is just.

If you are the individual, who is entitled, I would say, to be dealt with fairly – and fairly has always been to be in receipt of a figure which is calculated by an average figure, which should be £500 – that is cold comfort to you, when you hear that, 'Well, at least it has saved £20,000 on the National Insurance' – £20,000! I cannot believe that the DTI are seriously using figures of that scale to promote an injustice – because this is what this is.

If it is not £500, it is unjust for those who require that figure, at that time. I am disappointed the DTI, and the mover, particularly, have not seen to support that, but that is entirely a matter for themselves and herself.

I do hope that the House will support the £500 figure, Mr Speaker, as it is a fair figure. It is consistent with the tested and accepted mechanism for assessing such a figure.

The Speaker: Hon. Member for Ramsey, Mrs Craine, to reply to the amendments.

Mrs Craine: Thank you, Mr Speaker.

Just to say that I am happy with the amendments, as they stand. As has been discussed, many of them are subsequential and in consultation with various parties.

I would just say that I do believe that it is fair and just, at this time, to stick with the figure of £420, as has been amended. I think that we have a very balanced Employment Bill before us, and I hope that the Hon. Members will support the Bill as it stands before you.

The Speaker: Hon. Members, we have a schedule of amendments which have been passed by the Legislative Council and are now before us. To that, we have an amendment to schedule 6, utilising our Standing Orders and our practice, and Standing Order 160(2)(c). I, therefore, put the amendment standing in the name of the Hon. Member for Rushen, Mr Gill, the amendment to schedule 6. All those in favour of that amendment, say aye; against no. The noes have it.

A division was called for and voting resulted as follows:

FOR

Mr Gill
Mr Henderson
Mr Duggan

AGAINST

Mr Anderson
Mr Teare
Mr Quayle
Mr Rimington
Mr Gawne
Mr Cretney
Mr Braidwood
Mr Shimmin
Mrs Hannan
Mr Bell
Mrs Craine
Mr Corkill
Mr Earnshaw
Capt. Douglas
The Speaker

The Speaker: Hon. Members, the amendment fails to carry, with 3 votes for and 15 votes against.

I now put the schedule of amendments from the Legislative Council, as moved by the Hon. Member for Ramsey, Mrs Craine, and as are set out on the Order Paper. All those in favour, say aye; against no. The ayes have it.

A division was called for and voting resulted as follows:

FOR

Mr Anderson
Mr Teare
Mr Quayle
Mr Rimington
Mr Gawne
Mr Cretney
Mr Duggan
Mr Braidwood
Mr Shimmin
Mrs Hannan
Mr Bell
Mrs Craine
Mr Corkill
Mr Earnshaw
Capt. Douglas
The Speaker

AGAINST

Mr Gill
Mr Henderson

The Speaker: Hon. Members, the motion for the amendments to be accepted carries, with 16 votes for and 2 votes against.

BILL FOR SECOND READING

Income Tax (Corporate Taxpayers) Bill
Second Reading approved

5.1. Mr Bell to move:

That the Income Tax (Corporate Taxpayers) Bill be read the second time.

The Speaker: Now, Hon. Members, we move on to Bill for Second Reading, Income Tax (Corporate Taxpayers) Bill. Hon. Member for Ramsey, Mr Bell. Second Reading, sir.

Mr Bell: Mr Speaker, this short Bill introduces a pay and file regime for corporate taxpayers and brings into law one of the commitments made in the 2000 Income Tax Strategy, which was restated in the modified Tax Strategy 2002.

The Income Tax Division has carried out extensive consultation with interested parties over a number of years, and this has included three periods of consultation and two working parties.

Hon. Members, the Bill is divided into 20 clauses and one schedule, and contains a significant number of consequential amendments to the Income Tax Act that are necessary to support the move to an accounting period basis of assessment. In most cases, the consequential amendments do not materially affect the application of the existing statute.

The aim of this Bill is to change the basis of assessment and introduce a pay and file regime for corporate taxpayers, commencing from April 2007. The income tax payment date will no longer be 1st January for all companies, but will be spread throughout the year, depending on the period that the

company's accounts are drawn up for. Adoption of this basis of assessment will allow for the spread of work for both tax advisers and the Income Tax Division throughout the year, and is an internationally accepted standard.

Hon. Members, this will be a major simplification in the way that corporate taxpayers are treated. It is proposed that the filing date of returns and the payment date will be changed, and will now be 12 months from the date on which the companies' accounting period ends. There will also be a fixed-penalty regime introduced for corporate taxpayers that have failed to deliver a return form to the Assessor. This will be similar to the penalties now charged on non-corporate taxpayers.

It is proposed that there will be amendments introduced to the assessment process, which will allow the Assessor to make enquiries on a corporate taxpayer's return, at any time during the 12 months immediately following the filing of the return. A corporate taxpayer will also be allowed to request an amendment to the return during that same period.

Within the Bill, there is also a general move to reduce the period during which the Assessor can raise additional assessments, from six years to four years for corporate taxpayers. Specific comment was received during consultation that strongly supported this reduction.

Finally, Mr Speaker, the Bill, within the schedule, repeals the measures deemed to be harmful by the OECD and the European Union Code of Conduct for Business Taxation, the repeal of which is part of the Island's commitment to each organisation.

Mr Speaker, this is a short, technical Bill which, after extensive consultation, has widespread support throughout our business community and will bring the treatment of corporate taxpayers in line with international standards.

I beg to move.

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

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

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

BILL FOR THIRD READING

Insurance Companies (Amalgamations) Bill Third Reading approved

6.1. Mr Teare to move:

That the Insurance Companies (Amalgamations) Bill be read the third time and be sent to the Council.

The Speaker: Hon. Members, we move on to the next Item, Bill for Third Reading, Insurance Companies (Amalgamations) Bill. Hon. Member for Ayre, Mr Teare. Third Reading, sir.

Mr Teare: Thank you, Mr Speaker.

The Insurance Companies (Amalgamations) Bill introduces a legislative framework, enabling Treasury, by Order, to make regulatory provisions for the merger of two or more insurance companies, without the need for their liquidation.

Under the Bill, the Treasury may empower the Insurance and Pensions Authority to make regulations and give directions in this regard. The regulations required to make this legislation fully operational are in the process of being drafted. This legislation is seen as having particular importance to the captive insurance sector and follows representations made by a number of parties relating to that industry that the existing provisions for amalgamation, under the Isle of Man Companies' Acts, are seen as more complex and expensive than those applying in other jurisdictions, such as Guernsey and Bermuda.

The Bill also amends the Insurance Act 1986 to extend existing re-domiciliation provisions to third party insurance companies and to give the Insurance and Pensions Authority power to approve such transfers. Otherwise, the prescribed methods by which any insurance company relocates to or from the Island remain unchanged.

By providing for the amalgamation of insurance companies, the Bill will enable the Island to remain competitive in this area. Additionally, it demonstrates the Island's ability to respond to industry needs and concerns.

In extending re-domiciliation provisions to include all insurance companies, schedule 3A of the Insurance Act 1986 is brought more in line with the Island's other business transfer provisions.

Mr Speaker, I beg to move that the Insurance Companies (Amalgamations) Bill be approved.

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

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

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

BILL FOR CONSIDERATION OF CLAUSES

Merchant Shipping (Amendment) Bill Clauses considered

7.1. Mr Quayle to move.

The Speaker: Now, Hon. Members, we move on to our next Item, Bill for Consideration of Clauses, the Merchant Shipping (Amendment) Bill. Hon. Member for Middle, Mr Quayle, clause 1, sir.

Mr Quayle: Thank you, Mr Speaker.

Just to recap, the Merchant Shipping (Amendment) Bill 2006 contains four clauses.

Clause 1 enables regulations to be made for the purpose of giving effect to the International Labour Organisation (ILO) Maritime Conventions relating to seafarers' employment and working conditions.

Clause 2 provides that the Department may make regulations to create and operate a new part of the Ship Register for ships under construction.

Clause 3 enables the Department to set up a system for the authorisation of representative persons.

Clause 4 sets out the short title and commencement of the Bill by Appointed Day Order.

With that brief resumé, Mr Speaker, of this short Bill, I should now like to address each of the clauses in detail.

Clause 1 inserts a new section, 2B, into the Merchant Shipping Act 1985. This enables regulations to be made, giving effect to ILO Conventions relating to seafarers' employment and working conditions.

The International Labour Organisation is the United Nations agency which promotes internationally recognised labour rights. The ILO is fairly unique, as the Conventions are negotiated, not just by governments but by governments, employers and trade unions, who participate as equal partners in the process.

Sections 2B(1) and (2) provide that regulations may be made to give effect to all or any part of an ILO Maritime Labour Convention that is extended to the Island. This includes the implementation of any Convention amendments, codes of practice or associated guidelines.

Section 2B(3) provides that such regulations may give effect to an ILO Maritime Labour Convention, even though it is not yet in force or been extended to the Island. The purpose of this provision is to allow Regulations to be made, in preparation for the international implementation date. This is because ILO Maritime Conventions usually come into effect just 12 months after they are ratified.

Section 2B(4) places a duty on the Department to consult with anyone who may be affected by the regulations and applies sections of the Merchant Shipping Act 1985. The effect of the application is to provide that regulations made under this section may include provisions which relate to the issue of certificates, approvals or exemptions, the making and keeping of records, documents or registers, the provision of information and the detention of ships.

Section 2B(5) provides that no part of subsection (4) shall prejudice the general enabling power to give effect to ILO Maritime Labour Conventions.

Section 2B(6) requires Tynwald approval of regulations made under this section.

Section 2B(7) defines 'maritime labour'.

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

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

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

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

Mr Karran: Vainstyr Loayreyder, before moving my amendment, there are a few points that I am concerned about with this Bill, and I want to put it down on record.

The Speaker: Well, we are only talking about clause 1 of the Bill, Hon. Member. If you have a broader view, you can do that at Third Reading.

Mr Henderson and other Members: Hear, hear.

(Interjection by Mr Houghton)

Mr Karran: Vainstyr Loayreyder, unless the Standing Orders have changed, it is about clause 1 and it is about the issue of the Labour Organisation's Conventions.

The Speaker: Hon. Member, just take your seat a minute.

When you started speaking, you did not say that; you said you wished to discuss the broad issues of the Bill. If you are only discussing clause 1, that is quite in order.

Clause 1, sir and your amendment.

Mr Karran: Thank you, Vainstyr Loayreyder. I am glad you are looking after my welfare!

The Speaker: I will always look after your interests, like everybody else, Hon. Member.

Mr Karran: There is always a first time!

The Speaker: Concentrate on the issue.

Mr Karran: Vainstyr Loayreyder, what I want to ask is: is the mover satisfied that in this International Labour Organisation Convention, as far as maritime labour, that there is sufficient regulation to make sure that we do not have a situation on Manx boats where you have the first language of the officers might be English and the language of the crew might be Spanish or some other language?

What safeguards are put down in Manx boats, as far as these International Labour Organisation Conventions, about making sure that we do not end up with a situation where boats can particularly be not safe, as far as that issue is concerned?

The other issue that I would be interested to know, when we are talking about the issues of maritime labour, and the Department making regulations, are you going to, as a Department, look at the issue of where you have merchant shippers' owners who do not pay into the Manx National Insurance Fund, but their employees, when they go sick or whatever, and they are resident in the Isle of Man, claim off the National Insurance Fund, even though the merchant shipping companies are not paying into the National Insurance Fund? I think these issues need to be answered at the Third Reading stage, as far as that is concerned.

The other thing that I am concerned about, as far as clause 1 is concerned, is the issue as far as the Trade Unions are concerned. The fact of the matter is: do they have the same strength in the rule of law for the Isle of Man as a merchant shipper would do if it was in the United Kingdom?

Vainstyr Loayreyder, my amendment to clause 1 is a simple principle that I feel that should be in the Manx Merchant Shipping (Amendment) Bill. That amendment is:

Clause 1

Page 3; after line 2 : insert new subsection –

'(2) The owner and manager of a ship that is registered in the Island and which regularly uses one or more ports in the Island shall cause all crew vacancies that arise in respect of such a ship to be advertised in a newspaper published and circulating in the Island or by means of a public broadcast in the Island.'

(3) *An owner or manager that fails to comply with subsection (2) is guilty of an offence and is liable on summary conviction to a fine of £5,000.*

I believe that it is important. The simple fact is that we should put this liability onto all freight and passenger services that use the Island, because, at the end of the day, we have seen the unemployment double, in the last couple of years, and I think that we should be giving the people the opportunity, so that they, at least, have the knowledge, if there are employment opportunities, to apply for the jobs.

I have to say, Vainstyr Loayreyder, that it would have been better, in one way, if this had been in the User Agreement which we agreed to, some time ago. At the end of the day, I think it should be in primary law, so that it affects all shipping companies that use Manx ports on a regular basis.

I would hope that someone would second the principle that it puts a liability onto employers who have ships that use the Manx ports on a regular basis. I find it incredible that I am led to believe that the Steam Packet actually goes off to the Baltic states of the former Soviet Union to do its recruitment, where its first priority should be trying to recruit on the Island, in order to make sure that any employment opportunities are able to be picked up on the Island.

I hope that, Hon. Members, someone will support this principle. It is putting a liability onto ship owners and managers, as far as that issue is concerned. I believe that that liability should be put on to any ship owner or manager who runs a regular service from Manx ports in the Isle of Man.

I beg to move.

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

Mrs Cannell: I beg to second and reserve my remarks.

The Speaker: You can only second, Hon. Member. Hon. Member for Middle, Mr Quayle.

Mr Quayle: Yes, thank you, Mr Speaker.

Of course, speaking to the amendment, I should like to address some of the points that the Hon. Member for Onchan, Mr Karran, has made, in respect of his amendment.

He mentioned about the English speaking crew and whether or not, in fact, they were going to speak English or, perhaps, Spanish or something. He mentioned about the officers speaking English and the crew speaking Spanish. I understand he was seeking to make an amendment, but this had been rejected, because the issue is already covered under section 40 of the Merchant Shipping (Masters and Seamen) Act 1979, which provides that a vessel may be detained if the ship's crew consists of persons who, because of their insufficient knowledge of English, are unable to perform their duties, where the working language of the ship is English.

I should like to clarify, also, that all crew members on Manx ships are required to have a working understanding of English, sufficient to undertake their duties on the vessel. This is an international requirement and a requirement that the Department's Marine Administration takes very seriously, because of the obvious safety implications.

It is enforced in two ways. Firstly, the crew's knowledge of English is checked by Isle of Man surveyors, when they survey Manx vessels on a regular basis and conduct interviews with the crew and run drills and exercises.

Secondly, before any officer who does not have a United Kingdom Certificate of Competency may serve on a Manx ship, he must apply for a Certificate of Endorsement issued by the Department's Marine Administration. The operator of a Manx vessel applying for a Certificate of Endorsement is responsible for and must make a declaration that the person understands written and spoken English, sufficient for service on the vessel. This is underpinned by section 40 of the Merchant Shipping (Masters and Seamen) Act 1979 which provides that a vessel may be detained for failing to comply with these requirements.

I hope that gives some reassurance to Hon. Members as to the situation that Mr Karran attempted to highlight, regarding the lack of English speaking.

Mr Karran also mentioned about the National Insurance contributions for seafarers. I understand he attempted to move an amendment relating to this, but because National Insurance contributions for seafarers are the responsibility of the DHSS, I should also like to give the following clarification.

The Department is responsible for issues relating to safety, pollution, manning and training and seafarers' living and working conditions on board Manx ships. National Insurance contributions for seafarers are the responsibility of the Department of Health and Social Security.

I am, therefore, not in a position to comment on this issue or include it in the Bill, which is why the Bill is standing as it presently does.

I should, also, just like to make it quite clear that this has been seen as a non-contentious piece of legislation. It has had the fullest of consultation with all interested parties, including the trade unions, and, as I understand it, everybody seems to be content with the Bill, as it exists.

I would urge Members to resist the temptation to support the amendment in the name of Mr Karran and support the Bill as it stands. Thank you.

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

Mr Karran: Vainstyr Loayreyder, I would have liked to have seen the same detail on the amendment that is in front of this House on the rationale of why we should not put a liability on owners and managers of ships that are registered on the Island, which regularly uses one or more ports of the Island, to make sure that they have to advertise either by newspapers or broadcast.

Now, I do not think it is rocket science, Vainstyr Loayreyder; it is basic common sense, that it is an absurdity that we have... I raised a Question last week about the new National Insurance numbers that are being applied for on the Island. We have seen unemployment increasing on the Island. I would hope that this Hon. House will have the merit to think about this basic piece of common sense, that they should be made to advertise, as far as job opportunities are concerned, in the local press in the Isle of Man.

It seems an absurdity that we have it alleged that the Steam Packet are more interested in trying to recruit from Estonia and Lithuania and places like this, than they are from Douglas or Peel. I think, Vainstyr Loayreyder, that we need to waken up to this. I think that there should be a liability put on those vessels that use Manx ports on a regular basis, for them to have to advertise, instead of dragging people in from outside the Isle of Man.

Our people need those employment opportunities. I believe that it would be irresponsible of this House, if it does not support my amendment, as far as this issue is concerned.

I beg to move.

The Speaker: Hon. Member for Middle, do you have anything else to add to what you have just said before?

Mr Quayle: Yes, thank you, Mr Speaker.

I would like to give the clarification in terms of the Hon. Member for Onchan, Mr Karran's, amendment. Whilst I have dealt with some of the questions which he raised earlier on, I did not give the full information that I had to hand which, hopefully, might be of assistance.

The effect of the proposed amendment from Mr Karran is to require owners of Isle of Man registered ships which regularly call at a port in the Isle of Man to advertise all crew vacancies in a local newspaper and on the radio. It would make it an offence for the owner or manager of the vessel who failed to do this punishable, upon summary conviction, to a fine of up to £5,000.

Whilst it is understood that that it is the Hon. Member for Onchan's wish to fill the jobs with local people and, while the Department of Trade and Industry fully supports the concept of encouraging employment for Island residents, I have to say that this amendment brings certain problems with it.

The main employer of Manx seafarers is the Isle of Man Steam Packet Company. This company already recruits in the Isle of Man and it regularly advertises in the Job Centre, the local press and colleges, but often finds that there is insufficient take up from the local population. This amendment will not help to address this problem.

It must also be remembered that the Steam Packet operates some ships that are not registered in the Isle of Man. In fact, by keeping any vacancies in the non-Isle of Man ships, the requirement would be easily circumvented.

I should, also, like to point out that this amendment would go further than affecting just the Steam Packet vessels. For example, it would affect local fishermen, the Ramsey Steamship Company, Mezeron and even the ships which deliver gas to the Isle of Man.

Requiring owners of these vessels to advertise locally, in both the press and on the radio, would cause delays that they simply cannot afford. Local fishing vessels cannot be expected to stay tied up in the harbour whilst they wait for newspaper and radio advertisements to be placed. This would not, therefore, be a practical requirement.

Hon. Members might have noticed the smart looking, yellow painted vessel that delivered a cargo of petroleum gas to Douglas last week. That vessel was Manx registered and has a representative person in the Isle of Man, but it is operated by a company in Denmark and has a Danish crew. It would not, therefore, be appropriate to make it an offence for this company to fail to recruit locally for such a vessel. Indeed, it would be an unenforceable offence.

Mr Speaker, the Department does a great deal to encourage local employment at sea. It operates a support scheme that pays for and supports local youngsters who gain cadetships with shipping companies in the Island. This support funds their training both at sea and in college. It is a major factor in encouraging the shipping companies on the Island to recruit local cadets.

The Department, also, supports safety training schemes

for fishermen that encourage youngsters into the industry. The Department believes that this is the most effective way of encouraging the employment of local persons into the industry.

Finally, Mr Speaker, the ultimate effect of enforcing a provision of this nature could be to force owners of ships to register their vessels elsewhere. *(Interjection by Mr Karran)* They are not required to be registered in the Isle of Man and we could find ourselves in the unfortunate position of seeing the *Ben my Chree*, the Kosangas vessels, Mezeron or even the Ramsey Steamship Company registering in the United Kingdom or elsewhere. This would, obviously, be to the detriment of the Isle of Man and to the local shipping industry. *(Interjection by Mr Karran)*

Mr Speaker, the Department opposes the amendment for the information that I have given and I hope I have also been able to answer the queries that the Hon. Member put to me.

The Speaker: Right, Hon. Member. I think, in fairness, it would have been helpful if you were going to go into that detail on the amendment, either to have done it when you stood up to speak to the amendment, or not speak until the very end. I think that that is something movers of legislation should keep in their mind.

Members have an opportunity to speak, when there is an amendment, if they are the mover of the Bill, either at the amendment stage, or not and then wait and speak at the end. I think doing both, when you did not refer to the amendment is not helpful.

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

A division was called for and voting resulted as follows:

FOR
Mr Gill
Mr Henderson
Mrs Cannell
Mr Karran

AGAINST
Mr Anderson
Mr Teare
Mr Quayle
Mr Rimmington
Mr Cretney
Mr Braidwood
Mr Shimmin
Mrs Hannan
Mr Bell
Mrs Craine
Capt. Douglas
The Speaker

The Speaker: Hon. Members, the amendment fails to carry, with 4 votes for and 12 votes against.

I now put clause 1, that it do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. **(Mr Karran: Divide.)**

Hon. Member for Middle – clause 2, sir.

Mr Quayle: Thank you, Mr Speaker, and may I apologise to the House for not having given the information at the start, to do with that amendment. It was due to an oversight, because I was dealing with the queries that the Hon. Member had put. So, I do apologise to the Hon. Member for Onchan –

Mr Karran: It's too late now, mate.

Mr Quayle: – and to the House for that omission.

In terms of clause 2, Mr Speaker, this inserts a new section 60A into the Merchant Shipping Registration Act 1991. This is for the purpose of enabling the creation of a new part of the Ship Register for ships under construction. This is a facility that the superyacht market, in particular, requires, in order to enhance the owners' security of title while the vessels are under construction.

Section 60A(1) enables the Department, by regulation, to establish and maintain a new part of the Ship Register for the purpose of registering ships under construction and recording their mortgages.

Section 60A(2) inserts a new schedule 4A into the Merchant Shipping Registration Act 1991 and supplements section 60A by setting out the scope of regulations which may be made under that section.

Section 1 of schedule 4A contains definitions.

Section 2 of schedule 4A enables regulations to include provisions on the administration and maintenance of a register for ships under construction. This includes: (1) the circumstances in which a ship is eligible to be registered as a ship under construction; (2) the information and evidence required in order to register a ship under construction; (3) the detail of applications and for the refusal of applications; (4) the issue of certificates of registration and the length of time a registration may be valid; (5) the inspection and identification of a ship under construction; (6) the exclusion of certain types of ships from the Register.

Section 2 also provides that regulations may include provisions relating to the closure, transfer or termination of a registration and for any other statutory provision to have effect in relation to ships under construction.

Section 3 of schedule 4A enables regulations to include offences and penalties, subject to the defence of all reasonable precautions. Offences specified in the Act are punishable by a fine not exceeding £1,000, or a fine not exceeding £2,500, depending on the offence.

Section 4 of schedule 4A provides for regulations to include supplemental and incidental provisions.

Section 5 of schedule 4A enables regulations on ships under construction to apply to both ships constructed in the Isle of Man or elsewhere.

Finally, section 6 of schedule 4A provides that the schedule shall not prejudice the generality of the enabling power to make regulations.

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

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

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

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

Mrs Cannell: Thank you, Mr Speaker.

Mr Speaker, can I ask the mover, with regard to the regulations, who will actually be making the regulations? Is it the Department of Trade and Industry? Will they be going out for wide and comprehensive public consultation? Is there a set of draft regulations in preparation?

Can I also ask under... it states here:

'4. Regulations may contain such supplemental and incidental provisions as appear to the Department to be necessary or expedient.'

Am I reading that as a blanket authority contained within primary legislation, here, for the Department, or whoever is going to draft the regulations, to draft whatever they feel fit, that it is not actually referred to within the primary legislation? Is that not a departure from the normal practice, where the fundamentals of any law or any secondary legislation are covered by primary legislation?

Can I, finally, just ask the hon. mover, bearing in mind that we are supposed to have joined-up Government and corporate Government, why did he not see fit to consult with the DHSS to find out the question that was raised on a previous clause, with regard to National Insurance contributions? Bearing in mind it is important that, if such contributions are not being paid into our purse, but then we are being expected to, perhaps, pay out benefits for those who would rely upon them, whose employer has not paid their National Insurance contribution, it would have been helpful if the Member had offered that advice to the House – not expecting him to respond on behalf of another Department, but in supporting joined-up Government and a corporate approach.

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

Mr Gill: Thank you, Mr Speaker.

If I could just ask the mover, if he could clarify an issue that I am a bit uncertain about. I would certainly welcome the idea to extend a new register for ships under construction, but does that pose a particular difficulty that...? I can understand a ship registered which is actually sea-going comes under a very different arrangement between the jurisdiction where the ship is actually built, compared with one where it is actually being built.

So, for example, if a ship is built and registered on the Manx Register, and it is built in North Korea, that is fine, when it is operational and sea-going. I can imagine that is very different from a vessel which is being built within North Korean jurisdiction. I just wonder if the Member could advise us if there are any issues, perhaps, in regard to our external relations or our contractual arrangements, as a jurisdiction. As a part of the Isle of Man Government, will we have those first hand with that second jurisdiction – say North Korea, say Estonia, wherever the shipyard may be – or will we have to go through the United Kingdom, and through their international arrangements?

So, I hope I have made myself clear and if the mover could advise us if this is a matter that the Isle of Man will deal with its own arrangements or whether there will be a requirement to go through the United Kingdom.

The Speaker: Hon. Member for Middle, Mr Quayle, to reply to clause 2, sir, and I do not require you to reply to the issues raised about clause 1. We have moved from that. You may wish to consider that for the Third Reading.

Clause 2, sir.

Mr Quayle: Thank you, Mr Speaker.

I should like to thank the contributions from Hon. Members. In terms of clause 2, generally, it just provides that

the Department may make regulations for the operation and establishment of a new register for ships under construction. The regulations would be laid before Tynwald, if this Bill is passed, and would be subject to Tynwald's approval.

The background to this is that the operation of the ship register can be expanded through this creation of a new register for the registration of ships under construction. This is immensely beneficial to the Isle of Man, because it would become one of the few registers offering this service, which is increasingly in demand, given the complexity of ships and the yacht finance requirements and arrangements.

Ships and yachts registered in the Isle of Man as ships under construction are more likely to be registered as ships in the Island once completed, thus creating new business for local service providers. So, it is all about facilitating and enabling and assisting people who are building ships to move their business, while they are having their ships constructed, and then have a seamless transition onto the Isle of Man Register.

So, the Bill does – to answer questions that have been raised – seek to create a new power which will enable the Department to make regulations for the establishment and operation of a new part of the Ship Register for vessels under construction. It has, as I have mentioned before, been to consultation and this has not been seen to be contentious. So, hopefully, it should receive the support of this Hon. House.

I think I have answered the questions that have been posed. The one that Mr Speaker mentioned, I can cover in the Third Reading, about the DHSS. In terms of the Hon. Member for Rushen's contribution, then the Isle of Man will be dealing with this in its own right, as I understand it.

Thank you, Mr Speaker.

Mrs Cannell: Point of order, Mr Speaker.

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

Mrs Cannell: Point of order, Mr Speaker.

You ruled from the Chair that the Hon. Member is not to answer my question, but then I was unable to ask the question, bearing in mind you invited him to make comment, in which he then made the comment about not knowing about NI contributions. Therefore, he had summed up, but then you gave him another opportunity to further speak to the House, but I, sir, had been denied that opportunity.

The Speaker: Hon. Member, I think, if you recall, you seconded the amendment without reserving your remarks –

Mrs Cannell: Reserving my remarks.

The Speaker: – and I advised you that, without reserving them, you would not be able to speak.

Also, Hon. Member, the Hon. Member for Middle, when responding to clause 1... the point I made was that, in fact, he wound up clause 1 by responding to the amendment. In my opinion, he should have done that, if he wished to, as he got up to speak to the amendment in the name of Mr Karran at that stage.

I think Hon. Members need to be a little bit more conscious of Standing Orders, and what they are able and

what they are not able to do. My role in this House is to endeavour to keep the House on a straight rule, to deal with that, and I am not going to allow Members to go back onto clauses the House has dealt with – simple as that. Third Reading: the Hon. Member can deal with that issue. (**A Member:** Hear, hear.)

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

Clause 3, Hon. Member.

Mr Quayle: Thank you, Mr Speaker.

Clause 3 inserts new sections 60B to E in the Merchant Shipping Registration Act 1991, to provide for the authorisation of representative persons. A representative person is someone, usually a limited company or corporate service provider, who is appointed by the owner of a ship registered in the Isle of Man.

The Merchant Shipping Registration Act 1991 requires that this must be done when the owner of the ship is not resident in the Isle of Man. The representative person undertakes some of the functions of management of the ship from the Island and forms an important link between the ship and the Island.

It, also, provides a practical link between the Department's Marine Administration and the ship. The representative person is often the first point of contact for owners and others seeking to do shipping business in the Isle of Man. It is important that this person is professional and capable.

Section 60B defines a representative person and requires that any application to act as a representative person shall be made to the Department. The Department may only approve such an application, if it is satisfied that the applicant can undertake the prescribed functions and is otherwise a fit and proper person. The Department may grant the authorisation, refuse the authorisation, or grant the authorisation subject to conditions.

Section 60C provides that notice in writing may be given to revoke or suspend any authorisation. It also sets out the procedures which shall have effect in those circumstances.

Section 60D(1) enables regulations to be made to give effect to sections 60B and 60C for the authorisation of representative persons.

Section 60D(2) provides that such regulations may specify the qualifications, functions, standards and duties of a representative person. It also provides for the regulations to include a requirement for the payment of fees in respect of any service provided by the Department.

Section 60D(3) requires the Department to consult with such persons and bodies as it considers appropriate, before making any regulations under this section.

Section 60D(4) provides that regulations shall not come into operation unless they are approved by Tynwald.

Section 60E(1) establishes a right of appeal to the Representative Persons Review Tribunal for persons aggrieved by a decision of the Department. An appeal may be made upon the Department's decision to refuse, revoke, suspend or add conditions to an authorisation.

Sections 60E(2) and (3) provides that the Representative Persons Review Tribunal shall be made up of a chairman and two members. The panel shall be drawn from persons who have appropriate experience and are independent of both the Department and the applicant.

Section 60E(4) sets out that, in respect of an appeal, the

Tribunal shall either confirm, vary or revoke the decision of the Department.

Section 60E(5) provides this shall not have the effect of backdating the Department's decision.

Section 60E(6) provides the decision of the Tribunal shall be binding upon the Department and the applicant, and for any appeal on a point of law to be made to the High Court under section 60E(7).

Mr Speaker, I beg to move that clause 3 do stand part of the Bill.

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

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

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

Mr Anderson: Thank you, Mr Speaker.

Clause 3 contains an incorrect reference. The purpose of the amendment is to make the necessary correction. It is:

Clause 3

Page 7; line 31: for 'that section' substitute 'section 8 of the Tribunals Act 2006'.

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

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

Mr Shimmin: I beg to second, Mr Speaker.

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

Mr Karran: Vainstyr Loayreyder, I would just like to ask about this issue of who is responsible. Is it the owner of the ship, the shipping manager? Who ends up actually being responsible, if there is some sort of tragedy or some sort of breakdown, as far as the law is concerned or anything that brings the Island's reputation into disrepute?

My concern is that we seem to be on this situation of looking for the lowest common denominator, in order that we can have a situation of making sure that standards will be kept, and my concern is that, when we talk about extending the economic base as far as shipping is concerned, who ends up being responsible? If it is delegated from the owners to the managers, do they get prosecuted or do the owners get prosecuted?

There are other issues, but it would be, more than likely, wasting my breath, if I was to go into other issues. But I would be interested to know who actually is the one that ends up being responsible on this issue.

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

Mrs Cannell: Thank you, Mr Speaker.

I would just like to ask the hon. mover what sort of people the panel will comprise. Are we looking at professional people or lay people, or people with a particular training in tribunals etc? Who will select the individuals to be set up

into a panel?

Also, just a query really: on page 9, 60E(7), I am just wondering... although the hon. mover, when he was making his contribution, in terms of this particular clause, he did not use the same language that is stated in subsection (7) and I just wonder... It is a bit 'iffy' to me.

It reads:

'An appeal from a decision of the Tribunal on a point of law shall lie to the High Court.'

It just reads a bit odd, when the Member said, when he was moving, a point of law shall 'be off to' – or was it 'with'? – the High Court. I just wonder whether or not that is an actual 'typo'. Was that a normal description within legislation like this?

One can read it in an entirely different context, that, in fact, it is alright for the Tribunal, having reached a decision, to then lie to the High Court!

If you could just clarify that, please.

The Speaker: Hon. Member, Mr Anderson, do you wish to reply to your amendment, sir?

Mr Anderson: No, sir.

The Speaker: Hon. Member for Middle, Mr Quayle. Reply to the clause, sir.

Mr Quayle: Yes, thank you, Mr Speaker.

Firstly, may I thank the seconder, Hon. Member for Ramsey, Mrs Craine.

In terms of the amendment, certainly, I very much welcome that, because it does correct a drafting error. I thank the Hon. Member for Glenfaba, Mr Anderson, and Hon. Member for Douglas West, Mr Shimmin, for proposing and seconding that. Certainly, the Department is grateful for that and supports the amendment.

In terms of the contribution from Mr Karran, Hon. Member for Onchan, the Isle of Man is very proud of its Shipping Register and operates it to the highest possible international standards, witnessed by the fact that we were adjudged second in the World Register of Ships on the White List. So, we can be justly proud of the standards that operate.

In terms of the standards that the Hon. Member, Mr Karran mentions, then we are not looking to the lowest common denominator. We are actually, I think, encouraging to not just meet standards but to be some way above them. Only by doing that is the reason why we are having such a successful and prestigious register, because it is highly thought of and commands worldwide respect, I believe.

In terms of the Hon. Member for Douglas East, Mrs Cannell, then I hope it is accepted that I am not with any legal qualifications –

Mr Anderson: Don't be modest!

Mr Quayle: I would just say, though, that she raises a very interesting question. It is one that I asked, myself, when I was immersing myself in the Bill and getting a briefing from the officers of the Department, because it did seem to me an unusual expression, 'lie to the High Court'.

I am informed that that particular expression is consistent

with what it requires to be, in terms of legal requirements, so although it might seem an unusual expression, it is one that I checked as to its accuracy. It is not a typographical error and it is, as I understand it, correct as it stands.

Thank you, Mr Speaker.

The Speaker: Hon. Members, the motion before the House is that clause 3 do stand part of the Bill. To that, we have an amendment in the name of the Hon. Member for Glenfaba, Mr Anderson. I will first put the amendment. All those in favour of the amendment, say aye; against no. The ayes have it. (**Mr Karran:** Divide.) Division called.

Mr Karran: Oh, I'm going to get one this time!

Voting resulted as follows:

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

The Speaker: I would just make the point, Hon. Members, that any Member can ask for a division, as long as they do it at the right time and in compliance with Standing Orders (**Several Members:** Hear, hear.) – and I certainly have to hear them, as well.

Hon. Members, the amendment carries, with 19 votes for and 2 votes against.

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

Clause 4, Hon. Member.

Mr Quayle: Thank you, Mr Speaker.

Clause 4 sets out the short title and commencement of the Bill by Appointed Day Order.

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

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

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

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

Mr Karran: Vainstyr Loayreyder, I wonder, with the Appointed Day Order, are we going to find out who actually is responsible, as far as these new regulations are concerned within this piece of legislation? Is it the owner or is it the

manager, if there are any problems, as far as this situation? It would be interesting, if we could have a response, as far as the issue is concerned.

We are talking about the good name of the Isle of Man. I think we should not just nod these things through, Vainstyr Loayreyder, and I think we should have the courtesy and reply at the time, at the clauses, even if it is a bit of a pain, and it might slow down the process of our primary role, as far as this Hon. House is concerned.

The Speaker: Hon. Members, before I allow the next speaker to speak, I do wish to respond to the Hon. Member for Onchan's continual comments that the House is nodding through legislation.

We spent six hours on legislation at the last House, (**Mr Houghton:** Hear, hear.) one Bill, (**Mr Houghton:** Hear, hear.) and the Hon. Member then made statements in public that the House is nodding through legislation. I think it is offensive to the House and offensive to Members. (**Several Members:** Hear, hear.)

This House considers the legislation as thoroughly as it wishes to. All I do is chair the proceedings under our Standing Orders. (*Interjection*)

Hon. Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

It is merely a request from the mover of the Bill, when he comes back for Third Reading, could he advise me on the question I raised on a previous clause regarding the panel – how the panel would be made up and what sort of people we are looking for there?

Can he further seek clarification on my comments, previously, for us at Third Reading. Would it not be better that the wording is: an appeal from a decision of the Tribunal on a point of law shall lie 'with' the High Court as opposed to 'to' the High Court? If he could respond at Third Reading, please.

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

Mr Gill: Thank you, Mr Speaker.

Perhaps, with your indulgence, I know clause 4 provides for the short title and commencement, (**Mr Cretney:** However!) but could the Member just give us some clarity about the final point 6 on the explanatory memorandum, where we are comforted by the fact that the Bill is expected to be financed by the existing budget. I do not know if now would be an appropriate time for the Department just to clarify which budget that would be, and if that will be the case, notwithstanding the new Register which has been referred to earlier.

The Speaker: Hon. Member, Mr Quayle, reply to the clause, sir.

Mr Quayle: Yes, thank you, Mr Speaker.

I thank the Hon. Members for their contributions, but I am not just so sure whether or not they actually accord with the actual clause itself, which is the short title and commencement of the Bill by the Appointed Day Order.

But I will respond with the information that the Hon. Member for Onchan requested. The technical manager of a ship is responsible for the safe operation of the vessel, and this is defined under the International Safety Management

Code, under what is called the Safety of Life at Sea (SOLAS) Convention. These regulations under the Act will define the responsibility of the Isle of Man representative person and permits the Department to regulate this function. So, I hope that will clarify that particular point.

In terms of Mrs Cannell's contribution, I should like to make it clear that I will, certainly, come back at Third Reading with the clarification of one or two of the points that she made, once I have had a chance to investigate them in more detail.

But, for the moment, Mr Speaker, I hope that Members have had sufficient information to give this Bill its approval for clause 4. Thank you.

The Speaker: Hon. Members, the motion before the

House is that clause 4 do stand part of the Bill. All those in favour, say aye; against no. The ayes have it. The ayes have it.

Now, Hon. Members, that concludes the business on our Order Paper for today. Can I just advise Hon. Members as a reminder, that the Commonwealth Parliamentary Association AGM is on at one o'clock in the Millennium Conference Room.

Hon. Members, the House will now stand adjourned, until Tuesday next, 21st March, at 10.30 a.m. in Tynwald Court.

The House adjourned at 12.11 p.m.