



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

**PROCEEDINGS
DAALTYN
(HANSARD)**

Douglas, Tuesday, 4th December 2007

Present:

The Hon. President of the Council (The Hon. N Q Cringle)

The Attorney General (Mr W J H Corlett QC),
Mr D Butt, Mrs C M Christian, Mr E A Crowe, Mrs P M Crowe, Mr A F Downie,
Mr E G Lowey, Mr J R Turner and Mr G H Waft,
with Mr J King, Clerk of the Council.

Business transacted

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The Council sat in private.

Legislative Council

The Council met at 10.00 a.m.

[MR PRESIDENT *in the Chair*]

The President: Hon. Members, in the absence of the Lord Bishop this morning, and the Chaplain being in another place, I will lead prayers this morning.

I can categorically assure you that they will be no less sincere for the fact that I lead you in prayers this morning.

PRAYERS

The President of the Council

Procedural

The President: Hon. Members, we have no apologies this morning, and we have but the one Question on the Question Paper.

I apologise for bringing you in early for a 10 o'clock start this morning. Nevertheless, I am sure we will get through our work that little bit quicker.

Question for Oral Answer

TRANSPORT

Traffic cameras Prosecutions and incidents

1.1. The Hon. Member (Mr Turner) to ask a representative of the Department of Transport:

- (1) *How many prosecutions have resulted from evidence gathered by the York Road traffic camera; and*
(2) *how many 'incidents' has the Ballaugh bridge traffic camera captured, that caused concern to the Department?*

The President: Hon. Members, if I may then, Question 1.

Mr Turner: Thank you, Mr President. I beg leave to ask the Question in my name.

The President: I call on Mr Crowe to reply.

Mr Crowe: Thank you, Mr President. Firstly, dealing with the York Road camera, the

Department does not have records which detail the numbers of prosecutions for traffic offences at specific locations on the highway network.

However, the Police accident records held by the Department reveal that prior to the installation of the road traffic camera, contravention of red light offences resulted in five accidents in the previous three-year period. Since the installation of the camera in June 2006, no accidents have occurred at this location through contravention of red light offences.

The Isle of Man Constabulary are responsible for undertaking enforcement action and keeping information on the number of successful prosecutions. A representative from the Constabulary has provided the Department with the following information. The images from the York Road traffic camera have resulted in the Police warning 54 motorists in relation to contravention of red light offences since the camera was installed, as part of the education and enforcement policy.

Secondly, turning to part (2) of the Question, the Ballaugh Bridge road safety camera has not captured any road traffic accidents at this location since the camera was installed in 2006.

The deterrent effect of the camera and electronic speed-sensitive traffic-warning signs are responsible for the following significant reduction in accidents at this location: from 2003 to 2006, 10 accidents, which resulted in serious injuries on three occasions, slight injuries on six occasions, and damage only on one occasion; and from 2006 to the current date, no accidents.

Thank you, Mr President.

The President: Mr Turner.

Mr Turner: Yes, a supplementary: how will the Department evaluate the effectiveness of these cameras? Will it be purely from feedback from the Constabulary?

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President.

Yes, how will the Department evaluate the effectiveness? They do it on a continuing basis and with liaising with the Police to make sure that accidents are kept to the absolute minimum, remembering that the reason for the York Road camera was because of the busy junction with the schools and Murray's Road and the Isle of Man Children's Centre. So there was a real reason for putting it in.

But they will be reviewing it in consultation with the Police Force.

The President: Mr Turner.

Mr Turner: Thank you, Mr President.

Has the Department identified any more locations which cause enough concern to warrant the installation of more cameras?

The President: Mr Crowe, please.

Mr Crowe: Again, no specific locations have been identified, but they will be considering any hotspots where there have been accidents, to consider whether further cameras might be required.

Procedural

Traffic cameras – Prosecutions and incidents

The President: Mr Lowey.

Mr Lowey: No, the final supplementary was along those lines...

The President: Mr Butt, Hon. Member.

Mr Butt: Thank you, Mr President.

As there have been 54 breaches of the red lights in the last year which the Police have become aware of, and they have warned people for that behaviour, do you know why they have not prosecuted anybody for those, so as to draw attention to the fact there is actually a camera at the junction?

If the public were made more aware of that, perhaps there would be fewer transgressions.

The President: Mr Crowe.

Mr Crowe: The Police are not in a position to proceed by way of prosecution or caution against the offences, because the device still has to receive 'type approval' under section 58 of the Road Traffic Act. So they are limited to warnings, giving them cautionary notices.

Mr Butt: Thank you.

The President: Mr Downie.

Mr Downie: I just ask the Member to confirm for me then, in view of his last statement, that to date, even if an offence was committed at these traffic lights, the evidence gained could not be used in evidence because these cameras in fact have no status under the Highways Act.

Mr Crowe: I agree, they are not approved under the Road Traffic Act, so they can give warning notices but they cannot give prosecutions.

The President: Mr Turner.

Mr Turner: A final supplementary for me, Mr President.

With this data that you have gathered then, has the Department yet decided on a policy of whether this is a road which they will be going down, installing cameras?

The President: I am sorry... A policy to make the cameras...?

Mr Turner: I am sorry. Let me clarify that, Mr President.

With the data gathered, has the Department decided on a policy of whether cameras are a 'road that they will be going down', as opposed to making these particular ones legal? Is it a policy to install cameras?

The President: Mr Crowe.

Mr Crowe: Apart from the two that are in place now, there are no further sites that have been selected and there has been no capital or revenue expenditure on new cameras. It is just a case of keeping things under review, to see whether there are particular areas, or new locations, that would benefit

from a particular safety camera.

The President: Mrs Christian.

Mrs Christian: Given the numbers, Mr President, referred to by the Hon. Member, Mr Butt, would the Department consider making these cameras a legal instrument that would result in prosecutions?

The President: Mr Crowe.

Mr Crowe: Yes, that seems to be the natural logical step forward, Mr President.

Mrs Christian: Is that a step, Mr President, they are going to take?

Mr Crowe: I cannot answer that on behalf of the Department, but I will bring your views back to the Department.

Orders of the Day

Enterprise Bill

Third Reading approved

2. Mr Crowe to move:

That the Enterprise Bill be now read a third time and do pass.

The President: Thank you, Hon. Members.

We will turn then to Item 2, which is our Enterprise Bill. The Enterprise Bill we have before us this morning is for Third Reading and again, Mr Crowe, it is in your hands: so Enterprise Bill for Third Reading.

Mr Crowe: Thank you, Mr President.

Firstly, I would thank Hon. Members for their support of previous Readings of this Bill.

I would like to enlarge upon some points that were raised during the clauses stage.

Firstly, the Hon. Member, Mrs Christian, expressed concern at the wording of paragraph 1 in part 2 of the schedule, which sets out the broad powers of the Department. This clause enables the Department to carry on, or establish and carry on, whether by itself or jointly with any other person, any eligible business. The reference to the Department acting by itself had particularly concerned Mrs Christian.

Mr President, this is not a new requirement and it is taken directly from the Industry Board Act 1981, which the Enterprise Bill is replacing. The only change in the wording of the clause of the earlier Act is the replacement of the wording 'industrial undertaking', which is an outdated term, and instead using the term 'eligible business', which is to be defined in Regulations to be approved by Tynwald.

This is consistent with the aim of the Enterprise Bill, which is to provide a modern framework of legislation to

support the development of the Isle of Man economy into the future.

I am advised by the Department that the powers contained in paragraph 1 of part 2 of the schedule are used infrequently, but have been used successfully in the past to support, for example, the development of the film industry and in connection with the management buyout of a leading business in the Island's manufacturing sector. The broad powers may also be important in the future to support the development of new areas of economic activity, such as the development of the aircraft register.

Previously, the Department has always involved and sought the approval of Treasury in such decisions, and paragraph 5 of part 2 of the schedule to the Bill makes clear that the Department may acquire, hold and dispose of securities, form bodies corporate and partnerships with other persons, only with the prior approval of the Treasury, so that the policy and practice under the existing and proposed legislation are the same.

I trust that Hon. Members will be reassured that the Department will use the broad powers of this clause sparingly and carefully, and that appropriate controls have been put in place with the involvement of the Treasury.

A further point raised by the Hon. Member, Mrs Christian, is in relation to clause 6. Indeed, the Hon. Member sought to move a number of amendments to this clause. In particular, she put forward that the word 'financial' should be deleted, thereby leaving the clause to read: '...that any assistance provided under the Act should be included in the annual report.'

Mr President, as I have said previously, this part of the Bill has generated a considerable degree of interest, and the Department is currently looking closely at matters to determine the most appropriate way forward. The Department is very mindful of the need to be as open and transparent as possible. However, the removal of the word 'financial' would have caused the Department some concern and would have resulted in the production of a huge amount of information and possible difficulties interpreting the clause, where, for example, the Department has facilitated support through workshops or seminars, or indeed the likes of apprenticeship schemes involving plumbers, joiners, electricians etc.

The Department feels that the intention of clause 6 should be directed towards the main financial assistance schemes administered by the Department where the sums of assistance involved can be significant.

The Hon. Member, Mrs Christian, also sought an amendment so that the annual report should include a list of those businesses which, having received assistance under this Act during the previous five years ending on 31st March in the year of the report, have ceased operation.

I am pleased to say that while the format of the annual report is still to be finalised, the Department has considered the request and is prepared to give an undertaking to the Hon. Member that it will include in the report a list of those businesses which have failed, subject, obviously, to the saving provided by clause 9(2) of the Enterprise Bill, which protects the terms and conditions of any financial assistance given by the Department prior to the operation of the Act.

Mr President, I hope I have answered the main points that were raised at the clauses stage. If not, then I would apologise for any oversight and I would ask Members to let me have a note of any additional issues.

In concluding, I would like to remind Members that the

principal objectives of the Enterprise Bill are to modernise and replace the Industry Board Act 1981. The 1981 Act sets out the functions and powers of the Department of Trade and Industry and provides a framework for the Department to provide financial assistance to businesses.

The primary purpose of the Department is to encourage economic growth and the diversification of the economy and the creation of employment opportunities for all, objectives which are, in turn, in accordance with Government's overall Economic Strategy.

The Bill and associated Regulations will provide the Department with a legislative framework that is more in keeping with the needs of the modern Isle of Man economy. In particular, it will enable the Department to provide discretionary support to a wider range of businesses than is permitted at present and to encourage the attraction of new inward investment, as appropriate economic opportunities arise.

Mr President, I thank Hon. Members for recognising the importance of this Bill and recognising the Department's good track record in this area in the past.

I would also like to extend the Department's thanks to Andrew Webb, formerly of the Attorney General's Chambers, who drafted the Bill.

I have nothing further to add at this stage, but beg to move that the Enterprise Bill be read for a third time.

The President: Mr Turner.

Mr Turner: Thank you, Mr President. I beg to second and reserve my remarks.

The President: Mrs Christian.

Mrs Christian: Thank you, Mr President.

Yes, I support the Third Reading. I accept the principle that this is widening the scope for the DTI in relation to support for businesses and for a wider variety of types in the future.

I thank the hon. mover for his comments in relation to the report. On reflection, last week, I had not read very accurately the definition of 'financial assistance' and my amendment was not accepted. But I do appreciate that, maybe, this report will in future – although without statutory requirement – provide information for Members on companies or businesses which have been supported but have failed.

But I do note the rider which the hon. mover made and that is with reference to clause 9(2):

'Nothing in this Act shall prejudice or affect the terms and conditions of any financial assistance'.

I hope that will not mean that financial assistance is tied up by so many confidentiality agreements that we cannot get the information which we want.

I understand that there is a need for some degree of protection for businesses, but I do hope that Members will be given something meaningful in terms of this report. But I do support the principle, Mr President, that the Bill be accepted.

I note his comments that issues about the Department carrying on businesses itself – he had commented that it is not new. I accept that it is not new and I know there are businesses that Government has got involved with in order to

keep them afloat in many circumstances; but, as a principle, we should be careful when we exercise that right.

The President: Mr Lowey.

Mr Lowey: Yes, I welcome the Bill, as I did last week, and on its First Reading. I think the mover of the Bill has every right to welcome the unanimous support of the Council for this particular measure, and the Department and its track record.

I am just a little... as a supporter of the amendment and I too, like Mrs Christian, welcome the steps that the Department has taken to try and accommodate those concerns. I just remind the Hon. Member and the Department that, already, on training grants, in the Pink Book of estimates, the Department already publishes the total amount of money that is available for those grants. So, there is a pot of money there for the training.

So, we really are afraid, I think, of open disclosure. It is an attitude, I think, that we all ought to adopt of us trying to be as open as we can. It is the attitude that, somehow, if we acknowledge that publicly, we are going to open the flood gates.

I think common sense has been the watchword and password of past Departments and I am sure it will be in the future. I am sure the Department will attempt to give as much relevant public information as is necessary to instil confidence in this Department that has a right to expect and, on its track record, deserves the support of the community.

The President: Mr Downie.

Mr Downie: Yes, Mr President, I obviously am going to be speaking in support of the Bill.

I think its introduction will open up a huge new array of business opportunities for the Isle of Man. The old legislation has been sadly lacking for a number of years and, as has been outlined through the progress of the Bill, there are checks and balances in the legislation. It is very difficult, in some areas, for the DTI to make substantial offers to a business without receiving concurrence from Treasury.

So, within the Government network, there is a team of people who work very closely together on the development of new business who, I think, will find this new piece of legislation very, very useful. It will actually move us forward and, once again, put us on a level plain with all our competitors out there, which is a very important thing to consider as our competitors have access to European Union money and other sources of funding. Sadly, for the last few years, we have definitely been trailing behind.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

I would just like to support the Member of Council, Mr Lowey, when he referred to the track record of the Department of Trade and Industry. It has certainly been functioning very well over a number of years and the fact that the Treasury is backing up the Bill with regard to an oversee of any claims... I think it is belt and braces anyway, so I do not think we should add any more to what has already been said.

The President: Mr Crowe to reply.

Mr Crowe: Thank you, Mr President.

I thank Mr Turner for seconding the motion.

I am pleased that Mrs Christian is supporting the Bill as now finalised. I am pleased also that she appreciates the commitment to give the report the details of the failed businesses who have had support and may fail in the future.

I think we have to recognise that the report, once it has started, will be an evolving process. I think we will be going from a point of possibly limited information to complete information; but we do have this saving clause where there is a confidentiality to companies that have used the Enterprise Bill to get the grant system.

She rightly says that the report has to be meaningful otherwise it will not have any significance at all. I take her point that the powers of the Department will have to be exercised carefully.

I thank Mr Lowey for his support. He has given full support, as other Members have given, throughout the debates. As he says, rightly, the Pink Book does publish the total amount of money that the Department uses for the grant system and, again, he talks about openness and disclosure: again, the Department will work towards that. I think, as he rightly says, common sense is the watchword.

Mr Downie, I thank him for his support. What we have is the potential here to allow a complete new way of business that we cannot even think about yet. He also mentioned the checks and balances in the legislation regarding the powers.

Again, he comments on the Treasury having the power to oversee this, the extra pair of eyes to look at each grant application or financial information or assistance that is required.

I thank Mr Waft for his support and he recognises the good track record of the Department.

So, I thank all Members and those who spoke in support of the Third Reading. I think what we have is a good piece of legislation. It brings flexibility into the legislation. We still have the Regulations to go through Tynwald, which will give more specific details and will firm up the proposals.

Having said that, I beg to move the Third Reading, Mr President.

The President: Hon. Members, the motion that I put to Council is that the Enterprise Bill 2007 be read for a third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Corruption Bill Second Reading approved

3. Mr Waft to move:

That the Corruption Bill be now read a second time.

The President: We turn then to Item 3, Hon. Members, which is the Corruption Bill and this morning, it is the Second Reading. Mr Waft, please.

Mr Waft: Thank you, Mr President.

Before moving on with the Second Reading of the

Corruption Bill, I would just like to thank Hon. Members for the support I received when I moved the First Reading of the Bill last week. It is particularly encouraging that Members were very supportive of the Isle of Man meeting modern international standards in this area.

However, as the Hon. Member, Mr Butt, pointed out, the Bill is not just about the Island's international reputation; it is also about strong anti-corruption legislation within the Isle of Man.

I was able to confirm to Mr Butt last week that section 323 of the Criminal Code 1872 will continue in force when the Corruption Bill is enacted. For the benefit of those Members who are not familiar with this section, it deals with the bribery or corrupt influence of officers connected with the administration of justice and people who are serving on juries.

However, I should say that, although section 323 will continue in force, it will be largely superseded, because an offence under it will also be an offence under the Corruption Bill and the penalties available in the Bill are stronger than those under the old legislation.

Mr President, I have to admit that I have some sympathy with your comments last week about the gender-neutral drafting language of the Bill which can, in places, make the wording less clear than we might wish. The draftsmen had little choice in the matter because, as Members may recall, the policy of using gender-neutral language in Bills comes from a motion passed in another place in October 2004. However, I have been advised that the wording is legally correct and it achieves what it is supposed to.

As I mentioned at the First Reading, this Bill is part of a process of bringing the Island's legislation into line with standards set out in the United Nations Convention against Corruption, which 104 countries have ratified so far and more are in the process of doing so. The Island's implementation of the Convention will be viewed positively by bodies such as the Organisation for Economic Co-operation and Development (OECD) and the International Monetary Fund (IMF) and, in today's global financial market place, reputation is, of course, vitally important.

As has been said, the Bill is not just about the Island's international reputation. Corruption, whether it takes place on the other side of the world or right here in the Isle of Man, is not a victimless crime. It is to be hoped that this strengthened legislation will act as something of a deterrent to the Island's residents and companies who might be tempted to engage in corrupt practices and, if not, that it will improve the likelihood of being able to detect and successfully prosecute corruption offences.

Mr President, in concluding, I would like to briefly describe some of the Bill's main elements. The Bill explicitly provides that it is an offence for a person to give or to offer an advantage to another person with a view to influencing them to carry out a function corruptly or as a reward for them having exercised the function corruptly.

Equally, it will be an offence for a person to accept or seek an advantage from another person on the basis of influencing them to exercise a function corruptly, or as a reward for them having exercised a function corruptly.

Because of the 'under the counter', 'behind closed doors' nature of corruption, where a person is subject to proceedings under the Bill and it is proved that advantage has been given or obtained during the exercise of a function, there can be a presumption that the advantage was given or obtained

corruptly. However, the presumption can be rebutted, if the balance of evidence is against it.

This presumption is present in the Corruption Act 1986 and, in fact, it will be somewhat easier for a person to refute the presumption under this legislation due to the Human Rights consideration.

A new provision in this Bill is the duty on persons acting on behalf of public bodies to report their knowledge or their reasonable suspicion of public sector corruption in the Island. In fact, it will be an offence not to report knowledge or suspicion of corruption; but there will be a defence where the person believed it would lead to serious physical harm.

A person who reports their knowledge of corruption will be covered by the protected disclosure provisions in the Employment Act 2006, and harming someone on the grounds that they have reported corruption will be an offence. In addition, the Isle of Man residents or companies who commit acts that are corruption offences under this legislation when outside the Island can be prosecuted in the Island.

Mr President, I beg to move the Second Reading of the Corruption Bill.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mr Downie has seconded, Hon. Members.

In that case, Hon. Members, I put to Council that the Corruption Bill 2007 be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Corruption Bill Clauses considered

The President: We move on to the clauses. Clause 1, Mr Waft, please.

Mr Waft: Yes, Mr President.

Clause 1 of the Corruption Bill establishes the general principle that an action that amounts to corruption is an offence. The clause applies to both the public and private sectors.

Subclause (1) deals with a situation where one person gives or offers an advantage to another with a view to influencing them to carry out a function improperly or as a reward for them having done so.

Subclause (2) applies where the person carrying out the function seeks or accepts an advantage from another person with a view to them carrying out their function improperly or as a reward for them having done so.

'Advantage' is defined broadly in the Bill as being a benefit, whether direct or indirect, including any action or omission which is beneficial to the other person.

For the purpose of the Bill, acting 'improperly' means acting in breach of any duty of a public or private nature, including any duty to act in good faith or to act impartially.

Mr President, I beg to move clause 1 stand part of the Bill.

The President: Mr Downie.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President.

I am assuming that the word 'person' includes companies as well as persons.

I am also assuming – perhaps the mover will confirm – that it is not just Isle of Man resident persons who will be caught under this Act or resident companies in the Isle of Man; it could, in fact, impact on companies or persons coming to live on the Island or just to do business on the Island as well, if they carried out an act which may fall foul of this particular legislation.

The President: Mr Butt.

Mr Butt: Thank you, Mr President.

I am looking for some advice in a way on some of the wording and perhaps Mr Attorney could assist me.

In clause 1(1), the last three lines – lines 6, 7 and 8 – there is a sentence there which is, in effect, split in two by the word 'or'. The first part says:

'with the intention of influencing that person or another person to exercise a function improperly...'

That must be the essence of it: it has to be improper to actually create an offence, in effect.

Then it goes on: 'or' – which, in effect, separates that –

'as a reward for so exercising a function.'

That occurs later on in the clause and in the other clauses.

I am wondering: should it actually say, 'or as a reward for exercising a function improperly'? The word 'so', in effect, indicates that maybe it does refer to the improper function. Maybe 'so' is strong enough to actually give what we need, but I do wonder, because it is an 'or' and it does separate the sentence – if you took away the first part, that would stand on its own without the mention of the word 'improper'.

I would like some guidance: 'so' might be strong enough to actually indicate that it still relates to 'improper'; but, if not, does the word 'improper' or 'improperly' need to be added to the second part as well?

That occurs later on at the bottom of the page, and in clause 2, and in two other places as well.

The President: It is our job and our duty to make it as foolproof as is practical, I would suggest. I do not know, Mr Attorney, if you want to comment on that or...?

The Attorney General: Thank you, Mr President.

I must admit my reading of clause 1(1) – 'or as a reward for so exercising a function' – the 'so', I feel, relates very directly to exercising a function improperly.

Mr Butt: That is what I felt –

The Attorney General: So, the word 'so' is, in my respectful view, Mr President, very directly related to 'improperly' and I would not recommend any amendment to it.

Mr Butt: Right, thank you. That was my view, but I was not sure whether it was strong enough in law to actually indicate that the word 'improperly' is implied in the whole sentence.

The President: Mr Lowey.

Mr Lowey: Again, thinking aloud, I wonder what we are about on corruption. We are all under pressure, from time to time, with advertising and persuasion to do something, to buy something that, perhaps, we do not want. Some would say that is an improper advantage that is being applied.

I know this Bill is more serious than that, but I think that the defence could very well suggest – could it not? – that if you were invited to do something, it was up to you then to exercise your judgement.

How does this clause – which is the key clause, of course – get around that defence of exercising what I would call judgement? We all have different degrees of judgement: my judgement may be different from the mover's judgement or any other Member of Council's.

This clause here says, if it was improperly applied: who is the arbiter, at the end of the day, judging whether it was improper?

The President: Mr Waft to reply.

Mr Waft: Thank you, Mr President.

I thank the Members for their comments.

With regard to Mr Crowe's concern about whether the person includes companies and well as persons, it does certainly include companies and persons. People coming to the Island to do business on the Island: they also come under the Bill.

With regard to Mr Butt and 'so' or 'or', I think the Attorney General has adequately answered that query.

With regard to Mr Lowey and his concern about being invited to do something and exercising their judgement as opposed to...

With regard to exercising their judgement, I think the essence of the Bill would be – and the Attorney might correct me on this – they have to act in knowledge of what they were doing was improper or incorrect. If they can prove that they were not aware of the situation, that would not be a case that could be taken to a lawyer.

Mr Lowey: Okay.

The President: In that case, Hon. Members... Mrs Christian.

Mrs Christian: Mr President, I wonder if the mover could answer the question posed by Mr Crowe about whether 'person' encompasses a corporate body.

Mr Waft: I thought I did answer that, Mr President. Yes, it does.

The President: The answer was yes. (Mrs Christian: Sorry.)

In that case, Hon. Members, I put to Council that clause 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2, Mr Waft, please.

Mr Waft: Thank you, Mr President.

Clause 2 deals with the situation where the person who is improperly giving or receiving an advantage is acting as an agent for another person or body, rather than on their own behalf.

Subclauses (1) and (2) of this clause mirror subclauses (1) and (2) of the previous clause. They confirm that, even when a person is acting for somebody else, if they give, offer or accept or seek an advantage for acting improperly, then they are committing an offence.

Subclause (3) provides that it is still an offence under subclauses (1) and (2) where the functions of businesses of either the agent or their principal have no connection to the Island or they are conducted outside the Island.

Mr President, this is the clause where it has been suggested that the use of gender-neutral language makes it less easy to follow, but I am advised that the wording does exactly what it is legally intended to do! (*Laughter*)

I, therefore, beg to move clause 2 stand part of the Bill.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mr Crowe.

Mr Crowe: Yes, I am obviously supporting this clause, which is a fundamental clause.

The difficulty in the legislation would be in enforcing this or finding out where the advantage has been gained or... It would be straightforward if a gift is obtained. For instance, if you are given tickets to a premiership football match in the hope that you do something for a person or if you were paid a sum of money, then under the present legislation, Tynwald Members certainly have to declare an interest in gifts of a certain value. I think it is the same with the Government Officers' Association, where they have to detail any gifts over a certain value of £50 or something like that.

So, I think the ability to check on gifts and rewards will be straightforward as far as Government officials are concerned. I think the harder part will be implied benefits which would be harder to estimate or to judge in the normal course of things.

I think Mr Lowey put his finger on it when he said that different people have different standards as to what a gift is or what a favour to a friend is and what corruption is. I think there are some fine lines and some grey areas that may come out with this piece of legislation.

But, as I mentioned, I have no difficulty in supporting the principle.

The President: Mr Waft to reply.

Mr Waft: Thank you, Mr President.

I thank the Hon. Member, Mr Crowe, for his remarks. The ability to check with regard to situations is always a concern.

With regard to implied benefits and what a gift or a favour is, at the end of the day, it would be, from the informant's point of view, whether he deems, in his view, that the corruption is taking place. I think, at the end of the day, it is down to a court of law to decide whether a normal person would agree that this is a corrupt action or an implied benefit.

There is a vague area there which, perhaps, would be

clarified by the action taken to the court. They would make the ultimate decision on whether any ordinary man would have acted in that manner.

The President: Hon. Members, I put to Council that clause 2 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

Mr Waft: Clause 3, Mr President, of the Bill establishes the offence of bribery of a foreign public official. This is a requirement of not just the United Nations Convention against Corruption, but also the OECD Convention on Combating the Bribery of Foreign Public Officials, which already applies to the Isle of Man.

At the moment, the requirement under the OECD Convention is partly covered by section 323 of the Criminal Code 1872 in conjunction with section 2B of the Corruption Act 1986.

However, its implementation is neither particularly clear nor complete and that is addressed by this clause. A foreign public official is defined in the Bill as meaning a person holding a legislative, executive, administrative or traditional office, whether they are appointed or elected, in the country or territory outside the Isle of Man.

The definition also covers a person exercising a function on behalf of various other public bodies outside the Island, including officials from international organisations such as the United Nations.

So, as an example: if an Isle of Man based company bribed an official of a foreign government in order to obtain a contract, they would be guilty of an offence under this clause and they could be prosecuted in the Island.

Mr President, I beg to move.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mr Lowey.

Mr Lowey: Just following on about that, the Isle of Man now does a lot of international trade and I think this clause is necessary if for no other reason than if, say, a British company set up a subsidiary company here and did its international trade through here, it is right and proper in the international world that the Isle of Man should not be used as a bolt hole, as bypassing the thing.

That is why, when we want to play in the international scene, we have to adapt the international rules. I think it is right and proper that this clause should be included and it covers that very point that the mover actually said.

I support it.

The President: Mr Waft to reply.

Mr Waft: Thank you, Mr President.

I would just like to thank the Hon. Member for his support and move that clause 3 stand part of the Bill.

The President: In that case, Hon. Members, the motion I put to Council is that clause 3 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

Mr Waft: Clause 4, Mr President, establishes that where a person is proceeded against for an offence under clauses 1 or 2, there can be a presumption that corruption has taken place where it is proved that advantage has been given or obtained during the exercise of a function.

It is considered that presumption is required, because of the general secretive 'behind closed doors' nature of corruption, perhaps between just two people, neither of whom will admit to any offence, and where there may be no evidence in writing. However, the presumption can be rebutted, if the balance of evidence is against it.

This presumption is present in the Corruption Act 1986, but it will actually be somewhat easier for a person to refute it under the new legislation due to Human Rights considerations.

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

The President: Mr Downie.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mrs Christian.

Mrs Christian: I note that the mover has said that this already exists and it is interesting – isn't it? – that we almost have here a situation of 'guilty until proven innocent', which is not a very happy situation, so far as I am concerned. There may have been an advantage, but proving that it was not done for improper exercise of a function might be difficult.

I do have some concerns about this clause. I wonder if, under the present legislation, it has ever been exercised in court. Normally, we accept innocence until proven guilty and this is a reversal that I am a bit concerned about, Mr President.

I do accept the point that the whole principle of this Bill is based on two parties who are jointly party to something improper. It is going to be extremely difficult to prove it in many cases, I am sure. But I still do not feel entirely comfortable that, even in that situation, we should presume corruption, without being allowed to be innocent until proven guilty.

The President: Mr Butt.

Mr Butt: Thank you, sir.

I agree with the Hon. Member of Council, Mrs Christian. I would like to ask the Attorney if he can perhaps assist on this. Normally, in criminal legislation, the standard of proof has to be beyond reasonable doubt, and this is the balance of probabilities.

I just wonder, is there any other legislation of a criminal nature where this is used? I know it was in the old Corruption Act, and for the reasons Mr Waft stated, but it does cause me some concerns as well. I think there are some sexual offences, which are mutually committed by persons together, of a similar nature, where again it is not in their interests to admit, but in those cases I still think we have to prove beyond reasonable doubt. So I wonder, are there any other examples that perhaps could help explain to me and Mrs Christian why this needs to be in here?

The President: Mr Turner.

Mr Turner: Yes, just on that subject, Mr President: as regards the persons accused being guilty until proven innocent, would this possibly infringe their Human Rights? Maybe we could have some advice on that.

The President: Mr Downie.

Mr Downie: We are talking about some very interesting theories here, Mr President.

No doubt, to bring a case of this nature would be extremely difficult to do, and if you look at what exactly happened, as I see it, the arbiter in all this is the courts. If you have not got a framework to build a case around in the first instance, when you do suspect there has been some corruption, there has to be some onus on the individuals involved to either convince the Police that there is not a case to answer or, at the end of the day, convince the courts.

British law is unique in this area because, as most of you know, if you are in France, the majority of cases there, you are considered guilty until proven innocent. That is a thing that is creeping right through Europe now. It is based upon the old Napoleonic Code. Whereas in somewhere like the Isle of Man, where we, by and large, trust the credibility of people here doing business – our word is our bond, we pride ourselves in our respectability – there are some countries who do not, sadly, operate like that.

I would be very concerned if we were softening this in some way, because I think that it might actually work to our disadvantage.

The President: Mr Lowey.

Mr Lowey: Like a lot of my colleagues, I too do not like the position of 'guilty until proven innocent', but, in this particular clause, we are not hardening that; we are actually softening that. In other words, I think it is making it easier for the defendant and more hard for the prosecution.

As to are there other precedents, whether we like it or not, we have already decided that the right to silence when you are in a police station, for example, can be construed as guilt. We are moving, step by step. I think it is right for Mrs Christian to raise the principle, but in this particular clause, I do believe, as the mover has said, we are, because of human rights legislation, making it less onerous on the defendant. So we are coming away from it. We are moving, not further down that road, but further away from that road. I illustrate, inconclusively maybe, but I do think there is a tendency today to move towards, as my hon. colleague has said, the rights of individuals, as opposed to the state of swinging the other. I think we ought to be careful about it; I really do.

The President: Mr Attorney, do you wish to comment, sir?

The Attorney General: Yes. Mr President, Hon. Members have raised a very interesting point and I can well understand their concern about this clause.

I think it would be as well for me to reassure Hon. Members that, in my view at any rate, this clause does not, in any way, drive a wedge between the functions of the prosecution on the one hand, and the presumption of innocence on the other. It is always for the prosecution to prove its case beyond reasonable doubt, and certainly when judges sum up to juries, the jury is told that members must

be sure of all the ingredients of the offence and, if there is any reasonable doubt about any of those ingredients, then the accused person is entitled to be acquitted.

The Hon. Members have emphasised, Mr President, that whenever there is a provision in a statute, as we have at the moment in our 1986 Act, which puts a burden of proof on the defendant to show something, the courts – the European courts, and now the Isle of Man courts – must look at that provision very carefully indeed, bearing in mind that the prosecution throughout have to prove every ingredient of the offence, so that either the judge or the jury is sure of guilt.

So there is no doubt, Mr President, that if proceedings are brought under this Bill, and the prosecution say, ‘Well, Your Honour, in relation to clause 4, it is for the defendant to prove that the advantage has not been given improperly,’ that sort of defence will be scrutinised, but there is always a presumption that the defendant is entitled to be acquitted, unless the prosecution prove all the ingredients of the offence.

The way it works, though, Mr President, as I see it, is this: that this Bill, of course – and Act, if enacted – requires the prosecution to prove various things beyond reasonable doubt. If we look, for example, at clause 1 of the Bill, the prosecution have to prove that a person – if we look at clause 1(1) – has given an advantage to, or procured an advantage for any person, or has offered or agreed to give an advantage to, or procured an advantage for any person. Those are objective things that have to be proved, and then the prosecution has to go on and prove an intention. It has to prove that the defendant has done it with the intention of influencing that person, or another person, to exercise a function improperly, or as a reward for so exercising a function.

As the mover of the Bill has said, Mr President, it is very difficult indeed to show... In the absence of direct evidence, or some incontrovertible written evidence, it is very difficult to prove that – if we look at clause 4 – an advantage has been given, or that a person might exercise a function improperly. It is very difficult to do that, because the people who are actively involved in the alleged corruption are the only people who know what is going on, and they are the people who can so easily disprove the allegation of wrongdoing.

So it seems to me, Mr President, it is entirely right that an evidential burden, on the balance of probabilities, which, of course, is far less than the prosecution have to prove... It is appropriate that the defendant should be able to ask to prove, on a balance of probabilities, facts which show that he is innocent.

That happens, I think – to answer Mr Butt’s question – occasionally in licensing cases, where somebody is driving a car, or someone is alleged to be hunting without a game licence, or fishing without a licence. You have, as I recall it, a duty to produce the licence, and if you do not, you are presumed to be guilty. The reason for that, quite simply, is it is within your power to show, simply by producing the licence, that you are not committing an offence. Equally – to take the example made by the Hon. Member, Mr Lowey – if you have an explanation to give in court, which can so easily be given, and you refuse to give your explanation, or you choose not to give it, then the court can draw an adverse inference.

I am sorry to go on, Mr President, but the golden thread throughout all this is that, if people are able to explain the position very easily and they refuse to do that, the court is

entitled to draw an inference against them. That, really, is what clause 4 is saying: that, given the whole context of the proceedings... The prosecution have to prove various things, objective facts and an intention. Given that the prosecution have to do that, but there are certain elements which can so easily be proved by the defendant, it is right that clause 4 should say there is an evidential burden on the defendant. So the burden passes over to the defendant to prove certain things. Then it passes back to the prosecution to prove the case beyond reasonable doubt.

Mr President, I am very sorry I have gone on a bit –

The President: No, not at all.

The Attorney General: – but it is a difficult concept to explain, and I perhaps should have done it a lot better, but I hope that will reassure Hon. Members that, in limited circumstances, it is not unusual for the defendant to have a burden of proof on a balance of probabilities that is far less than the prosecution have to give, and it is appropriate in this case.

The President: Mr Butt.

Mr Butt: Yes, thank you, Mr President.

Actually, I thought that was an excellent explanation, and I much appreciated what Mr Attorney has said. It has helped me quite a lot to clarify the way I was thinking. I realise now that the balance of probabilities – the lower standard of proof – cannot be exercised by the prosecution, which is an important point to make, and I now no longer have a problem with that.

I suppose the problem really now is the presumption of guilt. The first part is the problem now, which is... It is not a problem, but I understand why it is there. Instead of labouring on the fact that the balance of probabilities was our lowest standard, I think perhaps, if we do have concerns, it is about the presumption of guilt, or the presumption of corruption in the first place.

Thank you.

The President: Mrs Christian.

Mrs Christian: Yes. Mr President, I will not vote against the clause, but I still think it is quite difficult for anybody to adduce what somebody might do.

You could say, if I have offered you something, you might go and do something. How do you begin to prove what somebody might do? If it is what they have done – if they have exercised a function improperly, and that is proven – well so be it.

My other concern is: when it is on the balance of probabilities, can’t you deal with that either way around? If it is on the balance of probabilities, surely that can be judged from the position of innocence, as well as from the position of guilt. However, it has been in the legislation before, so I accept the guidance of the learned Attorney on this particular one.

The President: I think the one outstanding area possibly is the point raised by Mr Turner, which I think Mr Waft, in his introduction of clause 4, commented on in relation to it will now be easier for a defendant, by virtue of the Human Rights Act.

Mr Attorney, if you could pick that point up, I think –

The Attorney General: Yes. Mr President, again I am sorry; I did not elaborate that as I ought to have done.

There is certainly now a body of Human Rights law which emphasises that, in the context of assuring that a defendant has a fair trial – and it is a so-called article 6 provision – it is wrong, in principle, for the defendant to have to prove his innocence. Therefore, given that, under our Human Rights Act, Mr President, the courts in the Isle of Man – as they do in England – have to be aware of and apply European law, an argument which is raised by a defence lawyer that ‘My client has not been entitled to a fair trial because he has had to prove something,’ is likely now to have far more sympathy than it would before the Human Rights Act came into force. So that, I think, is the force of what Mr Waft was saying.

Mr President, if I may just very quickly take up the very interesting point made by Mrs Christian –

The President: Mr Attorney, I have got plenty of time.

The Attorney: I am sorry.

The President: It is very interesting, and it is a good argument, and I would rather spend a lot of time getting this right. I think Members have raised genuine queries, and I thank you for your explanation.

Continue, sir.

The Attorney General: In the context of the concerns raised by the Hon. Member, Mrs Christian, there would, of course, be huge concern if somebody could be prosecuted just for receiving a gift from... Let us take my case. If, for example, I, as Attorney General, were to receive a gift from someone who might be suspected of committing an offence, the mere fact that I received a gift, I think – even though I am the Attorney General – would be considered to be unfair if I was prosecuted just for receiving a gift from a person.

If, however, the receipt of that gift was given in the context of a charge for corruption, under clause 1(1) – namely, that the prosecution could show that there had been an intention of influencing me in the way I was going to prosecute somebody, or not – if you look at that, it is then exceedingly suspicious if there was a receipt of a benefit in that context, and therefore, if I am charged with corruption, it would be for me to prove that I had not been influenced, or that I was not going to exercise a function improperly, and I could show that. Insofar as the balance of probabilities is concerned, Mr President, all I would have to do would be to show, on a 51 per cent ratio, 51:49... I would just have to tip the balance in favour of my innocence, rather than the prosecution, who have to prove it so that either the judge or the jury is sure and beyond a reasonable doubt.

So there are completely different standards of proof. The defendant has this 51 per cent hurdle to surmount; the prosecution always have far more than that, so that people are sure.

The President: Thank you.
Mrs Christian.

Mrs Christian: May I just go back to the point that the learned Attorney made about the Human Rights Convention. I think he said that the Convention now does not accept it is

appropriate to have an assumption of guilt. Then, how can we say that this measure is in line with the Convention?

The Attorney General: I am sorry, Mr President, I did not mean to say that you cannot have it. What I am saying is that if you do have it, the judges are going to scrutinise that provision very carefully indeed to ensure that the defendant’s rights, under article 6, to a fair trial, have not been infringed. So the scrutiny and the criticism of a clause like this will be far more intense now, when it is considered by a Deemster or by a High Bailiff, than it would have been before the Human Rights Act was passed.

The President: Mr Downie.

Mr Downie: But is it not a fact, Mr President, that, in the not-too-distant future, there will probably be a swing away from jury trials, and there is a likelihood that we will be following a European-type system for some of these very contentious and technical issues in courts, and that may have a different perspective altogether, where at least the people who are listening to the case have some depth of knowledge and understanding, and it is not just left to 12 men or women brave and true? Indeed, that is the way that the law has gone throughout Europe, and there is no doubt in my mind that is what will start to happen in the UK in the not-too-distant future.

The President: We are involved with the current system, as it is.

Mr Waft to reply.

Mr Waft: Thank you, Mr President.

I think the thread has been very similar throughout all the Members’ comments.

I thank the Attorney General for sorting out most of them for me.

Mr Turner mentioned Human Rights. It is for the very reason of Human Rights that the ability of the defendant to refute presumption is softened on a criminal standard to a civil standard, as Mr Lowey has said. With regards to the 1986 Act, it has never been used at all, so it is worth mentioning that situation is still there.

Mr President, I think it has been fairly well sorted out between the Members themselves, and I thank them for their support.

Thank you, Mr President. I beg to move.

The President: In that case, Hon. Members, I put to Council that clause 4 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We move to clause 5, Mr Waft.

Mr Waft: Thank you, Mr President.

Clause 5 imposes a duty on all persons acting on behalf of a public body in the Island to report their knowledge, or reasonable suspicion, of public sector corruption.

Subclause (1) applies where a person exercising a function on behalf of a public body is offered, or receives, a benefit in the course of their duties. If the person believes that the offer constituted an offence under clauses 1 or 2 of this Bill, or under section 323 of the Criminal Code 1872, they must disclose the information in the prescribed manner.

Subclause (2) provides that, where a person exercising a function on behalf of a public body knows, or reasonably suspects, that a person has committed, is committing, or is about to commit an offence under clauses 1 or 2 of this Bill, or under section 323 of the Criminal Code, they must disclose the information in the prescribed manner.

Subclause (3) defines a person exercising a function on behalf of a public body as not including a foreign public official. This is because the Bill cannot impose a reporting obligation on such officials. The types of public body covered by this clause are: the Crown; Tynwald and its branches; Government Departments and Statutory Boards; bodies that are wholly or partly appointed by Tynwald, or whose appointment requires Tynwald approval; local authorities; and, indeed, any other type of public body on the Island.

Subclause (3) also defines the prescribed manner for reporting knowledge, or reasonable suspicion, of corruption. The disclosure is generally to be made to a constable. However, where the public body has a procedure in place for reporting corruption, the report should be made in accordance with that procedure, in addition to making a report to the Police.

Subclauses (4), (5) and (6) are all concerned with establishing that a person who reports their knowledge or reasonable suspicion of corruption is covered by the protected disclosure provisions of the Employment Act 2006, sometimes known as the whistleblowing provisions. This prevents the employer from penalising the worker for making the report.

In addition, under subclause (5), any part of an agreement or contract that purports to exclude an employee from the protected disclosure provisions is void. However, a disclosure only qualifies as a protected disclosure under the 2006 Act if the person making it does so in good faith and does not commit an offence in doing so. In other words, a report of corruption made maliciously or vexatiously, with no reasonable basis, will not qualify as a protected disclosure.

Mr President, I beg to move clause 5 stand part of the Bill.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President.

Yes, again, a very interesting clause, and one that will be interesting to see how this actually works in real life, because if a person is approached to carry out a function, or offered a reward to do certain things, which may or may not happen, then he has to report this to his employer or to a constable.

Can I just refer to the United Nations Convention against Corruption, which we were all given when we were briefed on this Bill. I refer to article 32 – the Protection of Witnesses, Experts and Victims – and I think the difficulty in a person, a whistleblower, or blowing the whistle on a potential crime, will be the protection of that particular individual. There is a mention here that the person, or a victim, or a witness, if they do give testimony to a court, it is given in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology, such as video or other adequate means.

What I am asking is: will there be sufficient protection

to a whistleblower, to be able to give evidence, that he, or his family or relatives, are protected against any action that may be caused by his attempts to highlight the attempted corruption?

The President: Mr Downie.

Mr Downie: I think, Mr President, there are two issues here.

My hon. colleague was alluding, I think, to a major corruption issue where there could be millions – or, in fact, in some cases, billions – of pounds involved, and that those involved would go to very significant ends – even to murder and the kidnapping of children, and so on – to meet those ends.

I think what the Bill tries to do here is to bring it back to what would happen in an Isle of Man perspective, where someone working for a company, or an organisation, was in the situation where they had to inform the authorities that they had discovered some corrupt practice taking place and, of course, the clause quite clearly makes reference to the Whistleblower's Charter, which is enshrined in the Employment Act 2006, where a person, as an employee making that discovery and dealing with it in a proper way, could not be penalised.

It would be interesting to know, perhaps from the Attorney, what provisions there would be if there was a major corrupt act identified in the Isle of Man, where we have seen in the past here, with our own eyes... It is only a few years ago we had armed police on the roofs of buildings, and dogs here, when a certain individual went to court. So we may think it does not happen in the Isle of Man, but I feel sure that it would be good to know what the broad spectrum of all this is and how this particular clause sits.

The President: Mr Lowey.

Mr Lowey: First of all, as I read the clause, it is dealing with public sector fraud.

My query is – the mover of the Bill has said this applies to everybody in the public sector, and rattled the Departments and Statutory Boards, and those people who have been approved by Tynwald – what happens to the people who are not approved by Tynwald, but who could be set up by an agency that has been approved?

Say it was a company that had no... I will just use this for illustrative purposes: the Laxey Glen Mills. Say they set up a company to do something that was not within their remit, but the directors, in their wisdom, thought that this was the right thing to do – I am not suggesting for one moment that they have, or even considered it, but for illustrative purposes – and they brought in people who had not been approved by Tynwald to do this, and they knew about it. Under this Act, are they covered? In other words, is there a get-out clause here, as an escape route, to hive off into another area and let them do it, and they then did not report, and 'There you are, boys, my hands are clean'? I do not know.

I do note in (3) of the clause:

'For the purposes of subsections (1) and (2) –
(a) "a person exercising a function on behalf of a public body" ...'

Can that be interpreted that the person who has been brought in to run a company on behalf of an organisation – ?

Mr Downie: What about the FSC?

Mr Lowey: I just illustrate that. I do not know whether it is or not – maybe the mover can tell me – but this clause is to deal with public sector things, and not the private sector. Is that correct?

The President: Mr Butt.

Mr Butt: Thank you, sir.

I will support this clause. In particular, I find clause 5(2) very interesting, in that it creates an offence, really, of turning a blind eye to what might be going on. I think that is very important in a public body: it will mean, with this being in existence as law, the people training officers in public bodies can use this to reinforce the ethos and the morals of working in a public body.

Without this, people having half a suspicion or some idea could turn a blind eye, but now, if they do that, there is a specific offence. I think that is a useful addition to what we have at the present time.

The President: Mr Attorney.

The Attorney General: I am just going to comment, Mr President, to support what the Hon. Member, Mr Butt, has said.

It is quite unusual that someone can be guilty of a criminal offence merely because he or she has been negligent; in other words, just acts unreasonably. That, I think, is something we are likely to see more often, certainly in the context of money-laundering offences, for example.

If I may, Mr President, just answer the question raised by the Hon. Member, Mr Lowey. This legislation, if passed, will not in fact be concerned with situations where companies or government bodies act outside their powers. The legislation is designed to counter corruption, in the way that we have seen it described in the earlier clauses.

So, I would not like Hon. Members to think that this is going to be legislation which applies generally when people act outside their powers. That is not the case.

The President: Mr Turner.

Mr Turner: Yes, am I right in thinking that when we are talking about public sector, would that also include...? I am not too clear in my own mind whether that includes police constables and such individuals as magistrates and so forth. Surely, they would also come under public sector, because these individuals are in posts which may be susceptible to approaches from time to time. Obviously, they should be covered under this. It is not clear to me.

The other point I wanted to raise was whereby an individual may feel afraid to report an incident. I know there is protection in there, but obviously, by not reporting it, they are also guilty.

How do we reconcile people's genuine concerns? If they have got families to feed and so forth, quite a lot of people would think, 'I'm not getting involved in that; I am keeping out of it.' But, by virtue of doing that, they are as guilty as the rest of the parties, which I feel is a little bit harsh in some cases.

The President: Mr Attorney.

The Attorney General: Again, these are all very interesting questions, Mr President.

I think that it is worthwhile confirming that police officers, as I construe the Bill, would be caught by clause 5(1) because they would be exercising a function on behalf of a public body. 'Public body' is defined in clause 11 as the Crown. So an officer of the Police is acting on behalf the Crown in right of the Island. So a police officer who receives or who is offered an advantage has to make the disclosure.

If, Mr President, the police officer, or anybody else for that matter, feared that, as a result of making a disclosure, his family were in real danger of suffering serious physical harm, then the police officer who did not make the disclosure would have a defence available to him.

Again, we see under clause 6(2):

'It is a defence for a person charged with an offence [...] to prove that such person reasonably believed that if the disclosure required to be made [...] had been made, serious physical harm would be done...'

Again, there is a burden of proof, in my example, on the police officer to prove, but that proof would be on the balance of probabilities: it would be the 51 per cent. It would not be the same high standard that is required by the prosecution.

Very briefly, Mr President, normally speaking, the defence that you or those close to you might be subjected to serious physical harm is normally not a defence. If, for example, you had someone who was charged with trafficking in drugs and he said to the court, 'Well, I had to do it, because if I didn't traffic the drugs, I knew that my daughter was going to be beaten up by the thugs in Liverpool', or something, that would not be a defence.

The legislation in this case is actually providing a defence to the police officer in my example. It is quite unusual that that is so.

The President: Mr Downie.

Mr Downie: Can I ask a further question of Mr Attorney?

Would the same criteria apply then to somebody who held a position, say, in the Financial Supervision Commission (FSC)? That is the analogy, I would say, where they identified... and let us be honest, it could be many millions of pounds involved in an issue. Is that the same status as the Chief Constable?

The Attorney General: Mr President, I think that must be so, because 'public body' again, if we look at clause 11 and the definition of 'public body', it means:

'(d) a body the members, or any of the members, of which are appointed by, or whose appointment requires the approval of Tynwald'.

The members of the FSC are appointed by Tynwald, so they would be covered by clause 5(1).

The President: Just for my own point then, before I ask Mr Waft to wind up on clause 5: in clause 5(4), on the top of page 4, you refer to an insert which we are putting into the Employment Act 2006. We go on, in clause 5(5), to further consider the Employment Act 2006, but the insert is referred to in subclause (4).

It is interesting that the Employment Act 2006 is not included in our schedule 1 of amendments. I do not know

whether it ought to be or not. I thought maybe it should be. Mr Waft to reply.

Mr Waft: Thank you, Mr President.

I thank the Members for their concerns. I will try to explain them as we go along.

Mr Crowe, first, was concerned about what may or may not happen. He mentions article 32 and the whistleblower situation – is sufficient protection given to them? I think this is covered in clause 7. With regard to his concern, probably when we come to that, we will realise the situation.

Mr Downie referred to some of the more serious things that can happen within a community and that we cannot close our eyes to that situation. It is covered under, again, clause 7.

Mr Lowey mentioned the public sector and whether the situation regards just the public sector. This clause does just apply to the public sector, as I understand it.

Mr Butt mentioned about turning a blind eye and the Attorney General, I think, covered the situation that Mr Butt was concerned about.

Mr Turner was concerned about the other people who perhaps need to be included in it, with regard to a PC or a magistrate. That, also, is covered under the Bill in clause 11.

I beg to move.

The President: Hon. Members, the motion that I put to Council is that clause 5 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6 then: failure to report public sector corruption. Mr Waft.

Mr Waft: Thank you, Mr President.

Clause 6(1) establishes the offence of failing to comply with the reporting requirements set out in clause 5.

Subclause (2) provides that it is a defence against failing to make a report under clause 5 if the person can show that they reasonably believed reporting their knowledge of corruption would result in serious physical harm to them, another person or to the property of either.

Mr President, I beg to move that clause 6 stand part of the Bill.

The President: Mr Downie.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Hon. Members, the motion that I put to Council is that clause 6 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 7, Mr Waft, please.

Mr Waft: Thank you, Mr President.

Clause 7 provides that any person who harms another person on the grounds that they have reported corruption, or because they may report corruption, commits an offence. Under this clause, 'harmful action' includes interfering with a person's lawful employment.

Mr President, I beg to move clause 7 stand part of the Bill.

Mr Crowe: I beg to second, Mr President, and reserve my remarks.

The President: On this occasion, seconded by Mrs Crowe. Mr Crowe to speak, please.

Mr Crowe: I presume that, 'action harmful to any person' would include his family? Perhaps the mover could just comment on that.

The President: 'A person who intentionally takes any action harmful to any person' – so it would not matter whether it was family member or not, I would have thought. Mr Waft?

Mr Waft: Thank you for the clarification, Mr President! (*Laughter*) (**The President:** Apologies!) I beg to move.

The President: Hon. Members, the motion that I put to Council is that clause 7 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

Mr Waft: Clause 8, Mr President, deals with corruption offences committed outside the Island by Isle of Man residents.

Subclause (1) provides that the clause applies where the Isle of Man resident acted in a manner that would be considered to be a corruption offence if committed in the Island.

Subclause (2) provides that a corruption offence committed outside the Island may be treated as if it had happened in the Isle of Man, and proceedings may be taken against the resident in the Island.

Subclause (3) defines corruption offences for the purpose of this clause. Offences under this legislation or under section 323 of the Criminal Code 1872 are considered to be corruption offences, as are attempts, conspiracy or incitement to commit such an offence. Aiding, abetting, counselling or procuring the commission of an offence under this Bill or under section 323 of the Criminal Code are also corruption offences.

Subclause (4), Mr President, defines the Isle of Man resident as meaning a person who is ordinarily resident in the Island or a body that is incorporated under the laws of the Island.

Mr President, I beg to move clause 8 stand part of the Bill.

The President: Mr Downie.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mrs Christian.

Mrs Christian: Can I just clarify the intent of this, please, Mr President?

This principle of actions outside the Island being pursuable, if you like, inside the Island is one which is growing, quite properly, if we are to have a world which acts together on these issues.

Does it have to relate – this action which is taken outside

the Island – or have to have a benefit for somebody within the Island; or is it simply that if a person commits a corrupt offence in another jurisdiction and happens to re-establish themselves back in the Isle of Man, that jurisdiction can report it to the Isle of Man for prosecution here; or is there a party in the Island that has to be involved? Can the whole offence have taken place outside or does one party have to be here?

The President: Mr Lowey.

Mr Lowey: Just for clarification. I think I know the answer, but the maximum sentence is two years and seven years for other issues. I take it the court can give a suspended sentence or a fine or anything below that; or has it got to be a term of imprisonment? There are no definitions there, but I believe that the court has the power. That is the maximum they can give, but they can give various things down below that. I would just like clarification.

The President: We are not quite on clause 9 yet, but I think in 9(1)(b) –

Mr Lowey: Oh, I beg your pardon, sir! I am premature.

The President: – you have got the £5,000 figure there. Okay, Mr Crowe.

Mr Crowe: Thank you, Mr President.

I think the parallel I would draw with this clause is the long-running saga of BAE Systems who were awarded contracts in Saudi Arabia for certain aeroplane parts and planes, etc, which led to enquiries in the UK which, in fact, were then crushed by government mandate to stop the proceedings.

Really, it brings home to me that we are talking here of, again, the Island being part of the global economy. We have companies on the Island being awarded contracts all around the world, and it must be not only whiter than white, but seen to be whiter than white.

I think the legislation is necessary. It is important that we do play to the rules of the rest of the world.

The President: If I may then, Hon. Members, just in relation to clause 8(4), before Mr Waft tidies up:

‘an individual who is ordinarily resident in the Island’.

I think we all know what ‘ordinarily resident’ is in relation to tax law, and possibly even other law, but I do not see how ‘ordinarily resident’ is defined in relation to this particular Act – and whether it ought to be, is the question which I would raise.

Mr Waft to reply.

Mr Waft: Thank you, Mr President.

Mrs Christian raised the situation with regard to outside the Island. Simply, a corruption offence does not have to benefit a person in the Island. The offence can be wholly outside the Island. Only Isle of Man residents or companies can be prosecuted.

Mr Lowey mentioned terms of imprisonment: I think that is for later on.

With regard to Mr Crowe and British Aerospace and Saudi Arabia, I have not got any information on that.

Mr Crowe: It was a comment, Mr President, not a question.

Mr Waft: Yes. There is, Mr President, a definition to cover all people who consider the Island to be their home residence.

The President: Yes, I know where it comes from, but Mr Attorney?

The Attorney General: Mr President, yes, if I may. I absolutely agree with the Hon. Member, Mr Waft, in relation to the interpretation of this provision, clause 8.

It is rare, to answer the point raised by Mrs Christian, for the courts in the Isle of Man to seek to prosecute somebody in relation to acts which are done outside the Island. Normally, the rule is that you only prosecute people for things that are done or omitted to be done within our jurisdiction.

The principle of extra-territoriality, as it is called, of criminal law is growing, as Hon. Members have confirmed. It is absolutely true that, exceptionally, a Manx resident can be prosecuted for things that are done wholly outside the Isle of Man. There does not have to be any advantage for or any detriment to somebody in the Isle of Man. It is things that are done outside the Island which, if committed in the Island, would be an offence.

Now, to seek to answer the question raised by Mr President, you are quite right in saying that there is no definition of ‘ordinarily resident’. I would suggest that if this matter were to come before the courts, the courts are likely to apply the same definition as appears in our taxation law, as is interpreted by the courts in the taxation law. Ordinarily, it means someone who has his permanent home and place of residence in the Island.

But I am very aware of the fact that often that definition raises more questions than it seeks to answer!

The President: Mr Turner.

Mr Turner: Would it be the case, if a person was to be tried in a country for an offence and then returned home, that they also face prosecution here as well? I would not have thought that would be –

The President: Double jeopardy.

Mr Turner: Yes!

The President: Mr Attorney.

The Attorney General: No, I think, Mr President that it would be extremely unfair, if that were the case. I would suggest that those in charge of prosecuting offences would very much bear that in mind, in choosing not to prosecute here.

The President: Now, Hon. Members, I appreciate that we have gone further into the debate after Mr Waft had wound it up. I do not know whether, Mr Waft, you wish to add to anything?

Mr Waft: No. I just beg to move the clause.

The President: In that case, Hon. Members, the motion that I put to Council is that clause 8 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 9.

Mr Waft: Clause 9, Mr President, sets out the penalties for offences under the Bill. On summary conviction for any offence, the maximum penalty is six months' custody, a fine up to £5,000 or above. On conviction on information for committing a corruption offence, the maximum penalty is seven years' custody, an unlimited fine or both.

Failure to report knowledge of corruption and interference with the duty to report corruption, under clauses 6 and 7 respectively, both carry a maximum penalty on conviction on information of two years' custody, a fine or both.

Mr President, I beg to move that clause 9 stand part of the Bill.

The President: Mr Downie.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mr Lowey, do you wish to come back?

Mr Lowey: No, I think the mover has explained fully.

The President: In that case, Mrs Christian.

Mrs Christian: Mr President, I just wonder whether there is a piece of legislation which would deal with the advantage that had been gained. We have got a fine here which amounts to £5,000 or six months, or maybe two years, or seven years in some cases. One can imagine, in a corruption case, that there may be been a large bung. Is there any legislation which requires that restitution for the public body, or retrieval of the proceeds of crime?

I wonder if the penalty is limited simply to that set out in clause 9?

The President: Mr Attorney.

The Attorney General: Mr President, I am sorry –

The President: We are working you hard this morning!

The Attorney General: I am not sure whether the legislation we have on confiscation applies to these offences. I agree that, if it does not, we ought to amend it. Perhaps I could be allowed to look into that and come back to you.

The President: That would be fine, yes. Mr Waft, you are happy with that?

Mr Waft: That is fine, Mr President. Thank you. I beg to move clause 9.

The President: In which case, Hon. Members, I put formally to Council that clause 9 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

Mr Waft: Clause 10, Mr President, deals with corruption offences committed by a body corporate and the joint liability of officers or members of that body.

Subclause (1) provides that, where an corruption offence by a body corporate was committed with the consent or connivance of a director, manager, secretary or other similar officer, or due to the neglect of such a person, then that person is also guilty of the offence and liable in the same manner as a body corporate.

Subclause (2) provides that where a body corporate which is managed by its members commits a corruption offence and the offence is attributable to the acts or omissions of the member in connection with their functions or management of the body, that member is also liable for the offence.

Mr President, I beg to move that clause 10 stand part of the Bill.

The President: Mr Downie.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mrs Christian.

Mrs Christian: I am trying to understand this, Mr President, in terms of who might commit the offence. Let us suppose an employee commits an offence: an employee who was not a director, manager, secretary or similar officer. Is the employee the guilty party, or is the corporate body also a guilty party, or are all three in some way, if one of these officers was guilty of neglect? Where does the employee fit into this corporate structure in terms of guilt, please?

The President: In company law, I think he crops up with the body. I may be wrong! Mr Attorney?

The Attorney General: Mr President, ordinarily, in the criminal law, if an offence is committed by a body corporate, it is only those persons who are deemed to be part of the brains of the company – I think that is the way the judges describe it – who are in jeopardy. In other words, it is persons who are high up in terms of management. So, that is why we see director, manager, secretary or other similar officer.

Those sort of persons are going to be in jeopardy in terms of the criminal law and any person purporting to act in such capacity.

If, though, you had 'just' an employee – if we take an example of, shall we say, a secretary in a typing pool who has no part in formulating policy, no part in managing the act of corruption at all, but nonetheless typed out the cheque and presented it to her boss to sign – that sort of person would not be exposed to the criminal law.

I think it rather depends where the employee comes in terms of responsibility. The employee is only really going to be caught under 10(1)(b), if he or she is purporting to act in the capacity of an officer who has some real managerial input.

The President: I remember this being raised in company law a long time ago and the question was should 'secretary' refer purely to 'company secretary'?

Mrs Christian.

Mrs Christian: Could I just give an example and see where it fits, please, Mr President.

Let us say I am a wagon driver and I sidetrack a load of building materials, in order to gain some personal advantage somewhere else, from the person to whom I am delivering the goods. Is that corruption? That is nothing to do with the company in those circumstances?

The Attorney General: Mr President, I think in those circumstances the wagon driver himself or herself would be personally persecuted... sorry, prosecuted! (*Laughter*)

The President: Both I think! It is actually theft, isn't not?

The Attorney General: Indeed, yes. There may be other offences as well.

The President: Mr Crowe.

Mr Crowe: At the risk of extending this debate, can I give an example of, say, a Manx company with a branch in the Philippines with a manager who has a certain level of autonomy: his own budget, purports to act as an officer of the company, pays commissions, sends returns to the Isle of Man company, making profits and so on, carrying out activities which are totally corrupt, or partly corrupt.

Obviously, that individual would be guilty of an offence. Would the corporate body itself be caught in circumstances, where the directors and managers in the Isle of Man are unaware of the activities, until it is brought to their attention? Would the company be charged with an offence?

The President: Mr Attorney.

The Attorney General: Well, Mr President, I do not mean to be disparaging, but it is always very difficult to answer a hypothetical question like that. You will be infuriated when I say it all depends on all the circumstances!

Strictly speaking, Mr President, I am sure that a company and named individuals who are part of the brains of the operation, all of them could be prosecuted for corruption, depending on the facts.

The President: Mr Waft, do you wish to reply, sir?

Mr Waft: I would like to move clause 10, and thank the Attorney General for his intervention.

The President: Hon. Members, formally, I put to Council that clause 10 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Interpretation clause: clause 11, Mr Waft.

Mr Waft: Mr President, clause 11 sets out the definitions used within the Bill.

As I have already described the main definitions in moving previous clauses, I beg to move that clause 11 stand part of the Bill.

The President: Mr Downie.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mrs Christian.

Mrs Christian: I just note, in this, Mr President, we went through what a public body was before. We certainly have a catch-all in (g): 'any other description of public body'. It is a bit circuitous, isn't it? A bit circular: a public body is any public body!

But it will give scope, I suppose, where a definition is not set out.

The President: Anything further to add, Mr Waft?

Mr Waft: No.

The President: In that case, Hon. Members, the motion I put to Council is that clause 11 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Clause 12, Mr Waft,

Mr Waft: Mr President, clause 12 sets out explicitly, for the avoidance of doubt, that the provisions of the Bill apply to servants of the Crown, such as civil servants, in the same way as anyone else.

I beg to move that clause 12 stand part of the Bill.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: The motion I put to Council is that clause 12 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

The amendments and repeals: clauses 13 and 14 together. Mr Waft.

Mr Waft: Thank you, Mr President.

Clause 13 and schedule 1 set out minor consequential amendments to existing legislation.

I beg to move clause 13 and schedule 1 stand part of the Bill.

The President: And clause 14, sir.

Mr Waft: Clause 14, Mr President, and schedule 2 specify the enactments repealed in the whole or in part by the Bill.

Mr President, I beg to move that clause 14 and schedule 2 stand part of the Bill.

The President: Mr Downie.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mrs Crowe.

Mrs Crowe: Just for completeness, Mr President, as you did raise it and I was actually looking to see what part of the Employment Act was in, do you think maybe that should be added into the schedule, in schedule 1?

The President: Mr Attorney.

The Attorney General: Mr President, I am on pretty thin

ice here, because I suspect that it is more to do with drafting style than anything else. (**Mrs Crowe:** Oh, right.) I think that it is perfectly proper to have an insertion like that, albeit we have not included that in the amendment provision.

So I am content, if Hon. Members are, that it remains as is.

The President: My concern is that it is not referred to in the schedule. (**The Attorney General:** Absolutely.) For example, if you look at the Income Tax Act 1970: 'After section 106(5)(e), insert –', it is very similar. So anybody looking at the Income Tax Act could easily – or looking down the schedule to what other Acts have been amended – overlook it. That was the only point I was making.

The Attorney General: Well, Mr President, I absolutely take your point and if I may again, could I just refer that to the drafters and see what they say.

The President: In that case, Hon. Members, formally I put to Council that clause 13 and schedule 1, and clause 14 and schedule 2 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Finally, clause 15, Mr Waft.

Mr Waft: Clause 15, Mr President, gives the Bill its short title and provides that the Department of Home Affairs may bring the legislation into force by the Appointed Day Order.

Mr President, I beg to move that clause 15 stand part of the Bill.

The President: Mr Downie.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Hon. Members, I put formally to Council that clause 15 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Hon. Members, that draws to a conclusion our –

Corruption Bill

Standing Order 22(2) suspended to take Third Reading

Mr Waft: Mr President, could I ask for the suspension of Standing Orders to take the Third Reading. I move:

that Standing Order 22(2) be suspended to enable the Third Reading of this Bill to be taken.

The President: I do not think so, sir.

I am actually in the hands of Council! Apologies! I am in the hands of the Council in relation to this. Mr Attorney has indicated that there are two points which he would be inclined to bring back to Council. Whether or not Council want to bear that into consideration or not is in the hands of Council. Mr Waft.

Mrs Christian: Is there an argument which the proposer of the suspension wishes to put?

The President: He has not been seconded yet.

Mr Waft: I understand we are not sitting on the 18th, so we will be into January before the Third Reading...

The President: We can do.

Mr Waft: We should come back for the Third Reading on the 18th.

The President: I do not know. Our Clerk will be able to tell us, if we are likely to get any further legislation.

The Clerk: There is one Bill for Third Reading in the Keys today: the Agricultural (Miscellaneous Provisions) Bill.

The President: That would come before us, if we were to sit on the 18th. The 18th is the date we have left. I am in the hands of the Hon. Members.

Mr Crowe: Could I move that we sit on the 18th to take the Third Reading of the Corruption Bill?

Mr Lowey: I think we need... In the light of our international obligations, it would be much better if we had approved this legislation in this current year, as opposed to next year, and we can do that, I think, by sitting on the 18th.

The President: Mrs Crowe.

Mrs Crowe: I think it is important that we do clarify that position when large sums of money may be involved – the position about the proceedings of crime liabilities.

The President: Mr Attorney.

The Attorney General: Well, if I may, Mr President, perhaps the better way of dealing with that would be to include a provision in the forthcoming Proceeds of Crime Bill, rather than amend this Bill. I feel that would be a far more logical way of dealing with it, than to include it in this Bill.

As I said, if you were content on that, the only other point is whether it is appropriate to have the insertion in the body of the Bill, rather than in the schedule.

So, my respectful view would be that we can cope with it in that way, if, in other respects, Hon. Members were content.

Mrs Crowe: Oh, I am content.

The President: In that case, Hon. Members – although is anybody prepared to second Mr Waft's seeking the suspension of Standing Orders?

Mrs Crowe: I will second that, Mr President.

I am very happy now that the Attorney General has clarified that position and it does state, quite clearly, in the Bill which section of the Employment Act was referred to. It states quite clearly where the insertion is to sit in the Employment Act.

So I am very happy to have the Third Reading, with the

proviso that the Attorney General looks at the proceeds...

The President: I take the point; my only comment was because in fact if anybody looking for reference would go down the schedule to see what Acts had been amended and it does not refer to it. That is my only point: it is a reference point.

Hon. Members, those in favour of suspension of Standing Orders so that we take the Third Reading...

I do not think we really need to do that, do we? Are we agreed that we take the Third Reading this morning?

Members: Agreed.

Corruption Bill **Third Reading approved**

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

I thank the Members for their indulgence.

In moving the Third Reading of the Corruption Bill, I would again like to thank Members of Council for their support in taking this legislation forward.

Mr President, the Corruption Bill is part of a process of updating and strengthening certain aspects of the Island's legislation, so that we can comply with the United Nations Convention against Corruption.

The Corruption Bill is an important piece of legislation that will help protect the Island's reputation internationally, and this is, of course, important for maintaining and growing the Island's economy, so that it is possible to continue providing a good standard of public services.

The Bill is not just about reputation and ticking boxes with international bodies such as the IMF and the OECD; it is also about promoting the highest possible standards of integrity in public and commercial life. This legislation is intended to make it clear that corruption is unacceptable: it is a crime and when detected it will be prosecuted to the full extent of the law.

Mr President, I beg to move:

that the Corruption Bill be now read a third time and do pass.

The President: Mr Downie.

Mr Downie: I beg to second, Mr President, and reserve my remarks.

The President: Mr Lowey.

Mr Lowey: I am obviously in favour of it.

But I do feel sometimes that the Isle of Man has an awful habit of self-denigration. I believe that the Isle of Man is as corrupt-free as anywhere in the world, really, and this Bill is designed to keep it that way. I would hate the message to get out that we have to have this legislation because we are corrupt: I do not think we are at all.

I am rather proud of the way in which people conduct their affairs and in the public sector too. I just wanted to

put that on record, because sometimes we do tend to lather ourselves that somehow everything is corrupt. Even when we have genuine disagreements, it is 'corruption'.

It is not corruption in most cases, but this Bill helps to keep it that way. We are showing the world that we are running a pristine ship and as far as I am concerned, it is well designed and will actually enhance that reputation for fairness that we have got.

The President: Mr Butt, Hon. Member.

Mr Butt: Thank you, sir.

I also welcome this Bill and its progress, because the previous legislation was fairly arcane or unused. This actually brings it forward into the modern era, when we now live in an Island where there are lots of financial assets and lots of financial wealth.

Slightly contrary to what the previous speaker, Mr Lowey, said, there are people out there outside the Isle of Man who do target the Isle of Man. They target the Isle of Man for computer fraud; they target the Isle of Man and employers for blackmail. Corruption is another tool that they use to try to gain access to our financial assets and wealth.

My personal experience, unfortunately, is that nearly every firm and public body eventually has employees within in it who fall for temptation. Outside criminals know this and they bank on being eventually able to infiltrate organisations and public bodies in order to defraud them and, in some cases, maybe corrupt.

The people of the Isle of Man are not corrupt, but there are outside influences there who would like to take advantage of our wealth and our assets.

I think this Bill now will probably form part of a package, along with the anti-money-laundering legislation, in which companies and public bodies, hopefully, will be able to train people to re-emphasise that we should not be corrupt. We should not fall prey to temptation, which is so often the case in some organisations.

The President: Mr Downie.

Mr Downie: Thank you, Mr President.

I would just like to speak in support of the Bill. This is another step forward in fully honouring our international obligations in this regard. As previous speakers have said, in my view, there is very little corruption or perceived corruption in the Isle of Man. The risk comes from people who move in and out, on an international basis. They may or may not find a way to get round the system, as it were.

I think we would be found extremely lacking, if we did not develop this type of legislation, particularly as, in 2008, the Isle of Man will again come under scrutiny from various international bodies. At least we can say that we have brought this legislation forward. All being well, it will be on the statute books in the new year, and we can feel proud of the fact that we have a really good well-regulated international finance sector which, by and large, is up to speed with all of the latest rules, regulations and legislation.

The President: Mrs Crowe, Hon. Member.

Mrs Crowe: Just following on from the comments made by hon. colleague, Mr Butt, I think one of the things that is made very clear in this Bill is the fact that employees of a

company would have an obligation in law to inform: that it would no longer be a case of saying, 'I do not want to get involved, I would rather not know.' That is no longer acceptable in law. There is now an obligation, if you feel that there is any corruption taking place – or, indeed, if you know – then there is an obligation for you to inform either your employer, or indeed the Police.

The President: Mr Waft, to reply.

Mr Waft: Thank you, Mr President.

I thank Members for their kind words with regard to this Bill.

I would just like to agree that corruption in its many forms – and there are many forms of corruption – when detected, this Bill will enable for them to be prosecuted to the full extent of the law.

I would just like, at this stage, to thank my colleague, Ms Shimmin, for the copious notes she was able to supply me, and the Attorney General for his assistance during the process of the Bill.

Thank you, Mr President.

The President: Hon. Members, I formally put to Council that the Corruption Bill 2007 be read for the third time. Hon. Members, those in favour please say aye; against no. The ayes have it. The ayes have it.

Procedural

Date of next sitting; conference with Keys

The President: Hon. Members, that draws to a conclusion our business on our Order Paper this morning. Our adjournment is to the sitting of Tynwald Court next week on December 11th and thereafter, Hon. Members, more than likely to 22nd January. I think that now I can now quite easily say that we will not need to sit on 18th December. I think that Members have cleared their desk and –

Mrs Christian: I thought there was a Bill for Third Reading coming up.

The President: Pardon?

Mrs Christian: Isn't there a Bill just finishing?

The President: There is one Third Reading.

The Clerk: There is one Third Reading today.

The President: If they complete that, we could have it for First Reading – the Agricultural Bill?

The Clerk: It is called the Agricultural (Miscellaneous Provisions) Bill, Mr President.

The President: The question, then, is whether we should sit on the 18th to take First Reading.

Mrs Christian: We could sit next week, Mr President, to take a First Reading!

The President: If it comes through, Hon. Members, that is a fair point which Mrs Christian has made: we will be sitting in Tynwald Court on 11th December. If that does come through to Council, I will alert you to the fact that it is coming through in good time. It is possible that we will find time, either on the Tuesday or Wednesday of next week, to deal with the matter of First Reading of that Bill, and thus avoid having to come in on 18th December, if that satisfies Members.

Mr Butt: Mr President, I think that Bill may be coming my way; I am not sure. It has been in genesis for a long time. I do not think there is any urgency about that Bill that I am aware of.

Mr Downie: Mr President, it may be a good opportunity too on the 11th to get an update on the outcome of the conference.

Mrs Crowe: On the 12th.

Mr Downie: On the 12th, is it? (*Interjections*)

The President: Hon. Members, in relation to the conference which is for your Members, the Members of Council who are involved in the conference, I did try to fix up a meeting this morning. I was told that the Chief Minister was available, Mr Gawne was unavailable. I tried then for the morning of Tynwald next Tuesday, purely to deal with the diary items, so that we can get together and fix a date for the conference.

Subsequent to that, Mr Gawne again reported to the Secretary to the House that in fact he could not make that and felt that it should be put off to January. I was not intent to go down that route and said that we will meet on the 11th December, with our diaries available, just purely for that, so that in fact we will fix a date when the conference can be held.

That is all it is for, and that will take place next Tuesday, at some stage, immediately after Tynwald has risen for the lunch break. That is my intention: one Item on the Order Paper.

Hon. Members, I look forward to welcoming you in another place very shortly; but Tynwald sitting next week will be our sitting of the Legislative Council. Depending on this Agricultural Bill, it looks as if our next sitting of Council will be 22nd January.

Hon. Members, Council will now sit in private for two seconds.

The Council sat in private.