



**LEGISLATIVE COUNCIL  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH**

**P R O C E E D I N G S**

**D A A L T Y N**

**(HANSARD)**

**Douglas, Tuesday, 13th November 2007**

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

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 adjourned at 12.49 p.m.*

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## Legislative Council

*The Council met at 10.30 a.m.*

[MR PRESIDENT *in the Chair*]

**The President:** Hon. Members, I call upon the Chaplain to lead us in prayers.

### PRAYERS

*The Chaplain of the House of Keys*

### Thanks to Mr Lowey for presiding last week

**The President:** Can I, Hon. Members, say a thank you to our colleague, Mr Lowey, for allowing me to be absent last week and taking the Chair in my absence. Thank you for that.

### Amendments moved at Third Reading Clarification of Standing Orders by the President

**The President:** Hon. Members, for a clarification point, last week in the debate of the Prisoner Escorts Bill, I understand that Mr Turner tabled the amendment at the Third Reading stage. I understand that there was some discussion as to whether or not it was practical or that it could be done within the Standing Orders.

To play it safe, I understand that Mr Turner did move that the Standing Orders be suspended to any extent necessary to allow his amendment to be moved. It was carried and Mr Turner went ahead and tabled the amendment – perfectly in order, no harm done.

However, for the record, I would clarify that there was actually no need to have suspended Standing Orders in that particular matter.

### Hansard Reports

#### Early Publications on Tynwald website

**The President:** The Clerk, Hon. Members, has also asked me to draw to your attention that the *Hansard* Reports for our sittings of 23rd October, 30th October and 6th November are now available on the internet in the new ‘Early Publications’ area of the Tynwald website. A hard copy will, of course, be distributed in the normal way in due course, but the internet version is now out and comes out first.

If any Hon. Member is unable to access the *Hansard* on the internet, please speak to the Clerk, who will make any arrangements which they may need to assist them.

## Orders of the Day

### Constitution (Amendment) Bill

**Further amendments made  
Third Reading approved**

1. Mr Turner to move:

*That the Constitution (Amendment) Bill be now read a third time and do pass.*

**The President:** Hon. Members, we move on to our Order Paper and we move straight onto the Constitution (Amendment) Bill for Third Reading, in the hands of Mr Turner.

**Mr Turner:** Thank you, Mr President.

Mr President, this Bill, which is now in its Third Reading, has undergone much scrutiny and a number of amendments during the clauses stages here in Council. This is a Private Member’s Bill and is designed to simplify and shorten the time in which it takes the House of Keys to elect Members to the Legislative Council.

Thanks to the draftsman and our Clerk, I hope Members have received a reprinted copy of the Bill, incorporating the original amendments made by the Keys and the subsequent amendments made during our last sitting here in Council. It was Council’s desire to list the Third Reading for this week, so that we could study closely the various amendments. I hope that it will be recognised that the amendments made by Council are to assist in making this Bill more effective in achieving the aims of its original mover in another place.

I hope that it will pass the Third Reading today and that our amendments will be fully embraced by our colleagues in the Keys.

I beg to move the Third Reading of the Constitution (Amendment) Bill 2007.

**The President:** Mr Downie.

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

**The President:** Mrs Christian.

**Mrs Christian:** Thank you, Mr President.

First of all, can I say how much I appreciated having the Bill reprinted with the amendments in. (**Members:** Hear, hear.) It has made it easier to go through and consider whether it is now in an acceptable form.

Mr President, while fully understanding what the original mover was seeking to do, it was amended in another place which slightly changed the situation from his original intention. I think what we are seeking to do here is take on board the principles of what they wanted to do in another place and incorporate them into the Bill before it leaves us, in what I hope is a practical way.

Having read the Bill as we amended it last week, and given it some thought, I would seek, sir, to make further amendments today, by way of a tidying-up exercise and to remove any areas of potential conflict or doubt. To that extent, I would like to outline to you in the process for

nomination, consideration and voting, where there could be a problem in the current wording.

Members will recall that the Bill now proposes that not less than a month and 14 days before we go out of office, the Speaker can invite nominations. We then agreed that was acceptable; that we would suggest that not less than a month before we go out of office nominations would come in; then there would be a period of consideration of 14 days. Then we suggested, through an amendment, that elections should take place within a week, so that there was not a question about that element of the process.

However, in looking at this again, it seemed to me that if the Speaker, for some reason, decided to call for nominations *more than* a month ahead and 14 days, we would be left with an election taking place before we had gone out of office. To clarify that it is my suggestion that in page 2, line 17, we simply take out the words 'not less than', so that we now come forward with a proposal that the Speaker shall invite Members of the Keys to propose persons to be candidates for the election to the Council one month and 14 days before an elected Member of the Council goes out of office, in accordance with section 10.

We know when we are all going out of office. This makes it a fixed period of notice and it eliminates any possibility of any kind of clash or hiatus in the timetable.

If it is agreed that we do that and we then look at lines 41 to 44, there is a reference in there to subsection (1F)...

I think, Jonathan, we have missed out another deletion. No, it is not (1F) in the new version, no.

**The President:** Subsection (1E) refers to the 14 days and 21 days.

**Mrs Christian:** I apologise for this, I thought we had got this sorted out. I think it was (1I), Jonathan, that we were going to delete.

**The President:** Subsection (1I) refers to a voting paper, it cannot be that one.

**Mrs Christian:** Oh no, that is a voting paper, I am sorry.

**The President:** On the white paper, can I just clarify, it refers to deletion of (1F) which is an election to the Council shall not be held until an elected Member of the Council has gone out of office or there is otherwise a vacancy to be filled in the elected Members of Council.

**Mrs Christian:** Right, we can take that out.

**The Clerk:** Mr President, I think Mrs Christian is right to have spotted another omission. In amendment (2) on the sheet, it says, 'Delete subsection (1F)': that is because if amendment (1) is accepted by the Council, then subsection (1F) is not needed.

But what Mrs Christian has also spotted is that there is a cross-reference to (1F) in (1E) and it might be an idea to delete that as well. It is a consequential amendment which is not currently on the white paper.

**The President:** Mrs Christian, can I just get this straight, so that Council is aware. In fact then, on your white paper,

your suggested amendments to Council, it will be for the deletion of both (1E) and (1F)?

**Mrs Christian:** No, it will be: in line 37, delete 'Subject to subsection (1F)',.

**The President:** Is every Member clear on that? In (1E), Mrs Christian is also proposing that the first three words in the reference to (1F) be deleted – 'Subject to subsection (1F)'. Subsection (1E) will therefore start, Mrs Christian, with 'The sitting of the Keys at which the election to Council is held'.

**Mrs Christian:** Yes, that would start... It would simply read: 'The sitting of Keys at which the election to Council is held shall be not less than 14 days and not more than 21 days after the end of the period for the making of the proposals.' So we now have a fixed timetable.

So the wording of subsection (1F) becomes, I believe, redundant:

'An election to the Council shall not be held until an elected member of the Council has gone out of office or there is otherwise...'

That part of it certainly cannot happen because it is superfluous now. If we check the other bit:

'...or there is otherwise a vacancy to be filled in the elected members of the Council'.

Well, if there is a vacancy to be filled, there cannot be a clash because there is a vacancy to be elected to! So (1F), I believe, is redundant.

Then, if Members accept, in line 37, we delete, 'Subject to subsection (1F)', and in page 2, lines 1 to 44 we delete subsection (1F) itself, and renumber the remaining sections and any cross-references to them – so that (1G) becomes (1F) and so on.

Then, my other concern was: on page 2, lines 46 to 48, the timetables for these elections. Currently – and this came up from another place – it is proposed that once the Keys have commenced the business of electing Members to Council, then the business must be completed on that day and cannot be adjourned to a sitting of the Keys on a later date.

I personally think that, in the business of electing Council Members, if they have got to quite late in the day and they still have not concluded their election, it is not sensible, necessarily, for them to carry on through the night voting. My proposal is to substitute for the existing (1G) an amended version which will say, 'once the Keys have commenced the business of electing Members for the Council then that business must be completed before any other business is taken by the House sitting alone' – i.e. they can adjourn, but they cannot leave it to one side and take on other business. They must carry on with the process of voting before they get back to Keys business.

The purpose of saying 'the House sitting alone' is so that if the House is sitting in Tynwald, this clause would not interfere with them carrying on with their Tynwald work.

Members may take a different view, Mr President, but I think that this is a pragmatic proposal in relation to allowing the Keys the ability to continue to another day, if they have not, within a sensible timeframe, concluded the elections.

I beg to move, Mr President:

*Clause 1**(1) Page 2, line 17 –**In the new subsection 2(1B)(a), delete ‘not less than’.**(2) Page 2, lines 41 to 44 –**Delete subsection (1F) and renumber remaining subsections and any cross-references to them.**(3) Page 2, lines 46 to 48 –**For subsection (1G) substitute –**‘(1G) Once the Keys have commenced the business of electing members to the Council then that business must be completed before any other business is taken by the House sitting alone.’**(4) Page 2, line 37 –**Delete ‘Subject to subsection (1F),’.***The President:** Mr Lowey.**Mr Lowey:** I would second the amendment, Mr President.

As I said at the First Reading stage of the Bill, the idea of the Bill as I saw it, was to simplify the voting and also to speed up the election in the light of what I would call current practices which seem to delay it.

Mrs Christian’s amendments to the Bill will actually clarify that and make it in line with the thinking of the mover of the Bill. Mrs Christian has already mentioned that another place altered the Bill on the Third Reading and she said, ‘slightly altered’; I would say it was materially altered, from the voting pattern of the mover of the Bill, but be that as it may, that is what Keys are there for and that was their choice. But it was materially altered.

We are not altering that at all. What we are doing is making sure that the timescales are both clear and workable. Therefore I have pleasure in seconding the amendments of Mrs Christian.

**The President:** Mrs Crowe.**Mrs Crowe:** On first sight, I was also pleased to see the way in which it had been tidied up – again, to add my thanks, Mr President, because the reprinting of the Bill, which was the suggestion of Mrs Christian, has been of benefit to us all.

My only query is the one about the ‘Once the Keys have commenced the business of electing members to Council then that business must be completed before any other business is taken by the House sitting alone.’ I just wonder if in fact that would alter what the intention of the mover of this Bill was, which was to speed up the process, because by us saying that it is not adjourned to the following day – which of course they could very well do – it would adjourn it to the next sitting of Keys, which might be after a sitting of Tynwald, which might be... then you are into your 12-week or 18-week delay. So I just wonder –

**Mrs Christian:** No, two weeks.**Mrs Crowe:** No?**The President:** Continue, Mrs Crowe, sorry – continue.**Mrs Crowe:** Right, I just wondered if it might have been better to adjourn it to the following day. I know that there might be a query with Standing Orders in Keys, but I just wondered if that would delay the process longer than was the intention of the original mover of this Bill, because his intention was that that election take place in a very close timescale.

It is open for debate. When I first read this I thought, yes, that is precisely what we need and it is only whilst we have been sitting here, I am sorry, that I have thought of that.

**The President:** Mrs Christian, I will let you reply to that.**Mrs Christian:** May I clarify, please? (**Mrs Crowe:** Yes.) What we have done is tightened up very much what the proposer intended. The proposer’s intention was that nominations would be invited after we have gone out of office and that there would be a month and then 14 days. So that was six weeks, effectively, before they started the elections.

What we have done is made that nomination process occur before we go out of office, to be coterminous with us going out of office so that the election will then take place a week after we go out of office. If they adjourn it to their next sitting, at most it could be two weeks later. They have the first election in the first week, then there could be a Tynwald sitting, which would be two weeks, and then they would have to consider it again on the third week.

So, unless they did not get a conclusion on the third week, it would still continue –

**Mrs Crowe:** That is what my thought was.**Mrs Christian:** Nevertheless, that is still a lot faster than the process that was brought up to us.**Mrs Crowe:** Not if no-one is elected or if there is not... Could I, Mr President?**The President:** Yes, Mrs Crowe.**Mrs Crowe:** I think Mr Gawne’s original intention was that the election would be signed and sealed on that day. I believe that was his intention.

What we are saying now is we will go virtually back to the system that we had, inasmuch as it could go on and on, if no-one is elected. We are not saying that people have to be elected. We are saying that this is once again open-ended, so if there is no-one elected on the first day, and they sit till 10 o’clock or 8 o’clock or 6 o’clock and decide they want to adjourn, they can adjourn and three weeks later start electing again. Then if again no-one is elected at that date...

So my thought was to be adjourned to the following day and cap it at that, and that is the end of the election.

**Mr Lowey:** If they have not... Through you, Mr President.**The President:** Mr Lowey.**Mr Lowey:** Could I just tease out from Mrs Crowe... Whatever gives you the idea that if they have not elected somebody on the first occasion that they would automatically elect them on the second occasion?

**Mrs Crowe:** This was Mr Gawne's original point.

**Mr Lowey:** Yes, but it may very well be –

**Mrs Crowe:** And then we go through a whole new six weeks –

**Mr Lowey:** There is no guarantee. The point is there is no guarantee, is there?

**Mrs Crowe:** No, oh no.

**Mr Lowey:** So the only question I think Mrs Christian is posing is she wants it tightened up a bit. It may very well be that the Keys could, or Mr Speaker could, under their Standing Orders, adjourn until the following day –

**Mrs Christian:** They cannot.

**Mr Lowey:** They cannot do that?

**The President:** Sorry, Hon. Members. I was just looking at the long title of Mr Gawne's original Bill:

'... filled, an invitation to nominate candidates during a period of one month thereafter shall be addressed to the Members of the House of Keys, following which the vacancy shall be filled at a single sitting of the House held no sooner than two weeks later...'

I think that is the point that Mrs Crowe is picking up on: that was in the long title of this Bill – but, Mrs Christian.

**Mrs Christian:** Mr President, and we have overlooked this, but I did have a look at the long title of the Bill, and even the Bill did not reflect that. So the long title still probably needs amendment. I have a suggestion as to how that should be amended. I think we should delete the words, 'during a period of one month thereafter' because the Bill says it is, but whether you need to say that... Well, it could stay in, that bit – 'an invitation to nominate candidates...' Ah, no, it says 'after there is a vacancy', so I think we need to be very careful about the wording of the long title to provide that where there is a vacancy –

**The President:** In the reprint, we have changed that.

**Mrs Crowe:** We have changed that in the reprint.

**Mrs Christian:** Right.

**The President:** In the reprinted Bill, that is already changed.

**Mrs Christian:** Right, we need to move it though, don't we?

**Mr Downie:** No, we dealt with it last week.

**Mrs Crowe:** No, we have done it.

**Mrs Christian:** Did we take it last week? Oh sorry.

**Mr Butt:** Mr President, we need to amend the –

**The President:** Mr Butt.

**Mr Butt:** As I say Mr President, I noticed that before, we need to just amend the 'single sitting of the House'.

**The President:** It is the single sitting, I think, is the bit that –

**Mr Butt:** Mrs Christian's amendment –

**Mrs Christian:** It would depend on how the amendment goes.

**The President:** The single sitting is the bit that Mrs Crowe is raising. What I want to be sure is that Council is clear on what the proposal of Mrs Christian is and what that actually means in the event of the election coming up; does it ally itself to Mrs Crowe's comment?

Mr Butt.

**Mr Butt:** Could I clarify from the mover of the amendment then, please: I am presuming this means that the House of Keys will have to sit exclusively dealing with the election to the Legislative Council and do no other business at all, until that matter is finished. So whenever they re-sit that is their priority and they carry on with that until that is ended.

**Mrs Christian:** Yes.

**The President:** As I understand it, that is in line with Mrs Christian's amendment to us this morning. It does not mean that they have to do it all on the one sitting day.

Mrs Crowe's point was that the original idea of Mr Gawne, who was the original mover of the Bill, was that the election should take place on the one day.

**Mrs Crowe:** Mr President, I wonder, I am not sure – and I am sure Mrs Christian may well have done this – has that part of the amendment been discussed with the mover of the Bill in Council, so that he could ask the original mover of the Bill in another place if that would change the whole meaning of his Bill? It is very difficult when it is a Private Member's Bill.

**The President:** Mrs Christian, I want to get this as clean as I can, please, because it –

**Mrs Christian:** May I respond to that question, Mr President? I rang the mover in another place, the mover of the Bill, last night, to talk to him about my proposed amendments. He was not at home. I asked that he should ring back at any time but he did not ring me back. So I am afraid I do not know what his view is.

**Mrs Crowe:** That is right, he is away. Yes, he is not in another place today.

**Mrs Christian:** Can I just clear a point made by Mr Lowey in his last remarks? (**The President:** Yes.)

Mr Lowey said that if they do not complete their elections on the first day, the Speaker can adjourn. The proposal here says he cannot adjourn. They have to continue to sit to one o'clock, two o'clock, three o'clock in the morning, they cannot adjourn. This precisely states that in the Bill.

If we read the bit about the Standing Orders earlier on, it says:

‘Standing Orders of the Keys may provide for practice and procedure to be adopted [...] and shall have effect in respect of any circumstances arising for which this section does not make provision.’

Now, is it just this section that does not make provision – ?

**The Clerk:** The whole thing is section 1.

**Mrs Christian:** Oh, it is all section 1. So that says that Standing Orders cannot overrule –

**Mr Lowey:** Primary law.

**Mrs Christian:** – the primary law. So it says now –

**The President:** In (1G).

**Mrs Christian:** – in (1G), that they have to sit and sit and sit, until they have an answer. Now, I personally do not think that is terribly practical.

The Bill originally required that you had to have fresh nominations go through the process, but that was taken out. So there is not that long process. They sit there and they have nominations from the floor, if they have not elected anybody. They will just go on and on and on.

I think that if it is not working, they probably need to take a break. But we have options here.

**The President:** Mr Butt, did you want to come in? No. Mr Lowey.

**Mr Lowey:** The only query I was going to say was that with the Standing Orders, Mrs Christian has clarified that: that under this Bill, the Standing Orders are secondary to the primary legislation. So that has cleared that one up.

I just find it very strange that part of the thinking of the mover in another place, having read the debates, and with his comments on the radio, it was quite clear that he has an aim to speed up things and that is laudable.

But in speeding up these things, he says we need four weeks for nominations, two weeks to consider those nominations and then, if we cannot decide on those who have been nominated and been contemplated for a fortnight, on the day we can have anybody we like, who may not have been in the race in the first place. One presumes it will be completely new people who have never... their names have not been forthcoming.

I find that rather an enigma, on the thinking behind the fact that we need to know who these people are and what are they doing. That is circumvented by the time constraints that it will only be a verbal report of people who have allowed their names, one presumes, in private, to go forward for nomination to Council.

This Bill I think –

**Mrs Crowe:** So we could circumvent the whole process – it looks like that.

**Mr Lowey:** Yes, well, to me, this shows the need, when dealing with constitutional matters... We have two constitutional committees in being: we have one of Tynwald

Court; and we have one at the Council of Ministers. If ever there was a case being made for those organisations to be the driving force for constitutional change, and to plot it and plan it through, it seems to me that case is overwhelmingly made, by the efforts – well-meaning though they may be – by the Hon. Member in another place.

I still think Mrs Christian’s amendments are worthy of support, because I do think it puts in a bit of sanity. We do have the ability here to say, ‘Well do you think that would be wise?’. If you could not... at least you have a week to alert people to the names that you maybe are putting forward the following week.

I just think, for a fortnight, that is a speeding up of the original intentions as laid down in the Bill.

**The President:** Mr Crowe.

**Mr Crowe:** Just on a point of clarification, Mr President.

This question of the ‘business must be completed on that day’. The question of once the business has started, electing Members of the Council... Say it happened at four o’clock in the afternoon: they have got eight hours to do this voting system. Presumably there would be powers in the House of Keys to adjourn to the following morning, so that –

**Mrs Crowe:** That is what I am putting in an amendment now, Mr Crowe – I am just waiting –

**Mr Crowe:** To adjourn to the next morning? (**Mrs Crowe:** Yes.) You still have that one session of the House of Keys, but to sleep on it and then –

**Mrs Crowe:** No, this Bill does not say that.

**Mr Crowe:** They cannot do that?

**Mrs Christian:** Mr President, my reading of subsection (1G) is quite specific: it says, ‘the business must be completed on that day and cannot be adjourned to a sitting of the Keys on a later date.’

**Mr Crowe:** No, I am not saying, Mr President, through you, that it is the Keys at a later date; it is the same original sitting, just adjourned overnight.

**Mrs Christian:** Well, that is adjourned to a later date, is it not?

**The President:** That is adjourned to a later date. It is. It does say specifically, ‘on that day.’

**Mr Butt:** So, Mr President, that means then that come midnight –

**Mrs Christian:** Yes, no election, no people, what do they do?

**Mr Butt:** The day finishes at midnight.

**The President:** If they have not made it, there is nobody elected –

**Mrs Christian:** Yes, it is a hiatus.

**The President:** Mrs Christian is proposing that once they have commenced the business of electing Members of the Council then that business must be completed before any other business is taken by the House sitting alone.

**Mrs Christian:** It seems to me that is an incentive to them to get on. They cannot take Questions; they cannot deal with legislation –

**The President:** It is effectively taking out the business that it has to be completed on the one day.

**Mrs Christian:** Right, if you are going to say go to the next day, that is fine, that is another option.

**Mrs Crowe:** Yes, that is all. I am just trying to stick more closely to what the original mover of the Bill... what his intention was –

**Mrs Christian:** Before you sign this, would it be best to say ‘to consecutive working days’? What if they do not do it on the next day or the day after that?

**Mr Downie:** On the next consecutive working day.

**Mrs Christian:** On consecutive working days.

**Mr Waft:** I think Mr President, this is inordinately constrictive to Mr Speaker who elects for the business to be on the agenda and where and when they take it. To be taken all on the one day... if it they do not reach it at the end of that day, what happens then?

**Mrs Crowe:** That was the original Bill. That is what they passed in the Keys, to us.

**Mr Waft:** No, we are trying to rectify it, but I do not think we have rectified it to any great degree yet.

**Mrs Crowe:** Well no, because the... Sorry, Mr President.

**The President:** Wait, let Mr Waft finish, Mrs Crowe.

**Mr Waft:** It is just that I think we are making it very restrictive and the more we go into it, the more in a knot we appear to be getting ourselves. It is this adjournment to the sitting at a later date and we are going to scrap that; and ‘business taken by the House sitting alone’. We have not actually clarified what that actually means.

**Mrs Christian:** Well, what it means is that if you start an election on Tuesday this week and you do not conclude it, then they have a power to adjourn to another day but the business they have got to consider on that day is this election. They cannot do any other business until that business is completed. The only other business they can do is if they have adjourned to Tynwald, because we would not wish to stop them participating in Tynwald.

The House sitting alone is in Standing Orders, as Jonathan has helpfully guided me to.

**Mr Waft:** Well, in theory they could keep adjourning it to a sitting... And you are getting back to where we

were originally, before any Bill went through. They keep adjourning it and adjourning it.

**Mrs Crowe:** That is why I put this amendment down:

*Clause 1*

*Page 2, lines 46 to 48 –*

*For subsection (1G) substitute –*

*‘(1G) Once the Keys have commenced the business of electing members to the Council then that business must be completed on that day or must be adjourned to the next day, and it must be completed before any other business is taken by the House sitting alone.’*

**Mr Waft:** Then they apply for new nominations and so it goes on. I do not see how we can actually stop this and –

**Mrs Crowe:** Have you read this new amendment?

**Mrs Christian:** Well, we have not stopped them refusing to elect somebody, but there is an incentive to reach a conclusion by the fact that they themselves said that they were going to do it for that day and nothing else. But I am concerned that they might not get a conclusion and then we have a complete statutory hiatus.

**Mrs Crowe:** You are right with this one: we need it to be consecutive days.

**Mrs Christian:** Yes, consecutive working days.

**Mrs Crowe:** Yes.

**Mr Lowey:** There is nothing new, Hon. Members, in this. My mind goes back to an election to the Legislative Council, the late Cecil McFee, and they could not elect on the day. They came back the following day to complete the election to the Council. So there is nothing new in this, at all.

My view is quite clear that the Keys have a job to do. ‘Election’ is, I think, the Greek word for ‘choice’, isn’t it? Most apt. The Keys must make their choice and if it takes them one vote, two votes or ten votes, that is a matter for the Keys.

This is the machinery to make sure that the Keys are concerned that their actions have been delaying a result speedily, and they want to speed it up. All we are trying to do is to meet their requirements in a workmanlike way – in other words, the machine that we send down actually achieves what they are wanting.

It is certainly not an attempt by this Council personally to interfere with their role or secondly to make it more difficult. It is to make it with a bit more clarity, hopefully.

**The President:** Hon. Members, we are going a little round in circles at the moment and we need to tie this down a little bit. So, can I point you back to Mrs Christian’s white paper, so that we again know where we are going.

Taking you through Mrs Christian’s white paper, on page 2, line 17... Can I point out, incidentally, Hon. Members, that if you are counting the lines, 16, 21 and 25 are blanks, so you still count those.

Page 2, line 17, in the new subsection 2(1B)(a), delete the ‘not less than’. That seems to be straightforward and

Members know, I think, exactly where that is coming from.

Then we are looking at a further amendment not on your white paper, which says in line 37, delete the words ‘Subject to subsection (1F)’. Right, now that is plain enough.

Then on page 2, lines 41 to 44, delete subsection (1F) completely and renumber the remaining subsections and cross-references. That is natural and straightforward as well.

Now we have an amendment to (1G). Subsection (1G) is where we are getting ourselves confused in relation to whether or not that business must be completed on that day and cannot be adjourned to a sitting of the Keys on a later date. That is the wording in the reprinted Bill.

Mrs Christian is proposing that once the Keys have commenced the business of electing Members to the Council, then that business must be completed before any other business is taken by the House sitting alone. I think we have gathered what Mrs Christian is meaning.

But subsequent to our discussion, Mrs Crowe is now proposing a further amendment. So, if you look at the white paper with Mrs Crowe’s amendment, it says –

**Mrs Crowe:** That is the new one, Mr President, sorry:

**The President:** Right –

‘Once the Keys have commenced the business of electing members to the Council’

– which is exactly the same as Mrs Christian’s –

‘then that business must be completed on that day or must be adjourned to the next consecutive working day, and it must be completed before any other business is taken by the House sitting alone.’

**Mr Butt:** I think that needs ‘consecutive working days’.

**The President:** Well, now, funnily enough, before Mrs Crowe gave me that, I was working on her previous one. I have actually written here, ‘must be completed on that day or must be adjourned to the next sitting day, called by the Speaker, and must be completed before any other business.’

**Mr Waft:** Are you not getting away from the fact that if they are not elected on any day, they could continue to be asking for nominations?

**Mrs Crowe:** Well, that is still going to happen.

**Mr Waft:** But you have not solved the problem, you have only –

**Mrs Christian:** No, well, we cannot solve the problem if they will not elect people.

**Mr Waft:** I know, well, if they do not elect people, that has been the problem all along, hasn’t it?

**Mrs Crowe:** Yes, but by putting an amendment for the next consecutive working day, it will tighten the mind, insomuch as –

**Mr Waft:** But if the nominations have not been in –

**Mrs Christian:** They can be made from the floor, Mr President.

**Mr Waft:** Yes, but if they still have not been made from the floor or they have not reached the 13 or whatever, (*Interjection by Mrs Crowe*) they can still put it off.

**Mrs Crowe:** Of course, that is out of our hands.

**Mr Waft:** So we have not achieved a great deal then.

**The President:** Well, just on that point, Mr Waft, and I understand where you are coming from, that we would have to call for new nominations. In the original Bill, I think we were all aware of what the Member was attempting to propose and that nominations were called for; they had a month in which to make nominations so that everybody should be in the field after a month. They have had plenty of time to discuss it. They then took two weeks over thinking about the nominations before their voting.

But it does say in the original Bill:

‘If the Keys do not elect any person who has been proposed for membership of the Council under the subsection (1D), any member of the Keys may then propose –’

So this was the procedure that is in the original Bill: they would then propose –

(a) another member of the Keys for election to the Council;  
(b) a member of the Council whose going out of office has created a vacancy that has caused the election to be held.’

Having been through that, if they still had not got anybody, they would then go:

‘If a vacancy remains in the Council after the members have been given the opportunity to make proposals [...] the Speaker shall invite...’ –

**Mrs Christian:** No, Mr President. That was amended in the other place.

**The President:** That was amended, but that was the original Bill.

**Mrs Christian:** Yes, but it was amended before it came to us.

**The President:** But the original Bill was in that way.

**Mrs Crowe:** There is nothing left of the original Bill.

**The President:** We know it was amended and it has been amended subsequently. I do not know how you can tie that point down any further.

Mr Turner, do you wish to add?

**Mr Turner:** I have been listening intently –

**The President:** I will certainly give you a chance to reply any way, but we have not reached that situation yet.

**Mr Turner:** I understand fully where Mrs Christian is coming from with her amendment. Equally, I understand Mrs Crowe’s point about bringing it forward. However, Mr Waft mentioned they may still fail to elect. Well, again, I

agree with my colleague Mrs Crowe: that really is out of our hands. All we can do, to use Mr Lowey's phrase, is give them the mechanism and then, really, it is over to the Keys. We cannot force them to elect anybody. We have to rely on the candidates, whoever they are.

That is all I can add, Mr President.

**The President:** Right, well, just before Mr Crowe comes back, I think the easy way out of this is to deal with each of these 'amendments' of Mrs Christian's separately and deal with (1G) separately as well. Mrs Crowe.

**Mrs Crowe:** No, it was Mr Butt that was trying to get –

**The President:** Mr Butt.

**Mr Butt:** I was just going to speak to Mrs Crowe's amendment actually, which describes adjourning to the next consecutive working day. I may be wrong, but I think there is a flaw, in that come midnight on that day, they get the same situation, where everything withers on the vine again. So we need to have 'consecutive working days' or 'consecutive days', so it can continue on –

**Mrs Crowe:** They have to sit until the –

**Mr Butt:** Otherwise it will be midnight where they will stop again –

**Mr Downie:** Just to come in on that point. I think there is a Standing Order in the Keys that says that the business has to be concluded by 5.30. So I would assume from their Standing Orders that business closes at half past five.

**Mrs Christian:** Mr President, it may, but it says here that Standing Orders cannot overrule any statutory provision made in this Bill.

It is a question of how you interpret 'day', I suppose. They might stop at half past five or they might go on till midnight; but if they have not got an election sorted by half past five, there is no provision in here for anything to happen.

**Mr Downie:** But in saying that, if we go for the amendment that has been moved by Mrs Crowe, at least we can have another go on the consecutive working day –

**Mr Butt:** Or days.

**Mr Downie:** – or days and that will gel the mind.

I have a view that I think, this time, with the six weeks lead in, you will probably see a lot more names put forward than perhaps there have been before. Then they will make their mind up, as they do, as usual, and perhaps there might be a formula found here now to get a speedy result and stop this problem that we have had for the last few years, really.

**The President:** I do not actually think you need the plural in, Mr Butt, do you, because 'next consecutive working day' is actually plural itself, isn't it?

**Mrs Christian:** Could be any. Can we just run through that, Mr President?

Does it mean that, if you start on Tuesday and you do

not complete on that day – 'or must be adjourned to the next consecutive working day', which would be Wednesday – will it apply then, if you do not get through on Wednesday, to be the next consecutive working day or not?

**Mr Butt:** It seems to stop for me.

**The President:** Yes, Mr Waft.

**Mr Waft:** Mr President, if it is a working day – you are thinking about days of the week – (**Mrs Christian:** Yes.) the House of Keys do not sit the following day; they sit the following Tuesday.

**Mrs Crowe:** No, no.

**Mrs Christian:** Alright, the next day then.

**Mr Waft:** That would be the next working day. It would be the following Tuesday.

**Mrs Crowe:** Right. So, it does say in the Interpretation Act actually that 'the working day' is not required' so it would be the next consecutive –

**The President:** Sitting day.

**Mrs Crowe:** No, the next consecutive day. No. It is not the sitting day. It is the next consecutive day, as Mr Waft said. It has got to be the following day.

**The President:** We do not need the working day.

**Mrs Crowe:** We do not need 'working'.

**Mr Butt:** It should be the next day.

**Mrs Crowe:** Or days.

**Mr Downie:** I would be inclined to leave that in, in case you have a situation over a weekend.

**Mrs Crowe:** No.

**Mr Downie:** It is just needs clarifying really.

**Mrs Crowe:** No, it is clarified in the Interpretation Act. It is not Christmas Day, Sunday, Good Friday or a bank holiday.

**Mr Downie:** But it does not say Saturday or Sunday.

**Mrs Crowe:** Yes, it is – Saturday. Sunday is not in the computation of time.

**Mr Downie:** What about Saturday?

**The President:** Hon. Members, I am happy to allow discussion, but it gets difficult for *Hansard* when everybody is talking at the same time.

**Mrs Crowe:** 'To the next consecutive day' will mean that it is completed on the next consecutive day; or could that mean that it could run to the next day after that?

**Mr Butt:** Excuse me, Mr President.

**The President:** Mr Butt.

**Mr Butt:** It should perhaps say, ‘adjourned to the next day and consecutive days’.

**Mrs Crowe:** Right, well, yes. The next day and –

**Mr Butt:** Well, and consecutive days, if –

**Mrs Crowe:** Not working days.

**The President:** Again, Hon. Members, you are all talking and not getting it plain. Mr Butt.

**Mr Butt:** I think you need to say to the next day – working day or not is in effect irrelevant, because people might interpret the working day as being the Tuesday. (**Mrs Christian:** Yes.) But you need to allow for further days if necessary which must be consecutive to that next day. (*Interjections by Mrs Christian and Mrs Crowe*) So you can say ‘to the next day and consecutive days’ – maybe we need to say ‘if required’ or ‘if necessary’, to complete the election.

**Mrs Crowe:** Well, we put to complete – it must be completed. The election must be completed before... (*Interjection by Mr Butt*)

**The President:** Mrs Crowe, do you mean that, in fact, if the Keys do not complete it on their sitting on the Tuesday, they sit on the Wednesday? (**Mrs Crowe:** Yes.) That is what you mean by your amendment.

**Mrs Crowe:** And then the Thursday, and then the Friday, until...

I think the intention of the private Member who moved this Bill was that the election should be finite, that there should be a concentration of the mind to an election. I cannot think of any other way, unless they have to come in the following day, that could be achieved, because I think if we leave it open-ended, as in my colleague’s amendment, that will mean there will be a three-week delay. At the most, this could be, I would imagine, three days and that is it. End of story. (*Interjection*) Yes, because they have to nominate from the floor.

**The President:** Hon. Members, that is the point which I want you to be plain on now, before you get round to voting on the amendment. Do you wish it to be on the next day, then the next day, and then the next day, *ad infinitum*, as Mrs Crowe is suggesting in her amendment; or, in fact, are you going for the flexibility of the other way?

Mr Crowe.

**Mr Crowe:** I think we are losing sight of the original mover’s intention here. I think, by giving the four-week period for nominations, it will open up... it is like a one-off opportunity. Then there would be two weeks to consider. So, in my opinion, I think there would be quite a trawl of names. There would be quite a wide choice for the Members of the House of Keys to vote on.

By giving them the one day... If, for instance, the business

was not transacted by 5.30 p.m., I think allowing them to come in the next day is sufficient, because they have power – I think it is under subsection (1J) – that they can call for nominations from the floor.

**Mrs Christian:** No – oh, yes, yes.

**Mr Crowe:** So, I can see that this will be done speedily and I think all we need to do, to give them a little bit of leeway, is to give them the overnight opportunity and meet the next day to conclude the business. I do not think we need ‘and the next sitting, and the next sitting’, because the whole intention of the Bill is lost.

I think giving the one day is tight, but one day may be *too* tight, if we are saying Standing Orders are 5.30 pm, and we are allowing them into the next... into the Wednesday, I think is sufficient, so I am sure... If Mrs Crowe’s amendment fits that bill, Mr President, I would be happy with that.

**The President:** Mrs Crowe, are you taking out of your amendment...? What I have here is ‘on that day or must be adjourned to the next consecutive working day’ and I understand you are taking ‘working’ out. Is that right?

**Mrs Crowe:** No, Mr President. If I could just read it as I think and from my colleague, Mr Butt’s advice, it will be:

‘Once the Keys have commenced the business of electing members to the Council then that business must be completed on that day or must be adjourned to the next day and consecutive days’

– but if the feeling is that only one day is sufficient, that is fine –

‘and it must be completed before any other business is taken by the House sitting alone.’

That would give them three days.

**Mr Turner:** Mr President, are those extra words necessary? If it was adjourned to the next day, then they commence the business of electing Members. Therefore the line applies again, doesn’t it? They have commenced business, (**Mr Waft:** Exactly.) they have not elected anyone, so it must be adjourned to the next day, and so it goes on. I do not know whether we need the extra wording in.

**Mrs Crowe:** Which extra wording?

**The President:** ‘And consecutive days’.

**Mrs Crowe:** Oh, right.

**Mr Turner:** Because they will be commencing the business of electing Members to the Council when they come in on the Wednesday. Therefore, if they get to 5.30 p.m. on the Wednesday, they can adjourn it to the next day, where they will commence once again. (**Mrs Crowe:** Right.) I think it will simplify the paragraph.

**Mrs Crowe:** Next consecutive day it must be completed.

**The President:** Right, Hon. Members, I am still working on the principle that you have before you, at the present time,

a list of amendments in the name of the Hon. Member, Mrs Christian, and in relation to her third amendment:

'Once the Keys have commenced the business of electing members to the Council then that business must be completed before any other business is taken by the House sitting alone.'

To that, Mrs Crowe wishes to put in 'or must be adjourned to the next day'.

**Mrs Crowe:** Yes, 'must be adjourned to the next day and it must be completed before any other business is taken by the House sitting alone'.

So, the amendment now reads:

*Clause 1*

*Page 2, lines 46 to 48 –*

*For subsection (1G) substitute –*

*'(1G) Once the Keys have commenced the business of electing members to the Council then that business must be completed on that day or must be adjourned to the next day, and it must be completed before any other business is taken by the House sitting alone.'*

**The President:** Mr Waft.

**Mr Waft:** Tuesday, Wednesday, Thursday, Friday – (**Mrs Crowe:** Yes.) Monday?

**Mrs Crowe:** Yes.

**Mrs Christian:** Tuesday, Wednesday, Thursday, Friday, wherever, until it is finished.

**Mr Turner:** It is unlikely, but yes, in theory.

**Mrs Crowe:** And that will focus –

**Mr Waft:** You have gone through consecutive days – not working days as such, but the consecutive days of the week. You then, the following week, do exactly the same thing, until you come to a situation where none of those who have been nominated are elected.

**The President:** Then they nominate them from the floor. (*Interjections*)

**Mr Waft:** And they have to elect that day (**Mrs Crowe:** Yes.) – after going through all the processes of –

**Mrs Crowe:** That was in the original Bill.

**Mrs Christian:** That is what they sent to us.

**Mrs Crowe:** That is what they sent to us.

**Mr Waft:** By doing this afterwards, you are ruling out all you have done before –

**Mrs Crowe:** No, you have not.

**Mr Waft:** – by saying the necessity to have these nominations in, then consideration taking place, and then suddenly find now you have got to elect from the floor.

**Mrs Crowe:** That is how they sent it to us.

**The President:** I think Mrs Christian can answer that point.

**Mrs Christian:** Well, Mrs Crowe has answered it, Mr President.

**The President:** She has tried to.

**Mrs Christian:** That is the format in which they sent us the Bill. That is their proposal, that they take nominations from the floor, if they do not get an election completed – in one day, never mind two days, three days, seven days.

**The President:** Mr Turner.

**Mr Turner:** I think we did comment that the last minute attempt to just throw any name into the election was rather a rapid conclusion, when we had gone through a very detailed process. (**Mr Waft:** Absolutely.) It just seemed a bit of a haphazard way of concluding the election really.

Nevertheless, as Mrs Christian has said, that was the intention of this Bill, when it came to us here in Council. I think, if we were to amend that Bill, we would be seen as radically altering the original intention of the Bill, when the proposals that we have put through are merely addressing the timetable issues, as opposed to the principle and the aims of the Bill.

**The President:** Yes, but we have also got to recognise that the original intention of Mr Gawne was amended in the Keys –

**Mr Turner:** It was, sir.

**The President:** – at that stage. So, in fact, if the Keys came up with this idea; it was not in the original Bill of Mr Gawne when he brought it to the Keys.

**Mrs Crowe:** And this will be going back to another place for their sight of whether they agree with this or not.

**The President:** Of course it will.

**Mrs Crowe:** It is only to try and make the Bill more, I think...

**The President:** Hon. Members, what I propose to do then is to take you through these amendments bit by bit. But before I get to the amendments, I think it is only right and proper that, as we are dealing with Third Reading – and I am sure we will come back to it – Mr Turner, have you got anything, as the Member in charge, that you wish to answer?

**Mr Turner:** Just a point of clarification.

If we were to... the amendments renumbering the paragraphs would mean that (1G) would become (1F), so I am not sure which order we would be... If we were to follow Mrs Christian's amendments from the top, we would be renumbering the paragraphs, so that the (1G) that we are referring to, which has been the main subject this morning, would actually become (1F). (*Interjections*) So, we would need to amend it in that order.

**The President:** I am sure the numbering will be made right, depending on how Council decide on the amendment on which they –

**Mr Turner:** We would be referring to (1G), when we have actually renumbered (1G) –

**The President:** We are referring to (1G) as is printed on the reprint.

**Mr Turner:** Okay, I was just clarifying that point.

**Mrs Christian:** Mr President, may I just clarify the requirement on the number of votes to make any of these succeed. I think it is different from the –

**The President:** Right. It is Third Reading, Hon. Members. You require six votes to support an amendment at Third Reading.

Hon. Members, what I propose to do... I will take you through the amendments moved by Mrs Christian piece by piece, Hon. Members, so that, in fact, you are perfectly plain on it.

Hon. Members, putting to you, in clause 1, page 2, line 17, in the new subsection (2)(1B)(a), delete ‘not less than’. So, on line 17, Hon. Members, the proposal from Mrs Christian is to delete ‘not less than’. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. I really require six votes but I am happy to take that, Hon. Members, as unanimous, nobody voting against. Hon. Members, that therefore carries.

I take then, Hon. Members, in line 37, delete the words in (1E) ‘subject to subsection (1F)’. Hon. Members, those in favour, please say aye; against, no. The ayes have it. The ayes have it. Again, Hon. Members, that passes, taking it as unanimous, no Member voting against.

Then, Hon. Members, we have, on page 2, lines 41 to 44, ‘delete subsection (1F), subsequently renumber the remaining subsections and any cross references to them’. Hon. Members, those in favour, please say aye; against, no. The ayes have it. The ayes have it – again, taking that as unanimous.

We then come to subsection (1G) – taking Mr Turner’s point that it will mean, of course, renumbering will take place depending on what you do – for subsection (1G), substitute ‘Once the Keys have commenced the business of electing Members to the Council, then that business must be completed before any other business taken by the House sitting alone’. Mrs Christian’s amendment: those in favour, please say aye; against, no. The ayes have it.

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

FOR	AGAINST
Mr Lowey	Mr Waft
Mrs Christian	Mr Butt
	Mr Turner
	Mrs Crowe
	Mr Downie
	Mr Crowe

**Mrs Crowe:** I am sorry, Mr President. I just had a query which came into my mind. I hate amendments on the hoof like this and I will query it with you later, sorry.

**The President:** Hon. Members, I do not think it is on the hoof because, Members, we have spent an hour nearly discussing it.

**Mrs Crowe:** I know.

**The President:** Hon. Members, there are 2 votes for and 6 against. That amendment, therefore, fails to carry.

Now, Hon. Members, we have a further amendment, which is on page 2, lines 46 to 48, for subsection (1G), substitute ‘Once the Keys have commenced the business of electing members to the Council, then that business must be completed on that day or must be adjourned to the next day, and it must be completed before any other business is taken by the House sitting alone’. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that means that, in fact, the amendments which are passed are the amendments (1) and (2), with the addition of it being subject to subsection (1F) being taken out in line 37, and Mrs Crowe’s amendment, which is included in Mrs Christian’s amendment really, ‘on that day or must be adjourned to the next day’.

Hon. Members, can we continue then with the Third Reading?

**Mr Turner:** With the issue of the long title.

**The President:** Mrs Christian. Do you wish...?

**Mrs Christian:** I need to repeat it again now, Mr President, if we may have a moment?

**The President:** Mr Crowe.

**Mr Crowe:** Mr President, surely this should stay, because what we are saying, at a single sitting, is that even though it is adjourned to the next day, it is the same sitting. (*Interjections*) It is just carried over to the next day, so I do not think we need to amend the...

**Mrs Crowe:** That was the original intention.

**Mrs Christian:** Is this a technicality, Mr President? Do the Keys adjourn to separate sittings, from week to week? Yes, I suppose they are all separate sittings.

**Mr Lowey:** Yes, it is quite... The vacancy shall be filled at a *single* sitting. Now, you cannot have a single sitting in two parts.

**Mrs Christian:** Perhaps it is alright if it is adjourned. (*Interjections*)

**The President:** We are talking again and thinking, Hon. Members. Just take two seconds and get it right in the first place.

Mr Crowe’s suggestion is that it is in order because, ‘following which, the vacancy shall be filled at a single sitting of the House’ and if you adjourn from one day to the next day, it is still a single sitting of the House.

**Mrs Crowe:** That is excellent, yes.

**The President:** Is every Member happy with that? In

that case, does any Member wish to continue to discuss the Third Reading of the Constitution (Amendment) Bill 2007. Mr Lowey.

**Mr Lowey:** I think my final comment is to say that I heard the original mover of the Bill saying that this was not a flawed Bill. Now, I have got to accept the intent of the mover of the Bill. It is hardly a Bill that has come through unscathed. It has changed in a material form in another place and I think we have attempted to change, keeping the intentions.

I just want to draw attention to Hon. Members when the mover in another place said that Council had a simple solution just by suspending our own Standing Orders. I would just like to make it public now that it was not our Standing Orders that he was referring to; it was Tynwald Court Standing Orders that needed to be amended. Of course, I would remind Hon. Members and the general public that Tynwald Court is not one branch, but both branches sitting. So there is a Standing Orders Committee that deals with that.

Apart from that, again, I would just say that amending constitutions is a difficult business and I think we have illustrated that this morning, in attempting, even at this last stage, to get it right. All we are doing is attempting to get it right.

I do believe – again, I would like to recite it – that in dealing with constitutional matters, careful thought should be made. When you start moving key little pieces of it, you start to undermine the structure, and I think it is very important that, before you move in this area, you should have careful thought. We have got two committees that should be dealing with this and I think it is about time, if the constitution does need an overhaul or reform, that those committees should be put into working gear.

That is all I have to say, Mr President.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, I will support the Third Reading. I think we have done our best not to overturn what has come from another place, whether or not that seems reasonable. It does seem to me that Mr Lowey was right, in that it is a bit of an amalgam. It is a curiosity that you have a long period of time for nominations and if that does not work, you take them from the floor.

However, this is a bit of a pendulum swinging back to the days when we can remember when nominations were simply taken from the floor and the elections proceeded in that way. So, whilst we started like that, then moved to a much more long drawn out process, we have now swung back a little, I think, with this proposed Bill to something in between, which gives time for consideration of names, but then allows for nominations from the floor, with a speedy conclusion, one hopes, to that process.

So, I will support it and hope that the amendments we have made might be accepted in another place as being constructive.

**The President:** Mr Downie.

**Mr Downie:** Thank you, Mr President.

I too will be supporting the Bill. I think it is in a much better shape now, having had the benefit of some very careful and close scrutiny in Council. I sincerely hope that when it does go back, the Keys will support it.

If the legislation that we produce now... if the spirit of this is accepted by the House of Keys, it should provide for the six-week period, allow for nominations, and if everything goes accordingly, it should allow for a perfectly seamless transition. We should not have the problems that we have had in recent years.

However, there are safeguards in the Bill, so if we do not see the white smoke on the first occasion, as is the case in another electoral college, there is provision there for taking the matter to the floor of the Keys, looking for nominations and going back to the old system that actually did produce results, and it is there as a fall-back position.

I actually think this exercise shows Council working at its best, really, and coming up with something in the end that is workable.

**The President:** Mr Butt.

**Mr Butt:** Mr President, I agree with the comments of the last speaker. It has been a fascinating process to watch how this has developed over the last two or three weeks. In fact, I think the Council have devoted much more time to it than the other place did, and I hope with good results. In fact, we should have, hopefully, proof of that next February and see if it does actually work as we hope it will.

I would also like to congratulate the Member alongside me, Mr Turner, (**Mr Downie:** Hear, hear.) in taking through his first Bill – not exactly the easiest Bill in the world to take through, a constitutional matter – which I think he has handled admirably. I will be supporting the Bill.

**The President:** Mrs Crowe.

**Mrs Crowe:** Mr President, I am so pleased that my colleague, Mr Butt, mentioned the mover of the Bill, because I too wish to congratulate the mover on taking through this constitutional Bill. The last constitutional Bill in Council was left in my tender care and that too proved to be a rather long and tedious job, although I do believe Council got it right. We did, as we have done in this case, our best with something that had come from another place.

But I would like to also echo Mr Lowey's view about constitutional Bills. I wonder if, perhaps, it is time for Standing Orders to be looked at, so that any private Member wishing to bring forward a constitutional Bill has to first put it to those committees, because really, even as we were voting on the amendments, it came into my mind that there was a consequence, actually, of the amendment that I had brought forward, which is why I was not concentrating when our Clerk called the vote. I do believe all those issues could be ironed out by the Constitutional Committee prior to what could be a genuine effort by a private Member to bring forward a small piece of legislation that changes one part of our system but, as a consequence, has knock-on effects. I do hope that, perhaps, someone in the Keys and certainly in Council will look at whether any Private Member's Bill on a constitutional base should go first to the Constitutional Committee.

**The President:** Mr Turner, would you like to wind up, sir?

**Mr Turner:** Yes, thank you, Mr President, and thanks to Hon. Members for their considerable efforts during this process.

Certainly as the newest Member to this Council, it has been an extremely educational process for me and one I have found very interesting. As one of my colleagues said, we have spent a considerable time on it.

I agree with Mr Lowey's comment that constitutional matters are no minor issue and I think it is demonstrated that when it comes to constitutional matters, there are so many issues that come out. It is a bit like opening the proverbial can of worms. I think that shows that great care should be taken.

I think it has demonstrated effectively the work of this Council. I am very happy with the amendments that we have made. I think that it can only strengthen this Bill and I think we are all mindful that it was somewhat different from the original intention of the original mover.

I think it is unfortunate that elements of it have come through and media comment was cited as part of the reasons. I think we should be very careful not to encourage Bills just through media hype, over allegations of credibility and so forth, that were being bandied around during the election process, originally.

Mr Downie said that the Bill is in better shape. I agree wholeheartedly with his comments. I think it most certainly is now in better shape than when we first opened the Bill.

I would like to thank Mr Butt for his kind words and Mrs Crowe as well.

So with those comments, sir, I would beg to move the Third Reading of the Constitution (Amendment) Bill 2007.

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

### **Income Tax (Amendment) Bill Third Reading approved**

2. Mr Downie to move:

*That the Income Tax (Amendment) Bill be now read a third time and do pass.*

**The President:** Now, Hon. Members, we will leave the Constitution behind us then and we will turn to the Income Tax (Amendment) Bill, again for Third Reading. Mr Downie, please.

**Mr Downie:** Thank you, Mr President.  
This Bill contains 10 clauses.

Clause 1 expressly prohibits the deduction in computing a liability under the Income Tax Acts where the making of the payment would constitute a criminal offence by the payer.

Clause 2 introduces timescales that income tax records must be retained by both corporate and non-corporate taxpayers.

Clause 3 makes an amendment to the Assessor's information-gathering powers in cases of suspected fraud.

Clause 4 maintains a long established position that prevents the deduction for income tax purposes of VAT surcharges, civil penalties and interest. In addition, VAT

repayment supplements will continue to be disregarded for income tax purposes.

Clause 5 repeals the income tax legislation relating to the corporate charge, following the move of the charge to the Financial Supervision Commission.

Clause 6 amends section 58 of the Income Tax Act 1970. It deals with the deduction of interest relief when computing the amount of Isle of Man rent subject to income tax.

Clause 7 confirms the Income Tax (Corporate Taxpayers) (Temporary Taxation) Order 2006. This Order was introduced following the introduction of the Companies Act 2006 and makes a number of amendments to income tax legislation, as the Companies Act relaxed certain elements of corporate law.

Mr President, several questions were raised within the committee stages of this Bill concerning this clause and the distributable profits charge. I can confirm that, although there is a proposal to repeal the distributable profits charge from 6th April 2008, it will still have effect for Isle of Man companies up to that date.

A Temporary Taxation Order to introduce the new attribution regime for individuals and the repeal of the distributable profits charge will be put before Tynwald in December, and this should effectively deal with and answer those queries that were raised. For this reason, this clause is still required to ensure that the original Temporary Taxation Order is confirmed.

Clauses 8 and 9 also confirm two Temporary Taxation Orders and these deal with the Tax Information Exchange Agreement with the Netherlands and the amendment to the European Union Savings Directive, following the accession of Bulgaria and Romania.

Finally, Hon. Members, clause 10 contains the short title and commencement provisions.

Mr President, during the committee stage of this Bill, Mrs Christian raised concerns as to the date on which clauses 8 and 9 would come into force. As these sections are not specifically referred to within clause 10, the Interpretation Act 1976 is relied upon and both clauses will come into operation on the date Royal Assent to the Act is announced by Tynwald.

Mr President, I beg to move the Third Reading of the Income Tax (Amendment) Bill 2007.

**The President:** Mr Crowe.

**Mr Crowe:** I beg to second and would just support the Bill.

Taxation always needs to be relevant to changing circumstances and has to be updated constantly. I have noted all his comments, particularly the mention of the distributable profits charge, which we discussed at the last Reading.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, can I thank the mover for confirming what I thought might be the case, but he has confirmed now that those clauses will come into effect when the Act is signed. I appreciate that and will support the Bill, but make yet another plea that there is adequate publicity to the members of the public, so that they understand that there will be a record-keeping requirement, when this is enacted.

**The President:** Mr Waft.

**Mr Waft:** I would just like echo Mrs Christian's view of the public being made aware of the situation. The benefit of the Isle of Man legislation is the fact that we could get legislation through quite quickly – far more quickly than they can in the other island.

But the point is, in doing so, we have to make sure that the public are aware of what we are doing, what is happening, how it is going to affect them. I think it is incumbent on any Department to make sure that is the case.

Thank you, Mr President.

**The President:** Mr Butt.

**Mr Butt:** Yes, Mr President, I would like to echo what Mr Waft says. My only concern with the Bill was the record-keeping matter, in which the ordinary working person who has not perhaps access to office equipment and professional help may neglect to keep his records. I hope that the enforcers of this legislation will take due regard of our views expressed last week and here today, that they are not the persons that should be punished if they commit offences. Obviously, the Bill is aimed at a different class of person, but it does include everybody. I hope that the enforcement of this Bill, this particular section, is not too draconian.

**The President:** Mr Turner.

**Mr Turner:** Yes, Mr President, I did during the clauses stage of the Bill question whether the particular section of the individual having to keep these records was really necessary. I just wonder whether the mover would be able to confirm whether it was looked into. I indicated querying whether it has been a particular problem for the Treasury, in that this has now come about and if it was not really necessary, then why was it in there at all?

That was the only comment I made, because it seemed that we were putting a great deal of efforts onto the man in the street, when if it was not necessary, why have we got it in there? That was the point I had made. I wonder if that has been looked into since our last discussion on this matter, sir.

Thank you.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, may I just ask for your indulgence to make another point which I had forgotten about. That is that it is my understanding that the Government no longer issues a statement of pension received from Government – state pension to recipients – which means that they do not have a simple document any more to say what it is. They have to trawl through their records and make a record.

I wonder if they might be invited to reconsider that policy. Where people are now going to be expected to keep records, it would be very much easier for people to have, both in terms of making their annual tax return and subsequently coming up with evidence if required to do so, if that pension figure could be on a simple sheet, as it used to be.

**The President:** Mrs Crowe.

**Mrs Crowe:** Speaking from my time when Mrs Christian was actually Minister of DHSS and I was in Social Security at the time, and the present situation in the DHSS, I would not think that we would wish to, once again, take that administrative burden. It comes at a cost to the Department to produce a statement for every pensionable person on the Island. If indeed Treasury require us to do this, well then, perhaps Treasury can fund it, because, quite frankly, I am sure that it would not be on our priority list.

It is a point that has been well made by my hon. colleague. If it is now the case, these pension requests may be even considered to come at a cost: if one wishes to have a pension statement, then one may have to indeed pay for one; but whatever – I do not know. Certainly, it is not something I am sure the DHSS would wish to start taking upon themselves administratively because there would be a cost to it.

**The President:** I do not want to start a debate about the DHSS administration either, Hon. Members. Mr Crowe.

**Mr Crowe:** No, I have no comments, Mr President.

**The President:** Mr Lowey.

**Mr Lowey:** I support it and on the point of administration, I thought we were supposed to have joined-up Government. I also thought that I would hope the DHSS do keep records and with the amount of money they have spent on computers, we are supposed to be able to press a button and it churns out the information as requested!

**Mrs Crowe:** Pay someone to press the button.

**Mr Lowey:** However, not very much administration there, I would suggest.

Having said that, I think this Bill is much more important than that. It is dealing with three or four areas of concern. I think the Bill is well worthy of support.

I agree, it is well worth asking 'is this necessary?', but regrettably, as I think was mentioned last week, there are only two things certain in this world, sir: as soon as you are born, you are going to die; and the second is that the taxman is going to come after you for tax! So you had better have your records as well kept as you possibly can.

But I agree with Mr Butt, the idea abroad in Government is that everybody has availability to what I would call technical bits of equipment that you and I take for granted; the ordinary family does not. More and more of them are having it, but there is a lot of them out there that do not deal in that sort of technology.

**The President:** Whilst Mr Lowey says that the only thing certain is death or the taxman coming after you, I have to say that I spent some time last night trying to work my way through clause 7, Hon. Members: the business over a business being taken over in a merger, when the accounting period started or finished. It took me some time to work my way through that one.

Anyway, Mr Downie to reply, sir.

**Mr Downie:** Thank you, Mr President.

Obviously some very useful dialogue. I am just reading this note here...

There is general support for the Bill, and I am grateful for

the comments made by Mr Crowe, who is quite in tune with tax and accounting. That is his professional background and I am sure he appreciates how important this legislation is. I am glad now he is content regarding the answer I gave him about the distributable profits and what eventually is going to happen, over the course of the next few months.

Hon. colleague, Mrs Christian: I agree with her comments entirely. There will have to be a lot of publicity by the Treasury about record keeping. From the officers, they state that the main problems occur when individuals do not submit their returns and it has been a problem trying to estimate income when records have not been kept. As I stated at the last sitting, it is a problem and you only have to go to the tax office on a regular basis, and you will see all the bays occupied with people who have not kept their records up to date, people who are quite ignorant of the tax laws.

I am taking on board today that we do have a problem in that area, and the only way to deal with problem is to educate the public as what their requirements are or what our requirements are under the tax legislation. As I said, we have a very low tax regime in the Isle of Man and, at the end of the day, people have a duty to make their contribution through the taxes. We make it as flexible and as easy as possible for people to do it; we do not go out chasing people and being heavy handed. There is a lot of support within the Department to give advice and the advice comes at no cost to any individual who has a problem with his tax.

But I would take on board we have got a selling job to do, particularly about the two years for the ordinary man in the street. The companies will be well briefed: they will sort their own out.

Mr Waft alluded to the benefits of our legislative process. I fully support that. It is useful to be able to move legislation like this quite quickly and effectively. He too said that we need to work on the public: the public needs to know that there are changes coming and they will need to keep these records.

Mr Butt, in a similar vein: the record keeping message needs to get across, I quite agree.

Mr Turner was on a similar vein: are the records necessary? They are, because there is a problem, particularly with people who are self-employed. They run small businesses, they get involved in casual employment, people who get involved in small projects in the construction industry. We need to have, first of all, their tax and the national insurance needs to make sure that they have their contribution as well. That is a vital part of running the economy of the Isle of Man.

There again, I think that our officers, through the Employers' Federation and all the organisations that deal with the one-man-band businesses and the small businesses: we have got to get that message across to them that we require records.

Mrs Christian's second point was that pensioners no longer receive a final figure for their state pension. I would not have thought that would be too difficult, because when you get your monthly pension slip, it must be paid by the 2nd November, I think, is the last one – there is another batch of four. Now what they should do on that at the end of the year, is they should attach on the slip that the Post Office stamp – they used to give it back to you – what your final figure is for the year. All they have got to do is... Surely, I would have thought, it is not rocket science, in this day and age –

**Mrs Crowe:** No-one gets a pension that way; 95 per cent are paid into the bank.

**Mr Downie:** But there must be some way of providing some sort of information, because there must be contact. I would think, even if a person is on a standing order, there must be some contact with them. It should not take long to work out, because it is only when the legislation change or there is an increment that the figures change.

**The President:** I think that argument is for another day.

**Mr Downie:** Right, it is not really related to the Bill. But I think it is good to have our officers here, because it broadens the picture up and they are in constant dialogue with the DHSS and other agencies, and I am sure the point is well taken.

Mrs Crowe, in support of the Bill, made reference to the production of some sort of a statement for pensioners.

Finally, Mr Lowey said it was an important Bill. I agree with him and it is a move forward. This is probably the first of several Bills that are coming forward from the Treasury in the legislative programme. I am sure we will have many discussions like we have had over the last three Readings about where the Island is going.

But I think the piece of legislation that is before us is well put together and I think, primarily, it is quite easy for the ordinary individual to understand. I think that is important as well.

With that, Mr President, I beg to move the Income Tax (Amendment) Bill be read a third time.

**The President:** Now, Hon. Members, the motion I put to Council is that the Income Tax (Amendment) Bill be read for a third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

### **Fertilisers and Feeding Stuffs (Amendment) Bill Third Reading approved**

3. Mr Butt to move:

*That the Fertilisers and Feeding Stuffs (Amendment) Bill be now read a third time and do pass.*

**The President:** We turn then to the third Item on our Order Paper which is Fertilisers and Feeding Stuffs (Amendment) Bill. This time I call upon the Hon. Member, Mr Butt. Third Reading, sir.

**Mr Butt:** Thank you, Mr President.

As the Council will have noted in considering this Bill, the main clause provides enabling powers in relation to the application of subsidiary legislation, which will be subject to Tynwald approval.

The purpose of the Bill is to enable legislation operated by the Department in respect of fertilisers and feeding stuffs to be brought up to date by applying the same measures as apply in the UK from whatever source. The making of the Island's own substantive provisions may be desirable in the long term, but would require considerable resources to give it effect.

The provision, as proposed, would enable the Department to fulfil its purpose within a shorter timescale and enable it more readily to stay current with the most recent developments.

The passing of this Bill would provide the Department with the appropriate tools with which to bring its regulation concerning fertilisers and feeding stuffs up to date. It will ensure that our agriculture and farming industry maintains the highest standards and is able to export and sell to other jurisdictions without restriction.

I would like to thank Members for their support for the Bill in its previous stages and for their comments. I therefore beg leave to move that this Bill now be read for a third time and do pass.

**Mr Waft:** I beg to second, Mr President.

**The President:** Seconded by Mr Waft.

Hon. Members, the motion I put to Council is that the Fertilisers and Feeding Stuff (Amendment) Bill 2007 be read for a third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

### **Enterprise Bill First Reading approved**

4. Mr Crowe to move:

*That the Enterprise Bill be now read a first time.*

**The President:** Enterprise Bill, this time for First Reading. Hon. Member, Mr Crowe.

**Mr Crowe:** Thank you, Mr President.

I am very pleased to be able to bring this important Bill before the Council today. The main purpose of the Bill is to replace the Industry Board Act 1981, which is concerned with the functions and powers of the Department of Trade and Industry with this new Bill and in particular to create a modern framework to enable the Department to provide financial assistance to appropriate businesses. This new legislation is necessary to ensure the Department has the flexibility to respond to today's rapidly changing global economy.

The Industry Board Act uses the definition of 'industrial undertaking' to determine the eligibility of an applicant for financial assistance. This is now too restrictive. Whilst the definition has been amended on several occasions since 1981, there have been instances when the Department has been unable to assist a business because its activities fell outside the definition. The Department has been advised that the definition of 'industrial undertaking' cannot be stretched any further, without going beyond the original intent of the legislation, hence the proposal to replace it by way of this Bill.

The Enterprise Bill has been drafted as enabling legislation, in order to give the Department greater flexibility to respond to opportunities for further economic diversification and growth. Such growth is a key priority of Government, which is why the Council of Ministers took the decision to bring forward this Bill quickly.

The proposed Bill and associated regulations will provide the Department with the legislative framework capable of meeting the needs of our economy, both today and well into the future. It will enable the Department to provide discretionary assistance to a wider range of businesses than permitted at present, and to encourage new inward investment as viable economic opportunities arise. At the same time, it will provide greater transparency than is required under the Industry Board Act.

Mr President, I would like to turn now to the contents of the Enterprise Bill. Most importantly, the Bill continues to allow the Department to adopt a discretionary approach. This is very important, particularly when dealing with applications for financial assistance. The Department undertakes on a regular basis the detailed evaluation of business plans and project proposals, and these can often involve significant amounts of financial assistance. The discretionary powers enable the Department, if necessary, to decline to support an application, if it is concerned about any aspect of an application, or to vary the assistance to be offered to suit the particular circumstances.

Operational details in respect of the Financial Assistance Scheme are moved to secondary legislation whilst, in addition, guidelines to be developed by the Department will provide for greater flexibility, as I stated earlier.

The Department has already undertaken the consultation exercise necessary to develop the regulations and guidelines, and is currently considering the diverse range of views received, in order to determine an appropriate way forward. The Bill also broadens the functions and powers of the Department to ensure that all its services, some of which are provided irrespective of sector, are fully covered by primary legislation. These services are diverse in nature and include: supporting business start-ups in any sector; initiatives such as Investors in People; and the provision of general employment services, such as the Job Centre. In addition, the language used in the new Bill has been modernised to reflect the breadth of economic activity on the Island.

The Bill requires the Treasury to specify by order, to be approved by Tynwald, a maximum amount for grant support up to which the Department can approve applications without the need for Treasury approval. The Department may provide grant assistance in excess of this amount or in the form of financial assistance other than a grant, and if it wishes to do so in either case, then Treasury approval will be required.

A new approach regarding the provision of grant assistance is not significantly different from that under the Industry Board Act, where a cap is set in the Act itself. However, by putting it in secondary legislation, rather than primary legislation, the erroneous impression that the Department is limited as to the size of project that can be supported is removed.

The Bill requires the Department to set out the criteria that constitute an eligible business and regulations which must be approved by Tynwald. The purpose of the regulations will be to set out the requirements and standards that all applicants will be expected to meet. These include, for example, requirements as to how the business should be set up and the qualifying rules for directors through to environmental and commercial considerations relating to individual projects. These requirements exceed those of the Industry Board Act, so that the types of businesses the Department wishes to support and how the Department expects them to operate are clarified.

A further important change that I have already touched upon is that the Bill will allow for the Department to produce guidelines setting out the Department's policy in terms of supported and excluded sectors and how financial assistance is to be operated. The Department sets out the current policy in some detail in the consultation exercise which I referred to, and this has prompted a number of very useful suggestions, which the Department is now considering.

Finally, it is intended that the Department will produce an annual report in respect of the provisions of assistance under the new Act, to include a list comprising the names of those businesses which have received assistance. There is a requirement for this to be laid before Tynwald.

This is a departure from practice under the Industry Board Act, where information of this nature remains confidential to the business concerned.

As of the terms and conditions which apply to grants given under the existing system, it has been necessary to include a saving in clause 9(2) that the requirement to report does not apply to applications granted under the Industry Board Act. The change proposed, however, is a positive move to greater transparency.

Moving on to the cost to Government of the Bill, the Department has advised that it is not expected to require any increase to public expenditure or personnel, because the Department already has adequate funding for the services it operates. In particular, the Financial Assistance Scheme already has an annual budget of £3.5 million and the Department will continue to endeavour to deliver best value with its funding.

Mr President, the present Bill was introduced into the other place in May this year and had its Third Reading last week. It has not been the subject of any amendments and is, therefore, the same Bill which was initially introduced.

In summary, this is an important and necessary piece of legislation, which I trust Hon. Members will see will help the Department in its effort to grow and diversify the economy and, in turn, support Government's Economic Strategy.

Mr President, I move that the Enterprise Bill be read for the first time.

**The President:** Mr Turner.

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

**The President:** Mr Lowey.

**Mr Lowey:** Thank you, Mr President.

It will come as no surprise to the hon. mover that I will be supporting warmly this Bill. As a former Minister for Trade and Industry and a former member of the old Trade and Industry Board, I want to place on record the success the old schemes have had in promoting the Isle of Man and the diversification of our economy.

When we went into light industry – it seems an old fashioned word these days, 'light industry', what is that? – that was a conscious decision taken by the Government of the Isle of Man, and it has been a success. Who would have thought that we would be producing 70 per cent of the world's heating elements in the Isle of Man or at one time – we do not now, but until a few months ago – we were providing most of the slippers for Marks and Spencer's? It was as wide a variety as that. I think this Bill recognises

that the world is fast changing and we need to be able to change and adapt.

What I want to stress today, Mr President, is that this investment capital of £3.5 million a year is risk capital. We are not going in to what I would call... We must always be conscious, in this day and age, where everybody is wanting to pull down, if we do not take a risk occasionally, then we will not have prizes.

These have got to be manageable risks, and I think the Department has an enviable record of investing wisely, after careful consideration. There is a whole host of people, ultimately the Treasury, but also with advisers externally. I think the Board have got a proud record and should be publicly congratulated for it.

Let me just illustrate. I remember we have been able to adapt, even under the old scheme. I remember, Mr President, the farming industry coming to see me one time for a creamery because the Board of Agriculture at the time did not have capital available, and it was quite clear... They said to me... I said it was an industry. As long as it complied with all the terms and conditions that were being applied to industry, then there was no reason at all why the Industry Board should not assist the setting up of that industry on the Isle of Man – albeit in farming terms, it was actually being looked after by another Department of Government. There is a classic example of what I would call the proper exercise of flexibility.

In recent years, we have had the ability to assist new industries on the Isle of Man that were not recognised, or even dreamed about. The film industry is another example of where we have diversified, under the old scheme. I think the Board is right to bring up to date its loaning policies, and if you want to call it an Enterprise Bill, I think it is well titled.

Mr President, the Bill has been carefully thought through. It has not been rushed, but I think it is now time to get this on the statute and, if it is half as successful as its predecessors, then I think... I must mention... not my tenure, because I was certainly assisted greatly by my tenure as being a member of the Board of the late Mr Eddie Kerruish, and Mr Ian Anderson, when they were chairmen of the Board. There was the best ability of trying to get what was best for the Island, and that is what the Industry Board is about: trying to improve and give more opportunities to more people on the Island. I think this Enterprise Bill will underline and underscore the success that they have had in the past.

I wish it well, and I will be supporting it.

**The President:** Mr Downie.

**Mr Downie:** Yes, thank you, Mr President.

In line with the previous speaker, my hon. colleague, Mr Lowey, the Industry Board Act 1981, which is the piece of legislation that this Bill is going to replace... We have got to realise that the Isle of Man is a completely different place now from it was in 1981. The object of that piece of legislation then, the Industry Board Act, was to stimulate light engineering, some smaller... It was basically targeted at manufacturing.

Manufacturing now is only a part of the economy of the Isle of Man, and this new Bill will allow the Department of Trade and Industry to assist in bringing companies involved in e-commerce, communications, even space to a certain extent, to come and set up in the Isle of Man.

I think it is a step in the right direction. It is not unique to us, because if you look around now, we have got the Scottish Development Agency; the Welsh Development Agency; the Irish have their own investment programme in business. So there is a lot of competition out there and there is no doubt about it: we have got to be as good and as attractive as everyone else. We have got to use facilities like this to bring business in and support them and allow them to get established, and then we have got the advantage of having the zero company tax and some other things that are unique to our own economy.

Clause 6 requires annual reports to be laid before Tynwald as to the provision of assistance under the Act, and for a list of businesses benefiting from financial assistance to be included. As much as I support that, I sincerely hope that it is not going to be a system that is going to be abused. It is very easy to be critical, either in here or in the other place, and I think in the past, some of the comments that have been made by Members of Tynwald have actually been detrimental to bringing business in here.

At the end of the day, if you actually look, about 96 per cent of businesses that are supported under the old legislation have been successful. As Mr Lowey said, you will always get an odd one, and it is always that odd one that is picked up, and we get a real hammering because of that. I think we have got to be careful that, when this document is produced, someone with the wrong intention does not start to just pick into businesses, because it does not happen in other places. It does not happen in other jurisdictions.

The other thing which is very different too, in part 2, the powers of the Department, the Department will have the power to form bodies corporate, to form partnerships with other persons with, of course, the prior approval of Treasury, and this will, I think, lead us to having private-public partnerships on the Isle of Man. One of the examples I can give of that: a few years ago, the Dowty's factory was part of a takeover in the UK. The parent company did not feel that they wanted it any more. It was surplus to their new management structure, so Government stepped in and bought it.

You have, in fact, a very good private-public partnership arrangement there, because since that time, the aviation sector has taken off again and Dowty's are probably employing more men now than they did when the takeover took place. They have been involved in new contracts with Rolls-Royce and they are doing marine work now, which they did not do before. So there is a very good opportunity for Government to work with the private sector.

I think the Bill is long overdue and I wish my colleague well with it. The sooner it gets through its various Readings here and receives Royal Assent, the better.

**The President:** Mrs Crowe.

**Mrs Crowe:** Thank you, Mr President.

I wholeheartedly agree with the comments that have been made. I know that 95 per cent of the businesses that have been supported have done extremely well.

But this fund is risk capital and any new enterprise is a risk. I know how very well these firms and applications are evaluated within the Department, but my only comment is about the year-on-year funding. I do believe that there comes a time when a business is on its feet, that the Department should be saying, 'We need to encourage more, smaller,

whatever industries,' not continuing to fund forever these large businesses, which does happen, and to a very handsome tune.

The whole point of an Enterprise Bill is to encourage enterprise, so I do hope that the Department looks at not only addressing some of the applications that have come in, that are very well drafted with professional help and professional accountancy bills etc with it, but look at spreading the seed corn a little further, at some of the smaller enterprises that may well be not getting the attention that I feel they deserve.

I just point out one industry, because it happened to be on the business news yesterday, and it is a business I do know a little about. This was a lady – a farmer's wife, in fact – who, in the recession in the United Kingdom – when farming, as we know, has not been doing terribly well – decided to start a small internet business because she, rather like myself, requires larger lingerie. So she decided that she would source all the different larger sizes that were available and she set up this firm, which is now a multi-million-pound industry.

I do think that these smaller enterprising individuals need to have some help in the Department. They are not going to come with all the applications tidied up in the way that someone who has got all the bank managers, the accountants and everyone else.

So I do hope that part of this fund could be set aside as seed corn for enterprising perhaps single-person businesses, or whatever. I know it is difficult when it is public funding, and there has to be a degree of accountability, but I do believe there is the ability in the Department to help more smaller enterprises and not to open-endedly fund the bigger businesses.

**The President:** Mrs Christian.

**Mrs Christian:** Thank you, Mr President.

Yes, I accept the principle of the Bill. We all understand that the constraints that are applied by the current legislation are out of date and need to be updated. So I am fully in favour of changes to the Bill that widen its scope.

I also accept that the Department has to be entrepreneurial but, like Mrs Crowe, I would like to see some emphasis, as is set out in the second clause, on sustainability and, in my view, like hers, sustainability does not mean funding year on year.

To that extent, I am pleased to see, in clause 6, that there will be a report, but I would like to ask the mover whether any consideration has been given to that report saying who has... It will indicate who continually is being funded, so we will be able to keep an eye on that; but I would also like to know what has failed. We have to be grown up and accept that things fail, but let us be more open about it.

I accept that there was a move in another place to try and, I think, get numbers put to businesses, but that was not supported. We will get a global figure on it, and there may be good commercial reasons for that, but I do think that we need to follow the progress of these businesses that are being supported, not simply to be told that in year one they were given this. How did that work out, please? Will you report a year later, or maybe even two years later? Are they still going?

**Mrs Crowe:** Or where the machinery is.

**Mrs Christian:** So I really make the same point as Mrs Crowe, but perhaps expand on it, in terms of a requirement in the report.

I am pleased to hear comments that perhaps have answered a question I was going to raise with regard to the detail of the schedule, when we come to it, and that is that this will allow the Department to assist in any part of the economy. Perhaps my hon. colleague, Mr Lowey, has indicated that there will be scope for an overlap between Departments such as Agriculture and the Department of Trade and Industry, where the circumstances are right, where it may be a marketing issue, or in other businesses where it is a service industry, that we are getting a wider scope here – and accepting too that then you need to monitor between the Departments that the boundaries are right.

I am a little curious about the nature of the support, Mr President, not knowing currently a great deal about what the Department does at the moment, but it does seem to me that there is no overall capping to the support that can be given. There is a cap to the financial support by way of grant or loan, but there is not a cap to the totality of support, as I read the Bill. They can have a grant or loan; they can have a guarantee, which is a liability. How much? Is this down to the discretion of the Department?

There is not any overall total, as I read it. Perhaps the mover could confirm that.

I just wonder what the rationale is for the Treasury approving loans up to a maximum of the financial cap, but not the grants. The guarantees, I am not sure whether they have to be covered by the Treasury, or not. I need to read that carefully again, but certainly there is only a mention of them in respect of the loans under the cap. Indeed, they certainly have to give approval when the amount of financial assistance exceeds the cap. So that is reasonable enough, but I do not know why the two are being treated differently.

I think, Mr President, that sums up my queries about it at this stage. I certainly will support it, but I think it will be helpful when we come to later stages perhaps to have some answers on those points.

**The President:** Mr Butt.

**Mr Butt:** Thank you, Mr President.

I cannot go as far back as Mr Lowey to the Board of Industry, but I did spend a very interesting year in the DTI, where I learned an awful lot about business in the Isle of Man. It was evident that, on occasions, there were frustrations about the restrictions of the old legislation. This is a good move forward in perhaps loosening matters so that other enterprises can be helped.

The point Mrs Crowe made: I think it may actually help smaller businesses more, because they were not eligible in some categories to have any assistance, so I think that might be a welcome move forward.

It has been mentioned that the money is actually risk money and comment has been made that 96 per cent of things do succeed. My experience of the officers, the very small team that operate the financial aspects, they were very professional and very hardnosed. My opinion, from what I saw of them, is that the money is in fairly safe hands, (**Mr Turner:** Hear, hear.) but the ability to report every year might be an added bonus which will reassure other people who perhaps have not seen it from the inside, that things are not as bad as sometimes is said.

So I would support this Bill, Mr President.

**The President:** Mr Turner.

**Mr Turner:** Yes, thank you, Mr President.

I would like to echo some of the words of my colleague, Mr Butt. Much has been made of this being risk capital. It is, in effect, but I think the Department can boast a very low failure rate. Certainly, the successes have vastly outweighed the failures, and it is inevitable that there will be some businesses who do not succeed.

To come back to the point about the officers who are managing this fund, there is great care taken by the officers in that Department – more so now than ever – and in fact in some cases, under the current system where they have been able to award funding, the ones that seem to be a higher risk, they are actually saying, ‘Well, we will award you the grants or the loan on achieving a certain target,’ so that safeguards the funding even more.

So I have a great deal of confidence in the team that are managing the funds on behalf, of course, of the public.

The reports are quite an interesting point, I think, where we are going to be publishing details, and I think we have to balance up very carefully what information goes in those reports, because any business looking for, in some cases, significant amounts of money, should obviously have nothing to hide and be accountable that they have had that money. But we have to also weigh up the confidentiality of their operation, because of course we are trying to encourage as much business to be here on the Island and contribute as much as possible to the Island’s income.

So we do have to be very sensible about what goes in those reports and, as my colleague, Mr Downie, mentioned, there may be those who wish to take the information in those reports and start maybe looking for the problems that are not necessarily there. This can cause businesses and firms a great deal of problems and in some cases could have an adverse effect that it damages them, or that they leave the Island, and that is not what the spirit of this is about.

At the same time, of course, we must make sure that the funding is not given in a cloak-and-dagger form.

Much has been made of firms constantly coming back. I think some of this is true, but what is probably not widely known is that, under the existing system, they can be awarded up to 40 per cent in grants – depending which scheme they are on, but if I use the particular grants scheme, they can be awarded up to 40 per cent for equipment and so forth. Quite often, when these firms come back, they are not awarded 40 per cent again; they could be awarded 10 per cent, 15 per cent, 20 per cent, or so forth. Certainly, in my time in the Department, I know this has been the case. Where firms have come back, they have been awarded a much lower percentage and have had to make a good case for seeking further funding, not just to renew old equipment. There has to be a new project, or a new line, or something that they are going into which is going to possibly create more jobs, greater export and so forth.

So I think the Department is very conscious of firms coming back for more funding and obviously this, quite rightly, has been raised here and is a concern of people, and I think if they do come back, it should be justified as to why they are coming back for more funding. Indeed, there are cases where some firms do not receive more funding for various projects. Funding has been turned down, I believe.

Mrs Crowe mentioned small businesses and the success of how a one-man band – or, in this case, a one-woman band – can start up a business in a garage, back bedroom or whatever, and then it can develop into a multi-million-pound entity. The Department, of course, runs a small business start-up scheme, which I believe was free... I am looking to my colleagues. This, of course, is of great benefit to small businesses, and that is an excellent service that the Department... and hopefully this Bill will enable businesses that fell outside the current system to be involved. So I think that is an exceptional...

Indeed, some of the small businesses have been aircraft maintenance – and we are talking about small aircraft maintenance now, not the commercial airliners. There are some small businesses developing into those areas, so I think this will undoubtedly assist in those areas.

I mentioned the high risks. Treasury do have an involvement in this, so there is a fresh set of eyes on some of these projects when they get to a certain threshold. I am not quite sure what those thresholds are at this stage, but I think it should give Members confidence that the Department cannot just award large sums of money. There is a separate set of eyes that looks on these proposals.

So I am obviously delighted to support the First Reading of this Bill, and hopefully I have answered some of the queries as well.

Thank you.

**The President:** Mr Waft.

**Mr Waft:** I would support this Bill wholeheartedly, Mr President.

I have heard the comments that have been made, with regard to companies expecting as a right every year to have subsidies of one kind or another, and that is true. The fact is that many is the time some of these companies have large amounts of staff and indeed, to be fair, if they buy a piece of equipment nowadays, some pieces of equipment are worth up to £¼ million, £½ million a throw, so you cannot really compare that with the likes of a start-up person who is just starting off. I do take on board the situation with regard to the small firms trying to start off.

There was also a slight problem with competing industries virtually doing the same thing, and one has to be very careful when you do fulfil... Actually, there is a liability for the Government to actually do something when all the pieces of the jigsaw fit, in order for them to apply for the grant. It is very difficult to say no. As my last colleague said, there are two Departments involved to a greater or lesser degree, and some of the hoops that have to be gone through are quite considerable.

But at the same time, sometimes we need the judgement of Solomon, at the end of the day, to do everything that is correct, and we do have to take chances from time to time.

On the whole, we have done very well out of the Department of Industry, with regards to the use of taxpayers' money. I fully support them, Mr President.

**The President:** Mr Crowe to reply.

**Mr Crowe:** Thank you, Mr President.

First of all, let me thank Mr Turner for seconding the Bill. I will come to his comments a bit later.

I thank Mr Lowey, who was, I know, a previous Minister

and part of the Industry Board when it was before the Council, so I know he has a lot of experience in this, and presumably he was there at the dawn of the Industry Board in 1981, when it was more light industry, or industrial undertakings at the time. The Island in 1981 was quite on its knees, in fact. I think there were some bank collapses and the Island needed to be regenerated. So there was a lot of effort put into diversifying the economy and supporting the manufacturing sector.

I will not go into all the comments he has made, but certainly the creamery proposal is an example of cross-departmental functions. I know the Island is fortunate to have resources, that Treasury helps in certain circumstances. The Department of Agriculture has loan schemes, and so does the Tourism Department.

So I thank him for his remarks and, as he says, we are trying to give more opportunities to Island residents, so that the economy is buoyant.

Just commenting on the success rate, I have before me a note saying that the success rate over the last 15 years has been 99.6 per cent, which is the envy of most commercial banks and investors. So the investment criteria have stood the test of time and the Department at Treasury have looked at things closely and, although they have turned down some sectors, we, as an Island, are fortunate that the sectors have been successful.

I also thank Mr Downie, previous Minister in the DTI. He knows better than I as to the workings of the Department and, as he says, the Island now is in a completely different form and shape from when the Industry Board Act was set up in 1981. It will set up new industries, such as data centres and computer-related businesses, and he mentions all the competition that is out in the wider world, which the Island has to compete against.

He also mentions clause 6. Again this, although it is mentioned by the Members as well, is to lay an annual report before Tynwald. The Department is still working out how best to lay this report, what it would contain, because it is quite a sensitive issue. Again, talking of the type of businesses that the Department will support, he talks about private and public partnerships, and I could say that nothing has been ruled out yet for consideration.

Mrs Crowe: thanking her for her support, and again she mentioned risk capital, and is worried about the view that some industries come back each year for further help. I think Mr Turner commented on that and talked about coming back for further assistance depends solely on largely a new project, new markets, or a new type of industry – not the same repeated business that they got the original grant for.

Again, Mrs Crowe mentions this helping small business and the seed corn to help smaller enterprises, and I think Mr Turner has covered this in the small enterprises that get help.

Mrs Christian, I thank her for her support too, accepting the principle, the sustainability. Again, she mentioned this funding year on year. I will take this back to the Department about this question of including in the report who has received and who has failed, so that the consequences can be brought to Tynwald – not just the successes, but the failures too, and we hope there will not be too many of those.

I mention again the overlap of the Departments – Treasury, the Department of Agriculture, Tourism – and there are certain boundaries so that we do not give the same grant to the same business.

As to the cap and the question of Treasury support, there will be regulations which will follow on from the Bill, and I can talk about that in further detail the week after next.

Mr Butt, again, another Member of the Department: I thank him for his remarks about his experience in the Department when there were restrictions on certain categories that they found did not fit the criteria under the present Act. His support is welcomed as well.

I thank Mr Turner, who is currently on the Department of Trade and Industry. Again, he has covered some of the queries that were raised: successes outweigh the failures; great care is taken by the Department when looking at any financial assistance; high risks are given greater requirements to fulfil.

I thank Mr Waft for supporting the Bill too. Again, we must recognise that some of the larger companies are employing a lot of staff in some very competitive industries against world competition, and equipment is expensive. He mentions figures of £¼ million and more for new industry and for new equipment.

Again, he mentioned this question of making sure that competing industries, or competing businesses in the same sector, are treated fairly. I am sure the Department will

do that. Again, the applications have to go through hoops through the Department and through the Treasury support as well. He talks about the wisdom of Solomon, so certainly that is a high demand to be met, that we can all meet the wisdom of Solomon! (*Laughter*)

I thank all the Members who were in support. I thank them for the comments. If there is anything I have not picked up at this stage, I will talk about it at the second stage in two weeks' time.

Thank you, Mr President.

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

Hon. Members, that brings to a conclusion our business in public today. We will adjourn to the sitting of Tynwald Court next Tuesday, on 20th November, and thereafter, as Mr Crowe has indicated, the sitting of the Council on 27th November.

Thank you, Hon. Members.

*The Council adjourned at 12.49 p.m.*