



**HOUSE OF KEYS  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
Y CHIARE AS FEED**

**PROCEEDINGS  
DAALTYN  
(HANSARD)**

**Douglas, Tuesday, 5th February 2008**

**Present:**

The Speaker (Hon. S C Rodan) (Garff);  
 The Chief Minister (The Hon. J A Brown) (Castletown);  
 Hon. D M Anderson (Glenfaba); Hon. A V Craine and Hon. A R Bell (Ramsey); Hon. W E Teare (Ayre);  
 Mr J D Q Cannan (Michael); Mr T Crookall (Peel); Mr P Karran, Hon. A J Earnshaw and Mr D J Quirk (Onchan);  
 Hon. G M Quayle (Middle); Mr R W Henderson and Mr J R Houghton (Douglas North);  
 Hon. D C Cretney and Mr W M Malarkey (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East);  
 Mr C G Corkish MBE and Hon. J P Shimmin (Douglas West); Mr G D Cregeen (Malew and Santon);  
 Hon. P A Gawne and Mr Q B Gill (Rushen);  
 with Mr M Cornwell-Kelly, Secretary of the House

**Business transacted**

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*The House adjourned at 12.26 p.m.*

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## House of Keys

*The House met at 10.00 a.m.*

[MR SPEAKER *in the Chair*]

### PRAYERS

*The Chaplain of the House of Keys*

### LEAVE OF ABSENCE GRANTED

**The Speaker:** Hon. Members, I have given leave of absence today to the Hon. Member for Rushen, Mr Watterson.

## Questions for Oral Answer

### CHIEF MINISTER

#### Lisbon Treaty on EU Impact on Isle of Man

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

*What assessment has the Council of Ministers made of the impact on the Isle of Man of the recently signed Lisbon Treaty on the European Union?*

**The Speaker:** We turn to our Order Paper, Questions for Oral Answer, Question 1, and I call on the Hon. Member for Onchan, Mr Karran.

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

**The Speaker:** I call on the Chief Minister, Hon. Member for Castletown, Mr Brown.

**The Chief Minister (Mr Brown):** Thank you, Mr Speaker.

Notwithstanding that the EU is undergoing change and there is considerable debate in the United Kingdom on this issue, we must not lose sight of the fact that the Isle of Man is not a member of the EU.

Despite the changes in the EU, our assessment is that the text and meaning of Protocol 3, which sets out our relationship with the European Union, remains unchanged by the Lisbon Treaty and so the legal relationship with the European Union also remains unchanged.

Thank you, sir.

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

**Mr Karran:** Would the Ard-shirveishagh not agree that the issue of the Royal Prerogative and the issue of good governance, if this function then moves from the United Kingdom to the EU, that is where the problem is and that is why we really do need to start looking seriously at the long-term implications of the European Union and the constitution of the Isle of Man?

**The Speaker:** Chief Minister.

**The Chief Minister:** Mr Speaker, as far as we are aware, the basis of the changes proposed will not affect the Isle of Man.

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

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

Does the Chief Minister agree with me that any change that the British Government applies to their relationship with the EU – and he has described the changes that he accepts are occurring – would have significant effects upon the Isle of Man automatically and beyond our control and therefore it is a right of Manx residents, as subjects of Her Majesty, to join the campaign which is gaining momentum in the United Kingdom, to ask Her Majesty to ask her loyal Government, albeit in the United Kingdom, to honour their election pledge to have a referendum?

**The Speaker:** Chief Minister.

**The Chief Minister:** Again, Mr Speaker, what the United Kingdom Government does in this matter is a matter for them.

Can I say that the Isle of Man is not part of the United Kingdom. The Protocol which has been in place since the early 1970s and our situation are no different. Certainly, there are matters that impact on the EU, that impact on the United Kingdom, that impact on the Isle of Man; but again, ultimately, the Isle of Man's position does not change.

If residents of the Isle of Man wish to make representation to the United Kingdom Government, then I am pleased for that to happen, if that is their wish.

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

**Mrs Cannell:** Thank you, Mr Speaker.

Can I ask the Chief Minister what advice has he received on this recently and from whom did he receive the advice?

**The Speaker:** Chief Minister.

**The Chief Minister:** Yes, Mr Speaker.

The Isle of Man Government, as Members will be aware, retains the services of White & Case – in fact, their senior officer did a presentation to Hon. Members in the Barrool Suite, only recently, about this whole issue. They are the advisers to the Isle of Man Government and provide a listening watch within Brussels directly, to ensure we have the best advice available.

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

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

Could I thank the Chief Minister for accepting that Manx residents do indeed have the right, in his opinion, to request Her Majesty to require the United Kingdom Government to honour their pledge. Would he accept that, in his role, it would be appropriate for him to be the conduit to accept such representations and forward them to the appropriate United Kingdom body, sir?

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

**The Chief Minister:** Mr Speaker, I do not think it is the role of the Isle of Man Government to act as a postbox for individuals who have a different view, (Mr Gawne: Hear, hear.) or in fact want to pursue their own objectives for whatever reason.

If they wish to do that, I am sure those people are more than able to write directly to the appropriate UK Department, which I presume would be the Ministry of Justice.

**The Speaker:** Hon. Member for Michael.

**Mr Cannan:** Will the Chief Minister agree that, whilst we all accept that there is no change in the Protocol 3, as the Isle of Man's principal trading partner is the United Kingdom and Europe, the detail of the Lisbon Treaty will have considerable implications for the Isle of Man economy – not least, for example, the Working Hours Directive, the use of vehicles travelling in the United Kingdom subject to EU regulations, and many other EU regulations which will have a direct effect on the economy and trading of the Isle of Man?

**The Speaker:** Chief Minister.

**The Chief Minister:** Mr Speaker, whether or not the Isle of Man is linked to the United Kingdom in the way it is, at this stage – and the United Kingdom is linked to the European Union – if the United Kingdom introduced legislation to apply within their island and the Isle of Man was to do business with it, then that legislation would apply to the Isle of Man, by the way of the UK's own domestic law.

So nothing has changed since the Isle of Man became involved in this by the Protocol 3 and, yes, there will be things that happen within the EU which affect the UK, which the Isle of Man may well wish to take on board. The Isle of Man's requirement to enact EU legislation is, in fact, quite limited and is mainly in relation to doing business with the European Union, which is, of course, our main partner, the United Kingdom.

**The Speaker:** Final supplementary, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Ardshirveishagh not agree that, really, he is playing down the implications of the EU, on the fact that if the Royal Prerogative is a function delegated from the Crown to the United Kingdom Government, and the EU takes over that function, then it does have an effect on this Island?

Does he not welcome the fact that maybe there is an opportunity in another place, in order to debate these issues further, in order that we could be proactive, instead of reactive on this subject?

**The Speaker:** Chief Minister.

**The Chief Minister:** Mr Speaker, I think there is a great danger of a minority of people in the Isle of Man using Members to generate a false picture for their own means. I think the Hon. Member for Onchan, Mr Karran, needs to be extremely careful on that.

Our priority is to protect the people of the Isle of Man, to protect the businesses of the Isle of Man and to work as best we can, to ensure we have a successful economy for the benefit of the whole Island.

I think we should be very careful we do not use scare tactics and make statements that have no foundation, because they are made by somebody who does not necessarily know what is really going on. The Isle of Man's relationship with the Crown will remain unchanged.

## TREASURY

### UK income tax changes Impact on Isle of Man

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

*(1) Will you make a full and detailed statement to this House about the potential implications for the Island of the proposed changes to income tax rules in the United Kingdom as outlined in your press release of 25th January 2008; and*

*(2) in such a detailed statement can you outline possible positive and negative impacts on the Island's economy and what if anything these changes mean for the Island's future economic growth and fiscal strategies?*

**The Speaker:** Question 2. I call the Hon. Member for Douglas North, Mr Henderson.

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

Ta mee shirrey kied yn eysht y chur ta fo my ennym. I beg to ask the Question in my name, sir.

**The Speaker:** I call the Minister for the Treasury, Hon. Member for Ramsey, Mr Bell.

**The Minister for the Treasury (Mr Bell):** Mr Speaker, I thank the Hon. Member for his Question, which allows me to brief the House on this important matter. I cannot today give a full and detailed statement and my reasons for saying that will become clear shortly.

Members may be aware that the UK Chancellor announced changes to residence and domicile rules in his pre-budget statement in October of last year. Both changes were said to be about fairness and were followed up by a more detailed consultation document issued on 6th December. Draft legislation and further guidance was published on 18th January and included some measures that had not been covered previously.

The UK Government intends that these changes should come into effect on 6th April this year. As the UK consultation does not end officially until the end of February, anything that I say today must be qualified by the possibility that the final form of what the UK brings into force may be different from what we currently believe.

So far as its tax law on residents, the UK is virtually identical to the Isle of Man and any person who is in the UK for more than half of any tax year becomes tax-resident there. This is also known as the 183-Day Rule.

As in the Isle of Man, residents are taxed on their worldwide income. The UK also has a second rule, the 90-Day Rule, which is based on an interpretation of legal cases. A person is said to be resident under this rule if they spend more than 90 days in each year in the UK, over a period of four tax years.

The key to both tests is how to count the days of presence in the United Kingdom. Until now the UK has only counted full days in the UK for the purposes of residence rules. Days of arrival and departure are not counted.

Under the proposed changes, days of arrival and departure will be counted. According to the material published on 18th January, only people who stay in connecting passenger areas, otherwise known as transit, will be able to avoid the new rule.

I would say that most travel from the Island through the UK to other destinations cannot be done without going through arrivals and then checking in again on to another flight. In London, it is frequently necessary to transfer from Gatwick to Heathrow. Holiday makers in particular may need to stay in the UK overnight to catch an early morning onward flight.

For these reasons, the business people who live in the Isle of Man and travel frequently, public sector officers who represent us around the world and perhaps even those members of our community who travel to the UK frequently to see relatives could find themselves caught by the new rules.

All Members of this House will, I am sure, Mr Speaker, support me in saying that it is not appropriate or correct to say that these people in those circumstances are residents of the United Kingdom. We will be taking this matter up with the United Kingdom Government, and I will report back to this Hon. House when I have a clearer picture of how understanding the UK is about this potential trap for our residents.

Other changes announced in the United Kingdom concern domicile and what is known as the remittance basis of taxation. The best way to explain 'domicile' is that it is the country that you are most closely associated with and that is usually the one that you or your parents were born in. People living in the United Kingdom but not domiciled there have the benefit of unique tax rules, in that they are taxed on UK income, but only taxed on foreign income if it is remitted to the United Kingdom.

This system has been tightened up significantly. First of all, people will need to pay a fee in future for the privilege of being able to use it. In addition, the United Kingdom is closing down what it sees as a number of abuses of the system. I understand that some wealth planning that is – and I stress this – perfectly legal, at the present, will be affected by what the UK intends to do: for example, the holding of assets such as property by non-resident trusts and companies.

It may be that trust companies in the Isle of Man will see some of their businesses adversely affected as a result. However, although I am naturally concerned that business here might suffer knock-on effects from changes made in the UK, as these changes do not affect Manx residents directly, it would be inappropriate of our Government to raise issues with the UK in relation to this.

A third change in the UK is worth mentioning briefly. Members will have seen the extensive press coverage of the proposed abolition of capital gains reliefs and their replacement by a flat-rate capital gains tax of 18 per cent. On 24th January, the UK Chancellor announced that he was reacting to wide public concern by creating a 10-per-cent rate of tax on the first million pounds of capital gains, a so-called entrepreneur's relief. In view of what some observers might call a U-turn on this issue, I think that the UK Chancellor will drive through the other changes discussed here earlier.

Mr Speaker, the Hon. Member for North Douglas has asked about positive and negative impacts on the Island's economy. At this time, it is difficult for me to give anything other than an informed opinion and one that, as all Members will realise, cannot yet be backed up by hard information.

On the negative side, we could see some difficult problem cases arising in the residence area, if our Government is not able to agree a better position with the United Kingdom. In addition, as I mentioned earlier, there is likely to be some impact on those businesses in the Island that provide wealth-management support to non-domiciles living in the UK. It is my view that the overall economic health of the Island will not be harmed.

Looking to the positive, if we are able to agree a common-sense position with the United Kingdom on the day-counting rules, then we will provide continuing stability and certainty to our own residents. It may even be that the changes to the domicile remittance and capital gains rules in the United Kingdom, coupled with our own personal tax-cap policy, make the Isle of Man an even more attractive place for wealthy people to consider as a home. If that happens the economic benefits could be appreciable.

Mr Speaker, this is a rapidly-moving situation and, as I said a few minutes ago, this means that I will need to update the House as matters develop. I am happy to give a commitment to give updates, as and when they are necessary.

**The Speaker:** Hon. Member, Mr Henderson.

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

I thank the Shirveishagh Tashtee for his full and detailed Answer in public for the people of the Island.

But would he also give an undertaking that, although he is not able at the minute to assess the impact of any possible changes, can he assure us that he and his officers will be working with the industries in the Isle of Man to get a much better temperature check of the situation as it unfolds, so we will indeed be able to assess the picture in more detail and the positives and negatives?

And with that information, as and when it is available, will he also put that into any future briefings to this House, which he has agreed to undertake already?

**The Speaker:** Minister for Treasury, Mr Bell.

**The Minister:** Yes, Mr Speaker, I am very happy to give the Hon. Member that assurance. Treasury works very closely with a wide range of representatives of the financial services industry and, indeed, beyond that and has, in fact, already started work with various elements of that industry, to try and analyse and understand exactly what the implications of the UK changes might be, and to try and identify solutions to these problems.

We pride ourselves very much, Mr Speaker, on the close working relationship Government has with the business community. I see that continuing well into the future and I can give the Hon. Member – and indeed all Members of this Hon. House – the assurance that all parties will be kept fully briefed as these events unfold.

**The Speaker:** Final supplementary, Mr Henderson.

**Mr Henderson:** Gura mie eu, Vainstyr Loayreyder. Again, I thank the Shirveishagh Tashtee for his commitment.

Further, would he agree, or can he confirm, that he and/or other appropriate officers and officials will be meeting similar counterparts in the UK for further discussions and negotiations on this?

Can he give us an assurance that these discussions and negotiations will be of a robust nature, placing our case to the UK authorities, in that we represent... although they may have their own rules right for themselves, there is an anomaly with the Isle of Man here, that *could* have a major effect on us that we may not wish to have.

**The Speaker:** Minister.

**The Minister:** Mr Speaker, once again, I can give the Hon. Member the absolute assurance that Treasury and the Isle of Man Government will be very robust in its representations to the United Kingdom on a whole range of these issues.

I should also point out though, Mr Speaker, that it is not only the Isle of Man that is affected by this: the Channel Islands are, equally, in exactly the same situation and, in some respects, may even be in a worse situation than the Isle of Man might be. There will be strong representations from all three of the Crown dependencies, Mr Speaker, to ensure that our voices – and in particular, the voices of those people who are directly affected by these changes – are made very clear.

Early indication, Mr Speaker, I can say, is that there may well be a feeling within the UK Treasury that they have not, once again, thought through the implications of the changes that they have brought in. They have not thought fully about how, in effect, innocent parties will be caught up in these changes and we may well actually, by the end of this consultation period, already be seeing some amendments to what has been initially announced.

But as I say, Mr Speaker, this is a hugely important issue for the Isle of Man. It is vital that we do make the strongest possible representations. I can assure the Hon. Member that this Hon. House will be kept updated, as and when progress is made.

## TOURISM AND LEISURE

### Former Summerland site Development plans

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

*What are the Department's plans to develop the former Summerland site?*

**The Speaker:** Question 3, Hon. Member for Douglas North, Mr Houghton.

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

I beg leave to ask the Question standing in my name, sir.

**The Speaker:** I call the Minister for Tourism and Leisure, the Hon. Member for Onchan, Mr Earnshaw.

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

The former Summerland site is potentially of significant importance and my Department has been considering the future use of the land.

When Summerland was demolished, it was envisaged we would be entering into a redevelopment scheme with a private developer. However, the decision was ultimately taken not to proceed and the plan was shelved. Since that time, we have been in discussions with various groups and individuals who have expressed interest in developments.

My Department had also hoped to progress investigatory work to establish the stability of the cliff face, before marketing the site. However, this cannot currently be achieved, as not all of the neighbouring landowners, whose houses are located above the cliff face, will provide access to their land and these plans have, at least for the time being, been put on hold.

Apart from retaining a modest part of the land, as a Department, we are reaching the conclusion that we no longer have a compelling need to retain the site and it may therefore be surplus to our requirements. Within the near future, it is our intention to make enquiries from other Government Departments and Statutory Boards as to whether they would have an interest in acquiring the land for their own purposes and, should this prove negative, our intention will then be to advertise for expressions of interest.

We are also working closely with officers from Treasury to investigate the possibility of marketing the site as part of a wider economic development initiative. As an alternative option, there may well be an opportunity to hand the site to central Government to form part of the Government land bank.

**The Speaker:** Mr Houghton.

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

Would the Minister advise this Hon. House whether he has consulted with his Leisure Division for leisure facilities for the young in that area of Douglas? Have they been consulted? Is he really interested in his responsibilities in the particular area of leisure, as we look at it this morning?

**Mr Cannan:** Hear, hear.

**The Speaker:** Minister, Mr Earnshaw.

**The Minister:** Yes, thank you, Mr Speaker.

Yes, of course we have done that, and my predecessor went into great lengths regarding the leisure side of this. This was the plan which was moved around and examined carefully for about two or three years. That really came to nothing, so certainly we looked at that.

We do a lot on the Isle of Man for leisure in all sorts of ways through sport and through other activities, working with our partners in the Department of Education. So I cannot accept any criticism that we are not playing our part in leisure activities and trying to develop them.

**The Speaker:** Hon. Member, Mr Henderson.

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

Would the Tourism Minister accept that, yes, the Island does do a lot for leisure pursuits and that the traditional pursuits are fine and well represented?

But would he further agree with me that there is a huge need now for a modern multi-use centre for the young people of this Island, (**Mr Houghton:** Hear, hear.) who require, at times, different leisure-type pursuits and different interests; that they require something like this as an informal meeting centre; and that Summerland would provide the perfect venue for this?

**The Speaker:** Minister, Mr Earnshaw.

**The Minister:** Yes, we are working hard in that direction, Mr Speaker. I do agree with the Hon. Member for North Douglas, Mr Henderson. My colleague, the Hon. Member for Rushen, Mr Gill, who has responsibility within the Department for this area, is visiting Coleraine in Ireland in the next few weeks, to look and talk with the owner of a bowling alley, because we are very conscious that in the Isle of Man we lost the opportunity that we had with the bowling alley which was at the Castle Mona Hotel.

My hon. colleague has also been in the UK recently, looking at multi-user games activity equipment and structures. So we are certainly doing what we can to move down this path, and I am very conscious of the gap that exists in leisure activities, to which the Hon. Member refers.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that there will be no budgetary arrangements as far as leisure facilities for this site?

Would he not agree if we had not got any money for a secondary school, we certainly are not going to have any money for a leisure facility, as far as that site is concerned?

Would he also not agree that the fact is that, once again, Members of this Hon. House have been sold a pup? We have spent £3 million of public money, on demolishing, on getting it into the state it is in now, and here we are in a mess again!

Would he also inform this Hon. House that people have written on several occasions both to his Department and to the Chief Minister about what should be done about this site, to no avail?

**The Speaker:** Minister to reply.

**The Minister:** Yes, I do think there was a very genuine effort made in the time of my predecessor. It was fully explored and plans were put in place, but sadly, they came to nothing, and that is the situation that we are faced with at the moment.

It was demolished: it was a very difficult demolition, as

all Hon. Members are well aware. We are left with a site that has some difficulties attached to it, which we are trying to overcome. We are doing our best to address that.

So I think there is a genuineness in everything that we are trying to achieve here, Mr Speaker.

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

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

Could I ask the Minister, could he give us an update regarding the cliff face? I know he touched on it. Is there any way that other Departments may assist to remove this particular blight that may be stopping others developing it?

**The Speaker:** Minister to reply.

**The Minister:** Yes, to coin a phrase, we are a bit between a rock and a hard place with this, Mr Speaker!

Regarding the cliff stabilisation, the current position I have in my brief here is that the Department has been advised that it has no legal obligation to stabilise the cliff. However, the Department has previously stated that, once the results of the investigatory works are available, then the Department will be willing to ask its consultants to prepare options for the cliff's stabilisation.

But the difficulty we have there is the one that I outlined earlier: we need the co-operation of all our neighbours to be able to conduct the exercise to prove that the cliff is stable, before we can remove the remains of the Summerland building.

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

**Mrs Cannell:** Thank you, Mr Speaker.

I welcome the last answer that the Minister has just delivered to the House.

Can I ask him with regard to the difficulties attached to the site – it is to do with the remains of Summerland which is still attached to the rock face – if his Department is unable to carry out the investigative works because of lack of co-operation, shall we say, from the neighbouring property, where does that leave the Department then, in terms of maximising the use of this site?

Has he considered, for example, utilising just part of the site for a development opportunity, thereby leaving a safety area to safeguard that part of the old building which is still attached to the site? Has he considered that?

In considering that, does he not think it would be a waste of a piece of land by his Department to actually put it out to offer to other Departments, which equally may be faced with the same problems his Department is facing? Where would that leave the Department and the Minister here? Is he then looking to perhaps market it and sell it out to the private sector?

Would he agree with me that, whilst this problem remains, the land is not reaching its full potential in terms of value? In order to try and maximise some value from it, so it is not just sitting there being under-utilised and a waste, has he considered utilisation of part of it, as opposed to all of it?

**The Speaker:** Minister to reply.

**The Minister:** Yes, I certainly have, Mr Speaker.

I would agree with the Hon. Member for East Douglas, Mrs Cannell, that the value of the site is impacted by the difficulties that surround it at the moment. This is something that is not really of Government's making; it is just a situation that has arisen and we have to manage it and deal with it. We are doing the best that we can regarding that.

If we offer this to other Departments – which is something we would have to do before we can seek expressions of interest from outside Government – it gives us an opportunity to suck up ideas which may be around, that other Departments may have. It may have potential for other things that Government might want to develop on that land: I do not know.

Similarly, if we do get a negative result from that enquiry to other Departments, it gives us the opportunity to go out for expressions of interest on a more public basis, to see what ideas exist elsewhere.

**The Speaker:** Let us see if we can speed up the questions and the answers; we have a long way to go. Hon. Member for Douglas South, Mr Cretney.

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

Would the Minister agree with me that it is unfortunate, to say the least, that the difficulties with the surrounding landowners is, in effect, sterilising this site and nothing can happen on this site as things stand at the moment?

Does he agree with me that it is in everyone's interest that discussions with them proceed at an early stage? The situation was, when I left the Department, this was what was holding up the development of this site, and it is *most* unfortunate.

**A Member:** Hear, hear.

**The Speaker:** Minister.

**The Minister:** Yes, sterilisation is a good word, but we have been working on this: we have not been doing nothing. It is not something that you can attack all the time. We have to go through various procedures regarding this.

I would not accept that there is nothing we can do with the site. There are certain things, but certainly, without doubt, it restricts the opportunities that are available at the moment. With it being in Government hands, Government is a responsible developer and we carry out all our activities responsibly. We would have some difficulty in developing things in the way we may wish, as things stand at the moment.

**The Speaker:** Mr Houghton.

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

The Minister mentioned in his opening Answer, sir, about the disposal of the land: the Department had resolved to dispose of the land. Then he mentions about bowling alleys and further development.

Can the Minister advise this House whether he has the intention of disposing of the land or he is still interested in moving forward with some form of leisure operation there?

If that is in the affirmative, Mr Speaker, may I ask if the Minister would invite a group, a working party, of Members

of the Douglas and Onchan area, in order to move this forward?

**The Speaker:** Minister to reply.

**The Minister:** There are other operators around, on the Island, regarding leisure activities. We, for instance, have the Laser Blast people in Onchan, who are running a good business there, to the best of my knowledge. I think it is well used; they are expanding the activities that they run there. There are interests elsewhere on the Island, and this is what my hon. colleague, Mr Gill, is investigating regarding the bowling alley. So I think, in that respect, we are working hard to achieve the ends that the Hon. Member suggests.

I have no difficulty whatever in talking to him, or other hon. colleagues who have got an interest in this, if they feel that they have some ideas that they may be able to contribute. I would welcome that.

**The Speaker:** I will allow two further supplementaries.

Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh say that it is a bit far fetched to say it is not of Government's making? We have paid top-dollar prices to knock this building down and leave it in the state it is; we have paid top-dollar prices to consultants, as far as this issue is concerned; and here we are, left with a situation where we are left with a pig in a poke, as the saying would be outside this Hon. House. Who is going to take responsibility for that?

Would the Shirveishagh not also agree that we were once again misled, in another place, where we were first told it was going to cost us £800,000-odd to knock it down – when that was only to remove the asbestos – and that there was no sensible business plan, as far as this issue is concerned?

Will he take on board the suggestions that some of us have made about maybe seeing whether it would be worth doing some sort of competition with architects to come up with a prize of a design for the site, even if just to try and get some new, fresh ideas (**Mr Houghton:** Hear, hear.) for developing this area for the benefit of the whole Island?

**The Speaker:** Minister to reply.

**The Minister:** Yes, I recognise everybody is frustrated regarding this, and none more so than I, Mr Speaker, because the person responsible, at the moment, is me.

When the demolition took place, it was demolished in a responsible manner, and we had to pay the going rates. Government had to pay the going rates and the going prices to achieve that, so that has been done.

I do take on board suggestions that are made. I have invited others, such as... The Hon. Member, Mr Houghton, has just asked if he could meet the Department; I am very happy to do that. I will extend the same welcome to Mr Karran: if he has got ideas, come to us, and they will be considered.

**The Speaker:** A final supplementary, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker.

Can I just ask the Minister to clarify one comment that he made in a previous answer, when he said there is no legal

obligation upon the Department to secure the rock face. Am I correct in assuming that there is no legal obligation to secure it whilst the site remains as it is, fenced off from the public entering it? Therefore, if I am correct in believing that, am I also correct that, if a development were to take place, the rock face would be required to be secured, in terms of health and safety? In other words, is he saying that, whilst there is no legal obligation for the Department to secure the rock face, if a development were to take place by a Government Department, then there would be an obligation to secure the rock face, in order to make the property that was going to be built on it safe?

**The Speaker:** Minister to reply.

**The Minister:** Yes, thank you, Mr Speaker.

I will keep my answer as brief as I can. There is a difficulty, and my understanding of this... I am not a civil engineer, but my understanding is that the planning regulation was that the residue of the Summerland building had to be left in place to allow the rest of the demolition to take place. It does not make the site, as far as I am aware, totally sterile, but until that safety can be proved, we would have to build around and leave that residue in place, so it would have to be concealed by another building in front. So, in my mind, that has got to impact on the value of the site.

#### **Annual boat show Lack of DTL representation**

1.4. The Hon. Member for Peel (Mr Crookall) to ask the Minister for Tourism and Leisure:

*Why was your Department not represented at this year's annual boat show?*

**The Speaker:** Question 4, and I call on the Hon. Member for Peel, Mr Crookall.

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

**The Speaker:** Again, I call on the Minister for Tourism and Leisure, Mr Earnshaw.

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

My Department regularly reviews its exhibition programme and, as in previous years, decided not to attend the Earl's Court International Boat Show, due to the shortage of visitor marina facilities on the Isle of Man. Once facilities are sufficient and available, to a number suitable for the encouragement of visiting pleasure craft and related events, it will be worth considering the value of attending this event.

We are supportive of the principle of the provision of marina-led projects by the Department of Transport, so that we can partner together at key boat shows, using their experience and knowledge to promote marine facilities on the Isle of Man in the future.

In terms of availability of moorings, I understand there are 304 in Douglas, including inner-harbour pontoons, all

allocated for residents. At other locations, I am informed there are 717 moorings around the Island allocated to residents, and 56 specifically available for visiting vessels.

**The Speaker:** Hon. Member for Peel.

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

I thank the Minister for his Answer, but does he not think that, when you have 180,000 people going through the International Boat Show, it would be a good idea, and maybe a cross-Departmental effort with the DTI, with the shipping register, considering the size of some of these yachts, as they call them now, that are being sold down there, sir...?

**The Speaker:** Minister to reply.

**The Minister:** Yes, thank you, Mr Speaker.

I have spoken to our colleagues in the Department of Trade and Industry regarding this, prior to this Question being put. I am informed by them that primarily this is a trade show and, if we were to attend a boat show, we would be better off attending the Southampton show. There are dozens of shows that take place around the United Kingdom, in all sorts of areas. We have a finite resource for attending shows, which are expensive to attend and run, and we look for the best possible value for money that we can achieve. I think in 2008 we will be attending, around the country, five or six shows, hopefully, to get the best results, following the template that I have just outlined.

I think the Department of Trade and Industry do attend various yacht shows; they do boat shows. They do fly the flag for the Isle of Man, but I think their main interest is in much larger vessels. They will be attending in Monaco. Genoa, I think, is another place, and there is a third major show. I cannot just remember where that is. I think it is in the Middle East, the third one. But they have got a different objective to what we might perhaps have.

**The Speaker:** Mr Crookall.

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

Again, I thank the Minister, but would he not agree with me: even if he is right and it is a trade show, if it is 180,000 traders going through there, what better way than for the traders to tell the customers about the Isle of Man that they have seen and heard about down there at the stall, sir?

**The Speaker:** Mr Earnshaw.

**The Minister:** Yes. I cannot deny that it is a good idea, but I come back to the fact that we cannot attend everything, so we look at the best possible outcomes that we can achieve with what we have, sir.

#### **Buses Replacing diesel with gas**

1.5. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Tourism and Leisure:

*Can you confirm that buses powered by compressed natural gas (CNG) will be considered during the*

*tendering process, as a possible replacement for the diesel driven buses currently in use?*

**The Speaker:** Question 5. I call on the Hon. Member for Onchan, Mr Karran.

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

**The Speaker:** Again, Minister for Tourism, Mr Earnshaw.

**The Minister for Tourism and Leisure (Mr Earnshaw):** Yes, thank you, Mr Speaker.

The simple answer to this Question is: yes, in preparing a specification for our new buses, we will be looking at all the options and, at this stage, nothing is ruled in, or ruled out.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, will the Hon. Minister inform us of the criteria – as far as the tender processes, as far as the replacement of these buses – as there is a considerable amount of money involved. The principle – with the example of the UK's capital – of trying to bring in charges, in order to keep down pollution... The idea, and the large amount of money that we have spent on natural gas – getting it to the Island – it actually makes quite good sense, not just environmentally, but business-wise as well, in order to make sure that this is put in as a serious option.

**The Speaker:** Minister.

**The Minister:** Yes, thank you, Mr Speaker.

As I have said, nothing has been ruled in, or ruled out. The tender process for the new buses has not been drawn up yet because, at the moment, we are just test running. We test ran a vehicle, as many residents will have seen, in the last few weeks – it was from East Yorkshire – and I think we have got two more buses that we are going to trial in the next few weeks. Once we have got through that process, we will have a clearer idea what we are looking for and the tender document will then be drawn up.

I am certainly not a biochemist, but there are various fuels that have been experimented with, in various areas, to try and find a better way forward than what we have at the moment. I am informed, regarding CNG – which is the compressed natural gas to which the Hon. Member refers – Dublin Bus trialled a Volvo bus with compressed natural gas, and they had continuous problems with reliability regarding injectors and other mechanical issues. Numerous complaints regarding the smell of gas, due to leaking pipework, were reported. They had very poor engine performance, especially lack of power. They also had an issue with the cost of supplying the gas. Needless to say, they are no longer pursuing this form of fuel. I do not want to be unhelpful – we will look at these things – but this is the sort of information we will be examining as part of that process.

**The Speaker:** Hon. Member, Mr Quirk.

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

Could I ask the Minister: would he contact Manx Gas itself – I will pass him a card, Robert Gardner – for the

assistance they would give to the Department in progressing these buses for compressed natural gas, or even LPG, liquid petroleum gas?

**The Speaker:** Mr Earnshaw.

**Mr Earnshaw:** Yes, I will be very happy to have... It has already happened, Mr Speaker. My colleagues share that information with us and we will contact Manx Gas regarding this.

## HEALTH AND SOCIAL SECURITY

### Attendance allowance criteria Catering for permanently disabled

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

*Will you review the regulations in respect of the qualification criteria for attendance allowance, which currently disqualify successful applicants from receiving benefits until six months have elapsed, in order to cater for people with permanent disabilities?*

**The Speaker:** Question 6, Hon. Member for Douglas North, Mr Houghton.

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

I beg leave to ask the Question standing in my name, sir.

**The Speaker:** I call the Minister for Social Security, Hon. Member for Ayre.

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

The Department currently has no plans to review section 65(1)(b) of the Contributions and Benefits Act 1992, which sets out the period for which a person is entitled to attendance allowance.

Contrary to the suggestion by the Hon. Member, the relevant section does not disqualify a successful applicant from receiving attendance allowance, but is there to establish whether a person will become a successful applicant.

Attendance allowance is one of the benefits contained in the Reciprocal Agreement on Social Security which the Island has with the UK. As such, the Department is unable to make any arbitrary alteration to the relevant legislation without potentially putting the Agreement at risk. Hon. Members will be aware, as I am, of the hardship which would be caused to claimants and their families if there were no longer an automatic exchange of attendance allowance claims between the Island and the United Kingdom.

I believe it is worth reminding Hon. Members that, with attendance allowance, it is not the disability which the person is suffering from which is the important factor, but rather the amount of care and attention that is required as a result of that disability.

I realise that this Question may be prompted from the recent issues raised by an amputee. I have arranged for my colleague, the Hon. Member for Rushen, Mr Watterson, who

is the Member with responsibility for Social Services, to meet with the hon. questioner, and with one of my officials, to discuss the issues raised. This should help to build up a better picture of the various aspects of this matter, sir.

**The Speaker:** Mr Houghton.

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

I thank the Hon. Minister for his offer, and I would be more than pleased to take it up. His Department officials are always very helpful when I have meetings with them, sir.

Can the Minister, really, truthfully and honestly believe that an amputee does not require attention from the assistance and support of the attendance allowance once his limb has been amputated? Immediate care and attention; not care and attention required in six months' time, sir. Does he really believe in the regulations and the rules that he has read out?

**The Speaker:** Minister.

**The Minister:** I have to say, Mr Speaker, that this is part of the wider debate of the Reciprocal Agreement, and we do work with the UK as part of that Reciprocal Agreement.

**The Speaker:** Hon. Member, a further supplementary.

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

The Reciprocal Agreement, in this case, need not be activated, as new claimants attending the Isle of Man could reclaim for their benefit over here, and vice versa. Would he not take that matter into account? How does he match that with the pension supplement that is received by all Manx pensioners, in addition to their pension, that is regulated by his UK Agreement, sir?

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

**The Minister:** The Hon. Member will be aware that, in connection with the pension supplement, that was a separate issue from the National Health Insurance Fund. This one, through the attendance allowance, is from general revenue, so it is like, in a way, chalk and cheese, here.

I did say to the hon. questioner, in the response to the first part of the Question, that we would certainly discuss it with him and colleagues, and I am quite happy to extend that, and to reiterate that, sir.

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

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

If a full and comprehensive case is put to the Hon. Minister, would he be willing to change the rules, if that happens, sir?

**The Speaker:** Minister to reply.

**The Minister:** I did say that we would have a look at it, but I also said, in my opening comments, sir, that this would be subject to the Reciprocal Agreement, and therefore there would have to be negotiations taking place with the UK. I would prefer to wait and see what the argument is, at the moment.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh son Cooishyn Sthie inform this Hon. House that the fact is that we did take such initiatives with the likes of the terminally ill? (**Mr Houghton:** Hear, hear.)

Would he not also agree that the Reciprocal Agreement talks about the minimum standards that you have to do to remain as part of that Reciprocal Agreement, and that the Department can take the initiative and provide over and above that minimum agreement, as far as the Reciprocal Agreement is concerned?

Would he not agree that the other priority is that we need to develop a proper welfare rights department, because a lot of people who should be claiming this money are not getting this money, (**Mr Houghton:** Hear, hear.) because people are not being told of this? Maybe we can resume our opportunity of trying to develop meetings to develop that issue of getting a proper welfare rights department on the Island, outside his Department.

**The Speaker:** Minister.

**Mr Houghton:** Help the people who need the support.

**A Member:** Hear, hear.

**The Minister:** I certainly agree, and I take it, from the general thrust of that supplementary question, sir, that the Hon. Member is in favour of targeting benefits, and that certainly is a proposition that I support.

**A Member:** Hear, hear.

## HOME AFFAIRS

### CCTV

#### Importance to safety and crime detection

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

*Does your Department accept the importance to public safety and crime detection that an adequate and appropriate CCTV system can provide in public areas?*

**The Speaker:** Question 7, Hon. Member for Douglas North, Mr Henderson.

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

Ta mee shirrey kied yn eysht y chur ta fo my ennym. I beg to ask the Question in my name.

**The Speaker:** Minister for Home Affairs, Mr Quayle.

**The Minister for Home Affairs (Mr Quayle):** Yes, thank you, Mr Speaker.

The Department of Home Affairs is aware of the significant effects that the proper installation and use of CCTV systems can have on crime and the fear of crime.

The most reliable research on the matter was released by the Home Office in 2005. This showed an overall 28

per cent reduction in crime, especially acquisitive crime, in areas covered by cameras during a lengthy study. A reduction in the fear of crime also occurred. Large reductions were recorded in acquisitive crime, whereas some categories of crime – notably public order offences – actually increased. It is probable that this happened because of the monitoring of images by trained operators.

However, the development of systems needs to be properly managed, and effective monitoring needs to take place. It is also important to see CCTV systems as being part of an overall solution which includes better architectural design, improved street lighting, better partnership working, and visible neighbourhood policing. Indeed, better street lighting can actually be more effective, on occasions, at reducing crime, than would be the case for CCTV.

Thank you, Mr Speaker.

**The Speaker:** Mr Henderson.

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

Would the Shirveishagh not agree with me that he is actually pouring smoke over this important issue, and distractions, with regard to street lighting?

Would he agree that, in fact, what we have in Douglas – the capital of the town – is ostensibly a Victorian town, where you cannot design out all the areas you would so wish?

Further, if he is agreeing that CCTV does play an important part in crime reduction, but even more so in crime detection, could he answer why his Department is not working in conjunction with Douglas Corporation this year, and involving himself in a joint funding initiative between the Corporation and the private sector?

**The Speaker:** I do not want to pre-empt Question 8. Minister.

**The Minister:** Yes, thank you, Mr Speaker.

I was rather conscious that we are leaping on to aspects of Question 8, but all I would say – in terms of trying to restrict it to Question 7, then – perhaps would be that, in terms of the architectural design to which I referred, that is obviously for new developments, and I feel sure that the Police have had an input in advising on different types of design. Although Douglas is, by and large, made up of old buildings, there has been redevelopment occurring, and that is where new designs can be looked at to try and take into account the problems that may arise.

I think it also ought to be mentioned, Mr Speaker, that the Department, through the Isle of Man Constabulary, do give advice to, for example, Douglas Corporation, and any other local authority, (**A Member:** Hear, hear.) in terms of CCTV systems, I understand.

**The Speaker:** Hon. Member for Douglas East, Mr Braidwood.

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

The Minister may not have the figures, but how many people have been convicted for a misdemeanour, using the recorded CCTV images from the static cameras which are employed by Douglas Corporation? If he has not got the answer, Mr Speaker, would he supply it to all Members of this Hon. House?

**The Speaker:** Minister for Home Affairs.

**The Minister:** Yes, thank you, Mr Speaker.

As a former Minister of this very Department, I feel sure the Hon. Member may be aware that those particular figures may be difficult to acquire. It is something I have raised within the Department, and that was the advice I got – that it would not be very easy to capture the information that he is seeking – but I will certainly make further enquiries to see if those figures can be available.

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

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

Could I ask the Minister for Home Affairs: could he provide us with the standard... I was led to believe his Department was trying to achieve a standard for the Isle of Man, for common use. Could he provide us with that standard, and maybe give us an indication of the Home Office report, give us a synopsis of that, to be circulated to Members?

**The Speaker:** Minister, Mr Quayle.

**The Minister:** Yes, thank you, Mr Speaker.

I am more than pleased to have circulated the report to which I referred, which was prepared by the Home Office, I understand.

In terms of a standard for the Island, then I think it, again, is touching on Question 8, so perhaps I should leave that until the next Question.

**The Speaker:** A final supplementary, Mr Henderson.

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

Will the Shirveishagh answer the part of my Question where I am indicating that CCTV can provide a vital role in crime detection? He has illustrated crime prevention, but would he accept that correctly and appropriately installed CCTV systems can have a major impact on crime detection?

Would he further agree with me that we do not need to look at facts and figures; we can see wonderful examples of crime detection on programmes such as *Crimewatch*, which are heavily reliant, at times, on CCTV footage?

**The Speaker:** Mr Quayle, Minister for Home Affairs.

**The Minister:** Yes, thank you, Mr Speaker.

I think I have made it quite clear that CCTV, when properly installed and monitored, can have a significant impact on crime detection and reduction. However, poor-quality systems actually hamper efforts to improve community safety, and that is why the Isle of Man Constabulary will be quite happy to give guidance to local authorities for any systems that they wish to consider.

### CCTV in Douglas DHA policy

1.8. The Hon. Member for Douglas North (Mr Henderson)

to ask the Minister for Home Affairs:

*What is your Department's current policy in regard to expanding a CCTV roll-out programme for Douglas in the interest of public safety?*

**The Speaker:** Question 8, Mr Henderson.

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

**The Speaker:** Again, I call Mr Quayle.

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

The Department of Home Affairs is supportive of local authorities, Island-wide – but particularly in the Island's larger populated areas – providing CCTV. In this connection, the Isle of Man Constabulary has been working closely, in an advisory capacity, in relation to the quality of the equipment being installed.

In answer to the Hon. Member for Onchan's question, earlier on, about a standard for the Island, then I think that should be covered by the fact that the Isle of Man Constabulary are more than happy to work with local authorities to give any advice and guidance, as is required. It has to be understood, of course, that, for the larger populated areas, it is very much easier for them to install what can be quite expensive equipment, bearing in mind that they have a larger amount of population in their areas to fund through the rates.

**The Speaker:** Mr Braidwood.

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

I am strongly in favour of real-time CCTV. Would the Minister consider utilising the microwave network, which, of course, is already in situ because of the Tetra radio system? Could he also confirm that this system was used successfully during the British-Irish Council in May 2005, when wireless and portable cameras were put throughout the complex and on the promenade, and that the cameras were then monitored real time, and were able to magnify and zoom in on any suspects who were in the vicinity?

Would he also consider that this is essential to move forward, because it would not just be for Douglas – this could be utilised for all hotspots around the Island – and would he allow, next year, in his budget, for the Department to utilise the microwave network and cameras?

**The Speaker:** Mr Quayle.

**The Minister:** Yes, thank you, Mr Speaker.

Of course, the Hon. Member – being a former Minister for the Department of Home Affairs, and a Member of Treasury – will, I feel sure, be able to give support to the Department of Home Affairs for any application in funding that might be required to provide the extra services which he requires.

In terms of his suggestions though, I think, apart from the British-Irish Council that he mentioned, in fact, for the Centenary TT there were systems in place, that I witnessed at first hand within the sea terminal, that actually provided some good coverage and help to the Isle of Man Constabulary

in identifying various incidents and hotspots around the promenade, with all the thousands of people who were congregating there.

Certainly, we will look at the information, and the suggestion helpfully provided, but it also needs to be remembered that the Department has to prioritise the use of its resources and, whilst that has to be borne in mind, we would have had to look at areas to reduce in order to provide extra funding to provide additional equipment.

**The Speaker:** Mr Gill.

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

Could the Minister advise us, before he bangs on about extra funding and budget bids, and the spurious reasoning that CCTV, or other surveillance snooping, actually prevents crime... It might have an effect, I appreciate, on the fear of crime, but rather than having a society of suspects – as the former Minister for Home Affairs, Mr Braidwood, describes – we actually have a society of free people, and the less Government surveillance and snooping, the better. Would he accept that concept, and that this creeping idea of 'nothing to hide, nothing to fear', being reflected in throwing more public money at spying on people, is flawed?

**The Speaker:** Minister.

**The Minister:** Yes, thank you, Mr Speaker.

I think the Hon. Member for Rushen finds his stance today rather flawed, because (**Mr Henderson:** Hear, hear.) his comments are flying in the face of the Home Office report to which I referred, and also the fact that people have seen a reduction in crime in areas where CCTV has been prevalent; and not only the reduction in crime, but also the reassurance to public safety that can be achieved by the use of CCTV in different areas.

The Hon. Member for Rushen, who should be aware that anybody banging on about funding... He obviously will be well aware, as indeed every other Member of this Hon. House will be aware, that funding is an issue for every Department, and we have to make sure –

**Mr Gill:** You should not be wasting it on this spurious nonsense!

**The Minister:** – that we get the best value and use of resources that are available, and that is exactly what my Department will ensure it will strive to do.

**The Speaker:** Mr Henderson.

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

If we can get back to the Question, and not the nonsense that we have just been hearing, and also about mobile microwave units... What I am asking the Shirveishagh here, is... He has agreed already the importance of appropriate CCTV systems. If that is the case, will he agree to work with Douglas Corporation, and other private enterprise parties, in establishing an improved CCTV roll-out programme for the town of Douglas?

Can he confirm that, in fact, his Department is not assisting with any funding this year? Why is that, given the importance of what we are talking about, and public safety?

**The Speaker:** Minister to reply.

**The Minister:** Yes, thank you, Mr Speaker.

Of course, I have already mentioned that the Department is more than happy to co-operate with local authorities in assisting them with advice, (*Interjection*) and so on, but, as has been mentioned, the matter of funding has been the preserve of the local authorities that are providing the equipment.

I am happy to talk to the local authorities and look at the issues that have been raised here this morning.

**Standing Order 3.5.1(2) suspended  
to take remaining Questions for Oral Answer**

**The Speaker:** By the clock, the time limit has now been reached for Questions for Oral Answer.

I call Mr Henderson.

**Mr Henderson:** Vainstyr Loayreyder, I beg to move the suspension of Standing Order 3.5.1(2) to permit the remaining Questions for Oral Answer, and any supplementaries, to be taken at this sitting, sir.

**The Speaker:** Mr Quirk.

**Mr Quirk:** I beg to second, sir.

**The Speaker:** Is that agreed, Hon. Members?

**Members:** Agreed.

**LOCAL GOVERNMENT AND THE  
ENVIRONMENT**

**Gas leaks in Douglas  
Talks with Manx Gas**

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

*Is your Department aware of an increasing number of gas leaks around Douglas, and especially Willaston, and if so what talks have your Health and Safety Inspectorate been having with Manx Gas?*

**The Speaker:** Question 9, then.

**Mr Henderson:** Sir! Vainstyr Loayreyder, I had a supplementary prior to the –

**The Speaker:** Question 9, Mr Henderson.

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

**The Speaker:** I call the Minister for Local Government and the Environment, Mr Shimmin.

**The Minister for Local Government and the**

**Environment (Mr Shimmin):** Thank you, Mr Speaker.

Manx Gas is required to report to the Department any accidental leakage of gas that has caused, or has been likely to cause, death, or any injury or condition specified in the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1985, as applied to the Island. These reports would generally involve gas leaks in buildings or damage to mains by third parties, and there is no indication of any increase in such reports from the area specified by the Hon. Member for Douglas North. However, through our regular contact with Manx Gas, we are aware that there has been an increase in reports of possible gas leaks by the general public in the Willaston area.

There has clearly been a heightened awareness in recent weeks, following the explosion in Port Erin, and both the Health and Safety Inspectorate and Manx Gas would encourage the public to report any suspected gas leaks, no matter where they are detected.

The Health and Safety Inspectorate are satisfied that the procedure adopted by Manx Gas for dealing with gas leak reports is of the highest standard, and that their response times and remedial action meet all the required safety standards.

Mr Speaker, I would finally just urge, once again, and repeat, for the public to continue reporting any suspected gas leaks, in the knowledge that Manx Gas will deal promptly with the reports and the Department will ensure that the company complies with the relevant Health and Safety requirements.

**The Speaker:** Supplementary question, Mr Henderson.

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

I thank the Shirveishagh for his reassurances in his Answer, but would he give an undertaking to make a line of enquiries, through his Health and Safety Inspectorate, if indeed the levels of gas leaks, smell reports, in the Douglas area – and certainly the North Douglas area – are showing a pattern of increase, not just in the last few weeks, but since last October?

Would he also ask, if his inspectors are in liaison with Manx Gas, that they undertake a review of the current gas infrastructure, as we are being given the impression of a failing infrastructure.

**The Speaker:** Minister, Mr Shimmin, to reply.

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

Certainly, following the placement of this Question... A conversation with the Hon. Member for North Douglas was the first I had become aware of this issue. Certainly, the Health and Safety Inspectorate of my Department are kept, quite rightly, at arm's distance from political interference, but the issue has now been raised by myself and the Chief Executive with the appropriate parties, and I think that public awareness and close scrutiny of what is going on with regard to Manx Gas and their safety record, is a timely one, in view of the incident down in Port Erin.

We are happy, from the Health and Safety Inspectorate, that the working relationship with Manx Gas is sound. They do take all leaks and threats, or risks, very seriously, but I do take on board the comments of the Hon. Member, and hope that between himself, ourselves and Manx Gas, we can lead

to even greater levels of reassurance for the public.

**The Speaker:** Hon. Member, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker.

Can the Minister advise whether or not all of the properties – within Willaston, in particular – have received installation of gas-fired central heating, and, if so, when was the last new installation made? I ask the question because I believe that they possibly have only just been recently finished.

Would he agree with me that perhaps he ought to be checking with Douglas Corporation to see who they engaged to actually do the installation of the gas-fired central heating systems, and that perhaps this is an area that ought to be checked – in fact, that the workmanship ought to be checked – to make sure that the installation has followed the correct procedure for Health and Safety?

**The Speaker:** Minister, Mr Shimmin.

**The Minister:** Certainly, Mr Speaker, I will be talking to my colleague, Mr Watterson – to whom, I am sure, we all wish a speedy recovery to come back to the House (**Several Members:** Hear, hear.) – to pursue these issues.

I thought – although I could be corrected – that it was oil fired up in the majority of areas of Willaston. However, there has been a continual programme of gas installation within the Corporation and local authority properties. From the Hon. Member's questioning, I think he is looking particularly at the infrastructure, rather than individual properties, (**Mr Henderson:** Yes.) but either way, safety is paramount.

I take on board the comments from Mrs Cannell, and will ask Mr Watterson to pursue that with the officers, when he returns.

**The Speaker:** Mr Houghton.

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

It is just further clarification from the Minister. We thank him for his Answers this morning, sir. Could he just clarify whether his Health and Safety officers in his Department would oversee an undertaking of a full survey of the roads and pavements infrastructure around the Willaston estate? We would be very grateful for that clarification, sir.

**The Speaker:** Mr Shimmin.

**The Minister:** Mr Speaker, all I can do, at this stage, is say I will take that under advisement. I do not believe it is within my gift to instruct the Health and Safety Inspectorate. However, I will make sure they are aware of those concerns.

### Clean air legislation Update

1.10. The Hon. Member for Onchan (Mr Quirk) to ask the Minister for Local Government and the Environment:

*Can you provide an update on when the clean air legislation will come into force?*

**The Speaker:** Question 10. Hon. Member for Onchan, Mr Quirk.

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

I beg leave to ask the Question standing in my name.

**The Speaker:** Again, I call on the Minister for Local Government and the Environment, Mr Shimmin.

**The Minister for Local Government and the Environment (Mr Shimmin):** Thank you, Mr Speaker.

My Department has commenced a process of reviewing our environmental protection legislation to meet our current needs. My Department's service plan for 2008 contains an objective which requires the Department to identify the key environmental protection issues for the Island, and review the suitability of the current legislation by 31st March 2009, with a view to introducing more effective and efficient regulatory controls which minimise the impact on business.

In the past 20 years, since the last major overhaul of the legislation was undertaken, I am sure Members will agree that air pollution from coal fires has decreased dramatically through a comprehensive modernisation programme of public sector houses, both by the Department and local authorities.

We monitor our air continuously through two fixed stations at Richmond Hill and Quarterbridge. Our air quality is regarded as good, but we are aware of potential problems with emissions from a variety of commercial premises, and we believe that any new requirements should focus attention on these, rather than the broad-brush approach previously proposed.

Mr Speaker, I hope that the Hon. Member for Onchan agrees that having this review at this time is in the best interests of the community, so we can provide the most up-to-date legislation which deals with specific problems of the day.

Thank you, Mr Speaker.

**The Speaker:** Mr Quirk.

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

I thank the Minister for his response, but would he not agree with me that, if this particular legislation were enacted, it would give him a bigger tool in his armoury to run enforcement, and that not all the pollution in the atmosphere is regarding coal fires, and at weekends, mostly, when indiscriminate burning takes place, his Department is better than useless?

**The Speaker:** Minister.

**The Minister:** Although I would not use the terminology used by the Hon. Member for Onchan, certainly I think that he is well aware, as we are, that there is a deficiency within our regulations for the control of indiscriminate burning, whether it be in work places or elsewhere.

We are attempting to try and find regulations which will deal directly with the causes of the problems, rather than what inevitably is already the situation – that it is a broad brush and the only people whom we can actually take to task are maybe the more innocent elements – and we are trying desperately to find the best mechanism. If we can do so before the full review of those regulations, I would be

happy bringing it forward. My officers are frustrated that businesses, particularly, in order to avoid waste charges, still will see burning on their sites as being an acceptable manner: it is not, and I believe that we can, and need, to move forward on this.

**The Speaker:** Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker.

Can I ask the Minister how he can qualify comments such as 'The emission levels which are recorded and monitored are good'? Can he, first of all, please qualify that in terms of vehicle emissions? Does he not realise that, back in the early 1990s, mid-1990s, equipment was borrowed by the Environmental Protection Unit and the Government Analyst's Laboratory to do a proper, comprehensive analysis of vehicle emission testings, by placing equipment at Quarterbridge, which recorded a huge level of benzene in the air, but, at the end of that exercise, had to return the equipment?

Can he advise the House whether or not his section now – and the Government Analyst's Laboratory – have got all of the equipment out there, in place, monitoring all the emissions that emanate from vehicles at Quarterbridge?

**The Speaker:** Hon. Member, Mr Shimmin.

**The Minister:** Mr Speaker, I do not have all that information, and I take notice of the Hon. Member's greater involvement in this previously.

I am advised, and therefore... I am only repeating the information I have been given through my officers, which is air quality is regarded as good.

We are aware of potential problems with emissions, and that includes commercial premises, but I am sure the same could be applied for those areas at periods during the day when there is a high build-up of vehicles. What we are attempting to do is be more specific, rather than what legislation often does, which is a broad-brush approach.

I will take notice and question my officers regarding the history of the issues on the benzene at Quarterbridge, and other tests, and indeed the availability of the equipment. What I have tasked my officers with doing is identifying those areas of public health, air quality, and issues that they consider to be of most risk to the public: at the moment that is the process we are going through.

**The Speaker:** Final supplementary from Mr Quirk.

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

Could I ask the Minister: could he give us any indication of whether his officers have issued any improvement notices, or any guidance to businesses, and if he has, could he provide to this House what action has been taken to date?

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, I do not have that available, I am afraid.

**The Speaker:** Mrs Cannell, a final supplementary.

**Mrs Cannell:** Thank you, Mr Speaker.

It is just a little one. When the Minister does go back to the Department and takes this issue up with his officers,

will he also please consider publishing the results of the tests that are done on a regular basis – particularly around the Quarterbridge area – so that the people can see what sort of levels are in the air at particular times during the day?

**The Speaker:** Mr Shimmin.

**The Minister:** I do not see a problem with that, Mr Speaker. We publish most of the results of the tests that we have, and I would hope that the Hon. Member, if she finds that it has backed up what I have already stated this morning, will have the good grace to actually acknowledge that.

### **Building control Update in DoLGE service**

1.11. The Hon. Member for Onchan (Mr Quirk) to ask the Minister for Local Government and the Environment:

*Can you provide an update on the all-Island building control functions service that your Department intended to bring in under section 17 of the Local Government Act 2006 from 1st April 2008, and at what cost?*

**The Speaker:** Question 11. Again, Hon. Member for Onchan, Mr Quirk.

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

I beg to ask the Question standing in my name.

**The Speaker:** Minister for Local Government and the Environment, Mr Shimmin.

**The Minister for Local Government and the Environment (Mr Shimmin):** Mr Speaker, in November last year, the Department advised Peel and Onchan Commissioners of the possibility of the transfer of their building control functions taking place with effect from 1st April 2008, so that they could take account of any revenue loss in their rate-setting exercise.

In December, a formal request was made to each board for a meeting, so that more detailed consultation could take place. Those initial meetings have now taken place, and our officers are working with the officers of each authority to identify the current workloads and the impact it may have on their resources. We will be consulting further with the Commissioners once the officer meetings have been concluded and a clear picture of the current position has been obtained.

Should the transfer go ahead, it is envisaged that the fee income generated from the applications would cover the cost of employing a qualified building control officer on a three-year contract. This would allow time for the Department to assess the overall resource requirements, but it is believed that, with a degree of restructuring of duties, the existing inspectorate, together with this additional contract post, would be sufficient to undertake the additional work, so the transfer of Peel and Onchan building control functions would be cost neutral.

The Department will review the case for the building control service of Douglas Corporation to be transferred to the Department over the next 12 months. Unlike the

position of Peel and Onchan, Douglas does employ qualified building control inspectors to carry out the inspections, and if the Department decided to take over the building control functions of Douglas, they would be obliged to transfer their staff also. This is provided for under section 17(2) and schedule 1(4) of the Local Government Act 2006, but again it is believed that the fees resulting from such a transfer would make the transfer cost-neutral.

Thank you, Mr Speaker.

**The Speaker:** Mr Quirk.

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

I thank the Minister for his Answer, but I am somewhat perplexed. Would he not agree with me that to bring building control in by 1st April 2008... When were the discussions done with the local authorities – that is all of them, including Douglas – and would not the expertise that Douglas Corporation has, in their officers being transferred to your Department, give you some strength?

**The Speaker:** Minister to reply.

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

Certainly during the discussions prior to the Local Government Act 2006 becoming law, all local authorities were given a presentation at which they were advised of the implications of the entire Bill, including the transfer of responsibility for building control. There have then been further discussions, as outlined in my earlier part of the Answer, and certainly the issue for the Department is to look towards whether or not we can absorb an increased headcount of the Douglas staff coming to my Department. I think all Hon. Members are aware that we have to prioritise any further employees being brought into the pension system of Government, and that is why, at the moment, we are looking at Douglas in a slightly different situation from Onchan and Peel.

**The Speaker:** A final supplementary, Mr Quirk.

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

Can I ask the Minister: could he indicate to this House, and to the Members from Onchan – especially, I suppose, Peel – that there will be no loss of service rendered from your Department to those particular local authority areas? How would he ensure that that particular service would be guaranteed?

**The Speaker:** Minister to reply.

**The Minister:** Could I ask the Hon. Member to be more specific what he means by ‘loss of service’, sir?

**Mr Quirk:** Building control.

**The Minister:** I can only see this as being done for greater efficiency and quality for those areas, rather than a loss of service. So, if the Hon. Member has got any concerns as to where he sees that the Department absorbing these responsibilities would actually lead to a loss of service, I am quite happy coming back to him. But I see this as being a greater level of quality and efficiency, rather than any loss.

### Planning Enforcement Officer Workload

1.12. The Hon. Member for Peel (Mr Crookall) to ask the Minister for Local Government and the Environment:

*Are you aware of, and if so are you concerned about, the workload of the Planning Enforcement Officer?*

**The Speaker:** Question 12, Hon. Member for Peel, Mr Crookall.

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

I beg leave to ask the Question standing in my name.

**The Speaker:** Again, the Minister for Local Government, Mr Shimmin.

**The Minister for Local Government and the Environment (Mr Shimmin):** Mr Speaker, I can advise that, during 2007, the Planning Enforcement Officer dealt with 328 complaints, which would have resulted in at least that number of inspection visits. He has received 30 complaints in the first month of this year alone, and his investigation of these complaints has resulted in the submission of seven retrospective planning applications.

Mr Speaker, I, and others, have been concerned for some time that we are unable to actively pursue all planning breaches, and ensure that planning approval conditions are complied with, without waiting for a complaint to be made. Whilst I would very much like to increase our resources in this important area, Members are aware the Department is embarking on a review of the planning functions and this particular element of development control will be the subject of detailed scrutiny. It seems appropriate to await the outcome of that scrutiny.

Mr Speaker, I would like to place on record my appreciation of the work undertaken by the Planning Enforcement Officer, and can ensure Hon. Members that we are aware of his workload and will provide additional resources, in line with the review recommendations.

**The Speaker:** Hon. Member for Peel.

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

I would just like to thank the Minister for his reply. He has covered what I was going to ask him, so I will take it on board when we get the review done.

Thank you.

**The Speaker:** Mr Cregeen.

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

Is the Minister concerned about the length of time that it takes for action to be taken on a breach of planning conditions?

**The Speaker:** Minister to reply.

**The Minister:** Yes, sir.

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

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

Can the Minister agree with me that there is some concern with only having the one officer, that when he is on leave, or sick leave... Can he confirm whether or not we have anybody who can step in and do his job?

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, no, I do not believe there is.

However, there are other officers who can deal with emergency situations, but I believe that, as many things within the Planning section, what we are doing is continuing to build up an ever greater backlog of work – not just in this area, but in other areas as well – and that is inefficient; it is inappropriate for the Members of this House; but more importantly, it is not providing the better service for the public, which they should expect.

In this area, I feel very negligent with regard to the officer involved: in the past, I have been critical of the amount of enforcement action being taken, but having seen the workload involved, I have nothing but admiration for the fact that the person in question carries out the functions to the best of his ability. I do believe we need to support him in his efforts.

#### **Local authorities Annual elections for three-year terms**

1.13. The Hon. Member for Peel (Mr Crookall) to ask the Minister for Local Government and the Environment:

*Will you consider returning local authority elections to the old system where successful candidates served for three years and retired by rotation, with elections held every year?*

**The Speaker:** Question 13. Again, Hon. Member for Peel, Mr Crookall.

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

I beg leave to ask the Question standing in my name, sir.

**The Speaker:** Again, Minister for Local Government, Mr Shimmin.

**The Minister for Local Government and the Environment (Mr Shimmin):** Mr Speaker, not surprisingly, my Department is not of the view that there is a need to reconsider the term of office of elected local authority members.

In 2004, after consultation with all authorities, and with Tynwald support, the election format for local authorities was changed, and a general election for local authorities was held in April of that year, with members being elected for a four-year period.

In the event, only seven local authorities had contested elections. The rest either received the required number of nominations, or – in the cases of Castletown, Laxey, Lezayre, Port Erin and Hills Ward, Douglas – had to hold a further election to fill the vacancies.

We believe that having the elections all on the same day focuses the issue more in the voters' minds, and the turnout in 2004 averaged 36 per cent, compared with 22 per cent in earlier years.

Also, the four-year term of office enables elected members to formulate and progress issues, whereas before, the system for larger local authorities was more disjointed, as every year at least one member would need to be elected, thereby disrupting the continuity of business.

Finally, the current system of elections also provides cost savings to the authorities, as the number of elections held are less frequent, unless there is a need for by-elections.

**The Speaker:** Hon. Member for Peel.

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

I would like to thank, again, the Minister for his reply.

If we get the situation which I think we may do in one or two of the local authority elections this year, will he come back and look at this situation again, because I am sure it is going to happen in my constituency, where we are going to struggle to fill the seats? We do have nine seats on the board of Peel Town Commissioners, and I think –

**Mr Cretney:** Too many!

**The Speaker:** You have the floor, Mr Crookall.

**Mr Crookall:** Thank you, sir.

Can he also clarify for me the situation with regard to what numbers the Commissioners can operate with, in order to be quorate, sir?

**The Speaker:** Minister to reply.

**The Minister:** Yes, Mr Speaker.

I think a number of us are concerned that we encourage enough people to stand for election for local authorities, but at this stage, I would choose to be optimistic and hope that can be achieved.

If there are any local authorities who fail to get the requisite number, I think they will then have another opportunity of looking at a question I raised with them back in July, which was to consider whether indeed they have the right number of representatives, and indeed that is being discussed by a number of Members within this Chamber.

On the issue of quorum, I believe that is an issue for the standing orders of local authorities, but once again, I would see that if they were to reduce the level of the quorum, that should never be to a level of less than a majority of the number of commissioners. I would therefore consider they would need to be looking at dropping the number of commissioners, rather than just merely dropping the number of members appropriate for a quorum.

But that is an issue for local authorities, and, if they require any further advice, they can come back to my Department.

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

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

Can I ask the Minister: could he indicate to this House how his Department evaluated the last local authority election, and what sort of consultation did the Department

have, as part of that evaluation, with the local authorities for their views?

The second part – because I do not want to labour it – could I ask the Minister regarding costs: could he indicate, or could he provide to this particular House, the costs for re-advertising local authority elections that have taken place since the previous date, that is when they had to replace members who had actually resigned, for whatever reason.

**The Speaker:** Minister, you may or may not have all that information.

**The Minister:** Mr Speaker, back in the good old days, when Mr Quirk and myself were on good terms, (*Laughter*) I really did work closely with him, and was impressed with the way in which he moved forward legislation to reduce the number of members in Onchan.

We are aware he has been a long-serving member of Onchan Commissioners, and he is in a better position to evaluate the last election. I would think that his views and the views of Hon. Members here are as valid as my Department's officers'.

The views that were received from local authorities, I am not aware of, and I am not minded to revisit that. Time has moved on over the last four years. It was the first attempt. We are now working with the local authorities to actually view going forward.

With regard to costs, either resignations or by-elections, I do believe that is a cost that was borne by the local authority. I do not see the value of going to 24 local authorities and seeking this further information, unless there is a very good reason why that is necessary. So I am quite happy taking it up outside this Chamber, but at the moment, I am not minded to think that is the best use of my officers' time.

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

**Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that obviously people view an issue from different angles? Would he not agree that the present system is actually more undemocratic, it leads to less accountability, because it means there are four years when a local authority can do what it wants without having to worry about their constituents? I have seen recent experiences of that in certain areas with public meetings.

Would the Shirveishagh not also agree that, if Members are not happy with the present proposals by his Department – that he is not going to say that he is going to review it when he has got no intentions to review it – that it is up to them to come along with a Private Member's Bill to change the law, if that is the case?

**The Speaker:** Minister, Mr Shimmin.

**The Minister:** Increasingly, the Hon. Member for Onchan will raise the issue of democratic representation, and questions the four-year term of local authorities being undemocratic, when we have all recently been elected for a five-year term.

There is always the danger for elected representatives, of whatever description, to be held to account by the people whom they represent.

If Members are not happy within this Chamber with the legislation which went through prior to the 2004 local

authority elections, then that is perfectly within their gift to come forward. Certainly, from my point of view, I believe there is a ground swell within this Chamber, as there has been for some years, that there is a role for local authorities, but there are, increasingly, question marks as to whether they have the right functions and the right structure to carry out that work.

I am happy listening to all of those views, because at some stage, within the term of this House, I believe the Council of Ministers will have to consider the long-term future of local authorities. (**Several Members:** Hear, hear.) and the more informed we are by members, not just of local authorities, but of this Chamber, would give us an indication as to what is in the public's best interests.

## CIVIL SERVICE COMMISSION

### Civil Service Entrance qualifications

1.14. The Hon. Member for Douglas South (Mr Malarkey) to ask the Chairman of the Civil Service Commission:

*What qualifications are required to enter the Civil Service?*

**The Speaker:** Question 14, Hon. Member for Douglas South, Mr Malarkey.

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

I beg to ask the Question standing in my name, sir.

**The Speaker:** I call the Chairman of the Civil Service Commission, Mr Houghton.

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

For appointment to a post in the Isle of Man Civil Service, an applicant must meet the required standards, not only in respect of qualifications, but also in relation to experience, health and any other conditions relevant to the post, as determined by the Civil Service Commission. Such requirements are set out in terms and conditions documentation, which is available to applicants at the time the vacancy is advertised.

There are, as Hon. Members will be aware, specific qualification requirements in respect of a wide range of Civil Service posts. For example, entry to the Civil Service at Administrative Officer and Executive Officer grades requires five GCSEs at grade C or above, or equivalent, one of which must be English Language.

For secretarial posts, the minimum qualification requirement is GCSE English Language at grade C or above, or the equivalent.

However, for appointment to the most junior secretarial grade, 10 years' satisfactory secretarial experience will be accepted in lieu of that GCSE. Applicants for secretarial posts must also hold a specific qualification in text processing and, for appointment to the higher secretarial grades, an audio typing qualification.

For a wide range of other posts in the Civil Service, there is a requirement for an applicant to hold a specific technical

or professional qualification which is directly applicable to the duties of the post. This requirement is applicable to, amongst others, posts in the legal and accountancy fields, and specialisms including air-traffic control, ships survey, public and environmental health, and engineering.

Thank you, Mr Speaker.

**The Speaker:** Mr Malarkey.

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

Could the Chairman of the Civil Service Commission please inform this House when these qualification requirements were implemented, and can he tell us if all the present civil servants employed prior to the changes actually hold these qualifications?

**The Speaker:** Chairman of the Civil Service Commission.

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

The qualifications came in since the inception of the Isle of Man Civil Service by the Civil Service Act 1962. Previous to that, Mr Speaker, our records show that, in 1946, entry into the Civil Service was gained by an entry exam.

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

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

Would the Chairman of the Civil Service Commission welcome representation from Hon. Members who are concerned that the interpretation of 'or equivalent qualification' actually denies the access and the opportunity for certain members of the public (**Mr Cretney:** Hear, hear.) to enter into the Civil Service, who may have many years of experience which would be valid, but do not have a qualification taken normally at age 16? Would he welcome representation from a number of Members to actually discuss the means by which those persons could be deemed eligible for Civil Service operation?

**The Speaker:** Mr Houghton.

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

Indeed, I would welcome that representation. I have already asked the officers in the Personnel Office to work up some progression on changes to this. These changes are warranted. I am aware of circumstances myself, sir, where people – specifically people who are mature of age and experience, and have seen experience of life, and who have the abilities – must be catered for. Currently, they are not, sir, and that is of concern to me, too.

**Mr Cretney and another Member:** Hear, hear.

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

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

On a similar vein – and I thank the Minister for following the same route – does the Chairman of the Civil Service Commission consider it appropriate that a person from a temping agency, who holds a post, temping, for some 20 months, without any problems, should then be told that they

cannot apply for the full-time post because they do not hold these qualifications?

**The Speaker:** Mr Houghton.

**The Chairman:** Mr Speaker, the Hon. Member for South Douglas gives a glowing example that actually tightens the argument in favour, that those people who have had the experience, by temping from an outside agency, at much greater cost to the Isle of Man Government, when they have the opportunity to apply for a position – sometimes the same position that they are temping for – in the Civil Service, really they should be considered, because the continuity, if nothing else, would mean that person employed at that time would immediately become effective, rather than having to go through, let us say, a six-month probation period and the time that is lost in the actual operations of that particular post during that particular time.

So I would support that argument, sir, and I would put that forward and would be more than pleased to do so to the Commission.

**The Speaker:** Mr Malarkey, further supplementary.

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

To even further – a little bit tongue in cheek – put my argument, can the Chair of the Civil Service Commission tell this Hon. House if these qualifications are required for an MHK who is in charge of Departments of civil servants?

**The Speaker:** I do not find that question to be in order.

## LIBERAL VANNIN PARTY

### Cartel in Isle of Man Evidence and referral to OFT

1.15. The Hon. Member for Rushen (Mr Gill) to ask the Leader of the Liberal Vannin Party (Mr Karran):

*During a recent interview with Manx Radio in relation to food prices you alleged the existence of a cartel in the Isle of Man –*

*(1) what evidence do you have to support such an allegation; and*

*(2) what steps have you taken to refer such evidence to the Office of Fair Trading?*

**The Speaker:** Question 15, Hon. Member for Rushen, Mr Gill.

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

I beg leave to ask the Question standing in my name.

**The Speaker:** I call on the Leader of the Liberal Vannin Party, Mr Karran.

**Several Members:** Hooray!

**Mr Houghton:** Don't take too long!

**The Leader of the Liberal Vannin Party (Mr Karran):**

Vainstyr Loayreyder, Hon. Members, I welcome the Hon. Member's Question, even if I am a bit surprised, about the problems regarding the revelations of cartels, which are far from a new phenomenon on the Isle of Man – a particular difficulty especially for small jurisdictions, which means that Government agencies need to be a lot more proactive in making sure they protect the rights of consumers.

It is particularly important in view of the recent prosecution of major food retailers in the United Kingdom of £116 million for part of a fine for food price fixing, which was a record fine, Vainstyr Loayreyder.

There may be some confusion, Hon. Members, of what is the meaning of a cartel. The *Oxford Dictionary* says:

'an association of manufacturers or suppliers with the purpose of maintaining prices at a high level and restricting competition'.

Another quote from that dictionary is the Colombian drug cartel! (*Laughter*)

The *Chambers Dictionary* says:

'a combination of independent firms or enterprises formed to control a market, eg by keeping up prices, monopolizing production, etc; a political alliance or bloc; a written challenge (*obs*); an agreement for exchange of prisoners (*obs*); a card with writing on it.'

There are many other definitions of cartel, but I feel that Hon. Members have heard enough about the meaning of the word and the definition of a cartel.

So I am somewhat at a loss as to why the Chairman of the Office of Fair Trading has taken such exception to my statement: it certainly is not a new phenomenon. When you go outside this Hon. House and ask people about the effects of cartels and monopolies for the Isle of Man, e.g. the Isle of Man Steam Packet, Manx Law Society, Manx Meat, the MEA, with blessings of the political alliance, these are just some examples. There has been some success on this front, with the opening up with the political alliance to stop the sole trader with Manx Telecom, which consumers have had some benefits from.

If the Hon. Member feels that I have been too harsh, as far as my statement is concerned in connection with food prices, I would ask the Hon. Member, the Chairman of the Office of Fair Trading, that perhaps the Office of Fair Trading should reintroduce the shopping basket survey of comparable UK food prices and those on the Island, which ceased some time in the early 1990s. I believe my hon. friend the Member for South Douglas, Mr Cretney asked this Question.

If, however, this has recommenced, then I am unaware of this happening. This would surely answer the legitimate concerns of many people outside this Hon. House about the cosy arrangements for far too many suppliers in the Island and I believe would simply answer why I made such statements, because of the great difference between the Manx food shopping basket costs, compared with the United Kingdom basket.

I think the Office of Fair Trading will be able to produce such up to date figures in this direction. They would see that there is something actually awry, as far as the present situation is concerned, with such a difference in food costs in the Isle of Man as compared to the United Kingdom. May I respectfully remind the Chairman of the Office of Fair Trading that if the United Kingdom's Office of Fair Trading fines supermarkets £116 million for price fixing, which was only part of it, what hope has the Manx consumer got, when

only one of the big four UK operators retail in the Island. Although for the fact that the Co-op has a limited effect on the market, there are two major supermarkets on the Island, and it is interesting to know that both employ people as part of their job to check up on the prices of their competitors, to ensure that there is not any stepping over the mark, as far as the costs are concerned.

Keeping away from the other cartels that might affect Manx consumers on the Island, the Hon. House should force the Government to act even allowing for the lessening of cartels in some areas, as far as the Island is concerned. Other issues which might affect consumers are the likes of the Meat Marketing Board, where the price of slaughter and administration costs as part of that cartel, between Government and the associated agricultural association, has made the farming trade less profitable, which in turn has affected the costs of Manx produced meats.

I would not go into detail on other foodstuffs, as one might argue that they are not actually foodstuffs, such as the effects of the Isle of Man Brewery and the other firm that is basically owned by each other. If such concerns are so obvious for so many outside this Hon. Chamber, why has there not been a more proactive investigation by the Office of Fair Trading, following the recent experiences of the UK Office of Fair Trading over price fixing fines. Why are you asking me for evidence, when you can just go round the supermarket here and in the United Kingdom?

I understand that the Office of Fair Trading should be applauded that they have actually spent less money than they did several years ago, but they still, Vainstyr Loayreyder, get £782,000 of taxpayers' money to look after the consumers of the Isle of Man.

My role as Leader of the Liberal Vannin Party has many facets – in fact, too many; but taking on the role of an officer of the Office of Fair Trading I feel is somewhat totally unreasonable. Despite being very pleased with the vote of confidence by the Chairman of the Office of Fair Trading in wanting me to do this job, I have too many jobs in the corridors of power around here already.

**Several Members:** Ah! (*Interjections*)

**Mr Brown:** What are they?

**The Speaker:** Mr Gill, do you have a supplementary?

**Mr Gill:** It is not a supplementary so much as a repetition, sir, of saying: what is the answer to what evidence have you got? It is a very lengthy, a very interesting question –

**The Speaker:** Can I just make it perfectly clear, Hon. Member, that how a Member chooses to answer a Question is entirely up to the Member, no matter how lengthy.

**Mr Gill:** Indeed, sir, and it was lengthy, it was interesting. Could the Leader of the Liberal Vannin Party pass on my congratulations to whoever prepared his Answer – it certainly was not himself, sir. It was very interesting.

But actually, would you like to tell us – it is a yes/no question – do you actually have any firm evidence of cartel operations in the Isle of Man? If you do, why have you not advised them to the Office of Fair Trading?

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I am used to the insults in this Hon. House. (**Mr Gill:** Insults?) I have been used to the way things have been done in this Hon. House for many years, and I think some people should read the *Hansard* and see where people have been proven right on so many issues in the past.

Can I also suggest to the Hon. Member that he goes out and talks to the consumers outside this Hon. House: they will tell the Hon. Chairman that there is something desperately awry as far as the issue is concerned.

Vainstyr Loayreyder, the Hon. Member needs to remember, too, that I do not have well-paid civil servants doing my job; I have to do it myself and that is the difference. We have seen the decimation of the Members' secretariat as far as the services are concerned, and I think that this Hon. House would more likely get more respect outside this Hon. House, if they would recognise the complete unlevel playing field that some of us have to put in, in order to put the audit into the systems of government, of the executive, which a healthy democracy needs.

That is why, Vainstyr Loayreyder, we have so many problems, from MEA to housing crisis, because this parliamentary assembly is not allowed to do its job.

**The Speaker:** Hon. Member, I am not going to permit this to go into a wide-ranging debate. Can we get back to the Question? Mr Gill.

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

Firstly, would the Leader of the Liberal Vannin Party accept my support that if he were to come with a well argued, reasoned and evidence-based motion to another place or indeed a Private Member's Bill to support the actions that he feels are necessary, then I would certainly consider that most actively. I hope he would take that.

But can I give him the final opportunity, as far as I am concerned, sir, to say yes or no, does he have any evidence of cartel operation in the Isle of Man? Yes or no?

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, could the Chairman not explain or understand what a cartel is? What is the Milk Marketing Board? What is the issue as far as the issue of the Meat Marketing situation, as far as that is concerned? What is the situation as far as how the prices compare, as far as the Isle of Man is concerned, with the United Kingdom on so many facets?

There is a certain old adage: there is none so blind as those that will not look. I am afraid, Vainstyr Loayreyder, that is what the Office of Fair Trading needs to be doing: it needs to be spending the money that it gets – nearly £1 million – on being far more proactive in trying to address this issue.

I am sorry if I have upset the Hon. Member, but somebody around here has to reflect what actually happens outside this Hon. House.

**The Speaker:** Hon. Member, Mrs Cannell.

**Mr Gill:** That is a no, then.

**Mrs Cannell:** Thank you, Mr Speaker.

The Hon. Member for Onchan, to whom the Question is being put, is doing his best to answer, I believe.

Would he agree with me that what evidence he does have

is evidence given to him by the public perception out there, that there is a cartel in terms of certain prices of certain commodities?

Would he agree with me that, whilst there is such a public perception, the Office of Fair Trading should at least do a small investigation, to see whether or not there is any foundation within the public perception, and if there was, to then perhaps consider an investigation?

Would he agree with me that it is not appropriate for any backbencher in this House to be expected by a Statutory Chairman of a Board to go out and gather evidence and do the work –

**Mr Bell:** He should not make the allegation, then.

**Mrs Cannell:** – of the Board? It is the Board and the Office that should be doing it, not backbenchers.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, the point is there is an element of perception, and I will agree with the Hon. Member, as far as that is concerned, but there is a reality out there. The reality is your slaughter charges are so dear: that affects Manx meat. There is the reality of the fact that we have allowed... and when we talk about the definition of a cartel, where there is a political alliance, we have allowed a number of issues.

I think that this Hon. House would be far better to try and get the executive to actually do its role, than trying to shoot the messenger all the time for saying what needs to be said in this Hon. House.

**The Speaker:** Final supplementary, Mr Malarkey.

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

Would the hon. colleague for Onchan not agree with me, as far as cartels and the perception with the public, that petrol is the perfect example? When the one ship brings the fuel to the Isle of Man, it is sold by several different companies, and yet we seem to pay very high inflated prices towards (*Interjection by Mr Cretney*) what is paid in the UK.

**The Speaker:** I rule that supplementary completely out of order.

That brings us to the end of Questions for Oral Answer.

Item 2 on our Order Paper, Question for Written Answer – two of those, which will be circulated.

## Questions for Written Answer

### HEALTH AND SOCIAL SECURITY

#### 'Agenda for Change' Old and new DHSS pay scales compared

2.1. The Hon. Member for Michael (Mr Cannan) to ask the Minister for Health and Social Security:

*Can you provide a tabulated list of the new pay scales as agreed under 'Agenda for Change', set against the original pay scales and indicating the average lump sum to be paid as arrears of pay in each category?*

**Answer:** The Department can provide the Hon. Member with a list of the new pay scales for pay modernisation. We are, however, unable to provide a list which sets the new pay scales against the old pay scales, as requested.

The new pay scales (3 pages) and old pay scales (41 pages) will be lodged with Tynwald Library soon and will be made available for public viewing.

Prior to pay modernisation, health professionals were divided into eight different groups: Ambulance Service; Dental Officers; Nurses and Midwifery; Pharmacists; Psychologists, Professional and Technical Staff (PTB); Allied Health Professionals (AHP) and Speech and Language Therapists. Each group had their own system of grading and pay scales. The pay modernisation process allowed for each job to be evaluated and allocated a band on a single new pay scale – Manx pay terms and conditions. The pay modernisation job evaluation scheme did not evaluate each old grade and then allocate it a new band – bands were allocated on an individual basis.

The Hon. Member will appreciate that calculating the arrears is a complex and time consuming exercise and will require finance staff to work on a person by person and job by job basis. This will involve reviewing 2,374 jobs. Health professionals affected by pay modernisation are to be paid their arrears of pay by July 2008. It is at this point that we would be able to answer the Hon. Member's Question in relation to the average lump sum paid as arrears.

The programme of UK NHS workforce reform and pay modernisation included a new contract for all clinicians and a new system for nursing and other NH staff (Agenda for Change). On the Isle of Man the process to modernise has been completed, with the exception of pay, terms and conditions contracts for nursing and other health care professionals.

## HOME AFFAIRS

### Emergency powers legislation Fit for purpose

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

*Are you satisfied that the current emergency powers legislation is fit for modern purposes and, if not, what actions do you intend taking to address the situation?*

**Answer:** Mr Speaker, the Hon. Member for Rushen will be aware from his time at the Department when responsible for emergency planning, that there are deficiencies in emergency powers legislation.

The current Isle of Man statutes providing emergency powers are: the Emergency Powers Act 1936; the National Defence Property Regulation Act 1938; the Liability for War Damage (Miscellaneous Provisions) Act 1940; the Civil Defence Act 1954; the Energy Act 1980 and the Emergency Planning (Amendment) Act 1989.

The Island's Emergency Powers Act 1936 was updated

with effect from 14th September 2007 when the Criminal Justice, Police and Courts Act 2007 (Appointed Day) Order 2007 brought into effect a revised definition of an emergency, which now matches that in the UK Civil Contingencies Act 2004.

Due to the many other legislative demands and priorities being handled by the Department, the further updating of this legislation has not yet been progressed. However, it is intended that a review of emergency powers should be undertaken and legislation updated where necessary as soon as is possible.

## Orders of the Day

### BILL FOR SECOND READING

#### Administration of Justice Bill Second Reading approved

3.1. Mr Gill to move:

*That the Administration of Justice Bill be read the second time.*

**The Speaker:** We turn to Item 3, Bill for Second Reading, the Administration of Justice Bill and, again, I call the Hon. Member for Rushen, Mr Gill.

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

My notes are primarily taken from an extract of the explanatory notes previously circulated to Hon. Members, but I have also incorporated some of the points raised by Members at the briefing session and elsewhere, in which His Honour the First Deemster spoke about the purpose and content of the Bill.

The Administration of Justice Bill is promoted by the Council of Ministers after consultation and on the recommendation of the Deemsters. Being mindful of the need to separate the functions and responsibilities of the judiciary, executive and parliament and the independence of the judiciary as a paramount consideration, I am therefore moving the Bill as a backbench Member, but on behalf of the Council of Ministers. This is to reflect the recognition of this very important principle.

The Bill is set in four parts and relates almost entirely to civil matters. The exception is to be found at clause 27, dealing with criminal appeals in respect of pre-trial matters in the Court of General Gaol Delivery. The Bill contains miscellaneous provisions relating to the High Court and its judges, the law of evidence and civil litigation procedure, principally as follows.

The judiciary are to include a second tier of High Court judges called judicial officers, enabling the workload of the Deemsters to be shared out. The benefit of this is to optimise the valuable time of the Deemsters and represent value for money in the very expensive court schedule.

Wider powers are sought to make modern rules of practices and procedures of the High Court, enabling the present rules of court to be completely revised for the first

time since 1952.

The rules of evidence are extended, enabling the High Court to admit hearsay evidence in civil courts, subject to appropriate safeguards. There is also the introduction of the ability of the High Court in appropriate circumstances, and again with checks and balances, to order evidence to be preserved.

The High Court is also to be given additional powers in relation to wasted costs and to order interest to run from the date of a judgment, as opposed to the date of the execution.

Minor amendments relating to criminal procedure – that is clause 27, as referred to earlier – and jury lists are made.

The Bill is part of a major review of the systems, practices and procedures of the courts, which began in 2006 with civil proceedings. New rules of court have been drafted and are currently the subject of a second stage of consultation. The next phase, dealing with the practices and procedures in the criminal courts, has just begun and will be followed by a review in respect of family proceedings.

Expenses, if any, incurred as a result of the Bill will be met out of the annual budget of the General Registry. It is considered that the Bill is compatible with the Convention Rights within the meaning of the Human Rights Act 2001. The Bill and the new rules of court will enable the High Court to manage civil proceedings more proactively, which will secure better compliance with article 6, relating to fair trials of the European Convention on Human Rights.

Her Majesty's Attorney General's Chambers have drafted the Bill and the Isle of Man Law Society have been consulted during the drafting.

Mr Speaker, as I mentioned earlier, the Bill is divided into four parts which are as follows.

Part 1 – clauses 1 to 7 – deals with the judges of the High Court. With the exception of the introduction of judicial officers, the provisions of clause 1 largely repeat existing legislation, that is, section 3 of the High Court Act 1991. The introduction, in particular, of part time judicial officers as High Court judges will provide more flexibility and enable the more straightforward, less complex, less demanding cases to be dealt with by a judicial officer and leave the more demanding, complex civil cases to a Deemster. The use of judicial officers will be overseen by the First Deemster.

Hon. Members may recall that clause 7 enables the High Court to order costs incurred as a result of improper, unreasonable or negligent conduct by an advocate to be paid by that advocate.

Part 2 – clause 8 to 22 and schedule 1 – updates the law relating to hearsay evidence.

Part 3 – clauses 23 and 24 – deals with the preservation of evidence and updates the law relating to the making of oaths.

Part 4 – clauses 25 to 32 and schedule 2 – contains miscellaneous and supplemental provisions, including a number of miscellaneous amendments in respect of civil procedures and the powers of the Deemsters.

Mr Speaker, this Bill is introduced as a non-contentious Bill in the opinion of the Council of Ministers, the Deemsters, and myself as the mover. It is an important Bill, for the reasons I have just outlined, and I hope it will receive the support of the House, after the necessary and appropriate level of scrutiny in this place.

The commencement of the Bill will depend on the time taken for the Bill to pass and receive Royal Assent, and

for the proposed rules of court to be made. It is currently intended that most of its provisions will come into force on 1st January 2009.

Mr Speaker, thank you for the opportunity to describe the provisions of this Bill and the thinking behind it. I beg to move that the Administration of Justice Bill be read for a second time.

**The Speaker:** I call on the Chief Minister, Hon. Member for Castletown.

**The Chief Minister (Mr Brown):** Thank you, Mr Speaker.

I beg to second and reserve my remarks, sir.

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

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

Mr Speaker, Hon. Members had a very interesting and educational presentation (**Several Members:** Hear, hear.) from His Honour, Deemster Kerruish last week on this matter: very interesting because what he did confirm, in simplistic terms, was this is a nuts-and-bolts Bill. This provides for rules of court in a number of areas. Those rules of court can be changed as matters change, as time goes along, which has not really been able to happen up until this particular point in time, when such a Bill here is formally sanctioned and has its Appointed Day Order – if it has an Appointed Day Order. I am sure it does.

But I would like to, in particular, bring the Hon. Members' attention to clause 7, the wasted costs order. This is a very significant matter on wasted costs, Mr Speaker – very significant. It was something that I was thinking, myself, of bringing forward, before this Bill arrived in front of us.

Unfortunately, Mr Speaker, there are some 150 advocates now, I understand, practising in the Isle of Man and advocates, just like Hon. Members, should be acting in honourable ways: when they get, in civil cases, claims for Legal Aid to deal with petty arguments in matrimonial matters, (**A Member:** Hear, hear.) dealt with in the family court, (**A Member:** Hear, hear.) that is costing a fortune, with one advocate writing to another over nothing, when mediation issues should be brought in – or even if those particular advocates involved were honourable enough to say, 'This is nonsense, I am not handling it! Go away, this is a waste of the public purse!'... Mr Speaker, that is not happening.

I have been party to a number of circumstances with constituents, to some quite *unbelievable* waste of legal time – at the cost, the expense of the Legal Aid purse, I might add. I am certain that His Hon. Deemster Kerruish has picked up, from his colleagues within the judicial arena, that there is an enormous amount of waste of court time, whilst huge bundles of meaningless paperwork is flying around in these family courts – little petty arguments going too far.

So I do feel, Mr Speaker, and I would very much support His Honour in this, when he draws up the court rules that support the Green Bill that he puts some very firm rules, in fact there, so that those advocates who are milking the system to death – not interested in their clients, they are just milking and sucking on the fund – are very, very firmly treated and dealt with, on these wasted costs orders. Of course, they can be made to pay out of their funds back into the Legal Aid fund, because the wasted cost order... in the case of Legal

Aid claims that are being fought, they are out of the public purse and this has got to stop.

There is a massive leakage here, Mr Speaker, a massive leakage, and I do commend the Hon. Member for bringing this Bill forward today. I am sure he will take my comments back to His Honour on this; I am sure His Honour is already aware, because the frustration in family courts at this time is quite deep into this – those who have not got their snout in the trough, I might say.

So I fully welcome clause 7, if clause 7 was the only clause that was being brought forward within this Bill, Mr Speaker.

Mr Speaker, as I have already mentioned, there are a number of other issues which will help the smooth process of the judiciary to move forward and in this case here, in particular, in civil proceedings.

Mr Speaker, civil proceedings that very few of us hear a little about, take up the lion's share of the court time: the High Court, a First Deemster sitting listening to cases that deal with very large fortunes and very, very large principles and so that will always go on in litigation, Mr Speaker. Of course, litigation itself has moved on and so must the rules of court move on, in order to deal with those issues.

And none less than hearsay evidence, which all Hon. Members now are quite aware of what it is: this allows a third party's evidence to be put forward as long as it is measured against the criteria set against it, so we cannot have people telling little white lies and things like that, as they put their evidence forward, first in the statements that they make to the court and, second, when they actually appear in court, or if the evidence is taken off the documentation in the first place.

So I do welcome that, as long as it is properly controlled and that, again, is by the rules of court, that His Honour has already made clear to Hon. Members at the presentation. So I do welcome that.

This whole Bill will, I feel, assist in modernising the judicial system in this particular area, because there are some chronic archaic circumstances that we hear about courts.

Another issue, not concerned with the Bill here, is the appointing of jurors and the waste of money that goes on there is quite unbelievable. That is an issue perhaps for another day and that is jurors in criminal trials, as I have said.

So I very much welcome this, I would like to take this opportunity of commending His Honour for bringing all of this forward. How he has found the time, when he is dealing with some massive cases – cases with bundles, he was telling me in an unrelated circumstance the other day, that can amount to 32 lever arch files! So he is a very, very busy man and his other judicial colleagues are so stretched themselves. So to come forward and work up a Bill, for it to go to the legislative draftsman and see it through in his 'spare time' – what spare time? – I say is quite commendable.

Thank you, sir.

**The Speaker:** Hon. Member, Mr Henderson. Oh, you are leaving the Chamber, sir. (*Laughter*) Mrs Cannell, in that case.

**Mrs Cannell:** Thank you, Mr Speaker.

Can I just, first of all, apologise to the hon. mover, because I was not fit or able to attend the presentation. I would have liked to have attended the presentation, and I

have much admiration for the First Deemster –

**Mr Anderson:** And the mover.

**Mrs Cannell:** I would not go quite that far. (*Laughter*)

What I would say, Mr Speaker, is listening to the comments that were made by the previous speaker, I have to say I have a particular view on this and I do not necessarily agree with all of what he says. I think what we have to do is to... And I am pleased that, in clause 7, there is section for prescribing scales of costs to be paid to advocates, but it is only in respect of wasted costs, as I read it.

**Mr Houghton:** Wasting time.

**Mrs Cannell:** What I would like to see is rules prescribing scales of costs in terms of Legal Aid *per se*, (**Mr Houghton:** Yes.) because what is happening in the Isle of Man is that the choice and the quantity of those advocates who are prepared to undertake civil Legal Aid cases is reducing drastically, because there is more money to be had in representing criminal cases and the turnover is faster – that is fact.

Now, the Hon. Member who spoke prior to me spoke about the extent of files on different civil matters. Yes, indeed, they require a lot of time: they can go on for years. It does not necessarily mean that there are wasted costs as a consequence; it is just the way in which a lot of our civil law is. A lot of it is to do with family law, a lot of it is to do with matrimonial proceedings and they do take a long time.

What I would suggest is that the people are not getting the service that they deserve, because we are not paying the proper rates of pay on Legal Aid. We are just not doing it and, as a consequence of that, we are not giving the choice to our people of being able to go out and have a real good choice of who is going to represent them in a civil matter. As this is a civil Bill that is before us, that is my primary concern.

Whilst it was referred to as nuts and bolts, and bringing in new provisions, and also bringing in possible powers that might come forward by way of these other things, it is going to be *meaningless*, unless we have got the quantity and quality of advocates out there who are going to utilise civil legislation. What I am saying to the House is the numbers are going down pretty quickly.

The other point I want to make, in terms of this, is that in the United Kingdom, if you are an immigrant working legitimately within the United Kingdom, with all the proper protocols and procedures and permits and all the rest of it, and licence in place, and you come across a problem within your life, you can apply to obtain Legal Aid for representation. In the Isle of Man, it does not extend to our immigrants here who are legitimately working here. They are not eligible to qualify for Legal Aid. I would have liked the Deemsters to have looked at that and considered that.

I do not see... We are all for equality; we have a reciprocal agreement in terms of health, National Insurance contributions, etc, social security. But when it comes to the justice and the law as it applies to all who live and work here legitimately, there is inequality.

I have dealt with a case, recently, of someone who has been working here legitimately for nine years, but is not originating from the European Union and, as a consequence, has to have his visa and all his paperwork stamped every year, which he duly does, and has to return to his home country and to the United Kingdom to do that. He would like to settle

here. He is not able to settle here easily because immigration law is so complicated and so difficult to understand. He cannot get any legal representation here, because he is not eligible to apply for Legal Aid and, despite all of that, we only claim to have one advocate who claims to be *au fait* on immigration law. So that is another area.

But what I am saying to Hon. Members is, yes, I welcome the legislation, I will be supporting it, but I have a concern when we bring in additional measures to help civil legislation be applied, when the number of those being able to undertake it and apply it, in respect of the people that we represent, is dwindling fast. That is not going to be corrected, unless we review the pay scales for Legal Aid, for civil work in particular.

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

**Mr Karran:** Vainstyr Loayreyder, I have been interested in both the inputs from the two Members. I think the Hon. Member for East Douglas wants to consider that maybe we are looking from the wrong angle. The fact of the matter is that we should be maybe looking at more of a tribunal process, for far too many issues that are going into the courts scenario at the present time.

At the end of the day, it is a bit like the old adage that everyone can eat at the Ritz, which they can, so long as they have got money in their pocket to do so. The same with the access to justice – and that is the real issue.

I have concerns about this Bill, but I will go on to them in a minute.

My point is that maybe the answer is... and we have got Questions in this place next week to the Chief Minister, about creating a levy on all practices, to have to do 10 per cent Legal Aid work: they can part that work out to other practices as part of their registration. It should not always be that the taxpayer has to pay the bill for the cosy arrangements for – forgive me for saying the word ‘cartel’! – that the likes of the Law Society has amongst itself. We must try and create a way of how we are going to affect the injustices in our society, and not always throw money at it.

I have to say that the comments by the Member for Douglas North... I think he does need to realise that, obviously, this Administration of Justice Bill comes from the direction of the First Deemster. I understand that he has got his hit list, or his shopping bag, of what he wants, as far as reforms are concerned. I really think that this Hon. House should be seriously considering whether this should go to a select committee, to review the administration of justice, and not just take on the things that obviously the Deemster wants, but the things that the people outside this House want.

I could not disagree with the Hon. Member about the issue of the waste of people using the fact that, when matrimonial prices, somebody is working... How many times have we heard, over the last 20-odd years, as a Member of this House, where one partner is working, putting into society, the other party is not working, on Legal Aid? Of course, they just use the courts system as a way of getting vengeance! I think that issue needs to be looked at more from how we want to develop the administration of justice.

I have seen that what we have got here is an Administration of Justice Bill the way the Deemsters want it. What I am concerned about is whether we should be putting this to a select committee, to see whether we should be developing administration of justice as we see it. I think that is something

that this Hon. House should be considering.

I will not be voting against the Second Reading of the Bill, as I think there are good points. But I do think that there is an argument of why we should be maybe putting it into a select committee for the points that the Hon. Members that have discussed in the Bill to be put into the Bill.

I would like to know from the mover: we talk about, ‘We are going to allow local people to become Deemsters.’ That could be a good argument of saying that is good, using our own. But with it being a small jurisdiction, there are questions of whether sometimes you need something from outside, as far as court cases are concerned.

I am also concerned about, in this Bill, the fact that the association has been the level as far as that has been cut down and that concerns me: that we must not allow ourselves to fall back into the old days of how the judicial system worked on this Island. I think it is important that we must make sure that, if we are doing this, we realise the implications.

Vainstyr Loayreyder, I fail to see why we have got the level of a Deemster having to retire at 70. We are talking about 65, and 60 for women: why have we put in 70?

The issue of hearsay evidence: whilst to be fair, Vainstyr Loayreyder, it is not a new practice in the United Kingdom – it has been around for a long time in the United Kingdom – I just wonder whether this Hon. House should just scrutinise it, with us being a smaller jurisdiction, and the fact that we need to look at that.

Vainstyr Loayreyder, I think that the Hon. Members should consider whether it should go to a select committee, because what concerns me about civil action is the fact that it can be used as a weapon of intimidation and silence of people. I believe that there are some very important points that need to be addressed – maybe by a select committee – because I think it is wrong that we do not take the opportunity, with the administration of justice, to make sure that the Administration of Justice Bill actually develops that level playing field, so that people can get the justice that they deserve, not what they can afford to pay for.

Vainstyr Loayreyder, they were the only points that I would like to see. I would have liked to have seen maybe more information, when we talk about the administration of justice, on the fact that we are trying to get stuff more out of the expense of a High Court Tribunal, where there is not deemed a need to be in a High Court Tribunal.

At the present time, we have a Bill here that has been drafted by the Deemster, and I think that we should be looking at whether we should be creating a select committee, so that Hon. Members can take evidence from other parties – the Law Society, maybe the Office of Fair Trading – of things that they might come across – or individuals where they find themselves tied into ridiculous litigation, where it is like a game of poker. I do not think justice should be a matter of a game of poker, and the fact of who has got the more chips.

What we want to prevail is what is right in our society to actually happen. That is why I think that maybe this Bill should be sent to a select committee, unless someone of the Council of Ministers has got some legislation in the near future, to look at the genuine concerns of the Hon. Member for East Douglas who is so right. So many people outside this Hon. House cannot get justice because they cannot afford it. Just like, it is alright talking about this freedom: if we want freedom to flourish, that must include the freedom to get justice in our courts throughout the Island.

**The Speaker:** The Hon. Member for Castletown, Chief Minister.

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

Mr Speaker, I would just like Members to keep an eye on the basis of what this legislation is about: it is about the appointment of the Deemsters and judicial officers and the procedures of the courts etc.

I would say, in relation to a number of the points that have been made, I would remind Hon. Members that it is not that long ago that we actually considered in another place, a comprehensive report about Legal Aid and that was approved by Tynwald Court, and actions about levels of payment, etc and who would be eligible, in fact, were recommendations from that Report to be progressed and are being progressed.

Mr Speaker, it is worth also making the point that people who receive Legal Aid in the Isle of Man, if we just adopted the United Kingdom system, would not be eligible for Legal Aid in the Isle of Man. Our levels are substantially higher for people in the Island and, therefore, more people are able to receive support for Legal Aid than would be the case otherwise. I think that, over the last certainly 15 years, the Isle of Man Government has been very supportive of trying to make access to legal judgments or whatever to our people through civil Legal Aid have been very high and very supported and, in fact, it has cost the taxpayers a substantial amount of money for that.

I come back to the point the Hon. Member for Douglas North, Mr Houghton, makes about the concern which he has raised. I think there is a concern about whether or not all these cases actually merit the amount of legal work that goes on. I think that is something we would welcome the Deemster being able to deal with, because it is purely a matter which he would be able to assess. I am sure we welcome that.

I was interested in the points that Mrs Cannell made, the Hon. Member for Douglas East, about the situation of the number of advocates being available and, again, the point about immigrants not being eligible, especially someone who has been here nine years. It would be interesting to see if that is residency in its normal term. It would be helpful maybe to understand that case.

So I would just say to Hon. Members, Mr Speaker, that this Bill is important, in terms that it is about administering the justice in the Isle of Man. The issue of how the justice system works in its broader sense is really outside of this. The Department of Home Affairs, as Hon. Members are aware, is in fact undertaking a penal review in relation to justice and so on, so there are a number of things going together.

I think it is important that we do not confuse this Bill with the other issues which Members have raised, which in fact, certainly as far as I am aware, some of those are being dealt with.

But I come back to the point about civil Legal Aid: we have already approved changes to that and they will come through the system. Some may have already been put in, and I certainly will endeavour to check that, as I am sure the mover will, so we can advise the House as to the situation. I hope Members will feel that they can support this Bill as it is, because I believe it does make major improvements that will actually benefit the people that we are trying to look after, which is the people of the Isle of Man.

**Mr Houghton:** Hear, hear.

**The Speaker:** I call the Hon. Member for Rushen, Mr Gill, to reply to the debate sir.

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

First of all, Mr Speaker, if I could thank the Chief Minister for seconding at this stage.

I turn to Mr Houghton: I will certainly convey his thanks to His Honour the First Deemster for the briefing, which I am sure Members who were able to attend found helpful.

The Member for Douglas North made a powerful reference to what he perceives to be the waste of time and money – and public money, particularly – in court cases. I can only, sir, reiterate the comments I made in relation to clause (7), that will enable the High Court to order costs incurred as a result of improper, unreasonable or negligent conduct by an advocate to be paid by that advocate. I think that, at the briefing, was certainly very warmly welcomed, and I hope it will go a large way towards reassuring the concerns that the Member for Douglas North makes.

If I could say, by way of background, sir, that under the auspices of the Chief Minister, a subcommittee of the Chief Minister's, and in conjunction with the judiciary, there are moves to forward alternative dispute resolution, which might be of interest to many Members who made concerns about trying to optimise court time for the purposes which are required for court time, rather than could be dealt with in an alternative manner. Whilst I could be accused of 'should know better', having been in the forces, I have actually volunteered to be part of that, because I am personally committed to alternative dispute resolution as a method of the most cost effective mechanism of administration of justice. But that is outside the provisions of this Bill, Mr Speaker.

The hearsay evidence he welcomed. I would just reiterate that there are safeguards which cover that and the jury lists, the procedures are being amended and improved. Again, the clauses describe that in the explanatory memorandum and I hope that is to the Member's satisfaction.

In relation to Mrs Cannell's concerns with Legal Aid and, indeed, the willingness and accessibility to advocates who will undertake Legal Aid, I think the Chief Minister referred to that. Whilst it is complementary to the scope of the Bill, I will certainly ensure that the Chief Minister, of course, is aware but the other relevant authorities are aware of those concerns and, if and where it is appropriate, we will refer to them, at the clauses stage, if the Bill passes today, sir.

Other than that, perhaps I could thank Mrs Cannell for her indication for support for the Bill as it is before us.

In relation to Mr Karran, I have touched on the alternative dispute resolution processes which are being worked upon. The suggestion – dare I renew the debate about cartels – if he does have an issue with the Law Society operating as a cartel, I can really only refer him to take that up directly with that Society. I am sure they would be interested to discuss and better understand his concerns.

In relation to a select committee, that is of course his or any other Member's right, which I entirely respect, and would be reassured that the House would consider such a motion on its merits, if that is before us.

For clarity, I would reiterate, sir, that the Bill is promoted by the Council of Ministers after consultation and on the recommendation of the Deemsters. However, this Bill is not drafted by the Deemster; it is actually drafted by Mr Gumbley, formerly of the... Certainly in conjunction with the Deemster, but as a matter of accuracy, it is not drafted

by the Deemster, sir. Again, I only say that as clarity; it is, nonetheless, crystal clear that it is promoted by the Council of Ministers, with the full support and backing of the Deemsters.

If I can conclude by thanking the Chief Minister for his advice about Legal Aid and the debates that we have had in another place. As he requests, of course, I will certainly ensure that the *Hansard* and any other relevant matters are forwarded for the consideration of the relevant authorities, in relation to this Bill and, indeed, any other matters which have been touched on.

Other than that, sir, I have nothing further to add than to beg that the Bill be read a second time.

**The Speaker:** Hon. Members, the motion before the House is that the Administration of Justice Bill be read for the second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

### BILL FOR THIRD READING

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

4.1. Mr Braidwood to move:

*That the Income Tax (Pensions) Bill be read the third time and be sent to the Council.*

**The Speaker:** Item 4, the last Item on our Order Paper: Bill for Third Reading, Income Tax (Pensions) Bill, and I call on the Hon. Member for Douglas East, Mr Braidwood.

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

Mr Speaker, this Bill contains 19 clauses. Following extensive consultation, this Bill makes significant changes to income tax legislation relating to approved pension schemes, including the extent to which tax relief on contributions is granted and how the member of a scheme can access the funds when joining the pension.

Mr Speaker, clause 1 confirms the long standing position that, when an occupational pension is paid out, it must be subject to income tax at source.

Clause 2 allows a member of an approved personal pension scheme to draw funds directly from the scheme, rather than purchasing an annuity, and makes consequential amendments needed to support the drawing of funds, including confirmation of the amount that is subject to income tax at source and the treatment of the remaining fund, following death of the member.

Clauses 3 and 4 allow the Treasury to make regulations regarding the investment that an approved scheme can make.

Clauses 5 and 6 allow a whole pension fund to be paid out as a lump sum, where the amount is small. The amount paid will allow a tax-free element, with the balance being subject to income tax at the lower rate of 10 per cent.

Clauses 7, 8 and 9 remove the maximum permitted lump sum payable and increase the lump sum available from 25 per cent to 30 per cent of the value of the fund on retirement.

Clauses 10 and 11 allow a member to take the lump sum before the annual pension, relaxing the current position, where both the lump sum and pension must be taken at the same time on retirement.

Clause 12 allows a member to draw a pension whilst continuing to work.

Clauses 13 and 14 introduce an annual allowance limit of £300,000 for contributions replacing the existing percentage-based limits and simplifying the contribution rules, so that most members pension schemes will be able to pay the amount they can afford, rather than on the amount allowed by statute.

Clauses 15 and 16 deal with consequential amendments needed to support the changes considered in the Bill, as well as introducing further powers that will allow the Assessor to obtain information relating to existing pension schemes.

Clause 17 amends section 50B of the Income Tax Act 1970 and will introduce a concept of an international personal pension in the Isle of Man.

Finally, Mr Speaker, clauses 18 and 19 deal with the interpretation, short title and commencement of the Bill.

Mr Speaker, I beg to move the Third Reading.

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

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

**The Speaker:** Hon. Members, the motion before the House is that the Income Tax (Pensions) Bill be read for the third time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that brings us to the end of our Order Paper this morning.

I have been asked to remind Hon. Members that the Department of Trade and Industry are having a briefing on the Shipping Register after one o'clock in the Barrool Suite: I have been asked to remind you of that.

Thank you, Hon. Members. With that, I declare the House adjourned till our next sitting, Tuesday, 12th February, at 10 o'clock.

*The House adjourned at 12.26 p.m.*