



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

P R O C E E D I N G S

D A A L T Y N

(HANSARD)

Douglas, Tuesday, 9th December 2008

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

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

Business transacted

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The Council adjourned at 11.21 a.m.

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Legislative Council

The Council met at 10.30 a.m.

[MR PRESIDENT *in the Chair*]

PRAYERS

The Lord Bishop

Sympathy to Mr Waft and Mr Lowey on their recent losses

The President: Hon. Members, we have had a week or two, shall we say, with little legislation coming before us, but we have four Bills on our Order Paper for First Reading this morning, Hon. Members.

Before we do get underway with the legislation, can I just say to Mr Waft and Mr Lowey that you missed a pleasant social occasion last Tuesday, but Mr Waft was missing, unfortunately attending a funeral. His son-in-law's father had died in Germany and we extend our sympathy to that.

Similarly to Mr Lowey, who came back refreshed and sunburnt from his trip down under, but equally we extend sympathy to Mr Lowey on the fact that his brother, Alfie... his funeral was held at the time that Mr Lowey was off the Island.

So, sympathy to both families in regard to that.

Orders of the Day

Income Tax Bill First Reading approved

1. Mr Downie to move:

That the Income Tax Bill be now read a first time.

The President: Hon. Members, we have the four Bills this morning and we are starting at Item 1 on our Order Paper, which is the Income Tax Bill. The Income Tax Bill is in the hands of Mr Downie for First Reading.

Mr Downie.

Mr Downie: Thank you Mr President.

This Bill makes various amendments to the Income Tax Acts and confirms 10 temporary taxation orders. The Bill itself contains 21 clauses and two schedules. Ten temporary taxation orders are confirmed within the Bill which deal with the attributed profits regime, a number of budget measures and eight international tax agreements.

The Bill also introduces a new calculation for the beneficial value of cars and fuel provided by employers to employees and amends the legislation that provides for prescribed deductions. Amendments are also made to both

the 1970 and the 2003 Income Tax Acts, to modernise and streamline the ratification process for international tax agreements. Within the 2008 Budget, the calculation of personal allowance credit was amended. This Bill makes the necessary changes to the legislation.

Finally, Mr President, the Bill extends the time limits for revising default assessments when a return form is submitted late and makes other minor amendments to the Income Tax Act.

I beg to move the First Reading of the Income Tax Bill 2008.

The President: Mrs Christian.

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

The President: Mr Waft.

Mr Waft: I would just like to say, Mr President, I well remember the taking the Bill through, with regard to the distributable profits charge, which now has fallen foul of international opinion. I am glad to see we have now supplanted that with other legislation which covers that relevant detail within the statute.

The President: Mr Lowey.

Mr Lowey: I know this is an extension of the Budget proposals and making them legal. Can I have an assurance from the mover that the tax credits that were announced in the Budget will be backdated to the first day of this financial year and not on the first day of the next financial year?

Could I also have an assurance that the agreements that we have, information gathering agreements and I notice that Iceland is the Order 2008 for Income Tax. Is it worth the paper it is written on in the light of some of the other things we have had in our dealings with Iceland in recent months? That is in clause 17, information gathering.

The President: Mr Butt.

Mr Butt: Thank you sir. I just have one query for the mover.

I see that tax relief on insurance premiums is being rescinded. I wonder, are there any plans in the future to maybe rescind tax relief on mortgage repayments. Are there any plans for the future, because I think the public will need to know for their planning ahead if that is likely to occur?

The President: Mr Downie to reply, sir.

Mr Downie: Thank you, Mr President.

First, I would like to start by thanking my hon. colleague, Mrs Christian, for seconding the Bill that is before us today.

Mr Waft raised a very good point. Within the Bill there is provision here to have a fresh look at distributable profits. Obviously, that is not workable any more and the Bill does provide a solution for that issue.

Mr Lowey raised a number of issues. The tax credits and about the date, I think I can give him the assurance he requires. They will come in, they will be backdated and there

will not be... Correct, yes? I will just get a bit of proper confirmation for you on that.

He also raised the point about the taxation agreement with Iceland and he said it would appear with hindsight it is not worth the paper it is printed on. Well, that I think is a slightly different issue. The agreement with Ireland is about exchange and that is when a criminal activity is said to take place. So it is a difficult issue to understand, but I do not think that the comment was relevant with regard to the information exchange agreements; it is slightly different.

Mr Butt raised the issue that we do not give tax relief on insurance any longer and asked if there were any plans to abolish tax relief on mortgages. My understanding is that this has not been considered by the Treasury and of course a lot of people now are under pressure with their mortgages and I think it would present great difficulties for the people of the Isle of Man who are having to deal with, particularly people who are relying on interest on accounts and so on to live, and also to pay a mortgage off, so if he will take that assurance from me and I will give him confirmation of that as we proceed through the Bill.

I think I am going to get... Mr Martin is going to provide me with some information to Mr Lowey's question.

The President: Mr Attorney.

The Attorney General: Mr President, could I just comment, without in any way, I hope, contradicting the Hon. Member.

Insofar as tax information exchange agreements are concerned, they are not related only to criminal matters, but also civil matters. In other words, there does not have to be a criminal tax evasion investigation. It could be an aggressive tax avoidance scheme which falls within the ambit of the tax information exchange agreements.

The President: I think Mr Downie, we also need to be clear that in fact – and I know you did clear it on one occasion and then slipped back into it – I think there is a difference between Iceland here and Ireland, which is in clause 4, which is the double taxation agreement.

Mr Downie: Just for the avoidance of doubt: the new limits of £500 for the personal allowance credits were introduced from April 2008. This Bill is a tidying-up exercise.

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

Animal Health (Amendment) Bill **First Reading approved**

2. Mr Callister to move:

That the Animal Health (Amendment) Bill be now read a first time.

The President: We will go on then, Hon. Members, to

the Animal Health (Amendment) Bill. So we are dealing then with the Animal Health (Amendment) Bill for First Reading and on this occasion, Mr Callister.

Mr Callister: Thank you, Mr President.

First of all, I would point out a typographical error in the Bill on page 15, under 'Execution of warrant', numbered 4 on that page, it says, 'A warrant issued paragraph 3'. The missing word is 'under': it should read 'a warrant issued under paragraph 3'. That has already been pointed out during the Keys stages of the Bill by Mr Gawne.

The Animal Health (Amendment) Bill amends the Animal Health Act 1996, an Act which aims to achieve high standards of animal health and welfare in the Manx agricultural industry whilst balancing the needs of the animal with the promotion of the industry and facilitation of trade in agricultural produce. The Department has reviewed the Animal Health Act 1996 in the light of experiences gained following the foot and mouth outbreaks of 2001 and 2007. This, in conjunction with a background of changing disease patterns and increased threats from emerging and exotic diseases, has identified a number of areas within the 1996 Act which require modification and the inclusion of some additional powers in order for the Island to defend itself adequately against such threats.

The proposed changes are intended to strengthen Department powers in relation to dealing with types of disease, including a provision to ensure the Department will in future be able to deal with diseases that have a genetic susceptibility component, should the need arise. The Bill will extend powers to the Department to declare disease control areas and implement appropriate control orders where necessary, if the Island is under clear threat but a specified disease is yet to reach our shores.

The overarching aim of these changes is to establish enabling powers to permit a risk-based response to disease, a framework to address future epidemic and genetic disease and a sharing of responsibilities between the farming community and the general public.

Mr President, I beg to move that the Bill be read a first time.

The President: Mr Waft.

Mr Waft: I beg to second Mr President.

Just going through the specified diseases, I just wondered if the Member could elaborate on what is Newcastle disease?

Mr Downie: Chickens.

The President: Mr Turner.

Mr Turner: Thank you Mr President.

I have a few questions to ask the mover.

It seems obviously from reading this that it gives DAFF the power to control the whole Island, so I would like to know how do the powers – the additional powers here – differ from the UK or does it bring the Island onto a similar... does it bring the Department onto a similar power level to what the authorities in the UK have? On clause 1(2) on line 10 it says:

'Before issuing or approving guidance on biosecurity measures the Department shall consult...'

I would have thought that when word comes of a possible outbreak of disease, time is of the essence, so I just wonder how they are going to deal with that?

In the list of diseases it talks of Avian influenza: not being an expert on these sort of diseases, I would assume that we are talking about birds as well, yet it talks through most of the Bill as animals. Is there any definition somewhere which I cannot find where this includes birds? In most of the areas, it seems to talk and state 'animals'.

At the bottom of page 2, it states that after section 18 of the Animal Health Act, you could insert – and then (2)(b) says:

'prohibiting or regulating the use of any public right of way within the controlled area'.

I just wondered, is this not a DoT function? Are you in fact giving yourself the same powers that maybe the DoT should be issuing closures to rights of way and highways?

I query on page 6, regarding slaughtering of animals. It says:

'any animals which the Department thinks should be slaughtered...'

so that just gives carte blanche to literally anything at all. Does that include pets? It does state here:

'any animals which the Department thinks should be slaughtered with a view to preventing the spread of an epidemic disease.'

Those, Mr President, are the questions I would like to raise on this First Reading.

The President: Mrs Christian.

Mrs Christian: Thank you.

I think we have to welcome the Bill, Mr President. It is always a fine line, is it not, between controlling the health of the Island's animal population against imposing very restrictive controls? It is a very difficult balance to establish sometimes.

However, I think the Island is very vulnerable. Once something has got in here, it can create a lot of problems and so I do think that, in the light of experience, it is not unreasonable for the Department to have reviewed its controls and come forward with some traditional provisions and when you look at the list of diseases, it is clear that there are things... and we are all aware of issues such as bluetongue which are new to the United Kingdom and heading north, as are other such diseases.

So in terms of the principle of the extension of the powers which the Bill contains, I am content to support that. Whilst this is only the First Reading, therefore we are just looking at principles, perhaps it might help the mover if I give an indication of what I might ask later on in the clauses. That is some clarification on clause 1, where we are applying criminal sanctions on a person who is the owner of premises on which the animals are kept. He might give some example of why that is necessary. An owner might live in Timbuktu, but it may be that the owner might not allow changes to the property or something like that, I do not know. I would like to know what the thinking is in subclause (5)(b) as to why 'owners' are referred to there.

The other issue that does concern me a bit is where an appeal is permitted in certain places. The owner of the animal

– and this is under the genotype tests – is responsible or is charged with paying for the second tests. It seems to me that that might be reasonable if the animal failed, but that does not seem to me entirely reasonable if the animal passes the tests, and why the burden should fall on the owner in those circumstances, so I might be asking there why that thinking has entered the provisions of the Bill.

The other one which is always a thorny question is the question of compensation where it comes down to a 'may' rather than a 'shall' and perhaps he might like to prepare some answer in due course. Other than that, Mr President, I take it that the requirement for any regulations made under the Act to go to Tynwald is there in the original Bill, but perhaps he could comment on that.

Mr Callister: Sorry, could you give me that point again? I missed that.

Mrs Christian: There are regulations which may be made under this Amendment Bill – (**Mr Callister:** Yes.) I assume that they have to be approved by Tynwald? I do not think that it is included in this Bill, so I am asking is it in the primary legislation? I presume so, but if he could just confirm that fact.

Thank you.

The President: I think Mr Attorney can probably tell us that, he has the Act in front of him.

The Attorney General: Yes, thank you Mr President.

The point raised by the Hon. Member is dealt with in section 54 of the principal Act, which states that:

'Every regulation or order made under this Act [...] shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the regulation or order is laid or at the next following sitting fails to approve it, the regulation or order shall cease to have effect.'

The President: Mr Lowey.

Mr Lowey: Yes, I agree absolutely with everything Mrs Christian has said, because I do believe there is a very fine line and I think the Department has attempted... Again I am posing a question now that perhaps... Have they consulted with the industry on the new restrictions that this Bill is proposing?

I note from the explanatory memorandum, on the front page, that it gives additional powers for entry purposes for slaughter, marking and movement. Has there ever been a problem in the past for us now to warrant going that extra mile and perhaps, not for today, but I am sure the mover will get from his Department either a case history or the potential, the need for that added power. I appreciate that times they are a-changing and bluetongue is an example of climate change. He is bringing it up and we have to be proactive in protecting the shores and bees and things.

I am sympathetic to the need for the Bill, the way in which it is presented I have no difficulty with. It is just that perhaps we can have a little bit more explanation to the general public why this is necessary and to the industry. To that extent, I welcome the Bill and, with those provisos, I shall be supporting the Bill through.

The President: Mr Callister to reply, please.

Mr Callister: Thank you, Mr President.

Mr Waft, I think, and I may have to get this confirmed, that Newcastle disease is related to poultry. Yes, I am getting a nod on that.

On the question of the UK, we are talking, Mr Turner, in terms of the whole Island perhaps being an area that would result here, as far as the UK is concerned. I would have to check that and make an announcement to that in a moment or two.

Consultation clearly will have taken place and consultation in this particular instance relates to this first clause, in that it begins by saying:

'The Department may by order approve guidance issued (whether by the Department or another person)...

I think you will find that the subsection (3) there relates and refers to the 'guidance approved under subsection (1)' and that is after consultation with organisations such as DEFRA and so on, that would be assisting in the formation of the guidance that is required.

Avian flu: if we did get bird flu here, clearly the Department would be required, as part of their responsibility, to deal with bird flu.

The rights of way point is an interesting one, in that what we are looking at, at the bottom of page 2:

'prohibiting or regulating the use of any public right of way within the controlled area'.

When the previous outbreaks of foot-and-mouth disease occurred, the law was somewhat vague on what could be done to close public rights of way and I think this makes it perfectly clear that they can be closed and if that is in co-operation with the DoT, fine; but something would have to happen and it would need to happen under law. I think it was somewhat uncertain during the past occasions.

Mr Turner, still, on pets: now I did ask this question and whether it would affect dogs and, of course, we do not know what diseases might get here that would affect pets. So if something arrived which involved pets, then obviously that would have to be considered at the time.

Mrs Christian, I think that as you suggested perhaps –

Mrs Christian: I do not want answers today.

Mr Callister: – we will look for these answers and bring them forward at a later stage.

Mr Lowey: the additional powers of entry and the need for consultation, I think also perhaps we could deal with those at a later stage –

Mr Lowey: No problem.

Mr Callister: I think your point was there would not be time to consult greatly with the industry as such. Well, that would be a determination presumably that would have to be made depending on the urgency and the situation that we find ourselves in at that time, so if there was important time to consult and that consultation would, of course, also presumably refer to UK authorities as well for advice and so on.

I think probably those are most of the points that were raised. Thank you.

The President: In that case Hon. Members, the motion I

put to Council is that the Animal Health (Amendment) Bill 2008 be read for a first time. Those in favour, please say aye; against, no.

Mr Callister: Mr President –

The President: The ayes have it. The ayes have it. Now, Mr Callister.

Mr Callister: Mr President, if Members feel they would benefit from a presentation, the Department would be happy to do a presentation if Members feel that is necessary before we get onto the Second Reading and clauses.

The President: I think Mr Callister, you are the Member in charge, and perfectly entitled to... I feel that you can make your decision as to whether you wish to have a presentation in light of the comments which have been made at this First Reading. Nevertheless, we have the facility to have your officers at hand when we are dealing with the Second Reading and any queries or problems could be raised with them at that particular stage; but if you feel particularly that Members would benefit, I will leave you to talk to the Members and make that decision in your own good time before we get to the Second Reading stage.

Mr Callister: Thank you, Mr President.

Value Added Tax (Amendment) Bill First Reading approved

3. Mr Turner to move:

That the Value Added Tax (Amendment) Bill be now read a first time.

The President: We go on, Hon. Members, to Item 3 on your Order Paper, which is the Value Added Tax (Amendment) Bill. Again, down for First Reading and this time, Hon. Members, in the hands of Mr Turner.

Mr Turner: Thank you, Mr President.

This is a relatively short Bill, but nevertheless has quite an effect. In order to assist with the principles on how this has come about, I would like to give some background information on the current position and why this Bill is necessary. It has been made necessary because of changes being made in the United Kingdom to the system of independent appeal tribunals.

Since VAT was introduced to the Island in 1973, the Isle of Man has been able to make use of the Value Added Tax Tribunal, which was later renamed the Value Added Tax and Duties Tribunal when its jurisdiction was extended to cover appeals concerned with excise and customs matters. This access is provided at no cost to the Treasury. Being run by the HM Court Service, the Tribunal has the advantage of being clearly independent of both the HM Treasury and HM Revenue and Customs, as well as obviously being independent of the Isle of Man Treasury and its own Customs and Excise Division.

The Tribunal's impartiality is allied to the acknowledged expertise of the Chairman who presides over the appeal

hearings. These factors provide the taxpayers with confidence on the appeals process.

I will go through what the actual changes – the effect of those changes, in a moment, but first of all the appeals that taxpayers in the Island currently undertake are administered by the Tribunals Centre in Manchester and this will remain in place after the changes take effect. However, any actual appeal hearings must be held in place after the changes take effect. However, any actual appeal hearings must be held in the Island and the Chairman from the UK Panel of Chairmen may be assisted by up to two lay members, chosen from a panel appointed by the Council of Ministers under our own Tribunals Act 2006. The members who may sit with the Chairman are local persons chosen for their expertise in relation to tax or duty involved or that they have some other expert knowledge that may assist in the Tribunal reaching its decision.

The amendments made by the Bill, then, provide for the constitution and operation of the VAT and Duties Tribunal. The amendments made by the Bill modify schedule 13 so as to allow for the use of a First-Tier Tribunal established under the Tribunals Courts and Enforcement Act 2007 of Parliament. This will replace the VAT and Duties Tribunal, but will continue to operate under that name in the Island.

As now, appeals from the Tribunal in the Island will go to the Staff of Government Division. In the United Kingdom, there will be an Upper Tribunal that would hear appeals from the First Tier as well as being the court of first instance for a very few high complex cases. As now, the Tribunal will use the relevant rules of procedure used in the UK.

I will just briefly outline what the clauses do, then. This is a two-clause Bill.

Clause 1 amends schedule 13 of the Value Added Tax 1996 to substitute a new paragraph 4, which deals with the membership of the Tribunal, and amending paragraph 5, which deals with the constitution of the Tribunal, and paragraph 6, which deals with the rules.

Clause 2 provides for the short title of the Bill.

Paragraphs 5 and 6 of schedule 13 are amended by clause 1 to replace references to the President of the VAT and Duties Tribunal, a post which is being abolished, with a reference to the President of the Tax Chamber.

So, with that, Mr President, I beg to move that the Value Added Tax Act –

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

Mr Turner: – (Amendment) Bill 2008 be read for a first time.

The President: Now, Mr Downie, you may second.

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

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President.

On reading this Bill, we obviously have no choice but to go down this route, because the present appeal system will be defunct very shortly. So, I think we are obliged to give this our very serious consideration and hopefully approve it. So, I am in support of it.

The thing that I was a little unclear, there seems to be a

First-Tier Tribunal which is held in the Isle of Man and then an Upper Tribunal which is held in the United Kingdom and it was just the mechanics of an appeal system as to how it actually worked in practice. If I was a registered VAT supplier and wished to appeal against a decision in the Isle of Man, presumably then there would be a local appeal tribunal set up by a Chairman with two members nominated from the Tribunals who would sit in the Isle of Man and hear my first appeal. Presumably, then, if I was not satisfied with that decision, there is a second referral to a higher appeals tribunal in the UK? I was not sure if that was the mechanics or not.

The President: Mrs Christian.

Mrs Christian: I support the Bill, Mr President. I am not sure that Mr Crowe is quite right in that we could have our own appeal tribunal if we wanted to, but I think I would support the view that VAT is a fairly complex matter. I do not think that there are huge numbers of appeals. I seem to recall a question on this whole issue in Tynwald not too long ago –

Mr Lowey: That is right.

Mrs Christian: – which described the process and, to that extent, it seems to me, because it is a complex matter, there is some value in going to people with expertise in it, in terms of an independent tribunal.

I will support the Bill.

The President: Mr Butt.

Mr Butt: Thank you, sir.

I also will support the Bill. Having heard the comments of the Member moving it, could he just confirm, again, that, in practical terms, for a person making an appeal in the Isle of Man, there will be no great difference to what actually occurs at the present time? It is only a change in name, in effect, because of the UK legislation?

The President: Mr Lowey.

Mr Lowey: Yes, sir. I first came across this on the Scrutiny Committee and we reported, actually, on the VAT appeals being away and Mrs Christian is right, I think there are very, very few get to that second stage.

But Mr Crowe is right, in the sense that we have availed ourselves in a pragmatic way of that expertise. I think that is the right way that we should approach it, but of course, if the appellant now has changed, then it is imperative that we change to keep that appeal procedure in place.

I will be supporting the Bill.

The President: Right, Mr Turner. You may reply, sir.

Mr Turner: Thank you, Mr President.

I will, first of all, take Mr Lowey's comment that very few get to the second stage. He is absolutely right. The number of VAT appeals that reach a hearing are relatively few and from the information that I have got from our own VAT Division, Customs and Excise, there are a couple of on-going appeals but these are very complex matters, as you say, and they deal with considerable amounts of money. So, there are very few, but nevertheless, the system does have to be robust and

there is specialist expertise knowledge required. I am not saying for one minute that we will not have that knowledge on the Island, because I am sure we will, but this is a system set up by the United Kingdom, designed to be completely independent from even their own HM Treasury and Revenue and Customs, I think it is called now. Obviously, we can enjoy the benefits of that as well.

I think Mr Crowe used the words, 'the current system defunct' and he is absolutely right. So, that would effectively leave us without a system, unless we do subscribe to this piece of legislation.

The exact mechanics, I had planned to go through in more detail at the Second Reading, in the preamble before we go into the clauses, which I intend to do then. But obviously, it is something we have to support and I am grateful to Members for their comments.

I beg to move.

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

Fees and Duties (Amendment) Bill **First Reading approved**

4. Mr Downie to move:

That the Fees and Duties (Amendment) Bill be now read a first time.

The President: Our fourth piece of legislation, this morning, Hon. Members, is the Fees and Duties (Amendment) Bill. Again, Mr Downie is in control.

Mr Downie: Thank you, Mr President.

The Fees and Duties Act 1989 gives only the Treasury the power to prescribe fees and duties and make regulations in respect of charges for Government services, etc.

Where the provision for such charges is not provided under other enactments, fees and duties under this Act are often made by Treasury on behalf of and at the request of other Departments and Boards. This short Amendment Bill will extend that power vested in Treasury to other Government Departments and Statutory Boards who may, with the concurrence of Treasury, make their own fees and duties orders and regulations which will still require the approval of Tynwald before they come into effect.

Mr President, I beg to move the First Reading of the Fees and Duties (Amendment) Bill 2008.

The President: Mr Turner.

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

The President: Mr Crowe.

Mr Crowe: I think it is a very eminent and practical solution to a problem which the Treasury have had in the past, where the Minister of the Treasury has had to give explanations on fees and duties, etc in Departments where

he may not have a total grasp of the technicalities. So I am very happy to support this. I think it is a very practical move, sir.

The President: Mrs Christian.

Mrs Christian: Yes. I can also see that the Treasury have not been happy sometimes in moving other people's increases in fees and duties and therefore are quite happy to give this responsibility to the Departments that are promoting them. That said, it does seem reasonable that the Minister for a Department should be arguing the case, because, as has been said before, they are the people who are promoting these changes in the first instance; although, I do hope that Treasury concurrence will be reasonably given before it goes to Tynwald.

The President: It is the concurrence and a necessity for the concurrence which is the important bit, isn't it?
Mr Lowey.

Mr Lowey: Yes. It is a two-edged sword. It loosens control and I agree that asking for increases should do, but at the end of the day, I can think of certain Departments thinking that they are only looking at it from a narrow angle. Treasury is looking after the Government's push. Therefore, there are times where Government should be able to say, 'Sorry, in the national interest, this cannot go ahead or should not go ahead.'

Therefore, the idea, just because it is an irritant to the Treasury Minister to have to get up and answer... there are times... What are the Treasury there for, if it is not to be able to say no occasionally? I understand that they will have to have concurrence from the Treasury before bringing these things through, but they will then do it themselves.

But I am, as I say, a little bit apprehensive that it is a cop out for the Treasury and not for the thing... I am all for making life uncomfortable for the executive. I think I have heard that somewhere before. I genuinely believe that the Bill is introduced with good intent, I am sure, but whether it will be good for Government as a whole, I am not so sure. I have doubts.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

Criticism usually arises when these fees and duties have not been annually increased as per inflation or other determinants, but the situation is that suddenly someone will turn round and say, 'Oh, we have not increased such and such for such a long time. We will increase it.' Then it is left to Treasury to put it to Tynwald and Treasury does get stick because of the lack of observation of the fees and duties within a particular Department.

I wondered whether there should be some rider as to whether these should be reviewed annually? I think a lot of them do, but some of them, I think, do not.

Also, whether the fees and duties, final destination of payment for the fees and duties, whether they are going to be changed or will it exist the same as it is now?

The President: Mr Downie, then, to reply, sir.

Mr Downie: Thank you, Mr President.

I would like to thank Mr Turner for seconding the First Reading of the Bill today.

I think Mr Crowe dealt with some of the reasons why. I think we all know that, in the past, some Departments have been fairly lax about reviewing their fees and duties and I think this really puts them on the spot, because they will not be able to – if this Bill passes through and becomes law – duck their obligations now and leave the Treasury to have to face the wrath of Tynwald. The Minister responsible will be pretty much in the driving seat.

I think this will lead to a much more open opportunity to ask individual Departments why there is a requirement to introduce fees or to do things in a different manner. I think it has been unfair in the past that the Treasury Minister has been left to deal with these issues. We have our own mechanism to deal with the fees and duties as they come before us and that will still be in place, but at the end of the day, the Minister has responsibility for the Department and the wellbeing and the running of that Department. So it is very much executive Government's view now that the Minister should be responsible for getting the message across in Tynwald and getting Tynwald to agree when there are fees and dues to be revised.

Mrs Christian said that the Treasury were not happy. I quite agree with her, but Treasury will still have this oversight and we will make our comments at the appropriate time and place.

Mr Lowey said it was a two-edged sword, but it loses control. I would not agree with him there because it will actually give him two bites of the cherry now, because you will be able to ask the Minister why he is introducing, possibly, these exorbitant fees and then ask the Treasury Minister why he is letting him get away with it. So, he will have plenty of opportunity, I think, to explore these measures and it is not a cop out by Treasury.

Mr Waft, quite right, he has been a Treasury Member in the past and he knows that Treasury do get unfairly criticised on a number of occasions and I think for too long Tynwald has been content to shoot the messenger, really, rather than look at the bigger picture and actually see what is going on in the Department.

At the end of the day, Departments have budgets. They are subject to inflation. There are times when a lot of money needs to be spent in a certain area and areas need upgrading and so on and they do have to have an opportunity, now and again, to review their fees and duties. I think, if this Bill passes and becomes law, it will allow a greater opportunity to have more in-depth questioning of the Department and the Minister about their spending programme.

Thank you, Mr President.

The President: The motion then, Hon. Members, is printed at 4: Fees and Duties (Amendment) Bill for First Reading. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Interesting exercise on fees and duties. What happens if the Treasury decide, as a matter of budgetary provision, that they are making a material change in the income by wishing a Department to alter their rates? At that stage, I would see that there might be a discussion between the Minister wanting to do it and the Treasury saying you have to do it. Anyway, there we are.

Procedural Standing Orders Committee

The President: Hon. Members, last week we had an interesting discussion with the drafting team from Mr Attorney's Department which I think most of us found very interesting. As a result of that, Hon. Members, your Standing Orders Committee consists of Mr President, Mr Attorney, Mrs Christian and Mr Lowey.

Do you think that we should have a meeting to discuss further the questions which may be raised as a result of the drafting team's recommendations? I am quite happy to arrange one, if you think we ought probably to meet.

Mrs Christian: Yes, Mr President. Yes, I think we should have a meeting.

The President: I will fix up a meeting then of the Standing –

Mr Downie: I would support that, Mr President. And the other thing that is becoming more and more obvious now in this very competitive world, that other jurisdictions have now consolidated part of their legislation, particularly company law and things where they are trying to promote their economic benefit and wellbeing and of course, they are working with their partners in business so that it is now seen in Jersey, for instance, all this consolidation is coming through; the legislation is much easier to understand; there is not all sorts of other areas of reference within the existing legislation. It is there for all to see. It is on the website and there is nothing to stop companies saying, 'we can provide these services and this is our legislation and so on.' I think we should be trying to move that forward.

Mr Lowey: I thought we already had though, hadn't we? We have got it on disk –

The President: Hon. Members, I have not yet closed Council, so I do not want to get into a general discussion on this particular point. I raised it, Hon. Members, because I think last week the presentation team did a good job for us and they did raise certain queries which may have an effect on our Standing Orders.

Mr Downie's point, really, is a wider point, but I think if we just hold it to the Standing Orders at this particular stage, but I am certain that we will raise that in the future. Now –

Mr Downie: I think, through you, Mr President, the most important thing that came out for me was that, apart from Jura's and the legislation being available in other areas, it is very difficult for the public to get access to the legislation, whereas, as you know, you have to pay a fee to certain individuals now: to Jura's and some of these other people, whereas other jurisdictions, it is like the judgments of the court now. It is all provided so it is very easy for people to keep up to date and I would have thought that is one of the recommendations, perhaps, that we should be considering making.

The President: Well, we will fix up a meeting of the Standing Orders Committee and any points which Members

wish us to look at particularly, I am sure you can refer them to us.

Hon. Members, that actually brings to a conclusion the business before Council this morning. Next week, of course, we will be meeting in Tynwald, so that is our next sitting. The next sitting for us to deal with Legislative Council work, therefore, in relation to the Second Reading of the Bills which we passed this morning at First Reading will be 27th January,

Hon. Members, so we will be doing Second Reading and clauses of the Animal Health, Fees and Duties, Income Tax and Value Added Tax on 27th January, Hon. Members.

Thank you very much. That concludes the business before Council this morning. Thank you.

The Council adjourned at 11.21 a.m.