



**HOUSE OF KEYS
OFFICIAL REPORT**

**RECORTYS OIKOIL
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PROCEEDINGS

DAALTYN

(HANSARD)

Douglas, Tuesday, 7th April 2009

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);
 Mr J P Watterson, Hon. P A Gawne and Mr Q B Gill (Rushen);
 with Mr R Phillips, Secretary of the House.

Business transacted

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The House adjourned at 11.54 a.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 granted leave of absence, from around 10.45 this morning, to the Hon. Member for Douglas North, Mr Houghton, in which case I would intend to take Question 8, to the Minister for Home Affairs, immediately after Question 2 to the Chief Minister.

Questions for Oral Answer

CHIEF MINISTER

Debates in Westminster Briefing MPs and peers on Isle of Man

1.1. The Hon. Member for Rushen (Mr Watterson) to ask the Chief Minister:

What 'horizon sweeping' is done of debates in the Palace of Westminster, and what work is done by the External Relations Division to brief MPs and peers on the Isle of Man's position?

The Speaker: In which case, Hon. Members, we are turning to the Order Paper, Item 1, Questions for Oral Answer, and I call on the Hon. Member for Rushen, Mr Watterson.

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

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

The Chief Minister (Mr Brown): Mr Speaker, as I outlined in the extensive international briefing which I hosted for Members of Tynwald on 16th March, Government through External Relations Division of the Chief Secretary's Office, in conjunction with other Government agencies, employs a number of methods of continuing monitoring of external issues that may affect the Island. This includes matters relating to the Palace of Westminster. We contact and brief MPs and peers at Westminster, and others as appropriate. In doing this, we do not take a scattergun approach, as we tend to choose carefully who we contact, thus being more

effective with our resources and dealing with those who can more effectively assist us in our endeavours and, hopefully, building solid meaningful relationships with such people.

As well as political and officer contacts, we use the services of London-based public relations and public affairs advisers, Lansons Communications. We also use the services of White and Case in Brussels and Washington. Both of these consultants continuously monitor and advise on matters that may impact on the Island or where opportunities can be taken.

Thank you, Mr Speaker.

The Speaker: Mr Watterson.

Mr Watterson: Given that the Isle of Man has been much mentioned in Westminster recently, has the Chief Minister given thought to providing a one-sider to all MPs and peers and how specifically does his Division choose or select who is an appropriate person to brief?

The Speaker: Chief Minister.

The Chief Minister: Thank you, Mr Speaker.

As Hon. Members are aware, we have some contact in Westminster, as well as, of course, we are monitoring what is going on so we would pick up if a certain issue was raised by a peer or an MP, and if we think it is appropriate, we will either make direct contact with that person or we would make contact through the British organisation, which is the British-Manx All-Party Parliamentary Group, where we have contacts. So we tend to try and identify what the situation is and deal with it at that time.

What we do not do, however, is try to continually put out a lot of information right across Westminster because our view on that is that information does not have the effect in the same way as making direct contact. However, both Government and Members of this Hon. House, and others from another place, have contact through our CPA Branch and through contacts where we have parliamentary visits. So all of us together at some stage make contact with MPs and peers, promoting the Isle of Man, and we endeavour to respond based on the issue that is being raised.

The Speaker: Mr Watterson.

Mr Watterson: Does the Chief Minister not agree that in order to elicit a better quality of debate in Westminster, in both Houses there, that it might be worthwhile just putting together a one side of A4 information sheet because I think there are still a lot of people down there who do not understand who we are, what we are and what we have been doing?

The Speaker: Reply, sir.

The Chief Minister: Yes, Mr Speaker.

Certainly I am happy to look at whether or not we put a one-side sheet out. One of the difficulties is that it does not always get to the MP or the peer, anyway. As Hon. Members are aware, it might get to their researchers or secretariat. I think certainly what we can do is also direct them to the Government website and information about the Isle of Man generally, so I think there is some merit in doing that. How effective that is I think is a difficulty, considering there are something like 600 MPs, and although we do hear some

concerns raised at the moment, I think that has been lifted by the issue of G20, tax havens, KSF and so on which we know a number of MPs and Lords have been lobbied by their constituents who have had money in the bank concerned, that it was located here in the Isle of Man.

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

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Would the Chief Minister not agree that this is quite an important issue, given the G20 ruling with regard to the White List, but also the fact that the phraseology of tax havens and linking to the Isle of Man still persists? Further, would he agree that it might be prudent to utilise friends in Westminster to have information circulated through them, so that we can reach the maximum amount of target?

The Speaker: Minister.

The Chief Minister: Mr Speaker, certainly using friends in Westminster is something that we do and we have had some successes there, both through the British-Manx All-Party Parliamentary Group and, of course, also directly to some MPs and we continue to do that.

Manx Customs Officers Additional defence against illegal imports

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

If, in the interests of protecting quality of life in the Isle of Man, the Council of Ministers will discuss with appropriate parties the possibility of deploying Manx Customs Officers –
(a) on Steam Packet vessels;
(b) on UK soil; or
(c) on Irish soil;
as an additional line of defence against the importation of illegal drugs, firearms etc into the Island?

The Speaker: Question 2. Hon. Member for Onchan, Mr Karran.

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

The Speaker: Minister.

The Chief Minister (Mr Brown): Mr Speaker, I do not think it is appropriate for the Isle of Man to pursue such a suggestion, sir.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, does the Ard-shirveishagh not agree that one of the best assets this Island has got, as far as its society, is a low crime rate? Does he not agree that we need to be looking at new ways in order to keep the complete cancer of drugs out of our society? Does he not agree that... the issue of arms and keeping them out of our

society? Does he not think – like the initiative proposed by myself where to try and get the fishing boats and the customs officers to work together – we need to start looking at these issues in order to try and put some safeguards to protect the quality of life of this Island?

The Speaker: Chief Minister.

The Chief Minister: Mr Speaker, as to whether we put Manx customs officers on Steam Packet vessels, UK soil or on Irish soil, the answer is, no, I do not think that is appropriate. Other measures are taken across working relationships between the Police, Customs and other parties and continually happen on a daily basis, as and when necessary, and we do take dealing with crime, serious crime, very seriously.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, does the Ard-shirveishagh not agree that you are actually losing that battle and that we are not going to win that battle, as far as protecting the quality of life? Does he not agree with the access to arms that we see regularly in the United Kingdom and the other issues that need to be addressed?

We need to further improve the proposals that have been brought about by trying to get different Departments to work together, like the Fisheries Protection and Customs, and start looking at this issue in order to stop bringing these people to the Isle of Man with this stuff, so that we can protect the quality of life?

The Speaker: Mr Brown, sir.

The Chief Minister: Mr Speaker, I am not aware of any of the agencies not working together to try and combat such serious crime and, as far as I am aware, they do.

HOME AFFAIRS

Jurby Prison detainees from Merseyside/North West Number connected with importing drugs

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

(a) How many detainees there are at Jurby Prison who have home addresses in Merseyside or the North West and are –
(i) on remand awaiting trial;
(ii) on remand awaiting sentence; and
(iii) serving a sentence
in connection with offences of importing drugs into the Isle of Man; and
(b) what percentage of the prison population does this represent?

The Speaker: Hon. Members, as indicated previously, we turn to Question 8 and I call on the Hon. Member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

I thank you for your indulgence, sir. I beg leave to ask the Question standing in my name, sir.

The Speaker: I call on the Hon. Member for Onchan, Mr Earnshaw, Minister for Home Affairs.

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

Mr Speaker, in answer to the Question, I can confirm that there are four prisoners on remand awaiting trial, there are three prisoners convicted on remand awaiting sentence and there are three prisoners convicted and serving sentences in connection with offences of importing drugs into the Isle of Man. These numbers, 10 in total, represent 9.9 per cent of the total Prison population at the time of writing.

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

Would the Minister take note that many of these persons in Manx custody have been arrested at the ports as a result of information that they have received from United Kingdom forces, mainly Merseyside? Would the Minister take note of that point and the fact that, basically, those people should have been detained whilst embarking the ferry, rather than whilst disembarking the ferry, and that they should be care of Walton Prison, at the expense of the United Kingdom Government, rather than the Isle of Man authorities at great expense over the year, sir?

The Speaker: Minister to reply.

The Minister: Yes, thank you, Mr Speaker.

I shall take note and I thank the Hon. Member, my friend, Mr Houghton, for his comments. I know he takes a lot of interest in this sort of subject.

I would like to say, however, that the Constabulary in the Isle of Man work closely and co-operatively with Merseyside, which is a major UK force, and we have a good working relationship with them.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh son Cooishyn Sthie not agree that this is the very reason why the previous Question was put down about this issue, that it would be in the interests of the Isle of Man taxpayer to be more proactive in the United Kingdom? Would he also not agree that the last time I went to Liverpool it was a farce? The checking that was done by the UK authorities, as far as coming to the Isle of Man is concerned and it was not much better in Heysham, as far as the authorities in the United Kingdom is concerned. Would he not agree that it would be far better for us to be more proactive on the other side, than waiting until they are imported into the Isle of Man at great cost?

Would he also consider the fact that, with the increase in gun crime in the United Kingdom, we need to be more proactive on this issue instead of the usual ostrich syndrome that we have already seen from your leader, the Chief Minister, this morning?

The Speaker: Reply, sir.

The Minister: There are a lot of questions there, Mr Speaker.

Fundamentally, I would not agree with most of them. I think our response is proportionate and we have got to think of other people who travel to the Isle of Man. If we adopted a regime of searching everybody it would hold up passengers for a great length of time at our ports and I do not think that is something that they would welcome.

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

Mrs Cannell: Thank you, Mr Speaker.

Would the Minister at least acknowledge and accept that, in fact, having a sniffer dog available at the port where one has to check-in before embarking on the boat would be a help and that would not require that every passenger need necessarily be searched? Can he agree with me that most of the arrests made in this type of situation are often intelligence-led (**A Member:** Hear, hear.) and that, in fact, if we had proper Customs controls then we might pick up a lot more offenders than we currently are?

Finally, Mr Speaker, can the Minister explain whether or not there is a method, a mechanism, available to us, to be able to, once charged and convicted, of deporting these people back to the UK to serve their sentence, rather than the local people having to pick up the bill for them serving it here?

A Member: Hear, hear.

The Speaker: Mr Earnshaw to reply.

The Minister: Yes, thank you, Mr Speaker.

I can confirm that the Police do act on intelligence received. I think there have been quite a number of arrests recently that have been well profiled and I think they are enjoying a measure of success with that at the moment. Dogs are used, as appropriate. We have got resources that we have to think of and it is making our response proportionate to the problem that we have. I do not mean to trivialise in any way the problem that we have with drugs being imported into the Isle of Man. It is a very unwelcome practice and we are doing our very best to address these issues.

The Hon. Member, Mrs Cannell, refers to deportation. I can advise that UK prisoners are transferred to the UK, provided they have at least six months remaining on their sentence. It takes a little while to process these things, so if it was a short sentence the means just do not justify the ends, so if we possibly can repatriate them, we do. I do not think it is a massive caseload that we are dealing with here: I think I said 10 in my original Answer.

I am not quite sure what the figure was that the Hon. Member for North Douglas was anticipating and we have also got to think that there are Manx prisoners in prison in the United Kingdom as well. It is not all one-way traffic. We do not know how many Manx residents are imprisoned in the UK at the moment because statistics are not kept by us for that.

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

Mr Malarkey: Thank you, Mr Speaker.

Could the Minister confirm that a lot of these drugs related... are intelligence-led and that if we were to take out all the drug-runners or the ones we have the intelligence on in Liverpool that somebody else would then come along and do the same job?

How important is co-operation between the Liverpool Police and the Isle of Man Police to follow these people when they come off and find out who is actually ordering the drugs and supplying the drugs on the Island? Simply taking it out of Liverpool would not be the best use of resources.

The Speaker: Minister to reply.

The Minister: Yes, I thank my hon. colleague, Mr Malarkey, for that.

I have already said this is intelligence-led. People will fill the shoes of others, although I have to say there is an awareness on Merseyside of the Isle of Man's strong punishment regime, (**Two Members:** Hear, hear.) which is a lot stronger than the UK's (**A Member:** Hear, hear.) for those involving themselves with drugs and I think it is a disincentive to carry drugs from England or elsewhere to the Isle of Man. It is well advertised and well known, I believe, in Merseyside that that happens. Sadly, there are always some who are prepared to take the risk, but I think it is a battle that we are making some progress with in that respect, Mr Speaker.

Thank you.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh son Cooishyn Sthie, the Minister for Home Affairs, not agree that it is not a matter of searching everyone but bringing in something on similar lines to what you have as far as the air service is concerned, bringing in something like you have on departing from the sea terminal on the same basis as Heysham and at Liverpool, as far as trying to have some sort of idea of what is being brought in?

Would he not also agree that, apart from not winning the battle on drugs, we are allowing ourselves to be wide open for arms to be brought into this Island? Does he not think that this issue needs to be addressed a lot more seriously and given much more priority?

The Speaker: Minister to reply.

The Minister: I think I would like to invite the Hon. Member – my colleague, Mr Karran – to come to the Department and talk to me about his concerns and explain in more detail what these are. This is a serious subject, drugs, and he is talking about armaments now. We do not want these things appearing in the Isle of Man.

If he has information about this, I want to hear it. (**A Member:** Hear, hear.) I invite him to come along to my Department and talk to me and put the information in front of me, and I will ask and I will arrange for the Constabulary to investigate it.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh then come with me to the Isle of Man Steam Packet Company and watch the procedures, as far as what has to happen? You have to x-ray the luggage to go in. Then ask the Hon. Minister to come to Liverpool on any day, or Heysham, and see. Where are the x-ray facilities? Where is the same priority put, as far as the import, as far as luggage is concerned, from passengers, as the export of luggage is concerned?

Would he then realise that the situation seems to be one-sided once again, and we are following the rules of the game and they are not. If they are not prepared to put that priority forward, surely his Department would be well advised to use the investment to provide that service, as far as protecting the Isle of Man is concerned.

The Speaker: Hon. Member, we have strayed considerably away from (**A Member:** Hear, hear.) the Question, which was to do with Jurby Prison – we seem to be reopening the questioning on Question 2 – but Minister to reply.

The Minister: I would just like to thank Mr Karran for his comments. I am well aware of the procedures on the Isle of Man boats. Like him, I too travel on the Steam Packet vessels.

The Speaker: Mr Gill, Member for Rushen.

Mr Gill: Yes, thank you.

Just as a matter of detail, when he says he will arrange for the Constabulary to investigate a matter, can the Minister confirm that he is not proposing any sort of political management or direction over the Constabulary?

The Speaker: Minister to reply.

The Minister: Yes, fair comment, Mr Speaker. I think that was a little bit of a loosely-worded comment from me.

The Speaker: A final supplementary, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

In connection with the 10 who are currently in Jurby Prison in the Isle of Man, can he advise when they arrived in the Island and whether, in fact, they arrived by sea or by air? If they arrived by sea, do we have responsibility for the checking of these people before they embark on the boat, or is that all provided for through Liverpool, or do we have to make a contribution towards it? Can he explain, please, what the process is if, in fact, these offenders entered the Island through the Steam Packet?

The Speaker: Reply, sir.

The Minister: Yes, thank you, Mr Speaker.

I am afraid I do not have that information to hand, but I am quite happy to write to the Hon. Member, Mrs Cannell, with that. I will get that investigated.

Mr Watterson: And all of us.

TREASURY**Broadcasting and TV licence fees
Costs to Manx taxpayer**

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

How much public money is spent, directly or indirectly, on (a) subsidising the BBC television licence fee for persons over 75 and those registered blind; and (b) any other costs paid on behalf of the Manx taxpayer to the UK Government in relation to maintaining the broadcasting infrastructure?

The Speaker: We turn back now to Question 3, 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 Minister for the Treasury, the Hon. Member for Ramsey, Mr Bell.

The Minister for the Treasury (Mr Bell): Mr Speaker, in respect of part (a) of the Question, the Social Security Division of the DHSS paid a sum of £616,425 to the BBC in 2007-08 in respect of television licences for those over 75 and those between 60 and 74 on Income Support. There is no payment from Government in respect of those persons registered blind.

In respect of part (b), I am not aware of any other payments made to the United Kingdom Government in respect of maintaining our broadcast infrastructure, which is done by the owners of that infrastructure. They recover this cost from the broadcasters who have access to and use such facilities. The owners of the infrastructure also pay licence fees to the Communications Commission amounting to around £30,000 per year.

The Speaker: Hon. Member for Malew and Santon, Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

Is the Treasury Minister aware of the beneficial owner of these masts and where the revenue goes to? Is it through a Manx company or does it go straight to the UK?

The Speaker: Reply, sir.

The Minister: I do not know, Mr Speaker. The only information I have is that the TV transmitter at Douglas is owned by Arqiva and National Grid Wireless, who pay us fees under the Radio Masts Regulation Act of Tynwald 1988.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I understand the pressing times at the present time, but is the Shirveishagh aware of any sort of cost and liability, as far as the Communications Commission having to do other roles in order to subsidise the situation, as far as the broadcasting infrastructure of the Isle of Man is concerned?

The Speaker: Mr Bell.

The Minister: These questions are more appropriate for the Minister for Home Affairs, I think, Mr Speaker. I do not have the answer.

TOURISM AND LEISURE**Free travel on buses
People entitled**

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

(a) What classes of people are entitled to free travel on the buses; and

(b) how many people are in each class?

The Speaker: We turn to Question 4 and I call on the Hon. Member for Rushen, Mr Watterson.

Mr Watterson: Thank you, sir.

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

The Speaker: Hon. Member for Middle, Mr Quayle, Minister for Tourism and Leisure.

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

In answer to the first part of the Question, there are several classes of people entitled to free travel on the buses, which are: Island residents aged 60 years and over, who are entitled to free travel on services running after 9 o'clock in the morning, Mondays to Fridays, and free travel on all services running on Saturdays, Sundays and public or bank holidays; Island residents who are permanently disabled and who are unable to work, as determined by the Department of Health and Social Security, are entitled to free travel on services running after 9.00 a.m., Mondays to Fridays, and free travel on all services running on Saturdays, Sundays and public or bank holidays – this free travel extends to the travel of a care assistant, where authorised; Island residents who are registered blind can travel free of charge at all times, including a guide dog; the Department of Education school pupils and students in full-time education at the Isle of Man College and the International Business School are entitled to free travel between their home and education base; and finally, two children under five years old may travel free with every adult passenger. In addition to this, the Drivers' Conditions Agreement entitles bus drivers to free travel permits. These permits are issued on request and cover the driver, their spouse and any dependent children in full-time education.

In answer to part (b) of the Question, my Department has drawn on the most accurate statistical information available, and according to this there are 18,284 Island residents aged 60 years and over, the Island has 203 registered blind people, and to date we have issued 69 free travel passes to residents in this category. The number of people registered as permanently disabled and unable to work on the Isle of Man is not available, but I can report that the Department of Health and Social Security has issued 612 concessionary

bus passes. There are 11,787 pupils in full-time compulsory education, 847 full-time College students and 50 full-time International Business School students, although we estimate that only one-third of the pupils use the free bus services. Finally, Mr Speaker, there are 4,110 children under five years of age. I can also advise Hon. Members that, through the Drivers' Conditions Agreement, a total of 766 staff passes have been issued, although in practice it is thought that few of these are used.

Thank you, Mr Speaker.

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

Can the Minister advise whether or not his Department receives complaints of bus drivers failing to pick passengers up at bus stops?

A Member: What has that got to do with it?

The Speaker: Minister, you may or may not be able to deal with that question.

The Minister: Thank you, Mr Speaker.

I think that was dealt with previously by a Question in this House or in another place.

The Speaker: Mr Watterson.

Mr Watterson: Thank you.

Does the Minister feel that it is appropriate for 766 passes to go out to drivers, spouses and children? I just find that an incredible number. Can he please justify why that is the case? Will he also confirm whether former employees and any civil servants are covered in that number?

The Speaker: Reply, sir.

The Minister: Thank you, Mr Speaker.

It is under existing terms and conditions, so any change to those conditions would obviously impact upon the provision of these passes.

In terms of civil servants, I have alluded to the ones that are available under the licence and agreement that we have in place at the moment, but I can certainly provide that information if it is different to what I have given.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh consider that maybe people are looking from the wrong angle, as far as this issue? Allowing for the fact that we have put so much money into car parking and the proposals for a massive amount of car parking to be developed, is it not time that we address the issue and give free transport for all to get rid of as much congestion off the roads?

The Speaker: Minister.

The Minister: Thank you, Mr Speaker.

Potentially a laudable objective, but in fact it would require huge amounts of extra resources in terms of extra vehicles, staffing and the consequent costs of providing all of that. We do encourage as many people as possible to take

up the opportunities of using public transport and I think, overall, the Department of Tourism and Leisure, in providing for the fare-paying members of the public, together with the provision it makes for school children and for the senior citizens... I think, overall, the Island is blessed with a very good service.

The Speaker: Mr Watterson.

Mr Watterson: Will the Minister confirm whether these concessionary passes – the ones given to drivers and their families – are the same as the 60-plus and the disabled ones, in that they are not entitled to peak-time travel? Will he also confirm – I missed his answer last time – whether former employees are entitled to free travel – I am talking about people who are not retired, are not over 60, but have left the bus service – and whether he is reviewing this and whether he feels that the situation is sustainable and appropriate?

The Speaker: Minister to reply.

The Minister: Yes, thank you, Mr Speaker.

In terms of the concessionary passes, it would be my understanding that they are able to be used at any time. If the bus drivers are required to potentially get to work and so on, then it would not be sensible to expect them to travel after 9.00 a.m. in the morning.

Mr Watterson: And their children and partners?

The Minister: Certainly, with the new bus-ticketing system, which is currently being implemented, we will have a lot more up-to-date and accurate information than is currently available. It is felt, as I mentioned earlier, that not too many people are utilising the buses for free transport, but of course, the new ticketing system will clearly identify however many are using the facility.

In relation to former employees, whenever a driver leaves, for example, if they are ceasing employment they are required to return all passes.

The Speaker: Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

Can I ask the Minister, in terms of his comments regarding the question on why don't you make travel on the buses free for all, he responded by saying it would require an increase in costs, in personnel and in vehicles. Can he explain what he means by that? Does he mean that, if we were to make free bus travel for all as part of a very green and environmentally-friendly policy, he is anticipating that there would be an increase in the demand that currently exists; and if he does, has he got any evidence to back that up?

Finally, Mr Speaker, can I ask him, of the figures that he has given us this morning, in terms of bus drivers and their families, which includes their spouse or children, has he not already given us the answer to children, in that the children who are in full-time education can travel free, and so of the 11,700-and-something children who are travelling free, who are in full time education, what is the difference? He has given us 766 for bus drivers and families, including the children. Should he not have taken the equation of children out of that figure and included it in the figure given for children in full-time education? Is it not misleading, those two figures?

The Speaker: Mr Quayle.

The Minister: Yes, thank you, Mr Speaker.

In terms of the overall figures, the amount of 766 is rather inconsequential compared to the thousands of bus users and the insignificant amount of income that is lost is very small, as it is felt that, although the passes are issued, there is not a wide take up of the people who have the passes and are entitled to use the free transport.

In terms of the question to do with providing a free-for-all, (*Laughter*) then it is my understanding that, quite clearly, we would receive more of a take up of people using the buses and that would potentially have a situation where there would be over capacity and we would not be able to provide the public transport for all that would, potentially, require such a facility. So that is why I believe, without any evidence, that quite clearly if we provide free buses for all, then there would be an increased amount of take up and that would necessitate extra provision of buses and more staff because there are times now where we are running at peak periods and have not got the amount of buses or staff to provide the facilities, even at this stage, when free transport is not provided for everybody.

The Speaker: One final supplementary, then we must move on. Mr Watterson.

Mr Watterson: Yes, I do not think I quite got an answer to the last one, in terms of does he feel this is appropriate and will he agree to review the situation?

The Speaker: Minister to reply.

The Minister: Sorry, I missed the actual question. Appropriate for?

Mr Watterson: Does he feel that the 766 passes are justified, reasonable and will he review the situation?

The Speaker: Reply, sir.

The Minister: Thank you, Mr Speaker.

We are always ready to look at things to improve, where necessary. As I mentioned, the new bus ticketing system will give us far greater and more accurate information on those who are using the free buses at the moment. As I have mentioned, it is felt that there are not too many people taking advantage of the free provision of bus services but we will be able to look at it in more detail with more clarity when we have the information to hand.

AGRICULTURE, FISHERIES AND FORESTRY

Scallops

DAFF policy on undersized catches

1.5. The Hon. Member for Michael (Mr Cannan) to ask the Minister for Agriculture, Fisheries and Forestry:

Whether it is the policy of his Department to permit a maximum of 10 per cent of undersized scallops in any one catch to be landed without the skipper and owner of

the fishing vessel being prosecuted?

The Speaker: Turn to Question 5. Hon. Member for Michael, Mr Cannan.

Mr Cannan: Mr Speaker, I ask the Question standing in my name, sir.

The Speaker: I call on the Minister for Agriculture, Fisheries and Forestry, Hon. Member, Mr Gawne.

The Minister for Agriculture, Fisheries and Forestry (Mr Gawne): Gura mie eu, Loayreyder.

My Department recognises that fishing is a difficult and extremely demanding occupation. Officers of the Department accept that occasionally there will be genuine mistakes made during the sorting of a haul of several hundred scallops. It is in view of this fact that the Department has a consistent policy to determine when it would be appropriate to seek a prosecution, to issue a written or verbal caution or to take no action following the detection of undersized scallops.

This policy is understood and endorsed by officers working within the Attorney General's Chambers. Consideration is always given to the quantity of undersized scallops found, how small these scallops were found to be and whether the individual skipper had previously received a written or verbal warning for a similar offence before the matter is referred to the Attorney General's Chambers for a decision.

Gura mie eu.

The Speaker: Mr Cannan.

Mr Cannan: I thank the Minister for his Answer but will the Minister agree that he has received written representations from fishermen that there is dissatisfaction amongst them at the inconsistency in the penalties for landing undersized scallops? Some receive a caution, some prosecuted, some have their vessels detained until a court hearing and this is causing, as I have just said, dissatisfaction. What action will the Minister take to reassure fishermen, on these representations that he has received, that there is a level playing field?

The Speaker: Minister to reply.

The Minister: Gura mie eu, Loayreyder.

Certainly, in terms of reassurance in a specific case which occurred – I think it was last month – there were certainly allegations made against inconsistencies in the way in which the Department had carried out its duties. As soon as I received these allegations I immediately referred the matter to the Attorney General's Chambers for consideration and, as I understand it, the Attorney General has considered all the facts in this particular case and has confirmed that the Department has acted appropriately and consistently.

Indeed, I think the only inconsistency it had with regard to this case is in relation to the one letter that I have... letters that I have received from one particular fisherman who was, in fact, caught in exactly the same circumstances in 1995. He actually received no formal written caution for an exactly similar offence whereas, in this particular case, a formal written caution has been issued and I think that shows that our fisheries team are actively being more responsible in the way in which they prosecute these matters.

The Speaker: Mr Cannan.

Mr Cannan: Can I ask the Minister, without getting too much into personalities, that has he not only received a written complaint from fishermen but also has had telephone complaints... allegations made that he has received telephone complaints from fishermen regarding the whole of this issue and that there is dissatisfaction amongst them about the consistency of enforcement and, for the sake of good order in the fishing industry, will he make it widely known amongst the industry that there will be a consistent enforcement?

The Speaker: Reply, sir.

The Minister: Gura mie eu, Loayreyder.

Yes, indeed, I am very happy to confirm that we have a consistent policy. I am pleased that the Attorney General has endorsed the way in which our fisheries team operates and, naturally, I am concerned when rumours start flying around the fishing industry that there have been inconsistencies in the way in which we have dealt with matters. I am concerned about that.

I have received one phone call about that, together with several letters from one of Mr Cannan's constituents and, yes, obviously I do take these matters very seriously. That is why, when I received a second letter from Mr Cannan's constituent which had serious allegations in it, I immediately referred the matter to the Attorney General to ensure that it was not just seen as DAFF looking into the matter themselves and saying, 'Oh, yes, what excellent chaps we are.' No, we actually sent it out to an independent person for review and I believe that the findings of that review are that the Department has acted consistently.

If I, as Minister, found that we were not acting consistently, I would certainly have some very serious words with my fisheries team because it is important, it is vitally important, that the fishermen believe that our team are acting consistently in these matters.

HEALTH AND SOCIAL SECURITY

Director of Health Strategy and Performance Person currently responsible

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

Who is currently carrying out the duties of Director of Health Strategy and Performance?

The Speaker: We turn to Question 6. Again, the Hon. Member for Michael, Mr Cannan.

Mr Cannan: I ask the Question standing in my name, sir.

The Speaker: I call on the Minister for Health and Social Security, Hon. Member for Ayre, Mr Teare.

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

Mr Tony Jones, General Manager, Primary Care, has

kindly agreed to carry out the duties of the Director of Health Strategy and Performance on a temporary basis. I do appreciate his support in this regard, sir.

The Speaker: Mr Cannan.

Mr Cannan: Will the Minister acknowledge that it was reported in the media that the Director of Health Strategy and Performance was suspended from duties in January? What were the terms or causes of this suspension? In the media it stated 'inappropriate behaviour'.

The Speaker: Minister to reply.

The Minister: On an inappropriate basis, sir, I think it would be inappropriate for me to comment on the particular circumstances of an individual case. However, I would say that the Department is following the long-established Civil Service procedures for dealing with allegations of this nature.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that, maybe, this just highlights the point that we do need to look at the issue of how we deal with civil servants, as far as issues are concerned, and whether there is a need for a review, particularly at the top of the Civil Service, to make sure that the general public gets the service that it deserves for the taxpayers' money that is spent on them?

The Speaker: Mr Teare.

The Minister: We are constantly looking at ways of delivering our services in a more efficient manner, but the Hon. Member who has just resumed his seat will be aware that when the Department attempts, on occasion, to change the way it delivers service that this at times does attract some criticism, so we are between the proverbial rock and a hard place, sir.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree that if the priority was less on trying to hit the services but actually make more proper efficiencies and make sure that he has control over his senior civil servants, like on many of the other Government Departments, maybe that would be a far better way to get his efficiencies and he might not be so often between a rock and a hard place?

The Speaker: We are widening out. Mr Teare.

The Minister: I am pleased to confirm, sir, that we have not hit services – quite the reverse. We have just announced last week in this Hon. House the delivery of the HPV vaccine and what is that? That is another service. Hardly hitting services, sir.

The Speaker: Final supplementary, Mr Cannan.

Mr Cannan: Thank you, Mr Speaker. Would the Minister not agree it is a cause for concern when a very senior executive, in a salary band £70,000-

£90,000 a year, has to be suspended for inappropriate behaviour during office hours? How long is this suspension and the matter to continue and how long will the matter be brought to conclusion?

The Speaker: Minister.

The Minister: It is a cause for concern but, as I said in the answer to a previous supplementary, sir, it would be inappropriate for me to comment on any particular case. As proposed to how long, we are dealing with it as quickly as we can, sir.

EDUCATION

DoE redundancies and cutbacks Requirements and avoidance

1.7. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Education:

Whether her Department is currently under a requirement to impose redundancies and other cutbacks, and if so, whether and how this could have been avoided?

The Speaker: We turn to Question 7. Hon. Member for Onchan, Mr Karran.

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

The Speaker: I call on the Minister for Education, the Hon. Member for Ramsey, Mrs Craine, to reply.

The Minister for Education (Mrs Craine): Thank you, Mr Speaker.

I would like to thank the Hon. Member for his Question.

I am pleased to say that the only requirements placed upon the Department of Education are the same as those placed on all Departments; specifically to work within the budget allocated to it with the approval of Tynwald and with the knowledge that Treasury will not be a position to consider any requests for supplementary votes in addition to the budget allocated for 2009-10.

As Members are aware, pay rises resulting from reviews, national agreements and promotions often used to be met from requests for supplementary votes. However, in the absence of this option in the new financial year 2009-10, the Department of Education will have to find an estimated £1.6 million from within its budget, which is about one-and-a-half per cent of the Department's total. Accordingly, and in keeping with our prudent strategic financial management, all services and sections of the Department are being required to contribute proportionately to this total. Budget holders and head teachers will be able to make savings from staffing and non-staffing budgets, according to their priorities for maintaining high quality services to pupils and the community.

In certain schools, where pupil numbers are falling, the number of jobs needed shrinks. In other schools, where pupil numbers are steady or even increasing the Department will be looking to use its redeployment policy to engage these

people, who may no longer be required elsewhere. In many instances, where a post is no longer needed in one area of the service, the post-holder may be redeployed to a vacancy in a different area. These arrangements take place within the Department every year as part of the year-to-year adjustment of matching resources to need. The need to do so this year is slightly greater because of the previously outlined factors, but redundancies will be avoided wherever possible by using a combination of natural wastage and redeployment.

Clearly, the Education service is people-intensive and that is where the main costs lie. I am, however, confident the savings we need to make can be managed properly and with a minimum of adverse effects on the service.

The Speaker: Hon. Member, Mr Watterson.

Mr Watterson: Is the Minister aware of any specific concerns from Castle Rushen High School with regard to this particular issue? Is there, for example, a maximum drop in funding that a school can expect in any one year, as a result of the funding formula that she has, or are there safeguards to ensure that there is not a drastic change in the budget one year to the next, to allow for proper planning?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

Yes, the Hon. Member is quite right, this is a situation that is occurring at Castle Rushen High School, but is predominantly as an effect of all of the schools in the south actually suffering from a fall in roll at the present time.

It is possible to predict where the numbers are falling and therefore anticipate where the budgets are likely to consequently reduce, but there is not a minimum figure by which the budget will be affected. It really depends on providing the adequate budget for the numbers of pupils in the school.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, can the Shirveishagh Ynsee, the Minister for Education, just inform this Hon. House, so there is no proposed redundancies in the very near future? Can she give any assurances that there will not be redundancies within the teaching staff over the next educational year?

Is she aware of the position of people being brought from the United Kingdom to be interviewed and then told that there is no jobs available, after they have been brought to interview? Is this not just another factor of the Budget that every Member of Tynwald, apart from myself, supported and this is a consequence of that Budget?

The Speaker: Mrs Craine to reply.

The Minister: Thank you, Mr Speaker.

Clearly, as I have just said, Mr Speaker, I cannot make those guarantees that there will be no redundancies. What we are endeavouring to do in the Department at the present time is to match up the number of staff that we have with the number of pupils on roll and to try and place those members of staff where they are appropriately suited to carry out their employment. That may apply equally to works staff, school meals staff or, indeed, to teachers, so I cannot give guarantees

at the present time, but I do, once more, say that we will be doing everything that we can to go down the avenue of redeployment and looking at natural wastage long before we encounter redundancy.

I am not aware of members of the public being brought over to be interviewed for positions in the Department and then being told that there are no jobs, but I would be happy to hear of that from the Hon. Member after this sitting.

The Speaker: Mr Watterson.

Mr Watterson: Thank you.

I appreciate the Minister may not have the numbers on her but would she mind circulating how many pupils there were at Castle Rushen High School the last school year and this; and the budget for Castle Rushen High School last school year and this; and if she would not mind also sharing with us the formula out of which the finances are derived, if that would be possible, please, sir?

The Speaker: Minister to reply.

The Minister: Certainly, I am happy to circulate the information that the Hon. Member requires. The formula is quite complicated and I think it would be unwise to circulate that, Mr Speaker, because it needs to be gone through.

I would suggest that any Member who wishes to go through the formula with the Director of Education would be more than welcome to do so, but it is not something that can be just understood on a blank sheet of paper, sir.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, could the Shirveishagh Ynsee – allowing for the fact that she is now having to inherit the problems of years of bad spending practice because of the lack of accountability in this Hon. Chamber – look at such white elephants as the likes of the International Business School and other things, likes of that, as ways of cutting back there, in order to protect the core principles and services of her Ministry, allowing for the fact that there must be something in the region of about £40 million has been spent on the IBS since its creation?

The Speaker: Minister to reply.

The Minister: I thank the Hon. Member, Mr Speaker.

In fact, I would disagree with him that the International Business School is in any way a white elephant these days. What we are doing there is providing all of our higher education courses, as far as possible, at the Nunnery site. I would invite him to come and have a look to see what is happening down there.

In fact, what we have been able to do is therefore free up time or space at the Isle of Man College to be able to concentrate on our vocational courses up there, so that the system that is introduced at the moment is working very well indeed. I would welcome Hon. Members to come and have a look to see how that is progressing.

The Speaker: Mr Gill.

Mr Gill: Thank you, Mr Speaker.

On a similar theme, would the Minister invite Members

to discuss with her various budgets within the Department, some of which are a very marginal benefit to any number of young people? At the time when we are being told that budgets are being stretched and she cannot guarantee core activities will continue, will she extend an invitation to Members to discuss those budgets and will she fully brief and circulate the response to all Members of this House and another place, sir?

The Speaker: Mrs Craine.

The Minister: Yes, I am not quite clear, Mr Speaker, which brief I am supposed to be circulating.

The Speaker: Mr Gill to clarify.

Mr Gill: I will try to make it more simple, sir, if that is difficult. Firstly, will the Minister extend an invitation to Members of this House and another place to discuss the various budgets within the Department headings; those budgets which are of marginal or questionable need for the core activities of education in the Isle of Man? Will she consider those with those Members and will she circulate that advice and response from the Department to Members of this House and another place?

The Speaker: Minister.

The Minister: I do think that we are getting down to micro-management, Mr Speaker and, no, I will not go down that process.

If Hon. Members have any issues that they wish to come and discuss with the Department on an individual basis, I am more than happy to discuss those with them. I know the budget that the Hon. Member is referring to and, like every other budget in the Department, we will be looking to make cuts of 1½ per cent, as already indicated, across the whole of the Department and that will include all sections and all areas.

The Speaker: Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

Could the Shirveishagh Ynsee confirm that the Department of Education has been issued with no directive currently to make staff redundant and the Department itself has issued no directives to school that currently staff will be made redundant. If we can just confirm that.

Can she further confirm that, over the past few years, the Department of Education has demonstrated that it is able to manage within its budget and certainly, with regard to its project, has an excellent record of bringing projects in on time and within and slightly under budget in the main?

The Speaker: Minister to reply.

The Minister: Yes, thank you, Mr Speaker.

Indeed, I would confirm that the Department has not issued any directive that staff are to be made redundant and that is, in addition to talking to head teachers, a discussion has taken place with the unions as well and I am happy to clarify that issue.

Certainly, in the last few years I am pleased to say that the Department of Education has worked well within its budget

and has an exemplary record for bringing capital projects in on time and within or under budget.

The Speaker: Final supplementary goes to Mrs Cannell, Hon. Member for Douglas East.

Mrs Cannell: Thank you, Mr Speaker.

Can I ask the Education Minister, other than to refer to the excellent record that the Department has had historically for managing its budget and bringing capital schemes in on time and within budget, can the Minister explain what happened to change that this year? Why is the need greater? Why is the Department having to find £1.6 million? How did the process, pre-budget, differ in terms of determining what was required for the forthcoming financial year, because quite clearly something did change, because otherwise the Department would not find itself in this position? Was it because the Department did not anticipate sufficiently what it would need in order to provide and keep in place the current teaching provisions that we have, or was it something, an oversight, that was the fault of Treasury?

How did the process change and how is she having to make a 1½ per cent cut across the Department? Accepting that all of us who work in Departments are looking to see if we can make savings, not necessarily cutbacks, can she explain how the process changed and would she agree with me that the very fact that the teachers and the schools are now worried that they will have to lay people off because there is not sufficient money coming from the Department with which to manage their affairs for the forthcoming financial year, is really a huge oversight on behalf of Government and I am asking her really who is responsible? Is it Education, is it Treasury?

The Speaker: Minister to reply.

The Minister: Thank you, Mr Speaker.

I find this quite an astonishing question because it seems to have bypassed the Hon. Member that we are in the midst of a current financial crisis and we have been all asked – every Department has been asked – to be prudent about its budgets and we have all agreed that we can manage well within the budgets that we have. I do not suggest for one minute that we are cutting back on services. In fact, that has been made very clear to our teaching staff, as I have said, to the head teachers and so on.

The difference this year is that we will be finding from within our allocated budget £1.6 million that, previously, we would have been able to come to Tynwald for a supplementary vote later on in the year. We are comfortable with that, given that we have falling rolls and that we believe that we can manage our budgets so that we can continue to provide a sensible and good service for the students who are in our care. I have no qualms about that. There is no nervousness out in our schools about redundancies being made and, if there are, then that is a matter that should not frankly be getting talked up.

I believe that we, along with all other Departments in Government, have to share the pain on this occasion. I believe that we are well equipped to be able to do so, Mr Speaker.

The Speaker: Now, Hon. Members, that brings us to the end of Oral Question Time.

Procedural

The Speaker: Written Answers, Questions have been distributed.

Hon. Members will see that the Minister for Tourism and Leisure has declined to reply to the second part of Question 1, giving his reasons as commercial confidentiality. The Minister has not, however, complied with requirements of Standing Orders 3.10 in notifying me 24 hours in advance of his refusal so that I might report to the House whether I consider that refusal justified.

In relation to Question 1 for Written Answer, therefore, the Minister is in breach of Standing Orders 3.10 and I do call upon him to notify me formally of his reasons for declining to provide the information requested by Question 1. I will report on the matter at the sitting of the House when we assemble in Tynwald Court for the monthly sitting. (**Mr Cannan:** Hear, hear)

Questions for Written Answer

TOURISM AND LEISURE

‘TT Sponsorship and TT Contract’ Breakdown of budgeted costs

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

(a) In relation to the entry on page 31 of the Pink Book – *Tourism and Leisure: New Areas of Spending*, under the heading ‘TT Sponsorship and TT Contract’, where an amount of £815,000 has been allocated, what the breakdown is of the sum allocated in respect of –

- (i) television;
 - (ii) sponsorship; and
 - (iii) any other costs; and
- (b) if he will provide supporting information on each of the headings at (i), (ii) and (iii) above?

Answer: (a) I would, firstly, advise that this entry does not, strictly speaking, relate to ‘new’ areas of spending but is actually the result of a reclassification of expenditure that has generally been undertaken either by the Department or on the Department’s behalf.

Historically, a single figure has been provided showing the difference between income and expenditure as one amount. As a result of the Department exercising a greater degree of control over the administration of income and expenditure items, it was felt appropriate to provide figures for both income and expenditure. The result is simply one of presentation and has no material impact upon the Department’s finances. Of course, the figures are estimates, and are subject to a variety of factors that might result in them being higher or lower than the amounts stated.

(b) I regret that I am unable to provide the requested breakdown of the figures provided in the Pink Book for reasons of commercial confidentiality. Whilst I appreciate that this may cause concern to some Hon. Members, it is the situation that was referred to by my predecessor and is

a position that I am content to support, as it is in the best interests of the Manx taxpayers.

**Bus service
New livery scheme and costs**

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

- (a) *If he will explain the rationale behind the new bus livery scheme for the Island's bus service;*
 (b) *how much this scheme will cost the taxpayer;*
 (c) *given the economic climate, if he will confirm that any expenditure has been sanctioned and explain how it is justified; and*
 (d) *when he will consider re-introducing advertising on buses?*

Answer: (a) The Department is in the process of a comprehensive review of its bus services. As part of that review, the Department has produced a detailed specification for new buses which has formed the basis of the order for 11 new Wrightbus Volvo double decks, which are currently in the course of delivery to the Island.

As part of the process, it was decided to adopt a new operating brand, Bus Vannin, and to improve the appearance of the buses with a new livery.

The new livery is still basically red and cream but it has been improved by deepening the colours and making them much richer – the bright red has become maroon and the creamy off-white has become a true cream. In many respects, the colours of the new livery link the past to the future, in that the colours reflect the very early days of public transport on the Island.

The rationale behind the new brand and the new colour scheme is twofold:

(i) We wanted to make a statement with the buses because, not only are they a different colour scheme, there are significant improvements in terms of passenger comfort and safety;

(ii) The current red fades badly over its life and we wanted a deeper colour which was less prone to fading.

(b) In terms of the new buses, there is no additional cost since we were simply choosing slightly different colours than we would otherwise have done.

The new colour scheme has been deliberately chosen so that it can sit alongside the existing livery. There is no intention to repaint or reupholster the existing fleet until it becomes necessary. Where repainting or refitting becomes necessary, we will do so in the new livery.

Through the purchase of new buses and essential repainting and refitting, we will migrate to the new livery over a period of time at no additional cost.

(c) Since no additional expenditure will be needed, this is not an issue.

(d) In 2008 the Department reintroduced side panel advertising on some buses, albeit that this advertising was purely for its own facilities and services.

Based upon the success of that trial and a positive public reaction, the Department advertised and tendered for a private sector partner who wished to sell and manage side panel advertising on our buses. That contract has been

provisionally awarded and details of the contract are currently being finalised.

**LOCAL GOVERNMENT AND THE
ENVIRONMENT**

**Phosphorus canisters at Point of Ayre
Environmental damage and response**

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

- (a) *With reference to the burning/leaking phosphorus canisters which are turning up on a regular basis around the Point of Ayre, if he will explain what they are and where they come from; what danger they pose to the public; what damage they cause to the environment; and what health and safety initiatives are being undertaken as a result; and*
 (b) *if the source of the canisters is known, what his Department is doing about it?*

Answer: The Coastguard has advised that there has been a total of three phosphorus canisters washed up on shore in the area between Rue Point and Point of Ayre in recent months.

We have no knowledge of their point of origin but they appear similar to those that came ashore in the 1990s. These earlier canisters were identified as containing phosphorus, were probably used in the production of munitions and were traced to the Beaufort's Dyke.

Given that we have had a protracted period of northerly winds we can only speculate that the present canisters may have come from the same point of origin.

All canisters were located and reported by members of the public and, despite an extensive search by the Coastguard, no further canisters have been found.

The procedure adopted for dealing with such canisters is to ensure that the public do not have access to the area and to allow the canisters to burn off. Whilst the burning does produce a harmful gas, it readily disperses to atmosphere so that the risk is quite localised. If the canisters have not commenced to combust, the Fire and Rescue Service is asked to recover them and carry out a controlled disposal by burning.

Enquiries are being made with the UK and Irish Coastguard to see if any other coastline has been affected and what, if any, further measures can be taken in connection with the disposal of the canisters.

Regular media releases are issued to advise the public of the dangers associated with any items washed up on shore.

HEALTH AND SOCIAL SECURITY

**NHS orthopaedic surgery
Medical staff employed by DHSS**

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

- (a) How many orthopaedic consultants, and other medical staff who can undertake orthopaedic surgery such as hip and knee replacements, are employed by his Department and how many hours per week they are currently contracted to undertake NHS patient surgery;
- (b) how many NHS patients are waiting for –
- (i) hip replacements; and
- (ii) knee replacements; and
- (c) when he will instigate a waiting list initiative to reduce the waiting times and the numbers of patients waiting?

Answer: (a) At the present time, the Department employs three consultant surgeons who undertake hip and knee replacement surgery. An additional consultant is also employed, who undertakes alternative orthopaedic surgery; he does not undertake joint replacements. Each consultant surgeon is currently contracted to undertake 12 hours of NHS surgery per week. The joint replacement surgery is only undertaken by consultants. Other medical staff assist them in these procedures.

(b) As at 31st March 2009, there are 36 patients waiting for knee replacement surgery and 22 patients waiting for hip replacement surgery who have not been given an operation date.

(c) At the present time, one additional joint operation is undertaken each week, in the evening, under waiting list initiative. Any spare capacity in private orthopaedic operating sessions is utilised for NHS joint surgery. The planned retirement and replacement of one of the orthopaedic consultants, who does not undertake joint surgery, in October this year, will mean that a replacement will be recruited into this post to join the team. This surgeon will undertake joint surgery. As a consequence, we will have four consultants carrying out these procedures.

Once the new consultant has started, and by this time, the motorsport periods will have passed, we will be able to review the feasibility of further waiting list initiatives to reduce the waiting times and numbers of patients waiting.

Orders of the Day

BILL FOR SECOND READING

Terrorism (Finance) Bill **Second Reading approved**

3.1. Mr Earnshaw to move:

That the Terrorism (Finance) Bill be read the second time.

The Speaker: Hon. Members, we turn now to Item 3 on our Order Paper, Bills for Second Reading, the Terrorism (Finance) Bill and I call on Mr Earnshaw to move the Second Reading, sir.

Mr Earnshaw: Thank you, Mr Speaker.

The background to the Terrorism (Finance) Bill lies in the concerns of the international community and, in particular,

those of the United Kingdom, where the threat of terrorism is rated as severe, with a future attack considered to be highly likely. The United Kingdom Government has indicated that there is a real and present threat from persons using all possible means to finance hostile activities.

Mr Speaker, the main purpose of the Terrorism (Finance) Bill is to enable the Treasury to act in relation to a person or persons engaging in regulated business where one of three conditions is met. The first condition is that the Financial Action Task Force has called for action to be taken against a country because of the risk of money-laundering or terrorist financing.

The second condition is the Treasury reasonably believes that a particular country poses a significant risk to the Island's national interests because of the risk of money-laundering and terrorist financing.

The third condition is the Treasury reasonably believes a country poses a risk to the Island's interests because of the production of nuclear, radiological, biological or chemical weapons, or the facilitation of such developments.

If the Treasury is satisfied one of the conditions is met, it may issue a direction to a person, a business or a class of regulated business, requiring them to carry out additional precautions, monitoring or reporting or to limit or cease transactions with a certain person, business or country.

The Bill establishes a procedure by which a direction can be challenged in court if a person or business considers the restrictions against them are unwarranted or unjust. This appeals process will also apply to other terrorism-related, financial restrictive measures that the Treasury already has the power to impose.

In addition, the Bill provides that offences committed wholly or partly outside of the Isle of Man by a Manx person or business may be prosecuted as if they had been committed in the Island. This is increasingly the practice internationally in relation to serious offences and is to ensure that a person cannot commit an offence in one jurisdiction and then avoid justice by returning to their home jurisdiction.

Finally, Mr Speaker, the Bill provides for two minor amendments to be made to the Anti-Terrorism and Crime Act 2003. The first amends section 1 of the Act so that extreme actions committed with a racial motive may be considered to be terrorism in the same way as actions carried out in the name of religion, ideology or politics. The second amendment to the 2003 Act brings the disclosure of sensitive information in relation to a freezing order into line with the procedure for a direction under this Bill.

Mr Speaker, Hon. Members will be aware that the Government's legislative programme included a Bill to update the Island's anti-terrorism legislation. It is the practice of the Department to try to keep abreast of developments in other jurisdictions, as it is important to ensure that our legislation, particularly in such a significant matter as terrorism, is compatible with neighbouring jurisdictions. The Department have, therefore, examined recent UK anti-terrorism legislation, including the Counter-Terrorism Act 2008, to determine which provisions it was appropriate to adapt to the Island's circumstances.

Drafting instructions were sent to the Attorney General's Chambers in February. Early in March 2009, the United Kingdom Treasury approached the Isle of Man Government to discuss the risk to the Island from those who might wish to circumvent the money-laundering and terrorist-financing

provisions of schedule 7 to the 2008 Act by conducting their business here instead of in the United Kingdom.

The United Kingdom acknowledged that the Island had robust anti money-laundering counter-terrorist financing, but advised schedule 7 of the 2008 Act contained important additional powers, particularly where the Financial Action Task Force has concerns about a country or where there are concerns over weapons proliferation.

Hon. Members may be aware that the United Kingdom Home Office recently published the United Kingdom's new counter-terrorism strategy, which includes specific reference to there being an increased threat from chemical, biological, radiological and nuclear weapons. The Isle of Man Government was asked by the United Kingdom to consider agreeing to the extension of the operation of the powers in schedule 7 of their Act by Order in Council to cover regulated businesses based in the Isle of Man.

Mr Speaker, the Island has a long-established practice of legislating for itself and the view of the Council of Ministers was this matter should be subject to Manx legislation tailored to the Island's situation. The Council of Ministers, therefore, decided the United Kingdom's powers should not be extended but instead, agreed that, as the provisions were already included in the Terrorism Bill being drafted, these should be progressed as a matter of urgency and the main substance of the Island's proposed Terrorism Bill would be progressed at a later date.

The Council of Ministers shares the United Kingdom's concerns about displacement activity and so is promoting this Bill as a matter of urgency in order to protect the national and economic interests of the Island and to ensure the Island's good reputation is protected from any possible link to terrorist financing or to money laundering.

Given the urgency for introducing the Terrorism (Finance) Bill, the Council of Ministers agreed that the requirement to consult under the Code of Practice on Consultation should be waived on this occasion. However, the Island's supervisory authorities were asked for their views on the Bill and where possible, the comments received have been taken into account.

Although based on the United Kingdom provisions, for our Bill they have been completely recast by the Attorney General's Chambers and are not simply a copy of the United Kingdom legislation. That is both for legal drafting presentation reasons and to adopt, as near as possible, legislation that fits in with and works well in the Island context.

Mr Speaker, I am very grateful that so many Members were able to attend the presentation about this Bill at quite short notice last Tuesday.

Mr Gill: Very short.

Mr Earnshaw: I hope both the presentation itself and the letter with additional information I circulated after it, were helpful to you.

Mr Speaker, the Isle of Man Government's policy has always been to protect the Island's reputation as a well-regulated, transparent and co-operative jurisdiction determined to play its part in preventing terrorism and financial crime. Such matters remain very high on the international agenda, particularly with the follow-up from the G20 conference and the United Kingdom Foot Review. Consequently, the Council of Ministers has agreed that it is of

vital importance to the Island's national and economic interest for the Bill to be progressed as a matter of urgency. Indeed, to do otherwise would leave the Island vulnerable and in danger of having less robust measures than other countries.

Mr Speaker, I beg to move the Second Reading of the Terrorism (Finance) Bill 2009.

Thank you.

The Speaker: I call on the Chief Minister.

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

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

Mr Gill: Thank you.

I thank the Minister for his speech and for arranging the – not short, but very late-notice – briefing to Members and five-page letter which he sent to Members. That letter of 3rd April, as I am going to refer to it, Mr Speaker, could I ask that that be entered into *Hansard* in full?

The Speaker consulted with the Secretary of the House

The Speaker: My advice, Hon. Members, is that there is no provision under Standing Orders to enter in full the document in question. My recommendation is that you place it in the Library for the public record and for Members to consult.

Mr Gill: Thank you, Mr Speaker.

I will, however, refer to excerpts from it in today's sitting.

The Speaker: You are certainly entitled to do that, sir.

Mr Gill: First of all, if I can begin with the bits that the Minister will be pleased to hear that I agree with. I agree that we need this legislation, not so certain about the timing of it, but that is a matter outside of my competence and knowledge, and if we are told it is so urgent, then we have to deal with it as an urgent matter.

I certainly congratulate the Council of Ministers for resisting the UK Treasury's proposal (**Mr Brown and another Member:** Hear, hear.) to extend their legislation and that we should make our own. That is entirely right, and I commend the Council of Ministers and the Home Affairs Minister for that.

Really, it does no good to dwell too far on the background in the explanatory memorandum – that is perhaps for another day – but I would say there are two elements of this, I would contend, which are frankly being caught up in the net, a net of hysteria that we have seen elsewhere, and indeed in the Isle of Man, where anything with terrorism in it is a *carte blanche* to just get away with any power, however excessive or frankly unnecessary.

I wish to quote two examples in support of that contention. The first is the provision... We were told at the meeting that this was a new provision. It is a pretty important provision and it is quite alarming that the drafters make a statement – or the people who are advising us make a statement – which is factually inaccurate, as it turns out, that this was a new power that we would allow enforcement officers inspection to enter premises without a warrant. That is one of the facets...

If you look at a police state, one of the facets is that police are not accountable to anybody. It is the function of a police state. They do not have to have permission from an independent member of the judiciary or the magistracy; they can just act as they wish. They can enter premises willy-nilly without good cause. I know they will say, 'Oh, no, you have to have good cause,' but you do not have to prove that good cause to anybody other than yourself.

Whilst I am not making any allegation against any of our enforcement officers today, the possibility is tomorrow or the day after, we will have officers who will behave unreasonably, and if the effect of this Bill is allowed to be supported, we have given them that *carte blanche* into the future, and that is a very worrying trend that we should all be very alive to.

The second motion which we are advised that the Home Affairs Department have made a policy change on the previous time we had a Terrorism and Crime Bill in 2003, there was an amendment to that to add a sunset clause, and many of us in this House who were there at that time supported that. I did. I seconded many of the provisions of that Bill and saw there was absolutely no contradiction with supporting a sunset clause, because what does that do? It gives parliament the five-year, or whatever, the periodic – in this case five-year, but a periodic – review of the necessity for legislation, and that is surely a good thing.

That is a good thing that parliament reviews and reaffirms the need for legislation. We did that in 2008. It did not engender a... for the 2003 Bill. Five years later, in 2008, there was not a big debate, as I recall. It was overwhelmingly supported. It was not a big deal. But now we are told that the Home Affairs Department have made a policy change and that because the risk of terrorism is severe – and, sadly, it looks like it is going to be a real and presenting risk into the medium and long term – suddenly parliament's role is no longer necessary, it is no longer relevant, it should be the Department who should review that.

Referring to the letter, I have to say I read this with disbelief. The reason that the Department are putting forward for this nonsensical idea that parliament should be excluded from the system is... and I will read it, and the context is as I have described. It is in the third paragraph, page 2, under the sunset clause. I will not read it all, because it is quite lengthy, but the gist is things have changed.

When we had a sunset clause then it was because we were not sure if terrorist activity was going to be a real threat to the United Kingdom and the British Isles, including ourselves.

Bearing in mind we have had terrorist activity which has impacted in the Isle of Man, not, happily, in a violent sense, but we have had terrorist-related activity in the Isle of Man from Irish terrorism from both sides of the sectarian divide for many decades, so that is nonsense to say that the situation is in some kind of flux, and it was also nonsense to say that we hoped that it would somehow die away. I do not think anybody had that realistic view, but we supported it. But now we are told we do not need a sunset clause because, I will quote:

'... if the legislation were to fall in future through a continuation order inadvertently not being progressed, it could be very damaging to the Island's ability to act against terrorist financing and money-laundering, with the consequent damage to the Island's reputation.'

That is true. It would also be pretty embarrassing for the

Home Affairs Department, who cannot even manage a diary and a calendar, to realise that periodically, at set periods, they have a requirement to bring forward an order. They did it last year for the sunset clause, but now we are being told, 'But don't trust us, we'll get it wrong. What if we forget?' What kind of nonsense is that? That is the best argument we have from the Home Affairs Minister to not bother with a sunset clause. We have made a policy decision.

Incidentally, the Minister might be kind enough to tell us if his Council of Ministers colleagues all accepted that policy decision at the time it was made in the consideration of the previous Bill, or if that has just come to light very, very belatedly. But I certainly do not accept it. Parliament should have a role, we should have a sunset clause, so I am really giving notice that I will be having an amendment to delete clause 5 provisions but, where it is appropriate and necessary, any of those provisions that would be lost by that omission, would be incorporated into what is clause 6 now. If there are any of those provisions, then I would have to take advice on that, but in terms of the sunset clause, I will certainly be putting an amendment to add a sunset clause with a five-year review period because I think that it is absolutely fundamental that parliament, in any jurisdiction, but particularly in what we might regard ourselves as a mature liberal democratic jurisdiction, then parliament should periodically have the review of the legislation which affects all of its citizens.

That is the case in this legislation and it is a crucial point. It is not good enough simply to say 'this has all been done in a rush, don't trust us, we'll forget' – all this spurious nonsense; it is not good enough, it is a crucial and fundamental element of accountability within parliament and I very much hope that when we get to clauses, that Members will support me for the reasons that I have outlined, sir.

The Speaker: Hon. Member, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I too am very pleased that we are not seeing extended legislation from the UK. It is a battle that I have fought for a very long time, as far as that issue is concerned, because I think it is something that now is being accepted that these statements that we used to say we act like a suburb of Surrey, we will be treated like one. I think that is a good point.

I think the point the Hon. Member for Rushen has brought up is another good point, but I really do think that we would be far better if we just sent this to a committee to make sure that this Bill is checked, as far as whether this is the right way forward.

I understand the problems and pressures that the Government is under and the misinformation that they have to have inflicted on them by prejudice and bigotry by many UK MPs, just like the prejudices that I have to put with those lot, as far as what the reality is, as far as within this Island is concerned. I think that the Hon. Member for Rushen would be doing a far better service by having this sent to a committee, in order to make sure it is doing the job that he requires.

The points that he has raised are very valid points and I think that, by all means, an amendment on this proposal should be supported, but I do feel that before we allow this tranche of legislation just to be nodded through, because we have all had a nice cosy chat up in the Barrool Suite, this is not the way legislation should be developed. We should be scrutinising this legislation a lot more closely. I believe that

these sort of issues need to have far more scrutiny and I do hope that we will see this Bill being put to a committee at the clauses stage.

The Speaker: Chief Minister.

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

Just really to get up to support the Minister on what he is taking forward on behalf of Government here. The first thing is that if we want to be in a position where, as a legislature, we continue to legislate for ourselves in international affairs then, quite clearly, it is important for us to make the decisions that Government has... which is that we do not want this extended by Order to the Isle of Man, but in fact we want to pass our own legislation in this important area.

That being said, quite clearly, we all have responsibilities – Members of this House, including the Government – to try and ensure that the Bill is a Bill and provides authority and powers that are reasonable in the circumstances that we are aware of. I think, importantly, if you look through the legislation, just responding to the point about the issue of entering without warrant, my understanding is that is not the first time that that has been put into legislation.

I am sure the Minister will confirm that there are very limited circumstances under which they can enter without warrant. They cannot enter without warrant because they want to get you, it is entering without warrant to get information that is held on the premises. Why is that there, because in these days of technology, if you were in a position where you suddenly found something out and you needed to get into the premises to say, for example, to get to computer information or whatever, then the Police would have the ability in those circumstances to enter without warrant.

There are things in there that are important where the Police can be made answerable to the Court. It has to be reasonable in terms of reasonable cause to believe something is there. The officers have to go there at a reasonable time so they cannot just go there at three o'clock in the morning and hammer the door down without a warrant and also it is in terms of relation to making copies of information or taking extracts of any documents and so on. So it is not a broad entry without warrant and I think that is important to make that point because if, in fact, they wish to raid premises, then of course they will be required under legislation, as it says further on in clause 6, to get a warrant issued in the normal way.

Whether we like it or not, we do have to, as legislators, if we are going to safeguard the Island's interests and very importantly, safeguard the public interest, balance up this need to be effective while protecting the public against – and I agree with the Hon. Member – what could be deemed as a police state, but there are things there which actually balance that up and that is not in this legislation but they are requirements which are balanced up from criminal justice legislation which make the Police answerable to the Courts and so on.

So the important words there, 'reasonably believe' that they need that information and they can only enter at reasonable times, so they cannot go in, as I say, at three in the morning when people are asleep and smash the door down without a warrant; that would not be acceptable under that legislation.

The Hon. Member for Rushen, Mr Gill, asks about the

issue of the sunset clause. The sunset clause provision was put into the last Terrorism Act because it was such extensive legislation, I think it is fair to say, in my recollection – I hope I am right – is that it was moving us into totally new areas of dealing with terrorism and therefore there was a concern by the House whether or not we actually would be happy that this was something we needed to have ongoing and that sunset clause was put in and it was then adopted. I think – and I do not know if the Minister can answer this – but I think now that it is adopted, it is actually in law, I think that sunset clause has gone but I stand to be corrected on that. I do not know if it comes back to the House at another time or to Tynwald Court. I know that there was an Order done originally which extended it.

I do think there are times where a sunset clause may well be appropriate. I stand to be convinced that it is needed in this case but, again, I think that that is something that the House will have to consider if an amendment is put before the House at that time. I do believe that removing clause 5 would, in fact, *not* be in the Island's best interest in terms of dealing with the situation which I have described and I am sure we will have an opportunity to discuss that again later.

Finally, or nearly finally, the point I would make, Mr Speaker, is that the inference by the Hon. Member for Onchan, Mr Karran, who says it is all very well having a cosy chat in the Barrool Suite, I think that does a disservice to Members. Mr Speaker, Members of this House have continually, going back 20 years, as legislation has got more and more complex, asked for Government in different guises – and for five years I was not a Member of the Government, I was in your position, sir – have asked for the House or the Department to give briefings, so Members understood and could ask questions that they have difficulty with on the floor of the House, simply because the House has Standing Orders which quite clearly govern how we do our work.

You cannot get down to the nitty-gritty of the bits that are in legislation in detail, that you can at a briefing that Members have, so Members then leave that briefing and make their own mind up. Just because they have had a briefing does not mean that they suddenly do what they were told at that briefing. Hon. Member, Mr Gill, is a good example of it; he was told answers to points at that briefing but he has still made his own mind up whether he moves an amendment later on when we go through the clauses and that is his right. Whether he will get support, that is a matter for the House.

The point is just because I had a briefing it did not mean that he suddenly said 'Oh, well, I give up, I am not even going to ask or question the Government on this piece of legislation' because this is the place to ask the questions, but importantly, we all have a responsibility also on behalf of those we represent to understand what the Bill is going to do and what it is all about and that is what the briefings on legislation are about and if we did not give that, the Hon. Member, I have no doubt, would have stood up and criticised us.

My concern is using terms 'because you had a cosy chat'. It was not a cosy chat, it was a briefing and the Minister and his team were questioned by Members on issues, so I think I just want to make that point.

Mr Speaker, this is an important piece of legislation, these are because of international matters and we could sit back and say we are not going to do anything and that, again, is a right of the House to say we reject this legislation in totality. I think that would be foolish and I do not believe there is a

move to do that, but I do believe then we do have to examine the content of the legislation, whether or not we are content, as an Island, those components are what we require and in the people's best interest and ultimately the House will make its decision.

The Minister, in presenting the legislation clearly with other colleagues, will have to try and convince, persuade or justify, what it is we are doing. So with that, Mr Speaker, I hope Members will support the Second Reading and that we can move forward, sir.

The Speaker: I call on the Minister, Mr Earnshaw, to reply.

The Minister: Thank you, Mr Speaker.

First, I would like to thank the Chief Minister, my seconder, when he first stood up but I will deal with the issues raised by the Hon. Member for Rushen, Mr Gill, first. He agrees that the legislation is needed and he wanted to praise the Council of Ministers for resisting the UK Government's wishes to extend this legislation to the Isle of Man and I absolutely agree with him on that.

I think that is where the good news ended with Mr Gill. We cannot ignore, Mr Speaker, the intelligence received from the UK and we have got to take appropriate action regarding this. I do apologise to Members for any incorrect information that may have been given regarding warrants in the Barrool Suite last Tuesday when we gave the presentation. We certainly did our best on that and we do not always get everything right, but regarding that, I would like to – and I think I will read a piece out here that I have got from my notes. I cannot do better than read it. This is about the use of warrants:

'There are several circumstances where the power to enter without a warrant might be useful in the enforcement of these measures, as it is currently thought useful under our money-laundering regulations. We are discussing enforcement of measures to prevent potentially very serious activities related to money-laundering, terrorist financing and proliferation.

Some businesses that are at high risk of being exploited or actively used for such activities, such as money service businesses for instance, can be highly mobile. In some cases they are able to pack up and disappear in a matter of hours so time can be of the essence, especially if we are talking about circumstances where an enforcement authority might believe that lack of compliance is actively assisting the financing of these serious matters.

There might also be cases where it is disproportionate to obtain a warrant from a magistrate and engage the Police to execute it. There may be, for instance, occasions when firms are not actively suspected of being involved in these activities but have frustrated the supervisor by avoiding their visits or otherwise, making it difficult to undertake supervision of their compliance. In such circumstances an unscheduled visit might be necessary. I would remind the Hon. House that this power does not allow forced entry or for the seizure of documents but only to attempt entry without a warrant.'

So that addresses some of it. It is not a question of breaking doors down or anything like that and I do not think... my reading of this is the Police are not involved at that early stage. These might be and hopefully are, Mr Speaker, rare circumstances and it is both the supervisors' and

firms' interests to co-operate on these matters but it is right that we make provision for them in these powers, as we have with our current counter-terrorist financing regime.

So I hope those comments are helpful, particularly about the power of entry and I do not think this – well, in fact, I can say it does not apply to private dwellings. These are business premises that the legislation applies to.

So where are we? The Police cannot enter without a warrant, so I have covered that.

The sunset clause... I would just like to endorse the comments made by the Chief Minister regarding that. It sounds almost certainly as though the Hon. Member for Rushen is going to introduce an amendment regarding the sunset clause, but we have got to be a little bit careful. It is easy to say, refer back to where we were five or six years ago with other legislation, but planet Earth is a different place these days. Things do move on and change, regrettably.

Terrorism has gone up the international agenda, regrettably, so we cannot ignore what is going on. I think he has done a little bit of ribbing of the Department, but we have certainly done our best regarding this and to call it spurious nonsense is something that I think is unwarranted.

Turning to my colleague, Mr Karran, he also agrees that he is pleased with the fact that we have resisted extending legislation from the UK and I have already referred to that.

Sent to a committee... I certainly hope Hon. Members will not support that for the reasons which have been outlined at the presentation and which I outlined when I gave the initial comments for Second Reading. I do not think that we can ignore that there is an urgent need to introduce this, and if we were to refer it to a committee, what is the impact of this decision if the Isle of Man suffered as a consequence of inaction? I think it would certainly damage our reputation and I think it ignores the potential seriousness of the situation.

In Question Time earlier this morning, Mr Speaker, he referred to the seriousness, in his mind, of various issues that the Isle of Man faces regarding the movement of arms into the Isle of Man, something that we have no evidence of, that I am aware.

I also concur with the Chief Minister's comments about Mr Karran's reference to a 'nice cosy chat'. Certainly, it was not that; it was a serious presentation and we certainly did our best to impart all the information that we could to Hon. Members, and that is a process that I am very happy to continue. If anybody has issues with this Bill, if they would like to come to talk to the officers involved in my Department, or to me, we are very happy to continue the dialogue. It is a few weeks until the... I think it is the end of this month that the clauses will be moved, so there is an opportunity there in that time to discuss things a little bit further.

So with that, Mr Speaker, I beg to move the Second Reading of this Bill.

The Speaker: Hon. Members, I put to the House the motion that the Bill be read a second time. Those in favour, say aye; against, no. The ayes have it.

A division was called for and electronic voting resulted as follows:

FOR

Mr Quirk
 Mr Earnshaw
 Mr Karran
 Mr Brown
 Mr Crookall
 Mr Anderson
 Mrs Craine
 Mr Bell
 Mr Quayle
 Mr Teare
 Mr Cannan
 Mr Henderson
 Mr Malarkey
 Mrs Cannell
 Mr Braidwood
 Mr Corkish
 Mr Shimmin
 Mr Cretnay
 Mr Watterson
 Mr Gawne
 Mr Gill
 The Speaker

AGAINST

None

The Speaker: The motion carries with 22 votes for and no votes against.

BILL FOR THIRD READING**Advocates (Amendment) Bill****Third Reading approved**

4.1. Mr Earnshaw to move:

That the Advocates (Amendment) Bill be read the third time and be sent to the Council.

The Speaker: We now turn to a Bill for Third Reading, the Advocates (Amendment) Bill, and again I call upon Mr Earnshaw to move.

Mr Earnshaw: Thank you, Mr Speaker.

In moving the Third Reading of the Advocates (Amendment) Bill I, firstly, wish to thank Hon. Members for their input into the debate on the clauses of the Bill and for their support in progressing the legislation.

Hon. Members will recall that the purpose of the Bill is to widen the regulatory powers of the Isle of Man Law Society to enable the Council of the Society to obtain information and documents for the purpose of investigating whether there has been professional misconduct or breaches of statutory requirements, breaches of rules of practice or breaches of the anti money-laundering code.

This will provide a greater degree of openness and transparency with regard to the Manx legal profession, which will lead to greater confidence in the profession in the eyes of the public and wider community. This wider community includes those bodies, such as the IMF, who review the laws and practices of jurisdictions such as ours from time to time

and it is, therefore, important that our legislative framework conforms to international standards by which we may be measured.

Mr Speaker, during last week's debate on the clauses of the Bill, both the Hon. Member for Rushen, Mr Gill, and the Hon. Member for Onchan, Mr Karran, made comment about the criminal penalties which may be levied under the Bill. In particular, they were concerned the punishment should fit the crime. As promised, I would like to take this Third Reading stage as an opportunity to clarify the position in the Bill.

Hon. Members will recall that certain offences under the Bill attract a more severe level of punishment than others. In particular, the offences to be contained in paragraph 11 of schedule 1A to the Advocates Act 1976, which is set out in the schedule of the Bill, attract a potentially heavier penalty than the offences to be contained in paragraphs 2 and 4 of that schedule.

Under paragraph 11, it is an offence to falsify, conceal, destroy or dispose of a document relevant to an investigation or to provide information which is known to be false or misleading, or recklessly to provide information which is false or misleading. These offences can be tried either summarily or on information. The penalty, on summary conviction, is custody for a term not exceeding six months or a fine not exceeding £5,000, or both. The penalty on conviction on information is custody for a term not exceeding two years, or an unlimited fine, or both.

The paragraph 11 penalties are higher than the penalties under paragraphs 2 or 4. Under paragraph 2, it is an offence to fail to comply with a notice to provide information or produce documents. Under paragraph 4, it is an offence to fail to comply with a notice to provide an explanation of any information provided or document produced. In each case, the offence is triable summarily and the penalty is a fine not exceeding £1,000.

Mr Speaker, the approach taken on penalties in this Bill follows the approach taken in England and Wales under the Solicitors Act 1974, as amended by the Legal Services Act 2007. Whilst it is not always appropriate for our legislation to mirror that of the adjacent isle, on this occasion I feel that the provisions of the Bill have been framed appropriately. The deliberate falsification or destruction of documents, or the deliberate provision of false or misleading information, is seen as warranting a potentially heavier penalty than failing to comply with a notice to produce documents or provide information or to provide an explanation of any information provided or document produced. I think that is right.

Whilst the failure to provide information or a document or an explanation certainly warrants a penalty, the conduct stops short of deliberate falsification or destruction of documents or the deliberate provision of misleading information. As such, it is appropriate that the penalty is not as severe; however, it is still a criminal offence.

Additionally, under paragraph 5 of schedule 1A, the Society may apply to court for an order compelling the provision of information or the production of documents, or the explanation of information provided or document produced. This provides an additional means for the Society

to obtain the information, document or explanation.

Mr Speaker, during the debate on the clauses of this Bill, I pointed out the significant effect that a conviction for an offence under this Bill would have on the professional status of the advocate concerned. This would include convictions under paragraphs 2 and 4 of the schedule, as well as under paragraph 11. Such a conviction would amount to serious professional misconduct, resulting in proceedings before the Advocates' Disciplinary Tribunal, which can have severe consequences, including a reprimand, a penalty of up to £25,000, suspension of the advocate and, ultimately, the cancellation of the advocate's commission.

Whilst sanction by the Advocates' Disciplinary Tribunal is a technically separate matter to the commission of offences under paragraphs 2 and 4, Hon. Members can see that an advocate who fails to comply with the requirements of the Bill is likely to face serious and far-reaching consequences.

Mr Speaker, I hope that I have clarified the position on criminal penalties and, before moving, I wish to thank Lucy Marsh-Smith and David Bermingham, both members of the staff of the Attorney General's Chambers, plus our colleagues at the Isle of Man Law Society for the assistance they have given me with this Bill.

I beg to move that the Advocates (Amendment) Bill be now read for a third time.

The Speaker: Hon. Member for Peel, Mr Crookall.

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

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

Mr Karran: Vainstyr Loayreyder, I have concerns about this Bill. As I said, I think maybe one should have gone for a committee on this Bill in particular. I would like to know... The hon. mover has moved the issue of the IMF. What I would like to know is who regulates the registered legal foreign practitioners on the Island? The answer, I know, is no-one does. So why has this issue not been recognised in this Bill?

I would like to know the mover's proposal, as far as how does the IMF feel about this, and I would like an answer from the mover as far as that is concerned. What are the Council of Ministers' proposals to address this issue? We have been told that we need this Bill and none of us in this House does not realise the most important thing is that we must keep the finance sector going. It is vital that we keep the finance sector going, but I do feel that this Bill has been cherry-picked and has not addressed a number of the issues.

I think the Bill has been a revelation at the clauses stage, because I do actually believe that many Members in this Hon. House do believe the sentiments, as far as the need to look at other aspects of the Law Society and what needs to be done as far as legal, criminal and civil legal aid and the issue of the out-of-hours duty advocates scheme, and I think that is up to me to address at a later date.

I do think, Hon. Members, this is a fundamental issue.

We are told that this Advocates Bill is needed in order to protect the good name, and here is a position where the Bill does nothing to cover this important issue, the registration of licensed practitioners on the Island, whether they work for solicitors, advocates, accountants. Whoever they work for, there should be some sort of organisation where the Law Society should be able to regulate these so that they should be able to exercise the same investigatory and disciplinary procedures and prosecution powers that can be used against advocates, against these other legal practitioners.

I believe there is a major hole in this Bill. I believe that we should be addressing this issue. In my opinion, there is an argument that maybe, because we are dealing with the finance sector, it could be argued that we can put it to the Financial Supervision Commission. That is an issue that could be... I would have thought it would be far better being put to the Isle of Man Law Society.

Hon. Members, the whole principle of this Bill is to try and protect the good name of this Island. I believe that we leave a gaping hole under the water line, as far as the Island's finance sector is concerned. I will not repeat what I had to say about other issues that I feel need to be addressed, as far as the Advocates Bill. That opportunity has been lost, but the point is, Vainstyr Loayreyder, I do think that we do need this on record and, maybe, if the mover cannot give an answer, that maybe he can give an undertaking that this issue will be addressed and what timescale.

Vainstyr Loayreyder, it is all well and good and I have to say that the Hon. Member – I might disagree with the Hon. Member for Rushen and I might think he lives in a different world to me at times – but I have to agree with him when it comes – or maybe even a different planet at times! – but I have to agree with him as far as that issue he raised first in this Hon. House about the fines structure. I do not believe the fine structure relates to reality and I agree with him on that point, but I do feel that it is alright bringing this in, if you have got other people acting as legal practitioners on the Island and they bring this Island into disrepute, there should be a way of trying to stop them doing that before they do irreparable damage to the main engine of the Manx economy.

The Speaker: I call on the mover to reply. Mr Earnshaw, please.

Mr Earnshaw: Thank you, Mr Speaker and I would like to thank my seconder, the Hon. Member for Peel, Mr Crookall.

As regards Mr Karran's comments, I certainly would not welcome this going to a committee, I see no need for that. I see this as a fairly – there are only two clauses in this Bill, so I see it as a fairly straightforward piece of legislation. He asks who regulates legal foreign practitioners. The advice that I have is that foreign legal practitioners are not advocates, they are regulated by the authorities in their home jurisdiction, which is the host jurisdiction, and the Isle of Man Law Society regulates Manx advocates so I hope that responds satisfactorily to the question that he has raised there.

How does the IMF feel about the Bill? Well I do not

know precisely but I am very sure that they are going to welcome it and a lot of the reason for this Bill is to improve the Island's reputational image which is a standard they want us to achieve, so I have no issue with that at all. I am sure it is going to be a step in the right direction and I hope will receive words of welcome from them in due course. The reason for that is that this hits the notes that we hear so frequently from my hon. colleague, Mr Karran. It addresses openness, it addresses transparency. How many times do we hear that from him, that this is what we seek? This is doing just that, it is a powerful tool in the box for the Law Society, to be able to use to widen the regulatory powers of their members.

We had comments from Mr Karran about keeping the financial sector going, as though we are not aware of that in Government. Of course we are aware of that! It is the most important section of our economy that we have, so to make a comment like that I just cannot understand where that is coming from.

Also he talked about cherry picking. Once again, I have to say, Mr Speaker, I am not sure what he means regarding that.

Fines structure: I think, hopefully, I have explained that. The fines are in parallel with our neighbours across the water, they are consistent with counterpart UK legislation and, as I have explained in the past and I will explain again, I explained that when I was making my comments earlier, the penalty for advocates is reputational. That is what they will want to guard themselves for. It is the risk of their reputation, their professional reputation, the risk of imprisonment or being struck off, or both or whatever. It is the reputation. I do not think the financial side of it, the fines side, is of a great consequence: it is purely down to reputational.

So with that, Mr Speaker, I beg to move that this Bill be read for the third time.

The Speaker: Hon. Members, the motion is that the Advocates (Amendment) Bill be read for the third time. Those in favour say aye; against, no. The ayes have it.

A division was called for and electronic voting resulted as follows:

FOR
Mr Quirk
Mr Earnshaw
Mr Brown
Mr Crookall
Mr Anderson
Mrs Craine
Mr Bell
Mr Quayle
Mr Teare
Mr Cannan
Mr Cregeen
Mr Henderson
Mr Malarkey
Mrs Cannell
Mr Braidwood
Mr Corkish
Mr Shimmin
Mr Cretney
Mr Watterson
Mr Gawne
Mr Gill
The Speaker

AGAINST
Mr Karran

The Speaker: The motion carries 22 votes for, one vote against.

Hon. Members, that concludes the formal business of the House on our Order Paper.

Condolences to Mr Bell

The Speaker: Before I adjourn, Hon. Members, I am sure all Members of this House will wish to join together in expressing to the Hon. Member for Ramsey, Mr Bell, the deepest sympathy of the House and sincere condolences to him in the death of his mother which occurred last week. **(Members:** Hear, hear.)

Hon. Members, the House will now stand adjourned until 10.30 a.m. 21st April in Tynwald Court.

Thank you, Hon. Members.

The House adjourned at 11.54 a.m.