

**REPORT OF PROCEEDINGS OF
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 2nd February 1999
at 10.30 a.m.**

Present:

The President (the Hon Sir Charles Kerruish OBE LLD (hc) CP), and the Acting President (Mr E G Lowey) the Lord Bishop (the Rt Rev Noël Debroy Jones), the Attorney-General (Mr W J H Corlett), Hon C M Christian, Messrs E A Crowe, D F K Delaney J R Kniveton, Hon E J Mann, Messrs J N Radcliffe and G H Waft, with Mr T A Bawden, Clerk of the Council.

The Lord Bishop took the prayers.

Condolences to H M Attorney-General

The President: Hon. members, before turning to the business on the order paper I am sure you will join with me in extending to the learned Attorney-General our sympathy on the loss of his father.

Mr Tom Corlett, who was himself a competent pilot, played a leading role in the development of Ronaldsway airport in his time as airport commandant on that station. He not only played a leading role but he was an accessible and happy person to work with, and I am sure as we extend to you, Mr Attorney, our sympathy this morning, you would agree that we ask the learned Clerk to convey our commiserations to the members of the family. Is that agreed?

Members: Agreed.

The President: Thank you, hon. members.

The Attorney-General: Thank you very much, Mr President.

Housing Stock – Refurbishment Grants – Question by Mr Delaney

The President: Now, hon. members, turning to the order paper, item 1(1), we have the question in the name of the hon. Mr Delaney. Hon. member.

Mr Delaney: I beg leave to ask a member of the Council of Ministers:

As the policy of government promotes the refurbishment of the existing housing stock, what grants are available to assist Manx residents to refurbish old properties?

The President: The hon. Mrs Christian to reply.

Mrs Christian: Mr President, the Department of Local Government and the Environment operates four grant schemes for the refurbishment of older properties. They are the House Repair and Modernisation Scheme 1997, the Residential Property (Rewiring) Scheme 1997, the Roof Space Insulation Scheme 1997 and the Registered Buildings (Financial Assistance) Regulations 1982. The amount of grant payable under each of these schemes varies depending upon the nature of the works, the nature of the property and the particulars of the applicant.

Mr Delaney: Mr President, bearing in mind now the boom in building on the Island and the cost is indicated even in government estimates for building, has the government any policy to increase allowances to enable people who do want to refurbish old properties, particularly in the towns of the Island, to make it worth their while purchasing such old properties to make them habitable?

Mrs Christian: Mr President, I am not in a position to indicate whether or not there will be an increase in this aspect of the budget. What I can say is that of the provision for this year of £420,000, £190,000 has been offered to this date.

Housing for First-time Buyers – Land – Question by Mr Delaney

The President: Question number (2), the hon. member Mr Delaney.

Mr Delaney: I beg leave to ask a member of the Treasury, Mr President:

In view of the recognised shortage of land for housing, has the Treasury allocated any funds for the purchase of land for housing for first-time buyers?

The President: The hon. Mr Radcliffe to reply.

Mr Radcliffe: Right, sir, thank you very much. In answer to the question, Mr President, Treasury has not allocated money specifically for the purchase of land for housing for first-time buyers. The Department of Local Government and the Environment is charged with the responsibility of acquiring land for land banking purposes and has funds for this purpose. However, land for a specific purpose, for example housing, does not normally come into this category unless the acquisition has a multipurpose function, for example housing, education, police and other bodies.

I am quite sure that recent land purchases by the Department of Local Government and the Environment could be considered for housing, but whether that housing should be solely for first-time buyers is for that department to determine.

The Value for money Committee, which is a committee of Treasury which I chair, expressed its views on housing policy to the Department of Local Government and the Environment in November 1996 following the issue of a consultative document by that department in September of 1996. The Value for Money Committee is still awaiting the outcome of that review some 2¹/₂ years later, but the committee is still hoping that it will assist in developing the Isle of Man's future housing policy.

I could refer the hon. member to the Value for Money reports for 1997 and 1998 where our response is set out.

The President: A supplementary, sir?

Mr Delaney: Bearing in mind that the Value for Money Committee and its movement with the other departments of government goes back to 1996 and the pressure on the Isle of Man through its young people wishing to buy land in their own home -

The President: A supplementary, sir, not a speech.

Mr Delaney: - will the member who chairs that committee please ask for an urgent response so they may give some room for hope for the people of the Island who wish to remain on the Island?

Mr Radcliffe: Mr President, we certainly are seeking responses. As I say, after 2¹/₂ years it is high time for a response too. I would also add, as a matter of interest to the member, that the Public Accounts Committee have an involvement here and the Value for Money Committee is working closely with that particular committee of Tynwald.

Mr Delaney: Thank you, Mr President.

Housing for First-time Buyers – Land – Budgetary Provision – Question by Mr Delaney

The President: Question (3), again the hon. Mr Delaney.

Mr Delaney: I beg leave to ask a member of the Treasury:

In view of the recognised pressure for additional land for first-time buyer's housing, particularly in Douglas, will the Treasury consider making provision in the coming budget to assist young Manx people?

The President: The hon. Mr Radcliffe to reply.

Mr Radcliffe: Thank you, Mr President. In answer to the question I would say the Treasury is assisting the Department of Local Government and the Environment in connection with urban regeneration in Douglas and other areas and I am quite sure that young people and their problems will enter into this equation.

The subject, though, is one really for the Department of Local Government and the Environment and I could respectfully suggest perhaps that the hon. member seeks more detailed information from that department.

Mr Delaney: A supplementary, Mr President.

The President: Certainly.

Mr Delaney: As the Treasury, and under its own Acts, a member cannot place a resolution down in another place under section 6 of the Treasury Act, is it not really a job for the Treasury to show at the next budget that they are keeping at the forefront cash necessary for the Isle of Man to be able to supply land on which local people will be able to build their houses, bearing in mind that a plot of land for a semi-detached house at the moment is costing £35,000 and more?

Mr Radcliffe: Mr President, I would hesitate to say what my minister will say in the budget, but I will certainly bring to his attention the concerns of the hon. member of Council.

Mr Delaney: One further supplementary.

The President: Certainly.

Mr Delaney: Would it not be feasible when the budget comes, rather than putting large amounts into reserves, to actually earmark, although it may never be spent, an amount of money so that there is that pool available without the controversy between the Department of Local Government, the Treasury and any other department having to argue over whether funds are available, and wouldn't it be right and proper in the budget for a people to put a sum of money there en bloc to be used if necessary for such purchases?

Mr Radcliffe: Mr President, I take note of the hon. member's comments again, but this really is a policy matter for Treasury and the Council of Ministers rather than Treasury alone and again I will pass the hon. member's concerns on to the Treasury minister.

Mr Delaney: Thank you, Mr President.

Housing – Quiggin's Yard, Douglas – Question by Mr Delaney

The President: Question (4), the hon. Mr Delaney.

Mr Delaney: May I ask a member of the Council, Mr President:

- (a) *Was government invited to purchase the land known as Quiggin's Yard, Douglas, for housing; and*
- (b) *would government now wish to purchase that land?*

The President: The hon. Mrs Christian to reply.

Mrs Christian: Mr President, to the best of my knowledge I am not aware of government having been offered the opportunity to purchase the Lake Road, Quiggin's Yard site in Douglas.

As far as wishing to purchase that land now is concerned, that would depend on whether the land was for sale and what the asking price was and government would also need to consider the fact that the area has been zoned for retail purposes.

Mr Delaney: Mr President, a supplementary. Whether or not they were invited, after many members of Tynwald aired their views in relation to the possibility of purchasing, did any department, its officers or any personnel acting on behalf of government approach this company or companies to purchase that land? That is my question.

Mrs Christian: I think, Mr President, I have answered that in saying to the best of my knowledge I am not aware of government having been offered the opportunity to purchase, which would presumably follow from any question, but I am not aware of anybody having approached that company about the land.

Mr Delaney: A supplementary then, Mr President. Since I placed this question, did the Council of Ministers ascertain from any department whether anybody acting on behalf of government made steps to purchase this land?

Mrs Christian: Mr President, I am not in a position to answer that question. I think, as it is a question for the Department of Local Government and the Environment, that, as my hon. colleague has indicated, the member might feel it useful to approach that department for specific information.

Mr Delaney: I am left, Mr President, and I think because of the answer, which does not answer the question, I will have to, with your permission, place the question in another place, because I am asking whether anybody has, on behalf of government, approached this company or any company to purchase this land and I am told 'to the best of their knowledge.' Surely the government knows what is going on in its own government departments.

Mrs Christian: Mr President, as far as I know government is not aware that this land is on the market and as far as I am aware, no approach has been made to them because they are not aware of it being on the market.

The hon. member has referred to the problem of first-time buyers and perhaps it is with them in mind that he is posing the question. I am informed that the Department of Local Government and the Environment is looking at sites near Douglas in relation to that particular problem. They are dealing with a development brief in relation to the areas at Harcroft and Springfield. They are looking at a number of schemes to assist first-time buyers, and that will be highlighted as one of the aspects of the policy review report on housing which should be issued soon.

Advocates Act 1976 – Complaints – Question by Mr Delaney

The President: Question (5), the hon. Mr Delaney.

Mr Delaney: I beg leave to ask H M Attorney-General:

Since the coming into operation of section 21(4A) of the Advocates Act 1976 -

- (a) how many complaints have been referred to the Governor under section 18(3)(c) of the Act; and*
- (b) how many summaries of facts and orders have been published in accordance with section 21(4A)(b)?*

The President: The learned Attorney-General to reply.

The Attorney-General: Thank you, Mr President. Section 21(4A) of the Advocates Act 1976 came into operation on 1st December 1996 with a result that as and from that date when a case is referred to the Governor from the Advocates Disciplinary Tribunal on the basis that the tribunal considers that the powers to reprimand or alter the payment of a financial penalty are inadequate, not only may the Governor exercise his powers under section 21(4) but in addition His Excellency shall cause a summary of the facts and the order to be delivered to the Law Society and cause the summary and order to be published in such manner as His Excellency thinks fit, but without identifying the complainant.

In answer to part (a) of the question, I am advised that since the 1st December 1996 no complaints have been referred to the Governor by the tribunal under section 18(3)(c) of the 1976 Act.

As to part (b), I am advised that one summary and order has been published in accordance with section 21(4A)(b) of the Act as a result of the Advocate having required the tribunal to refer the complaint to the Governor under section 19 of the Act.

Mr Delaney: I thank the learned Attorney for his comprehensive answer on that. Do I understand from reading this part of the Advocates Act, which was amended, that any action that was taken before 1976, any disciplinary action or referrals to the Governor, cannot be made public, that is only deals from 1976, cases from 1976, and for anything before then a member cannot get or a member of the public would not be able to get any information on it?

The Attorney-General: Mr President, the Advocates Act 1976 introduced the concept of the Advocates Disciplinary Tribunal and one of the sections in that Act provides that proceedings shall be held in private. Now, in 1995 there was an amendment to the Act and effectively it provides that from 1st December 1996, not 1976, from 1st December 1996, the summary of the order and a summary of the facts have to be delivered to the Law Society and

also to be published in such manner as either the tribunal or His Excellency thinks fit as the case may be. It is only cases which are dealt with after 1st December 1996.

Mr Delaney: So it is not retrospective.

The Attorney-General: It is not retrospective.

Mr Delaney: Therefore can I ask this question then? Bearing in mind that legal services are a consumable and therefore they are used by the general public and the general public, albeit right or wrong, have a right to know who supplies the best services and where there may not be services, could the Attorney tell me, other than somebody going and getting a copy of anything from Government Office or wherever the place may be, should this not be in the hands of the consumer affairs board there so any member of the public can go along and get a copy of any disciplinary proceedings that is under this new amendment made available to them, so that they may decide which advocates they will use and which advocates they will not use?

The Attorney-General: Well, Mr President, any such change would require legislation. The position, I think, is at the moment that the publications of the orders are made in the Max Law Bulletin. That is a bulletin which is circulated to advocates and also within, I think, various government departments.

I do not think that the Law Society is unique in that respect in so far as if, for example, a solicitor or a barrister is reprimanded, then the facts are, as it were, gazetted in the relevant professional bodies headquarters, whether it is the inn of court or the Law Society's headquarters in Chancery Lane.

But it may well be that what the hon. member says is an appropriate suggestion. As I say, it would, I think, require some further consideration by the deemsters and by His Excellency.

Mr Delaney: One further supplementary, then. On the fines that have been placed, even recently, what happens to those fines? Are they put to the general revenue of the Island? Do they go back to the Law Society, to which every advocate subscribes? What happens to the fines that are imposed?

The Attorney-General: To the best of my knowledge, Mr President, the fines form part of the general revenue, they do not revert back to the Law Society, as it were, but again, if I am wrong on that, perhaps I could let the hon. member -

Mr Delaney: If you will let me know what the answer to that one is.

EU Countries – Response to Increased Interest – Question by Mr Crowe

The President: Question (6), the hon. member Mr Crowe.

Mr Crowe: Thank you, Mr President. I beg leave to ask a member of the Council of Ministers:

- (a) *How does the government intend to respond to the increased interest in the Island shown by EU countries; and, in particular,*

(b) will such response include the establishment of more formal representation with the parliament and associated bodies of the Union rather than reliance upon existing channels?

The President: The hon. Dr Mann to reply.

Dr Mann: Thank you, Mr President. I thank the member for his topical question, which I will answer together if I may.

The question refers to increased interest. That is an imprecise term and really needs to be divided into two parts. If the increased interest on the part of the Union, that is, the European Union, is reflected in formal proposals and ideas which we have or potentially have implications for the Island such as the proposals for a directive on the taxation of savings or the conduct of business taxation, these need to be dealt with and are best dealt with through official channels. The United Kingdom Government represents us in the European Union and arising from the meeting at the Home Office, attended by the Chief Minister and others on 21st January, there is confidence that the Island is being properly represented. The most important thing in relation to formal EU business is that the United Kingdom Government is conscious of our interest and fully apprised of our views.

If we think of increased interest in terms of general background awareness, this is not something which is pursued exclusively through formal channels. The United Kingdom Government does have a responsibility to correct misunderstandings and we have to supplement that with our own efforts. We answer any questions that arise. We seek to promote a greater understanding of the Island in forums such as the Conference of Peripheral Maritime Regions and we make regular visits to Brussels. Our next such visit is planned for early March and whilst that will be in part fact-finding, it will also be an opportunity to promote and explain the Island to the United Kingdom officials in Brussels, the European Union officials and the members of the European Parliament.

On a wider canvas, we are proposing in future to do more to raise the Island's profile and keep in touch with parliamentarians in the United Kingdom and Europe.

The Council of Ministers and the Civil Service Commission have agreed a modest increase in staff to allow us to do that extra work and this additional report will be in place shortly.

The President: A supplementary, sir?

Mr Crowe: Thank you, Mr President. I thank the hon. minister for his reply and would ask a supplementary. Are you aware that both Jersey and Guernsey use a firm of lawyers in Brussels to act as their eyes and ears as far as European Commission and European Union issues are concerned, which enables Jersey and Guernsey to be kept aware of the issues as they arise? Would you not agree that the Isle of Man would benefit from having legal representation in Brussels because of the major taxation and constitutional issues which we need to face? This would be in addition to the work undertaken by the UK Government on our behalf.

Dr Mann: Yes, I think once again the concept is an interesting one and has been talked about over the years. It is not a formal representation at the European Union and it can only be fact-finding essentially and only peripherally influence the European Union. It is very much

a question of balancing the pros and cons of such a position. Up to now the opinion has been that it would not have been worthwhile, but we are certainly entering a far more difficult area of relationships and such a position always has to be considered.

Mr Lowey: Could I ask the hon. minister does he believe the adjective he used to describe our visits to Brussels, as regular consultations? Once a year, I believe, is what we visit. Is that adequate under the changed circumstances that we are now having, and is it not a fact only ministers, a small number of ministers, visit and would it not be a good idea to widen it to non-ministerial contact with Europe when they go on these visits? But once a year is when we go and is that adequate? That is really what I am saying?

Dr Mann: If I may deal with the last part first, of course there have been several attempts to make separate visits, mainly parliamentary-type visits as distinct from government visits. They tended to clash with one another and the parliamentary visits have tended to decrease.

Certainly I think the time has come to increase the number of visits, mainly in parliamentary terms. They are once a year in terms of official visits to official organs, as you might say, of the Union which are things that have to be negotiated with those authorities, and of course if one appears too often one can actually also be an irritant rather than a help.

Mr Delaney: The minister, Mr President, may recall that some five years ago I asked in Tynwald that the Chief Minister at that time actually appointed either an existing portfolio or a new portfolio with a responsibility for the ministerial government for Europe, and isn't it very well to appoint staff to staff that, but what is needed is a person of minister rank to actually keep a finger on the pulse of Europe and what is happening, on behalf of this Island?

Dr Mann: Much as I would be tempted I am not going to comment on the ministerial structure of this government at this particular moment. However, there are areas in which we can develop further our contacts. Now, those areas in my opinion are further into the European representation at the European Parliament as distinct from the United Kingdom representation, and these are things that have to be done very carefully and with clear objectives and they certainly need staff within the department to ensure that they take place. I am sure we will see in the next year or two a considerable increase in our relationship with the European Union.

Mr Crowe: Mr President, just following on from the hon. Dr Mann's reply to me where the Isle of Man does not have any form of representation through lawyers in Brussels, would Dr Mann take this back to the Council of Ministers and ask if the Council of Ministers would consider having a consultancy based in Brussels to promote the affairs of the Isle of Man and to be the eyes and ears of the Isle of Man there?

Dr Mann: Well, a set of lawyers, as I indicated, have been considered at various times. Certainly when I was Chairman of Executive Council we were even thinking about this way back in the '80s, so it is something that is constantly under review.

Children and Young Persons (Protection from Tobacco and Liquor) Bill – Third Reading Approved

The President: Well, hon. members, we move on to item 2 on our agenda paper and that is the third reading consideration of the Children and Young Persons (Protection from Tobacco and Liquor) Bill and I call upon the hon. member Mr Kniveton.

Mr Kniveton: Yes, Mr President. I have looked through my notes on the various stages and I believe I have answered all the points raised by hon. members. Indeed in many cases most hon. members brought many constructive comments rather than questions. These were basically supportive comments for which I do indeed thank hon. members.

For me it has been a Bill which has given me a great amount of satisfaction to take through this Council, particularly as it concerns the care of the younger, under-age persons of this Island.

The Bill makes it an offence for an adult to buy tobacco products on behalf of a child under 16 years of age and to supply tobacco or cigarette papers for the use of a person under 16 years of age. The Bill will also make it an offence to buy or act as an agent in buying or supplying liquor for consumption by a person under 18 on a highway or public place. There is of course a defence in circumstances where there is supervision by a parent, guardian or adult relative.

I am sure that hon. members have taken note that the Department of Education has supported the introduction of this Bill and I would particularly draw attention to the fact that the police are the ones who will make this Bill work and I am confident, therefore, that in lending their support they accept that it will help them in situations where at present they have no powers.

If this Bill is now enacted, hon. members, Mr President, I will remind hon. members that we are in the unusual position of having introduced this legislation ahead of the UK Government.

Therefore I trust, Mr President, hon. members will again support this Bill and thus I do therefore move this third reading of the Children and Young persons (Protection) from Tobacco and Liquor) Bill 1999 and it do pass.

Dr Mann: I beg to second.

The President: Does any hon. member wish to speak to the third reading? My Lord Bishop.

The Lord Bishop: Could I ask the mover just to remind us? There was a question last time about a postal avenue for people having tobacco sent to them, and I cannot remember what reply you gave, if any, to that, but I do have personal experience of tobacco firms or firms providing tins of cigarette tobacco and papers in the post to people and I am sure they are not asking their age, and I just wondered if there was any loophole there that the Bill does not cover or whether you answered that last time. I cannot remember.

But that apart I want to welcome this Bill because for no least reason that it takes some of the emphasis off drugs, which we are all terribly aware of and we rise to the bait about, because I think there is just as much effect on our young people with alcohol and tobacco as there is on drugs and we do not always show that awareness. We are much more lenient about tobacco and alcohol and I am glad that this Bill does actually put the balance a little more correctly.

The President: Reply, sir.

Mr Kniveton: Yes, thank you, Mr President. Actually I do not recall, Bishop, you bringing that point up previously, but I do not think there is actually much we can do about this situation. It is rather like other things that come through the post: they either get through or for some reason they are found. I do not know whether the learned Attorney can help me on this one, but I do not think there is anything in the Bill which covers that particular point.

The President: Mr Attorney.

The Attorney-General: Well, Mr President, by all means I shall try to assist. I think one of the significant aspects of this legislation, if it comes into effect, is that a person is guilty of an offence only if it can be proved that he has knowingly acted as an agent or knowingly supplied tobacco to someone who is under the age of 16 years. Therefore, to take up the example made by the Lord Bishop, if a supplier from the UK was sending tobacco through the post to a person, knowing that that person was under the age of 16, then the offence would be committed, but otherwise I am afraid we do not have a situation where that supplier could be guilty. In other words it is not an offence, as we say, of strict liability. You have to prove that the person, the supplier, knowingly acted as an agent or knowingly supplied.

So that is, I suppose, a gap, but perhaps the legislators were quite right in insisting that there should be some guilty knowledge before somebody is guilty of an offence.

The President: Do you wish to add to that?

Mr Kniveton: No, I do thank the learned Attorney for that.

The President: Very well. Hon. members, I will put the resolution that the Children and Young Persons (Protection from Tobacco and Liquor) Bill be now read a third time and do pass. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Estate Agents Bill – Third Reading Approved

The President: Turning now to item 3, hon. members, I call upon the hon. Mr Lowey to take the third reading of the Estate Agents Bill.

Mr Lowey: Thank you, Mr President. Hon. members, in formally moving the third reading of the Estate Agents Bill I too would like to thank members for the constructive contributions during the passage of this Bill.

This piece of legislation does not lay claim to resolving all the problems relating to buying and selling property. It does implement the recommendations of a working party, as I said, established by the department.

It has consulted widely and in another place, dealing with this Bill, they sent it to a select committee of their House who further refined and made practical adjustments, which this Council has welcomed, to the proposed legislation.

The Bill defines and deals with misleading statements about properties. It contains provisions for enforcing the law and makes provision to implement the recommendations of the said working party which was chaired, as I said, by our former colleague His Honour Deemster Arthur Luft, Mrs Rosemary Penn and Mr Fargher.

The Bill extends consumer protection further, and with those few remarks I beg to move that the Bill be read a third time and do pass.

Dr Mann: I second.

The President: Does any hon. member wish to speak to the third reading? If not, I will put the resolution, hon. members, that the Estate Agents Bill be now read a third time and do pass. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Town and Country Planning Bill – Special Committee Elected

The President: Item 4, the Town and Country Planning Bill, the hon. Mr Crowe. I think before calling on the hon. Mr Crowe to take consideration of clauses, the hon. Mr Lowey, I think, wished to move it to a committee.

Mr Lowey: Thank you, Mr President. Hon. members, I think regarding this particular Bill, before we go to the clauses stage, I am sure, like other members, I have been contacted by people who have had an interest in planning over the years and have expressed certain concerns. Now, this particular Bill will certainly have impacts on our everyday life of everybody in the Isle of Man. It is topical, it is contentious and, as I said, will affect everybody.

I can give you three areas of concern. We are introducing an economic dimension into planning for the very first time. I think in most industrial and civilised societies that is part and parcel of the arrangements that are in place, but here we are introducing it into the Isle of Man and we ought to be cognisant of what we are doing, and also I believe it will affect people with advertising, for example, some of the clauses that the Bill introduces on advertising could very well impinge on what I would call our everyday activities to an adverse degree, and I am greatly concerned about the consultation and composition of advisory bodies contained in clause 40 where in my reading of the clause it says that the board shall do things in the first two sub-clauses and then in the third sub-clause of the very same clause it actually extends a provision where the department may disregard the very things it sets out to do in the first two sub-clauses. It is what I call government by mirrors on the one hand and yet finally we have a reserve power to do what we want.

Now, I know the Bill is mainly enabling, I know it has been on the stocks and being prepared for a long time, but I would propose that this Bill would be better served if we sent it to a committee of this House. It should not delay the Bill very long at all and I think it may help the mover of the Bill and the department to get the Bill right.

Now, I do say it is a very important piece of legislation. Planning is very contentious. It always was and no doubt will continue to be a hot potato and therefore this is the last chance the legislative process will have before it is actually put into statute. Now, I believe that this House would be doing the people of the Isle of Man a service if we looked at it very carefully and closely by a committee of this House and therefore I would like to move an amendment at this stage.

That this Bill be referred to a special committee of three members for consideration and report.

Mr Waft: Mr President, I would support the member with regard to the moving to a committee.

I have had concerns expressed to me by the Advisory Council on Planning and the Environment with regard to their demise, for want of a better word. The consultation process which was supposed to have taken place does not appear to have included this body who feel

to a certain degree disenfranchised, for want of another word, and it does give the department overall responsibility with regards to advisory bodies, as Mr Lowey says, with regard to clause 40 where it changes 'shall' to 'may' and without prejudice it refers to sections where it says 'shall', so there seems to be some cause for concern there.

So I am most concerned that the Advisory Council on Planning and the Environment was not consulted with regard to their concerns and the support that they have had for the conservation officer; she would be left on her own to a certain degree.

So I think there is room for some more consultation to take place, so it can be out in the open as regards the necessary legislation, whether it is included or shall not be included within this Town and Country Planning Bill. Thank you, Mr President.

Dr Mann: Mr President, I appreciate that the function of this Council is to be a revising chamber but so far the issues raised by the hon. member of Council in his amendment refer to potential changes in individual clauses, and presumably that is the reason for the clauses stage, that in fact if we come against a clause that the hon. member feels he wants to amend, then the time to amend that is when we come to the individual clauses. However, if there was a genuine policy within the Bill that he wishes to have reviewed, then that may be a different matter, but so far the only issues that he has raised refer to individual clauses which technically could be amended in the normal course of consideration of the Bill.

So I would oppose that amendment unless the hon. member can satisfy us that there is a genuine policy within the Bill which he feels ought to be looked at seriously by a committee of this Council.

Mrs Christian: Mr President, I would endorse the remarks made by my hon. colleague Dr Mann in the sense that the hon. member Mr Lowey has highlighted limited areas here which have not yet been debated by the Council, and I would agree that we ought to consider the clauses and if there is a point at which it is felt during the debate on any particular clause that it needs to be referred to a committee, then that would be the appropriate time to do it. But from the hon. member's remarks it does not indicate major concerns. There are very many clauses in the Bill and he has highlighted but one or two points which can be, I would suggest, dealt with at the clauses stage.

Mr Crowe: Mr President, I would agree with both of the last speakers that Mr Lowey has raised points on three clauses and I do not believe that is sufficient justification for moving this to a committee.

I think we are looking at a major piece of legislation which reflects the needs of this day and age and it will bring major improvements to the planning legislation as well as re-enacting some of our current planning legislation. So I would ask hon. members to support the reading of the clauses stage and to reject the call from the hon. Mr Lowey to move the Bill to a committee.

The President: Reply, sir.

Mr Lowey: Yes. Mr President, I did say that I would illustrate it and those were the three areas that I illustrated. This Bill is very complex. That is why it has taken such a long time to get here.

We have already heard from the hon. member on my right, Mr Waft, who said that he has had representations from people on advisory boards who feel they should have been consulted and have not been consulted in the drawing up of this particular bit of legislation.

I also have to say that it is very easy when we are dealing with clauses here not to get the relationship between one clause of the Bill at the beginning of the Bill that will be covered by another part of the Bill later on, and the idea of it going to a sub-committee is to get that cleared.

It is not a delaying tactic to delay the measure, it is one for clarification. I think it would help the department. It is not meant to be a filibuster to delay or to put this legislation in jeopardy and therefore I would have thought it would have been welcomed, I thought it would have been welcomed particularly by the ministers. This is a government measure. I would have thought that the government would have been keen to get their measure through. We talk about consensus. I would have thought a delay of four weeks, considering this has been going on for a few years, is a little price to pay for consensus, and I am sorry that they feel that somehow by challenging this particular measure to get it right and by holding it up a month it is somehow contrary to government policy. I am sorry about that. It is certainly not meant in any way to be destructive, it is meant to be constructive, and as I said, I only used three areas to illustrate. I could have gone on more and said how complex it was. I have not done.

But I would urge the Council to remember, as my hon. friend Dr Mann said, it is a reviewing chamber and I think our job here is to make sure that those voices of concern, individuals as well as groups, are heard. This is the last opportunity we are going to get and I believe we owe it to the people of the Isle of Man, in doing our job, to do it thoroughly and I believe we would do it thoroughly if it was sent to a committee for examination. I beg to move.

The President: Hon. members, I will now put the resolution that this Bill be referred to a special committee of three Members of the Legislative Council for consideration and report. Will those in favour of that resolution please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: The Lord Bishop, Messrs Lowey, Waft, Kniveton and Radcliffe - 5

Against: Dr Mann, Mrs Christian and Mr Crowe - 3

The President: Five votes in favour of the resolution, 3 votes against, the resolution carries. The Council will now appoint three members to that committee. Can I have nominations, please.

Mr Radcliffe: I would propose the hon. member Mr Crowe, who is in charge of the Bill, Mr President.

Mrs Christian: I beg to second.

Mr Waft: I propose Mr Lowey, Mr President.

Mr Kniveton: I second.

Mr Lowey: I propose Mr Waft.

Mr Radcliffe: I second.

Dr Mann: Nominations closed.

The President: Are there any further nominations? Therefore, hon. members, the committee will consist of Mr Crowe, Mr Lowey and Mr Waft. Thank you, hon. members.

National Lottery Bill – Second Reading – Debate Commenced

The President: We move on to the National Lottery Bill and I call upon the hon. Mr Radcliffe to take the second reading.

Mr Radcliffe: Thank you, Mr President. I have here a Bill which is going to replace the Manx lottery with the United Kingdom lottery but with the purpose of enabling more funds to be made available to the Manx Public Lottery Trust and to retain the betting duty on the tickets sold on the Island in the National Lottery to be retained here in the Island.

It may be helpful if I was to give members some background information. For many years the holding of lotteries has been restricted by law. However, in 1980-81 the then government decided that it wished to promote a national lottery - this is the Manx National Lottery - following the success of the Millennium Lottery in 1979. The proceeds were to be paid to charities and thus the Public Lotteries Act of 1981 came into being. Now, after a number of successful public lotteries it was suggested that some method should be adopted to avoid the possibility of political interference in the choice of charities selected, so the Public Lottery Trust was therefore established as a registered charity with independent trustees, and the object of that trust is to distribute the proceeds of public lotteries.

Early in 1992 the Council of Ministers agreed to a proposal of the Treasury that a number of amendments should be made to the Public Lotteries Act of 1981 in order to address falling revenue, and indeed the now Treasury minister, who was then one of the hon. members for Onchan, took a Bill through the Keys and perhaps it is worth repeating the comments that he made at that time. He said that this Bill - and this is the amendment - would, if successful, amend the 1981 Public Lotteries Act. 'It is designed to give the Treasury more flexibility in its approach to lotteries and reflects changing circumstances. There is a public demand for all-year-round lotteries and there is' - and this is way back at that time - 'the prospect of a large United Kingdom lottery in the not-too-distant future, and the flexibility would enable Treasury to adapt quickly to market conditions and greatly assist many Island charities and individuals. All moneys from the charity to the Manx trustees stay on the Island.' By allowing public lotteries on an all-year-round basis and tickets priced to these market conditions, the hon. member for Onchan said that members would be helping Treasury to rejuvenate the lottery, thus providing more funds for charities, and I think more interest for the customer who purchases lottery tickets.

During that debate in the other place members expressed concern about the possible effects if the United Kingdom lottery went ahead and that there would be a net outflow of funds from the Island. Well, time has shown that to be quite a correct supposition and the Manx lottery went down the hill, despite the efforts of everyone to try and brighten it up, cheer it up by whatever means possible, but the very fact that there were such tremendous prize moneys on offer in other places - and people all have relatives in other places - the Manx lottery further declined, and, as I say, we have got to say that it was not only ourselves here on the Island but other jurisdiction such as the Channel Islands and so on have too suffered at the expense of the United Kingdom lottery.

In February 1996 the hon. member for Rushen, Mr Corrin, asked if income to Manx charities from the Manx National Lottery had been adversely affected since the commencement of the United Kingdom lottery, and the answer of course was that, yes, it was affected: profits had declined and it was pretty certain that the United Kingdom National Lottery was one of the factors which had led to that decline.

A further question was asked by the hon. member for Michael in June 1997 and in answer it was said that 'The Treasury does not believe that the Isle of Man lottery tickets can successfully compete with the United Kingdom National Lottery, and the Treasury believes' - and this was in June 1997 - 'that incorporation into the United Kingdom lottery is the best way forward financially to benefit the Public Lottery Trust', that is the Manx Public Lottery Trust.

We are all aware of the need to provide funds to the Public Lottery Trust and indeed a sum was included in this year's budget, although it was almost last year's budget. A sum was included there to fill the gap, an ex gratia payment to the lottery trustees to enable them to continue.

Talks which had been initiated in 1996 continued to take place with the United Kingdom authorities and those talks had been with individual bodies, but Treasury officials finally attended a meeting of all parties at the Home Office in March 1998 with representatives of the Home Office, the lottery operator Camelot, the lottery regulator OFLOT, the United Kingdom Department of Culture, Media and Sport and an officer of the United Kingdom's treasury solicitors' department. All these people met to establish whether sales of United Kingdom National Lottery tickets could be extended to the Isle of Man.

At that meeting the director-general of OFLOT agreed in principle that the licence under which Camelot operates the United Kingdom lottery could be amended to allow sales on the Island if local legislation was passed to adopt regulatory controls of sales identical to those in the United Kingdom, that is, under the United Kingdom National Lottery Act.

In view of the fact that representations may have been made to members by bookmakers who have offices in the Island, they are able at the moment to accept bets on the outcome of the draws held twice weekly by Camelot. Section 18 of the United Kingdom National Lottery Act does not permit bets on the outcome of Camelot draws. Officers of the Treasury at the meeting were specifically asked whether Isle of Man bookmakers took bets on the lottery and when this was affirmed they were told by Camelot that it would be necessary to stop this practice if sales went ahead. The director general of OFLOT stated that adoption of section 18 of part I of the United Kingdom Act would outlaw this activity.

I do not think this is an issue we can negotiate on if we wish to have a share in the United Kingdom lottery. We cannot avoid the restrictions on fixed odds betting being placed on local bookmakers.

It is worth pointing out, I think, that until the United Kingdom National Lottery emerged this was not a source of revenue to local bookmakers and indeed in last year's budget the local betting duty was reduced from 8 per cent to 6 per cent to improve the local situation for bookmakers, and this was in anticipation of the possibility of United Kingdom lottery tickets being on sale in the Isle of Man.

The Isle of Man Government would be required to appoint the United Kingdom director-general to regulate sales on the Island so that there is a system in place identical to that which pertains to the United Kingdom. Camelot's head of business development has confirmed that the company is prepared to introduce sales of the draw tickets on the Island but they would not envisage sales of instant tickets being introduced in the short term. I know that quite a few people, and indeed hon. members here, have been interested as to whether these instant tickets would be introduced. I think there is the possibility in the future but certainly not initially in the short term.

The principal object of the Bill which we have before members is to enable the promotion of the United Kingdom National Lottery in the Isle of Man and if the Bill is successful the Treasury will next need to negotiate with Camelot, the lottery organiser, and make an order for Tynwald approval specifying precisely which parts of the United Kingdom lottery are designated legal. Such an order would also set the percentage of tax raised by Manx ticket sales to be paid by the Treasury to the Public Lottery Trust. So hon. members will have an input into what will happen with the moneys which will come back to the Island.

The Bill provides that Treasury will receive through the Customs and Excise Agreement the 12 per cent tax levied on ticket sales.

At this stage in the negotiations it has not been possible to achieve a percentage of the profits direct to the Isle of Man of the distribution to various United Kingdom commissions which have been created by the United Kingdom to handle the profits, and there seems to be a plethora of these commissions, but the deeds and constitutions of these commissions require to be amended to permit the Isle of Man to benefit from lottery profits as such and the United Kingdom has not yet been prepared to effect this. For our part then, for the moment, we would be content with the betting tax, the duty, although we shall endeavour to persuade those bodies to amend their constitutions to permit distributions to the Island. It is not a thing which Treasury and future Treasuries would give up on. We will keep applying to be included in the hand-outs, if you like.

The United Kingdom National Lottery has a high profile and is always under scrutiny and in view of all the media hype and so on that goes on I have no doubt that the proposal to extend it to the Isle of Man has already won a large measure of support from the public on the Island and I would say that it would appear from the conversations I have had with many, many people that they are just waiting and would welcome the opportunity legally to be in the United Kingdom National Lottery.

I beg to move that the Bill now be read a second time.

Dr Mann: I beg to second.

Procedural

The President: Hon. members, with the resolution before the Council, the Council will recall that you very kindly gave me leave of absence to withdraw at 11.30 today and rather than interrupt the debate in two minutes, perhaps you would allow me to withdraw at this stage and leave you to carry on with the business before the Council. Is that agreed?

Members: Agreed.

The President: Thank you, hon. members.

The President withdrew.

The Clerk: Hon. members, in the absence of Mr President it is my duty, under standing order 11, to invite you to elect an acting President to take the chair for the remainder of the sitting. I invite nominations.

Mr Delaney: I nominate the Bishop.

Mr Lowey: I will second the Bishop.

The Clerk: Is that agreed, hon. members?

Mr Delaney: I am sorry, bishop. *(Laughter)*

The Lord Bishop: I nominate Mr Lowey.

The Clerk: Is that seconded?

Mrs Christian: I beg to second Mr Lowey.

Mr Delaney: Agreed.

The Clerk: I think technically we should have a ballot now.

Mr Crowe: Can I ask the Lord Bishop is he withdrawing or not?

The Clerk: Would Council agree to the Lord Bishop withdrawing?

Mr Delaney: If he wishes to withdraw, yes.

The Lord Bishop: Well, yes, I think I would prefer to withdraw, thank you.

Mr Delaney: I was trying to protect you, bishop, sorry.

The Lord Bishop: In view of the Bill which is being debated I think I would prefer not to be in the chair.

The Clerk: Are there any other nominations? The Lord Bishop having withdrawn with the leave of the Council, I declare Mr Lowey elected and invite him to take the chair.

Mr Lowey took the chair.

National Lottery – Second Reading – Debate Concluded – Clauses Considered

The Acting President: Thank you, hon. members. Mr Delaney.

Mr Delaney: I am sure, as the mover has rightly said, the Island majority will welcome this, but there are questions being asked to all members of Tynwald Court in relation to this Bill and I know there has been some explanation, but could you further enlarge on the situation whereby we had a meeting with all parties on this and they asked particularly about the bookmakers, which is fine, I understand their reasons for it, but the part that I have tried to explain to the Manx people and have not been able to explain is a further explanation of why at this moment they cannot get a share because of some commission rules in relation to the National Lottery moneys which are given out to charities. Could you just further explain why Manx charities, registered legally, cannot apply to this commission for some of the lottery money to be returned to the Island?

Mr Lowey: The mover to reply.

Mr Radcliffe: Yes, Mr Acting President, as I pointed out, the commissions are acting under United Kingdom legislation. I know for a fact that Manx charities have endeavoured to receive funds won through the commissions in the UK, but the legal position is that the actual commissions are precluded by legislation from giving money out of the UK, as I understand it, although in the light of media reports on occasion one cannot help but wonder whether or not they are perhaps bending the rule a little bit.

As I said in my remarks, if we get the first step and get the tickets on sale we shall certainly as Treasury, and indeed I am sure it would have the backing of the Council of Ministers, be endeavouring to get the Isle of Man included into the remit of whatever commissions it should be.

Mr Delaney: Are there any meetings planned with this authority, which is loosely mentioned, who are in control of these funds to actually get them? When is the next meeting planned after this Bill is through to actually talk to these people to get us included in the fundings?

Mr Radcliffe: Well, I have got to say we want to get the Bill into an Act before any real meetings would be planned to meet with the commissions on the other side. I think we have got to be saying, yes, we are now selling United Kingdom lottery tickets and wish to be included in the share-out, but I think until we get the Bill as an Act we are a bit premature to be seeking meetings with the commissions on the other side.

Mr Delaney: Thank you, Mr Acting President.

The Acting President: Mr Crowe.

Mr Crowe: Thank you, Mr Acting President. Could I just ask Mr Radcliffe, bearing in mind that this might take some time to implement, that is, to have sales outlets set up, for the current year will the Treasury be funding the Public Lottery Trust in the Isle of Man in a similar way to that done for the current year?

Mr Radcliffe: Mr Acting President, the hon. member says that it will take some time to implement this when it becomes law. I would venture to suggest that Treasury is poised to act the minute that this becomes law and we do hope and anticipate that, if successful, tickets will be on sale early this summer. In fact Camelot are just waiting for us to say, 'Right, we have the legislation: you appoint the distributors and we are ready for action.' So I would suggest that we will not be giving an ex gratia payment to the Public Lottery Trust at all this year.

Mr Crowe: Mr Acting President, I would say, if there is a delay, would the Treasury consider funding the Manx lottery trust because there are a number of charities that depend on this funding? To have no funds in the current year would be quite disastrous for some of those charities.

Mr Radcliffe: Well, Mr Acting President, I have got to say that the lottery trust is not a destitute organisation. They have money invested as well as what they get directly from government. There are a great many requests - I was going to say demands but that is putting it too strongly - that come in to the lottery trustees. If things go very much awry, then Treasury of course will have another look at what the situation would be and what could be done about it, but we do not anticipate, if successful with this Bill, that there shall be any need to fund the public lottery trustees this year.

Mrs Christian: Mr Acting President, speaking to the second reading, first of all I would reiterate that it is regrettable, isn't it, that this larger neighbour with its attractive prizes has so undermined our own lottery, and human nature has led to this outflowing of funds from the Isle of Man and I think that the steps which have been taken are necessary in a pragmatic sense for us to at least to get something out of the moneys which are flowing from our shores into the United Kingdom lottery, and to that extent this is to be welcomed, so that we can get the excise duty on the moneys that are being placed as bets in that lottery.

I feel quite sure that we will continue to be pressed to take what steps we can to get more out of the lottery funding. I wonder if the hon. mover would confirm that if there were a change in the primary legislation we may well be able to get some funding direct to the Isle of Man as part of the profits but in the absence of that we have got to go through these other channels and because of their constitutions we are not able to get funding, though I believe, in response to a comment that has been made, in respect of some charities based in the United Kingdom it is possible for branches of those charities in the Isle of Man to obtain funding. So the picture is a rather mixed one as to whether or not we can get anything from the distribution of the charitable funds.

The Acting President: Mr Radcliffe.

Mr Radcliffe: Well, there is a little to add to that, Mr Acting President. It is regrettable that because of the media hype and very skilful advertising the United Kingdom lottery has taken over not only from the Isle of Man lottery but lotteries in the Channel Islands and so on have suffered badly. Many of the lotteries which were run in various areas of the United Kingdom have all suffered and it is a general picture.

We shall certainly, and I can assure the hon. member on my right, once legislation is in place, be taking steps and organising meetings to see if we can get some of the actual profits back to the Isle of Man. I think, as the hon. member has also rightly said, that if we call them branches of national charities do get a bit over here, but that payment is made to the national one and then it is up to them how they distribute the funds out again.

But we think that it is a pragmatic approach to go for the UK lottery. Members may recall that the Manx lottery, when it was running, had cash prizes. The thing was going down and down and down and tried prizes then in goods - I can quite well remember a car being offered as a prize, electrical items, you name it - but it still did not stimulate any real interest, and we have got to be pragmatic and face the facts and say that as a little small local lottery we just cannot compete, and facts are facts.

The Lord Bishop: Could I just ask, Mr Acting President? Forgive my ignorance but you mentioned instant tickets. Are they what we would call scratch cards, and if so, what is the reasoning behind them not being included in the package?

Mr Radcliffe: Well, I would acknowledge that it is instant lotteries, scratch cards, similar to what the Isle of Man lottery was running at one time where one scratches the face of them and finds symbols of some sort underneath. Camelot are not keen in introducing those at the moment but I would suggest, as I said in my remarks, that if we get the legislation in place, then we can start to seek other avenues, but at the moment certainly I think Camelot have said that they would not introduce scratch cards in the Isle of Man, but that is not to say that they will not be here eventually.

The Lord Bishop: Is there any subtle reason why they should say that? I cannot understand if we are going for the lottery why you cannot have the scratch cards as well which seem to be an integral part of it.

Mr Radcliffe: Well, no, sir, they are not an integral part. They are a separate entity again, these scratch cards. They are not part of the National Lottery as such I would suggest. These are a separate entity again. Although it is Camelot who run and organise them, I do not think one could say that they are part of the National Lottery as such, but if we are successful with the legislation we will not give up on that particular one.

The Lord Bishop: Well, the point of my question, behind it, was that I hope they might give up on that because I think they are the most invidious bit of the whole thing and it seems to me that if you are talking of addiction, then the lottery is one thing, but addiction comes with all these scratch cards which I think cause a lot of agony and woe in the family situation. So do not work too hard on that. *(Laughter)*

Mr Radcliffe: Perhaps there is, Mr Acting President, some reassurance then to my Lord Bishop that the cards will not be on sale immediately anyway, that is for sure.

Mr Delaney: Just to clarify the point on the bookmakers which was raised, although the general public would not be able to have a bet on the British National Lottery held on Wednesdays and Saturdays, they would not be debarred from betting on the Irish Lottery which is held on the same days, on Wednesdays and Saturdays. Is that correct?

Mr Radcliffe: Well, I cannot verify that as correct. I honestly cannot say, Mr Acting President. I do not know whether Mr learned Attorney has any views on that particular one or not?

The Attorney-General: Mr Acting President, I am afraid that this is an area I know little about indeed.

Mr Delaney: Could somebody check up for me to give me an answer? And the second one is just a general point of interest to the general public. Camelot, when do they finish their licence on this particular lottery and will we have to do anything when they lose the franchise and somebody else who may be prepared to put more into charities takes over? Will we still be included without going through the same procedure on that lottery?

Mr Radcliffe: I would suggest that we would be. Camelot are the operators at the moment but they act under the English legislation. If the operator was to change I think the legislation which we are proposing to pass here would enable us to deal with whoever should succeed Camelot if that should be.

Mr Delaney: Thank you, Mr Acting President.

The Acting President: Any other hon. member? Mr Kniveton.

Mr Kniveton: I do not know whether this is the appropriate moment, Mr Acting President, but we have just of course accepted the third reading of the Bill on under-age supply of tobacco and liquor to juveniles. Now, can I ask at this stage, if it is appropriate, whether there are rules and conditions within this as regards the sale of lottery tickets to young persons and is there an age limit? At this stage I, like, the Bishop am quite happy that the scratch cards are

left to one side because that, I am sure, is a tempting thing for young people. I do not know whether this is the appropriate moment to ask it, Mr Acting President.

The Acting President: Mr Radcliffe.

Mr Radcliffe: Mr Acting President, I am 100 per cent sure that there is an age limit on those when they buy English National Lottery tickets. The hon. member can well recall, I suppose, as I can that there have been instances where young people have bought tickets and have turned into prize-winners and there has been a fair amount of comment that they were under-age purchasers. I think from memory the age is 16 -

The Acting President: I think it is.

Mr Radcliffe: - to be able to buy a National Lottery ticket as such. The onus to a certain extent is on, just as with your tobacco for young persons Bill, the seller of the ticket who obviously should not sell to a tot.

Mr Kniveton: You do know what that age limit it, do you?

Mr Radcliffe: I think it is 16, Mr Acting President.

The Acting President: Sixteen. Does any other hon. member wish to speak to the second reading of the Bill? No. Mr Radcliffe, would you like to summarise?

Mr Radcliffe: Well, there is little to sum up. I think I have answered the various comments as they have arisen, Mr Acting President, and I would just simply formally move that the Bill be read a second time.

The Acting President: All those in favour please say aye; those against, no. The ayes have it. The ayes have it. Mr Radcliffe, would you like to take the first clause?

Mr Radcliffe: Thank you, sir, clause 1 of the Bill. Sub-clause (1) of clause 1 allows the Treasury to designate by order that the United Kingdom National Lottery will be excluded from the prohibitions contained in the Isle of Man Gaming, Betting and Lotteries Act.

Sub-clause (2) allows an order under sub-clause (1) to specify that a proportion of the duty received by the Isle of Man Treasury in respect of the sales of UK National Lottery tickets on the Island be paid to the Public Lottery Trust.

Sub-clause (3) of clause 1 amends the Customs and Excise Management Act of 1986 so that the proportion of duty to be paid to the Public Lottery Trust under sub-clause (2) will not form part of the general revenue of this isle.

Sub-clause (4) of clause 1 states that an order made by Treasury under the sub-clause will only operate with Tynwald approval.

Mr Acting President, I beg to move that clause 1 stand part of this Bill.

Dr Mann: I beg to second.

The Acting President: Does any member wish to speak to clause 1? If not, I put the motion that clause 1 stand part of the Bill. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clause 2, sir.

Mr Radcliffe: Thank you, Mr Acting President, clause 2. Sub-clause (1) of clause 2 enables the Treasury to apply by order to the Isle of Man the United Kingdom National Lottery legislation.

Sub-clause (2) of clause 2 provides for the modification of the United Kingdom legislation to apply as law to the Island.

Sub-clause (3) of clause 2 specifies which United Kingdom legislation may be applied to the Island.

Sub-clause (4) states that an order under this section may detail any amendments made to the United Kingdom legislation or if the United Kingdom order applying to the Island is amended by the United Kingdom, then an order be prepared in the Island setting out the detail of the amendment.

Sub-clause (5) states that an order under this clause must be laid before Tynwald no later than the second sitting following the making of the order and the order would cease to have effect if Tynwald failed to approve the order.

Sub-clause (6) of clause 2 requires that an order under this clause shall have a text of the legislation applied by the order annexed to it. The text must incorporate the exceptions, adaptations and modifications specified in the order, and sub-clause (7) of clause 2 states that sub-clause (6) shall not apply when the text has already been incorporated in the order as in sub-clause (4).

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

Dr Mann: I beg to second.

The Acting President: Does any member wish to speak to clause 2? Mr Waft.

Mr Waft: Just on a point of clarification, Mr Acting President, on the question of scratch cards, under the United Kingdom lotteries legislation 1998 as will be enacted by this Bill, does that include the possibility of scratch cards and if they do come in will it be by an order or will it be laid before Tynwald or will it just go straight ahead?

Mr Radcliffe: Mr Acting President, I would presume that if the organisers are willing to provide scratch cards for use in the Isle of Man they would come in without any actual legislation to say scratch cards as such. I think that the legislation passed here would, if successful of course, allow that.

Mr Delaney: Mr Acting President, Isn't it a fact that Camelot do not wish to bring in their scratch cards because it is a separate part of legislation and therefore there would be competition from Littlewood's, Vernon's and everybody else where their cards would then be able to be sold on the Island as well, Mr Attorney, and therefore Camelot would be competing against some other supplier of scratch cards and that would maybe dilute the amount of money spent of the National Lottery tickets? Isn't that the reason?

Mr Radcliffe: Well, perhaps it makes sense, Mr Acting President, that that could be the case. I would not wish to comment further on that.

Mr Delaney: Are there any businesses turning down business?

The Acting President: Right. Does any other member wish to speak to clause 2?

Mr Crowe: Mr Acting President, could I just further clarify that point by considering sub-clause (6) which says, 'Subject to subsection (7), an order under this section shall have annexed to it a text of the legislation applied by the order, incorporating the exceptions, adaptations and modifications specified in the order.' Surely this would allow the deletion of scratch cards to be sold. There is room in this clause to do that so that Tynwald, before it approved it or had it laid before Tynwald, could be absolutely clear from the text of the UK legislation what did apply or did not apply to the Isle of Man.

Mr Radcliffe: Yes, I would not argue with the hon. member. Perhaps the learned Attorney-General would care to verify or not that that would be the case.

The Attorney-General: Thank you, Mr Acting President. My interpretation of that clause is precisely as the hon. member Mr Crowe indicates, that whenever any part of this United Kingdom lotteries legislation is to be introduced it has to fall under the scrutiny of Tynwald and furthermore the actual text of the legislation would be available to Tynwald to be scrutinised. So there is that protection for the Island.

The Acting President: Right, does any other hon. member wish to speak to clause 2? Are hon. members quite happy with the response from the mover and the Attorney? Okay. Therefore I put clause 2 stand part of the Bill. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clause 3, sir.

Mr Radcliffe: Thank you, Mr Acting President, clause 3. Sub-clause (1) details the essential amendments required to clauses 1(2)(a) and 29(2) of the Isle of Man Gaming, Betting and Lotteries Act of 1988 to specify that a lottery under clause 1 of this Bill would not be unlawful. It provides a defence for persons accused of an offence under section 29 of that Act.

Sub-clause (2) of clause 3 amends section 37 of the Licensing Act 1995 so that the lottery under clause 1 of this Bill would not be unlawful gaming and would permit the sale of National Lottery tickets on licensed premises. I beg to move, sir, that clause 3 stand part of the Bill.

Dr Mann: I beg to second.

Mr Delaney: Have I got the wrong clause or am I dealing here with the reason built into this is that the Manx bookmakers, unlike their British counterparts, will not be able to allow betting on the outcome of the British lottery? Is this covered in this, going to be in this?

Mr Radcliffe: Well, that, Mr Acting President, is a specific part of the whole legislation, that the bookmakers here will not be allowed to run betting on the outcome of the United Kingdom National Lottery.

Mr Delaney: Yes, but the question I am going to ask was really, as the British legislation on gaming allows betting in Britain on the outcome of that lottery, why was it that they felt Camelot were a beneficiary of the licence from Britain and that that should not apply to our people on the Island? Did they give a reason, I am asking?

Mr Radcliffe: I wonder, Mr Acting President, whether that statement is correct or not. Can the learned Attorney advise us on that?

Mr Delaney: Well, they would not want to see them introduced.

The Attorney-General: I am sorry, Mr Acting President, this is not an area I am very well versed in, but as I understood it, the hon. mover mentioned that the relevant section of the UK Act was section 18 which prohibited the taking of bets on the result of the lottery and therefore it is not possible in the UK for bets to be taken on the outcome of the lottery. Perhaps I misunderstood the hon. member's question but it is not permitted in the UK, as I understood it from the mover. 1

Mr Radcliffe: Well, that is my understanding, yes.

Mr Delaney: Well, I think it wants clarifying because I understood that bookmakers actually had a slip, and as we are not there, we do not know, but I understood it to be that they had a slip on which punters that go into betting shops could mark down what they thought the results, up to the six numbers, could be put down on this slip and they could chance their arm on the outcome of the British lottery. Maybe I am wrong but that is what I understood it was.

Mrs Christian: Perhaps, Mr Acting President, they were chancing their arm by ignoring the law.

Mr Delaney: No, I do not think the British bookmakers who are mainly Ladbrooke's and Stanley Racing et cetera would have ignored the law: they would lose their licence if they did so. But I think I will check that one out. I was given to understand that was the situation.

The Acting President: Perhaps you could have a clarification maybe at the third reading stage, but it does seem strange to me that the Isle of Man bookmakers found a loophole in the UK law, and from what I understood, that they were taking bets from the UK here in the Isle of Man. So if it was legal in the UK I cannot see the reason why they would be placing their bets or offloading their bets in the Isle of Man, but again perhaps that can be clarified for the third reading. Okay?

Mr Delaney: So I know exactly what is going on.

The Acting President: Does any other member wish to speak to clause 3? If not I will ask that clause 3 be put to the House. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it. Clause 4.

Mr Radcliffe: Thank you, Mr Acting President. Clause 4 is the final clause of course and provides the short title. It also enables different provisions of the Bill to come into operation on such days as may be appointed by the Treasury by appointed day orders. I beg to move, sir, that clause 4 stand part of the Bill.

The Acting President: A seconder?

Mrs Christian: I beg to second.

The Acting President: Does anyone wish to speak to clause 4? No. Therefore I will put clause 4 stand part of the Bill. Will those in favour please say aye; those against, no. The ayes have it. The ayes have it. Second reading and clauses read of the Bill.

Mr Radcliffe: Thank you, sir. I had been minded, Mr Acting President, to go for a third reading today but in view of the queries raised I will defer that until the next sitting of this hon. Council.

The Acting President: Okay. Thank you, hon. members. Right, I thank hon. members, for their forbearance for the latter part of the programme anyway and this House will stand adjourned until Tuesday next at 10.30 a.m. Thank you.

The Council adjourned.