

**REPORT OF PROCEEDINGS OF
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 22nd June 1999
at 10.30 a.m.**

Present:

The President (the Hon Sir Charles Kerruish OBE LLD (hc) CP), 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, Dr 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.

Apologies for Absence

The President: Hon. members, we have apologies for absence this morning from the hon. Mr Lowey.

Copyright (Amendment) Bill – First Reading Approved

The President: Now, turning to the agenda paper, the first item for consideration is the Copyright (Amendment) Bill for first reading and I call upon the hon. Mr Crowe.

Mr Crowe: Thank you, Mr President. The modern law of copyright in the Isle of Man is contained in the Copyright Act of 1991 which came into force on 1st July 1992 and which is closely based on part I of the UK Copyright, Designs and Patents Act of 1988. That Act protects copyright and literary, dramatic, musical and artistic works, sound recordings, films, TV and radio programmes and also protects an author's moral rights in his work.

This Bill that we have before us today amends and updates the law relating to copyright and performers' rights and creates a new kind of intellectual property to be known as 'database right'.

Mr President, I beg to move the first reading of the Copyright (Amendment) Bill 1999.

Mr Delaney: I beg to second, Mr President.

The President: Does any hon. member wish to speak to the first reading? If not I will put the resolution that the Copyright (Amendment) Bill be now read a first time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

**Children and Young Persons (Sale of Addictive and Intoxicating Substances) Bill –
First Reading Approved**

The President: Item 2, the Children and Young Persons (Sale of Addictive and Intoxicating Substances) Bill and I call upon the hon. Mr Waft to take the first reading.

Mr Waft: Thank you, Mr President. This Bill is a private member's Bill and sets out to amend the law with regard to the sale of tobacco and certain intoxicating substances to minors, to confer enforcement functions and powers on the Isle of Man Office of Fair Trading and for connected purposes.

Smoking has been acknowledged as the most deadly habit. For instance, out of 1,000 20-year-olds who smoke regularly, one will be murdered, six will die in road accidents, 250 will die in middle age from smoking and a further 250 will be killed by smoking later in life. The tobacco companies are committed to doing everything they can to promote the sale of cigarettes, as they have to keep recruiting new smokers to make up for the 120,000 customers they kill off every year.

Most smokers start when they are children; few people start smoking when they are adults. The number of children who smoke is going up, with more girls than boys taking up the habit.

Mr President, I could go on giving details of the harmful effects of tobacco but I am sure the Council is well aware of them and the need to protect our children at their most vulnerable age. I would ask for their support for the first reading of this Bill. Mr President, I beg to move that this Bill be now read a first time.

Dr Mann: I beg to second.

The President: The hon. Mr Kniveton.

Mr Kniveton: I wished to second also.

Mrs Christian: Mr President, I just wish to speak to support the Bill. We will come to the detail of it at a future sitting.

It has been commented upon in another place in terms of whether or not it will be effective and I suppose with any such legislation implementation and enforcement is very important. The provisions of this Bill transfer the enforcement functions to the Office of Fair Trading. It also provides that young people may be commissioned to go in and test the shopkeeper in this instance, which will be an interesting exercise, I feel quite sure, and probably will enhance the enforcement provisions in it.

The other interesting feature about it is that it also covers the purchase of solvents. Now, it is some 17 years or so since I first came into Tynwald in another place and sought to introduce a Bill in relation to solvents at that time. There was no spirit or will for it then. It is interesting to see that the problem still continues, albeit fortunately we do not seem to have a major problem with solvent abuse in the Island. Nevertheless it is seen appropriate under this measure to control sale of solvents to young people. Again it is difficult to know how you would define what is a quantity which constitutes a risk, but nevertheless it is a useful measure in that sense, provided that it is properly enforced and enacted.

Mr Delaney: I fully support this Bill as what I can only describe as being a drug addict myself in relation to cigarettes. I have smoked for the major part of my life and the fact of it is I do not know of any smoker who would not support this Bill. The argument from some people is that it is the right of choice, but in actual fact if you do not go near this sort of problem you will not be affected by it in later life.

I hope that over a period of time, much quicker than it took for cigarettes to take hold of the whole of the population of the world since Sir Walter Raleigh first brought his shipload of leaves into Britain, this Bill will be successful. I hope that the inspections and the particular way they are going to try and improve the situation will be carried out rigorously because I believe, and I can only speak for those like myself who have an addiction to cigarettes, that it

can be only good for future generations if tobacco is not available from an early age. I 100 per cent support Mr Waft in moving this Bill.

Mr Kniveton: Mr President, just following on from Mrs Christian, she made reference to the solvents and I feel that somewhere along the line she has indicated solvents do seem to take the back seat in preference to the tobacco in this subject. Solvents are a very big subject in themselves. I think we tend to forget about the solvents because we do not see it happening, whatever people do with the solvents we do not see it, it is done in private more so, whereas we see young people smoking.

I know when my family had a corner shop in Onchan some years ago it was quite obvious after a while who were buying the solvents and eventually we had to put them up on the top rack rather than the customer come in, take one and go and pay for it. We started to realise who they were and of course that was the only way of stopping it, and I think shopkeepers themselves, certainly the small shopkeepers, should have some idea who the people are who use the solvents.

Yes, I support the Bill wholeheartedly, sir. Thank you.

The Lord Bishop: Could I just ask a question of the mover? In the definition of tobacco does this Bill cover the improvements that are being made and experiments being made, certainly in America, on nicotine-less tobacco where you can smoke a sort of filtered type of cigarette which is supposedly non-intoxicating or non-harmful? Would this Bill cover that sort of definition of the tobacco-less tobacco?

The President: Reply, sir.

Mr Waft: I think the Attorney-General might be able to help make us aware of what the definition of 'tobacco' is. (*Laughter and interjections*)

The Attorney-General: Mr President, the definition of 'tobacco' in section 6 of the Children and Young Persons Act 1966 is not affected by this Bill, as I read it, and 'tobacco' is broadly defined to include cigarettes and smoking mixtures intended as a substitute for tobacco, and the expression "cigarettes" includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking.' So I would imagine, although I might perhaps look into this a little further, that nicotine-less tobacco could be within the definition of tobacco in so far as it is a mixture intended as a substitute for tobacco. Perhaps I could look into it, Mr President, and we can prepare for the next reading.

The President: It was interesting that I learnt in the past that during the North African campaign it was quite a practice to blend dried tea leaves with tobacco to have a substitute for the real thing.

A Member: Yes.

The President: Reply, sir.

Mr Waft: I would just like to thank the members who have spoken in favour and I am sure the Council is well aware of the problems and this is a move to address the situation. Thank you, Mr President.

The President: Hon. members, I will now put the resolution that the Children and Young Persons (Sale of Addictive and Intoxicating Substances) Bill of 1999 be now read a first time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Limited Liability Companies (Amendment) Bill – First Reading Approved

The President: Item 3, the Limited Liability Companies (Amendment) Bill, and I call upon the hon. Mr Radcliffe to take the first reading.

Mr Radcliffe: Thank you, Mr President. This, as hon. members can see, is a fairly short Bill. It is promoted by the Treasury and it will aid us to maintain our competitive status on the world stage, in the finance sectors anyway.

There is nothing too innovative about it, but it is remedying something which is required, and the principal object is to repeal the requirements which are in the Limited Liability Companies Act of 1996 and under that Act all companies organised under the Act have to be dissolved within a fixed period of 30 years.

Clause 1 of this little Bill repeals the provisions of that 1996 Act and confirms that the duration of such a company is opened unless the company itself chooses to adopt a fixed duration.

Clause 2 applies the amendments to limited liability companies which are formed after the Bill comes into operation and those which change their constitution to remove a requirement for the company to be dissolved within that fixed period.

The Bill is neither expected to increase the expenditure, nor to reduce the income of government, Mr President, and I beg to move that the Bill be read a first time.

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

Mrs Christian: Mr President, whilst the hon. mover indicates that it will not increase expenditure or reduce the income of government on the face of it, certainly one would expect, as the mover has indicated, that if it is really being done to remain competitive it could have consequences for the number of companies limited or staying in the Isle of Man in the face of competition from elsewhere, although I accept what he says in terms of actual government expenditure and supervision of Bills and what have you, and would he acknowledge that if this Bill was not accepted there could be a further consequence for the income of government in a wider context?

Dr Mann: Mr President, we often get Bills pushed before us here from the Treasury to remain competitive. In what way is this going to put us in a better competitive situation and how many companies would be affected? With one of the previous Bills we found that only one company out of the whole finance sector would be affected.

The President: The learned Attorney-General.

The Attorney-General: Mr President, if I may ask the hon. mover, would he agree that the implementation of this Bill may well result in two principal sources of new business, first of all in so far as the Treasury have identified that these new limited liability companies amended by the legislation will be an ideal medium for corporate membership of Lloyd's underwriters, and secondly, that existing professional partnerships which carry on business as partnerships

are seeking to limit their liability and as such will be able to use these companies with the benefit of the amendment?

The President: Mr Delaney?

Mr Delaney: I am fascinated by that question actually.

The President: Reply, hon. member.

Mr Radcliffe: Thank you, Mr President. Well, I can confirm what the learned and hon. Attorney-General has said. There have been certainly sources of interest and meetings have taken place with what is the leading player in the market. This would certainly aid that particular conglomerate, you could call it almost, to come to operate from the Island. If, as the hon. member on my right, Mrs Christian, has said, the Bill was not accepted, that certainly could not and would not take place anyway, so that would be one effect, and the hon. Dr Mann has asked how is this going to help the Isle of Man? Well, I think the learned Attorney-General has answered that one, but the interest is certainly there. Meetings have taken place with leading players in that market and I might add, Mr President, that Treasury's hope is that this Bill can be completed at our next sitting. I am giving due warning, sir, that there is a certain desire to expedite the passage of this Bill before the current legislative session ends. I hope that has satisfied the questioners, sir. *(Dr Mann interjecting)*

The President: Hon. members, I will put the resolution that the Limited Liability Companies (Amendment) Bill be now read a first time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Welcome to Visitors

The President: Now, hon. members, before proceeding to the next and major items on the agenda I would like to extend the warmest of welcomes to the representatives of Ramsey Grammar School here this morning, we are delighted to have you with us, and I would explain that the measures we have just dealt with are first readings which are really an introduction to the measure. They have to pass, but they are signalling the Bill is on its way and really the significant readings are the second and third readings which along with clauses will be dealt with in considerable detail. In a sense the first readings are establishing the principle and in that way advancing that element of legislation. Anyway we are delighted to have you with us and we hope you will enjoy your visit overall.

Members: Hear, hear.

Town and Country Planning Bill – Special Committee Report Received

The President: Now, hon. members, we turn to item 4 and I call upon the hon. Mr Crowe to move that the Report of the Special Committee on the Town and Country Planning Bill be received.

Mr Crowe: Thank you, Mr President, I beg to move:

That the Report of the Special Committee on the Town and Country Planning Bill be received.

The Town and Country Planning Bill received its first reading in the Council on 8th December 1998 and its second reading on 26th January 1999. At the sitting on 2nd February 1999 the Bill was referred to a committee consisting of Mr Lowey, Mr Waft and myself.

We held 10 meetings of the committee and considered oral evidence as detailed in the report and also written evidence which is detailed in appendix 1.

The provisions of the Bill are laid out in section 2 of this report.

Section 3 refers to compensation and to the extensive subordinate legislation which will follow when the Bill is approved.

Section 4 details the three amendments which the committee recommends should be made. These are firstly regarding clause 2, schedule 1 which is a technical amendment; secondly, and this also is regarding clause 2, schedule 1, to cover situations where the department modified the draft plan subsequent to an inspector's report following a public inquiry; and thirdly, changes to clause 40: firstly, placing the responsibility on the Council of Ministers instead of the departments to establish a body to obtain the views of organisations in the Island concerned with the environment, the economy or the planning of development; secondly, widening the authority of the new body to give advice to the department on matters where the advice may not be sought by the department; and thirdly changing the word 'may' to 'shall', thus giving certainty.

Mr President, this concludes my comments on the committee's deliberations and recommendations, which were unanimous, and I beg to move.

Mr Waft: I second, Mr President.

Mr Delaney: Mr President, the report is comprehensive, but one of the things that seems lightly touched on and a thing that will affect the whole future of the Island is impact studies, and I am going to ask the member how much time was spent looking at the very important matter of impact studies on the community in the matter of development, and in fact somebody had a conversation prior to this meeting on what may very well happen to sections of the agricultural industry, for example, and the milling industry if certain players come into the field in the Isle of Man, and this can happen because of our fixed area and our population size, that the whole community's lifestyle can be changed and industries can be virtually wiped out if proper impact studies are not made on what developments this community, if not across the water, requires, and I am very concerned and I think a lot of other members are concerned that this seems to be lightly touched upon, and I wonder if the member will enlighten us as to what area we should be looking at in this Bill here to make sure that in the future the people who come after us will have control of what happens in this Island. Just giving planning permission is not the best way. You have got to look at the whole situation of what happens when a development takes place, whether it be in retail, whether it be in housing development et cetera et cetera and it seems to me that we have not put enough emphasis on that and I think it is something we may live to regret.

Mr Waft: I think, Mr President, this was one of the concerns of the committee, that the effect of economic developments on the Island, the steps up the ladder, as it were, were concerns of the Planning Committee, and the quality of life was one of the major concerns that we had in this matter, and the prospect of development being allowed to continue purely on

economic grounds gave us cause for concern, and the situation with the quality of life in different areas of the Island, the environmental impact, was of similar importance to the committee and we did give due deliberations to that.

Mrs Christian: Mr President, I think perhaps the significance of the report is that it does not to any great extent amend the original legislation so from that point of view there may be a view in another place that we have held up the Bill, but nevertheless having had an opportunity for the committee to go through it in some detail and come out with a conclusion such as this (*Interjection*) indicates that there was not too much too far wrong with the Bill in the first instance.

What I would say, though, is that I do welcome the amendment in relation to the proposals with regard to draft plans and any subsequent modifications to draft plans after they have been considered by the inspector. I think in considering recent local plans there has been an issue here where people seeing a draft plan believe that that is what they are going to get at the end of the day and then find that for some reason it is modified either by the inspector or the department and they have not had an opportunity to express a view on it, so that the amendment to be moved by Mr Delaney, the hon. member, is, I think, a very sensible and useful amendment.

With regard to the provisions in clause 40, as suggested by the report, it is my understanding that the department would prefer that this was not amended. However, I do not think that they would regard it as a very major issue in terms of the appointment of the advisory body being by the Council of Ministers rather than the department.

The issue of 'may' or 'shall' is one which we frequently debate and again I think, as the hon. mover has said, regarding the substitution in I think line 35 of clause 40, although that is not what it says actually in the report, I think there is a typographical error there, but I am assuming we are talking about line 10 on page 35, again I do not think there is any real difficulty with accepting the substitution of the word 'may' by the word 'shall' and to that extent I am happy to support the report.

The President: Reply, sir.

Mr Waft: Thank you, Mr President, just taking up Mr Delaney's point and following on from Mrs Christian's point, we are working with legislation which requires updating to take account of the modern-day circumstances of living and the effect that development has had on the Isle of Man over the last few years where we have seen rapid growth in the Island, so we need an up-to-date Town and Country Planning Bill which takes account of all measures regarding plans and planning and control of planning.

As for the amendment on clause 40, we did discuss these with the department and it was our view that it was better that the department distanced itself from the appointing of the advisory council and substituting the Council of Ministers. Subject to this being approved today, of course agreement would be required in another place, but I think if I can conclude on that.

Mr Delaney: I am sorry, Mr President, we have not covered the point I made. I am asking about the impact studies and where in this Bill does it show that an impact study can be called for or should be laid down by the department to actually find out what will happen, if such a

development takes place, to the rest of the Island's economy and the communities in the Island? That is what I was asking.

Mr Crowe: Well, can I just say, Mr President, that we are looking at primary legislation here and there is a lot of regulation and orders which will have to be drafted to take account of a lot of issues, and I will make sure that this is brought into that to make sure that impact studies are brought into these orders and regulations.

Mr Delaney: But why can't the impact study, Mr President, be brought in as part of the Bill itself rather than an order? There is no reason why not, as I can understand.

The President: With that final question, sir, will you answer it?

Mr Crowe: Because it is felt that it would be better flowing through into the secondary legislation rather than the primary legislation.

The President: Right. Well, hon. members, the resolution before the Council is that the Report of the Special Committee on the Town and Country Planning Bill be received. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Town and Country Planning Bill – Clauses Considered – Third Reading Approved

The President: We now move to item 5, consideration of the clauses of the Town and Country Planning Bill and its third reading. The hon. Mr Crowe, do you wish to take your clauses in sections of the Bill or individually?

Mr Crowe: I had planned, Mr President, to take them individually.

The President: Very well, sir, clause 1.

Mr Crowe: If I can have the forbearance of the Council.

Clause 1 - this clause makes new provision expressly requiring the Department of Local Government and the Environment to monitor all factors relevant to planning control and enabling it to carry out surveys, the results of which will form the statistical and factual basis for the development plan.

Sub-clause (1) requires the department to keep under review all matters relevant to planning.

Sub-clause (2) lists the matters which are to be kept under review: the economy, geography, population and communication and any factors effecting them and any likely changes.

I beg to move clause 1.

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

The President: I will put the resolution, hon. members, that clause 1 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2, sir.

Mr Crowe: Clause 2 requires the department to prepare and keep up to date an Island development plan, to consist of an all-Island strategic plan and a number of area plans dealing with specific areas of specific matters. The procedure for the plan is set out in schedule 1. This

replaces the outdated system of planning schemes in the Town and Country Planning Act of 1934.

Sub-clause (1) lays an obligation on the department to prepare an Island development plan and to revise it from time to time.

Sub-clause (2) provides for the development plan to consist of two elements, firstly the strategic plan, and secondly, a number of area plans.

Sub-clause (3) provides for area plans to consist of a statement of planning policies either for a specific area or on a specific subject.

Sub-clause (4) requires an area plan to follow the general policies as set out in the strategic plan but provides that if there is an inconsistency the later plan is to prevail.

Sub-clause (5) requires the strategic or area plan to be given legal effect by being formally adopted by an order made by the department and approved by Tynwald. The order is also to specify the commencement date of the plan.

Sub-clause (6) introduces schedule 1 which describes the detailed procedure for making a strategic or area plan, and sub-clause (7) applies the above rules to the revision or repeal of a plan.

Mr President, I beg to move clause 2.

The President: And that is including the schedule.

Mr Crowe: And schedule 1, yes.

The President: Thank you, sir.

Mr Waft: I beg to second, Mr President.

The President: Thank you. The learned Attorney-General.

The Attorney-General: Mr President, I beg leave to move an amendment. The inclusion of the existing words in the schedule I think are because of a drafting or typographical error and I beg leave to move the amendment in my name, sir:

In schedule 1, page 42, in paragraph 3(3), for 'paragraph 1(2)' substitute 'section 45(2)(a)'.

Mr Crowe: I second that.

Mr Delaney: I have an amendment to move to clause 2 of schedule 1, Mr President:

In schedule 1, page 43, in paragraph 6, for sub-paragraph (2) substitute -

'(2) Where the Department proposes to adopt the plan with modifications

(a) it shall publish a notice stating -

(i) the general effect of the proposed modifications, and

(ii) that within such period as may be specified in the notice (not being less than 21 days beginning with the date on which it is first published), any person may make objections or representations in writing with respect to any of the modifications;

- (b) *it shall not adopt the plan before the expiration of the period as specified; and*
- (c) *before doing so it shall consider any objections and representations duly made with respect to the modifications and not withdrawn.'*

Mrs Christian: I beg to second, Mr President. I think this is a very significant amendment in terms of the opportunity for the public to really get down to expressing a view on the final form of the plan. As I mentioned earlier, it is an issue which has caused some concern with one or two of the local plans which have been considered to date and therefore I think it is welcome and a very useful amendment.

The President: Well, hon. members, we now have the clause along with two amendments to that clause for consideration. The hon. Mr Kniveton.

Mr Kniveton: Thank you, Mr President. I have just a small point I would like clarification on and an expression of intent from the department. That is the very first line, 'The Department shall prepare and from time to time . . . '. Now, can we have an indication of what 'from time to time' it really means in this case because we in government do get condemned from time to time and a long time? I would like an indication there.

Mr Waft: I think, Mr President, this has probably grown up from experience to find that they are unable to produce this Island development plan as and when required. They do not seem to be able to get round to producing it when it is required. So 'from time to time' is just a bit of a let-out for the department to actually address the issue.

Mr Kniveton: It leaves the door wide open then I would suggest, sir.

Mr Crowe: Mr President, can I just say on this point that the all-Island strategic plan is to be hopefully finalised by the department shortly. We have meetings planned to review and finalise the strategic plan.

The area plans, as we all know, cover towns and villages and there is a series of plans which have been before Tynwald and are coming before Tynwald and there is a regular programme for every one with the intention of being reviewed. The hope was in the past that it would be five years. These tend to extend longer than that and it is a case of the workload of the department and they do involve a massive input from everybody in the community, but the intention is that as circumstances change that they be reviewed to take account of up-to-date circumstances.

Dr Mann: Mr President, could I just ask? At the moment we are authorising local plans and in fact in the last few months we have authorised several local plans. We still have not a strategic plan and it looks as though we are putting local plans before the strategic plan. The department now claims that it is about to produce a strategic plan. Surely the strategic plan should have come first and the local plans then fit in with it.

Mr Crowe: Yes, Mr President, in an ideal world we have the strategic plan, we start off with a strategy and then everything flows from that, but we are at a point where we actually are. So the ideal has not worked.

Mr Delaney: Yes, minister!

Mr Crowe: So what we are saying is the all-Island strategic plan will look at the broad principles but the area plans look at the detail to make sure that it is relevant and it is more detailed for the people of that area.

Dr Mann: Would it be true to say that that is probably because we have not yet passed this Bill?

Mr Crowe: Well, I am looking, Mr President, for help and encouragement and support today from all of you.

Mr Delaney: Have you thought about resigning? *(Laughter)*

The President: Hon. members, the resolution before the House is that clause 2 along with schedule 1 do stand part of the Bill. To that I have an amendment in the name of the learned Attorney-General and a second amendment in the name of the hon. Mr Delaney. I propose to put them in the order they were tabled.

First of all we will deal with the learned Attorney-General's amendment. Will those in favour of that amendment standing part of the clause please say aye; against, no. The ayes have it. The ayes have it.

Will those in favour of Mr Delaney's amendment standing part of the clause and schedule please say aye; against, no. The ayes have it.

I will now put the clause as amended. Will those in favour of the clause as amended standing part of the Bill please say aye; against, no. The ayes have it. The ayes have it. Clause 3, sir.

Mr Crowe: Clause 3 gives the department a new express power to issue planning policy statements.

Sub-clause (1) enables the department to issue statements of planning policy indicating how it intends to deal with planning and with applications.

Sub-clause (2) introduces the term 'planning policy statement'.

Sub-clause (3) requires such a statement to be laid before Tynwald and to be published in accordance with clause 45(2).

Sub-clause (4) requires statements of planning policy to conform with the development plan.

Mr President, I beg to move clause 3.

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

The President: Hon. members, I will put the resolution that clause 3 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 4, sir.

Mr Crowe: Clause 4 enables an area plan to provide for the compulsory purchase of land in an action area.

Sub-clause (1) provides for an area plan to designate an area as requiring special comprehensive treatment, usually redevelopment.

Sub-clause (2) requires the plan to state what treatment is proposed and when it is to start. This must not be more than five years from adoption of the plan.

Sub-clause (3) gives the department power to acquire land in an action area by agreement or compulsorily.

Mr President, I beg to move clause 4.

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

Mr Delaney: I am just interested. In such designations, Mr President, where people are still residing in such an area, although we have powers to virtually purchase that property, will there be the same actions available to the residents in that area to get the full value for their money or will it be fixed under the present method of compulsory purchase?

The President: Reply, sir.

Mr Crowe: Thank you, Mr President. What we have here is to try and redevelop the inner towns rather than carry on into the green belts. So these are new proposals which are to regenerate the inner towns and the centres of the older parts of villages in the Island, and the ability to buy is given by compulsory purchase but obviously there will be negotiation with the existing owners to buy at market rates. So there will be the opportunity to sell to the department at valuation.

Mr Delaney: And the residents of that area have the same situation?

Mr Crowe: Oh yes, because the residents, whether tenants or owners, will have rights and although we are only starting out on this proposal which is a new initiative in the department, it will hopefully be a model for other areas, so we are starting with the proposal which is on the stocks now and we do need to find places on the Island to develop round field areas, urban regeneration.

Mr Delaney: Thank you, Mr President.

The President: The resolution, hon. members, is that clause 4 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 5, sir.

Mr Crowe: Clause 5 is a new provision requiring any legal challenge to the validity of a strategic or area plan to be brought within six weeks of its publication.

Sub-clause (1) precludes any legal challenge to a plan except in accordance with sub-clause (2).

Sub-clause (2) enables a challenge to be brought in the High Court within six weeks of publication of a plan on the ground that it is ultra vires or that the proper procedures have not been followed. In that case the court can suspend the plan as an interim measure and can make the final order quashing it in whole or in part.

I beg to move clause 5.

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

Mrs Christian: Mr President, could I just have some clarification from the hon. mover as to what constitutes publication of the plan? Is that the time at which the plan is accepted by Tynwald or is it prior to that? Can he clarify what is meant by publication in this context?

Mr Crowe: Well, to my mind publication would be immediately when the department has published it and issued it for public circulation. So it would allow anybody then to contest it when the department had published the plan.

The President: I will put the resolution, hon. members, that clause 5 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Part 2, clause 6.

Mr Crowe: Thank you, Mr President. Clause 6. This clause defines 'development', that is, the activities which are subject to control under part 2. It largely follows the existing law but a few matters are amended and clarified.

Sub-clause (1) defines 'development' as building and other operations, and secondly, a material change of use of land.

Sub-clause (2) includes certain activities in the definition of 'development' so that they do require planning approval.

Sub-clause (3) excludes certain activities from the definition of 'development' so that they do not require planning approval.

Mr President, I beg to move clause 6.

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

Mr Delaney: Mr President, I welcome totally particularly sub-clause (b) of this clause, clause 6, in relation to it being well overdue. It should have been years ago, and I can only point out what the Manx people and the residents have suffered time and time again and are still suffering and the sooner this part of the Bill is enacted the better. You have just got to look at one area alone, Douglas Head, just down below the radio station, where somebody out of vindictiveness has deposited on a piece of land adjacent to the main road on a beautiful piece of the Manx countryside derelict vehicles and what he would refer to as a pig farm, just to upset the rest of the people and the establishment of the Isle of Man, and this clause I hope will go a long way to stop such things happening in the future. The Manx people should not be subject to individuals who abuse their hospitality and their rights and just take out their spite on the establishment, and I welcome that particular sub-clause.

Mrs Christian: Mr President, whilst the hon. member welcomes it, I think that there have been difficulties in the way in which these things are interpreted from time to time by the department in terms of what constitutes engineering. There are operations which go on in the countryside in the normal course of events, issues such as putting in cattle grids on farms which were never considered to be engineering but which suddenly become engineering, or the filling in of hollows on ground which suddenly become engineering, and it seems a logical and common-sense approach to be no such thing. However, all I am saying is whether or not this clause is effective will depend on the practical way in which some of this is implemented and I do think that it is important that the common-sense approach is adopted to these issues.

Mr Delaney: Mr President, I agree with the hon. member. She is quite right, it is how it is interpreted, and only the Attorney-General knows the difficulties he and I have had over such things as the state of Douglas promenade in relation to homes recently. I am still getting letters from people saying they are acting and this is nine months after the matter was raised, purely because every individual section dealing with it, as the member has said, seems to try to pass the buck or have a different interpretation of what the law means, and even on the Attorney-General's instruction on what the law means I understand they still question it.

The President: Reply, sir?

Mr Crowe: Thank you, Mr President. Thank you for those comments of Mr Delaney and Mrs Christian. I am not sure that I have to comment other than to say that the implementation of this Bill will give the department more powers to be able to control where there are breaches of various actions taken. I beg to move clause 6, sir.

The President: I will put the resolution, hon. members, that clause 6 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 7, sir.

Mr Crowe: Clause 7 sets out the basic rule of development control. Planning approval is required for any development. New exceptions are made for resuming a previous use after a temporary approval or enforcement action.

Sub-clause (1) provides that planning approval is required for any development.

Sub-clause (2) provides that no planning approval is required for resuming a previous lawful use at the end of the life of a temporary planning approval, and sub-clause (3) provides similarly that where an enforcement notice is served against a development in breach of planning control, planning approval is not needed to resume the previous use after complying with the notice.

Mr President, I beg to move clause 7.

Mr Radcliffe: I beg to second, sir.

The President: I will put the resolution, hon. members, that clause 7 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 8, sir.

Mr Crowe: This clause provides for the making of one or more development orders which will provide for planning approval for development. This makes the development control system separate from the development plan. At present a planning scheme not only sets out planning policies but also provides for the grant of approval for development, which is both confusing and inflexible.

Sub-clause (1) requires the department to make one or more development orders providing for the grant of planning approval to permit the development of land.

Sub-clause (2) provides that a development order can either grant planning approval itself or else provide for the granting of approval by the department on an application for the purpose.

Sub-clause (3) provides that a development order may be either general, that is, applicable to all land, or special, which is applicable only to certain land.

Sub-clause (4) enables planning approval to be granted by a development order either unconditionally or subject to conditions.

Sub-clause (5) provides that a development order giving general approval for a certain kind of development can also give the department power to withdraw that approval in certain areas or in relation to a particular case.

Sub-clause (6) enables planning approval to be given so as to validate development carried out in breach of control, or to make permanent a previous time limited approval, or to allow buildings to be retained or a use to continue despite non-compliance with a condition imposed in a previous approval.

Sub-clause (7) enables a development order to delegate the power to grant planning approval to local authorities in such cases as are specified in the order. In those cases references to the department in this Bill are to be read as references to the local authority.

Mr President, I beg to move clause 8.

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

The President: I will put the resolution, hon. members, that clause 8 do stand part of the Bill. Will those in favour say aye; against, no. The ayes have it. The ayes have it. Clause 9, sir.

Mr Crowe: Clause 9 provides for applications for planning approval to be made in accordance with a development order.

Sub-clause (1) requires a planning application to be made in accordance with a development order.

Sub-clause (2) enables a planning application to relate to developments already carried out or an existing use of land and any matter within clause 8.

Mr President, I beg to move clause 9.

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

The President: I will put the resolution, hon. members, that clause 9 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 10, sir.

Mr Crowe: Clause 10 provides for the determination of planning applications, in particular the imposition of conditions and the procedure for deciding on applications.

Sub-clause (1) enables the department to grant planning approval on an application either with or without conditions or to refuse it.

Sub-clause (2) sets out specific powers in relation to planning conditions.

Sub-clause (3) enables an application to be made for the removal or variation of a planning condition.

Sub-clause (4) specifies the matters to which the department is to have regard when considering planning applications and applications to vary.

Sub-clause (5) requires a development order to set out the procedure for determining planning applications and applications under sub-clause (3).

Sub-clause (6) enables the order under sub-clause (5) to provide for application procedures, orders for costs, the refusal of applications made within a specified period after a previous refusal, the reservation of matters for subsequent approval and the procedure for deciding on such reserved matters.

Sub-clause (7) enables the department to make regulations enabling proceedings on a planning application to be taken concurrently with proceedings for any other kind of consent.

Mr President, I beg to move clause 10.

Mr Waft: I beg to second, Mr President, but I am still a little bit concerned that despite all the rules and regulations we do put in place we have still only got one planning enforcement officer for the whole of the Isle of Man and perhaps consideration of his workload might be advisable at this stage.

Mr Delaney: My query, Mr President, is with sub-clause (3). Am I to understand that when they apply for a change to the original planning application in the requirements this will not be a delegated responsibility of an officer of the department but will go in front of the whole Planning Committee? As we have seen in recent times, plans eventually finish up nothing like they originally were put to the public and I am concerned that a lot of these variations are done by the officers who have delegated responsibility, and I could quote a number of recent examples, and actually the plan that the public were told they were getting never turns out into real fact.

Dr Mann: Yes, Mr President, I must support that view. The extent to which the planning department can vary a granting of approval seems to be without reference to the original consideration of the approval, that is, the objectors to the original are never informed of the variations of the subsequent planning approval. To what extent does the department have power to actually vary an existing approval without going back to the original objectors to the development?

Mr Crowe: Mr President, if I can just pick up on that, the present system of planning procedure is that an application is made and people can object if they are parties to the proceedings and if it is approved or refused, the applicant or the objectors have the right to take it to review and after that review everybody involved - the objectors, the applicants - are all given all the information and submit it. So all the evidence that is submitted by either party is available to all the parties. Further is the review hearing and people have rights to take it to appeal and then it goes to an independent inspector, to an inquiry, and following the inquiry the inspector's report is subject to the minister's review and he can accept or he can change the independent inspector's review. He is the ultimate authority.

So it is a very lengthy process. Everybody is taken into consideration. Since I have been on the Planning Committee I have found that it is a lengthy process because of the paper, because of the people you have to inform, because of the local authorities and people who are interested parties. So it is a very thorough process and I do believe that it is a fair process.

Dr Mann: But after all that has been gone through the department has the power to vary

Mr Delaney: As it is stated.

Dr Mann: - the approval. Under this clause the department then can vary the approval without any of the previous objectors ever knowing.

Mr Delaney: Could I draw the member's attention, to help him? Line 3 of sub-clause (3) is the variation and that is what I am querying. After all this process has gone through of planning appeals et cetera the department then, by application by the developer or the person who is developing, can ask for a variation of the planning, and my query is will that be subject back to the people who made the decision or an officer of the department who on his own whim can vary that plan? That is my question.

The President: Right, the question is posed. The hon. member in charge will try to reply.

Mr Crowe: Yes, I can see what you are saying, the sub-clause that Mr Delaney has raised. An application can be made for the removal or variation of a planning condition. If the department agrees, it can impose a new condition provided it is consequential on the removal or variation, but it would have to go through all the procedures that all the other one has gone through as well, the original application. You cannot just, by delegated responsibility, change something when people have made formal objections. So it would go to the department.

Mr Delaney: Am I right in saying -

The President: Hon. member, you have asked your question, a reply has been given. It is now a matter of dealing with the resolution which is that clause 10 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 11, sir.

Mr Crowe: Clause 11 provides for certain planning applications to be dealt with by the Council of Ministers instead of by the Department of Local Government and the Environment.

Sub-clause (1) enables the Council of Ministers to call in a planning application of national importance which it considers should not be dealt with by the department.

Sub-clause (2) provides for an approval under (1) to be laid before Tynwald and subject to annulment by a resolution of Tynwald.

Sub-clause (3) provides that a development order can provide for planning applications by the department or relating to the department's land to be made to and decided by the Council of Ministers.

Sub-clause (4) modifies references to the department accordingly in relation to applications dealt with by the Council of Ministers.

Sub-clause (5) provides that in other respects the same rules apply to applications within sub-clauses (1) or (3) as applied to ordinary planning applications.

Mr President, I beg to move clause 11.

Mr Waft: I beg to second, Mr President. Would the mover like to clarify for me who refers the planning application to the Council of Ministers? Would it be the Planning Committee or the minister?

Mr Crowe: To my mind it would be the minister because it would involve the department's own property or where they had a direct interest, so they could not be

deliberating on their own applications or where it involved their own land or where they had an interest.

Mr Delaney: My only view, Mr President, is that in 11(1)(a), the first important one, more plans dealing with this small Island should be called in by the ministers because every major development really has an impact now on the life of this Island and I believe there are more cases of general importance to the Island which should be brought in and questioned by the senior members of this government because they do not seem to get the message yet that developments on this Island will have long-term effects and it might seem very small at this time but in the future such developments will have a major impact on the Island and more should be called in.

Mrs Christian: Mr President, I wonder on that particular point whether the learned Attorney-General could give some guidance as to the definition of 'general importance' because it has certainly been my understanding that in the past it has been felt that certain cases should be called in and the indication has been that they do not fall within the definition provided for in the legislation. Perhaps the learned Attorney-General could assist us by giving us his view on what is meant by 'general importance' in this clause.

The President: Learned Attorney.

The Attorney-General: Well, Mr President, the question is an important one. As ever it is a question of definition. I think I am right in saying that under the existing legislation we have references to matters of national importance and in many ways my first impression would be that we must equate 'general' to 'national'. There must be something that takes it beyond the parochial and into the national arena.

Having said that, of course, that is an easy thing to say but very difficult to apply to particular circumstances. I am sure we can all think of examples where the matter is of such importance to the locality that the residents of that locality truly believe it is a matter of general importance or national importance.

All one can say is that it is for the Council of Ministers to deliberate on that. The limited experience I have had thus far of these matters in the Council is that they are treated with great seriousness and, if anything, there tends to be a move towards defining or determining that a matter is one of national importance, whereas it is something of particular local importance to the member concerned. In other words what I think I am trying to say is that there is a tendency towards categorising planning applications to be of general importance or national importance rather than the other way.

The President: Do you wish to reply, hon. member?

Mr Crowe: I think we are all quite happy, Mr President.

The President: Hon. members, I will put the resolution that clause 11 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 12, sir.

Mr Crowe: Clause 12 makes further provision for the effected planning approvals, particularly as to their duration.

Sub-clause (1) provides that, generally speaking, planning approvals go with the land and are not personal to the applicant.

Sub-clause (2) provides that the approval for a building carries with it approval to the use of the building for any purpose specified in the approval or in the application, or if none is specified, for any purpose for which the building is presumed to have been designed.

Sub-clause (3) enables a development order to specify a time limit for commencement of development or else to provide a time limit to be specified in the planning approval.

Mr President, I beg to move clause 12.

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

The President: I will put the resolution, hon. members, that clause 12 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 13, sir.

Mr Crowe: Clause 13 re-enacts existing powers under which the department can enter into planning agreements with developers, regulating a development in ways which would not be possible by planning conditions, for example requiring an existing building to be demolished before a new building is erected. Mr President, I beg to move clause 13.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution, hon. members, that clause 13 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 14, sir.

Mr Crowe: Clause 14 together with schedule 2 continues the protected buildings register and provides for buildings to be entered in it.

Sub-clause (1) requires the department to continue to maintain the protected buildings register, which was originally established by the Town and Country Planning Act of 1981.

Sub-clause (2) enables the department to consider not only the quality of the building in isolation but also its importance as part of a group.

Sub-clause (3) introduces schedule 2 which contains procedural provisions with regard to registration, and sub-clause 4 requires the register to be public and for copies to be supplied on request.

Mr President, I beg to move clause 14.

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

The President: Hon. members, I will put the resolution that clause 14 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 15, sir.

Mr Crowe: This clause requires registered building consent for works affecting a registered building and provides for the grant of such consent.

Sub-clause (1) requires authorisation for any works for the demolition of a registered building, or its alteration, or extension affecting its special architectural or historic interest.

Sub-clause (2) provides that works are authorised if the department has given registered building consent.

Sub-clause (3) enables registered building consent to be given so as to validate works carried out in breach of control but without retrospective effect.

Sub-clause (4) introduces schedule 3, which deals with the condition that may be imposed on the grant of registered building consent.

Sub-clause (5) provides for regulations made by the department to lay down the procedure for applying for registered building consent or for the variation or cancellation of a condition of consent under clause 16, sub-clause (8). It is to be noted that the regulations require Tynwald approval.

Mr President, I beg to move clause 15 and schedule 3.

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

The President: Hon. members, I will put the resolution that clause 15 along with schedule 3 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 16, sir.

Mr Crowe: This clause excludes the requirement for registered building consent in certain cases and sets out the criterion to be applied in deciding applications for consent.

Sub-clause (1) provides that consent is not required for works for which consent is required under the legislation relating to ancient monuments.

Sub-clause (2) enables regulations made by the department to exclude or modify the exemption in sub-clause (1) in appropriate cases.

Sub-clause (3) requires the department to consider the need to preserve a registered building and its features in determining any planning application affecting the building and any application for registered building consent.

Mr President, I beg to move clause 16.

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

Mrs Christian: Mr President, I wonder if the mover would just confirm that this clause represents no change, as do some of the others in this section.

Mr Crowe: Yes, Mr President, thank you. Mrs Christian's query - there is no change to the existing legislation in this one.

The President: Hon. members, I will put the resolution that clause 16 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 17, sir.

Mr Crowe: Again there is no change in any of the existing legislation in clause 17. Briefly I would just say that it provides for an emergency procedure for protecting an unregistered building temporarily by serving a building preservation notice.

Sub-clause (1) enables the department to serve a building preservation notice on the owner and occupier of the building.

Sub-clause (2) requires the notice to state that the department is thinking of registering it and explaining the effect of the notice.

Sub-clause (3) provides the notice is to come into force at once and remain in force for three months.

Sub-clause (4) provides that the building is treated as a registered building while the building preservation notice is in force.

Sub-clause (5) enables a building preservation notice to be served in an emergency.

Sub-clause (6) provides that any application for registered building consent and any consent granted will lapse if the building preservation notice ceases to have effect, except where the building is registered.

Mr President, I beg to move clause 17.

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

The President: I will put the resolution, hon. members, that clause 17 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 18, sir.

Mr Crowe: Mr President, this clause provides for the designation of conservation areas and re-enacts existing legislation, and I beg to move clause 18.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution, hon. members, that clause 18 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 19, sir.

Mr Crowe: This clause applies similar but not identical controls to unregistered buildings in conservation areas as applied to registered buildings.

Sub-clause (1) specifies the buildings to which the controls apply.

Sub-clause (2) enables the department to exempt any class of unregistered buildings in a conservation area from registered building control.

Sub-clause (3) requires the department's consent to the demolition of a building falling within sub-clause (1) above.

Sub-clause (4) provides that any application for registered building consent and any consent granted will lapse if the building in question ceases to fall within the specified category.

Mr President, there is no change to existing legislation, and I beg to move clause 19.

Mr Waft: I beg to second, Mr President.

The President: Hon. members, I will put the resolution that clause 19 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 20, sir.

Mr Crowe: Clause 20 provides for applications for registered building consent for buildings of the Department of Local Government and the Environment to be determined by the Council of Ministers.

Sub-clause (1) specifies the buildings to which this applies. There is no change to existing legislation except for the addition of the word 'controlled'.

Sub-clause (2) requires the department to make regulations providing for applications for registered building consent to be made to the Council of Ministers and for other matters relating to such applications. This is a new section.

Sub-clause (3) enables regulations to modify this part further in relation to buildings of the department, and there is no change to the present legislation in this sub-clause.

Mr President, I beg to move clause 20.

Mr Waft: I beg to second, Mr President.

The President: Hon. members, I will put the resolution that clause 20 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 21, sir.

Mr Crowe: Clause 21 enables the department to give financial assistance towards the repair or improvement of a registered building.

Sub-clause (1) enables the department, after consulting the Treasury, to give financial assistance towards the repair or improvement of a registered building, a building in a conservation area or any related structure or building such as a boundary wall or the grounds of the building.

Sub-clause (2) enables assistance to be given as a grant or loan on conditions and subject to security for repayment.

Mr President, I beg to move clause 21.

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

Mr Delaney: Is there any change from the original, Mr President?

Mr Crowe: No, it is from the Town and Country Planning Act of 1991.

Mr Delaney: That is fine. Thank you.

The President: Hon. members, I will put the resolution that clause 21 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 22, sir.

Mr Crowe: Thank you, Mr President. All of these provisions are new provisions to the legislation. Clause 22 sets up a new system of control of advertisements replacing the Advertisements Regulation Act of 1925 which is outdated and defective.

Sub-clause (1) enables the department to make regulations restricting or regulating the display of advertisements.

Sub-clause (2) enables the regulations to cover such matters as the size, appearance and position of advertisements, the requirements for the consent of the department to their display and the procedure for obtaining consent.

Sub-clause (3) enables the regulations to make different rules for different areas.

Sub-clause (4) provides that, in particular, different controls may apply to conservation areas and areas requiring special control.

Sub-clause (5) enables the regulations to apply to existing advertisements and advertisement sites.

Sub-clause (6) requires the regulations to allow a certain period of grace, as prescribed, for existing advertisements and sites.

Sub-clause (7) provides that to avoid duplication a consent to an advertisement under the regulations is deemed to be planning approval.

Mr President, I beg to move clause 22.

Mr Waft: I beg to second, Mr President.

Mr Delaney: This, Mr President, seems very little in this Bill but it is probably one of the most important sections of the Bill, as members of the Keys and this hon. place must be aware of the plethora of what I would describe as Mickey Mouse advertisements appearing on pavements, on lamp standards and places where they should not be, and if we are to have any difference in the island where the difference makes the difference, the Isle of Man should have control of this because we want to keep an environment that the people can live with, and it seems that the whole of the world is sticking pasteboard advertisements in every square inch of ground, whether it be countryside or town, and it seems to me this is very important, if it is administered, and I would like to ask the hon. member, is the building control officer going to do this? Are the local authorities going to do this? Is there a combination? Who is actually going to control or look at what we have and what we should not have in this Island in relation to advertisements, the positions and places where they are beneficial? I wonder what benefit they are to anybody, an advertisement.

Mr Radcliffe: Mr President, could I just ask the hon. mover about advertisements, and I think of two particular, churches. Many, in fact all churches, I think, have boards advertising their services. Are they subject, could I ask the mover, to the provisions of this particular section?

But more so I think perhaps of farm gate advertisements where a board is standing at the end of a farm lane, not permanently, but probably set there for two or three days in the week to try and attract potential customers to the farm shop or farm gate or sales or whatever. Would that be precluded under the terms of clause 22 of the Bill?

Mr Waft: I was concerned, Mr President, about the lack of concern of petrol companies when they do display large adverts of the price of their goods and with no concern whatsoever for the immediate neighbours. Thank you, Mr President.

Mrs Christian: Mr President, I was going to follow on the point raised by my hon. colleague Mr Radcliffe, but I do think that again in this issue it will depend on how the regulations are drafted and then how they are implemented. The provision of the clause does

allow that there be regulations dealing with certain prescribed classes of advert, and it may be that the farm gate seasonal sales might not be prescribed or may be prescribed as not to be covered. So I think that the regulations in this particular issue will be important.

I would concur with the hon. member Mr Delaney in the sense that the Island does seem to be becoming swamped and if it is not with adverts, it is with road traffic signage, some of which one would query the necessity for the size and quantity of it. However, I presume that that is not covered under the heading of 'Advertisements' but is covered by the Department of Transport's own regulations. Certainly we see in the countryside, for example, Manx National Heritage signage, 'Farmers. . .', and whatever, with no reference to anything in particular, it does not sign you to anything, but that went up without any consideration at the time, it appeared overnight. One might want to say that we do want to make people aware of the heritage of the Island, but whether or not that sort of signage and that scale is necessary I do not know and perhaps these regulations, when drafted, will cover those issues. But I think when we get to Tynwald and look at the secondary legislation, that will be the time to give it really tight scrutiny.

The Lord Bishop: Mr President, could I just follow up my hon. colleagues point about the church notices? I would hope that under section 2 there would be no stringent regulations about the dimensions of notice-boards in churches because on the whole they are in some proportion to the size of the building and also to the needs for the things they are advertising. I would like to know if there is any regulation in that about the dimensions.

Mr Delaney: I hope you are not trying to control a sign from God!

Mr Kniveton: Just talking about notice-boards, who has the power or is there any power for the removal of illegal notices? And we have seen a lot over the last few years.

The President: Reply, sir.

Mr Crowe: Thank you, Mr President. Just taking the last one first, the illegal notices, these are all down to the enforcement office in the Department of Local Government.

Going on to the style and size of advertisements, these will all be determined by regulations which will go before Tynwald. I would very much hope that it would not affect anything to do with church notice boards or farm gates. There has to be obviously reasonableness in all of these things, and common sense, and I look forward to the regulations coming before Tynwald where everybody can have an input into the points that have been made.

The President: Hon. members, I will now put the resolution that clause 22 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 23, sir.

Mr Crowe: Clause 23 defines breach of planning control, a concept fundamental to enforcement of control but new to Manx planning law, and makes it an offence to carry out development in breach of control.

Sub-clause (1) defines 'breach of planning control'. It is the carrying on of any development either without planning approval if required, or without complying with a condition subject to which planning approval was granted.

Sub-clause (2) makes it an offence to start or carry out any development in breach of planning control.

Sub-clause (3) provides the prosecution for an offence does not affect the department's further powers, for example to serve an enforcement notice or stop notice, and I beg to move clause 23.

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

Mr Delaney: I would just ask a question about the £5,000 fine to a developer who is dealing in a multi-million pound development. I know that they have got other powers but £5,000 seems like not even a blot on the bottom of his planning permission papers as far as developers are concerned. Don't you think we are a bit light on £5,000 to a multi-million pound developer?

Dr Mann: Are we talking about what is normally described as reserved matters?

Mr Crowe: Sorry?

Dr Mann: On planning approvals there are reserved matters.

Mr Crowe: Oh yes, there are always reserved matters.

Dr Mann: So, yes, that is what is meant, presumably, by the planning control.

Mr Crowe: Well, it is to make sure that it is the enforcement of the planning, that the controls are put in place and that they are properly enforced. This is what it is to do with.

Mrs Christian: Mr President, just if I may please, the issue here is that if you take some action you may be in breach of a planning control. What I think is a sort of corollary to that is perhaps we need to emphasise the fact that if people enquire whether or not they need planning permission for certain issues they would be well advised to get their answer in writing because experience has shown that if you do not get it in writing you may get different versions from different people that you speak to, so that if we are creating an offence here, then I think at the same time we need to advise people that if they take it verbally they should ask for it to be followed up in writing so that they at least have some backing if they are subsequently found to be in breach of any planning matter.

The President: Do you wish to reply, sir?

Mr Crowe: I would just thank Mrs Christian for that point about seeking written confirmation on verbal comments. Thank you, Mr President.

The President: Hon. members, I will put the resolution that clause 23 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 24, sir.

Mr Crowe: This clause introduces new enabling powers for the making of regulations under which owners or occupiers of land can request a ruling on whether current or proposed uses or operations are lawful, that is, that they cannot be the subject of enforcement action.

Sub-clause (1) enables the department to make regulations setting up a scheme under which a certificate can be issued stating whether an existing or proposed use, or past or future operations, or anything done in breach of a planning condition is lawful.

Sub-clause (2) defines 'lawful' for this purpose.

Sub-clause (3) sets out the effect of the certificate issued in accordance with regulations under sub-clause (1) which contains the specified details. It is conclusive evidence that the use or operation is or will be lawful unless, in the case of a proposed use or operation, the circumstances change in the meantime.

Sub-clause (4) makes it a serious offence to give false information or conceal relevant information in an application for a certificate.

Sub-clause (5) enables the department to revoke a certificate which was issued in reliance on false or incomplete information.

Sub-clause (6) gives the department power to make regulations. All of these enabling powers are new and I beg to move clause 24.

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

The President: I will put the resolution, hon. members, that clause 24 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 25, sir.

Mr Crowe: This clause gives the department power to require information about uses of land or operations so it can decide whether there has been a breach of planning control.

Sub-clause (1) enables the department to serve a notice requiring information if it thinks there may have been a breach of planning control.

Sub-clause (2) gives examples of questions which may be asked in a notice where there may have been a breach.

Sub-clause (3) makes failure to respond to a notice within 21 days an offence.

Sub-clause (4) makes it an offence to give false information in response to a notice.

Sub-clause (5) provides that information given in response to a notice cannot be used as evidence against the person giving it on a prosecution for an offence under clause 23(2), as this would offend against the rule of self-incrimination.

Sub-clause (6) provides that serving a notice does not affect any other powers of the department.

Mr President, I beg to move clause 25.

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

The President: I will put the resolution, hon. members, that clause 25 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 26, along with schedule 4, sir.

Mr Crowe: Thank you, Mr President. This clause introduces a new weapon against breaches of planning control: an enforcement notice which requires a person to take specified action to remedy the breach.

Sub-clause (1) introduces schedule 4, parts 1 and 2, relating to the issue of enforcement notices and appeals against them.

Paragraph 1 gives the department power to issue an enforcement notice if it thinks the development is being or has been carried out in breach of planning control.

Paragraph 2 requires an enforcement notice to specify the time or times within which the steps referred to in paragraph 1(c) are to be taken.

Paragraph 3 prevents an enforcement notice being issued outside certain time limits.

Paragraph 4 provides that an enforcement notice takes effect with respect to any person on whom it is served and his successors in title at the end of a time: at least 28 days specified in the notice.

Paragraph 5 requires a copy of the notice to be served on the owner and occupier and any other person interested, for example an intermediate lessee.

Paragraph 6 allows the department to withdraw an enforcement notice or waive or relax any requirement of it or extend a time limit for action.

Paragraph 7 provides that where an enforcement notice is served which might have required buildings et cetera to be removed or a use of a land to cease but did not do so and the notice is complied with, the building or use is deemed to have planning approval.

Paragraph 8 makes it clear that an enforcement notice is not cancelled once it has been complied with.

Paragraph 9 provides an enforcement notice is cancelled if planning approval is granted to retain buildings et cetera or to continue a use subject to the notice.

Paragraph 10 gives a right of appeal to the High Bailiff against an enforcement notice.

Sub-clause (2) makes the owner of land guilty of an offence if an enforcement notice with respect to the land is not complied with.

Sub-clause (3) makes any person other than the owner having control of the land, for example a tenant or a contractor on the land, guilty of an offence if any activity prohibited by the notice is carried on.

Sub-clause (4) prescribes the maximum penalty for contravention of an enforcement notice.

Sub-clause (5) enables the offence to be charged with respect to a period of time and allows for successive prosecutions for persistent contraventions.

Sub-clause (6) gives the owner a defence that he has done his best to comply with a notice.

Sub-clause (7) gives any defendant a defence that he was not served with a notice, he did not know of it and the notice was not registered.

Sub-clause (8) precludes the defendant raising a defence in which he could have founded an appeal under schedule 4, part 2.

Sub-clause (9) introduces schedule 4, part 3 which gives the department default powers if an enforcement notice is not complied with.

Mr President, I beg to move clause 26 and schedule 4.

Mr Waft: I beg to second, Mr President.

Mr Delaney: Obviously I welcome this particular clause 26, but maybe the Attorney-General can answer me more than the mover. In relation right throughout this clause it deals with a person, it says a persons the owner of the land. Do I take it for granted that automatically in law where a company usually own the land, a registered company, they have the same position lodged against them in breach of the planning?

The President: Mr Attorney.

The Attorney-General: Mr President, yes, I confirm that in accordance with the Interpretation Act 'person' would certainly include a company and any other entity which owned land, in addition to a human individual.

Mr Delaney: Yes. Can I ask then a secondary question now that you have given that, and I thank you for the answer? Why have we in this particular clause not put persons or just put the owners of the land rather than the person? Do you follow my point, I think?

The Attorney-General: In answer to that I do not think there is any inconsistency or difficulty in that. The hon. member refers, for example, to clause 26(2) at page 23. Is that his point, that the person who is then the owner of the land is guilty of an offence? That sort of thing.

Mr Delaney: Yes, right throughout this clause.

The Attorney-General: Mr President, yes, a human individual of course can be an owner and equally a company can be an owner. That is perfectly correct and consistent with the language used there.

Mr Delaney: So we have covered them. That is what I was worried about.

The Attorney-General: Yes, indeed.

Mr Delaney: Thank you very much indeed.

The President: Hon. members, I will put the resolution that clause 26 along with schedule 4 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 27, sir.

Mr Crowe: This clause gives the department improved powers to serve a stop notice to enforce planning control in an emergency where an enforcement notice would cause too much delay. A stop notice would be able to stop uses of land as well as operations.

Sub-clause (1) gives the department power to serve a stop notice.

Sub-clause (2) requires the related enforcement notice to have been served on the person concerned or to be served at the same time.

Sub-clause (3) prevents a stop notice applying to certain activities.

Sub-clause (4) provides that a stop notice must refer back to the related enforcement notice and also set out the penal sanctions in clauses 6 and 8.

Sub-clause (5) enables the department also to post a site notice on the land concerned so that anyone carrying on the relevant activity on the land will know of the existence of the stop notice.

Sub-clause (6) makes it an offence to contravene a stop notice provided it has been served on or after a site notice has been displayed.

Sub-clause (7) makes it an offence to cause or permit a stop notice after service, subject to two days' grace.

Sub-clause (8) prescribes the penalties for breach of a stop notice.

Sub-clause (9) gives a person accused of an offence under clause 6 a defence that the stop notice was not served on him and that he did not know of it, for example, where a site notice was posted but he could not reasonably have known of it.

Sub-clause (10) provides that an appeal against the related enforcement notice does not affect the stop notice but the stop notice lapses with the cancellation of the enforcement notice and any requirement of it dependent on a particular requirement of the enforcement notice will lapse if the latter is removed by the notice being varied under schedule 4, paragraph 6 but this does not affect the liability to be prosecuted for an offence committed before the stop notice lapsed.

Mr President, I beg to move clause 27.

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

Mr Delaney: I have total support for this. It is a continuation of the policy in the last Bill. The only fact is, like any law, it is only as good as how it is enforced and how it is actually judged upon, and judging by some of the cases that have gone through this Island in relation to stop notices et cetera - and Peel Road being an example of years of trying to get something done about an obvious infringement of the planning - it is only as good as the people who enforce it and in fact in this Island it is very little enforced and it is obvious for anyone to see.

The President: Do you wish to reply, sir?

Mr Crowe: No, thank you, Mr President.

The President: I will put the resolution that clause 27 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 28, sir.

Mr Crowe: Clause 28, which substantially re-enacts existing provisions, deals with the enforcement of agreements under clause 13 relating to the development of land. Agreements can be enforced against successors in title of the original party, and the department is given default powers to enforce certain obligations. Mr President, I beg to move clause 28.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution, hon. members, that clause 28 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 29, sir.

Mr Crowe: Clause 29 re-enacts existing provisions relating to the enforcement of control over works to registered buildings.

Sub-clause (1) makes it an offence to carry out unauthorised works to a registered building.

Sub-clause (2) makes it an offence to fail to comply with a condition attached to a registered building consent.

Sub-clause (3) specifies the penalties for the contravention of sub-clause (1) or sub-clause (2).

Sub-clause (4) gives a defence if the works were urgently necessary for safety or health or to preserve the building.

Mr President, I beg to move clause 29.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution, hon. members, that clause 29 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 30, sir.

Mr Crowe: This clause makes it an offence to damage or do anything likely to cause damage to a registered building where it would not otherwise constitute the offence of criminal damage.

Sub-clause (1) makes it an offence to damage or do anything likely to cause damage to a registered building or to cause or permit another to do so.

Sub-clause (2) excludes certain cases from the offence under sub-clause (1) where the building is excluded from registered building control or where the work done has planning approval or registered building consent.

This part of the Bill is no change on the existing legislation and I beg to move clause 30.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution, hon. members, that clause 30 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 31 and schedule 5, sir.

Mr Crowe: Thank you, Mr President. Clause 31 with schedule 5 enables the Department of Local Government and the Environment to serve an enforcement notice requiring action to be taken to remedy unauthorised work to a registered building. This clause and schedule largely re-enact existing provisions, with a few improvements.

Sub-clause (1) introduces schedule 5, parts 1 and 2, which deal with registered building enforcement notices.

Sub-clause (2) provides that where a step required by a registered building enforcement notice with respect to a building has not been taken within the time allowed the person who is the owner for the time being is in breach of the notice.

Sub-clause (3) makes the owner for the time being guilty of an offence if he is in breach of a registered building enforcement notice.

Sub-clause (4) enables the offence to be charged with respect to a period of time, and successive prosecutions can be brought for persistent contraventions.

Sub-clause (5) gives the owner a defence that he has done his best to comply with the notice or that he was not served with the notice and did not know of it.

Sub-clause (6) precludes the defendant raising a defence in which he could have founded an appeal under schedule 5, paragraph 8.

Sub-clause (7) introduces schedule 5, part 3, which gives the department default powers.

Mr President, I beg to move clause 31.

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

The President: I will put the resolution, hon. members, that clause 31 along with schedule 5 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 32 along with schedule 6, sir.

Mr Crowe: Clause 32 re-enacts existing provisions under which the Department of Local Government and the Environment can carry out emergency works to preserve an occupied registered building and recover the cost from the owner.

Sub-clause (1) gives the department power to carry out urgent works to preserve a registered building or an important building in a conservation area.

Sub-clause (2) precludes the power being used for an occupied building.

Sub-clause (3) enables temporary as well as permanent work to be done, and sub-clause (4) introduces schedule 6 which makes supplemental provision in respect to works under this clause.

Mr President, I beg to move clause 32.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution, hon. members, that clause 32 along with schedule 6 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 33 along with schedule 7, sir.

Mr Crowe: This clause introduces schedule 7 which gives the department power to acquire compulsorily a registered building which has been allowed to fall into disrepair. In appropriate cases the compensation payable may exclude any redevelopment value.

Paragraph 1 prescribes the first step in the process. The department is to serve a repairs notice on the owner saying what works need to be done to the building and explaining the following powers.

Paragraph 2 requires the department to withdraw a repair notice once it has been complied with.

Paragraph 3 gives the department power to acquire the building and any land forming its site and required in order to manage or repair it compulsorily two months after service of a repairs notice.

Paragraph 4 provides that where a building has been deliberately allowed to fall into disrepair so that the site can be redeveloped the department can acquire it at a price which does not reflect any redevelopment value, provided that Tynwald agrees and includes the appropriate direction in the authorising resolution.

Paragraph 5 is a drafting provision.

Mr President, I beg to move clause 33 and schedule 7.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution, hon. members, that clause 33 along with schedule 7 do stand part of the Bill.

The Lord Bishop: Mr President, could I just ask? If, for example, I had a church that was a listed building that was falling into disrepair because the congregation could not maintain it, do I take it that the department would buy it from me?

The President: Reply, sir.

Mr Crowe: No, my Lord Bishop. I think the intention is that if you were deliberately allowing it to fall into disrepair to have the land redeveloped for something else . . .

Mr Delaney: I thought God would provide!

The Lord Bishop: Well, I hope the department will as well.

The President: The resolution is that clause 33 along with schedule 7 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 34, sir.

Mr Crowe: Clause 34 applies the enforcement notice provisions in clause 31 and schedule 5 to buildings subject to building preservation notices and buildings in conservation areas, with certain modifications.

Sub-clause (1) applies clause 31 and schedule 5 to buildings subject to building preservation notices and buildings in conservation areas.

Sub-clause (2) provides that the expiry of a building preservation notice does not affect any criminal liability for a previous contravention or any liability for recovery of expenses but any registered building enforcement notice is to lapse.

There is no change in this to existing legislation and I beg to move clause 34.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution, hon. members, that clause 34 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 35, sir.

Mr Crowe: Clause 35 brings in new provisions and they provide for the enforcement of the control of advertisements under the new regulation-making powers in clause 22.

Sub-clause (1) enables regulations made by the Department of Local Government and the Environment to require the removal of advertisements and the discontinuance of advertising sites which contravene regulations under clause 22.

Sub-clause (2) enables the regulations to apply with modifications any provisions relating to enforcement notices.

Sub-clause (3) makes contravention of regulations under clause 22 an offence.

Sub-clause (4) provides that the owner or occupier of land on which advertisements are displayed or the business which is being publicised is deemed to be in contravention.

Sub-clause (5) gives the accused owner the defence that he did not know of the display and did not consent to it, but he must prove it.

Mr President, I beg to move clause 35.

Mr Waft: I beg to second, Mr President.

Mr Delaney: Mr President, this is why I raised it earlier. I think it is so important, but I go back to the question that I asked and I did not get a clear answer. Although there is an enforcement officer, with the amount of signs and posters et cetera this is going to cover in relation to the reality of the job, can the member tell us, and we are talking here about putting notices and prosecutions and everything else, which is well overdue, who actually in his department, which section, is going to enforce this one how the public would expect it to be enforced?

The President: Reply, sir.

Mr Crowe: Thank you, Mr President. Yes, in regard to Mr Delaney's question, the enforcement is the key to this and it is the enforcement officer and I think it was earlier mentioned that if there are insufficient resources to do the enforcement, then we will have to seek additional staff to ensure that the Act is carried out in accordance with the law as it is laid down.

The President: Hon. members, I will put the resolution that clause 35 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 36.

Mr Crowe: This clause gives the Department of Local Government and the Environment and local authorities new powers to remove advertisements which contravene regulations under clause 22.

Sub-clause (1) enables the department or a local authority to remove contravening advertisements.

Sub-clause (2) excludes the power where the advertisement is displayed in a private building.

Sub-clause (3) restricts the power where the advertisement identifies the advertiser.

Sub-clause (4) excludes sub-clause (3) above where the advertiser's address is not given and the department or local authority does not know it and cannot find out where it is.

Mr President, I beg to move clause 36.

Mr Waft: I beg to second, Mr President.

Mr Delaney: I welcome this clause thoroughly, Mr President. I think some of the public and certainly the local authorities should because at least they have something now to be doing something about the state of their own individual towns and parishes.

Mrs Christian: Mr President, this clause may be significant at election time.

Mr Delaney: Yes. 'Vote for me: I'll remove the signs.'

Mrs Christian: It may well be, Mr. President, that election advertising will be proscribed. By and large I think candidates are reasonably good at removing their placards and posters after the event but some are a bit slow at the job sometimes, but it seems to me that this clause will certainly affect that area, but I note that you can still display your poster within a building to which there is no public right of access. So it may see a move from posters along the highway to house windows.

Mr Delaney: I see there is power for the Department of Local Government to give exclusion. I take it that members of the LGE will be excluded from this one at election time.
(Laughter)

The President: Reply, sir.

Mr Crowe: Thank you. Just to note the remarks made by Mrs Christian.

The President: Hon. members, I will put the resolution that clause 36 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 37, sir.

Mr Crowe: Thank you, Mr President. This clause gives the Department of Local Government and the Environment new powers to apply to the High Court for an injunction restraining a breach of planning control or a registered building control.

Sub-clause (1) gives the department power to apply to the High Court for an injunction to prevent an actual or expected breach of planning control.

Sub-clause (2) enables the court, on an application, to grant an injunction restraining the breach. Breach of an injunction is a contempt of court and may be punished by fines or imprisonment.

Sub-clause (3) enables rules of court to provide for injunctions to be issued against unidentified persons.

Mr President, I beg to move clause 37.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution, hon. members, that clause 37 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 38.

Mr Crowe: Clause 38 restricts private prosecutions for breach of control and imposes a special time limit for prosecutions.

Sub-clause (1) requires prosecutions for offences under the Bill to be brought only by or with the consent of the department or the Attorney-General.

Sub-clause (2) imposes a special time limit for prosecutions under the Bill.

Sub-clause (3) enables a certificate to be given as to the time when sufficient evidence came to the prosecutor's knowledge.

Mr President, I beg to move clause 38.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution that clause 38 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 39.

Mr Crowe: Clause 39 is a standard form provision enabling the responsible officer of a company to be prosecuted for an offence committed by the company.

Mr President, I beg to move clause 39.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution that clause 39 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 40, sir.

Mr Crowe: Clause 40 makes new provision for participation by amenity bodies in the planning process. The department may establish a new consultative body in place of the Advisory Council on Planning and the Environment and may include provision in a development order or regulations provision for consultation with designated voluntary amenity bodies. Mr President, I beg to move clause 40.

Mr Waft: Mr President, the special committee on the Town and Country Planning Bill did have an amendment to this clause:

Page 34 line 33, for 'Department' substitute 'Council of Ministers'.

Page 34 line 35, for 'Department' substitute 'Council of Ministers'.

Page 35 line 7, for 'pursuant to such consultations' substitute '(whether pursuant to such consultations or otherwise)'.

Page 35 line 10, for 'may' substitute 'shall'.

We were conscious of the fact that we were simply advising change.

The President: Is there a seconder?

Mr Crowe: I second the amendment.

The President: Right, we have the resolution and the amendment to that resolution before us for consideration.

Mrs Christian: Mr President, do we have a seconder for the resolution? May I second the resolution?

The President: By all means. Is there any debate?

Mrs Christian: Mr President, the amendments are not particularly contentious, as I understand it. I think the department had a view that it was perfectly well within their competence to put together the body which might advise and with whom they should consult. However, if it is felt that being appointed by the Council of Ministers makes that more independent I do not think there is a strong view on the part of the department in relation to that issue.

The President: Do you wish to reply, sir?

Mr Crowe: Thank you, Mr President, yes, just to say that by having the Council of Ministers determine the body it distances the responsibility from the department. It gives that

second line that it is not the department appointing them, it is the Council of Ministers. So it will be more helpful.

The President: The resolution, hon. members, is that clause 40 do stand part of the Bill. To that resolution we have the amendment from the hon. member Mr Waft. Will those in favour of the amendment standing part of the resolution please say aye; against, no. The ayes have it. The ayes have it.

Will those in favour of the resolution as amended please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: The Lord Bishop, Mr Waft, Dr Mann, Mr Kniveton, Mrs Christian, Messrs Delaney and Crowe - 7

Against: Mr Radcliffe - 1

The President: With seven votes in favour, one vote against, I declare the resolution in its amended form to be carried. Clause 41, sir.

Mr Crowe: Thank you, Mr President. This clause makes new provisions requiring the Department of Local Government and the Environment to keep registers of applications, decisions, notices et cetera relating to planning.

Sub-clause (1) requires the department to keep registers of applications, decisions, notices, certificates et cetera relating to planning control and registered building control.

Sub-clause (2) requires the registers to be public, and sub-clause (3) enables the registers to be kept on a computer.

Mr President, I beg to move clause 41.

Mr Waft: I beg to second, Mr President.

Dr Mann: Is there likely in the future to be some correlation between this register and the new land registry so that when people carry out any transactions or propose buying and selling land they are aware of planning applications or refusals that have already been made on that property?

The President: Reply, sir.

Mr Crowe: Thank you, Mr President. I think this relies on the government computerised mapping system which both the department uses and the public record office will be using so there will be consistency on the land registry.

Dr Mann: No, but is there correlation of information to an applicant?

Mr Crowe: They would have to seek it from both parties but the information would be the same.

Dr Mann: So there is not a correlation?

Mr Crowe: No.

The President: Right, I will put the resolution that clause 41 should stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 42, sir.

Mr Crowe: This clause re-enacts existing provisions enabling the Department of Local Government and the Environment to keep old documents, for example plans submitted for planning applications, on microfilm. The power is extended to enable them to be kept in computer-readable form. Mr President, I beg to move clause 42.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution that clause 42 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 43, sir.

Mr Crowe: Thank you, Mr President. This clause gives the department rights of entry on land for various purposes connected with planning. They are based on existing powers for enforcing registered building control but extended to cover other controls under this Bill. I beg to move clause 43.

Mr Waft: I beg to second, Mr President.

The President: Hon. members, I will put the resolution that clause 43 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 44, sir.

Mr Crowe: This clause requires Tynwald approval for development orders and regulations and requires orders designating conservation areas to be laid before Tynwald. Mr President, I beg to move clause 44.

Mr Waft: I beg to second, Mr President.

Mr Delaney: Could we ask, in relation to some of the matters that I and other members have raised this morning in certain planning aspects, when the regulations will be expected to come to Tynwald?

The President: Reply, sir.

Mr Crowe: Thank you, Mr President. Yes, since I have joined the department this subject is certainly going to occupy me in the next few months because it is essential that the regulations follow the primary legislation, so they will be brought as soon as possible to Tynwald.

Mr Delaney: Thank you, Mr President.

The President: Hon. members, I will put the resolution that clause 44 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 45, sir.

Mr Crowe: Clause 45 provides for the interpretation of certain terms used in the Bill. I beg to move clause 45.

Mr Waft: I beg to second, Mr President.

The President: I will put the resolution, hon. members, that clause 45 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 46, sir.

Mr Crowe: Thank you, Mr President. This clause introduces schedules 8, 9 and 10 which make transitional provisions and consequential amendments and repeals.

Sub-clause (1) introduces schedule 8, transitional provisions.

Sub-clause (2) introduces schedule 9, which makes consequential amendments principally substituting references to this Bill with references to the Act superseded by it.

Sub-clause (3) introduces schedule 10 which makes consequential repeals of Acts superseded by the Bill.

Mr President, I beg to move clause 46.

Mr Waft: I beg to second, Mr President.

The President: I am sorry - you moved clause 46 along with the three schedules?

Mr Crowe: Sorry, yes, and schedules 8, 9 and 10. Thank you, Mr President.

The President: I will put the resolution, hon. members, that clause 46 along with schedules 8, 9 and 10 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 47 and 48, sir, and the short title.

Mr Crowe: Clause 47 applies planning and other controls to the whole of the Island and enables them to be extended to the territorial sea. Clause 48 gives the Bill its short title and provides for its commencement on an appointed day or days. Mr President, I beg to move clauses 47 and 48.

Mr Waft: I beg to second, Mr President.

The President: Hon. members, I will put the resolution that clauses 47 and 48 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Bill read a second time. Do you wish to proceed to the third reading, sir?

Mr Crowe: Yes, Mr President, if I may be allowed.

The President: Proceed.

Mr Crowe: Thank you, Mr President. The Town and Country Planning Bill of 1998 replaces the present Acts relating to town and and country planning which date back to 1934. Having said that, some provisions have stood the test of time and have been re-enacted with little change.

Hon. members will recall that part 1 deals with strategic planning and imposes on the Department of Local Government and the Environment the obligation to prepare and keep up to date an all-Island development plan. This all-Island development plan is to consist of an all-Island strategic plan and a number of area plans with planning policy statements introduced.

Part 2 deals with development control and embraces such matters as the defining of 'development', 'planning approval' and 'development orders'. Power is given to the Council of Ministers to call in applications of national importance, and applications filed by the department are covered in this power.

Part 3 deals with planning controls relating to buildings of special architectural and historic interest, conservation areas and advertisements.

Part 4 concerns planning enforcement. A new more flexible scheme of enforcing planning control is provided for, introducing the new concept of an enforcement notice.

Paragraph 5 makes supplemental provision for a number of other more substantial changes.

Mr President, I beg to move that the Town and Country Planning Bill be read a third time.

Mr Waft: I beg to second, Mr President.

Dr Mann: Mr President, I think the constantly referred to phrase in the moving of this Bill has been 'We are taking new powers' and although you have from time to time mentioned what new powers there are, there are considerable new powers and I think it is very important that the department in due course notifies the public of the change in powers that affect the public. Sitting here today, if you were not involved in planning at all, you would not be particularly interested in the new powers, but none of us is immune from sudden changes in use of land around us, either when new buildings or something of national importance suddenly affects the area, and the rights of individuals in this sort of environment are very important indeed and although this Bill deals with many very important issues there are still grievances from individuals that they are unaware if suddenly new proposals are put forward or planning applications are put forward even on their own land without them necessarily even knowing about it, and I think it is so important that the department keeps the public informed of their rights in this particular area.

Now, you very correctly indicated some new particular powers. We went rather quickly over, for instance, agreements relating to the development of land in section 28. Is that a new power? Is there now going to be power to enforce covenants that did not exist before? I always understood in the planning law that covenants did not actually influence planning decisions. Are we now altering the situation so that covenants now do influence planning decisions if they apply to certain areas of land? It may be an existing provision but I cannot recall that having been enacted previously.

But I think otherwise obviously these new powers are needed in the environment we are in at the moment, as long as we are ensuring that the individual rights of the householder are maintained or even assisted. I am quite happy to support the Bill as long as those points are addressed.

Mrs Christian: Mr President, the nature of legislation as it is developing now is that we are getting within primary legislation a much greater ability to provide for other issues through secondary legislation and that is clear in this Bill. The hon. member Dr Mann has referred to an issue which certainly I feel should be addressed within the secondary legislation. It is simply one of what are likely to be many and that is the issue of being in ownership of land but having no control or knowledge perhaps of an application which is made in relation to that land. So there are other issues which still need to be addressed and it is my feeling that we have not discussed them here because it is likely or it is appropriate that they be dealt with under the subsequent regulations.

Planning is, always has been and ever will be, I suppose, a contentious issue, but I do think that in dealing with the legislation in the way that we are doing now it does give an ability to change the law, if it becomes necessary, perhaps more speedily in the future by amending regulation rather than having to go back to the primary legislation, so that no doubt difficulties will emerge if this legislation is enacted in the light of experience and one would hope that the structure will allow such difficulties to be acknowledged and amended by changing regulations.

But I think it does, as I have perhaps said before, put a great onus on Tynwald members to look very carefully at regulations which perhaps do not always get the degree of scrutiny they might, taking the view that, well, if we do not like them we cannot really amend them, we have got to throw them out. So I think it does mean that we will have to look very carefully at regulations in the future and I hope that the department will give time for consultation on regulations before they are brought forward. But apart from that I am happy to support the third reading.

Mr Waft: It is just another plea, Mr President, with regard to the complicated paragraphs that the draftsmen do think it is important to include the likes of clause 7 where it says: 'Where planning approval to develop land has been granted for a limited period, planning approval is not required for the resumption, at the end of that period, of its use for the purpose for which it was normally used before the approval was granted; but for the purpose of this subsection no account shall be taken of any use begun in breach of planning control.' I do make a plea that if they could give consideration after reading and interpreting this to say, 'Where an enforcement notice has been issued in this respect of any development of land, planning approval is not required for its use for the purpose for which it could lawfully have been used if that development had not taken place.' It is just that it could perhaps be more user-friendly.

Mr Delaney: I welcome this Bill. I think it is a major improvement in certain areas, and the fact that the hon. member on my right has volunteered to take on the planning is tremendous, offering to virtually test out the guillotine, and the situation is I wish him well on that and the successes. But the problem for this Island in my honest opinion - and little I might know, but I know one thing - is that in the years to come the major problem is going to be planning on this Island with the development of the Island and the increase in population, and the Island we know today in 20 years' time, two generations' time will not be the same Island because it cannot incorporate what we are trying to incorporate without major changes in development and I think a lot of it may very well be to the detriment of the Island and a lot of people living today, if they are still around in 20 years' time, will virtually rue the day that we pursued such huge economy at the cost of the style of living on this Island.

Dr Mann: Can I just make one further contribution? I think we rather overlooked the function of the committee of this Council. I think the committee of this Council in dealing with this Bill was a very important step and one that I think has paid dividends.

Mr Delaney: Hear, hear.

Mr Kniveton: Dr Mann has just pipped me on that one, sir, but I would say, and following on from what Mr Delaney has just said and assuming this Bill now goes through its third reading, I think we should thank Mr Crowe and congratulate him on the way he has taken it through the stages and, following on from Mr Delaney also, our appreciation for the way he has got involved in the planning and I wish him luck for the future. Thank you, sir.

Mr Delaney: See you in the mental institution!

The President: Reply, sir.

Mr Crowe: Thank you, Mr President. I would like to thank everybody who has spoken in support of the Bill.

Dr Mann - I agree there are significant changes to planning law here. I will ensure that the department are made aware of this question of the public being given due notice of the changes and I agree the rights of the individual must be protected.

Mrs Christian - I thank her again for her support and would agree that the secondary legislation and the regulations are very important and it will be necessary for everybody to scrutinise these to see that they bring out the points of protecting the people of the Island.

Mr Delaney, thanking him again, he is a member who has been in planning and knows the problems of planning. I thank him for his support.

Mr Waft mentioned user-friendly legislation. I think we would all share that, that in the drafting of legislation it is essential.

Mr Kniveton - I would thank him for his kind remarks about the committee and about the planning committee as well and I thank my fellow members on the committee, Mr Waft and Mr Lowey, who gave sterling service, and we spent a lot of time in the committee. It was very interesting for me. It was the first committee I had served on and I have found it very useful and it allowed us to give a pause to the Bill and due deliberation to the very onerous responsibilities that are as part of the legislation, and I would thank again all members for supporting the Bill. So I would move the third reading, Mr President.

The President: Hon. members, the resolution is that the Town and Country Planning 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. Bill read a third time.

Hon. members, that concludes our public business for this day and the Council will now sit in private.

The Council sat in private.