

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 3rd November 1998
at 10.00 a.m.**

Present:

The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Hon R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Hon H Hannan (Peel); Mr W A Gilbey (Glenfaba); Mr S C Rodan (Garff); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Messrs J P Shimmin and A F Downie (Douglas West); Hon J A Brown (Castletown); Hon D J Gelling (Malew and Santon); Sir Miles Walker CBE LLD (hc), and Mrs P M Crowe (Rushen); with Prof T StJ N Bates, Secretary of the House.

The Chaplain took the prayers.

Sellafield – Objection to Extension – Question by Mr Houghton

The Speaker: Hon. members, turning to our order paper I call upon the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg leave to ask the Chief Minister:

Has your government transmitted to the United Kingdom Government an objection to the plan to build a £300 million extension of Sellafield in Cumbria and, if so, what were its terms?

The Speaker: I call upon the Chief Minister to reply.

Mr Gelling: Mr Speaker, the Isle of Man Government policy regarding the Sellafield site is as stated in the Tynwald resolution of 16th July 1986, and the policy is, and I quote, to 'seek complete closure of the said establishment.' The government has taken every opportunity to promote this policy by registering objections to any proposed expansion to the nuclear facilities at Sellafield.

The question tabled by the hon. member for Douglas North appears to refer to the mixed oxide fuel fabrication plant, commonly known as the MOX plant. This is not a proposal to build a new extension to Sellafield, it is a plant which was actually completed in the latter part of 1997 but has not yet started operations pending decisions on licensing from the UK regulators. On 23rd October 1998 the regulators announced a proposed decision to approve the manufacture of mixed oxide fuel in the new facility. This proposed decision now rests with the Secretary of State for the Environment who can either accept it or refer it back to the regulators with instructions to amend it as the Secretary of State sees fit.

Prior to licensing the MOX facility, the UK regulators conducted a public consultation exercise. The Isle of Man Government submitted objections on 21st March 1997 and again on 11th March 1998. The terms of our objections in the first round of consultations, in March 1997, were based on four issues: one, the Isle of Man Government's concern at any expansion of the site; two, concern over the safety of the processes; three, concern over the

transport of nuclear cargo through the Irish Sea; and, four, concern over creation of additional nuclear waste and associated disposal problems.

The second round of consultations in March 1998 addressed only the commercial justification of the MOX facility. The terms of the Isle of Man's objections in the second round were that economic factors were irrelevant when considering protection of the environment and safeguarding the interests of Island residents.

On 7th September 1998, following a series of minor incidents at the site, the Isle of Man Government again wrote to the UK Nuclear Installation Inspectorate via the Home Office, requesting that a complete and urgent safety review of Sellafield's existing nuclear facilities be carried out before taking any decision on the licensing of the MOX plant. The Home Office has not as yet replied to that communication.

The UK regulators' announcement, on 23rd October 1998, of a proposed decision to license the MOX plant was made simultaneously with a proposed decision to issue new authorisation to discharge radioactive waste from the site. Over the past two years a consultation exercise on these discharge authorisations has run parallel to the MOX plant consultation. The Isle of Man Government has also made representations to the UK authorities regarding these waste discharge authorisations, including the controversial discharge of technetium - 99 which has been detected in Manx lobsters and seaweed.

The Isle of Man Government has written officially expressing this government's deep disappointment with the regulators' proposed decision to license the MOX plant and expressing our dissatisfaction with the new discharge limits which remain unacceptably high. We have drawn attention to the commitments made by the Right Honourable John Prescott, the Secretary of State for the Environment, Transport and the Regions at the July 1998 ministerial meeting of the OSPAR commission in Portugal, to reduce Sellafield's discharges to close to zero by the year 2020. As yet we have seen no evidence of these OSPAR commitments being honoured. The Department of Local Government and the Environment is responsible for carrying out Isle of Man Government policy regarding Sellafield, and Minister Quine has been very active in pursuing this policy. His department is monitoring the situation very closely on a continuous basis.

Mr Houghton: Mr Speaker, I thank the hon. Chief Minister for his comprehensive answer, but does he not agree that the plans at Sellafield to produce mixed oxide fuel are fraught with danger because it increases the risk of nuclear proliferation due to the fact mixed oxide fuel can be turned back into plutonium, which leaves a form of nuclear waste which is even worse than the usual kind? And does he not further agree that, to privatise this plant in the future, the British Government is compromising the Island's future safety, sir?

Mr Gelling: Yes, Mr Speaker, this new £300 million expansion programme and the building that is there is in fact the process, as the hon. member has described, which they intend carrying out which the regulators as yet have not given permission for, but certainly the stance of the Isle of Man Government has remained consistent, and that is that anything that happens at Sellafield which is of concern to us and our people we will object to, sir.

Mr Karran: Vainstyr Loayreyder, does the Chief Minister not agree that making representations to the British Home Office is really a waste of time and does he also not agree

that his government would be better trying to work even further with the Irish Government over its objections to Sellafield?

Mr Gelling: Yes, Mr Speaker, the hon. member has raised the point of the Irish Government, and of course I think members will be aware that the Minister for the Department of Local Government and the Environment and members of his department have both been at Sellafield in recent times and also, of course, in Dublin, speaking with the Minister of the Environment there, and I know that those talks were successful in us being able to give to them also our concerns so that the Dublin minister will have an input, obviously backed by the Isle of Man.

Mr Henderson: Mr Speaker, does the Chief Minister not agree that an increase in the production of any shape or form on the Sellafield site is bound to increase the levels of emissions and the fact that it will be even increasingly harder to make the OSPAR agreement that was agreed at Lisbon earlier this year? And would he not agree then that things will become more awkward for us in the future and to progress our concerns, stating those issues as well?

The Speaker: I think you have largely replied, Chief Minister, but the response is for you.

Mr Gelling: Mr Speaker, I can only repeat, of course, that what we have been saying is that we want zero emissions by the year 2020, so therefore any increase of anything on that site is actually going in the opposite direction, which is something that we would object to, sir.

The Speaker: Perhaps a final supplementary: the hon. member for Douglas West, Mr Downie.

Mr Downie: Thank you, Mr Speaker. I would just like to ask the Chief Minister, would he not agree that whilst the negotiating route for the Island with regard to Sellafield was through the Home Office when the Sellafield site came largely under the auspices of the Ministry of Defence, now that British Nuclear Fuels have privatised most of their operations at Sellafield there is a very good case for this Island to have a direct input into what goes on at Sellafield and we should be a party in our own right as a nation (**Several Members:** Hear, hear.), with opposition to what goes on above board at all planning inquiries and this should be seen as being part of our independence?

Mr Gelling: Yes, indeed, it would be something that I think the Isle of Man Government, through the Department of Local Government and the Environment, would strive for. However, I would not agree that everything through the Home Office is not worthwhile, because that is our route and therefore it is the route that we will continue to use. But I do know that the discussions with minister Joe Jacob in Dublin are all helping to get the point of the Isle of Man Government over to the British Government, and we will continue to use those routes until anything else has been arranged, sir.

National Health Service – Medical Specialities – Audits – Question by Mr Singer

The Speaker: We move on to item 2, hon. members, and I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

- (1) *Have there been independent medical peer audits carried out into the medical specialities provided within the National Health Service; if so*
 - (a) *when was an audit last carried out;*
 - (b) *were there any causes for concern; and*
- (2) *what other action has your department taken to validate the currency and competency of disciplines carried out by specialist practitioners employed by the National Health Service on the Island?*

The Speaker: I call upon a member for Health and Social Security, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, in considering the first part of the question I am assuming that the hon. member is referring to the practice of peer review by consultants from another hospital or health authority. If so, I have to say that whilst this approach has been advanced in recent months, namely by the British Medical Association, no such audits have been carried out into the medical specialties within the Island's National Health Service, nor indeed are such audits commonplace anywhere else.

However, I can confirm that formal and informal independent reviews into various aspects of specialist service provision do take place within the Island's health service on a regular basis. These include periodic reviews by the royal colleges and the Postgraduate Dean of Education and Training, to assess Noble's Hospital's suitability to train junior doctors. In addition, the department has commissioned ad hoc reviews into individual specialties such as paediatrics and orthopaedics, involving visiting experts from the United Kingdom, who have been asked to review and make recommendations on service provision. Also the department's claims and handling and risk management advisers, the Medical Protection Society, have independently audited a number of specialist functions within the hospital services and made recommendations accordingly. Such reviews have regard to qualitative aspects of service delivery and do result in changes being made. For example, the Royal College of Physicians visited recently to review training for junior doctors and agreed to approve the post for a further five years, but only if the posts were no longer required to deal with paediatric emergencies. This was seen as affecting patients' care as paediatrics have become a speciality in its own right and should have its own dedicated doctors. The department has now acted on that advice.

All hospital doctors are required to maintain their skills by undertaking continuous medical education. Doctors have to undertake a specific number of courses each year and achieve targets to enable them to retain their accreditation with the relevant royal colleges. My department actively encourages its doctors to take study leave for these purposes in order to maintain and improve their competencies.

Turning to the second part of the hon. member's question, there are a number of internal processes undertaken by my department aimed at validating the currency and competency of the disciplines carried out by specialist practitioners. There is a Medical Audit Committee comprising GP and consultant representatives, together with the chief administrative medical officer. It is proposed it will improve the quality of care provided through standard setting, peer review, implementation of change and re-evaluation. Most specialties at Noble's Hospital have

now had aspects of their care reviewed by the committee and further audits are planned for the future. The committee has been involved in the nation-wide audits such as the confidential inquiry into peri-operative deaths and day care audit, both conducted by the Royal College of Surgeons. In addition, the department is implementing a code of practice into locum appointments which involves the evaluation and assessment of locum doctors to ensure that the performance standards are met.

My department is aware that some concerns have been raised recently in the United Kingdom regarding, in particular, surgical procedures. It is understood that new guidelines are to be introduced by the Department of Health regarding regulations as far as doctors activities are concerned. I can confirm that, once we have the information, then the Island's health service, as it has always done, will seek to comply with any new requirements.

Mr Singer: Mr Speaker, do I understand, hon. member, from what you say that you do not believe there is a need to regularly check the performance of all our consultants, and should we not compare the failure and success rate in our National Health Service with other areas of the UK, both qualitatively and quantitatively?

Mr Karran: Vainstyr Loayreyder, I have made it quite clear that we have set up recently the latest committee, which is a Medical Audit Committee. There have been several audit reviews done in the last three years to my knowledge, and I think that we are always vigilant as far as concerns to make sure that we have the standards there so that our people get a first-class health care in the Isle of Man.

Mr Singer: In the light of what you have said, Mr Karran, would you say, though, that the audits that are carried out here are not after having consulted fully with the royal colleges and setting up an audit scheme recommended by them, what judgement is used in the payment of merit awards related to good performance and have they ever been withdrawn from a consultant on the Island, or have they all been paid, the full amount, every year?

Mr Karran: Vainstyr Loayreyder, if there is a problem within the Island's health service, then obviously we want to investigate it and it is investigated, and I think it is important that we do not allow things to be brushed under the carpet. So I would hate the idea to come out that we are wanting to have some sort of closed shop, because that is not the case at Crookall House. As far as the merit award is concerned, I could not tell the member had anybody had their merit award taken off them, but I can tell him that it is a severe bone of contention within the department as far as merit awards are concerned, and I do believe that merit awards are not easily got in the first place.

Mr Henderson: Mr Speaker, a further supplementary. Do you consider it advisable in the light of recent occurrences both here and across the water, to continue self-regulation or do you intend to consult with the royal colleges and to actively and adequately set up a proper audit scheme?

Mr Karran: Vainstyr Loayreyder, I thought in the question I had said that we had set up a medical audit scheme within the Island only recently, but it has already been commissioned, so there is no question as far as that is concerned. We value our connections as far as our royal colleges are concerned with the Island. One of the things that we have recently had to have concern over was the training of junior doctors. We have had to implement certain recommendations in order to make sure that our hospital has that facility. As you know, I am

very keen on staff being trained in the Island's health services, both medical and nursing staff, and I think that that is important. So I think it would be wrong to give the impression that we ignore advice from the United Kingdom. If anything, I think that we are more susceptible to pressure than the United Kingdom because we, as the elected members of this hon. House, are much closer to home.

The Speaker: The hon. member for Ramsey, Mr Singer - a final supplementary, sir.

Mr Singer: Thank you, Mr Speaker. Can I just come back, please, to these merit awards? Did the hon. member say that as far as he knows, consultants all get their merit awards, he does not know of any being withdrawn and therefore that they are not related to performance as they should be, and did the hon. member also say that they only investigate when problems occur? Surely the whole point is that they should be looking into the performance of the surgeons at all times and not just when the problem occurs, when that is too late.

Several Members: Hear, hear.

Mr Karran: Vainstyr Loayreyder, if the hon. member has got problems with the health services in the Isle of Man, my door is always open. As far as what he is trying to make out, I made it quite clear that merit awards are not given easily, and surgeons and consultants have to work hard to get these merit awards. I believe that the position is that in the Isle of Man all the facilities that are in the United Kingdom are in the Isle of Man. We have recently taken the initiative to introduce a Medical Audit Committee and we have done that. At the end of the day, if the hon. member has a problem, please come and see us. We want to make sure that we have a first-class health service in this Island. I think rumours and trying to get me to do shadow boxing is not the way of trying to make sure that we have a first-class health service on the Island.

National Health Service – Public Right to a Second Medical Opinion – Question by Mr Singer

The Speaker: We move on to question 3, hon. members, and again I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

- (1) *What steps has your department taken to advise the general public of their right to a second medical opinion; and*
- (2) *on how many times has this right been exercised during the last 12 months by National Health Service patients at Noble's Hospital in respect of specialist treatment?*

The Speaker: Again the hon. member for Onchan, Mr Karran, to respond.

Mr Karran: Vainstyr Loayreyder, in responding, I should make it clear to the hon. member that under the National Health Services patients do not have an automatic right to a second opinion. Having said that, it is sometimes necessary to agree to the request for a second opinion in circumstances where a patient is dissatisfied with the first, and this would be arranged under a long-standing agreement between the department and the Isle of Man

Medical Society. Advice on the second opinion is a matter for discussion between the patient and his or her GP.

Turning to the second part of the question, GPs are not required to maintain any such information, and that is the case at the present time, so I am afraid we could not tell you how many times this right has been exercised during the last 12 months. However, evidence does show that requests for second opinions are far from being uncommon, involving both referrals to specialists in Noble's Hospital and referrals to specialists in the United Kingdom.

In conclusion, Mr Speaker, I would take this opportunity to thank the hon. member for his positive remarks about the Island's health service as expressed on a Manx Radio broadcast last Friday.

Mr Singer: I thank the member for the answer and his comment. Is the member aware, whilst he says that there is no automatic right to a second opinion, that I was informed by a member of his department, a senior member, that everybody was entitled to a second opinion if they so required? Do you not believe that people should not be denied treatment if the consultant on the Island is not up to date with the latest medical treatment and surgical techniques, and do you not advise our consultants to refer patients for second opinions when they are not able to improve a patient's condition and perhaps another consultant can?

Mr Karran: Vainstyr Loayreyder, I was somewhat surprised that there was not a legal requirement as far as second opinions are concerned, but it seems that that is the case that there is no right of second opinion, but I would hope that we would never reach the day where people cannot get a second opinion to do with a medical issue and I am unaware that that is the case at the present time.

As far as the hon. member is concerned, I would think that - we are talking about people who are supposed to be intelligent - consultants are supposed to be intelligent, and if they do not know the latest procedures on different actions that need to be taken to resolve a patient's problem, they would be foolish to try and meddle because they leave themselves open to litigation and discipline from the different royal colleges. So I would hope that the practice, that consultants are trying to meddle where they do not know, is not a case within the health services. When we are talking about consultants, I would hope that they would have the sense not to do so.

Mr Singer: Mr Speaker, I am very pleased to hear the hon. member give his support that patients should have the right to a second opinion and, if that is so, will he, within his department, for the good of patients' treatment within the health service, seek a change of policy as soon as possible so that people will be entitled to a second opinion?

Mr Karran: Vainstyr Loayreyder, there is no need to change the policy. For the last 40 years people have got second opinions; you will find that that is the case. So there is no need of a change of policy. The point that might be interesting is whether, with the new National Health Services Bill, there should be something put into primary law, and that is an issue that could be addressed at that stage in this hon. House. So I think it is wrong to give this impression that somehow people are not entitled to a second opinion. I have come across cases where it has cost us hundreds of thousands of pounds to try and resolve the medical conditions of some people because of our commitment to a first-class health service. Now, if the hon. member has got problems with constituents or people who have got problems getting

a second opinion for reasonable requests, then I would be interested to hear from the hon. member.

Mr Henderson: Mr Speaker, in the light of the information that the hon. member with responsibility for health has furnished this House with this morning, I was wondering then, would it not be prudent and would he not agree that in the future all such information should be made available in the form of information leaflets in GPs' surgeries so that the general public are aware of their rights and what the department may or may not be able to do for them?

Mr Karran: Vainstyr Loayreyder, I am all for freedom of information. I am sure that that can be put on the list of things that need to be looked at as the health policy group is concerned. I have to admit that there are other issues which I thought were more pressing than the production of information leaflets on this front. I am glad to see that the hon. member sees that the health service is in good hands and we only have to deal with minor issues such as information leaflets.

Small Private Residential Homes – Importance to DHSS – Question by Mr Henderson

The Speaker: Turning then to item 4, hon. members, I call upon the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

What value does your department place on small private residential homes?

The Speaker: This time I call upon the hon. member for Health and Social Security, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. My department is responsible for the registration and inspection of residential and nursing homes. There are currently some 30 residential homes registered with a total of 520 places available. The average size of the home is 17 places. More than half of the residential homes registered with the department have less than 15 beds. The smaller residential home therefore plays a very important part in the provision of care in this Island.

My department recognises the value of the smaller residential establishments in providing a family-type setting for older people to live. The department also accepts the need for larger residential homes, thus enabling residents to have choice of the type of home they would prefer to live in. A more important factor than the size of the home is the quality of care provided within that establishment. The registration process aims to ensure standards are met and minimum requirements and that the needs of the residents are being met also.

To summarise, the answer to the question, my department sees great value in having smaller residential homes in addition to the larger establishments, thus giving residents choice of the type of establishment they choose to live in, sir.

Mr Henderson: Mr Speaker, a supplementary. Would the hon. member not agree with me that these are the small private businesses that his department and the government should be encouraging and should be supporting in any practical way that they can?

The Speaker: The answer is yes, Mr Houghton.

Mr Houghton: Absolutely, Mr Speaker, and to elaborate, my division of social services at this time is looking at a slight change of policy which will require a change in the law in due course, where we will base the need on the level of dependency and the charge would follow, sir.

Mrs Cannell: Mr Speaker, it is pleasing to note the response from the hon. member this morning when he says that people who go into residential homes do have a choice. Following on from that, would he consider, or at least take back to his department and ask his minister to consider an information leaflet advising would-be residential people on what is available, what their entitlement is and the very fact that they do have a choice of which residential home that they go to, as this is not understood to be the case at the moment?

Mr Houghton: Mr Speaker, it is to my best understanding, sir, that there is such a leaflet, and also our registration officer within the division of the Department of Health and Social Security is extremely helpful in this area and social workers do tend to take those people who require it around to certain residences to see which one they prefer, sir.

Mr Braidwood: Mr Speaker, would the member for the DHSS agree with me, following on from his comments with the endorsement of the family-run residential homes, that what gives me concern is that the small residential homes at the present time are only occupied basically by about 50 per cent? He is talking about 15 beds, but in the DHSS residential homes they are running at about 100 per cent occupancy.

Mr Houghton: Mr Speaker, I would agree reasonably with the hon. member's figures there. As I stated earlier in my answer, of course the requirement is for the resident themselves to choose the particular home they wish to reside in, so therefore the department cannot pressurise them to go into alternative accommodation, other than the ones that they wish to go into, sir.

The Speaker: A final supplementary, the hon. member, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Can the hon. member give the House an assurance that the referral system used within the DHSS and by its officers and GPs is based on proper, valid lists of approved registered homes which does not promote any form of discrimination or encourages officers to refer openly and meet the patient's needs and no form of blacklist? Could he give us that assurance, sir?

Mr Houghton: I can give that absolute assurance, sir. That is the whole purpose of members of this hon. House being in these various divisions, to oversee such things, and so that there is a degree of fairness in everything which we do, sir.

Procedural

The Speaker: Hon. members, we have but moved slowly. I call upon the hon. member for Garff.

Mr Rodan: Mr Speaker, I beg to move:

That standing order 43.2 be suspended to enable the remaining questions tabled for oral answer at this sitting to be put.

Mr Cretney: I beg to second, Mr Speaker.

The Speaker: Agreed, hon. members?

Members: Agreed.

Nursing Homes – Patient Referral – Question by Mr Henderson

The Speaker: In that case we will continue with the order paper, item 5, and I call upon the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Mr Speaker, I beg leave to ask the Member for Health and Social Security:

What procedures does your department adopt to ensure that patients are correctly referred to nursing homes?

The Speaker: I call this time upon. . . the hon. member for Douglas North, Mr Houghton.

Mr Houghton: I do apologise for that, Mr Speaker. There is a cross-over, really, in my responsibilities as regards social services as with the responsibilities of the hon. member for Onchan, Mr Karran, so I will indeed endeavour and be pleased to answer question number 5, sir.

The Nursing and Residential Homes Act 1988 requires my department to register and inspect nursing homes. The Act does not give powers to my department to ensure that patients are correctly referred to nursing homes. Indeed, if someone chooses to want to live in a nursing home and provided they can afford the cost of care in the home, my department has no power to stop this from happening. Once a person is placed in a nursing home, the inspection officer will ensure that his or her needs are being met.

To conclude, Mr Speaker, my department currently has no power to ensure that patients are correctly referred to nursing homes, sir.

Mr Henderson: Mr Speaker, is the hon. member for social security aware that there are a great many patients incorrectly referred to nursing home care when residential care would be more appropriate?

Mr Houghton: I would concur with that point, sir. There is a gross anomaly with this system at the moment. It is being looked at vigorously by my division and there will be further proposals made through the department in due course, sir.

Mrs Cannell: Mr Speaker, am I correct in assuming, then, that the department is not actually geared up to ensure that people are getting placed in the correct home with the correct care? And when he says the department is looking at it, is the department looking at positive measures to actually put into place? When will they be fully considered and when will members of this hon. House be given information on what measures are to be put into place to correct this anomaly?

Members: Hear, hear.

Mr Cretney: Get vigorous!

Mr Houghton: I thank the hon. questioner for her question. Some of this was answered in my previous question in the answer to the hon. member's previous question, whereby the situation as regards nursing homes and residential homes will be evaluated on the level of

need or on the dependency and a charge put alongside that level of dependency, sir. It is hoped to target this by April 1999.

Mr Downie: I would just like to ask the member, what improvements does the department feel it could adopt to assist patients or residents to perhaps have a better standard of life in their own homes? And does he think that the withdrawal of services for home baths and cutting down on home visits has not had a detrimental effect on people who are elderly and wish to remain in their own homes, and has this not led to an increase in the requirement for people to go to nursing and residential homes when they could have been looked after very well by the DHSS in their own homes?

The Speaker: We are in danger of widening the question, but nevertheless, hon. member for Douglas North.

Mr Houghton: It does and it overlaps with the previous question again, Mr Speaker. Indeed, that is the problem for the low numbers of elderly residents in our residential homes, simply because within the community they have been better looked after and able to live longer within there due to policies of my division in particular. The Home Care Service now is second to none, it is excellent, and it does have the back-up of other services going into bath people if they require it et cetera, and this is the reason why the numbers have dropped. I certainly would continue to encourage that to continue, but that with this level of dependency that I have already eluded to, sir.

Mr Singer: Mr Speaker, could the hon. member of the DHSS confirm that nursing home care is far more expensive than residential care and does he have available the average cost of these two forms of care?

Mr Henderson: I thank the hon. member for that question, sir. Nursing home care is quite greatly more expensive than a residential home is and, as I have previously mentioned, we are going to work on this level of dependency so the person would go into either a residential home or a nursing home depending on their particular dependency. That is the purpose of therefore rescheduling the people who should go into nursing homes and residential homes, but I do emphasise that that will also require a change in the law as well.

Mr Braidwood: Mr Speaker, would the member of the DHSS agree with me that the onus is put on the doctor to refer to the nursing homes and there is a tendency for them to refer them to the large, brand new nursing homes than to the residential homes, and that it would be far better for the department to have an assessment officer themselves in place so that he or she could refer to either residential or nursing?

Mr Houghton: Mr Speaker, that is exactly what we wish to do. Really, unless you have got an extremely high level of dependency with the person going into a nursing home as against a residential home, it is entirely for the resident themselves to go into one or the other home, when indeed, if they have got a lower level of dependency, they can go into the smaller homes.

The Speaker: Now, hon. members, I will return to the original questioner for the final supplementary on this particular item, Mr Henderson.

Mr Henderson: Mr Speaker, I would like to thank the hon. member for his full and comprehensive replies to the many supplementaries. Just one further confirmation I would like

to extend now, if he could confirm that the present trend of referring patients to nursing homes is contrary, actually, to the departmental philosophy, which is encouraging as much independence and self-care as possible, and secondly an incorrect referral might actually be detrimental to a patient when they could be better off in a residential care setting?

Mr Houghton: I would confirm, sir, that that is the whole reason why we do need to have this assessment and change the law accordingly, sir.

Parking Problems in Marathon Road Area – Question by Mr Henderson

The Speaker: Item 6, then hon. members, and again I call upon the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I beg leave to ask the Minister for Transport:

How does your department propose to address the parking problems created in the Hutchinson Square/Marathon Road/Princes Road area as a consequence of the traffic policies of your department elsewhere in Douglas?

The Speaker: I call upon the Minister for Transport, the hon. member for Castletown, Mr Brown, to respond.

Mr Brown: Thank you, Mr Speaker. The introduction of disc zones to help alleviate the problems encountered by some residents and businesses in the centre of Douglas due to persons working in Douglas who then parked all day in the streets has, as expected by the department, had the effect that many all-day parkers have moved out from the centre into other residential areas. The department has continued to implement new disc zones as part of its overall strategy. However, my department continues to be concerned at the present level of enforcement and therefore the effectiveness of continuing to implement any further zones.

Meetings have been held between my department and the Isle of Man Constabulary, who presently have responsibility for enforcing the law in relation to the Island's disc zones. We have requested that further parking controllers be employed to ensure that present and any new zones can be effectively controlled. It is the view of my department that there is no point in progressing the implementation of any new comprehensive disc zone areas until adequate enforcement of such areas can be guaranteed by the constabulary. To do anything else would, in my department's opinion, effectively negate the benefits of having disc zone areas and would bring the whole system into disrepute. Therefore, whilst my department would wish to continue to implement the introduction of more disc zone areas in Douglas, until the matter of adequate enforcement has been resolved we presently have a moratorium in place. I can confirm that my department is endeavouring to resolve this important matter so that we can continue to implement, where necessary, new disc zones.

Mr Henderson: Mr Speaker, I thank the hon. member for his answer, but does he not accept that the areas highlighted in my question, such as Hutchinson Square, Marathon Road and Princes Road are suffering from severe and difficult parking problems as traffic congestion continues and action in these areas is long overdue?

Mr Brown: Mr Speaker, I am not sure about 'long overdue', but certainly there are areas of Douglas, including these, that may require attention in terms of requiring a disc zone to be implemented.

Mr Cretney: Mr Speaker, could I ask the minister - he referred to a moratorium; he has also referred to me in long-standing correspondence in relation to the Douglas Head area and told me that a disc zone would be put in place before the end of November - are we now being told that that is now off the boards?

Mr Brown: Mr Speaker, what I have said in my letters apply and what I have stated this morning is outside that. I do not say to people one thing and do something else.

Mrs Cannell: Mr Speaker, in view of the difficulties that the department is having in terms of finishing off what it has started - and I refer to the Douglas East area when I mention that - and also expanding the existing disc parking requirements, can he inform hon. members, how many parking controllers is he short of and how many would he envisage being in place in order to carry out work that his department has already undertaken, to be completed, and further expansion in this area?

Mr Brown: Mr Speaker, my department is not responsible for employing the parking controllers, therefore the first part of the question does not apply to my department, but it certainly applies to the Isle of Man Constabulary, who employ the parking controllers at present. Presently they have six active controllers in position. There used to be eight. Two were transferred by the department into the prison service to create posts - not the persons as such, but the posts were transferred over - to enable the department to staff the prison to an adequate level. My department has expressed concern to the police that we are not able to effectively, through their resources, police the disc zones and therefore those discussions are ongoing. If I can give an example, Barnet Council in the UK, where they have a thousand spaces, on-street and off-street, have appointed seven controllers. In Douglas alone we have 3,200 spaces and we have six. Our view to the constabulary is there should be in the region of 12 parking controllers available in the Douglas area and possibly for elsewhere.

Mr Cannell: Mr Speaker, would the hon. minister not agree with me that piecemeal disc parking zones merely move the problem towards the residents embraced by such schemes, and what is really needed is a fully integrated parking scheme for the major towns, because otherwise residents' parking permits occupy the spaces already vacated, and similar situations are recurring throughout the towns of the Island, but most predominantly in areas near schools, such as Ballakermeen, which is becoming positively dangerous?

Mr Brown: Mr Speaker, it seems quite easy just to say we should have an overall scheme. I think what has to be remembered, of course, is we are dealing with individuals, residents in the area, and our experience in the two major areas in Douglas where we undertook comprehensive schemes is that they take a considerable amount of time to implement. There are considerably differing views from those in the area, from those who do not want any control whatsoever to those who want yellow lines outside the house, to those who do not want that, to those who want to be able to park all day, and those members for Douglas who have been involved over the last year or so in endeavouring to get the compromises and the agreements with everybody as best we can, including the department and those members, have found it quite a difficult task, because of course everybody wants to be in a position to park their car outside their house. However, the public highway is what it is, a public highway, and therefore my department endeavours to control parking on-street so that we do not have the streets cluttered with people who come to work and park there all day, and try to meet the needs of residents by issuing residents permits and, whether we like it or not,

there is a balance there to try and meet the needs of all the parties involved. It is certainly quite a considerable task to be undertaken when we try to introduce a scheme when it is on a large scale, as we witnessed in two areas within Douglas.

Mr Houghton: Mr Speaker, returning back to the problems in the original area to do with this question, Hutchinson Square, Marathon Road and Princes Road, does he not agree that these are in line with police headquarters and the beats that these traffic wardens patrol in, and could they not cover this area on their way backwards and forwards? I do appreciate it might not be a question directly for you, sir, but does he not agree that the whole approach to this is rather inflexible?

Mr Brown: Mr Speaker, clearly I have no power whatsoever to direct the police or the chief constable in where he puts his forces, including traffic controllers, to police areas of the Island, whether it be for traffic or anything else. That is a matter for his constabulary. My department has had meetings, has raised this issue with them. We have discussed it. They have said that they are going to look into the Barnet Council situation and in the meantime we are, as a department, concerned that we do not wish to continue to implement substantial areas of Douglas or anywhere else in the Island with disc zones if we cannot be satisfied they can be properly and adequately controlled. If we do not do that, the danger will be that we will have all these zones and people will just be parking there all day and they will not take any notice whatsoever because of lack of enforcement. So enforcement is an important part of implementation.

The Speaker: I think a final supplementary, hon. members. The hon. member for Onchan, Mr Karran, has caught my eye.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that disc zones are only part of the answer as far as the parking problem is concerned, and will he be getting a review as far as the other issues that need to be addressed, such as free transport, free road tax for bikes, maybe insurance for those over 25 and a rate holiday for residents in Douglas who create their own off-street parking?

Mr Brown: Mr Speaker, just answering the last part, a rate reduction for people who provide off-street car parking, whether it be Douglas or anywhere else, because of course my responsibilities are Island-wide, is something I have certainly been keen to see if it is a practical option to encourage people to do it. The difficulty is that, because rates in the Isle of Man are relatively low, in some areas a rate reduction could be quite small, literally a few pounds a year, so I am not convinced that that will actually have the effect we might desire.

As far as the overall system is concerned, my department has recently announced the setting up of an integrated transport working group, which the hon. member for Ramsey, who is a member of my department and also has responsibility for highway and traffic, Mr Singer, will chair, and we are inviting persons through press coverage who may be interested to serve on that working group to give us an input from the public. Clearly, this is quite a difficult matter. It is one that has been under consideration now for many years. A lot of things have been dealt with that have eased some of the problems; however, it does not matter what we do, if we get back to the basis of the original question: you can implement what you like. If you have no adequate enforcement, then it will not work, and from my department's perspective we are saying to the constabulary that there must be adequate enforcement and we as a department

are dealing with it at that level. If I cannot get a satisfactory answer at officer level, then of course I will take this matter up with the Minister for Home Affairs directly, but at this stage it is being dealt with at officer level.

Mr Cannell: Privatise it.

The Speaker: Hon. members, we have given the question a good airing and I did indicate that that would be the final supplementary on this particular item. Nevertheless, two hon. members had caught my eye, one of them being the Home Affairs Minister, in which case I will take the two further supplementaries. I call upon the hon. member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Speaker. Would the hon. minister not agree that the root of the problem at the moment as far as the numbers game is concerned in my department - that is, the numbers of traffic controllers available and their relationship to the number of policemen available - is actually controlled by the manpower capping policies of government (**A Member:** Hear, hear.), and until there is a relaxation or a review of that policy it is the responsibility of my department to identify priorities between traffic control, policing and the manning of the prison?

Mr Downie: Privatise it.

Mr Brown: Mr Speaker, I think it is worth just making the point as to why controls on employment of staff personnel by government has been restricted. That was brought about a number of years ago by a number of circumstances that were there at the time, and one of them was considerable criticism by members of Tynwald Court, which includes members of this House, and especially the elected members of this House over the continuing increase in levels of employment by government. There was also concern being expressed by the private sector that government was employing more and more staff and therefore government should see how it could bring some controls into being to try and endeavour to control the situation. I would say to my hon. colleague, the Minister for Home Affairs, that his problems are no different than my problems or any other minister's problems in their departments. We have to make our case and we have to prioritise, and that is fine. However, I understand that at the moment the only people who deal with parking violations are the parking controllers, unless of course there is an accident or something involved. Therefore, it is a matter of whether or not - and this is a matter we have taken up with the police - we are having effective policing of the disc zones. Based on the six controllers, my department does not believe we can effectively continue to control more and more disc zones and therefore there has to be a commitment, and I have to say prioritisation we all have to deal with and it has to be determined whether or not one issue is more important than the other. For example, as the minister has referred by the pressures on his department, again because of pressures from political representatives from within this House and Tynwald Court, that is why two of the posts were transferred from parking controllers to enable two more prison warders to be employed - because of concerns and problems at the prison. Therefore that was the prioritisation. That does not mean that my department should continue to carry on just implementing zones, knowing we cannot enforce them.

Mr Cannell: Mr Speaker, in view of the hon. minister's recent remarks in response to the previous supplementary question, I would like to enquire whether he thinks now the time has come to remove the obligation of the constabulary to have an implementation of the traffic

wardens and that the service should be privatised and made civilian and therefore would obviate the transfer of officers to other duties?

Mr Brown: Mr Speaker, it is easy to say to privatise anything and it has been said over many years since I have been involved here, but I have to say there is a total lack of will of political representatives when you actually look at privatising any of the services, because they naturally defend retaining the services within government. (**Members:** No.) They say no, Mr Speaker; I would just say 'Remember Manx Radio.' But I think what is important is to make the view that clearly we are in a position where the department's concern whether the service is privatised or not, which is not a matter for my department, is that we have adequate persons able to control and police the disc zones wherever they are in the Isle of Man. At present we are not satisfied that is the case and therefore we are concerned about it.

Electricity – Connection to the Public Supply – Question by Mr Rodan

The Speaker: Item 7, hon. members, and I call upon the hon. member for Garff, Mr Rodan.

Mr Rodan: Mr Speaker, I beg leave to ask the Minister for Trade and Industry:

- (1) *What are the constraints in connecting the public electricity supply to domestic properties served by home generators;*
- (2) *how many homes in the Isle of Man are without the benefit of connection to the public supply; and*
- (3) *in the past three years, how many quotations for electricity connection have the Manx Electricity Authority been requested to provide to such home owners?*

The Speaker: I call upon the Minister for Trade and Industry, the hon. member Mr North, to respond.

Mr North: Mr Speaker, the only constraint in connecting properties served by home generators to the public electricity supply is that the connection is required to comply with the provision of EA Engineering recommendation G59/1. This requires protective devices to be installed where the generator is to be retained in order to avoid the generator running in parallel with the public supply or supplying into it during any interruption to the public supply. The number of homes not connected to the public supply varies from time to time as applications are made by occupiers and new properties are always awaiting connection. In the past three years, to answer the last part of the question, the MEA has issued over 2,000 quotations for supplies to domestic properties, 1,947 of which have been connected.

Mr Rodan: Mr Speaker, can the hon. minister give this House an indication of how many homes in the Isle of Man who wish to connect to the public electricity supply have applied to do so within the last three years?

Mr North: The number in the last year I have not got, Mr Speaker, The figure asked was for the last three years, and that is the figure that I have quoted.

Mr Rodan: Mr Speaker, would the hon. minister agree with me that as far as the connection to the public electricity supply of homes who do not have a public electricity supply is concerned, it is quite unacceptable that a rural cottage in the Isle of Man less than a quarter

of a mile from the nearest public electricity supply cannot be connected, apparently, for less than £29,000, as a quotation to that home owner?

Mr North: Yes, Mr Speaker, I am aware of this particular matter. At present, which might be helpful to the hon. member, I understand there are about 50 quotations outstanding where the terms offered have not yet been accepted, and one in particular - if I could just give how the costs are calculated, paragraphs (a) and (b) in part 1 of schedule 3 of the Electricity Act 1996 enable the MEA to recover their costs for the provision of a supply from the owner or occupier of the property, and for properties within 50 metres of a low voltage distribution main, which has the capacity to accept the new connection, a standard connection charge is applied, and where domestic properties are more than 50 metres from the nearest low voltage distribution main they are considered to be outside the limit of normal expenditure, and the application is examined for abnormal costs. Any such costs are then recovered from the applicant.

Mr Cannan: Would the minister not agree that it is unacceptable in this day and age, entering a third millennium, that certain remote houses are not only without electricity at exorbitant costs (*Laughter*) (**A Member:** Here we go again!) but certain houses are also without water and that this, both the supply of electricity and the supply of water, comes under the auspices of your department?

Mr North: Mr Speaker, yes, indeed they do, but it is not reasonable, I would suggest, to ask present MEA customers to subsidise the connection of properties to the financial benefit of their owners.

The Speaker: A final supplementary. The hon. member for Garff, Mr Rodan.

Mr Rodan: Mr Speaker, following on the previous supplementary, would the hon. minister not agree that in 1998 connection to a public electricity supply is not a luxury but a basic amenity? And further, would he agree with the provisions of the Electricity Act that the Manx Electricity Authority. . . as far as the cost of providing electric connection is concerned, that it is stipulated that the cost of so providing should not be more than ought reasonably to be provided at the expense of the owner or occupier? Does he consider that a quotation for £29,000 is a reasonable quotation to the occupier of a rural cottage less than quarter of a mile from the nearest public electricity supply?

Mr Cannan: Totally unreasonable!

Mr North: Mr Speaker, I understand what the member is saying. The Act is quite clear and the MEA is not looking to make a profit from this. It is charging exactly the cost incurred by them on that property.

Town and Country Planning Bill – Second Reading Debate Commenced

The Speaker: Item 8, hon. members. We move on to the Town and Country Planning Bill, which is for second reading, and I call upon the hon. member for Ayre, Mr Quine.

Mr Quine: Thank you, Mr Speaker. This Bill is to replace the present Acts relating to town and country planning which date back to 1934 and provide for a modern system of land use planning and development. Some of the provisions contained in the more recent Acts replaced by this Bill are re-enacted with little change.

I am grateful to some 20 members of the legislature who attended the briefing held by the department on 27th October 1998. In view of that briefing I shall not deal too expansively with the subject in this introduction.

Part 1 deals with the strategic planning side of planning as distinct from development control. The department is required to prepare and keep up-to-date an Island development plan consisting of a strategic plan and a number of area plans. The strategic plan will consist of a statement of planning policies and supporting matters. Area plans, currently known as local plans, will deal with specific areas and specific matters. Both kinds of plan require to be approved by Tynwald. This part also puts on a statutory basis the issue of planning policy statements, which will take the place of the present planning circulars. Such policy statements could, for example, prescribe design for new houses in a particular area or matters of that nature. It also puts on a proper statutory basis the compulsory purchase of land for planning purposes, which is presently a grey area. This power is necessary where land needs to be assembled for the purpose of carrying out necessary redevelopment in particular in relation to urban regeneration.

Part 2 deals with development control, which is presently covered by the Isle of Man Planning Scheme (Development Plan) Order 1982. It makes provision for development orders, for the grant of planning approval for development. Development is defined in the same terms as under current legislation, and importantly certain matters are excluded from development and so do not require planning approval. It is made clear in this part that as a general rule planning approval is required for any development as defined. The details of the scheme for granting planning approval would be set out in one or more development orders. A development order may itself grant planning approval for development. At present a planning scheme sets out both planning policies and grants will provide for the grant of approval, which is confusing and somewhat inflexible. New provision is contained for granting planning approval for 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 planning approval. The grant of planning approval subject to or without conditions is also provided for. There is provision for certain applications to be dealt with by the Council of Ministers. This is that the Council of Ministers may call in an application. The decision of the Council of Ministers on such applications will be subject to amendment by Tynwald. The Bill also provides that applications by the Department of Local Government and the Environment or relating to the department's land are to be decided by the Council of Ministers. The existing powers are retained under which the department can enter into planning agreements with developers, regulating a development to an extent not permitted by planning conditions.

The third part of the Bill deals with planning control relating to buildings of special architectural and historic interest, properties in conservation areas and advertisements. The existing controls over work affecting registered buildings and conservation areas are reproduced without any significant change. A requirement for the Department of Local Government and the Environment to maintain the protected building register is maintained. The basis for entry remains the same - i.e. special architectural or historic interest. The need to obtain consent for works affecting a registered building is provided for - a separate requirement for planning approval. Conditions that may be imposed on the grant of registered

building consent are prescribed in schedule 3. Exceptions from registered building consent are provided for - for example where work is controlled by the law relating to ancient monuments. Importantly, there is an emergency procedure for protecting an unregistered building by serving a building preservation notice. Also covered by this part is the designation of conservation areas. Controls akin to registered buildings are applied to buildings in conservation areas with a few exceptions. Application for registered building consent for buildings owned by the department are to be determined by the Council of Ministers. The department is authorised to give financial assistance towards the repair or improvement of a registered building by way of grant or loan. This part finally deals with control of advertisements and replaces the Advertisements Regulations 1925. The Department of Local Government and the Environment is unable to make regulations restricting or regulating the display of advertisements, to be exercised in the interests of amenity or public safety.

Enforcement provisions are encompassed by part 4. Present powers to enforce planning control are unsatisfactory as they depend entirely upon prosecution for carrying out a development without approval or prosecution for breach of a stop notice. A more flexible system is prescribed including prosecution, extension of the stop notice procedure and an additional remedy known as an 'enforcement notice'. An enforcement notice can require specific action to be taken to remedy a breach of control. No specific change is proposed to enforcing registered building control. The current legislation only came into being in 1991 and is therefore quite adequate. Breach of planning control is defined and will remain a specific offence. There is a new provision for the Department of Local Government and the Environment to make regulations under which owners and occupiers of land can request a ruling on whether current or proposed use or operation are lawful and for the issue of a certificate that such use or operation is lawful or otherwise. The new - and that is to the Isle of Man - concept of an enforcement notice is dealt with in clause 26, in schedule 4. Time limits are attached to the issuance of enforcement notices: four years after completed of operation or change of use for a private dwelling and ten years after the breach in any other case. A right of appeal is provided for. The provision in respect of a stop notice is strengthened to enable action in an emergency situation in relation to users of land as well as operations. It will be used to back up an enforcement notice. Provision is made so that a stop notice can be served by posting a site notice on the land so the existence of the stop notice will be known. Enforcement of agreements under clause 13 relating to the development of land is also dealt with in this part. A grievance can be enforced against successors in title to the original party and the department are given default powers to enforce certain obligations. Provisions relating to the enforcement of control over works to registered buildings are re-enacted. A specific offence of causing damage to a registered building is provided to cover situations not already embraced by criminal law. The department are authorised by clause 31 and schedule 5 to serve an enforcement notice requiring action to be taken to remedy unauthorised works to a registered building. There is provision for emergency works to preserve a registered building or an important building in a conservation area. The department is empowered to acquire compulsorily a registered building which is being allowed to fall into disrepair. A prerequisite to compulsory acquisition is the issue of a repairs notice on the owner. Enforcement notice provisions are applied to buildings subject to building preservation notices and buildings in conservation areas. The Department of Local Government and the Environment are given certain powers for the enforcement of control of advertisements and to remove advertisements

which contravene the regulations. New provision is made for the department to apply to the High Court for an injunction restraining a breach of planning control or registered building control where criminal penalties may not be a sufficient deterrent.

The last part of the Bill covers certain supplemental provisions. Provision is made for the participation by amenity bodies in the planning process. A new consultative body to replace the Advisory Council on Planning and the Environment is to be created to consider and advise on planning matters including the provision of development orders and regulations. In the area of development control provision is made for the Department of Local Government and the Environment to designate voluntary amenity bodies and provide for consultation with them on planning applications, registered buildings and similar matters. This arrangement for bodies to be individually accredited replaces the collective representation through the advisory council which exists at this time. These two provisions taken together improve the present situation and rectify failings which experience has shown to exist within the current arrangements. Rights of entry on land by officers of the department for various purposes connected with planning is also provided for. As explained to hon. members at the briefing last week, planning legislation is covered by a range of legislative vehicles: regulations, orders, plans, statements of policies and so forth. I am aware that certain planning issues of direct or immediate interest to members are not specifically dealt with in this Bill. They properly rest with subordinate legislation. Following the passage of this Bill, which I trust will have the support of members, these subordinate pieces of legislation will be reviewed, restructured and revised as a matter of some urgency.

Mr Speaker, I beg to move that this Bill receive its second reading.

Mr Rodan: I beg to second, Mr Speaker, and reserve my remarks.

Mr Duggan: Mr Speaker, planning, hon. members, is always contentious; I was on the Planning Committee myself for many years. But what I would like to say to the minister is, when you are designating in certain areas like when you look down Victoria Street there you have got the Villiers which is like a super-modern block which blends in with nothing -

A Member: A horrible building!

Mr Duggan: A horrible building, yes, the talk of the whole Island. Then you get Bushy's, which had planning conditions there laid down that it must keep its own facade and it blends in very nicely. So what I am asking the minister, Mr Speaker, is, when they do consider these matters there appears to be a lack of policy of the department as a whole. On the other hand, sir, you get the department hassling people over windows which has been very contentious, as I know, (**Mr Houghton:** Hear, hear.) but they seem to be going from minor things onto major things and not doing much about like when they planned for the Villiers. It has nothing in keeping with the area. The whole thing is a farce.

Mr Singer: Mr Speaker, I welcome the strengthening of the planning matters in this Bill. I think they are important and they are absolutely necessary.

There are three matters which I would like to mention which are either in this Bill or which I hope will be in the orders, and I would welcome the hon. minister's comments. The first refers to schedule 4, 'Enforcement Notices, Part 1', the section entitled 'Time limits for issue of notice,' and could the minister confirm that enforcement notices will be able to be issued

against breaches of planning control which took place before this Bill becomes law within the timescales as specified in paragraph 3(a), (b) and (c)?

The second item refers to deliberate false statements made on the planning application form. This is a matter that I have previously discussed with the planning department, who basically told me that, despite the warning on the form that false statements can lead to prosecution, no action is or will be taken against a person who had received planning permission on a false statement. This seemed quite unbelievable to me, and I wrote on this subject to the Attorney-General last June. The reply was, to be mild, extremely discouraging, to be honest, quite unbelievable, and I would like to read out the relevant sections on this matter of making true or inaccurate statements, made by the Attorney-General's Chambers, and it reads as follows. 'There is at present an offence of wilfully making a statement in a planning application knowing it to be untrue or inaccurate or not believing it to be true under article 21.1 of the 1982 Development Plan Order. It would probably be difficult to bring a successful prosecution as a defendant's knowledge or lack of belief would have to be proved. This Bill does not include provision for a similar offence, partly for that reason and also because statements made by the applicant will not normally be relevant to the consideration of the application. It is the planning merits or demerits of his proposed development as set out in the submitted plans which the planning authority has to consider. In any case a false statement by the applicant would not of itself render a planning approval invalid, and to that extent the warning on the present application form is wrong. In principle I do not think the invalidation of a planning approval on these grounds would be acceptable. The purchaser of a house might, for example, be faced with a requirement to pull it down because unknown to him the builder had made a false statement in his original planning application.'

In that letter there are a few points which I would like to query with the minister. First of all, the statement which said 'It would be difficult to bring a successful prosecution as a defendant's knowledge or lack of belief would have to be proved.' That statement does to me seem a little naive as I understand that the prosecution's job is to prove the case against the defendant, and it does not seem to have much faith in the government prosecutor. The further statements that, and I quote, 'Statements made by the applicant will not normally not be relevant to consideration of the application.' If a person, for example, states that as extension is for domestic use and, having received planning permission, uses it for retail purposes I would contend that the untrue statement had been most relevant in obtaining that planning permission.

Then there is a statement in the letter: 'In any case a false statement by the applicant would not of itself render a planning approval invalid, and to that extent the warning on the present application form is wrong.' Well, why then is the statement on the application form in the first place and why is there this threat of prosecution if there is no intention of following it through? As far as the honest applicants are concerned, what they read on a government form should be truthful and not bluff (**Members:** Hear, hear.) and, as far as those people who are concerned who are affected by that application, they expect adequate protection from a dishonest applicant who it appears is being given an opportunity to lie and to get away with it.

Then I wish to refer to the final statement. 'The purchaser of a house might, for example, be faced with a requirement to pull it down because unbeknown to him the builder has made a false statement on his original application form. Surely it would not be the house-owner that

faces prosecution but the builder who made the first false statement. Therefore, hon. minister, I believe that firstly an applicant should be responsible for ensuring that statements put on the application form are truthful; secondly, that there should be the power to rescind planning permission given to a deliberately untrue statement; and thirdly the declaration that within the applicant's knowledge all statements on the application form are true must remain on the form.

The third item that I wish to refer to is to deal with planning applications on land not owned by the applicant. It seems to me that when one gets applications on such matters and there is no intention of the landowner to do any deal with the applicant, many hours of time are wasted by the planning department and the Planning Committee. Original planning applications, appeals, reviews, all cost a great deal of money to government which comes to nothing in the end, especially when the applicants seek to develop government-owned land without government indicating that they wish to do a deal on that land. There is also the scenario that was raised by Mr Speaker who cited the case of an applicant seeking permission to develop land owned by someone else and Mr Speaker quite rightly surmised that if planning permission is refused, the value of that land is reduced through no fault of the owner, and I think that is a very important point. What I would like to be compulsory is that the landowner's signature be on the application form saying that they are aware of the application, that they have seen the plans and they have no objection to planning permission being sought. It might also be felt necessary that the landowner signs a copy of the plans to prove that they have been seen. I believe that the adoption of such a policy will save time and money and protect the rights of the landowner. Mr Speaker, those are the three points which I wish to make. Thank you.

Mr Houghton: Mr Speaker, broadly I am in support of this form of enabling legislation, of course, but I do believe, sir, that the secret rests in the Tynwald orders that follow this legislation, and I would just like to ask, would the hon. member promise to issue his proposed orders for consultation nearer to the time, especially those dealing with changes in planning appeal mechanisms? This would be most helpful to us all. Thank you, sir.

Mr Gilbey: Mr Speaker, I support the Bill generally but there are one or two points that I consider unsatisfactory in it. First of all section 2, schedule 1 deals with a development plan procedure, and this is on page 42, and it starts off saying 'In this Schedule "plan" means a strategic plan or an area plan'. So therefore it relates to the area plans that are very important to regions of the Island and to villages. For instance, we have recently had a plan produced for Foxdale with great consultation, the officers were extremely helpful, and another is planned for St John's. Now, if you move on to bottom of page 42 it talks about the public inquiry, which is a very important aspect of this and is the occasion on which anyone at the present time who is interested can turn up and express their views. And paragraph 4(2) says who the inquiry should be conducted by, which is fair enough, but then 4(3) at the top of page 43 says who can attend and it says '(a) the Department; (b) any other Department or Statutory Board; (c) any local authority; (d) the Manx Museum and National Trust,' all of which is fine, and then '(e) any person by whom an objection or representation (not having been withdrawn) was made in accordance with a notice under paragraph 3' and that is publication of the draft plan, paragraph 3.

Now, this limits the members of the public who can attend to those who previously have written in objecting or making a representation which is not the case at the moment. At the

present time a public inquiry can be attended by anyone, and I think it is totally and utterly wrong to limit it to people who have made written representations. Very often people do not unfortunately wake up until the last moment as to what is going on. Also there are many people who might not want to make a written representation but will want to be sitting there so that if they heard something they did not like they could then object to it or agree with it. So I think this is a very bad mistake which needs altering.

Then if I might move to clause 10, I totally agree with what the hon. member for Ramsey, Mr Singer, said about the owners of land having applications made by others in respect of that land, and I totally accept the point made by the hon. Mr Speaker at the very valuable briefing meeting that this can affect the value of someone's land because, where land has hope value, if somebody else applies and then gets it turned down the hope value is at the very least diminished if not totally removed, and therefore I agree with the hon. member for Ramsey that it would be a very good thing preferably that the owner should have signed a statement saying that he agrees to the application and that, if he does not, the application should not be considered by the department and time and money should not be wasted, but at the very least I think that the owner should have to be informed so he knows what is going on and, if he does not agree, he can advise the department.

The next one is clause 36, which is to do with the power to remove or obliterate placards and posters, and this ties up with clause 22. Now, the surprising thing is at the top of page 33 where it says subsection 1, which gives the department power to remove placards or posters, 'does not authorise the removal or obliteration of a placard or poster displayed within a building to which there is no public right of access.' So you can put up any placards or posters you like in your own house. Well, that is fair enough, but I cannot see why businesses, and indeed this government, should not put up what placards and posters it wants in the vestibules and entrances of its buildings. It seems to me quite over the top that people should not be able to put up what they want. After all, you might next say they cannot furnish the halls as they want, and I think basically it should be that the restriction on placards and posters does not include the interior of buildings but it only covers the exterior.

The other point I have is to do with clause 44. Now, clause 44 is a very short clause and the first part of it says 'Development orders and regulations under this Act shall not have effect unless they are approved by Tynwald,' with which I am sure most hon. members would concur, but the second part says 'An order under section 18(1) (conservation areas) shall be laid before Tynwald as soon as practicable after it is made' and it does not seek Tynwald approval. I think it is essential there should be Tynwald approval because the designation of an area as a conservation area has very material effects for everyone living in it. They are subject to much higher planning conditions, quite rightly, and therefore I think they should have the right to protest to their member, for their member to bring it up in Tynwald and object to the order, or indeed for them to exercise the Manx right of coming to the Bar of Tynwald to state their objections, and we must remember that on at least one occasion people coming to the bar have persuaded Tynwald. I well remember the case with, I think it was Camlork, where the eloquence of one lady, Mrs Gelling, swung the whole Court and made the Court throw out the complete planning order. Therefore I do feel most strongly that clause 44 should be altered so that the orders for planning for conservation areas are subject to the approval of Tynwald and not just laid before.

Mr Bell: Mr Speaker, I only have a few points I would like to raise for clarification, I suppose, more than anything else, with the hon. mover of this, and I have to say I would like to thank the hon. mover and his officers for the very helpful presentation that we did have. I think it clarified quite a few issues for members. (**Mr Gilbey:** Hear, hear.)

Planning, as we all know, will always be contentious. No matter what legislation is brought forward there will always be an opposite view to most of the proposals, so I would suspect that this Bill will be treated in no different manner. However, I think it is very welcome that the department has taken the opportunity now to update planning legislation and to put it on a more realistic footing in relation to the period of time that we are operating in.

There are though, I think, three points which I would like clarification on. I have a feeling I know the answers to them but I would like, simply for the record, if the hon. minister would just comment on it for me. The first one is - and it may be in the Bill which I have missed, but if you could just comment on it - whether or not there are any proposals within this legislation or in subsequent orders which come to Tynwald to improve the facility for notification of neighbours adjoining sites or buildings which are subject to a planning application, because I certainly have had a number of instances in my constituency over the years where, for whatever reason, neighbours - perhaps being on holiday or quite simply recognising the fact that not everyone reads the public notice pages of the newspapers - are often totally unaware that any planning application has been put in until the builders turn up next door and start developing the land or remodelling the building concerned. That has on a number of occasions caused a great deal of distress to the neighbouring properties and I think a more appropriate way, or an enhanced way, of notifying neighbours in this situation. Particularly where it is deemed by the planning officers that the planning application itself may be controversial in some way, we ought to find some more direct way of notifying the neighbours as to what is taking place in their neighbourhood (**Mr Gilbey:** Hear, hear.) rather than leaving it, really, too late in the day when the builders have already arrived on site and the neighbours then can do nothing about it.

The second point - and I have touched on this with the hon. minister before but I think it is a very important issue which does need clarifying at this stage - is, what provision, once this Bill goes through, will remain in place for dealing with applications which are designated to be of national interest? We have seen the major problems which have been caused by planning - and I am not apportioning blame in any way for this but it is the way the system has turned out - over the hospital (**Mr Gilbey:** Hear, hear.) where we have seen an additional £7 million or £8 million added to the taxpayers' bill for the development of this hospital purely through the planning process. I have to say that there would be, in my mind anyway, very few items which come along which perhaps could be deemed of national interest but, where there is a substantial project such as the hospital, perhaps the incinerator, perhaps even the prison, I do not know, these sorts of schemes, when they come along, really deserve to have some sort of fast-track approach in planning which would enable us to carry out the development while obviously protecting the interests of the immediate neighbours to the site but which would avoid a repetition of the hospital situation where substantial sums of money are added to the cost of that particular development, unnecessarily in many cases, quite simply because of the extended delays which are caused to the starting date of that particular development.

The third point is that I appreciate the rationale behind the local plans which are being drawn up now. I think they are adding a degree of cohesion to the planning process on the Island but my understanding of local plans was, in the early days when they were brought in, that they were always envisaged to be operated on a flexible manner, that they were not 'writ in stone'. I think experience over the last few years has given us the impression that that flexibility has not been applied in many cases. The point I would like to have clarification on in particular, though - and I am not attacking local plans in any way at all - is, will this legislation in particular allow flexibility where applications come in which are considered beneficial for regional economic development? Now, I think the staff of the planning department do an excellent job, but we recognise that they are under considerable pressure most of the time and frequently it can take seven or eight years before one of these local plans is revised and new provisions put in. Clearly, any would-be developer, when he wants to put some sort of employment development within an area, cannot wait seven or eight years for the local plan to be revised; he has to be able to respond immediately and when one of the things which we have prided ourselves on for a great many years is that, because we are so small we can react quickly to an opportunity which does arise, that has not always been the case in practice. So I think it is important, now we are revising the legislation, to make sure that there is a degree of flexibility, particularly on this one issue where economic development in the regions is being considered, that some flexibility is brought in at that stage, because it would be extremely unfortunate that if bona fide developers were to come along and were to be deterred from carrying forward their plans which would generate employment in the regional areas, that they are deterred and sent away because there is no flexibility allowed in the plan to incorporate them. But in general, apart from those three points I strongly support the Bill and I wish it well in its passage.

Sir Miles Walker: Mr Speaker, I rise to support this Bill. I believe it is one of those pieces of legislation that has had more consultation probably than any other and, because of that, a lot of the wrinkles in it have been ironed out over the last few years.

I think one of the things that has happened recently is that the profile of planning has been enhanced in the general public's eyes, and that is not a bad thing. People now realise how important a development plan is whereas, when some of them were approved a few years ago, I do not think there was the attention paid to them perhaps by people in the community who find they are very deeply affected by them. I think that is a double-edged sword, and I agree with the comments made by the hon. member for Ramsey, Mr Bell, about losing flexibility. I have to say that that is a very deep-seated concern that I have. Development plans are fine and you have areas of land zoned for say, residential development, and that used to cover residents, it also used to cover uses that were combined with a residential use such as schools and playgrounds and so on, and there was a lot of flexibility left within that for a developer or a local authority or for somebody else to decide in the light of the current situation what was best for that area.

I am concerned we are getting away from that: we are having our Island development plans, we are having our area plans, we are getting right down to village plans which can identify areas of land for development, but they do not stop there. They say 'development for two houses which shall not be more than single storey' or 'development for not more than five houses' and these plans are in place for a number of years. I think circumstances do change

and attitudes change, and I am concerned that we are tying ourselves up too tightly with these plans. I think it is right that the broader development plans are approved by Tynwald.

I have to say I also think it is right that those more local plans are the policy of the Planning Committee and not policy of Tynwald. I would prefer them to remain that way and then applicants can argue with the Planning Committee and with the department if they think they were wrong and do not have to argue with Tynwald, and I think that is a very useful situation to have.

So I would support the theme that is in this piece of legislation that broader plans should be approved by Tynwald but that the plans of lesser importance - not necessarily to the neighbours but in Island terms - are very much left with the department as matters of planning policy. The fact that they are laid before Tynwald does not give them a stamp of approval. It does bring them to the notice of members of Tynwald and the general public. It seems to me that that is quite useful.

I am concerned, I think, about clause 5, which seems to me to be quite draconian, and I would be interested if the mover of the Bill could give me any other examples of where this sort of statement is made in a piece of statute: 'Except in so far as provided by this section,' - it is clause 5 - 'the development or any strategic plan. . . the revision or repeal. . . or area plan shall not be questioned in any legal proceedings whatsoever.' It seems to me that that is a pretty hard statement. It then goes on to explain that if a person is aggrieved by a plan that is being commissioned or developed, there are procedures that they can go through. That is straightforward, I accept that, but what about plans that are already in place? Does that provision, that statement that they shall not be questioned in legal proceedings whatsoever hang up for them? That, I think, is quite a draconian statement. I am an interested observer, and that is all, in the planning application at the moment for a building that, would you believe, on the development plan is zoned as open space. Now then, any innocent observer such as myself would say, 'How can a building be open space?' The area around is open space and that is absolutely clear, but the building itself has been described as open space and it seems to me that that sort of question should be able to be pursued in a court if it continues to be an issue that cannot be overcome. So I find clause 5 a difficult one.

I would like to ask the mover in clause 9 which refers to planning applications: 9(1)(a) says planning applications 'shall be made in such manner as may be prescribed by a development order,' and I realise that this is an order that is going to be made some time down the line, but is that the order that covers the fees for planning applications? It seems to me there was not a specific provision for charging fees for planning applications and I wondered, was it covered in that particular section? And because it is written in the broad way it is, could the department then make an order which says that interested parties to planning applications should be charged fees? Whether or not as a matter of policy that would happen, I think, is a debate we can have later on, but I would like to know if this section would allow that situation to happen. I have to say that in my view parties should pay a fee, perhaps not as great as an applicant, but it seems to me that their interests, although important - the outcome of the review may be as advantageous to them in a pecuniary way as to the developer or the applicant himself.

In clause 10(6)(b) on page 10, about halfway down, 'the making of orders for the payment of costs in connection with such proceedings' - now, presumably that would allow the

Planning Committee, either at the review or an inspector at appeal, to recommend to the minister that costs be awarded against the developer or perhaps against another party to the application if he thinks that there is no merit in the case that has been made. I would like the minister to confirm that those costs can be awarded against either party and at any stage of the proceedings, we do not have to wait to get to an appeal before costs can be awarded. As a member for the constituency of Rushen, I am sure that you had a copy of a letter from Port St Mary Commissioners, as I did, and probably Mrs Crowe as well. They have written both to Mr Hamilton at the Department of Local Government and to the Chief Secretary, drawing attention to three situations that they have experienced. The first one - an applicant indicated he wanted a hearing and intended to attend but failed to do so. The commissioners and others all arrived, sat and wasted their time, maybe paid for some expensive consultants, I do not know. It seems to me that that situation is unacceptable (**A Member:** Hear, hear.) and costs perhaps should certainly be considered. I do not know whether they were considered and rejected or not, but it seems to me that there was a situation there that was unacceptable.

Mr Houghton: It is happening all the time.

Sir Miles Walker: They also stated about an applicant who wished his views to be considered in a written submission. Nevertheless, other parties wished to attend so there was a hearing and presumably the applicant did not turn up. Now, it seemed again that that was an unfortunate situation. Then they cite a further one. More recently again there was a planning appeal where the applicant for the appeal did not attend. It is uncertain whether or not in this instance he knew whether he should have been attending or not. So it sounds as if the procedures could be pretty lax as well and something in there is not right. The system needs tightening up and people should not be left to pick up a tab for a situation which could be avoided.

The registration of important buildings is gone into in some detail in this legislation, and I have to say in broad terms I am supportive of the procedure that it envisages.

I would just finally like to make a comment on the point that was raised by the hon. member Mr Singer and again by Mr Speaker when we had the presentation last week, suggesting that land values can be affected if perhaps a person who is not the owner of a land puts in an application which is subsequently refused. The hope value, as it has been described, can disappear. That situation can also arise where the planners themselves decide that perhaps a piece of land should be considered for development within a development plan without recourse to the owner and then subsequently through the procedures they decide it is not developable and should come out before the final planning document is drawn up and again there there is a loss of hope value, and I think that is quite a situation. I know it has happened on a number of occasions and I would look to the minister to give some assurance that procedures could be put in place to prevent a similar thing happening in the future.

So I think in supporting this documentation and being aware that it is enabling and there are very detailed orders to be made under it, I would just leave the minister with the thought that whatever he does with the orders he should not remove all flexibility. He should leave room for argument and debate between the applicant, his neighbours, the local community and so on. Thank you.

Mr Karran: Vainstyr Loayreyder, I was quite supportive of the previous speaker until the end of his remarks. I thought that he had some very important facts as far as making sure that we do not tie ourselves up into being inflexible, but I am a little bit concerned by his viewpoint that he seems to be straying into the area that we are going down the road where we could end up with a situation where only people who have money will be able to afford to play their full part in the planning process and I think it is very concerning that we would end up with a situation where people would end up being charged, and I think that is something we must not allow to happen. People should be able to have the input into planning as they see fit. I would just like to say that many years ago one of the members for Douglas North, Mr Collister, I believe, said that planning permission was held by the people, and I do think that maybe, when this Bill is being considered in the clauses stage, instead of looking after the landowner's rights I think we should be looking after the rights of our community and I do hope that maybe we can see something put in the Bill where the government can buy up land and then change the land use obviously through the procedures in order that that land can be used for such things as planning permission for first-time buyers' houses. I do not see any problem with the government buying land at a fair and equitable price and then putting the planning permission in. Why should the taxpayer always have to be ripped off? I think that that facility should be in planning, in my opinion, where they can buy land up and they can, in the national interest, change the designation of that land when they purchase that land. That does not mean that it has to be blotted for everybody else, but I do think that that issue needs to be addressed and the sooner it gets addressed the sooner we will stop the taxpayers being ripped off on such a regular basis.

One of the points that I did not agree with the hon. member for Rushen about is, he was quite pleased with part 3 to do with the architectural interest and registration of buildings. I am not sure that we have got it right. I will be interested to see what the observations of the local pressure groups are and I do appreciate there is a balance, but I do not believe that maybe the balance has been there as far as this legislation is concerned. I will go on to that at a further time.

One of the issues I would have liked to have seen - and I was impressed that the department has taken it on board - is the fact that they have to put boards up on properties where they are putting stop notices. Now, I did ask the question in the presentation about the boards being put up for planning permission, and I do think something like the 'for sale' board should be put up on a property so that people can see it. (**Mr Gilbey:** Hear, hear.) I remember seeing this in Malta and I think it is a good idea and I was quite impressed with that idea. Maybe the hon. member will put his views.

The control of demolition I was interested in as far as clause 30 and the fact that there is a £5,000 fine if you have got a registered building, but what I am concerned about is that if I had a registered building and I wanted to get rid of it or certain features of it, I think it might be worth paying the five grand to get rid of the features that I want to get rid of. I just want him to clarify: will there be an actual order to be able to force them to reinstate it to its original architectural features - obviously not the original stuff, the building materials, but will there be a facility or is it just purely the £5,000 fine? If it is the case, with some of these buildings it would pay me to rip the guts out of them and pay up my £5,000. I just wondered whether that is covered, that they have to turn back to that.

One of the other issues that I am concerned about was clause 36. It is to do with placards and that, and I am a little bit concerned how far we can go with pressure groups, elections. What effects will this have as far as people or pressure groups with a legitimate concern? We have got 'Save Our Trees' and they wave at the trees at the Braddan Bridge there which is to do with the hospital, but I believe that those people have got a right to object and they have a right to put up their posters and a right to make sure that people are aware, and I would hate to see this piece of legislation stifling legitimate protest, and I still have not had an assurance as far as this is concerned, because I do know that other members of his department were quite upset when some of the local pressure groups were putting their placards up all over the place and I do want to know that there will be no curtailment as far as people being able to do those things for the likes of their pressure groups and the elections and things like that.

I am concerned about the setting up of the body for the registered buildings. I am concerned that I do not think there is a danger of this body becoming more nepotistic, because there will not be a need for you to actually take people from certain organisations. I follow the viewpoints of the hon. member for Rushen about inflexibility and I agree with that, but I am also concerned about the fact that there is an awful lot being put in orders instead of primary legislation so legislation can then end up being on the hoof and a matter of who has got the bums on seats in Tynwald in order to get something rushed through as a panic measure.

Can the hon. mover just clarify the point as far as the right to entry is concerned, because I think it is important that officers should have a right of entry but I am concerned that it is a little bit too broad within this legislation.

The other issue I would like the hon. mover to give his views on is, as I had recently not in my own constituency but in another constituency, where an individual who needs a planning application which maybe would not be in line with the development but, because of the circumstances and the disability of their partner, needs an extension building on their property. Will there be any ability within planning to recognise where there is a legitimate need for a planning application for where there is a disabled person who has one of these degenerative diseases such as MS or whatever and who wants to stay in their family home? Will that be able to be part of a reason why a planning application can be accepted in those circumstances where they have to make disabled living accommodation?

I was interested in the views of the hon. member for South Douglas, Mr Duggan, and his concerns about the Villiers. One of the things I would like to ask raises the point that I raised and was ridiculed over, and that was over the facade of Douglas promenade and the fact that at one time it was a gleaming set of benches with all white along Douglas promenade and now we have got bits of silver at the Villiers site and we have got holes at other parts of the site, and I do feel that the issue of registering the facade of a building . . . Is that covered in this legislation that you can save the facade of the building, because I think it is something that is important. I am delighted with the old Bushy's, the old Yates's Wine Lodge. They have done an excellent job of supporting the facade there. I just wondered whether the hon. minister can actually tell us can, he register the facade of a building and allow them to do whatever they want within the building? There was a query over this and this was something that I fought about many years ago and unfortunately lost, and that is why we have got such a mess on Douglas promenade now.

The final point I would like to ask the minister about is to do with flood plains. Are there actually places where they designate areas that are flood plains? Is this the case? If it is the case, can we make sure that - (*Interjections*)

Mr Quine: It is the Water Authority, Peter.

Mr Karran: I think it is an important factor. The fact that certain areas were called East Lakes on the Mill Race has nothing to do with this question, but the question needs to be raised as far as flood plains are concerned, especially now that there seems to be global warming, and I think that issue is going to become more of an important factor and I think it is important that we address that issue in this legislation at this time so that where there is a problem of potential flooding there are planning restrictions put on that area.

Mrs Cannell: Mr Speaker, overall the provisions laid down within this particular Bill are good provisions but I too do have some observations and do have some concerns which I wish to raise: first of all, looking at clause 11, which is on page 10 at the bottom there, where reference of applications can be referred to the Council of Ministers. Now, I am a little concerned with (1)(b), where it says that if it appears to the Council of Ministers that an application made to the department for planning approval raises considerations of general importance to the Island or 'for some other reason ought not to be determined by the Department' I am little concerned that 'some other reason' could be pulled all manner of different ways depending on the make-up of the Council of Ministers at the time. However, going on further into that clause I welcome the fact that following a decision made by the Council of Ministers Tynwald will have two opportunities in which to come back and either reject or annul or make observations et cetera on that determination, but always a little concerned when planning applications are actually drawn in by the Council of Ministers because it seems very much to the public's way of thinking that big brother moves in, removes the right for the public to fully consider the implications of any kind of application which, under this provision, the Council of Ministers may feel is inappropriate for the department to consider.

Still staying on that clause 11, if the Council of Ministers, as I understand at the moment, have the right to call in a planning application in the strategic national importance issue, which again is questionable at times, does it then mean that that particular planning application will not be scrutinised as well as it may have been if it had been left with the department? What mechanism is being put into place for the Council of Ministers to be able to have the benefit of full scrutiny on that particular application, and who decides that there might be another reason why the department should not consider? Who makes that decision? Is that made by the Chief Minister, the Council of Ministers, the department?

Clause 15 in relation to demolition of registered buildings - I have to say I welcome this, but a little disappointed that it does not extend to all buildings because I believe that all buildings should be subject to a demolition approval and should come under the same scrutiny as normal planning applications, because the impact on a community of a builder or entrepreneur or whoever demolishing a building without there first being an application for the replacement of something or other, to me, is a nonsense. It can be just as detrimental to remove a building, as mentioned by my colleague for Onchan when he referred to the promenade, where we now have gaping holes which does nothing for the previous pearly smile, shall we say, of Douglas and its front. So I wonder why the demolition procedures here

do not extend to other properties and why they are specifically just targeted at those buildings that are registered or are situated within a conservation area. Does the minister recognise that there is a problem with the fact that one does not have to seek planning approval for demolition and, if he accepts that, if there is no provision within this Bill for countering that situation what does he envisage doing about that situation in the future? Is it going to come in on another vehicle?

On clause 21 on page 17, this deals with the fact that financial assistance following consultation with the Treasury and the Department can be provided for someone who owns a registered building. I welcome this because all too often in the past people who have been owners of property and who have then been faced with the fact that the department for one reason or another recognises that building as being important or within a conservation area then of course have to face the monstrous costs of any remedial work or improvement work which is required to that particular property, given that it will have to be conducted in a particular manner, given that it is in a conservation area or is otherwise registered. So I think this is a move in the right direction and I welcome this, and I do know that there are individuals who are financially constrained and who will welcome the fact that they could seek financial assistance.

Finally, turning to page 34 under part 5, Miscellaneous and Supplemental, clause 40 - this is with regard to the department establishing a forum, a group, an involvement of outside organisations in planning. As a first step I think it is to be welcomed. However, having welcomed it, I would like to know how the minister proposes to establish it, who will be represented on it, will it be a board-type structure so that once individuals have been selected they are there for a given period of time, or will there be flexibility to be able to have all of the views of organisations having their input at any one time, or is he proposing an umbrella organisation representing all of the individual conservation and environmental organisations? Having regard for this and the importance that such organisations can have in the input of information to particularly planning matters but planning inquiries, I wonder why the minister has not seen fit to give them party status when it comes to planning inquiries. At the moment I understand that there is an advisory committee on planning issues and that the department does take on board any views, concerns or observations submitted by it, but it really has no teeth because it is merely in an advisory capacity. It has often been bemoaned by such organisations that, having done a lot of work and spent a lot of time in pulling out facts for the benefit of the department in the determination of a planning appeal in particular, when push comes to shove, of course, they have no party status, and I think that is wrong. I think if organisations have come together and have co-operated under this clause 40 in putting perhaps together an umbrella group, then they should be given party status. If that is not to be the case under this particular Bill, does the minister envisage bringing in something else which will give them party status, even if perhaps it is limited in the types of appeals for which they do have status in? Some party status will be better than none.

Overall, I think the provisions laid down in the Bill are to be welcomed. I think there is room for some improvement. I am not so concerned that these provisions are going to be enacted by way of primary legislation but rather by order, and I think that is a far more appropriate way of dealing with this piece of legislation and I welcome it. Thank you.

Mr Cannell: Mr Speaker, Mr Quine's pad for reply must be getting pretty full by now so I will make observations rather than perhaps particular points appertaining to the clauses, and I do apologise for not attending the briefing due to a clashing engagement.

I also welcome the Bill and will be supporting it but a number of observations have been made and firstly by the hon. member for Glenfaba, Mr Gilbey, who has an amendment down with which I concur, and that is regarding clause 2, schedule 1, where he goes to page 42 for paragraph 4(2)(b): 'Any person shall be entitled to be heard in person by a representative at the inquiry.' Members may recall me alluding to just such a matter in a question fairly recently where I said I thought that MHKs should have the right to be represented should they so desire, particularly within their own constituencies, on any planning matter. It was later pointed out to me, of course, that you might have a clash of interests but I was able to say to the satisfaction of the questioner that I thought it would be down to the MHK's own discretion as to whether he wished to appear, but that statutory right should certainly be heard and, as recently as this very morning, I rang the planning appeals inquiry office regarding a particular matter in my constituency to query whether I could appear and was told that I was not registered and was brusquely told that even a clash with a sitting of Tynwald next week does not make any difference, it was just hard luck. So I do concur with Mr Gilbey's amendment that 'any person shall be entitled to be heard' will, I would think, cover the appearance of MHKs in such matters in the type of way I envisage. 'Any person' even includes us.

Further on there was an observation by Sir Miles Walker about no legal recourse. I concur with that opinion as well. Surely it is everybody's human right to be heard by legal counsel as far as you can go with it, and I would think that statement in there is probably against the wishes of European legislation, which allows everybody the right to take legal counsel right through as far as they wish to go on any matter.

The charges for the reviews and appeals - I also concur with the opinion that has been given on that one. Surely the way to do that, and it may well be contained . . . I am sorry if I have not read the Bill as fully as I might have done for particular points like this, but rather they have come up this morning. I do not see that there is anything wrong with having charges where you pay money up front. Certainly when I have heard or been subject of appeals in motor sport and in many other matters, you have to register a sum of money which is then adjudged as to whether the claim does have merit or whether it was totally fatuous and, regardless of the outcome of the appeal in such situations, the person adjudging it can decide whether the claim was legitimate and therefore return the money even if the claim subsequently fails. I see at the moment many appeals and reviews being called for, and they can, of course, be done for a variety of reasons. Most of them are legitimate but not all, and many are mischievous and would be not considered were a reasonable charge to have the appeals and reviews heard to be put in.

The registration of buildings - we have seen an example of what has happened within my constituency at the Majestic recently where we have had registration one minute and deregistration the next, and clearly that is a situation which is just not acceptable. We heard about party status being given to the pressure groups; that would be fine providing they can unite, but I have seen many instances of where the pressure groups are actually falling out amongst themselves as to what attitude to take on this type of matter.

On the notice to neighbours, I agree with that entirely. Certainly in many other spheres of Island life it is essential that neighbours be notified of various things such as road-closing orders, and it seems to me very reasonable to contain a provision to notify neighbours of any forthcoming developments. For instance, also on another point made by other members - you would think I was replying to this debate, I know, but I was intrigued by the remarks made, I think it has been very good - regarding the likes of the Villiers building and the Queen's further along the promenade, I think we have done a fair job with Douglas promenade compared with other seaside resorts, which are a complete mess of colour, office development and the old buildings mixed up completely. I am thinking of places like Morecambe and Blackpool, where it is a complete hotchpotch. We are doing all right with it but it is the oldest trick in the book to leave something decaying there such as the Villiers, such as even our own ill-fated Summerland building, and people get so sick of seeing it that they are virtually inclined to grant planning permission for anything. The Villiers, of course, came screaming out with a front-page colour photograph in The Examiner of the entire building stretching right through to Regent Street, and of course later on most people were horrified to find that all that was planned originally was the first phase of that. In fact, that still remains, I think, and similarly further along with the Queen's Mansion. Okay, you might argue that a hole in the promenade is better than an old, tatty building lying there falling to bits. It is a moot point, but certainly I think the measures contained in this have been well thought out. It is complex. I think even when it is passed through, as it looks highly likely to be, probably there will be holes to be found in it, but in general it is a good effort and I congratulate those behind the compiling of it. Thank you.

Mr Rodan: Mr Speaker, without wishing to anticipate the minister's reply, I too would like to touch on one or two comments that have been made. The first basic point I would like to make is that back in 1947, when the Town and Country Planning Acts in England and Wales were laid down for the first time to give a comprehensive system of land use planning, five basic principles were enshrined in that legislation, and in the intervening years not only were they reaffirmed in subsequent legislation but they have been incorporated into our own Isle of Man legislation and indeed those principles have survived despite a period of quite substantial political, social and economic change over the past 50 years, and those principles have been reaffirmed into the legislation that is before us today.

If I could just very quickly state what those principles are: (1) a comprehensive and universal definition of development; (2) a duty on local planning authorities to prepare a development plan; (3) a requirement for planning permission from the local planning authority for any development to be determined, having regard to the provisions of the development plan and any other material considerations; (4) a right of appeal to the minister by any applicant for planning permission aggrieved by planning decisions; and (5) a power of enforcement if it appears to the local planning authority that any development of land has been carried out without the grant of planning permission. So here we have those five principles: define development; prepare a development plan; a requirement for permission to do something according to the provisions of the plan; a right of appeal to the minister by the applicant if dissatisfied; and a power of enforcement.

Now, in respect of (2) of these, the duty of the local planning authority to prepare a development plan, that of course is what is found in part 1 of the Bill, preparation of

development plans, consisting of strategic plan and, following on from that, various local plans. Now, it is particularly relevant to note that principle because the hon. member for Rushen, Sir Miles Walker, raised what would appear to be a major concern of principle relating to clause 5, and that is that the validity of a development plan or strategic or area plan and any revision or repeal shall not be questioned in any legal proceedings whatsoever. Now of course, what this clause says is that it is the validity of the plan that shall not be questioned, not the content of the plan, not opinions as to whether what the plan says is appropriate or whether it should specify that there should be two houses or five houses in a particular area. It is not the content of the plan that this clause refers to but the validity of the plan and what the clause specifies is that there shall be no questioning, no legal challenge to a plan except within six weeks of publication of the plan, and what this example would mean is that an objector to a planning approval that has been given down the line cannot challenge it on the ground that the proper procedures have not been followed in preparing the area plan on the basis of which the approval was granted. There is an opportunity to question the validity of the procedures within a six-week period, and that is what this clause is making clear.

People will have opinions on the plan and the flexibility contained within the plan, and both Sir Miles and Mr Bell, the hon. member for Ramsey, raised questions about issues of flexibility of the local plans. Were the local plans sufficiently flexible, for example, to permit regional economic development? Now, if the policy of government is that there shall be regional economic development, for example, then this will feed through into the local plans. The local plans will be required to take account of this and to make provision for that policy. It is national policy on that question and other questions which must, through the strategic plans, inform the local plans so that the most appropriate land use policies are agreed on by the public at the right stage. Planning is an enabling process, but development control itself does not make the policy. It is not for the Planning Committee or those involved in development control to determine whether there should be regional economic development, for example, and to apply this policy that they think would be a good idea into the development planning process. The procedures, the provisions are laid forth in this Act to ensure that national policy informs the local plan, and that plan, once made, of course must be capable of having applied within it flexibility and development control. So, for example, if the policy is regional economic development in certain parts of the Island it is essential that the local plan and inquiry procedure lays down zoning, for example, for mixed use to incorporate commercial or residential or light industrial within a particular area so that, when a development proposal comes along, there is the possibility of accommodating it within the land use policy that has been set down. There is no point in somebody coming along with a proposal for, let us say, industrial development or commercial development and a plan to do it in a specific area that is not zoned and is not capable of accommodating that development. It is not to say that such development is an unworthy thing to happen, but it should be directed to the most appropriate place for it to happen.

In order that the local plans are sufficiently flexible and capable of accommodating the requirements over the next five years, it is quite important that at the public inquiry and pre-inquiry government departments inform what the policy is and attend public inquiries to have their views and the policies which have been interpreted in land use terms in the draft plan tested by the independent inspector at the inquiry and see if they stand up to scrutiny - most important.

Sir Miles made one particular point about - and I do not wish to refer to any specific current application but speaking in a general sense - a building going through or being allowed in an area zoned for open space. I would just make the point, which is a technical one, that an interpretation of 'open space' can include the provision of a building occupying no more than 5 per cent of the area of that open space which is ancillary to the use of that open space. For example, if it was a playing field it would be possible to have a small building erected on it in furtherance of the use and enjoyment of the area as a playing field within the definition of open space.

The question of flexibility - the point is taken but, of course, the reason for being fairly specific in local plans on such matters as whether appropriate housing densities would be such as to permit the development of two houses or five houses or ten houses is to give policy guidance to prospective developers and those contemplating planning applications. *(Interjection and laughter)* I hope I am casting light on the subject. And it is quite important and very important that local plans which are envisaged to have a particular life do offer the prospect of certainty to prospective developers and those contemplating applications, and it is for that reason that such matters as densities of two or five houses . . . again these are not plucked out of the air by the Planning Committee. These are set down at the appropriate stage before the public, before an independent inspector and that proposition is tested by the inspector.

Reference has been made to the question of ownership and as to whether it is right for planning applications to be made on land not in the ownership of the applicant. Now, of course in one sense this is an academic question because such land, if given an approval, would not be capable of development without the consent of the owner, and it might be thought a reasonable stance to preserve given that without it it might be that bit harder to put together planning schemes that envisage perhaps more comprehensive schemes of development in the context of urban regeneration. It could be very difficult to put together a scheme if there was a multitude of individual owners who would have to jointly make an application.

There may be a case for attempting to restrict applications to those who own or have an interest in the land that is the subject of the application. However, I would merely point out that there is a problem at the present time with vexatious applications being made in any case and it would be quite an administrative burden to try to establish the ownership of land or a dwelling if it was open to doubt or open to legal challenge. I am not saying that that should be the overriding consideration but, if that was to happen, it would create an administrative problem which would need to be overcome.

The question of requiring applicants to notify the landowner is a different question and there is merit in that, as there is in the suggestions made by the hon. member for Ramsey, Mr Singer, and the hon. member for Glenfaba, Mr Gilbey, about wider neighbour notification by people who are making planning applications, wider consultation, and one or two matters have been touched upon - the question of site notices, for example. Now, there are a number of options, of course, and it may be helpful just to briefly say what those options are. They are not matters of course for this primary legislation but they are matters more appropriate for a development order under subordinate legislation because they are at that level of detail, but the thinking of the department would be, for example, (1) newspapers. It is naive to believe that advertising in the newspapers, the weekly list, provides a fool-proof method of reaching

people, and it may be that, while it meets any legal requirements, it is not strictly satisfactory because I know as a constituency member, as does every member in this House know, of unfortunate instances where planning applications have been made when potential objectors in the form of neighbours were on holiday or in the middle of the Christmas holiday. So we are aware. This is a problem in reality.

The question of site notices happens in England and Wales, and that could well be examined. The question of neighbour notification - if this were to be done by the department, then certainly it would have the near perfect advantage of ensuring that those most likely to be affected by the plans are at least aware of them. There might be a perception that the department was soliciting objections to a proposal, I would just make that point, but it would only be possible to not notify, of course, occupants of property according to address who would not necessarily be the owners. This could be done if and when the new computer system becomes operational to permit this form of efficient contact of neighbours to a planning application. The applicant - another option - could be required to send more copies of applications, and the hon. member for Onchan, Mr Cannell, it would seem would welcome getting copies of planning applications from constituents in his area. Of course these applications are open for inspection, the lists are published and I would suggest, as the hon. Chief Minister indicated in an answer to a question in another place, that it would neither be necessary nor desirable for members automatically to have the necessity to receive copies of applications and it would be a very onerous obligation on the part of an applicant.

Lists in post offices and local authority offices - a greater use of these would make what is going on known to a wider section of the community than would happen in newspapers. That is another option. Then, of course, there is consultation by the applicant himself in respect of neighbour notification. He could be required, for example, to ensure that the neighbour signs on the application form (a) that he has been notified, (b) that he had no objection, for example (*Laughter*). This could be a convenient method of ensuring that the neighbour's views were known and that there would be no comeback later for lack of consultation. That is the system used and works very well - I do not know why it raised such titters of laughter; it is a system that is used very well in Scotland, whereby applicants are required to have neighbours sign their application form (a) that they have been told about the application and (b) that they have no objection. What could be better? What could be more efficient? (*Interjections*)

Mr Cannan: It is the Isle of Man.

Mr Rodan: Right, fine, it is the Isle of Man (*Laughter*). Okay. Moving on, in that case - I will leave members to judge whether the system has merits and whether they apply in the Isle of Man or not - there is the question of the award of costs, and there have been certainly some very valid points made, very valid indeed, because there is nothing more frustrating and time-wasting as far as the Planning Committee is concerned certainly to have a review, an oral hearing set up, and to have one of the parties, in some cases the applicant, not bother to attend when other parties have taken the trouble and, even worse, if this happens at appeal because there are additional costs to Government involved with appeals, paying appeal inspectors to come over for days on end. The last thing we need are vexatious planning applications contested the whole way through, taken to appeal and then, lo and behold, one party, the principal party in some cases, not turning up. I trust members will forgive me if I

quote from not an Isle of Man document (*Laughter*), not even a Scottish document but a London Department of the Environment document, which makes reference to the question of costs and this is something that the department is examining and will have the facility to implement in this Bill: 'At all stages in the pre-inquiry and inquiry process parties should bear in mind the guidance of the OE Circular 8/93 regarding the risk of an award of costs against a party who fails to comply with the inquiry's procedure rules so as to cause other parties to incur extra expense as a result of unreasonable behaviour. If an inquiry is prolonged as a result of a party's failure to submit proofs of evidence at the prescribed time or failure to provide a required summary so that the whole proof has to be read at the inquiry, an award of costs may be made against that party on specific application by another party at the inquiry who can show that unnecessary expense has thus been incurred.' And there are provisions elsewhere governing aborted inquiries because the applicant has not turned up. In the case of England and Wales it is the applicant because it is only the applicant who can take to appeal the contesting of planning applications. In our system in the Isle of Man members will be aware but should be reminded it is not only the applicant, but any party can take to appeal and in the Isle of Man, of course, there is an extra stage, a review stage, also open to any party. It is particularly in the case where vexatious parties take applications to appeal - a facility that is not available to them if they lived in England but it is in the Isle of Man if there has been time-wasting - how appropriate that costs be awarded.

It is on the question of party status under considerable rights, that they enjoy in the Isle of Man that I would say to the hon. member for Douglas East, Mrs Cannell, that it is for that reason that the Advisory Council on Planning is not conferred automatic rights of seeking review or appeal. One could envisage the situation where the applicant was quite happy, the neighbours were quite happy, all the parties were quite happy with an application, let us say, following an oral hearing at a review, and an exchange of views had resulted in agreement on a particular application. If another body was unhappy with the advisory council, why should they have the right to carry the process further on if the applicant and the neighbours were happy? Why should they? It is very important that their views be taken note of, that they have an input and the ability to put in written evidence and the ability to appear before a hearing, and to put their oral evidence and for this to be taken into account, and that principle has been carried forward with the accredited status that it is referred to in this Bill to various conservation bodies, a considerable widening of that process, but I see no good reason, if an applicant and all the other parties to a planning application are content, why another body should be able to take it further.

Mr Gilbey has made some amendments which no doubt the minister will respond to. I would just make the simple point that it is perfectly possible for the matter of conservation areas to be debated in Tynwald and be subject to Tynwald approval, as would development orders be which govern processes of development control. If it is really the wish of this House that that amount of debate is thought to be appropriate, bearing in mind that it does refer to a local area and within that local area there has been a process undergone of public consultation, public meeting, consultation by the department with the local authority and an input and an agreement by the public of that area as to the format of a conservation area, I will not comment for it may well be that this House considers it appropriate for it to be thoroughly debated in Tynwald. I would suggest that it considers carefully that this is what it wants to do, given that there has been local public consultation take place. Thank you, Mr Speaker.

Mr Brown: Mr Speaker, the Bill that is before us really is a matter of consolidation and fine tuning and hopefully will endeavour to rectify matters that have been raised over many years and have been amended bit by bit by different legislation. So in general principle I do not have a problem with that. Also, of course, even this morning many of the matters that have been raised are matters which are already outside the primary legislation of existing legislation and are covered by orders and regulations in terms of setting up. But I do have a number of points that I would like to make, and I think they are important to keep uppermost in our mind, especially after the comments of a number of members.

Certainly where I come from, I think it is worth making the point that planning legislation is there to protect people's rights, and that is whether they are the applicant or the objector or objectors. It is very easy for us to get frustrated on one hand when there is an application we want to see pushed through as quickly as possible and to complain about the objectors because the objectors are holding it up, and then it is very easy for us on the other hand to be very supportive of objectors, when we do not want to see a development happen, because they are actually delaying it, and I think that applies to members here in this House, local authorities and people in the general public. But what must not be forgotten is that it is about the rights of the people of the Isle of Man, their rights in planning, and I have to say, whilst I accept that an applicant has a cost to pay when he puts an application in, I do not accept that an objector should have to pay anything. That objector has a right. The objector, whoever they may be, whether I agree or disagree with them, is in a position where suddenly somebody is deciding to develop something which might affect them or their family, where they live or whatever, and clearly there should be nothing put in their way that would deter them from taking up the opportunity to object to an application. They must have that right, and I believe it is of paramount importance for this House to protect those rights. It is very easy for us to always pick on individual cases and say, 'Ah, there is a reason we should not allow that to happen' or whatever. There is a procedure. I certainly believe where a planning application is likely to go to review anyway it should go straight to review instead of having the first stage, which is really an administrative stage of just saying, 'Yes, we approve it' or 'No, we do not.' If it is likely to be in a position where an application comes in, there are a number of objectors, then all parties should have the opportunity if they wish to go straight to a review hearing and stop wasting time. That I do not have a problem with because they can sit down, they can make their case and then it goes to appeal. So I think we must keep that in mind, in context, because this legislation is about that. What we must keep in mind is, whereas it might take somebody 12 months to get a planning approval or a refusal, whatever they may achieve if they get an approval could be here on our landscape for the next 100 years, 200 years. Therefore we should not rush planning. Planning is important, how it is developed, how it affects the Island, because what, when we look around us, we say is nice or is beautiful is planning. It is how it has developed and I think we should keep that in mind.

Another point that I think is worth just keeping in mind - and I do not know if it has changed much, but certainly when I was Minister for Local Government - and I presume it has not changed much - the percentage of planning applications that actually went to review was quite small. The vast majority of applications are approved at first stage and the amount that actually go to appeal is smaller still. So most people are content with most planning applications, and I think there is a tendency for us as politicians to overplay because of individual problems that there is more wrong with the system than maybe there is. It has

developed through criticism and there have been changes made because of public criticism, political criticism, and there have been made over many, many years; some bits are right and some bits are wrong, and I can pick out things as much as anybody else. But I do think that we have to just keep a level mind on this one as to what the present legislation allows, and of course most of it is by orders and regulations anyway. I do think we have to be careful that planning is not over-bureaucratic and I think there is a tendency that that is the case. People get frustrated at the amount of time it takes to get an approval, at the amount of time of going X, Y and Z, but again a lot of it is to protect people's rights, to give them adequate time to decide to put in for a review or to decide to put in for an appeal, and if giving people those rights means a delay of a month before somebody knows whether or not there is going to be a review or an appeal, then that is a small period of time to pay to make sure that the application is done right.

One other thing about planning is, of course, planning is in the eye of the beholder. What I might like every other member in this House might not like and vice versa, and that is the problem because we all have views on it and it is about detail sometimes. Members say about the new Villiers, 'I am not a big fan of that' but members in those days were criticising what was there because it was falling to pieces. Now, somebody who is going to develop there will only develop if it is practical for them to do that, and the job of the Planning Committee and ultimately the minister is to decide whether or not what is being asked for is really outrageous and, as I say, there are differing views. I have heard people say they think it is quite nice. I was quite surprised one day, walking along Douglas promenade, and there was an elderly couple walking down saying, 'Isn't that a lovely building?' because my views are it is not bad but I am not sure it is a wonderful building. But that is individual views and I think, from the point of view of planning issues, that we have to take that on board and just really say there is a difficulty there. I believe more issues that are dealt with in the Isle of Man should be dealt with by PDOs - that is, permitted development orders. There is an awful lot of nitty-gritty stuff that requires you to go for a planning application, and the one I always use as a favourite - and I have to say it is one I regret I did not sort out - is that if you want to put a flagpole up you have got to go for a planning application.

Mr Cannan: Really?

Mr Brown: It is a bit of a nonsense, isn't it, when you think how do you draw a flagpole - an aerial view as a round circle? But clearly things like that can be moved along and I do know that the department is presently working on a number of permitted development orders to try and ease some of this problem, because if you ease that problem you can then deal with the real matters properly.

One thing I would ask the minister and just really try and cover is the matter relating to local authority's rights and their automatic right in planning terms, and I have to say - and the minister might be able to pick it out for us - where it covers that a local authority has an automatic right to a planning application. I have not picked that up myself and I just really wonder whether or not it is covered, and if he could maybe look at that, and if it is not then we will have to look at it, because clearly it is all very well having lobby groups and all sorts of people who might want to have a say but, apart from the individuals who have the right to have a say, one thing is fundamental in planning and that is that a local authority must have the ability and the right to represent their people in their area in relation to planning applications

and, under the present legislation, of course, they have to right to ask for a review or an appeal and take it all the way.

The other thing I really want a couple of points just to cover briefly is this problem that there is over local plans; clearly there is always a different interpretation about local plans and how they work. My understanding from advice given by the former Attorney-General is quite straightforward. There is flexibility in any of the local plans, and I was surprised and maybe somewhat concerned when the member for Garff said that if you want industrial development you should come to the appropriate area; you should have it only in the appropriate area as on the plan. I have to say, my understanding of that is that is not correct. A local plan designates land that may be used for a purpose. The life of the plan is irrelevant. It does not matter if a plan is 10 years old; it is not out of date, it is still valid. The flexibility comes in when a Planning Committee considers an application before them and all it has to do is take into account the basis of a local plan, and if it says it can be for industrial, let us say, however the need in that area is clearly demonstrated there is a need for housing, we have taken note of that designation and we are going to allow housing on that, land. Now, they cannot be challenged on that because they have clearly taken into account the states of the local plan. And then of course it goes on through the process to the minister, and that is where the flexibility comes in. One of the things that has happened in the past and during my time - and of course, as members know, the minister is somewhat distanced from the Planning Committee and rightly so, because they have a statutory job to do and the minister has his role separately - is sometimes the impression can be given to people that there is no chance of getting planning approval on that because the zoning says you cannot have it, and that is where the perception has grown up that the plan is not flexible. That is not correct. The zoning is what it is, it zones land, but if the need is demonstrated the Planning Committee can determine to give flexibility to the plan as long as they have not ignored, and can demonstrate they did not ignore, the planning policies within that plan as approved by Tynwald.

Mr Karran, just finally, mentioned that he felt government should buy or should be able to buy land cheap - by that I presume he means buy agricultural land - and then suddenly go straightaway and go for a change of use to get planning approval for housing. I do not agree with that. I believe government is the same as anybody else, whether it is me, a developer or anybody. If there is a need there, they have to demonstrate the need. If land prices are high they have to compete in the market. One of the reasons that land prices are high at the moment, and I understand somewhere between £150,000 and £200,000 an acre, I suspect, is because there is difficulty in people getting planning approval on land already zoned. So naturally scarcity of land - up goes the price, and therefore this double-edged sword creates a problem for us.

So I welcome the Bill. I do think that whilst we might have our own frustrations a lot of it will be about individual applications. As a member of the House of Keys who has been a member now for some time, I am not one who seeks to have the right to be able to go and appear at planning appeals or planning reviews, because I believe that is the job of my local authority. As members we could do everything and just scrap local authorities totally, but that does not make sense. You want to have that ability to make representation at the right level, and I think the right level of doing that is at local authority level. Our job as MHKs is to do that. We are there to pass the legislation that says that is how the system works and that is what it

does, and I do not believe it would be in the best interests if members got themselves tied up in planning reviews and appeals all the time, which could easily happen, especially in some of the bigger areas. If you look at the number of applications that go through some larger areas you could be at planning appeals every week. The point is, it does not stop a member of the House of Keys independently advising constituents how to deal with planning applications to get them advice, to get information, but I do think that is somewhat different than them necessarily directly being able to appear in front of it, and I know there are different views on this but I honestly do not believe that that is the best way to go.

Finally I just want to cover another matter: it was mentioned about awarding costs for unreasonable behaviour, and the member for Rushen, Sir Miles Walker, raised about a letter from one of his local authorities. My understanding is that there is already the provision there with the Planning Committee to award costs. It has been done once in all the years it has been there, and that was in relation to an application in Onchan, I think, and quite clearly it is a matter where if the committee feel it is justified I am sure they will make that decision, but we have to look at the circumstances, and that is their job, as to why somebody has done something, and it is not a matter for us. All we can do is say there is a provision there, and there is, and if they wish to award costs against somebody they can do that now. Therefore again I think we have to just acknowledge that.

So generally I welcome the Bill. I think it is a difficult one. I think it is a very important one because clearly the one thing about planning you find out is, when everything is going well everyone is happy. One issue and it all blows up and everybody then thinks there is a major problem, and that is not necessarily so. So that being said, Mr Speaker, I welcome the Bill.

The Speaker: Hon. members, I think it is an appropriate time at which to take a break. We will recommence the debate at half past two. The first member to speak at that time will be the hon. member for Peel, Mrs Hannan.

The House adjourned at 1.03 p.m.

Town and Country Planning Bill – Debate Concluded – Second Reading Approved

The Speaker: We resume our debate, hon. members, on the Town and Country Planning Bill and I call upon the hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. Planning is contentious because it affects most people at some time, or some people most of the time, and while we have got the consolidation of some of the planning arrangements, the Town and Country Planning Bill, we do not actually have before us the whole of the area of planning and therefore, while we can talk around various issues, it is difficult when you are looking at this particular piece of legislation in isolation, isolation of orders that can come forward, and I think to a certain extent we are seeing part of a picture and that part of the picture is to all intents and purposes looking at the wider implications of planning and how it could affect everyone, and it could affect everyone with regard to local plans, strategic plans and their part in the people's part in consideration of this, and it concerns me that in the last 10 years there has not really been an education of the public to tell them exactly what we as government expect of them, and I think you can understand that from the situation that we are in now where we have huge pressure groups building up - I am saying huge, but pressure groups building up - opposing something that has been through plans, local plans, not just the once but in some instances twice, but

people are disturbed by what is happening in their own area, and it concerns me that we have not got through to people, that we have not involved them to the full extent that we could and should have done up to now, and therefore I see this as part of it. I know the minister will say, well, it is not part of this, but I believe it is part of this because we have to try and get through to people that they are going to be affected by planning, that there are local plans that they can become involved with and that is when they should have their say, and once that decision has been made really, except for putting their impression on what is put on that site, it is very difficult for them then to put an impression on that site once it has been approved through a local plan, and this is the difficulty that we have. The plans are so important. This legislation is important but the effect that the people put these plans to is so much more important.

With regard to the strategic plan in clause 2, it concerns me that 'The Department shall prepare and from time to time revise a plan to be known as the Island Development Plan', and (2) says, 'The development plan shall consist of the following - (a) a strategic plan'. It is a written statement formulating the department's general policies in respect of the development and other land use in the Island, together with justifications for those policies and diagrams and one or more plans, and I do not really think that the full importance of the strategic plan, generally, nationally, or the area plans, locally, has actually been got through to people, and I am going back over 10 years. When these sorts of plans have been in being we have had planning inquiries, people have been out listening to what people have been saying, and I support the member for Glenfaba when he says that people going to an inquiry should be able to have their say. If somebody writes in, they are writing in generally, not to say, 'I support this development', but they are writing in and saying they object to this area next to their house or down the road being changed from either being developed or not being developed, being open plan or being developed in either a low-density or a high-density area. So they are not going to write in, most of the time, and say, 'I agree with that.' But if they turn up at an inquiry and somebody gets up and says, 'That shouldn't be developed and that shouldn't be developed and that shouldn't be developed', I think somebody at that inquiry should be able to say, 'Well, for once I think that possibly we do need at least one area where we can have housing, because otherwise there is going to be no development at all', and this is what this planning Bill is about, it is about developing land.

For one, I would much prefer to see in-town/city areas developed as opposed to greenfield sites and what has happened over I suppose you could say the last 15 years is that there has been development which has developed in such a way that it has not provided the facilities that people may not need initially but should have within any large development, such as play areas, such as playing grounds and open spaces for them to enjoy.

So when it comes to local plans I do feel that there should be very much more advertising than there has been in the past. I believe there should be, as someone has said, notices to say that there is a local plan being considered, that that could be radio, newspapers or whatever. These plans, we have got to remember, are in being for five years.

I do not, however, believe that there should be fast-track planning or any exemptions made for government or any government proposal, because people are affected and they must have the rights to say what is affecting their life and therefore I believe that government, in the same way as everyone else, should go through the planning process.

In the light of any planning development I do think that in relation to development, while we advertise the fact of local plans and strategic plans, I do think there should be a site notice when a plan is being considered. I think people can go and talk to their neighbours, but I would feel very strongly that neighbours should not be asked to sign anything, because that could be under duress or just because of that particular time feeling, 'Well, I mustn't upset my neighbours and I will sign something, much as I do not object', when in actual fact it could be because of the planning process that has gone through that instead of having a window there, they could put a window somewhere else which would be overlooking them and therefore I do not feel that they should have to sign away their rights to agreeing to what was being suggested, and therefore I cannot go along with that at all.

One thing I would suggest, and I do not think it says in here, is that obviously there will be a consultation and if there is not, there should be a consultation, but I believe that the orders could be laid before Tynwald at one sitting and moved at the following sitting. That at least gives more notice of what is going to happen through the planning process than just orders placed before Tynwald and given a fortnight's notice to the general public. I feel that is extremely important.

With regard to clause 40, that is, the advisory council replacement, it does concern me that we are actually extending it and I am not sure how it is supposed to impose itself on planning. I can understand if we are looking at it from a development which is going to impose itself on the ecology and the environment of an area, but it troubles me that we are going to be looking at the economy, other than at a local planning stage, whereby we have been told that the plans are, you could say, sacrosanct, there cannot be action taken against them, but then we are saying that we can set up an organisation on planning. Now, I might have got this wrong. It might have been at the consultative stage of the local plan that we are looking at the environment, the economy and the planning of development, because I can understand it at that stage, to take in the economic development of the Island, the environment and the planning of development at that stage. But is this meant to be at every planning application that is to be considered that there will be an input on the environment, the economy or the planning of development?

It seems to me that at the moment we have an Advisory Council on Planning and we have an Advisory Council on Planning at the moment purely because these are the names that were put forward by these organisations and in the past we have had people from the ornithological society and we have had people from the antiquarians on, but at the moment it seems to be people who are mainly interested in the built environment and the people who are involved in preserving buildings, which I support and I feel that they do an extremely good job in doing that, but I am not sure. You see, this, to me, is a different thing altogether because it says, 'The department shall consult with the said body on all matters which it appears to the Department that its advice would be desirable'. Can they put in their comments on planning, as the Advisory Council on Planning does at the moment? It is these sorts of areas that I would like clarification on.

I think it is the last point I want to make but I might have another look in another minute. But my concern is that somebody does something without planning approval and it is pointed out to them that they have not got planning approval for what they are doing and they put in a planning application but they are allowed to carry on what they are doing without that approval

until such time as it has been approved or rejected, and that concerns me, that someone can go on doing something against planning while they are waiting for the outcome of a planning application. I do not know the answer to that, but when it affects a number of other people by that particular development it concerns me. I think that the status quo should be imposed while the planning application is being sought, and that has not been the case in certainly one instance that I know of, and it is all very well to say if somebody does something they are going to be fined £5,000, and if somebody does something else they are going to be fined £20,000, but if somebody is allowed to carry on for possibly a year, and maybe even longer, doing something which they have not got planning approval for and then at the end of the day conditions could be laid down to say, 'You must do it but you must do it within four years', that is five years from the time that they were doing something without planning approval to actually doing something or satisfying the Planning Committee, which to my mind is a long time when people feel aggrieved because of what has been happening, and therefore it is all very well having the legislation, but somebody is able to do that in the meantime and it is very distressing to people who feel they have been let down by the system.

There is another issue that I would like to raise before I finish and that is conservation areas. I happen to support conservation areas. I support them and I do not think, in a way, that we do enough to get over to the public what they are and why conservation areas are necessary. It is also difficult from the point of view of when you have a change of membership of local authorities for them to understand the reason for conservation areas. You create conservation areas and 10 years down the line somebody is saying, 'Well, why have we got them? Why have we got all these restrictions placed upon them?' As I see it, the restrictions are fine because of why the conservation areas were brought in in the first place. They were brought in to combat some of the problems that were happening to older buildings and destroying their aspect.

But my main concern is that we should properly fund conservation areas, not to support them unnecessarily, but if we are saying an area is important, a conservation area, it needs and requires special consideration and should be given special consideration, then I believe we as a government should back that up with funding, and I would hope that the minister, in replying, would be able to stress the point that conservation areas, no matter where they are, will be funded if we are saying certain aspects, whether it is windows, whether it is doors, rooves, or whatever, are going to be properly funded. It is so important, and I think sometimes it goes against what we are trying to do through the planning procedures, that are costly but do affect a huge number of people, and yet we are saying to people, 'Yes, this is important: you can't do something that way but you must do it this way', and I think we must put our money where our mouth is. Thank you, Vainstyr Loayreyder.

Mr Cannan: Mr Speaker, I will be reasonably brief.

The issue of planning, as has already been said, is exceptionally controversial and contentious, but I see it falling into two parts. In the first part there is the major strategic plan, the development plan, the public inquiries into these plans, and these are exceptionally important and I believe that there must be the fullest public participation and there should be no restriction on the public participating in the inquiries that are held into these plans. It is important that they do so, they are not restricted by having to write in, that they can attend the inquiries and speak from the floor and their views must and should be taken proper

cognisance of. Then the plans come to Tynwald, as some are in a fortnight's time, and they must then have the opportunity for people, as they do have, to petition Tynwald if they feel aggrieved by what is in the plan. Those are fundamental freedoms and values for the individual.

Then there is the other side of planning and that is the individual applications, the applications where ordinary people in ordinary walks of life have put in an application for a kitchen extension, a new bedroom, a little bit of enlargement here, or perhaps conversion of some outbuildings into holiday accommodation, the whole spectrum of the run of the mill planning application, and this, I believe, is where the biggest grievance comes in.

The first grievance is that these people who invest savings in architects and advice to get their plans find that they are rejected, they barely know who is rejecting them, if they do know, and I say to members of the House this afternoon, do all of you know all the names of the members of the current Planning Committee? They are, or appear to be, faceless and unknown, making decisions for people's lives. They are neither elected nor accountable. The only person accountable is the chairman, and I have beat this drum before because I believe that in a democracy there should be democratic accountability for decisions in people's lives.

So that is the first thing. I did not go along with the change from the Planning Committee being elected representatives of the people to people being appointed by criteria I know not what. That is a matter which I will raise again next week.

I feel, and the people who are the applicants in planning can sense, very often feel aggrieved. They wonder why these people have this power over their hopes, dreams, aspirations, essential requirements, whatever you care to call it, and of course when they are approved, they are happy, when they are not approved, they are aggrieved considerably.

Then there is another grievance, a grievance where the applicant, having been refused, then goes to the planning officials and says, 'Why are my plans being refused? What must I do to put it right?' And I regret to say that I have had complaints from constituents who have done just that and have been told, 'Well, if you put the roof here or you put a window there it will be all right.' So they engage architects to amend the plan, to put a new plan in with the roof here and window there, and what happens sometimes? The plan is still refused. Can you wonder that people are aggrieved? They feel that they have no redress through their elected representatives and I, quite frankly, concur with that view. At least with the previous system people knew who was on the Planning Committee, they knew they were accountable and they were elected and, as in the democratic system, all of us are elected and can be removed after five years, but the Planning Committee, who can dominate people's lives, can frustrate people, seem to have a complete immunity. In fact the whole planning system seems to have an immunity from public accountability.

However, having said that and having said my piece, I accept that this document, this Bill, is a mixed bag and I will scrutinise and go through each of the clauses, when we come to take them next week, closely and will vote accordingly. Some are good, some I will not support, and obviously members the same. But I will give the Bill my support in the second reading, but that does not mean to say that I support all or any of the clauses.

It is important that we get this matter of planning correct. It is also important that in a free and democratic society people feel that they have a democratic procedure to express their

concerns. I personally find that the views that I may make to the planning authority appear to be discarded. Strange, but that is it. As I have just said, we are all elected, presumably to represent the community we have been elected by.

The other grievance I often hear is the Advisory Council on Planning seems to have influence far greater than other properly constituted bodies. It may be a perception but these are views outside, to quote a phrase of yours, Mr Speaker, out there in the blue yonder, of ordinary people, who from time to time feel aggrieved with the whole planning system.

I do not think I will say any more at this time but I will certainly scrutinise each clause of the Bill as we go along.

The Speaker: Hon. members, I call upon the hon. minister, the hon. member for Ayre, to reply to the debate.

Mr Quine: Thank you, Mr Speaker. I am grateful to members for quite clearly having devoted a great deal of time to studying the Bill and I am grateful for the generally supportive views for this piece of legislation. I accepted from the outset that bringing a Bill forward such as this, we are going to have not one position taken, nor two, several positions taken, and I think the contribution by the hon. member for Michael latterly there demonstrates just the point. The nature of planning is that you have, unfortunately, more often or not winners and losers and you are going to have people who are consequently dissatisfied. It would be very nice if we could devise a procedure that was more acceptable, but as we all know, not ourselves, but many countries have sought to devise a procedure that suits this particular situation and quite frankly I do not think it matters what we do: we are going to have different points of views.

Now, if I could just deal with some of the points which have been raised, the hon. member for Douglas South, Mr Duncan - Mr Duggan; Forgive me for forgetting your name, hon. member, (*Laughter and interjections*) - expressed a view as to what he believes to be the aesthetic values of the new Villier's apropos the new Bushy's. Well, quite frankly it is not an issue which is involved in this Bill. What we are talking about there is the planning development process and, as we all know, that process allows for a full input of views from all quarters. So if the end result does not find favour with the hon. member, well, I am sorry about that, but others have expressed to me the view that what we have of the redevelopment of the Villier's is a very acceptable development. So we simply cannot satisfy everybody.

Mr Singer raised, I think, three points. First of all he dealt with the matter of enforcement notices and, as I understand the point made by him, he was asking what is the position in regard to a condition which requires retrospective enforcement? I suppose that is the best way to put it. Now, I will double-check on this for the hon. member, but at lunch-time, looking through the Bill once more, it appears to me that the question that he raises is answered in schedule 8, article 5, and schedule 8, article 5 deals with breach of planning control and says, 'Where development was carried out after the commencement of the Isle of Man Planning Scheme (Development Plan) Order 1982 and before the commencement of Part 2' - in other words the new planning development procedure - then '(a) without the grant of approval required for that development by that Order, or (b) without complying with any conditions subject to which the approval for the development was granted pursuant to that Order, that

development shall be treated for the purposes of Part 4 as a breach of planning control.' So it appears to me that it would be included, but I will double-check that to be absolutely sure.

The second point he raised is the one about false statements, and I think he really was taking issue with the view expressed by the law draftsman. I do not think the law draftsman was being difficult. He was expressing, or pointing out, the difficulties with which one is confronted in trying to prove this sort of case and indeed that was the word that he used, I see, in his letter, that it is difficult to prove it, and that is of course a fact.

It is currently an offence, as the hon. member for Ramsey has pointed out. I believe that it should certainly remain an offence, that creates no problem for me at all, but I do see that in evidential terms it may not always be possible for to produce a case that will stand up in court, and that is not particular to this one issue, that is a situation with which we are confronted in dealing with many situations. Either the evidence stacks up or the evidence does not stack up

The other aspect of that which he raised of course is the Attorney General's Chambers were pointing out that there is a question of whether a bit of information provided or a statement made in an application, whether it is sufficiently material for to justify such action as a revocation of the planning procedure along with all the implications of that which may impact upon prior owners or subsequent owners. He was simply pointing that out and I think quite rightly demonstrating the difficulties. But the bottom line remains. My own view is it should remain an offence to knowingly make a false statement and, subject to the public interest - and all prosecutions are either pursued or not pursued on the basis of public interest - justifying that course of action, then I see no reason why one should not seek to establish a prosecution, but public interest must always be a prime consideration in determining whether or not you seek to take a prosecution.

The third matter that was raised by Mr Singer and indeed by one or two other members is the question of where we have a planning application and the person who is filing that application does not actually own the land and whether that is reasonable in the circumstances. I am inclined to the view, which I think was raised by the hon. member for Glenfaba, I think there should be an obligation to inform a person who owns land that you are filing an application. I have certain reservations about seeking consent, because I think we could be into quite a different situation, but for to inform the owner of land, thereby acquainting him with the fact that an application is going to run and giving him the opportunity to make his representations as part of the development planning process and have his views taken on board as to whether or not that application should be supported or not, I think that is reasonable. I think this requirement for him to be informed is quite reasonable and I have no difficulty with that.

Mr Houghton stressed, quite rightly so, two factors here. First of all he made the point that what is going to be all important of course is what is in the orders that subsequently issue under the umbrella of this enabling legislation - I agree with him: that is going to be very important - and he also stressed the need for consultation. I have no difficulty with that. I believe those orders do need and will receive widespread consultation.

Mr Gilbey raised one or two points. I think I have addressed a couple of them, but if I could just touch upon those which I have not at the moment dealt with, the question of the local plan inquiry: who can attend? I take the hon. member's point. I think that that should be a

little more open-ended than it is within the existing article 4(3), article 4(3)(e) I think is the one that we are talking about, and I will further consider that matter after this debate.

He also raised an issue that arises under clause 36(2) and that concerns the placement of placards and posters, and the point the hon. member was making is whether there is a need to restrict the placement of these placards and posters in relation to the interior of a building. My immediate reaction is of course that that is probably an excessive requirement, but on the other hand I can see a situation where you could have adjacent to a residential area a commercial premise which could have posters et cetera displayed on such a wide basis that it could affect the amenity of that area. So I would like to look at this and see if we cannot find a balanced position to satisfy the point, the legitimate point he is making, but also the legitimate requirement to preserve the amenity value of particular areas.

Mr Bell raised a matter which, as he quite rightly pointed out of course, concerns notifying people around an area that a planning application is running. This is a matter to which the department has already applied their minds and we have in mind a number of ways that we believe that this can be carried forward, ranging from some of the matters that have been touched upon here today. I think first of all perhaps a staging of the newspaper advertisements rather than having them all going out in such a short period of time and also the question of some kind of a site notice. So there are a number of possible approaches to this which the department has discussed and prior to the order coming forward we will ensure that members are consulted.

The next point, I think, that the hon. member for Ramsey, Mr Bell, raised was the question of the local plans and whether or not they are set in stone. I do not see that and I think this was within the context of regional economic development, if I recollect properly. I am satisfied in my own mind that they are not set in stone. If you look at the Bill you will see that in regard to planning development there is a requirement to take into account certain considerations. They are not set in stone, there is a requirement to take them into consideration, and so I believe that that flexibility is there and coming at it from the other point of view in terms of how do we accommodate regional economic development or economic development in a particular area, we do of course now have or will now have a facility for compulsory purchase which would perhaps help in that regard also.

I thank Sir Miles Walker for his comments. I believe we are retaining the flexibility which you spoke about and which I agree with you is important, and I think this comes back to the comment I have just made in respect of Mr Bell. I think we have that, as long as we allow ourselves to exercise the discretions which we have got within the legislation, and we will reinforce that in the orders which come forward for the actual mechanisms.

There is the matter of charging fees for applications. I think that was a point raised. As we will probably recollect, it was only, I think, last month that we brought forward an order varying the fees and there will be an order again which will set the fees. So that is covered, that is provided for.

Now, a much more perhaps in some ways contentious matter is this issue of the award of costs. I start from the premise, as a number of members have said, that the planning process is a very important process that can impact upon each one of us at some point in time and because of that I believe that we should think hard before we take any steps which deter

members of the public from not coming forward and making representations in respect of a planning issue. So I start from that premise and I think that is not an unreasonable premise. I think that reflects the public interest.

I also recognise the point made by one or two other members that you do have situations where, through the wanton actions of certain individuals, other parties to a planning inquiry can incur considerable costs, unnecessarily so, because of these careless acts of another party. I think that this does not present a particular problem. I believe that when we come to the order which is going to enshrine this we will be able to strike a balance which ensures that any person who has a legitimate presentation to make in relation to a planning issue can do that without the fear of incurring a cost, while providing for some sort of punitive financial imposition to go on those who either vexatiously or for other reason come forward and create expenditure and costs for other parties.

Now, Mr Karran has raised one or two points here and, although he was generally supportive of the Bill and I thank him for that, he of course came at it from the other side and said, 'You must be careful about imposing charges on people so you do not deter them from making a representation at an inquiry', so I take that on board.

Then I think he was saying that government should step in and buy land, change the use and build houses. Now, I hope I have not misrepresented his point there, but I think that that would be somewhat unethical. If we are talking of buying land when it is zoned for one purpose and then having a facility to change it to another purpose which makes its value somewhat different, I would have thought if government has that requirement, then the normal planning processes should run.

He also raised the question of control of demolition. Here I think the position is quite clear. There is control applied obviously to a registered building and to a conservation area, but in relation to other buildings outside of those two areas the position is - the position which we have adopted as a matter of policy and Tynwald and this hon. House will either agree or disagree with us - that approval should be required where the demolition of a building directly impacts upon another building. That is where we have drawn the line, where it impacts upon another building. Now, hon. members may hold a different view. We believe that we have struck that just about right, because if you are going to have blanket control over every demolition in the whole or part of a building, then we are into quite a paper-chase.

So that is the position we have adopted. We are saying controlled demolition of a registered building, controlled demolition in relation to a conservation area and in other areas controlled demolition where it is going to impact upon another building, directly impact upon another building.

There are of course other measures of control that lie outside of this legislation, the building byelaw regulations and so on that control demolition. They control demolition from the point of view of health and safety principally and that legislation is under review and as part of that exercise we will look and discuss with the law draftsman to see if there is a case to strengthen that in some way to take on board not only health and safety but amenity issues, to some extent amenity issues, which of course is what many people complain about, that is, a building that is taken down and left, a big gap left there and not properly looked after. Now, whether that is possible I do not know, but in any case it is outside this legislation. But I am

just explaining to hon. members how we have approached this issue of demolition, trying to strike a balance between the different interests.

The next issue that was raised here is there is question over whether or not the development planning process is sufficiently flexible to take into account the special needs in certain circumstances of an individual, in other words a person who may be suffering from MS and applies to have a bungalow built. I believe that flexibility is there. Obviously planning comes at it from the point of view of land use, but I can demonstrate to you quite clearly, going back about four years, where I had an application for a lady who was suffering from MS and in that case the Planning Committee did take cognisance of that and approval was granted. That flexibility is there, and I suppose it would be true to say that when we are considering a planning application in relation to a disabled person quite clearly I would expect them to take into account whether the development that has been sought is going to provide towards the long-term needs of that person or just meet a short-term requirement. I think that would also come into that consideration.

The next question was whether or not we have the ability within the registration of buildings, part of our Bill here, to secure the facade of a building. The answer is, yes, I believe we have that and I think hon. members do not have to look too far from here to see that we not only have it, we have exercised it. You have the courthouse across along Athol Street where we have preserved the facade of that building and of course you have the Strand Cinema where we have preserved the facade of that building and sanctioned other works which of course give the building proper economic value.

The last point I think Mr Karran raised was to do with flood plains. I cannot help him there, but I would like to reassure him that I do think that given the timeframe for global warming we could bring in an amendment if that is necessary.

Mrs Cannell spoke on the matter of the procedure for calling in, for the Council of Ministers calling in inquiries, and she pointed to part (b), I think it was, 11(1)(b) which states 'some other reason'. Now, that is basically what we have now and that is a catch-all situation for the unusual cases which can arise. It may be because all the members of the department may have been involved in some way with a planning application. I can think of a range of circumstances where it may have to be moved from the department, but what matters is the point that Mrs Cannell made herself and that is that it is subject to Tynwald control. Tynwald will have to approve it. that is what matters and I feel quite comfortable with that.

Now, Mrs Cannell also suggested or questioned, she did not make a statement, questioned, whether the call-in procedure provides the same degree of scrutiny as the conventional planning procedure. I believe myself that, if anything, it provides a little bit more, because if you think about the type of inquiry which is undertaken by a very experienced inspector I think all the issues are properly tested and certainly the procedure allows for a broader input from the public under those circumstances.

I thank Mrs Cannell for recognising the value of clause 21 which relates to financial assistance to owners and occupiers of registered buildings. We have that provision now. The problem with that, as the hon. member for Peel has pointed out of course, is we to date have not been able to get all the funding that we would wish for that scheme. Having said that, we have seen a significant increase in the funding available for this financial assistance, albeit we

have had to do that by a virement of funds from another part of our department, but rather than leave conservation areas without support we have vired moneys from another part, another vote of the department to reinforce the moneys which are available for supporting registered buildings in conservation areas, with the approval of Treasury of course.

Clause 40 - the matter of the outside agencies. I am pleased, once again, to try to explain what we have sought to do here. Essentially we are trying to achieve two things. We are trying to bring in a new element of consultation and that is to create a consultative body on whom we can take advice, receive views on the matter of the planning orders themselves, the regulations - I should not say orders: it is a bad example - but the regulations and the subordinate legislation which lay down standards, basically, for planning. That is something we do not have at the moment. As you know, what we do at the moment is a consultation process that goes out to interested parties, out to the public and goes out to hon. members and we feel that if we had this standing consultative body we would be able to sort out many of the problems in relation to the planning requirements and get an agreed approach to it. So that is something new, that is something additional.

Now, the second part of it is the proposal in the legislation that a number of bodies representing primary conservation and ecological interests should have accredited status to make representation in relation to planning development. Two different things. One is the development plan side of things, the statements of policy, that is the new body, but in terms of development planning, where we have got individual applications, the concept that has been put forward in this legislation is that a number of bodies would be given accreditation to make representations, and the detail of that is a matter for an order. It will be a matter which will be discussed with hon. members. So that is the approach we have taken with that. We believe that that is a considerable enhancement over what we now have in place and we believe that that will work better than it is.

One of the reasons why we have had to do this of course is in the consultation process there was exception taken by more than one party to the fact that ADCO, as we refer to it now, is not, as some parties would have us believe, able to fairly and properly represent their interests and the reason being in part that there is now a significant number of these bodies. There are 12 or 15 which I have listed here in front of me and when you are asking three people coming from three particular societies to represent all those interests, that is not possible, and just to give you one quote from one party here, he said, 'We see no logical reason why a buffer is required between amenity bodies and the Planning Committee', and there is a similar comment here in relation to membership from another party. So, all right, we recognise that, it is part of the planning process. We believe what we offer represents something better.

I think there are three other points there that Mrs Cannell raised, but I have dealt with them already.

Mr Rodan of course responded to a number of these matters and I thank him for his contribution.

Again I thank Mr Brown for his contribution and his general support for the Bill.

There is one point I would just pick up on that Mr Brown mentioned, which is really an information item for members and that is this, that only 17 to 18 per cent of planning

applications go to review and only 6 to 8 per cent of planning applications go to appeal. Now, I think when you hear some of the extraordinary claims that are made about how unpopular and how impractical the Planning Committee and all the associated mechanisms are, when you lay it against those statistics I think that speaks perhaps more than some of the interested parties that care to make a great noise about their particular interest.

Certainly I agree with Mr Brown that planning is in the eye of the beholder, because this is the problem the Planning Committee have every time - competing views, different people see different issues in a different way - and they do their honest best to reconcile those views.

Now, Mr Cannan has made reference to the fact about the Planning Committee and these non-elected people who carry out this function. Let me say first and foremost I am pleased, very pleased, that we have non-elected people who are prepared to take on these duties because believe you me, when I go to look for members for Planning Committees you have a great task on your hands. If you are trying to find credible people to work on these committees it is very difficult indeed. I believe we have a very good Planning Committee who work quietly and not up front shouting the odds. They are not taking the public limelight. They are working many, many hours dealing with a very contentious area of government activity, and the very thought of us reverting to a planning appeal system where we have politicians sitting there again fills me with horror. It fills me with horror. We have to see even the simplest of issues that come onto the floor of this House and we can immediately identify members whose prior objective is to run with the hares and chase with the hounds, and if that is what we are up against when we are dealing with certain political individuals, thank God we have lay members.

Mr Cannan: That was not your view before you became a minister.

Mr Quine: Just listen and you may learn. *(Laughter)*

Mr Cannell: Watch my lips!

Mr Quine: Yes. Mr Speaker, I think those really are all the points that I need to cover. As I said, there are a number of issues which have been identified here, some of which we have already discussed with members and have more or less agreed amendments, quite happy to take them on board. There are one or two other matters that we still need to discuss and resolve and we will do that in the course of the next few days.

I thank hon. members for their perseverance and their patience and I would ask hon. members to give this Bill a second reading. Thank you, sir.

The Speaker: Hon. members, the motion is that item 8 on your order paper, the Town and Country Planning Bill, be read a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

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

The Speaker: We turn then, hon. members to item 9 on your order paper, the Children and Young Persons (Protection from Tobacco and Liquor) Bill, again for second reading and I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I am sure that every member of this hon. House agrees that it is not an acceptable situation where children below the age of 16 can freely obtain and smoke tobacco products or that persons under the age of 18 can have free access to alcoholic products in any quantity. I am sure that we also support the present law which forbids the direct sale of these products to under-age young persons.

The present law, however, which prevents the under-age children from directly purchasing the alcohol or tobacco from a retail outlet does not prevent an older person acting as an agent and purchasing the products on their behalf.

The present law also does not prevent an older person directly supplying young people with alcohol or tobacco products which have not been purchased on the person's behalf but which have been supplied, say, from the house.

I was told last week of a conversation which occurred recently and that was overheard in the street between a group of young people and a senior citizen walking his dog, where the group of young people went up to the man and asked him to go into the nearby off-licence and to buy them some cans of lager. This Bill will make that kind of purchase, that is, acting as an agent, illegal, as will also be illegal the direct supply to under-age drinkers and hopefully will help to reduce the quantities of alcohol and tobacco freely available to young people.

Hon. members may be interested to know that the present problem was brought to my attention because of the concern of the management committee of a youth project of which I am a committee member and which has youth leaders and youth workers on that committee.

We were all young people once, some longer ago than others, but we can all remember how we or our friends would sneak a cigarette or an alcoholic beverage, how exciting it was, but then we were immortal and the truth then was that bad things would not happen to us. In past years the dangers caused by excessive alcohol or smoking were not fully recognised. However, I am sure we all know friends or relations or acquaintances who have suffered since by developing dependency on these products, becoming hooked on these drugs, lives and family ties ruined by what became excesses and often serious illness or death resulting from continuous use of these products.

Older people today often say they would have no problem in giving up alcohol or tobacco if they really wanted. I have seen quite clearly when in my professional role as a pharmacist that this is not true. People who have smoked or drunk since their teens find it difficult to even consider giving up these products and often only make a serious attempt when they receive the shock of a person they know suffering a life-threatening disease or they themselves have been given an ultimatum by their doctor where their health or even life is under threat. Then how often do they revert back? Frequently.

I have also heard people say many times, 'I wish I'd never started to smoke or drink but it's too late to give up now' or 'I enjoy my cigarettes or alcohol. It's the only vice I have.' I am not intending this to be an anti-smoking or anti-drink lecture, but these two indulgences are now considered to be more anti-social than in previous times.

Not for one minute do I think that any hon. member would endorse the use of soft or hard drugs by the younger generation but what we are talking about in tobacco and alcohol is the use of drugs but drugs which are socially acceptable because of the revenue income to

government and of course the big companies' glamorous advertising in their quest for profit. But does that acceptability extend to young children becoming alcoholics before they are 18 or visiting local parks on a Friday or Saturday night, as I have, and seeing children as young as 10 or 11 drinking wine and beer? I think not. You may well say, 'Where are the parents?' and that is a question that not only us but also those children should be asking.

I do not have to graphically describe the diseases triggered by the abuse of alcohol or tobacco but there is no doubt in my mind that if and when the opportunity arises the young people will indulge in these products to excess, particularly if the parents or guardians have not tried to educate them to understand the dangers of smoking in general and alcohol to that excess. The education division with the Life Education caravan is certainly helping to spell out the dangers to young children, but away from school and in the company of older young men and women they are often influenced to use these products to feel grown up. They are made to feel like this by this peer pressure and once having indulged in that excess it can become difficult to turn away from these drugs to which they have become addicted.

Whilst it is now the law that alcohol and cigarettes cannot be sold to under-age young people and that police can seize alcoholic products and tobacco from young people in a public place the police can only stand back from an older person who is actually supplying these products to the young people and is not at present breaking the law.

I know there cannot be a 100 per cent success rate for the police but this Bill can be a help to them in cutting down the volume of these products that are available to young people and helping to reduce the incidence of violence and crime that are often committed under the influence of alcohol. I believe it is our duty to protect the young people from themselves. Similarly, though, as we would not expect the introduction of the breathalyser to stop every driver from drinking, the introduction of a deterrent can make people think twice before committing an offence. Therefore I hope the hon. members will be able to support this Bill.

I have had consultations firstly with the High Bailiff who offered no comment and with the police and education department. The police letter to me reads: 'The above draft Bill has been considered by senior officers of the Isle of Man Constabulary and I have now received their comments. The Constabulary support the provisions contained in the Bill and have only one specific comment. This relates to the reference to "any person" in clause 1. It is considered that this could apply to a parent or guardian of a person under the age of 16 years and whilst, in principle, the police would support legislation that would make it an offence for a parent or guardian to purchase or supply tobacco or cigarette papers, they anticipate that it may be difficult to enforce legislation in these circumstances. It is noted that in clause 2 there is a defence if liquor is supplied for consumption or is consumed by a person under the age of 18 years whilst under the supervision of a parent or guardian or a relative over 18 who was responsible for his supervision. The police concur with this defence which recognises that the ultimate responsibility should rest with the parent, guardian or relative.'

I am pleased that the Department of Home Affairs can support the Bill, and in regard to the reference to a possible difficulty in enforcing action against a parent or guardian supplying tobacco to a child under 16 I would say that I understand that comment but I do hope that this clause will be a deterrent to that irresponsible person to supply such a product in a public place.

The letter from the education department reads: "As you know, the Legislative Draftsman passed a copy of the Bill to me for comment and I am pleased to say that my officers and I are fully supportive of this proposed legislation. In a point of clarification, I would be interested to know if school, College or Youth Club premises were deemed to be a 'public place' under the terms of the Bill?" The answer to that is yes and in my discussions with the director of education it was clear also that their letting agreement for premises gives a double protection in that there is a no-smoking rule on school premises and that alcohol cannot be sold, and only with a ticket a maximum of two glasses of wine is allowed at a function where no children are present, and a no-alcohol rule where children are present.

Hon. members, my Bill aims to protect the under-age young persons from obtaining alcohol or cigarettes in a public place through the services of an agent who is buying it on their behalf or supplying it to them. This Bill gives the police powers to take action against that agent or supplier, and as I have previously said, there will be a defence which allows a parent, guardian or relative to purchase alcohol for a young person under supervision.

I would like to point to a precedent in Tynwald legislation, clause 29 of the Tynwald Criminal Justice Act 1991, regarding inhalation of volatile substances which says it is an offence to supply solvents to persons under the age of 18 if the supplier has reason to believe that they intend to misuse them. It is also an offence for anyone to supply solvents to persons over the age of 18 if they believe that the solvents are then going to be given to under-18-year-olds to inhale.

There is no change, hon. members, proposed in the law which allows wine to be served in licensed premises to a young person with a meal.

Therefore, Mr Speaker, I move the second reading of the Children and Young Persons (Protection from Tobacco and Liquor) Bill 1998 standing in my name.

Mr Downie: Mr Speaker, hon. members, I rise to second the Bill. I feel that if this Bill is successful it will be another tool in the armoury that can be used to perhaps prevent some young people from being introduced to alcohol at an early age and whilst I have no problem in a young person attending a function, having a glass of wine with his parents or somebody who is there as his guardian, I think that things are still very much out of hand in Douglas in the evening and at weekends, and one only has to walk round on a Friday and Saturday night and see quite a number of young people on the street with alcohol in their possession and there is no doubt in my mind people are obtaining it from off-licences and other outlets and passing it on to them.

I hope the Bill will be supported. I think the aims and objects behind it are done in the best interests and the sooner we indicate to young people that alcohol abuse is not a thing that is acceptable I think the better. Thank you.

Mr Shimmin: Mr Speaker, I am only going to speak briefly. As a member of the home affairs department, as a former schoolteacher and as a parent of two young boys coming up to the age when they will be involved in temptations along these lines I have no problem in supporting this. I believe it will be yet another tool in the armoury against some of these problems and I commend the mover of the motion and I will support.

Mr Henderson: Mr Speaker, I too rise in support of this Bill. I find it very interesting and possibly not before time either.

As a former nurse for 17 years in the psychiatric field and working in the Isle of Man I have no doubt that there are problems with alcohol abuse within the younger generation and certainly an increasing problem within the young generation, and being a Douglas man myself I have certainly no problem at all in seeing that the position on the weekends and certainly night-times in Douglas is getting worse and worse with alcohol-related problems and certainly with an increasingly younger age as well, and coupled with that is the use of tobacco and so on as well, which is also quite frightening and especially from a health point of view and also from the addiction value of both drugs. From a health worker's point of view they are highly addictive and I can only concur with the hon. member for Ramsey's point that once addicted it is very difficult to get off.

So I would just like to say I support this Bill for those very reasons.

Mr Brown: Mr Speaker, as a former electrician (*Laughter*) I am quite happy with the general content of this Bill and I would just like to say that as a Member of the House of Keys I am certainly of a view that whilst I understand the points being made by the mover, I have a number of questions which he may like to answer at this stage or may like to answer when we get to the clauses stage if the Bill gets a second reading.

One I think that is important to make clear of course is that this Bill will effectively ban and make it illegal for anybody under the age of 16 to smoke. So that presumably is even within their own household if the parents are happy for them to smoke, and I think that should be made clear because that is my reading of the legislation as it is written under clause 1.

The other bit if the member could maybe answer is I would like to know how he determined the basis of the level of fine of £2,500 as being the level for these offences when you take into account some of the other offences which we may well say are serious. The level does seem to be somewhat high in terms of summary conviction of £2,500.

Could the member also clarify, and again, as I say, either now or at the clauses stage if we get that far, whether or not a public place also refers to within the curtilage of the property, so in other words within somebody's garden, because of course that clearly has implications with clause 2(1)(b) and (c) and I am also a little bit confused in reading it because again, just reading the legislation, we have a situation where if someone 'knowingly acts as an agent for a person under 18 in procuring the supply to that person of any liquor for consumption in highway or other public place', and then it goes on in 2(1)(c) 'or supplies liquor to a person under 18 for consumption in a highway or other public place', but then under 2(2) there is an exemption, if they are with parents or guardians, only for 2(1)(c) and not 2(1)(b), and I find that a little bit confusing because if I am reading this right it sounds to me that if somebody supplies liquor but does not act as an agent to a person who is under 18, who, by the way, might well be married with one or two children, if they supply alcohol to that person under the age of 18 they are not committing an offence if they are with a parent, guardian or relative over 18, but if they go out and buy it for them, as I understand it, and then supply it they are actually committing an offence, and I think it is important to be clear on what this Bill is doing because it would be unfortunate if, in endeavouring to combat this problem - and with a minority of our people it is a problem and I think we must keep it in context - if it is a problem it would be

important to get it right, and reading that it seems to me to be somewhat contradictory because it seems to me to give a loophole, because you then have to try and ensure that you can prove that they actually procured the supply. Now, what does that mean? Does that mean if they go into, for example, an off-licence, a person of 21 buys a bottle of beer, goes outside, gives it to a person who is under the age of 18 who is with their parent, are they then guilty of an offence? And yet if they have a bottle of beer in their pocket which they came out of their own house with, meet up with that person, give it to the under-age drinker, the under-18 with their parent they are not then committing an offence because they are actually not procuring it, and I think it is important to try and get that clear or we could be in danger of the legislation not working.

That is my only real concern because that seems to contradict it a bit but generally I do not really have a big problem with the legislation, and subject to what the member says when he responds, I am quite happy to support the principle, but again when we get to the clauses, that might be a different matter based on what response the member may be able to give us. Thank you, Mr Speaker.

Mr Bell: Mr Speaker, I am absolutely sure there will be no difficulty amongst members in supporting this legislation. It is something which I think every single one of us, through our constituency responsibilities, have come up against at some stage in our careers. There is no question that there is a problem of under-age drinking on the Island. I think, as the hon. member for Castletown has just said, though, we need to keep this problem in some context before we start elaborating too much on the scale of this problem.

I think the first thing that needs to be stressed, and stressed very strongly, is that the overwhelming, and I mean overwhelming, majority of our young people on the Island are a credit to themselves, (**Several Members:** Hear, hear.) a credit to their families and a credit to the community within which we all live (**A Member:** Hear, hear.) and we should not use political expediency to tar all our youngsters with the same brush. That is grossly unfair and insulting to the vast majority of young people on this Island.

There is undoubtedly a need to do whatever we can to prevent alcohol getting into the hands of young people, under-age drinkers, before they are capable of realising the impact it can have on them and before they are able to be mature enough, I suppose, to handle the consequences of it.

When alcohol is mentioned, when the problems of alcohol and young people are mentioned, it is usually in the context of young people in public houses and young people obtaining supplies from off-licences in particular. I would just remind members, though, that the most quoted statistic of almost every survey which I have seen, certainly as Minister for Home Affairs, by far the largest source of alcohol getting into the hands of under-age people is from the home, it is not from any officially sanctioned source at all, and therefore because of that and because of the exemptions which are in this Bill relating to the parents or guardians providing alcohol for young people in certain circumstances I go along entirely with the view of the police, and indeed the legal draftsman in the past has expressed his concerns to me on this point, that whilst the proposal is well-meaning, it is going to be extremely difficult to enforce and will at best only have a marginal impact on the amount of alcohol which is getting into the hands of young people.

So I would urge hon. members, in supporting this - and I am absolutely sure members will and I certainly will be myself - I do urge hon. members to keep this proposal in some context, that this is not a panacea, it is not going to solve the problem, it is simply going to nibble at the edges and give us one more tool perhaps to try and address this problem with.

Until we can get to the stage where we can educate people, parents and guardians, those with responsibility for young people, to get them to take a more direct responsibility for their children and for their children's behaviour and the lifestyle that they can introduce them to, then we will never really get on top of this problem, and by saying that I would also include cigarette smoking.

Now, I have to say I am a fervent anti-smoker and I always have been. I am proud to say I have never had a cigarette in my life. I do not know what they taste like. But without being sanctimonious I recognise that there is a very large number of adult people who smoke in the house. Particularly with females it is a growing activity and I think the problem caused by that and the cost to the health service is increasing all the time. But I would just once again put out a plea, I think, more than anything else as to what we might be doing here, because it is all very well saying that we abhor the idea of young people smoking. No-one does that more strongly than me. But it is very, very difficult if you happen to be a 13 or 14 year-old, in a family where the parents smoke heavily all the time round them, it is very difficult then for that youngster to take seriously any message which might come from parental sources advising the children that they should not smoke.

So I think whilst totally supporting this Bill, I think we need also to look at the wider issue perhaps of health education here, and this is perhaps where the DHSS can take a more active role in educating parents themselves as to the dangers of smoking in front of young people and indeed encouraging them from a very young age to recognise that smoking is an acceptable form of pastime. Once again the research which has been given to me shows that very, very often it is the parents who introduce their children into smoking habits, either directly or indirectly: there are cigarettes left lying around the house, there is in many houses a constant atmosphere of tobacco smoke which is luring youngsters into this extremely unpleasant and anti-social habit.

So what I am saying, I think, in both cases, both with the provision of alcohol and with the provision of tobacco, is by all means support this Bill. I am sure it will go through without any problem at all. But I do think there is a wider issue here and that is parental responsibility in the lifestyle which is presented to youngsters and the mixed messages which are sent to young people which lead to confusion and often, as has been proved, can lead to anti-social activity by the youngsters in later life because of these mixed messages they get from their parents at a younger age.

Finally, we all, I know, are united in our view that we should be deflecting young people away from the temptations of alcohol. Being realistic we will never do that a hundred per cent. The problem today is no different from what it was 10 years ago, 20 years ago, and I am sure we will still be here, whoever is here in 10 years' time, arguing the same point. It is something which I guess will always be with us. But if we are positive in our commitment to directing young people into more constructive ways of spending their time away from alcohol, away from pubs, then we have no alternative, in parallel to this, but to give more support for the activities and facilities which we provide on the Isle of Man for young people to be directed

into. It is only one small aspect of it but we supported in Tynwald a couple of weeks ago the construction of new synthetic pitches. Sports activities we have started to encourage, a vast amount of money has gone into the National Sports Centre, there are other areas now which we are looking at which are all extremely positive, very constructive and will direct more and more of our young people into more constructive uses of their time. But alongside that we have the youth and community service of the Department of Education which certainly during the whole of my time in this hon. House has been starved of funds to the extent where most youth centres really still are not developed to the level they could be, and I believe a more constructive and positive level of support for that area will go some way to providing new extra facilities for our young people too.

There is a whole range of support services, if you want to call them that, which I think government can constructively support to help to lure, not all, but certainly more of our young people away from the temptation of drink and certainly from the temptation of cigarette smoking.

So I will be supporting the Bill today. My department supports it, the police support it. I would ask for all hon. members to support it, but with a qualification that, while this might nibble at the edges, I hope hon. members will not be expecting to see a total eradication of both these problems in a short period, it is nibbling at the edges, but thankfully it is one more tool in our armoury which we can use against this problem and as such I think will be welcomed by everyone.

Mrs Cannell: Mr Speaker, I welcome the Bill and I fully endorse all the remarks made by the previous speaker who has just resumed his seat when he talks of a proactive approach in terms of education, in terms of a healthy profile, in terms of putting together good role models for our youngsters to follow in the future, and all of that is good and healthy and correct and I have no problem with that at all.

Of course this is just a small tool to deal with a large problem, but nevertheless if we did not support it today, then what we would be doing is condoning people who do go into the likes of off-licences and elsewhere to obtain cigarettes, tobacco, alcohol to pass on to minors, and I think that is what we have to be concerned with today, because if you look at the Bill and you look at the right-hand side margin we are talking about sale of tobacco to minors, sale of liquor to minors, and so when the hon. member for Castletown queried a couple of things in terms of clause 1 in relation to the age of the person who knowingly acts as an agent for that person who is under 16 years of age I think we also have to remind ourselves that up until the age of 16 that young person is regarded as a child. They do not have consent for many things including sexual activity until they are aged 16, and I think we have to remind ourselves of that. So therefore any youngster under the age of 16 does need our protection and we do have to put in place legislation, a mechanism for their protection, particularly in view of the fact of a continual story of falling ideal role models in parents and lack of parental skills. So I think it is an important step to take to actually support the private member's Bill today submitted by the hon. member for Ramsey who is doing it with all the best of intentions.

But going on to the comments made by the hon. member for Castletown, I think really the key here is, apart from the fact that we are dealing with minors in considering this private member's Bill, we are also, where it talks about supplying and passing over, talking about the consumption of alcohol in a highway or public place. Now, my understanding would be that if a

person were to go in and to buy a can of beer, pass it to a youngster who then went home and drank it at home under the supervision of his parents, that would be a defence, if someone were to pull up that person who had first bought the alcohol, to say that it was going to be consumed under parental supervision, but obviously Mr Singer, the mover of the Bill, will explain that. But it does not confuse me, the wording does not confuse me. I think it is quite simple, is quite plain and quite easy to follow. We are dealing with consumption in a highway or other public place, and of course Mr Singer did say at the onset what came under the criteria of a public place and he did include things like youth clubs and the like.

I wish him every success with this and I hope that other members will support it at this stage and also the clauses stage. I am happy to support

Mr Karran: Vainstyr Loayreyder, I have to say that maybe the hon. member for East Douglas is not confused but I think that there is some confusion as far as this piece of legislation is concerned.

The hon. member for Castletown made a valid point and I thought it was a very sensible point but actually we did get the legislation changed many years ago so that the police force have the ability to take the alcohol off individuals and we managed to get that through to get common sense to prevail, but the fact of the matter is did they use it?

Mr Houghton: They do use it, yes. They do.

Mr Karran: Vainstyr Loayreyder, I have been quite disappointed, after all the abuse I got for pushing it through, that when we did get it through the problem was that it was not used, and I do not question the spirit of why this Bill is here and I will give it a vote, partly because it is a private member's Bill, but I think it is like one of my colleagues said to me. He said, 'Do you realise there are 56 lights in the ceiling up here?' in the middle of the second reading of this Bill, and I have to be honest with you, I thought that was a sequel to me saying that this Bill is a bit like the famous parliamentary term as far as being savaged by a dead sheep, and I think this Bill would have the same effect basically whether we pass it or not. It is the same situation as if you were worried about getting savaged by a dead sheep, but it will not do any harm.

But I am disappointed, I have to be honest with you, because I think this debate has saddened me because there is nothing here about addressing the core issues, and the truth of the matter is, and it is all right one having a swipe at the other -

A Member: Never!

Mr Karran: - but the fact of the matter is that the major problem that we have got with off-licences is we have got too many of them and under-age drinking. We have too many of them. We should never have allowed them to be more than purely off-licences because they have been more responsible as far as who they sold the alcohol to, and the fact of the matter is I would be interested to know from the mover if he could tell me how many off-licences have lost their licence, full stop, because I have to be perfectly honest with you, that this would be the way of dealing with this problem in my opinion, and the fact of the matter is I do not know of any off-licence that has been taken away from anybody in recent times.

I have got a number of points for the hon. member when we get to the clauses stage but I feel in this hon. House today that there has not been any real serious debate about the issue

of this private member's Bill. Why are young people turning to alcohol and tobacco? I think there are less actually abusing alcohol today proportionally but those that are abusing it are abusing it a lot worse than the people 20 or 30 years ago, because I know when I was a youngster, which, all right, is 25 years ago, we would not have dreamed of going into a pub and drinking a coke or a fruit juice or soft drinks. You will see soft drinks sold more in pubs more now than you ever did 20 years ago.

So I think the problem is there is a core problem which needs to be addressed as far as young people are concerned. A lot more young people are a lot more responsible about smoking and drinking, and that is where I would agree with the hon. member for Ramsey, that I think we should not give the impression out that we have got all these youngsters who are out getting drunk all the time. Admittedly I have been out of the youth service for a while but proportionally I would say that there are less people abusing alcohol now. Kids are more responsible than ever we were as children as far as alcohol is concerned, but those who do abuse it abuse it a lot worse because of the fact that my hon. colleague says about the financial situation.

I will not stand in the way of giving this Bill a second reading -

Mr Quine: Sit down then, Peter.

Mr Karran: I see that I have the support of those who remember prohibition (*Laughter*) and were more than likely were in the senate when it was going through. But the fact of the matter is I would have liked to have seen members in this hon. House with a clearer picture. What I would like to know is why we need this piece of legislation. Where are we failing? We spend more money on sport, we spend more money on the youth service. Why are we still finding that we have got to have kids hanging around in the parks drinking alcohol? Where are we going wrong?

Mr Houghton: Go and ask them in Onchan. That is where it is all happening.

The Speaker: Hon. member.

Mr Karran: I would suggest that maybe one of the reasons where it is going wrong is in the Department of Education. They are going for eight-year-olds in a youth club. You try and run a youth club. When you were 12 and you went to a place with eight-year-olds they were babes, you were grown up, and I honestly think if there is a thing with this second reading Bill these points need to be addressed. Is the youth service working to the peer group it should be working for or has the Department of Education taken the easy option and started taking over where the boy scouts and the brownies used to be and now they are trying to aim at that age group? I think that this Bill will not address these issues, but I do think that these are issues that maybe could be brought up by certain areas. The fact that we spend money on these youngsters to keep them occupied - where are we going wrong as far as that is concerned? Why are they down there? And I would have liked to have seen more in this debate about those issues as well because I think that kids who want to do sport are pampered, kids who are into music or into the arts are ignored at the present time, and I do think that it would have been nice to hear a few more inputs about the social reasons why we are finding these children as far as this is concerned.

Can I just say to some of my hon. colleagues as far as Onchan is concerned that there has been a battle for about eight years between me and my local commissioners and in fact we are just in the middle of trying to set up a cafe for my waifs and strays that have been moved on from the war memorial. So we are conscious of the problems in Onchan. We are trying to do something positive in Onchan. I am not sure it will succeed, but at least we hope to have a cafe bar for the children in Onchan. But I do not think it should be having to be provided by individuals. This sort of facility should have been provided by the Department of Education in my opinion, but that is another issue.

But I do think do not go down that somehow we have got this Bill and somehow we are passing this Bill, like the member for East Douglas, and it is wicky-wacky-woo and we have solved the problem, because I am afraid we have not solved the problem. I will go along with the flow, but do not expect me to be in raptures that somehow this Bill is going to do an awful lot.

Sir Miles Walker: Mr Speaker, I rise to support the Bill and I have to say from my point of view I do not believe that this problem is any greater now than it was 25 years ago when the hon. member Mr Karran was a youngster or 40 years ago when perhaps you and I, Mr Speaker, were passing through that same age barrier, and 60 years for the hon. member Mr Quine. *(Laughter)*

Mr Karran: What was that - 600 years ago?

Mr Corkill: Higher!

Sir Miles Walker: It is a problem that is bound to go on and the more that as a society we draw lines and say 'Up to a certain age you shall not and after that you may' and then we vary those ages for, and you name it, smoking and drinking in this instance, getting married and all the other things in other legislation, the more problems there are bound to be.

I am supporting this Bill. It seems to me that it is an issue that may exist in some areas and it should be assisted.

I have been brought to my feet, though, by, I think, the comments of the hon. member for Castletown, Mr Brown, when he was asking the mover of the Bill about a public place and his interpretation, and was a garden I think was the question from the hon. member for Castletown. In the Licensing Act 1995, and this particular piece in this amendment Bill fits in before clause 75, clause 75 is about public drunkenness and it states that if a person is drunk in a public place, then he is guilty of an offence et cetera, and at the end of that clause there is a definition of 'public place', but it is for this section, that is, section 75 and 'public place' includes any highway and any other premises or place to which in the material time the public have or are permitted to have access, whether on payment or otherwise. Now, whether that covers a garden or a playground at a school is a matter of fact, but the Licensing Act of 1995, in its interpretation clause, does not have any description of 'public place'. The description of 'public place' which I have read out is as far as clause 75 is concerned, and I would just like the hon. member who is moving this Bill either to check on his information or perhaps to repeat it for the benefit of those of us who perhaps were not paying attention when he covered it when he was on his feet to start with.

Mr Houghton: Mr Speaker, before I address the hon. member's private Bill I would just like to address certain issues as the member with delegated responsibilities for the youth and community service.

Other hon. members may be aware that there is a great number of extra youth clubs that have been opened since the general election in 1986 -

Mr Cannan: Since he was a member.

Mr Houghton: - or, as I have been rightly corrected by my hon. colleague from the department, since the hon. member came out of that department. There are many, many initiatives now that are going ahead that have been spearheaded by the youth and community service and notably, for those youngsters that we are discussing today, a motor project has been recently given the go-ahead. It will work well and that will teach youngsters to drive, fix cars, this, that and the other, and in due course we hope to incorporate a skid pan and other effects like that, to again give them that valuable interest and, as it were, keep them off the streets.

So there is an enormous amount, thanks, I must add, to the moneys that the department got from the law and order debate that hon. members will be aware of. So there is an enormous amount being done. It will take time for it to be developed but it will be developed for just as long as I have those responsibilities to do that job.

Turning now to the hon. member's Bill, I believe when it is enacted it will close two important gaps whereby children are presently able to be supplied with cigarettes or alcohol for consumption in public places. I have a wealth of experience of situations regarding the sale of alcohol to children via an adult, which is a farcical situation. I have stood many a time in uniform watching this take place in front of myself and other colleagues and we have been absolutely helpless as to what we could do about it and we have basically had two fingers put up to us many a time. Some retailers were even so hardfaced and greedy that they would encourage minors to ask the chap over there to pay for the booze so they do not break the law, and I have had that, we have taken that in statements of evidence for dealing with other offences which have just absolutely appalled me at the time.

But what the hon. member for Ramsey is attempting to address today is to deal with an issue where social attitudes within our society have fallen to an all-time low.

(Mr Downie: Hear, hear.) Nobody cares any more. Scant regard is given to the principles in encouragement of the young to act properly within a community in which they live. Many years ago, and other hon. members have alluded to this, no-one would dream of supplying alcohol - nobody had the money to do so - to children who did not have the money anyway, and now of course, as we know, they have.

The hon. member should be congratulated today for identifying a real problem and also trying to do something about it. Thank you.

Mr Cannan: Hear, hear. Well done, John, well done.

Mrs Hannan: Vainstyr Loayreyder, the member for Douglas North, and maybe that is the situation in his constituency -

Mr Houghton: No, it is in Peel: the worst place.

Mrs Hannan: I take great exception to that. Peel is not the worst place at all. (**Mr Brown:** Hear, hear.) Peel is extremely well policed at the moment as it has been for a number of years. (*Mr Houghton interjecting*) It would seem, Vainstyr Loayreyder, that the member that has just resumed his seat knows absolutely nothing about my constituency at all. They have taken action against this particular problem for many years, but the main problem is not purchasing alcohol at off-licences, the main problem is children getting alcohol in the home and transferring that alcohol into bottles of coke or whatever, cans of coke, and that is being consumed in public places, and that is the responsibility of the parents, and it does not just happen in Peel, it happens in other places.

The member for Douglas North would seem to forget that there is legislation. There is legislation which has been in place not just with the 1989 Act moved by, I think, the member for Onchan as a private member's Bill, which the police could have acted on, and it would seem by what he is saying that the police have never acted under that legislation. If they are aware that children are in the possession of alcohol they can remove that from them and they can take those children either home or summon the parents to the police station. That is what the law says, and if the member is saying that the police have not acted under the law, then I am astonished that he is able to say that in this House. The police, as we have to do, act under the law.

There are all sorts of problems with people wanting access. We have heard the member for Onchan stating that he was after alcohol under age, and I think probably there would hardly be anybody in this House who has not consumed alcohol under the age that they are supposed to. Children today are no different, and I take great exception to the member for Douglas North saying that everything is out of control. Everything is not out of control.

(**A Member:** Hear, hear.) The majority of our children are well-behaved members of society. (**Mr Brown:** Hear, hear.) There are a few who will experiment with alcohol and cigarettes, as a lot of us have done. We are no different, as somebody said in another place yesterday, from society as a whole. So I take great exception to the member suggesting that Peel, or somewhere else that he claims to have such knowledge of, is worse than anywhere else because I refute that absolutely. If he wants to say that about his own constituency, that is fine, but my experience of young people is that they are very well behaved, they are appreciative of most things that are done for them and they will grow up as full and proper members of society, and I think we should all remember that we have been young once.

A Member: Hear, hear.

The Speaker: I call upon the hon. member for Ramsey to reply to the debate.

Mr Singer: Thank you, Mr Speaker. It nearly went on as long as the last Bill, didn't it?

Mrs Hannan: And why shouldn't it?

Mr Singer: First of all, Mr Speaker, can I thank Mr Downie for his support and his seconding of the motion, and also Mr Shimmin for his support.

Mr Henderson, I thank you for your support and I think the terms you used were that this legislation is not before time. It is interesting to know that similar legislation on alcohol has been in force in Scotland since 1976.

Mrs Hannan: Oh, not Scotland again.

Mr Downie: Yes. *(Laughter)* Get Rodan to play the pipes for you!

Mr Brown: We are getting ready for the new assembly! Anybody want Wales?

Mr Singer: If I can answer Mr Brown's points, Mr Brown, if you are not happy with the full answer, please let me know. Certainly a public place is, as Sir Miles pointed out, the youth club, out in the street and the public premises to which people have access, but certainly I believe that there is case law to state that a garden is not a public place, a garden is a private place.

You mentioned also about parents giving children under 16 cigarettes within the home. Well, I would hope there are not many parents who would encourage children under 16 to smoke within the home, but this Bill is purely dealing with the public place.

As far as the level of fine is concerned, the figure of £2,500 of course is a maximum and is in parallel to some other fines of similar matters, one of which is supply of tobacco from an automatic machine where children can go to an automatic machine. There they have a maximum of £2,500 and that is why that was put in as a maximum, because it is already a level of fine for a similar kind of offence.

Then I think your final point was if somebody comes out of an off-licence and gives a can of lager, say, to a child who is with the parent, that, I would think, could be interpreted as long as a parent is there, that is under the supervision of a parent. But, as Mrs Cannell mentioned, if somebody comes out, an older person, and hands a can of lager to a child in the street who then takes it to the home, I would say that that child was not under supervision of the parent when that child was given the lager.

Mr Bell - I thank him for his support and I agree that we do not have to tar the majority with the same brush, but in fact - and I would repeat because I do believe it is important - this problem is perceived and was raised by the people who are youth leaders, people who know, people who see the problem and have to deal with it, and I would say that if anybody knows it is the youth leaders who know, and we have to remember that alcohol brought from the home by the child can be seized by the police, similarly cigarettes.

So it is not the panacea to end all problems, but I do believe that the education division are doing as much as they can with this Life Education bus. Somebody raised education. I think it was Mr Karran. I will just jump to that. He said that it was aimed at eight-year-olds. I understand, because I have got young children, that the education caravan which is trying to educate children against drugs and cigarettes and alcohol does talk to 10-year-olds.

So I think what we have to remember is that education by the school and the parents is most important. The parents have probably got the greatest influence. I have got here some information that was given out in an answer in the House of Commons which describes a report 'Why Children Start Smoking' and it identified a number of risk factors in the age group - this was 11 to 15 - associated with starting to smoke and it is interesting to see that it says here in the conclusion: 'Greater awareness of cigarette advertising is associated with a slightly increased likelihood of starting to smoke in the future.' I think that answers a question that was raised initially by the hon. Minister for the Treasury when I sought leave to introduce. But it says: 'However, the effect appears to be small in comparison with some of the other

influences on children, such as the example set by parents and siblings.' So of course, yes, parents have a great influence in the first place.

I thank Mrs Cannell for her support, and I thank Mr Karran for his support or, well, I think it was his support -

Mr Karran: I will support.

Mr Singer: - I was not quite sure in the end, but he did come and start to talk about the major problem being off-licences, and I do think here we have got to be careful that again we do not tar all off-licences with the same brush. There are some people who are very responsible in off-licences and there have, I believe, been prosecutions of off-licences that have sold alcohol to under-age young people and I believe it was a few years ago . . .

Mr Houghton: Peter!

Mr Singer: Mr Karran, you will find this interesting. In Onchan a few years ago the police objected to the licensing court against one of the off-licences who had been supplying under-age drinkers, but that was restored on appeal, but it was Onchan at that time that did let the side down.

You talk about education and who should be responsible. I do believe that your department has a very, very important place in looking at measures to educate children against the abuse of alcohol and tobacco. It is a health matter and I think your department should well look at that.

I thank Sir Miles Walker for his support. He does say that the problem is no worse than it was in the olden days -

Sir Miles Walker: But not so old!

Mr Singer: - but again I can assure you I have details that do show that the admitted intake of alcohol of 16 to 17-year-olds has increased considerably over the last few years. So I would be happy to show you those statistics.

Finally, Mrs Hannan. I agree with what she says. You have got to educate the children in the home, whether it is alcohol or it is smoking. But certainly I would repeat that in a public place, as the hon. member mentioned, these products can and I hope are seized by the police, both alcohol and cigarettes. And I agree with her that the majority of children are well-behaved, but I am trying here to help those children who, for whatever reason, will without help become regular drinkers or smokers and become addicted to these products, and I would finish off with a phrase I use, that I believe it is our duty to help these young people. I wish to move.

The Speaker: Hon. members, the motion is that spelt out at item 9 on your order paper, That the Children and Young Persons (Protection from Tobacco and Liquor) Bill be read for a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Now, hon. members, I understand that the hon. member does not wish to progress with the Statutory Boards (Amendment) Bill today. Therefore that brings our order paper to completion and the House will now stand adjourned until Tuesday next, 10th November, again at 10 a.m. Thank you, hon. members.

The House adjourned at 4.25 p.m.