

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 10th 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, and Mrs M Cullen, Acting Secretary of the House

The Chaplain took the prayers.

New Ministerial Appointments – Question by Mrs Cannell

The Speaker: Turning, hon. members, to our order paper, item 1, I call upon the hon. member for Douglas East, Mrs Cannell.

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

Do you intend to advise new ministerial appointments?

The Speaker: I call upon the Chief Minister.

Mr Gelling: Mr Speaker, if I intend to advise any new ministerial appointments, I will make an announcement at that time but I will not be making a statement on the matter until then.

Mrs Cannell: Mr Speaker, is the Chief Minister mindful of the fact that a very, very short time ago he did indicate - and when I say short time I am talking about the short time that this parliament has been in session - that he would review all positions, in particular ministerial positions after a two-year period and we are now at that time?

Mr Gelling: Yes, Mr Speaker, I hear media comment about mid-term shuffles and we are not actually two years into this administration as yet, and I would like to remind members that during the time of the election and members taking up positions in departments we actually had eight ministers with eight new portfolios, four ministers who had never been ministers before, we have had a situation where in the last two years we have had a settling in period and I have already spoken with all members in respect of their work loads of departments, and this is part of the process of checking as to see whether the positions that they have are suitable to them, whether they in fact enjoy the work, or whatever. So a lot of work has gone into this administration to make sure that it does work satisfactorily. So therefore, as the hon. member in her supplementary question is stating the two years is now upon us, possibly I have made a mistake of speaking with members a little early in preparation, but I think that

certainly is the situation. We have not actually reached two years into this administration as yet.

Planning – Permission for Proposed Housing Scheme near Groudle Glen – Question by Mr Cannell

The Speaker: Item 2, hon. members. I call upon the hon. member for Onchan, Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. I beg leave to ask the Minister for Local Government and the Environment:

Can you advise the House whether planning permission has been granted for a proposed housing scheme adjacent to Groudle Glen, Onchan?

The Speaker: I call upon the Minister for Local Government and the Environment, the hon. member for Ayre, Mr Quine.

Mr Quine: Thank you, Mr Speaker. I thank the hon. member for his question which relates to an appeal against a decision of the Planning Committee on an application by Selected Properties Limited for approval in principle for residential development on land between Groudle Glen, Whitebridge Road and Windermere Drive, Onchan. That appeal is for determination by me as minister in accordance with paragraph 7 of schedule 1 of the Isle of Man Planning Scheme (Development Plan) Order 1982. I can confirm that I am considering the report of the independent person appointed by the Governor in Council following the inquiry he conducted but I have not yet determined the appeal.

Mr Speaker, as I have not yet taken a decision on whether the appeal should be reversed or varied - these are the options open to me - I am unable to comment further at this time. However, I can confirm that when the appeal has been determined all interested parties will be notified.

Mr Cannell: Mr Speaker, a supplementary question, if I may, please? Would the hon. minister agree with me that the delay in determining this agreement is making the situation difficult for adjacent residents to the proposed scheme and for the developers?

Mr Quine: Mr Speaker, I recognise the need to finalise this matter as quickly as possible, but I think the hon. member will appreciate that the report of the inspector is not necessarily the final step in determining a planning appeal. There are other matters that sometimes have to be addressed before a final decision can be reached. So I take on board the need to expedite a decision on this matter. That I am seeking to do.

Agriculture – Slaughter of Poultry – Question by Mrs Cannell

The Speaker: Item 3, hon. members, and I call upon the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Mr Speaker, I beg leave to ask the Minister for Agriculture, Fisheries and Forestry:

- (1) *Do similar strict standards apply to the slaughter of poultry as apply to the slaughter of cattle, sheep and pigs; and*
- (2) *if not, why not?*

The Speaker: I call upon the Minister for Agriculture, Fisheries and Forestry, the hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. The current standards for the slaughter of cattle, sheep and pigs are laid down under regulations made by the Department of Local Government and the Environment under the Food Act 1996. There are currently no standards laid down under that Act for the slaughter of poultry. In this context, slaughter is taken to be the killing of animals which are intended for food consumption. Other than this there are no standards applying to the killing of animals as such other than the general prescriptions of the Animal Health Act 1996 which makes it an offence to cause unnecessary suffering to animals in any circumstances. This legislation also covers poultry.

If the hon. member is able to advise me of circumstances in which this is causing a problem, my department would give consideration to the making of regulations under the animal health legislation. Concerns as regards the slaughter of poultry for human consumption should be addressed to the Department of Local Government and the Environment. Thank you, Vainstyr Loayreyder.

Mrs Cannell: Mr Speaker, a supplementary, if I may? Given that prior to the slaughter of cattle, sheep and pigs the animals are checked by a veterinary surgeon at the point of slaughter, which is at the meat plant, and also given the fact that all of these three animals are tested after slaughter - that is to say that portions of the meat are sent away for analysis to the UK to ensure they are fit for public consumption - does the minister not feel that similar standards should apply to poultry?

Mrs Hannan: This would come under the Department of Local Government and the Environment, under the Food Act, Vainstyr Loayreyder. If the member does have a concern with this, I can certainly raise it with the Minister for Local Government and the Environment.

The Speaker: A further supplementary, hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Is the minister not concerned that there are no regulations laid down for the checking of poultry prior to slaughter and a checking of the meat afterwards to ensure it is fit for public consumption? Is the minister not aware of the urgency here and is she not concerned that there is nothing laid down?

Mrs Hannan: I think the member is a little bit confused because in the UK there is the Ministry for Agriculture, Fisheries and Food, and it combines the responsibility for agriculture also with the responsibility for the production of food. Here those responsibilities are split. The responsibilities do not lie with my department, they lie with the Department of Local Government and the Environment and therefore if the member feels strongly about this issue, maybe she would like to raise it with the Department of Local Government and the Environment.

Mr Henderson: Mr Speaker, a further supplementary. Would the hon. minister then not agree to take the lead in this issue and make a full examination of the situation and offer some sort of comfort to the people of the Isle of Man with regard to the fitness of poultry for human consumption?

Mrs Hannan: It is not within my remit to do that, Vainstyr Loayreyder. It is under the remit of the Department of Local Government and the Environment. I am concerned, as a member

of this House, that food should be produced in a proper and hygienic way, but the legislation is under the purview of the Department of Local Government and the Environment, as is the killing of cattle, sheep and pigs. My department, vets, do have a responsibility but that responsibility is under the Department of Local Government and the Environment, not under my department's responsibilities.

Mr Gilbey: Mr Speaker, would not the hon. minister agree that there is nothing whatever wrong or to be worried about regarding poultry killed in the Isle of Man, and would she not deplore suggestions which might cause unnecessary and quite unfounded worry to consumers?

Mrs Hannan: I would agree with the member on that particular issue. There has been no public health concerns drawn to my attention or, I believe, to the Department of Local Government and the Environment's attention because, if there had, they would have introduced legislation under the Food Act. That is how they operate. So, no, there have been no concerns expressed to me or the Department of Local Government as far as my knowledge lies but I do not have a responsibility under that area, Vainstyr Loayreyder, and I said in my previous reply that if the member does have a concern with this, she can either raise it with the Minister for the Department of Local Government and the Environment or people that work there.

The Speaker: I think a final supplementary, hon. members. The hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Would the minister not agree that there appears to be a degree of discrimination here against the farmers who raise cattle, sheep and pigs for slaughter and those who raise poultry for slaughter? Does she not agree there is discrimination of that?

Mrs Hannan: I can accept, Vainstyr Loayreyder, that there is a difference in the slaughter of cattle, sheep and pigs and the slaughter of poultry, but the Department of Local Government has a responsibility. They have the food inspectors and they also have the legislation. If they are concerned, they can take action under that legislation. The legislation is recent, it is 1996; they can operate under that legislation. If the member would like to draw that to the attention of the minister I am sure he will look at the situation.

Kirk Michael – Removal of Sycamore Tree – Question by Mr Cannan

The Speaker: Item 4, hon. members, and I call upon the hon. member for Michael, Mr Cannan.

Mr Cannan: Mr Speaker, I ask the Minister for Agriculture, Fisheries and Forestry:

What were the reasons for granting a licence to remove a sycamore tree in Glebe Field, Main Road, Kirk Michael which enabled access for a proposed residential development of 51 houses?

The Speaker: Again I call upon the Minister for Agriculture, Fisheries and Forestry, the hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. When my department was initially approached by the landowner, a practising farmer, seeking a licence to fell a tree he indicated

quite clearly that he was attempting to get planning permission on the land in question. However, he also made the point that, whether or not he was granted planning permission, he required access between the two fields in question for agricultural purposes. The licence was granted on this basis as it was and is still believed that the request was legitimate, irrespective of the planning conditions and considerations.

I should point out that the granting of a licence is incumbent upon the department unless a refusal can be justified in the interests of good forestry, agriculture or the amenities of the area. The issue of felling licences requires individual tree assessment and in this particular case it was considered that the removal of a small hedgerow tree in question would not be detrimental to the amenities of the area.

As regards the planning issue, hon. members will probably be aware that the Planning Committee is considering development applications, and in considering development applications may authorise works including the removal of trees and any such approval granted would override any action available to my department. It is my department's view that it would have been an abuse of its powers to have refused the application in question or, as the hon. member has separately raised with the department, to require the planting of a tree in its place. If local residents are distressed by what appears to be an unpopular planning decision, then their route of redress is through the planning procedures rather than my department. Thank you, Vainstyr Loayreyder.

Mr Cannan: Mr Speaker, how can the minister justify that the issue of a licence to fell this single sycamore tree was granted by the department without prejudice to the planning considerations and that the application was considered on the basis of whether access was legitimately required for agricultural purposes - I am quoting from the department's letter - when in fact the field in question has and has had, as long as I can remember in my lifetime, full agricultural access from the main road? And further, will the minister agree that the granting of this tree-felling to give a second agricultural access to this field cannot be justified other than to facilitate a planning application which, according to the minister, was known to her officials?

Mrs Hannan: Vainstyr Loayreyder, I note the concern expressed by the member for Michael, but this matter was drawn to his attention at the beginning of May in a letter written by a constituent of his, and a copy of the letter sent by my department on 1st June 1998 was also copied to him. So I note his concern at this stage. The tree was felled in May. The licence was issued on 27th April. My department was satisfied that this was for agricultural purposes. This tree was a small tree and, in the terms of the question, the member does recognise that this was a sycamore tree and in terms of tree value it is negligible. Thank you, Vainstyr Loayreyder.

Mr Cannan: Will the minister acknowledge the fact that in fact I wrote to the Department of Agriculture concerning this matter in May/June, or telephoned rather, and received a copy of his letter, the chief forester's, on 1st June? Is the minister aware that a planning application had been refused on that field because there was not proper access? The question I further ask was, was this application to remove the tree, being sensitive, referred to the minister, a political member of her department, or the chief executive of the department before the licence was issued?

Mrs Hannan: This matter was considered, Vainstyr Loayreyder, to be a matter of agricultural access and it would have been against the department and abuse of the department's powers to have refused this application. I might explain to members that a number of sycamore trees have been taken out of areas of value simply because sycamore trees are, in tree terms, considered to have a negligible value. It is not a standard oak, ash, beech or whatever; it is a sycamore and these sycamores have been taken out of Cooilddarry, they have also been taken out of the wetlands at Onchan and there has been no concern expressed because these trees have been removed on those occasions, no concern at all, and one small, small, sycamore tree is now being raised by the member for Michael because it is alongside a planning application. I said in my reply initially that the applicant was above board. Although the planning had been applied for, he still required agricultural access. The officers of my department were satisfied with that; it did not need to go any further. It was one tree, one small sycamore tree.

Mr Karran: Vainstyr Loayreyder, in the granting of a licence for the removal of a tree, does the department consider tree gain in granting a licence for the removal of a tree if they replace it with several other trees? Can the department take that into account at the present time and, if not, can they investigate doing so?

Mrs Hannan: That happens on a number of occasions, Vainstyr Loayreyder, but on this occasion this was a hedgerow tree, it was for access, and if that tree would be replaced either by a sycamore or by another tree, maybe of a greater value, it would not have done what this particular landowner wanted, and that was to get access for agricultural purposes. My department is very aware of the responsibilities that it has with regard to trees and to the environment, and we do insist that trees in sensitive areas, and especially where trees have to be felled for Dutch elm disease and other such disasters, or just when a tree is old, we do try to encourage people to plant trees, and of course we do have schemes to encourage the planting of trees by private individuals. That scheme has been extremely successful in encouraging trees in the countryside and for landowners to become involved.

Mr Henderson: Mr Speaker, would the hon. minister not agree that in the name of good forestry it should be really assessed further, that the removal of any tree, especially a broadleaved tree, such as a sycamore, and especially a hedgerow tree in the nature of the area we are given and in probably not in a glen setting - it would be providing quite a considerable habitat - would have considerably more significance in conservation value than a tree in the likes of Cooilddarry? Would she not agree that under these circumstances of the removal of broad leaf trees which require a licence to fell, therefore indicating it must have been of some considerable size, more careful consideration and assessment should be undertaken?

Mrs Hannan: Vainstyr Loayreyder, my department employs professional people involved in forestry and tree management. My department has to consider the value of the tree in that particular setting and, yes, the loss of any tree is a loss of habitat, but my department has to weigh up various considerations, and those considerations are the amenity of the area, the agricultural significance of the tree and also good forestry. Those are the areas that it considers. Now, I think the member is talking about the registration of a tree and I think a lot of members, certainly maybe the member for Onchan and the member for Michael, are talking about registration of important trees within the community, and, yes, under those areas a tree

is looked at differently because it has a different amenity value and therefore, when trees do have a different amenity value, they are registered and they are protected. But this was a sycamore tree, in the same way as a sycamore tree is in Cooilldarry or wherever, and licences have been given for the felling of sycamore trees in these areas, but maybe it is different when it is a conservation body that asks for their felling.

The Speaker: I will revert to the original questioner for a final supplementary. The hon. member for Michael, Mr Cannan.

Mr Cannan: Thank you, Mr Speaker. I regret that the minister did not answer my previous question and I will put it to her again: before the issue of this licence to fell this tree was the matter referred to her, the minister, a political member of her department, or the chief executive of her department for guidance as to whether that licence should be issued?

Mrs Hannan: No, it was not because it was not a registered tree. There is a difference between an ordinary tree and a registered tree, and my department advises on many issues. This was a tree to allow access for agricultural purposes, and it was a sycamore tree, which does not have the same value, as I have said before. I believe there are very few sycamores in the Isle of Man that are registered. Sycamore trees are very hardy, they grow in most places as I am sure people will appreciate. Some other trees do not. It was not a registered tree, therefore it did not need my say-so whether it gained a felling licence and it would be wrong for me not to have that professional knowledge to make decisions on a sycamore tree in a hedgerow. It was not referred to the chief executive or members in the department because we have professionals that look at this particular issue. If they had been concerned about the amenity value they would have referred it to us. That is the policy of the department.

DHSS Pension Payment Vouchers – Consultations before Computerisation – Question by Mrs Cannell

The Speaker: Item 5, hon. members, and I call upon the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Mr Speaker, I beg leave to ask a member for Health and Social Security:

What consultations were conducted by the Department of Health and Social Security prior to the introduction of the new computerised system of pension payment vouchers?

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

Mr Cannell: Thank you, Mr Speaker. I assume the hon. member is referring to the question of consultation with pensioners as distinct from such parties as internal audit and the Post Office. If that is the case, then the hon. member is in effect asking if the department consulted with pensioners about a change to the particular piece of paper that they must present at post offices to receive payment of their pensions. It is not the department's normal policy to consult about such business processes, and little formal consultation was undertaken in this instance, although the department's proposals were well publicised beforehand. It is the department's policy, when considering the interests of the customer, to focus on the service to be provided rather than the business process itself. In this case the service to be provided is the facility for pensioners and others to be paid in cash at post offices of their choice. That is

the main issue, not the particular piece of paper that they have to present to receive that payment. The introduction of the computerised voucher system represents an investment in the service of payment at post office counters and confirms the intention of the department to continue to offer that facility. It is also estimated, eventually, to produce savings in administrative costs of the order of £37,000 per year, which will enable the department to reduce the staff on benefit payment duties by two, and those posts will be re-allocated elsewhere.

Mr Singer: Mr Speaker, may I congratulate the hon. member for replying to a question after only one week in the department. Allowing for the fact, hon. member, that the designer of the new pension payment vouchers may also have been the same person who designed the *Ben my Chree*, is the hon. member aware that the public are considerably confused and distressed by this new system, which does not seem to have been designed to help them but only your department? And are you actively encouraging recipients to have their pensions now paid directly into the bank, which will consequently see a demise in the local post office viability through a reduction in income and the resultant loss of community post offices?

Mr Cannell: Yes, I can confirm, Mr Speaker, that there were different designers for the new supplementary benefit wallets and the *Ben my Chree*, but I would say to the hon. member, regarding his assertion that there is widespread concern, that the department feels that this is on the contrary because they are now paying over 5,800 benefits by the new system with only four complaints received. Two of those four written complaints had wrongly assumed the new system was costing more, a third had been the subject of an administrative failure not directly connected with the new system, and furthermore the possibility of the pensioners being forced to accept payment directly into their bank accounts, even though most, perhaps, may consider it more convenient to be paid in cash - the department's view is that the hon. member cannot have been listening to what has been said in the reply to the original question. The voucher system represents an investment in information technology in order to continue the service of payment in cash at post office counters. It is up to each individual pensioner to decide whether he wants to be paid in cash at local post offices or whether he wishes the pension to be paid directly into his bank. That choice remains.

Mrs Cannell: Mr Speaker, given that this new way of paying pensions is a computerised system, what contingency plan does the department have in place for when a computer will and can fail? What will happen if a person does not receive their vouchers? What kind of contingency is in place for that? Also, what contingency is in place for when a pension payment needs adjustment because the recipient spends time in hospital or spends time receiving respite care or indeed is requiring a rebate to be paid? What contingency is in place and will there be a four-week delay in receiving that?

Mr Cannell: Yes, Mr Speaker, I imagine that anyone who was the victim of a computer failure would be in precisely the same position as anybody else at the mercy of this new technology, which some of us in here are finding it difficult to come to terms with. We very frequently ring our banks on the phone bank system and many other inquiries to find the famous phrase 'the computer is down', and if the computer is down that is all that can be done about it. I agree that some of the pensioners could be in difficulty if that is the case and the department undertakes hereby to make every possible arrangement for an emergency situation such as that even to the point, as the hon. member has inquired, regarding

possibilities of pensioners having difficulty in receiving adjustments to their pension or indeed in the requirement to have extra payments made because of particular circumstances. The department, I am sure, would do its absolute level best to ensure that individual cases are addressed on a one-to-one basis and a payment can be made by a method which the department will undertake hereby to make where particular distressful circumstances are encountered.

Mrs Cannell: Mr Speaker, given that there are considerable savings in the sum of £37,000 per annum - and I assume that takes into consideration less staff required for the administration of this new computerised system - how then can the department put together a contingency for when a failure is made, given that there will be far less staff available to actually administer the scheme, and will there be a four-week delay?

Mr Cannell: Mr Speaker, I think I am being pressed on the point in the same manner as the previous question, that the department will undertake to do everything in its power to rectify any problems that occur. Of course, problems can occur in any system whatever. There have been problems with this system throughout, even when it was in the manual days and the comptometers within this building used to often let people down for their payments. The department will do everything in its power to make sure that no-one is disadvantaged by this and that the staff saving and the cost saving of £37,000 will be a most valuable contribution to the savings overall for the Treasury.

Procedural

The Speaker: Once again, hon. members, our allotted time for questions has escaped us. I call upon the hon. member for Garff, Mr Rodan.

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 Braidwood: I beg to second, Mr Speaker.

The Speaker: Are we agreed, hon. members?

Members: Agreed.

DHSS – Temporary Healthcare Assistants – Question by Mr Cannan

The Speaker: We turn then to item 6 on our order paper and I call upon the hon. member for Michael, Mr Cannan.

Mr Cannan: Mr Speaker, I ask a member for Health and Social Security:

Will you give an unequivocal assurance that the two temporary health visitor assistants for the north of the Island will remain in post for the foreseeable future?

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

Mr Karran: Vainstyr Loayreyder, I do have to express concern that this question is running close to bringing to the floor of this House individual employees' relationship issues, and it was always my understanding that employee/employer contractual matters were best dealt with in other more appropriate forums. Having made this point, I can confirm my

understanding that the hon. member is alluding to the position of the two healthcare assistants formerly employed at Ramsey Cottage Hospital, who have been temporarily relocated to the positions in the community during the period of extensive refurbishment works at that hospital. Following the completion of the refurbishment scheme and the subsequent restoration of services, the hospital is anxious to bring its establishment back up to the level required.

Unfortunately, due entirely to personal reasons, neither of the individuals concerned are able to return to their former posts. Although both have been given assurances with regard to their employment within the service, options are currently being explored. In terms of the present temporary employment some concerns have been raised as to the implications to the service, should this cease. In this regard I can assure the hon. member that nothing will happen concerning the two posts that will jeopardise the existing service position, Vainstyr Loayreyder.

Mr Cannan: First of all, can I assure the member I am seeking by this question to have an assurance that the present social service provided to Jurby and Ramsey by these two auxiliary health visitors will remain and continue to remain as a service. It is a valuable service to a community that needs it more than any other community, and to take away the two health visitor posts will be detrimental. Why will he not give an assurance that those two posts of auxiliary health visitors will not remain?

Mr Karran: Vainstyr Loayreyder, the problem is I actually asked to see whether we can give a categorical assurance as far as this is concerned. When I talked to the service manager of health visiting, or when my officials talked to her, they have said that this is not their number one priority if they were to have permanent posts established. What I will give the hon. member is an assurance that I am very sympathetic to what is being done at the present time, but I cannot give a categorical assurance as I have to listen to what the officers who manage the service to justify their priorities, and it would be wrong of me at this time to override them.

Mr Bell: Mr Speaker, could the hon. member for Health give, if not a categorical assurance that these two posts will remain in community nursing, a clarification and a categorical assurance that there will be no compulsory redundancies in this particular exercise and that the nurses themselves will stay in their present posts until suitable and acceptable alternative posts are found for them elsewhere in the service?

Mr Karran: Vainstyr Loayreyder, I was not elected to put people on the dole. I am there to try and make sure that we try and use the service and its staff to the best of their ability. I can assure the hon. member there will be no compulsory redundancies. I have made sure that whilst being Chairman of the Water Authority there will be no compulsory redundancies and I do not intend to change that as far as my departmental responsibilities as the member for Health.

Mr Henderson: Mr Speaker, a further supplementary. I must thank the member for Health for giving full and frank answers here. I am pleased with some of the assurances, but I must ascertain his acceptance that over the past two years these posts have been allowed to develop and progress, that in fact they have become a very valuable support mechanism for the north of the Island and certainly provided an excellent health service promotional frame -

The Speaker: Hon. member, I would like a supplementary question, please.

Mr Henderson: - and could he assure us that the community is not going to suffer and not be put on the dole?

The Speaker: Hon. member, I thought you had answered that question, but feel free.

Mr Karran: Vainstyr Loayreyder, I do appreciate the hon. member's question. The fact of the matter is, we are committed to try and provide community services. The problem I have got is a simple one of man count. I have horrendous problems as far as man count is concerned. I have posts that I want to fill. I have the financial resources, but I have not got the headage from the Council of Ministers in order to do it. (*Interjections*)

Mrs Cannell: Mr Speaker, can the member for the Department of Health please give us an indication of what is going to happen to two years worth of case load that these particular members of staff have built up? What is going to happen to the case load, the patients involved in those cases?

Mr Karran: Vainstyr Loayreyder, the situation is that they were there surplus to requirement in these posts that they were put in temporarily in order to utilise them to make sure that the taxpayer got value for money. The position is this: I am very sympathetic as far as these posts are concerned and where they are at the present time. There needs to be more detailed discussion between myself and my health administrator and the managers that provide the services at the present time. I have assured the hon. member for Ramsey that there will be no compulsory redundancies and these staff will not be made redundant.

Mr Cannan: Mr Speaker, in the answer previously given by the member for Health, he stated that priorities were being determined by the service manager and he had to take the views on board of the service manager. Can I ask him, 'Who determines the policy in this department, whether or not the auxiliary health visitors shall remain a service to the north in Ramsey and Jurby? Is this policy determined by him or the service managers?'

Mr Karran: Vainstyr Loayreyder, obviously there is no point in having professional staff there if you do not take their views into consideration. The problem I have is that quite frankly there are a number of other posts that they would like to see filled that would be of more strategic importance, more priority for the welfare of their clientele than these posts. What I can say to the hon. member is that I do take on board his concerns. I am trying to make sure that the situation is recognised, the importance of what they are doing at the existing time, but what I will not do is promise something and not come up with the goods.

Mr Cannan: Which means you cannot deliver it.

Mr Singer: Could I ask the hon. member: whether these original posts were temporary or not, is it not a fact that by the great efforts of these two health visitors many programmes have been developed in Ramsey and Jurby (**Members:** Hear, hear.) which had not been provided before, and that if these people are removed from their posts, these programmes which are very much appreciated and have gained the trust of the people in the North will collapse, and is it not, therefore, essential that the posts should be restored and that the people in those posts should be given similar responsibilities to those which they now have?

Mr Karran: Vainstyr Loayreyder, the situation is quite simple: there are two valuable posts needing to be refilled in Ramsey Cottage Hospital. I have two posts to allocate and I have got four jobs wanted, so the problem is that I have got to try and find a way around my

problem as far as the head count, headage or whatever you want to call it as far as my department's responsibilities are concerned.

Mr Cannan: What you need is headage payments.

Mr Karran: I am concerned, Vainstyr Loayreyder, that there has been great involvement as far as these two staff with their new temporary posts and that will be taken into consideration, but it would be wrong for me to say that I can save their existing roles at the present time, and I think it would be wrong for me to say so.

The Speaker: A final supplementary, I think, hon. members, on this question. The hon. member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Speaker. In the previous question we have been told quite clearly by the hon. member for Social Security that the new pension payment scheme has now created two vacancies, two new posts. By using this process could the hon. member agree now that these two new posts which have been created could be transferred to Ramsey Cottage Hospital and this would solve the dilemma that he is facing at the moment?

Mr Karran: I thank the hon. member for his initiative. I would just be very happy to turn the Health Division into an autonomous being within the DHSS. Unfortunately I have not got the authority for that at the present time, so there is little chance of me coming along and swiping two posts from the Social Security Division of the DHSS and, if I was mentioning about services within the DHSS, I would be equally committed to seeing some sort of welfare rights officers being provided by the welfare, because I get tired of hearing people going on about scroungers when we have got far too many out in our community not claiming what they are entitled to, and if I was using those two posts in the Social Security that is where I would be using them, not giving them to myself.

Elderly Mental Patients – Transfer to Residential Homes – Question by Mr Singer

The Speaker: Item 7, 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) *Can you confirm that your department now intends to transfer elderly people with serious mental disorder to residential homes; and,*
- (2) *if so, will those who are so transferred incur residential home charges?*

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

Mr Karran: Vainstyr Loayreyder, the answer to the hon. member's first question is most emphatically no. To try to care for the elderly, severely mentally ill in an ordinary residential home would be totally inappropriate and would place them and other residents at risk.

DHSS – Inquiry into Patient's Death – Question by Mr Henderson

The Speaker: Item 8, 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:

When do you expect the inquiry into the death of Mr George Watterson to be established?

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

Mr Karran: Vainstyr Loayreyder, I would expect the inquiry to be established as soon as possible, and I hope it will be by the end of next month.

Mr Henderson: Could the hon. member explain why it is taking so long?

Mr Karran: Vainstyr Loayreyder, the situation is that we have to have a legally qualified chairman, we have to have a medical expert - the Royal College of Surgeons have been approached - and a lay person. Unfortunately, the medical expert is outside our control at the present time. I think the important thing is to make sure we have the right sort of membership to make sure we get this inquiry going so that this unfortunate incident does not happen again.

Mr Cannell: Mr Speaker, would the hon. member not agree with me that in this extremely distressing matter for the family of the late Mr Watterson, the department has been very frank and very open and has not shirked its responsibilities, but there are many legal ramifications which may arise and it is a complicated matter and the department will undertake to launch this inquiry at the soonest possible moment.

Mr Karran: Vainstyr Loayreyder, my hon. colleague is right and it is important that we give them as free a hand as possible.

Mrs Cannell: Mr Speaker, I thank the hon. member for his frank reply. Can he assure us that the inquiry will be conducted by a totally independent group of people outside of the department?

Mr Karran: Vainstyr Loayreyder, I do not think that the chairman that hopefully will be taking the thing with his previous record was any friend to government and I do not think he will be any friend to the DHSS. He will do his job honourably and fair. As far as the medical expert is concerned, I have no idea who the medical expert will be; it will be from one of the royal colleges. And as far as the lay person is concerned, it will be almost certainly the lay person that is on the Medical and Dental Service Committee, who happens to be very independent and is often giving us a prod about something, so I cannot see there being any sort of whitewash and I think it is unfair for the hon. member to try and make out that somehow we want to close things up. We feel it is a very sad situation and we hope that other families do not have to go through this again.

Mr Cretney: Mr Speaker, although the name of the proposed chairman for this grouping has not been announced publicly as yet, would the member like to reconsider his words in terms of his relationship to government? Surely what the hon. member meant was that he would be truly independent.

Mr Karran: Well, Vainstyr Loayreyder, that is what I am saying, that the man has always done his job honourably, fair and I have no problems. I am sure he will serve the committee well and we will get a good inquiry out of it.

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

Mr Henderson: Thank you, Mr Speaker. I thank the hon. member for his further frank and honest answers, and just to ascertain if he could confirm to this House, will the staff who were affected throughout this unfortunate event be encouraged and supported by the department to supply the inquiry with the fullest and frank and honest answers? Will the management be supporting them all the way through this?

Mr Karran: Vainstyr Loayreyder, I am very concerned that somehow, there is a rule of silence in the department. I have made it quite clear and made it an issue that we want to know if there is any victimisation of our staff. I have an open door and I would hope that the staff would be honest and as frank and I would hope that there is no question of that.

Isle of Man Railways – Staff Recruitment Policy – Question by Mr Henderson

The Speaker: Item 9, 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 Minister for Tourism and Leisure:

What is your department's policy on recruiting seasonal staff for Isle of Man Railways?

The Speaker: I call upon the Minister for Tourism and Leisure, the hon. member for Douglas South, Mr Cretney.

Mr Cretney: Thank you, Mr Speaker. Because of seasonal passenger demand on Isle of Man Railways, temporary seasonal staff are employed during the summer to supplement the permanent full-time staff. Seasonal staff are mainly employed on traffic duties such as gatekeepers, conductors, guards, booking office clerks and motormen. The seasonal employment of temporary staff has been a long standing policy over the years which has been a very effective way of ensuring that sufficient staff are available to operate the train service.

Mr Henderson: Could the hon. minister confirm that the usual practice for the seasonal staff is to take on the staff that they have always taken on and that they appreciate their long-serving membership of that department.

Mr Cretney: The policy is to consider each year, when the positions are advertised, who the best persons available for the jobs are.

Mr Houghton: Mr Speaker, may I ask the hon. minister, does he have a policy for disallowing his temporary staff who have made representations with regard to safety not to be employed the following year?

Mr Cretney: I can give a categoric assurance, Mr Speaker, that that is not the case. Despite the fact that the person from the hon. member's constituency did not follow the normally approved routes in terms of his representation, we have no problem with any member of staff who follows the appropriate channels in terms of health and safety representation, and I think our grouping in that respect is an example to other government departments. There is no question whatsoever about the person not being employed on that basis.

Mr Henderson: Mr Speaker, in that case could the hon. minister then explain how a situation arose where a long-serving experienced member of the seasonal railway staff with an excellent work record and with no history of disciplinary issues, was not taken on this year as usual without any reason whatsoever.

Mr Houghton: Hear, hear.

Mr Cretney: Mr Speaker, this year 162 applications were made for the 50 positions. We employed the best persons, considered by the management who conduct this function, for the jobs.

The Speaker: A final supplementary. The hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Given the hon. minister's answer then, could he give this House an assurance and an undertaking that he will investigate this issue to see why a valuable and experienced member of staff could not be taken back on.

Mr Houghton: Hear, hear.

Mr Cretney: Mr Speaker, this matter was drawn to my attention by Mr Moffatt of the Transport and General Workers Union. I did consider the matter and I considered the action taken by the officers was the appropriate action.

Bus Shelters – Financial Resources – Question by Mr Houghton

The Speaker: Item 10, hon. members, and again I call upon the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg leave to ask the Minister for Tourism and Leisure:

Has your department dedicated financial resources for the provision of bus shelters?

The Speaker: I call upon the Minister for Tourism and Leisure, Mr Cretney.

Mr Cretney: Thank you, Mr Speaker. My department recognises the vital importance of adequate and sufficient bus shelters as an important part of encouraging more people to use the buses. Unfortunately, we are not presently responsible for the provision of bus shelters; currently this is a function of the Department of Transport, and therefore we have no financial provision for something which is a function of another government department.

At both officer and political level discussions have been taking place during the past year with a view to transferring responsibility and funding to my department, which I believe is a logical move. Hopefully I would like to be in a position to assume responsibility at the start of the next financial year, if I am still a minister.

I know my new department member, Mr Cannell, MHK, is also keen to make progress to substantially improve the cleanliness of the toilets and platform areas at Douglas bus station. We believe that these facilities are also a very important part of increasing use of the buses.

Mr Braidwood: Mr Speaker, will the minister give an assurance that when his department assumes responsibility for bus shelters he will actively encourage the upgrading of

shelters to fully enclosed shelters, which will hopefully actively encourage people to travel on public transport because they will be protected from all elements?

Mr Cretney: Mr Speaker, I recognise, as I have stated already in my response to the initial question, the importance of bus shelters in terms of encouraging people to use the bus network. Indeed, this was a matter which was spoken of this morning on the radio in relation to Ballaugh. All over the Island people would like to see an improved provision made in respect of bus shelters. I am also aware that the Department of Transport has a substantial list of schemes which they have had representation upon and some of which they have been able to make progress with. I would not wish to pretend for one minute that, if and when we do assume responsibility, we are going to be able to immediately make the progress which we would like to make, but I can assure you that there will be commitment over a phased period to improve that facility, providing the negotiations prove to be fruitful.

Mr Houghton: Mr Speaker, can the hon. member, though, give us clarification exactly when he is going to receive this budget, to be transferred from the Department of Transport, sir?

Mr Cretney: I thought I did, Mr Speaker. I indicated that I would hope to be in a position, if I am still in my position, at the end of this financial year - that is March 31st or April 1st next year - to assume responsibility. That would seem to be the logical time in terms of government's financial provision.

Closed Circuit Television – Use by Douglas Corporation – Question by Mr Henderson

The Speaker: Item 11, hon. members, 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 Home Affairs:

What role will your department play in the experimental use of CCTV by Douglas Corporation?

The Speaker: I call upon the Minister for Home Affairs, the hon. member for Ramsey, Mr Bell.

Mr Bell: Mr Speaker, my department is, of course, aware of the Douglas Corporation's plan to introduce a limited CCTV scheme for a trial period, and representatives of the department have had informal discussions with representatives of the Corporation about their plan. The department will not, however, be playing any formal role in relation to this experiment.

Mr Henderson: Mr Speaker, given the complicated nature of CCTV and the installing of the same and the expertise required, would the hon. member not give this House an undertaking that he and his department will try and help the Corporation in whatever way it can to make this issue a success?

Mr Bell: Mr Speaker, my department and in particular the police will be watching very closely the outcome of this particular experiment, which I understand is only for a short period of time. At this stage we are not providing any assistance for Douglas Corporation. What lessons are learned from this experiment will dictate or at least guide us as to what our future policy towards support for CCTV will be in the future.

Mr Henderson: Mr Speaker, can the hon. minister confirm for this House that the use of CCTV is an important part of crime prevention and crime protection?

Mr Bell: Mr Speaker, as I have said on previous occasions, CCTV has a role to play in combating a certain element of criminal activity. It is not the answer to the problem and experience elsewhere has shown quite clearly that where CCTV is in operation it must be part of a much broader approach to tackling crime. It is not a panacea, it is not an answer in itself, but there may be a role for CCTV on the Isle of Man. It certainly gives reassurance to an element of the public and, as I say, we will be watching this experiment with interest and depending on what the results are we will be reviewing our position after that.

Water Authority – Recent Flooding at Sulby – Prevention of Recurrence – Question by Mr Cannell

The Speaker: Hon. members, I am not going to go down the road of a debate on CCTV so we will go on to item 12. I call upon the hon. member for Onchan, Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. I beg leave to ask the Chairman of the Water Authority:

What occasioned the recent major flooding at Sulby, and, what action is the Water Authority taking to prevent a recurrence of such flooding?

The Speaker: I call upon the Chairman of the Water Authority, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I welcome this question from the hon. member for Onchan, since the air needs to be cleared on this matter as far as the Water Authority is concerned. Whilst we are all very sympathetic to the plight of those whose homes were flooded, let me stress that there were no valves or sluices operated at either Sulby or Block Eary Reservoir which could have added in any way to the scale of the recent flooding, which took place downstream of these reservoirs. All of the Water Authority's reservoirs are provided with overflow weirs and when, as frequently occurs during the winter months, there is heavy rainfall, run-off from the catchment areas causes the water level in the reservoirs to rise over the sills of these weirs. Then the water is discharged into the river downstream. This is the purpose which they were designed for.

Once the reservoirs are full, whatever flows into them from the catchment area less than the relatively small amount of water being drawn off for public supply or released as compensation water must flow out over the weirs. However, during floods the storage volume available in the reservoirs above the level of the weirs does mean that the peak flood flows discharged over the weirs are always of a lower magnitude than the peak flow run-off draining into the reservoirs from their catchment areas. Far from increasing the magnitude of natural floods from the catchment areas, the reservoir actually has the effect of reducing the magnitude of peak flood flows in the river downstream of them, which would otherwise naturally occur if the reservoir had not been built.

The Water Authority's reservoirs were all built for the purpose of insuring availability of water for treatment and distribution for public consumption. In the case of Sulby and Block Eary reservoirs there is an additional role of providing a source of water for hydroelectric generation, mainly during the winter months. Whilst all the Water Authority's reservoirs do

provide a measure of flood control as well, they were not built with this function in mind, and it simply would not be practical to operate them in such a way to provide any significant additional flood storage. If water levels were to be held down for flood prevention, the volume of storage required for flood prevention would mean that there would not be enough water to meet demands during the summer months. The loss of storage would also have a serious effect on the ability to generate hydroelectric power for which there is a cost implication.

In addition, the combined catchment areas of Sulby and Block Eary Reservoirs total in excess of 5,000 acres, but downstream of these two reservoirs as far as Sulby Bridge, the Sulby River drains a further area of steep hill land, probably as large again. The Water Authority has neither any control over or any responsibility for dealing with flood water running off the catchment areas downstream of the reservoirs. The particular weather conditions and the subsequent river discharge characteristics we think combined to contribute to the major flooding in Sulby, and neither are within the remit nor indeed within the area of expertise of the Water Authority. Whilst land drainage and flood matters are not the responsibility of the Water Authority, we are willing to make available any information on water levels and rainfall in the event of any inquiry taking place.

Mr Houghton: Mr Speaker, is the hon. member insinuating here that a mature tree which was washed from Tholt-y-Will Hotel down to Irish Cottage was not by a torrent of water from his reservoir on that date?

The Speaker: I can find no reference to a tree. The hon. member for Onchan, Mr Cannell.

Mr Cannell: Yes, thank you, Mr Speaker. I welcome the assurance that no valves or sluices were apparently opened on the Block Eary or Tholt-y-Will Reservoirs, so there was no Karrangate, as is being claimed in certain quarters, but would not, nevertheless, the Chairman of the Water Authority, the hon. member for Onchan, agree with me that perhaps a contributory factor to the difficulties faced by the residents of Sulby may have been exacerbated by an apparent failure to keep some of the ditches, rivers et cetera, clear, a repeat of a similar situation which occurred in the Silverburn area near Ballasalla in 1983 and which preceded assurances that this situation would not recur?

Mr Karran: Vainstyr Loayreyder, I think that the hon. member may have a point, but he must remember that, as far as land drainage is concerned, it is nothing to do with the Water Authority; that is an issue to do with the Department of Transport, and of course the ditches that he would be talking about would be far away from any reservoirs.

The second point is the important factor that I raised at the second reading stage about flood plains. When will the planning people realise the importance of flood plains? We see increasingly houses being built on flood plains, and it does concern me somewhat.

Mr Quine: Can the hon. member confirm that, on the Friday immediately preceding these flood waters, water was already running at a heavy rate through the escape pipe? That that was taking place on the Friday before the floods. If you have got a full reservoir running through the escape pipe, how can the run-off then be attenuated? How can the flow be attenuated by the reservoir? What runs off into the reservoir runs straight down the escape pipe and into the river, so quite clearly what the Water Authority is saying is blatantly wrong.

Mr Houghton: Hear, hear.

Mr Karran: Vainstyr Loayreyder, I understand that there are votes to be had as far as this is concerned, but the fact of the matter is that I think it is wrong. I am tired of seeing the Water Authority being used as a scapegoat for other departments of government because of who heads it. What I am concerned about with the hon. member's allusion is the fact that he did not listen to the original question. If anything, the reservoir helped to prevent the peak of the flood by the fact that it funnelled it and it could not get away.

Mr Quine: Exactly.

Mr Karran: I think that he needs to look at some of his other departments as far as drainage is concerned, but also he has to accept that I was talking to an individual who is one of his constituents and he said, 'Well, the area is always flooded.'

Mr Henderson: Mr Speaker, given the hon. member's responses, how then can he explain to this hon. House that the surrounding catchment areas usually act as a sponge and any run-off usually appears as a steady sustained stream of water, and how can he explain the reports of a sudden violent tidal wave that shot down the valley?

Mr Karran: I am glad to know that the hon. member has now got himself . . . If there is ever a Manx TV he can become the weatherman. (*Laughter*) I am sorry, Vainstyr Loayreyder, I am good, but I cannot control the elements (*Laughter*) and there was a deluge of rainfall in the area below the reservoirs. You must remember that there is a substantial area below the reservoir which the reservoir has no control over anyway. I have said that so far as I am concerned our books are open and let us have this inquiry, and if this inquiry is done on a fair basis then I cannot see any problems of the Water Authority having any fears.

Mr Quine: Will the hon. member accept that we are not asking him to control the elements? We would be quite happy if he would just control the reservoir. (*Laughter*) How can the hon. member explain or attribute this flooding to a run-off from the catchment north of the reservoir when, within a short distance of less than half of a mile from Irish Cottage to the reservoir, that was running at such a rate it was over the top of the Block Eary dam bridges? How can he get a run-off in half a mile of that proportion? (**Mr Houghton:** Hear, hear.) That is not the case; it clearly came from the reservoir.

Mr Houghton: Absolutely.

Mr Karran: Vainstyr Loayreyder, I sympathise with the hon. member. They need a bogeyman in Ayre to take the responsibility for flooding. What I am not prepared to do is allow the Water Authority to take the blame for a situation where it was well known that this was an area that flooded. The company is called East Lakes, so I believe, and it is called the Mill Race. If that does not suggest a connection with water, I do not know what would. I do feel sorry for the people in this area and that is why I raised, in the Bill to do with planning, the important factor of flood plains. Otherwise, other departments of government are going to have to pick up hefty bills as far as land drainage because the drainage in the north of the Island - you are only talking about something like three or four feet in about three miles of ditch, if I remember. So we are talking about three or four feet difference. There is no way, when you have such flash floods as you do have caused by the elements, that these areas can be

protected. What is important to learn is that we need to have more vigilance as far as land drainage is concerned.

The Speaker: The hon. member for Ayre, a final supplementary.

Mr Quine: Thank you, Mr Speaker. Would the hon. member not agree with me that if this reservoir is in any way to act and to attenuate the flow, then there has to be a substantial lowering of the water below the escape pipe in the centre for that to be effected, otherwise you cannot have an attenuation of the flow, and therefore, if it was running over the escape pipe 12 hours before, it is logical and, I think, sensible to conclude that it was a straight run-off through the reservoir down the escape pipe.

Mr Karran: Vainstyr Loayreyder, the role of the Water Authority is to provide water. I get criticised because I am trying to finance a refurbishment programme within the ratepayers' domain. Now, the problem I have got is that if I lower the reservoirs whenever there could be a possibility of a flash flood and then there is a situation that there is a long dry weather condition - it does not have to be a drought, it does not have to be a situation where you have got a hot summer, just a lack of water - will you then say we will provide more facility or a bigger reservoir in order to facilitate the need for water in such drought facilities? The Water Authority is not there as far as the floods are concerned. There is the Land Drainage Act, which is the responsibility of the Department of Transport. I am happy for the hon. member to come into the Water Authority and discuss the issue, but I can assure him that the inquiry, if he has managed to get an inquiry, will have the books open and have our full co-operation.

Water Authority – Ballure Treatment Works – Water Quality – Question by Mr Rodan

The Speaker: Item 13, hon. members. I call upon the hon. member for Garff, Mr Rodan.

Mr Rodan: Thank you, Mr Speaker. I beg leave to ask the Chairman of the Water Authority:

- (1) *Are you satisfied with the quality of water supplied from the Ballure water treatment works;*
- (2) *what are the authority's proposals to*
 - (a) *improve the colour and turbidity of this water in the short term; and*
 - (b) *upgrade or replace antiquated plant?*

The Speaker: Again I call upon the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I have some considerable sympathy with this particular question. I welcome the question of the hon. member for Garff about the quality of the drinking water supply to certain areas in his constituency from the Ballure water treatment works at Ramsey. There are some areas of the performance of the works where I would wish to see it improved, but we have to bear in mind that the works were built in 1950 and, although they do their best with the treatment facilities at their disposal, we cannot always achieve the stringent water quality requirements.

Drinking water is checked against chemical, biological and aesthetic parameters. The latter concerns taste, smell, colour and turbidity. Each year the authority produces a drinking water quality report which sets out the performance for each works. A full account of the

quality of water from Ballure is included in this year's report, which was recently circulated to members and will be laid before Tynwald on 14th November. It is also available for members of the public.

In summary, the bacteriological performance of the works has been good, with 99.6 per cent of the 246 samples which were taken during the year free from any coliforms. Performance in these terms of cryptosporidia and giardia has been excellent, with none being detected. These are micro-organisms which can get into the intestine tract of human beings and cause illness.

In terms of chemical performance there are numerous tests that are carried out to check for pesticides, herbicides and various oxides of iron, aluminium, manganese, zinc and copper. The parameters for some of these substances are from time to time exceeded. The details are set out in the report which I have just referred to.

We are also concerned over the picture which is emerging with regard to tri-halo-methanes as a result of testing we have carried out during the last 12 months. Tri-halo-methanes are a by-product of chlorination and rich water. Again, details have been included in the report.

To move on to the second part of the hon. member's question, in terms of short-term improvements we have carried out considerable amounts of work in the last two years aimed at improving water quality. In addition, consideration has been given to increasing the testing which now takes place to check the water quality. We have installed new on-line chemical monitoring equipment which has improved the operation of the works. However, it should be borne in mind that the Island's water sources contain high concentrates of iron and manganese, and these occur naturally. It is these which give rise to the discoloured water. All the treatment works have a single-stage filtration, but the chemical conditions for removing iron and manganese are quite difficult and therefore two-stages of filtration are required. As only a single-stage process is available at the present time, the works can only do its best to hope to achieve a compromise in terms of the treatment process. The compromise means that some of the soluble oxides in these metals precipitate out before being deposited in the distribution mains.

The Water Authority's strategic business plan, which is due to come before Tynwald for approval in the next few months, sets out the treatment works strategy which will deal with the resolution of the deficiencies in the treatment process. However, it is unlikely that the new treatment works will be in place and working before the year 2003. I am sure that hon. members will appreciate that it does take time to design, procure, build and commission new works. We think it will take four years for the process in view of the planning and other regulatory requirements. I wish to reassure this hon. House that the Water Authority is industriously working away on these tasks and will from time to time keep members informed of its progress.

Mr Rodan: Mr Speaker, I would thank the Chairman of the Water Authority for his detailed answer and for confirming that certain areas of my constituency have had real problems this summer. Is he aware that the Ballacollister area in particular is still receiving water of the most appalling dark brown colour, and will he acknowledge that this disappeared when the supply was switched from Ballure for a period of some months to the Glencrutchery

reservoir, which is even older than the Ballure reservoir, but now that the supply is back to Ballure the problem is back?

Mr Karran: Vainstyr Loayreyder, as I say, I welcome this question, and I think the hon. member has legitimate concerns on behalf of his constituents and I shall do all that is in my power to try and get them resolved as quickly as possible. The problem that we have is that it is not just simply a matter of changing supply because it has implications in several other areas, so that is not looking as a promising solution short term for the hon. member's constituents, but I do believe that we have to resolve this issue speedily and I know that both myself and the chief executive are gravely concerned about this affair. It must be reassured that there is no question of safety, but then I have to admit that I would not want to drink such discoloured water and I do not expect my consumers to have to do so.

Mr Downie: Mr Speaker, I would like to ask the Chairman of the Water Authority, is he aware that in similar circumstances in the adjoining isle, in the United Kingdom and in Scotland, where the water catchment area is of a similar disposition and also planted with large areas of conifers, the acidification caused by the conifers has given rise to water problems similar to those which have been identified in the House today. Their answer to the problem is to clear a large number of conifers from around the catchment area. (**A Member:** Hear, hear.) Can the member confirm that an option is to be put forward that in areas around our reservoirs where the water courses do pick up a lot of acidification and therefore increase the pH values, we are looking at clearing them up and getting rid of some of these conifers?

The Speaker: Can I ask, hon. member, that you keep your reply to dealing with the Ballure reservoir, please?

A Member: Hear, hear.

Mr Karran: Vainstyr Loayreyder, there are a number of trees around the Ballure reservoir. I believe that the hon. member does have a legitimate case as far as his question is concerned. This issue has been raised before and I am sure we can discuss this further with the Minister for Agriculture.

Mrs Hannan: Would the Chair of the Water Authority agree that water going through the high land in the Isle of Man does gather up acidic properties naturally, whether there are trees there or not, whether they are conifers or not, while the water then reaches the sea at round about neutral level and would the Chair of the Water Authority agree that Cringle Reservoir, surrounded by trees, is not acidic and therefore he cannot make the assertion that he has made?

The Speaker: Could we stick to Ballure reservoir, please? The hon. member for Onchan.

Mr Karran: Vainstyr Loayreyder, in the catchment area of Ballure reservoir the hon. member, the Minister for Agriculture, has a valid point. The previous point that was made by the hon. member for West Douglas all adds to contribute to the problem. The core problem is the fact that we need a new process plant to do the water more efficiently and effectively, and that has to be the answer. We are doing all that we can but it is expensive and I do hope that members see this as a priority as far as the refurbishment of this important part of the infrastructure of the Island, and finance will be a problem.

The Speaker: For a final supplementary I again call upon the hon. member for Garff, Mr Rodan.

Mr Rodan: Thank you, Mr Speaker. Can I ask the Chairman of the Water Authority, is it the intention of the Water Authority, then, that the Ballure reservoir continue to supply my constituents at Ballacollister in particular for the foreseeable future and, if it is, what action is to be taken before the date of 2003 when the new filtration process and water treatment works are in place? What action is to be taken before that date to deal with the awful brown discoloured water they are receiving which he will confirm he has seen on a video that was taken by one of my constituents?

Mr Karran: Vainstyr Loayreyder, I can confirm to the hon. member that we will do all in our power to try and resolve this problem regarding the discoloured water to his constituents. I see this as a priority. The problem I have is that I do need a two-stage filtration plant. I do hope that we can get it as speedily as possible. I can assure the hon. member that everything that can be done will be done within the reasonable powers of the Water Authority as far as the cost is concerned as members have to realise that I have to finance everything from the rates.

The Speaker: Item 14, hon. members, was for written answer, which I understand has been circulated to this hon. House.

Planning Committee – Non-Tynwald Members – Question by Mr Cannan for Written Answer

Question 14

The hon. member for Michael, Mr Cannan, to ask the Minister for Local Government and the Environment:

- (1) *What are the criteria for the appointment of the non-Tynwald members of the Planning Committee; and*
- (2) (a) *who are the present non-Tynwald members of the committee; and*
(b) *in respect of each of them:*
 - (i) *what are their qualifications; and*
 - (ii) *how long have they been resident in the Isle of Man?*

Answer

This question is almost identical to a question posed by the hon. member for Michael as recently as 5th May 1998 in this House.

The Department of Local Government and the Environment has power under paragraph 2 of schedule 1 of the Isle of Man Planning Scheme (Development Plan) Order 1982 to appoint a committee to be called 'the Planning Committee'. The remit of that committee is to exercise on the department's behalf the functions specified in schedule 1 to that order. The schedule also indicates that the Planning Committee shall consist of:

- (a) one or more members of the department, other than the minister, and

(b) one or more other persons, not being members of Tynwald, who shall be appointed by the department.

The powers of the Planning Committee to determine applications are not absolute as there is a right of appeal against these decisions to the Minister for Local Government and the Environment, who then makes a final determination. In making this determination, the minister has to consider a report prepared by an independent planning inspector who will have conducted a hearing of all the evidence relating to an application.

I can confirm that, following my appointment as minister, the department appointed the hon. member for Garff, Mr Rodan, being a member of the department, to be the Chairman of the Planning Committee with effect from 16th December 1996. In giving the answer on the previous occasion, thanks were expressed to Mr Rodan for agreeing to take on this complex and time-consuming task in such a highly contentious area of government activity and I have no hesitation in repeating my indebtedness on this occasion.

The department also re-appointed at that time Mrs Audrey Roberts, Mr Terence Kendrick Marston, Mr John Raymond Cannan and Mr Douglas Alfred Duggan to be the other members of the Planning Committee with effect from 24th January 1997. These appointments are at the pleasure of the minister and I intend that they should be reviewed periodically.

Mrs Roberts tendered her resignation and the department then appointed Mrs Gabrielle Teresa Mary Edwards to take her place with effect from 19th November 1997. This appointment is also subject to periodic review.

Turning to the first part of the hon. member's question, I would repeat that there are no set criteria for appointment of persons to the Planning Committee. The department seeks to identify reputable individuals with strength of character and intelligence, with the capacity to understand and apply both law and policy objectively and robustly. Cumulatively, the Planning Committee reflect a range of experience and disciplines.

It has been the practice of the department to try to identify persons resident in different parts of the Island by inviting nominations from members of Tynwald. When a new appointment has been made to the Planning Committee it has been on the basis of careful consideration of suggestions made by hon. members. Positions on the Planning Committee are not advertised nor are applications invited for them by other means. Neither does the department request a curriculum vitae from those who are nominated, though their suitability in terms of what they can bring to the task is taken into account. It is only by considering relevant information obtained about those who are nominated that the department can ensure an informed decision is taken which is in the Island's best interests. Again, may I take the opportunity to express my thanks to the members of the Planning Committee for their valuable service and commitment.

I do not have available to me the specific dates upon which the various non-Tynwald members of the Planning Committee became resident on the Island but suffice it to say that all are resident in the Island and have been for a good number of years.

Bill for First Reading

The Speaker: Item 15, I call upon the Secretary of the House.

The Secretary: The National Lottery Bill, Mr Corkill.

Town and Country Planning Bill – Consideration of Clauses Commenced

The Speaker: This takes us to item 16 on our order paper, hon. members, the Town and Country Planning Bill, and we consider the clauses. I call upon the hon. member for Ayre, Mr Quine, to take clause 1.

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

Sub-clause (1) requires the department to keep under review all matters relevant to planning and enables it to carry out formal surveys for that purpose.

Sub-clause (2) lists the matters which are to be kept under review - the economy, geography, population, communications - any factors affecting them and any likely changes. I beg to move that clause 1 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 1 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We take then, sir, clause 2 and schedule 1.

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

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

Sub-clause (2) provides for the development plan to consist of two elements: firstly, a strategic plan which will consist of a statement of planning policies not tied to identifiable areas of land and supporting matter; and secondly, a number of area plans which will provide detailed guidance for development control and other purposes.

Sub-clause (3) provides for area plans to consist of a statement of planning policies either for a specific area or on a specific subject supported by detailed maps and supporting matter.

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

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

Sub-clause (6) introduces schedule 1 which prescribes the detailed procedure for making a strategic plan or an area plan.

Paragraph 1 of schedule 1 is purely introductory.

Paragraph 2 requires the department to publicise their intention to make a plan and to invite public participation.

Paragraph 3 requires the department to publish the plan in draft not more than a year after completing the preliminary consultations and invite objections and representations. For the procedure for publishing plans and other documents, that will be dealt with subsequently in clause 45(2).

Paragraph 4 provides that the department must then hold a public inquiry into the plan.

Paragraph 5 requires the inspector's report to be published.

Paragraph 6 provides for the adoption of the plan with or without modifications.

Paragraph 7 requires the plan as adopted to be published.

Sub-clause (7) of clause 2 applies the above rules to the revision or repeal of a plan. I beg to move that clause 2 and schedule 1 stand part of the Bill.

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

Mr Gilbey: Mr Speaker, I would be grateful if hon. members would turn to pages 42 and 43 at the back of this Bill which cover the schedule, and it will be seen that as the hon. minister said, the schedule sets out the development plan procedure, and it is very important to note that in this schedule 'plan' means a strategic plan or an area plan and also, as we have heard, from, I think it was, sub-clause (7), it also applies to any amendments to those plans. Now, these plans, of course, cover such things as village plans and, taking the one at Foxdale, we had tremendous co-operation from the department's officers in getting public consultation. In fairness to them, when there was consultation to begin with and then a long delay before anything further happened, they had more consultation, which was greatly to their credit, and I have always understood from them that the whole aim is to get the maximum consultation because they, like me, realise what terrible heart-burnings there can be when people do not realise what is being proposed in the plan and therefore they do not protest at the time and later on, some years later, find that there are proposals with which they are terribly upset, but then it is too late to do anything. Of course, although under paragraph 3 they are being encouraged to make objections and representations in writing, the key time for making objections, representations or indeed - a point which is often forgotten - saying that they agree with what is in the plan, because very often they do not know who has made objections until the inquiry but when it comes, I have advised my constituents to go if they possibly can so that they can hear what is being said and, if they do not agree what other people are saying, they can get up and state their view.

But when we turn to the detail here about the inquiry, you will see that sub-paragraph (1) is all right and then we get to sub-paragraph (2), that is all right, but sub-paragraph (3) says, 'The following persons shall be entitled to be heard (in person or by a representative). . .' and then we have a list. And first 'the Department' - that is fine; then 'any other Department or Statutory Board' - that is very reasonable; 'any local authority' - that is essential, and 'the Manx Museum and National Trust' which is perfectly reasonable. But the last part, (e), I fear is not. It says, 'any person by whom an objection or representation (not having been withdrawn) was made in accordance with a notice under paragraph 3'. That means as far as the public are concerned that the only members of the public, whether they live in the area or anywhere else, who can attend as this is drafted are those who have made an objection or representation and not withdrawn it. But, as I have said earlier, a lot of people I have encouraged to go there to

inquiries just to hear what is said, so if they disagree with what someone else says, they can get up and express their views, and I think it is totally wrong that it should be limited as proposed here just to persons who have made objections for representations and not withdrawn them.

That is the reason, to right this, that I have moved the amendment in my name:

Page 42, for paragraph 4(2) and (3) substitute -

“(2) The inquiry shall be conducted by a person or persons appointed by the Governor for the purpose; and —

- (a) section 1 of the Inquiries (Evidence) Act 1950 applies to such an inquiry with the omission, in subsection (1), of the words “if authorised by a resolution of Tynwald”; and*
- (b) any person shall be entitled to be heard (in person or by a representative) at the inquiry.”*

That means anyone can go, whether they have made written representations or they have not, whether they are for what is proposed or whether they are against it, because I would emphasise again I think it is vital that people should be able to go just to hear what possible objectors may be saying or to hear what new points people may be making. So I hope that to allow the largest possible representation of affected persons at inquiries, this amendment will be agreed, because I do believe it is absolutely vital, because I am sure all members like me have seen what terrible gnashing of teeth and tears there are when people find planning things are going on in their area, you point out to them, ‘Oh, this was all agreed in the village plan or the development plan’ and they say, ‘I never knew’ and what can you do? Nothing, and that is why I always urge my constituents to go to these inquiries and why I think they should be able to do so. I beg to move, Mr Speaker.

Mrs Crowe: I beg to second, Mr Speaker, and I fully agree with the remarks by the hon. member for Glenfaba.

Mr Quine: Speaking to the amendment, Mr Speaker, I would just indicate that this amendment is perfectly acceptable.

Mr Cannan: Mr Speaker, I fully agree with these fine words in clause 2 about the production of area plans, development plans, village plans and so on. Only what does concern me is the length of time that these plans take to be produced, to be forthcoming. We have been promised, for instance, a Jurby plan for eight years, and nothing comes. So here we have a Bill full of fine words that they are going to produce all these development plans, and quite rightly so, but performance is better than promise and I hope that when this Bill comes through there will be a concerted effort in the department to produce development plans so that people will know what is happening and where they can go and what they can do to produce in the areas economic growth if they so desire, or to restrict development if that is also a wish, but at the moment there is a paucity of plans in certain parts of the Island.

Mr Brown: Mr Speaker, I am also happy with the amendment put forward by the hon. member from Glenfaba as I believe it is important that the system of permitting people to have their say at such inquiries should be as user-friendly as possible, i.e. that people can turn up and have their say. What I would like just to raise with the minister, and I wonder if he maybe

could confirm, really, and clarify the situation, is under clause 2(4) and I quote where it says: 'The proposals in an area plan shall be in general conformity with the strategic plan.' Now, could I ask the minister just to clarify the situation: if in fact there is no strategic plan - and whilst I note later on in that sub-clause it says whichever is later shall prevail - I presume that one is already there and then subsequently renewed afterwards; could I ask what is the situation, because I do think it is important within the House it is made clear for the public, in relation to a local plan that is produced when there is no strategic plan? This does not say the proposals in an area plan 'may' be in general, it says they 'shall' be. If you have no strategic plan, how can that work? I just ask the minister if maybe he could clarify that from his more detailed notes.

Mr North: Mr Speaker, could I just also support the amendment, because I think it is essential and better, but also really to enforce what the hon. member for Michael is saying that certainly these local plans are absolutely vital and should be the priority for the department on the planning side. Certainly, in my particular area we have an amazing situation where suddenly there are well over, I think, a hundred houses emerging, and schools cannot cope with this. The plans, if they are not done on a regular basis - really the whole thing gets out; it is the tail wagging the dog. Could I urge the minister, please, that these plans should take priority? I know that he has been short of

staff -

Mr Cannan: Excuses, excuses!

Mr North: - and I hope that has been rectified.

The Speaker: Can I invite the hon. member for Glenfaba - do you wish to say anything, sir?

Mr Gilbey: Just very quickly to thank the hon. minister for accepting the amendment.

The Speaker: I call upon the minister, then, to reply to the debate.

Mr Quine: Thank you, sir. Two points, I think, that I should comment on. Delay in revising the area plans - I am sure those hon. members who have read their annual report will have seen a long list of plans which are at different stages of review. I think there are nine now listed altogether, so I think that is already being addressed as fast as we can. But again, of course, hon. members are aware that there is a lengthy consultative procedure to bring into play an area plan, so we have to live with that unless we are going to cast aside the interests of the public in having proper input into these plans. So that is in hand. I recognise the need to do it as quickly as possible. We will do it as quickly as possible, given the need to establish priorities, of course, and we are doing that as between different plans.

The hon. member for Castletown refers to 2(4) in terms of 'what happens if there is no strategic plan in place?' This Bill has been brought in on the basis that there will be a date when it will be brought into force and, quite clearly, unless there is a strategic plan in place, that date will not be activated or published. If he wishes to have a more finite view from a legal point of view as to whether or not a local plan can stand in the absence of a strategic plan, obviously I can get that for him and pass that on to him. But this Bill, as I am sure hon. members recognise, will have a date and it can be brought in either in part or in whole in

accordance with the progression of the various orders and other matters related to this Bill. I beg to move, sir, that clause 2 and schedule 1 stand part of the Bill.

The Speaker: Hon. members, the motion is that clause 2 and schedule 1 stand part of the Bill. To that we have the amendment as moved in the name of the hon. member for Glenfaba, Mr Gilbey, and circulated to you. Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it. Clause 2 and schedule 1, then, hon. members, as amended. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We will take clause 3, sir.

Mr Quine: Thank you, Mr Speaker. Clause 3, sir, gives the department a new express power to issue planning policy statements which are less formal than the development plan.

Sub-clause (1) enables the department to issue statements of planning policy, as they are now called, indicating how it intends to deal with planning and other applications.

Sub-clause (2) introduces the term of 'planning policy statement' to refer to a statement under sub-clause (1).

Sub-clause (3) requires such a statement to be laid before Tynwald and to be published in accordance with clause 45(2), which we will come to in a short while.

Sub-clause (4) requires statements of planning policy to conform with the development plan - that is, such statements cannot be used to override a strategic plan or area plan without going through the proper procedure under clause 2, and if there is any inconsistency, the plan must prevail. Mr Speaker, I beg to move that clause 3 stand part of the Bill.

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

Mr North: Could I just ask the minister on this whether he could just explain - when we bring out these planning policy statements could he just bear in mind - and I have only just found this out in recent months - that as you issue a planning policy it gets consultation with the local authorities? It has come to my notice from several houses and a lot of other houses being erected within my particular constituency that it is the policy of the Planning Committee to recommend houses rather than bungalows. Now, it depends on where you are in the Island as to whether that policy applies to a particular area in one way or another. Could he just ask whether these planning policy statements - he is looking at them - do take into account the areas around the Island, or is it just a general carte blanche that if the planning policy wants houses, it will be houses?

The Speaker: The minister to reply.

Mr Quine: I am a little bit surprised at that remark because I am sure the hon. member recognises the nature of the planning procedure, and it starts with an application which is put forward for a particular development - it may be a house, it may be a bungalow - and it will then be considered by the Planning Committee. If the Planning Committee are not minded to approve the application as requested when it has gone through the procedures, then it may well be that it is turned down and it may be intimated that an application for a different type or a slightly different design might be appropriate. That is part and parcel of the planning procedure and there is very ample opportunity through a three-stage procedure for the case to be made. Now, if we are talking about the substance of planning statements or orders, then I am sure the hon. member will be aware that in this Bill we are proposing to bring into being a

broad-based consultative committee who will be examining these orders and statements in the future, so we are going to have much broader input from outside the department into the content of these statements. So I think there is really little concern for that. I suspect that comment is founded rather on a misunderstanding of the actual planning procedures themselves. I beg to move, sir, that clause 3 stand part of the Bill.

The Speaker: The motion, hon. members, is that clause 3 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 4, sir.

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

Sub-clause (1) provides for an area plan to designate an area as requiring special comprehensive treatment. Of course, such an area could possibly be an urban regeneration area.

Sub-clause (2) requires the plan to state what treatment is proposed and when it is to start. This must be not more than five years from the adoption of the plan. That, of course, is to prevent properties in the area from being unduly blighted.

Sub-clause (3) gives the department power to acquire land in an action area by agreement or compulsorily: (a) it is a technical provision relating to compulsory purchase; (b) it sets a time limit - that is the end of the five-year period laid down by sub-clause (2). Mr Speaker, I beg to move that clause 4 stand part of the Bill, sir.

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

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

Mr Quine: This, sir, is a new provision, requiring any legal challenge to the validity of a strategic or area plan to be brought within six weeks of its publication.

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

Sub-clause (2) enables a challenge to be brought in the High Court within six weeks of publication of the plan on the ground that it is ultra vires or that the proper procedures have not been followed. In that case the court can suspend the plan as an interim measure and can make a final order quashing it in whole or in part. I beg to move, sir, that clause 5 stand part of the Bill.

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

The Speaker: The motion, hon members, is that clause 5 stand part of the Bill. Will those in favour please say aye: against, no. The ayes have it. The ayes have it. Part 2, sir, and clause 6.

Mr Quine: Thank you, Mr Speaker. Clause 6, sir, defines 'development' - that is, the activities which are subject to control under this part of the Bill. It largely follows the existing law, but a few matters are subject to amendment and clarification.

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

Sub-clause (2) includes certain activities in the definition of development that they require approval for, at sub-clause (2).

Sub-clause (3) excludes certain activities from the definition of development so that they do not require planning approval. I beg to move, sir, that clause 6 stand part of the Bill.

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

Mr Downie: Mr Speaker, I rise to move the amendment which stands in my name and has been circulated:

Page 5, line 36; omit "subject to subsection 3(d),"

Page 6, line 30; omit paragraph (d)

I think what this particular section highlights is that provided anybody else but a government department is planting a number of trees, they need planning approval, and when you turn over the page to line 30: 'the use by the Department of Agriculture, Fisheries and Forestry of any land for the purpose of forestry (including afforestation) and the use for that purpose of any building occupied together with land so used,' that gives an exemption to a government department for the requirement to seek planning approval, and the reason I have moved my amendment, hon. members, to clause 6 is that we have a situation here where we are actually making a special case for a government department. Can I say that as a government department responsible for forestry, we do not even have a proper policy document in place to cover afforestation. This was promised to Tynwald some 18 months ago and we have yet to see it. And I would also point out to hon. members that if this clause stays within the Bill and is accepted today, this will remove the rights of any individual who wants to come along at a planning inquiry because the purpose that the department will be seeking to plant the trees will not be the subject of a planning application. The department may, subject to certain conditions, be required to undergo an environmental impact assessment but really, with an issue so important as forestry and given the amount of problems that have been faced in the adjacent island and elsewhere, I think it is important that members of the public in the Isle of Man and other bodies who are interested in wildlife, in nature conservation, will have the opportunity of having their say at a particular planning application.

Now, back when this Bill was being put together there was a white paper issued and, following the issue of the white paper, there was this consultation paper which I am holding up now - I do not know whether members are au fait with it - and this was a resume of all the different points that were made and I will just read from certain sections of it here: 'Forestry. The present definition of development in the Isle of Man excludes afforestation schemes from planning control.' That is the case at the moment. 'In the UK, however, because of the impact such schemes can have on the landscape, it has been suggested that they should be subject to planning consent. We suggested that it would clearly be both undesirable and impractical to seek to control all tree planting operations. However, we suggested that some consideration be given to making major afforestation schemes subject to planning control. The definition of 'major' would have to be such as to still control someone who, knowing that a large tree planting scheme would require planning consent, sought to get the same result by planting a number of smaller areas, each of which was below the limit but which together would have needed consent.' Now, within this Bill under the regulations there is an opportunity to introduce permitted development orders and what we can do, the smaller schemes - say, for argument's

sake, up to two hectares - can be dealt with by a permitted development order, but major schemes involving areas of high landscape value larger than two hectares and to be carried out by the department should really, in my opinion, seek a planning application.

At the end of the section on forestry there was a piece put in by the department and this has been circulated to everybody who made comment, all the local authorities and the different groups: 'We have given careful consideration to DAFF's views. We still feel, however, that if planning controls are to be exercised over other land users, it would be inequitable and unjustifiable not to impose similar controls on the land for afforestation schemes. We are also conscious, however, of the need to avoid including amenity planting within those controls. Accordingly, we would propose that planning control shall be required for afforestation schemes where that is the proposed primary use of the land rather than incidental to other use of the land and the area of land concerned exceeds one hectare.'

Initially, when this Town and Country Planning Bill was originally printed, there was a section in it where it quite clearly made reference to afforestation and said that all afforestation should be covered by an application for planning purposes. Following some discussion within the Council of Ministers this section was amended for the final printing of the Bill and that is how we are in this position today. Now, I would say, hon. members, that if we are going to give a free hand to a government department for major afforestation programmes, we have to have fair play. There has to be a mechanism where people wish to put an opposing view. At the moment, if this goes through in its present form, there will be no opportunity to put conditions on, no guidelines for restoration, and when you plant some of these coniferous forests, you are virtually doing what you do when you build a house. You are putting something out into the environment that is going to be there for 60 to 70 years, so why are we in a situation in the Bill here where we are making a special case for government? I think that we have to have a level playing field. People outside and other people interested in the well-being of the Isle of Man should have the opportunity to come to a particular planning inquiry or a particular planning application and make their points made and government itself should not be seen to be above the law in matters such as this. Mr Speaker, I beg to move the amendment standing in my name.

The Speaker: Hon. members, if I could just try to be helpful I understand exactly what the hon. member is trying to do. His amendment is that you are omitting paragraph (d) on page 6, line 30, and as that is the intent, there will be a need to delete 'subject to subsection (3)(d)' on line 36 at the bottom of page 5 because, of course, if your amendment was to be approved that would have to be omitted and then you would have to consequently reletter (e) and (f) over the page because (d) would be omitted. But the principle is that you would on (2)(c) have to delete the words 'also subject to subsection (3)(d)' because of course (3)(d) would be omitted. The hon. member for Douglas North.

Mr Henderson: Thank you, Mr Speaker. I rise to second the amendment. Hon. members, this is a very important issue. It is one that will address a long-standing concern that has caused severe ecological and environmental problems to this Island for many years. We all remember the Ballaskella incident last year, the public outcry at the destruction of our vanishing hill lands. That is what this amendment is seeking to avoid for the future.

Large-scale coniferous plantations are environmentally damaging, they help cause pollution and a severe imbalance of elements in the soil, ultimately leaching into the rivers and

our water supplies. Coniferous plantations can spoil the landscape and views, blot out important features and cover and spoil areas of archaeological importance. Our hill lands are well known and internationally important. We have some of the best natural ecological real estate in the world. The hills lend form and shape to the environment and set out the scene for our most breathtaking scenery, the stuff tourists come back to see and visit again and again, and the stuff that gets everybody out over most weekends for a drive or a walk, or just to be in the beautiful green open spaces. We use pictures of our scenery in everything we produce. It is a major selling point for the Island. Let us face it, our Island scenery and especially the hills are stunning, all covered in the purples of heather, greens and browns of other plants - you cannot get any better. And to top that, if you can, they are full of rare birds and animals, all on record. And that is not just Bill Henderson the eco-warrior sounding off, that is a fact, and it is a fact in the Manx Museum and it is a fact registered and recorded in the Manx Nature Conservation Trust. Even the Department of Agriculture, Forestry and Fisheries officers and the convener of the Wildlife Act and Director of the Wildlife Park, Mr Nick Pinder, have had to admit in the past the importance of the Manx hill lands.

This hon. House and the Legislative Council at Tynwald last year showed its great concern for the Island's environment by voting almost unanimously in its discontent at the present unacceptable situation of unrestricted coniferous afforestation taking place on our Island hills and the damage large-scale plantations can cause in relation to Ballaskella especially. The UK is doing a complete U-turn at the minute on this strategy, and it is a strategy that is now becoming fast outdated. We have absolute public backing on this issue and it is our duty as the elected representatives of the public to ensure their interests and the Island's heritage are protected. The likes of Ballaskella cannot be allowed to happen again. This amendment is surely the best way forward.

Last week we heard the hon. member, the hon. minister Mrs Hannan, publicly state, and I quote 'I do not however believe there should be fast-track planning or any exemptions made for government or any government proposal' (**Members:** Hear, hear.) 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,' and she further makes reference to environmental and ecological concerns. Having said that, Mrs Hannan is absolutely right. No government department should be exempt. (**Mr Cannan:** Of course.) The people of the Isle of Man must have the right of saying what is affecting their lives, and government should go through the same processes as anyone else. It places the same control on the Department of Agriculture, Fisheries and Forestry as every other government department and person in the Isle of Man and it helps restrict uncontrolled afforestation of more than five acres causing planning approval to be sought and some sort of environmental impact study to take place. The amendment gives us the chance to progress legislation which will assist in protecting our valuable natural heritage and correct this anomaly once and for all.

Mr Karran: Vainstyr Loayreyder, I have a lot of sympathy with the principles that the government should not be treated any differently than anybody else.

Mr Cannan: Hear, hear, Peter.

Several Members: However. . .

Mr Karran: But after seeing the situation that one inherited at the hospital, I have to be perfectly honest with you - we talk about protecting the general public; the money that has been wasted because we have allowed ourselves to be incarcerated into . . . I am trying to think of a parliamentary term and the situation is that we are going to have valuable resources lost because of the fact that the hospital has been enchained into a specific way because of a so-called environmental assessment which, to be perfectly honest with you, I am very disappointed with, to put in mildly, but it is a great concern. I am all for control and that government should be accountable, but what I am concerned about and what members must be concerned about is not creating almost a mafia of vested interest, of people who have to be consulted and they have to go down this process (*Interjection*) to tell you that the earth is round and give you a bill for a few hundred thousand pounds for it. I am concerned that we have to be careful here and, whilst I think there is a balance and the member for West Douglas has legitimate concerns to his proposal, I think we have got to also realise that government has to govern and it has to get things done and I am afraid, looking at the hospital, if I was inheriting the hospital from day one, apart from not putting it in that place, when I look at the design and why it has been tied into such a design and here we are trying to argue the situation where we are going to make it even more that we have got to have an environmental assessment for this, that does concern me. I am not sure who is right but I do think, with my experience with one of the major projects of government, we have somewhat shot ourselves in the foot as far as getting what is best for the people of the Isle of Man because of that process.

As far as the issue of trees is concerned - and I do have some concerns about the fact of the lack of broad-leaved trees - I am concerned that we are going to get ourselves into a situation where we can get nothing done because what will happen will be everybody will not do anything and we have horrendous and sometimes . . . Obviously with forestry you could never say it is a matter of national importance to get these trees planted within six months or a year, but there are times where there will be a need for speed and where we need to resolve issues, and I am just a little bit concerned that we have got to make sure we get the balance right. I not sure whether by supporting this clause that we are getting the balance right, but I will be interested to hear what the hon. member has to say in reply.

Mrs Cannell: Mr Speaker, I am quite startled by the remarks made by the previous speaker who has just taken his seat. He spoke about mafia, but if we were to support the amendment which requires the Department of Forestry to seek a planning application for anything over and above two hectares to me is a reasonable amendment, an assumption to make to this Bill, but to say that it is getting close to mafia - I would have thought that the provisions of the amendment provide a very democratic process.

Huge afforestation programmes are very important not only to the ecology but also to the communities that live in and around where there are plantations. Trees are an integral part of any close community and are very important to Island life, but equally important is the democratic right of anybody who felt that they would be affected by such an afforestation programme, be it conifers or something else, to have their say. So I am quite surprised that such comments have come from one who I always thought upheld the democratic process.

Then he went on to talk about the hospital and the fact that his department is tied into the design of the hospital because it was subject to such vigorous planning law and enforcement.

Well, I would suggest to him that if he felt that his department was getting tied into a design that perhaps was not as welcome as it could have been at the end and was not what the department wanted or desired, then the department, being the client group, had the option of withdrawing their plan (*Mr Karran interjecting*) and that option is open and would be open in this situation.

I find it quite frustrating when remarks like this are made by the member for Health over a planning matter in relation to the hospital after members have spent years of deliberating and in some cases opposing what was being proposed under this particular planning, and for him now to come back and to be saying, 'Well, I am unhappy with it as well but I have been unable to do anything about it.' As I have said before, if someone wants to build a house, extend a house, do something to a barn, do some sort of structure in the countryside or in a town or in a village they are subject to planning. Equally if a tree is registered, again there is great concern if somebody is wanting to seek a licence to take a tree down, and even if a tree is not registered but is a mature tree be it sycamore, beech, oak or anything else; if it is going to be removed and it has been in place a long time it causes concern. That is in the villages, the Island's towns et cetera where there are communities and where people have become accustomed to seeing a tree or a group of trees in a particular place.

What I find heartening about this amendment is that it will not actually prevent the department from functioning - that is, the Department of Forestry - because the mover of the amendment did say that there is provision for the department to be able to come forward seeking a permitted development order for any afforestation programme that was going to be over two hectares, and that to me is a reasonable proviso within this particular Bill.

I made no comment earlier about conifers and the acidification, but it is a well-known environmental fact -

Mrs Hannan: No it is not.

Mrs Cannell: - that acidification produced by conifers perpetuates acid, it picks up metals in the fall-off and does pollute watercourses. They do cause a lot of damage. I along with, I am sure, a great number of MHKs over the years have been part of environmental groups, conservation groups, for as long as I can remember. Conifer trees have always and will continue to be a concern to those organisations who do have professionals in their organisations who know what they are talking about in terms of trees and in particular the damage that conifers can cause.

I have to also say that I too am disappointed that we were promised in another place that a policy would be coming forward from the Department of Agriculture, Forestry and Fisheries, and I still await that time. It is long, long overdue. A little bit disappointed that the minister has not taken the bull by the horns, come forward

(*Mrs Hannan interjecting*) and informed members of what the policy of the department is in order to highlight, to inform, in order to get support from the members for some kind of positive pro-active move from this department, but I have not seen anything. I have not seen anything other than hold the baby for the last two years. I have not seen the baby grow. I would like to see this baby grow.

Mrs Hannan: Plant it!

Mrs Cannell: I would like to see more broad-leaved plantations coming forward. At one time the Isle of Man was covered in broad-leaved, all sorts of species, broad-leaved trees, and what a beautiful place it was, and indeed (*Interjections*) the Isle of Man still has some of those beautiful trees, but all too often, as I get out - which is quite rare - of the town of Douglas into the countryside, I see more and more conifer plantations. I see more and more scars on our hillsides where they have gone up and they have harvested the conifers - huge tracts, all of this to me is aesthetically unpleasing to the eye, is damaging to the countryside, and I believe that there is an amendment on the floor; if it is supported by members and it is put into the provisions laid down within this particular Bill, then at least we are going some way to addressing that type of situation where there are huge plantations and huge harvesting programmes which cause a lot of distress to people when they witness the scarring and the apparent uncaring way in which these plantations are harvested from time to time. I am happy to move the amendment and I hope it will be supported by hon. members. It is a good democratic step.

Mr Brown: Mr Speaker, interesting to listen to hon. members talking about this and to some degree can understand some of the comments that are made. I would just say to the last speaker that if she does not get out of Douglas much I recommend it!

As far as the situation and the scarring of the countryside, I think we do have to keep ourselves on a level ground here in terms of how far we go in planning. I wonder how many look out and sometimes they will drive past part of our countryside, and at one time it is all nice green fields and then they go past it a few months later and that half-dozen nice green fields is suddenly all brown and grotty-looking because they have been actually ploughed. (*Mr Downie interjecting*) Are we going to say that we want the farmers to seek planning permission because that is an engineering works and therefore it could be very easy to say, 'Well, the planners should actually determine which field is ploughed next because we know more than the people who are in the profession'?

Mrs Cannell: That is agriculture. It is different to forestry.

Mrs Hannan: No, it is not. It is equal to it.

Mr Brown: The hon. member has had her say, Mr Speaker, and is demonstrating she knows next to nothing about this subject. (*Mrs Cannell interjecting*) I think it is quite clear that we need to be clear on what we are talking about here.

Now, the whole basis of the amendment that is put forward by the member for West Douglas is based on the point. . . and he made a number of points that I think have to be responded to. He, of course, we know, has a personal and very strong interest in the whole subject of afforestation, and what he said when he moved his amendment was that he was moving it because the Bill, as it is now before us, removes the right of persons to object to afforestation and developments. I would challenge the member on that statement because my understanding is that afforestation is not subject to planning, has never been subject to planning and therefore you are not removing anything. What this Bill is doing is actually keeping the law as it now is, and I hope the member will actually correct that statement one way or the other; either I am wrong or he is wrong and I am sure he will wish to clarify it when he replies to his amendment. But my understanding is, as the law stands at present the department does not require planning permission to plant trees.

Now, the hon. member has also made the case of the importance of having it that all departments are treated the same, and I am one who certainly believes in that when we are talking about constructing things such as buildings, roads and so on and so on. I believe there is a substantial difference here in afforestation as there is in agriculture. We are talking about a natural development where people plant for different reasons, whether it be crops, whether it be trees, and some would say trees are crops; I am not one who knows a lot about farming but I have heard that term used before.

The question that would be helpful from the member who has been the past chairman of planning and is very involved in this subject is, I would think it would be helpful to the House if he could advise the House how he sees the system working in terms that if the planning law is changed here the Department of Agriculture, Fisheries and Forestry are required to put a planning application in for every tree they wish to plant, and especially when they are doing afforestation, could I ask the hon. member where he sees the advice to the planners will come from in determining where it is appropriate and how a development should be done?

One of the things, with the greatest respect to planners, who have a very varied and professional career and many of them are very professional in how they undertake their work, is that of course they do draw relatively straight lines because they see developments being packaged, and I would say it is important, if you are going to bring this within planning control, to know how the planners of the Isle of Man are going to be advised on what is right and what is wrong in terms of planting trees in the Isle of Man, especially where we have afforestation. This government has a department specifically given a statutory responsibility for growing trees in the Isle of Man. So I certainly would like that replied to by the hon. member when he responds.

Interestingly in some of the points that were put forward, members were reminiscing on the beauty of the Isle of Man as it is now; isn't that somewhat of a contradiction when this area is not controlled by planning now and yet they find it beautiful now? So therefore the question has to be, well, why bring it into planning if everybody finds what is going on in the Island is actually working well? There has to be a good reason.

The other point, of course, is we must not get entangled in the arguments between conservationists, who have all differing views, and individuals and what is right for the Isle of Man. What we have to say is, the law as it presently stands does not require the department to put in a planning application. Therefore, is there a need to make that change? That is the only real question before us. I have to say this was well thrashed out within the Council of Ministers with the Department of Local Government and the Environment representatives putting their case and the Department of Agriculture putting their case, and the minister has listened to both sides including the ministers afterwards and made a decision that the law as it stands at present should remain, and I have to say I believe that is right; I think it is practical. For example, if you require planning permission to develop afforestation, then what about the removal of it? Do you require planning permission then because you are actually going to alter the countryside when you remove them?

The hon. member for East Douglas, Mrs Cannell, was saying how they are scarring the countryside. My understanding of when we talked to the foresters is, there is always a logical reason on how they take trees down so they do not damage the other trees. It is all done in a proper way, and one of the things that she is very critical about was the conifers, better known

to all of us as Christmas trees in many cases. Therefore are we saying that the Isle of Man will have to import all its Christmas trees in the future because we do not like them taking some out that then makes the hillside look a little bit grottier than it was before?

A Member: It doesn't happen with fibre-optic ones.

Mr Brown: Well, we can have fibre-optic. So I think it sounds very good to say, 'This is different; we should not allow this department to be different. It is development' and so on and so on.

Now, the hon. member for East Douglas mentioned about two hectares. Well, I cannot see it in the Bill. So again we have got a story coming out here of what might well be the member's view of two hectares, but that is not what the law says. We are not here to just say what we think. We are here to make law. If you want two hectares, put an amendment in. If it is not in the Bill, it is not in the Bill. It does not matter.

A Member: It is in the development order.

Mr Brown: Development orders will not be made by this House, Mr Speaker; We are here to make the law. (*Interjections*) It does not matter, with the greatest respect, what the hon. member who is moving the amendment says, what I say or what you say. What matters is what the law says and we should pass legislation as we mean it to be, and my view is simple: whilst the hon. member Mr Downie might well believe in two hectares, five years down the road the hon. member for West Douglas, who might well be different from him because he is getting older (*Laughter*), might well find it is a person who does not believe any should be exempt and therefore says 'Well, under the orders we can just go forward with an order and there will be no exemption.' So we have to say what we want. Clearly the hon. member has strong views. He believes this should be covered by legislation. That is his right and he is fighting to make that right. I do not believe he is right. I think it is impractical. What is wrong with the present system? We cannot compare departments with departments in this case because what we are talking about is a crop. We are not talking about a structure. There is a substantial difference and I think we must keep that in mind.

To rely on a permitted development order or an order is not the way forward on this issue. I can understand the hon. member coming forward with the point of view he is because that is how he feels, but it is not the way to deal with it, I do not believe, in practical terms. What happens when the department goes into an area that may be five or six acres or whatever you call them these days and there are trees there and they want to remove them? Will they have to seek planning permission to remove them? That question has to be answered here on the floor of the House now. (*Mr Downie interjecting*) Very good - that is what you are here for. Because is there is any doubt, Mr Speaker, then the law has to be clarified here in the primary legislation.

The planners have an important role to play in this Island: planning officers, planning committees, the minister who is responsible at that time. I have had no case made to me either here or in the Council of Ministers that says to me there is a need to bring this area within the control of the planners. There is no need. There might well have been an argument over what went up in the north of the Island before. I have to say that was a matter of opinion and at that time that opinion swayed. The point that the minister at this stage has not yet provided a report I am sure the minister will respond to, but I would say that it is my

understanding there is no deliberate policy by that department to ignore the will of Tynwald in this area, but it is very important, if we are going to keep the ecology of the Isle of Man right, not to tie it too much down to planning so that it all becomes black and white and nothing happens without going through planning processes, which might well take for example a year to get planning permission to do something simple such as growing trees.

Mrs Cannell: There speaks the minister for the department!

Sir Miles Walker: Mr Speaker, I rise to align myself very much with what the hon. member for Castletown has said.

Mr Downie: What a surprise!

Sir Miles Walker: Well, it may be a surprise to the hon. member Mr Downie who has moved his amendment. (*Interjection*) I would just say, Mr Speaker, that very clearly I am not in support of the amendment and I am not in support of including afforestation within the planning controls. Why on earth should we want to tie ourselves up yet further with red tape, permissions, approvals and all the rest of it? I suppose it must come down to very basic thinking really: do we want people to do things in our community, anything they want in our community, unless they are not permitted, or don't we want anyone to do anything unless they are permitted? And I know which I would prefer. I would prefer people to be free to do the things that they wish to do unless they expressly for some proper person not permitted so to do. It seems to me that that is a very important question when we think about planning, because it can affect every single thing we do. I would prefer to keep planning to the development as has been understood over the years and not to extend it further.

I have put an amendment forward which has not been circulated but it is in your hands:

Page 5, line 36; omit sub-section 6(2)(c)

This removes in clause 6(2)(c) afforestation from development, and I do that because I was taken by a comment one hon. member made this morning saying that the department - that is, the Department of Agriculture, Fisheries and Forestry - should not be dealt with in a different way to another person, and there is a principle there which I think I can accept, and so that is the reason for my amendment as regards (c) in sub-clause (2) of clause 6. It has been my experience over the years - and I am as fond of the Isle of Man as is any other person who is sitting here. I certainly appreciate the importance of the hill-land, the beauty of the Island, the heather and the moorland and all the rest of it, - that that beauty has been added to over the years by the energies and the initiatives of so many private people within our community who have gone out and done their own thing without a planning approval which has resulted in us having a very beautiful Island. I think if people are going to be subject to putting in a planning application when they want to do a little bit of afforestation and be concerned about their neighbours, that there will be a petition from the village and all the rest of it, and that somebody's view is going to be blocked - we know, hon. members - we might not accept it but we know - nobody has a right to review in planning terms but, let us face it, objections very often come down to that very basic point. It certainly will if we include afforestation in the planning process.

Another member suggested that afforestation should be part of the planning process so that if there is a public outcry there should be no development. Well, if I can think of a better

reason not to conclude anything in the development process because there might be a public outcry and so it will not happen, I cannot think of a worse situation. The planners - and I have said it before and I hope I am right, I believe I am right - are not referees, they are not umpires, (**A Member:** Hear, hear.) they are not there to decide if a hundred people do not want something and three people do, then the hundred should get their way. That is not the role of the planners (**Mr Brown:** Hear, hear.) even though, if you read much of our media comment about planning applications, they would lead us to believe that that is the case, and a good public petition will defeat anything. Hon. members, that should not be the case; it really should not be the case. It seems to me that planning is about judgement, and I do not believe that the judgement of the Planning Committee is any better as regards the afforestation of our hillsides than the judgement of the Department of Agriculture, Fisheries and Forestry. I just do not believe it. Why should it be? The Department of Agriculture, Fisheries and Forestry are charged with that, with forestry, as one of their responsibilities. I can look round my own constituency and a number of other constituencies that I am very well aware of and see private woods that have been planted and developed over the years without permission. I have to say I am not at all happy now with our area plans and whatever else they may be being introduced which allocate some of those areas that have been planted as a crop as areas of - whatever it is - natural beauty or something, and they may well be not permitted to be harvested in due course. I find it totally unfair and I do think it is something that the Planning Committee should have regard to.

I believe, by entering into this business of including forestry, planting trees, either large groups, middling groups or hillsides into the planning process, it is a fundamental error, and I hope that hon. members will not go with it. The thought that it gives people the opportunity to have their say is no reason to include something in the development process, to say that planting trees shall be construed as development in the same way as building a house or whatever, and this business of saying, 'Well, we will introduce a permitted development order' - maybe.

As to the point made by the hon. member for Castletown, which will allow certain groups to happen without development control - it is all very well to say that, but as the hon. member Mr Brown said very clearly, those policies can change from minister to minister and Planning Committee to Planning Committee and they do not have to - and I think quite rightly - be approved by this hon. Court. They are policies of the department but they are policies which have a far-reaching effect and affect individuals who have made investments, who want to do things, who want to enhance the beauty of the Island themselves without applying to Douglas, to the Department of Local Government Planning Committee for permission to do it. I do not believe we should be asking for more and more permissions; in fact, I think we should be doing the reverse: we should be reducing them and becoming, if you like, a freer society. By all means do not permit development which is going to be harmful to the environment and to the community, that is fine in my book, but I think we need to stand back from it and be very subjective about this and agree at the end of the day that planning is about judgement. It is a judgement of the Planning Committee and they take into account, quite properly, the advice of their professionals, advice they get from other people who have responded to an opportunity to give their views, they take into account views of the local authorities, quite rightly. But when you read in the paper the local authority has approved or disapproved, that is not the case at

all; the local authority give a comment to the Planning Committee which may help them come to a conclusion. It may not, but it may do.

I believe that the whole subject within this Bill is one of the most important subjects that we have to deal with as elected representatives, because it deals with every man, woman and child amongst us. It is important. I am a supporter of proper planning and I do not think I have ever been an unfair critic of it but, I do think we are taking this one step too far.

Mr Singer: Mr Speaker, I would just like to take up one point and this is on the development order, which does say there would be no planning permission required to plant up to two hectares of trees. Now, I would like to ask the hon. member for West Douglas to clarify the safeguards which would protect, say, the planting of two hectares, then another two, then another two to produce a total area which would need planning permission if it had only been one planning application? How would you prevent this?

The Speaker: Hon. members, I want to make it perfectly plain that the House this morning is dealing with primary legislation, not secondary legislation, and if we start to discuss what can flow from this as secondary legislation you will get yourselves into difficulties. You are dealing this morning with passing primary law. The hon. member for West Douglas, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. Almost two years ago I entered this House with very little knowledge of forestry issues. I was put into the department with responsibility, and one of the first decisions that was asked of this House was debates and votes upon the Ballaskella development, and at that time, with no knowledge, I actually voted against my new department because I was not satisfied that I had sufficient knowledge to make a decision which would last for many decades to come. For the last seven to eight months I have had responsibility within the Forestry Division and some five months ago I had the opportunity of debating this issue with the Council of Ministers, along with my colleague for West Douglas, Mr Downie, myself representing the Department of Agriculture, Fisheries and Forestry and himself representing the Department of Local Government and the Environment. At that stage the Council of Ministers listened to the argument and determined that there was no change justified in the legislation to maintain the status quo afforded the continued operation, scrutiny of forestry and afforestation.

Let us think what has happened in the last two years since the sitting of this House. Has the Department of Agriculture, Fisheries and Forestry gone out and planted on Ballaskella? No. Why not? Because this House still has the opportunity of making the influence in giving its will to be made known to any department within current existing legislation. That programme has been delayed. It may not ever come to fruition. But the department has realised that strength of feeling within this House and the public that it would be unwise to have proceeded down a route, and indeed the will of this House is that it does not without further referral back to another place. Much work has been done in that time with regard to the division to look at the future of afforestation on this Island.

Now, I am not surprised to hear those exponents speaking in favour of this amendment because their views are well known. They were some of the most fierce, outspoken critics of the Ballaskella development, and that is right and justifiable that they continue their position, which is very strongly against conifer plantation...

Mr Henderson: Based on fact.

Mr Shimmin: Much of what is being debated and discussed is historic, because I would agree that there have been errors and misjudgements made over recent decades where afforestation schemes were developed for totally different reasons. It is something whereby there are occasions when many environmental groups continue to criticise some of those developments that took place decades ago. But I would prefer to tie in with something Mr Karran said regarding the vested interest of those organisations to delay or to stop any development of this kind. We know that that is going to be their position because they have stated it publicly for many years, but our job here is to get a job done.

Now, it was also the will of Tynwald that we have an afforestation programme in order to maintain our self-reliance of our own crop of forestry matters. That is something which at a future date another place will have to debate, but we have an obligation within the department to advance the policies of the division. We have looked at all of the issues concerning future afforestation programmes, and the Court of Tynwald still has the power to make its will known regardless of any amendment that is proposed by my colleague Mr Downie in this instance.

I do not believe that it is possible for any future major afforestation programme to take place without an environmental impact assessment and indeed we have spent much time looking at whether it is worth, as was requested by those critics of the Ballaskella scheme, pursuing this direction. The minister, at a later date, will make an announcement on what the department has determined, but let us believe what has gone on this morning. There is a move by certain members to stop any future afforestation on this Island. That is a view where the conifer plantations that are the harvest crop for the Forestry Division would be stopped. Now, that is okay, that is a position that any one of us could adopt, but that is what we are being asked to vote upon here, because if it were to go to the Planning Committee you can rest assured that every environmental group and lobbyist on this Island and beyond would make darned sure that there would be no opportunity for that afforestation to take place.

Now, I believe that there are sufficient safeguards already in place, as has been shown in the recent past. We already have the opportunity for the will of Tynwald to preside over a department if that will is felt strongly enough. To support this amendment now, I believe, is giving a charter to those bodies who want to stop any future coniferous plantation on the Island. I do not believe that we are at that stage; I believe the plantations that do and have taken place in recent times are far better structured and planned than they ever were in the past, and for environmentalists to continue harping back to plantations done 40 years ago as being the cause and damage to our environment - I can sympathise and agree with them but we have moved on. We are a lot more environmentally conscious as an Island and as the world, and I believe that the Forestry Division is well aware now of those mechanisms which are able to try and limit any environmental damage, indeed to negate the environmental damage, that could be caused. In referring to the hon. member for Castletown when he referred to, 'where does this expertise come from?' if this were to be approved, where do we get this expertise from? Will the department go to the Forestry Division? Not if the will of those critics as far as this amendment is concerned; they will go to external environmental lobby groups where they adopt those as being policy of a government. I find that unacceptable. To speak in this way almost makes me sound as if I am critical or hostile towards those environmental groups. They have a role to play and they have a great deal of enormous

expertise, but they are extremely strongly held viewpoints, publicly stated, that would not allow us to do our job.

I would urge members, because we are all now members of our individual departments, that we have a job to do; to move this amendment would put shackles upon another department of government, which I believe is untenable, and were this to happen, then I would like you to consider, how would you feel within your department were an external department of government to come along and dictate your policy? It is not the nature of a building that your department may wish to build, it is your fundamental policy, and if one department can control that, then I believe we are moving in the wrong direction. I will oppose this amendment.

Mr Rodan: Mr Speaker, it is quite interesting how this debate has moved on from being an initial question as to whether it was appropriate for a special case to be made to exclude a government department from the provisions of development control that would apply to everyone else, and it was the amendment submitted, of course, by Mr Downie which sought to have those provisions extend to the Department of Agriculture, Fisheries and Forestry, those provisions being the definition of afforestation as a change of use subject to development control.

Of course, the debate has moved on to the question raised by the hon. member for Rushen, Sir Miles Walker, as to the principle of afforestation of land at all, and basically the question he is asking is saying, yes, the department should not be excluded; if the department was to be excluded from this provision why should everyone else be subject to this provision? Therefore the basic question is, is it appropriate for afforestation to be considered a material change of use? And it is that which he seeks to have deleted from the Bill.

Is the turning of open land into a wood a material change of use? That is the question that the House has to consider. Now, the Department of Local Government's view is that it is a material change of use, just as the conversion of open land into a built environment development would be a change of use, and the reason is that it alters significantly the amenity and the visual impact of an area hitherto as open land - open in a visual sense. The position is that in the law as it stands at the moment, afforestation is excluded from development control. The existing 1934 Town and Country Planning Act excludes from the definition of development 'the use of land for the purposes of a plantation or wood or for the growth of saleable underwood.' That has been the position since 1934. A similar exemption is in the Town and Country Planning Act of Great Britain: the use of any land for the purposes of agriculture or forestry including afforestation is similarly excluded from development. These exclusions date back many, many years, in the case of the Isle of Man to 1934, well before the time of the concept of a modern planning system came into being in the adjacent isle in 1947, and it may well be that in those days it was thought more important to encourage the growth of timber and production of home grown food, and for this reason that particular activity was to be unregulated and not covered by any development control mechanism.

But of course things have changed significantly in the last 60 years. Whereas it might have been thought appropriate in the 1930s from a strategic point of view, the production of wood and timber, things have changed significantly in the sense that there is a greater awareness now of amenity and the value of open spaces. Environmental and amenity issues have become more important over the years. The question is no longer surely, as was suggested by the hon. member for Castletown, Mr Brown, is it as appropriate to control

afforestation as it would be to control ploughing? The two questions are not similar at all. I think it is a ridiculous suggestion to compare the two activities, and of course an agricultural activity such as the ploughing of land is in any case specifically excluded: the judgement has been made that it would quite unreasonable to bring planning system into agriculture, but it would not be unreasonable, I suggest, that afforestation which alters open land into a wood is by any definition a material change of use of that land.

The questions have been raised as to whether we are being very prescriptive in doing this, and I would say to that question that as long as we can accept the afforestation of land as development in principle, then it would be appropriate, through development orders and subordinate legislation, to allow the flexibility that has been mentioned in the House this morning, the necessary flexibility, for example, to allow wider exemptions for deciduous rather than coniferous planting and to govern the planting of smaller areas - entirely appropriate that that should be in subordinate legislation because that subordinate legislation will be subject to Tynwald approval. Members will have an opportunity to debate as to whether it is appropriate, and it is that that it is most important that the House does realise if they can accept the principle that afforestation is a material change of use. It is not something that any government department should have a special provision for their activity to be exempt from and, provided there is the flexibility envisaged through development orders, then I would suggest to the House we would be well advised not to accept the amendment of the hon. member for Rushen, Sir Miles Walker, to leave afforestation in clause 6(2)(c) and to exclude, as Mr Downie's amendment would do, clause 6(3)(c) from the Bill.

Mr Braidwood: Mr Speaker, it has been a very interesting debate and I hope at the end I might be able to offer a compromise which will satisfy all parties.

The hon. member for Castletown made an analogy with ploughing that has already been mentioned again by the hon. member for Garff, ploughing and afforestation, but people are not concerned with the ploughing of fields, they are concerned with the planting of coniferous trees. Now, I had first-hand knowledge a couple of months ago when I walked the West Highland Way in Scotland and, going along the reservoirs and through the plantations, I could see that the Scottish Forestry Board were removing conifers and were replacing with broad-leaved trees. You could see the difference in going through the forests of broad-leaved trees, with the ground cover. You had ground cover; you had life under the trees. You came across conifers and they were completely dead.

Now, Mr Downie's amendment says the removing of paragraph (d), under clause 6(3). Everybody has been talking about afforestation; that also says 'and the use for that purpose of any building occupied together with land so used,' which is slightly different.

We have heard this morning in the questions on the discolouration of water in reservoirs round plantations where conifers are planted because of the leaching and the pH acidity which leaches out the iron and the manganese, causing the discolouration. The hon. member for Peel said round the Cringle Reservoir there was no discolouration; that may be so because there might not be deposits of iron and manganese in that area.

There has been talk about permitted development orders and where this could be restricted or allow the department to have planting of conifers or deciduous trees, but what I am trying to get back to is a compromise and I would like to move an amendment to clause

6(3)(d) regarding the use by the Department of Agriculture, Fisheries and Forestry of any land for the purpose of forestry, including afforestation, up to two hectares, and that would be in the primary legislation and would not involve the permitted development orders.

That is all I have really got to add. There has been talk about the Ballaskella plantation, how Mr Shimmin two years ago, initially coming in, voted against the Ballaskella and now he has changed his mind because conifers are the harvest crop for the department. I think this amendment of mine will satisfy all parties in this hon. House. Thank you. I beg to move:

Page 6, line 33 - delete the words after "(afforestation)" and insert -

“, provided the land used is -

(i) no more than 2 hectares in area; and

(ii) not adjacent to land also used for that purpose.”

The Speaker: Hon. members, I think at this particular stage it would be appropriate if we adjourn. I think we have currently in front of us, or suggested to be put in front of us, a proposal from Sir Miles and a proposal now from the hon. member for Douglas East, Mr Braidwood, neither of which amendments have been circulated to hon. members. It may be appropriate that they take the opportunity during the lunch break so that they can be circulated to members and then we can continue the debate thereafter. Thank you, hon. members. We resume at 2.30.

The House adjourned at 12.59 p.m.

Town and Country Planning Bill – Consideration of Clauses Continued

The Speaker: Hon. members, we continue our deliberations on clause 6 of the Town and Country Planning Bill and, just to bring us up to speed, we have the amendment which was moved and seconded in the name of Mr Downie which has been circulated; we had two proposals put to us this morning which could develop to amendments, neither of which have yet been seconded. At this stage I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I would like to second the amendment -

Mr Downie: You have spoken, I think.

Mr Singer: No, I am going to second another amendment.

The Speaker: I think you have already had your turn. Could I call upon the hon. member for Peel, Mrs Hannan?

Mrs Hannan: Thank you, Vainstyr Loayreyder. The history of afforestation goes back some time and this is one thing I would like to speak to the amendment of this clause on.

Many of the forests that we have at the moment, the plantations that we have at the moment, are there simply because of the need to develop winter works schemes and they were developed in such a way that trees were procured by government and during the winter, when there was seasonal work in the summer but no work in winter, people were taken on to go out and plant trees in the countryside. That is how it started. Those trees are just about coming to maturity now. And that, along with some of the other developments that have needed to be carried out to make sure that there was some sort of financial return for these plantations planted on the winter works scheme, I think has caused some problems, such as

roads going into areas it has been impossible to get into, possible to get into just to plant the trees but not possible to go into and be able to secure their harvesting in a proper and cost-effective way and therefore these roadways have been developed. But after a very short time on these roadways nature has taken over and while there is hard core laid down, nature has developed and in some way compensated for putting a hard road into these areas.

Within the light of this particular piece of legislation it has been discussed in the Council of Ministers on a number of occasions, and the member moving this amendment spoke about bringing this piece of legislation to the Council of Ministers. When it was suggested - and it was suggested - that everything that the Department of Agriculture does should come under planning the question was posed to the legislative draftsman to ask where else legislation was in being to control afforestation, and he assured the Council of Ministers on that occasion that the legislation was in place in the UK. I made enquiries of my chief forestry officer who stated that he was unaware of this legislation. In fact he refuted that assertion completely and he drew it to Mr Gumbley's attention that there was none, from what he understood, and he wanted to know where Mr Gumbley had been able to come up with this assertion. Mr Gumbley, after research, confirmed that he could not find anything in all UK legislation or other legislation to support his previous statement, and the Bill was written as printed but not until there had been a presentation to the Council of Ministers by the member for the department and he has spoken about that this morning. He stated in that presentation that future afforestation proposals would have an environmental assessment and that they would go to Tynwald for approval. The Bill was written in this particular way.

But when it was discussed also with the chief planning officer present, I posed the question who would the Planning Committee use as their expert advice on forestry? And the chief planning officer of the Department of Local Government stated that he would use the Department of Agriculture, Fisheries and Forestry for his advice. Now, the Department of Agriculture, Fisheries and Forestry would be making an application but they would also be looking to the Department of Agriculture, Fisheries and Forestry chief forestry officer to give the advice to the Planning Committee.

If it is not to be, if, say, the orders come forward and say there has to be an independent adviser, that means somebody comes from somewhere else - whether it is the UK, whether it is Ireland or whether it is Europe, it does not matter who that is - you would have to bring in expert advice from somewhere else.

The other issue is an environmental assessment which we have already spoken about this morning. Who is going to read an environmental assessment to the level that I expect an environmental assessment to be carried out on any such planning, on any such afforestation programme, who is going to read that in the Department of Local Government and the Environment? This is not something which you can just assert, as has been asserted this morning by the member for Douglas East and he asserted that there was leaching, the pH was at fault, discoloration, and the member for Douglas North also suggested this morning in questions, and the member for Douglas West, that due to trees there was a certification, and, yes, we can make all these assertions, we can say, 'Yes, that is a fact', but an environmental assessment might come up with something different and if we have got closed minds now to what actually an environmental assessment is going to say, who is going to look at an environmental assessment in an independent way and consider an environmental assessment

when it comes to the countryside and when it comes to afforestation? Because that is how an environmental assessment would be carried out by my department, not looking to ensure that we did it, but looking to ensure that it was safe and that we should do it as opposed to proving that we could.

This should not be seen as my particular policy of afforesting the Isle of Man. It should not be seen as my policy, it is government policy, it is the policy of Tynwald that has been worked up over a number of years because it was seen necessary to provide good-quality wood produced locally for local consumption in the main, to provide employment to a community which needs employment, requires employment, and that is exactly what government policy has been over these years. There is policy in place and there has been policy in place.

The member for Douglas West, the member for Douglas North, for Douglas South have criticised the position of the policy of my department. The policy of my department remains exactly the same, that we should develop a sustainable forestry estate. But in saying that, my department has stressed in two policy statements that my department will review its forestry policy, and that is continuing and the objective remains to report to Tynwald by the end of 1998. An environmental assessment of the Ballaskella site has been commissioned as part of this process. That is a fact. I will be reporting, but it will only be reporting to say that we have not had the environmental assessment completed yet and therefore the reviewed policy will not be in place by the end of this year. But the policy remains in place that we have a sustainable forestry estate, and within all of that we have to take account of everything else that comes within that policy and the policy of government and also the policy of my department, and could I say that has been in two policy documents, it is nothing that the department are hiding, nothing at all, but it has not been mentioned at policy reviews, debates, and this particular issue was certainly not raised last week when we were discussing the complexities of the town and country planning legislation. That does not concern me; anything can be raised at any particular time.

But the member who is moving this amendment states that he wants to put in place the rights of individuals to object, and my understanding when it comes to planning is that the individuals do not have a right to object. It is parties who have rights to object, parties to the proceedings, and as far as I can understand, nothing has been stated to this hon. House today that that would change when it came to this particular area.

What happens at the moment is that my department advises the public through public notices that it is going to develop an area for afforestation and invites comments. It then considers the comments and then publishes again the review of the comments, taking into account the comments that have been made and adjusts its development accordingly.

It did not come to another place for consideration. Before it came to another place for consideration or even to Council, the member for Douglas West moved that it should be stopped, but that was basically it, the resolution did not say anything more than that. My concern is that we opened our comments to many parties and groups, and just for argument's sake, if you are looking at Ballaskella, you would be looking at maybe one or two people who lived in the land adjoining, but you would certainly not be looking at organisations or people living some way off to make their comments. We listened to all of the comments, we took notice of the comments that were made to us, and the ones that were reasonable - we

reduced the size of the site - and those were the proposals that we were considering after taking account of all the representations that were made to the department.

The member for Douglas West also suggested that there were problems in other countries when it came to forestry. But other countries have not developed planning, other countries are in actual fact trying to expand their forestry because they have recognised that it has a value and it has a value of providing sustainable forestry for these countries because there is a continued demand for wood. Conifers tend to be on the whole a very fast-growing crop. They can be cropped and are very fast-growing and when it comes to trees it is about 50 years, but it is a very fast crop compared with hardwoods which may be 200 or 300 years before you get a decent tree of whatever type of tree it was.

So I am not aware of other problems. The Rio Convention said there should be more planting and we operated our last development on the sustainable forestry that was discussed at the Rio Convention, although we are not signed up to the Rio Convention ourselves, but we took into account the best possible ways of approaching forestry, as discussed in other countries when we were developing our policy.

Employment of people I mentioned before, but it is extremely important to remember that my Forestry Division at the moment employs somewhere in the region of 70 people, professionals and manual workers. They do an extremely important job of keeping the countryside the way it is, and the countryside has to be managed. It is no good saying, 'We mustn't do this and you mustn't do that and you mustn't do this.' If we stopped managing the countryside it would not look the way that it does. The ecology of the area would change. We could quite easily let Ballaskella, which was a farm, acid farmland, go back into regenerated woodland and it would not be long before it was covered by gorse, heather which is on part of it at the very top. But in the end it would be shrubs and it would be trees and it would be back to as the Isle of Man was thousands of years ago. We could do that. But the public would say, 'We don't really like it like that, we like it when it is a bit greener and it is a bit more interesting and, yes, we've got the purple of the heather that can be easily seen and not covered with long grass, trees and bushes.' So, yes, it is possible to regenerate all of this, it is possible not to manage anything, but it is important to remember that the Isle of Man is like it is because it is managed. The hills are like they are because they have sheep on the hills, and the sheep on the hills are much less than the UK headage on the hills - as the member for Onchan would say - much less, and therefore we do not have the damage to our hills the same as they do in the UK where the hills are eaten bare. And this came over, that the member for Douglas North mentioned that one of my officers, who now is an officer of the Department of Tourism, but when he was operating for my department did state at a hill conference, a hill land conference, that, yes, there was a concern about trees on the uplands.

Mr Henderson: He certainly did.

Mrs Hannan: I am saying he did. I do not need you to confirm it! I am saying he did! Sorry, Vainstyr Loayreyder. I am saying that he did, but that was on the uplands. The development of Ballaskella was on a farmstead. At that time my department was planning to develop the hillside. My department bought farmland and we did not develop the hillside. We were planning to build a forest on the farmstead itself which is acid grassland.

I do not wish to get into it. I do not want people to see this as a battle on my behalf. I am a government minister: I have a responsibility and my responsibility is to point out that I do not believe that planning is the answer when it comes to policy. My belief is that policy should be made by politicians and if there is need to be a debate and if there is need to be a public inquiry, then my department can do that if that is the policy that this House and another place would wish. But I do not believe that it is for the Planning Committee to decide the policy of another department, when if they are going to use expertise, they are going to use the expertise that is in my department to decide, and if not, they are going to bring somebody in from outside to make a decision on the environmental impact assessment or indeed what the foresters are saying. But that is what the planning officer of the Department of Local Government said that he would do to the Council of Ministers.

It concerns me that there has been talk of two hectares coming within guidelines for afforestation, which is fine, because that would bring in amenity planting and it would bring in small wood schemes, which my department feel is an important part of planting within the countryside. It has been a very successful scheme. Thousands of trees have been planted along with landowners in conjunction with my department. It is a very important area of getting trees into the countryside, the amenity and also the small wood aspect of that. So it is being suggested that two hectares or five acres should be exempted.

My concern with that, and it has been expressed to me by a number of people outside, is that they are concerned that on roadsides, where the amenity planting and small wood schemes are, that soon the trees are going to be on main roads, such as the road down to Ballasalla, which is not afforestation, and this is the reason why I am mentioning it now, that that would be exempt in the future and the development there would continue.

Also, the other area of concern that has been drawn to my attention in the lead-up to this legislation is leylandii trees which do affect a great many people and a great many people are concerned about it, not just here but in other places as well. There is no legislation which controls that.

There is something which I did not mention when I was talking about Ballaskella and if I could just come back to that, we did change the development, we did move the development down the hill. It was a development which I was particularly pleased with because it changed the policy of the department whereby we did increase the hardwood planting from somewhere in the region of 10 per cent to 23 per cent within the proposed afforestation of this area. The policy of my department now is to have a percentage of hardwood at 15 per cent: not an easy thing to do because hardwoods have a longer lifespan before they show themselves as trees. But it is important to remember that, that the policy of the department has been developed and it has been developed from an important point of view of satisfying everyone concerned after consultation.

Members are saying that maybe they do not like conifers but I can quite categorically say that some groups do not like hardwoods. The previous minister planned to afforest the Montpellier area and there was a lot of concern, mainly, I think, from politicians at the time, and so it was decided that the afforestation there should be hardwood, supported by a great many people, but even so, many of the conservation groups still objected to it because it was hardwood. So it is not a simple thing to say that everything that you do with regard to hardwoods is going to satisfy everyone. What does concern me about the amendment that is

proposed is that it is only people with an interest that will have a say and not the body of people who have been able to express their concerns in the past.

Mrs Crowe: Mr Speaker, I support the views of the Minister for Agriculture and of the member of her department with responsibility for forestry, the member for West Douglas, Mr Shimmin. However, rather than see a specific exemption for a government department, I would like to second the amendment before us from my hon. colleague Sir Miles Walker, that is, to omit subsection 6 (2)(c). Thank you, Mr Speaker.

The Speaker: I call upon the hon. member for Douglas East, Mrs Cannell, speaking to the amendment.

Mrs Cannell: Thank you, Mr Speaker, speaking to the amendment and using standing orders so I can get to my feet for a second time. It concerns me a little bit that regarding the amendment the reasons for doing it seem to have been confused by the minister for the department - and I would expect the mover of the amendment, the hon. member for Douglas West, to perhaps answer me in his reply - but my understanding of the proceedings prior to lunch was that we accepted an amendment moved by the hon. member for Glenfaba, and that amendment proposed, and it was unanimously supported, that any person shall be entitled to be heard - this is in regard to planning and planning inquiries - in person or by a representative at the inquiry, and so the one thing that does concern the minister when she was summing up at the end was that only party status would be afforded to those who - what she did not say - would be directly affected by the planning application. To my mind now, no longer is that actually the case because we have actually approved an amendment earlier today which has opened it up to any person shall be entitled to be heard in person or by a representative at the inquiry, being a planning inquiry. So it does in fact open it up to everybody -

Mrs Hannan: No, it does not.

Mrs Cannell: - and I would have thought that any increased control of effective management would be supported by the department. I see the amendment providing this and I see it providing, particularly in view of the amendment which was approved this morning, the improvements being made to satisfy all concerned and to make it a lot more effective and a lot more democratic, involving more people having more of a say than has previously existed before. Thank you.

Mr Duggan: Mr Speaker, I just want to second the amendment of Mr Braidwood, sir.

The Speaker: Thank you, hon. member. The hon. member for Castletown, Mr Brown.

Mr Brown: Yes, thank you, Mr Speaker. Now that the amendment has been seconded from Mr Braidwood it gives me the opportunity really just to make a couple of points on that which I think are important to make, especially based on some of the comments that we have had, firstly just to make the point that my understanding of the amendment from Mr Gilbey regarding the inquiries is only about inquiries and not about individual applications, so the Minister for Agriculture was absolutely correct when she said that an application, if it was subject to planning, would be restricted very much to those who live near where the afforestation was to take place and that might well be one or two people and in fact if you look at the Island, it might well mean none. So I think we have to keep that in mind.

I think the main point I wanted to get up for was really to say that I find the amendment from the hon. member Mr Braidwood, who is now taking the opportunity, correctly, to try and get in primary legislation some form of control in terms of what was being bandied about, this two hectares in area where there would be no requirement for planning permission, I think it would be helpful from him when he responds as to what he based the area on because quite clearly we can all pluck something out of the air, but what is it based on and what is its standing?

But I also have to say, in using the opportunity on this amendment, that I think really we got a strong indication from the present chairman of the Planning Committee about what this is all about when he said something like the department's Planning Committee may not agree with the policy of the Department of Agriculture in terms of the trees they are planting and what he said was, 'We might not want conifers, but we might want broadleaved', and I have to say I think we are in danger of getting into very dangerous ground if we are going to allow, through this legislation, the Planning Committee to determine what type of trees will be grown where. That is a matter for a department with the expertise that is there - that is, the Department of Agriculture, Fisheries and Forestry. It might well be that we do not like certain types of trees, but I honestly do not believe the Planning Committee should determine whether it is conifer, broadleaved or anything else, and that was the indication. And I have to say, even if that is not exactly what the member meant, that is what he said, and I think it is important that what it does demonstrate, of course, is it will give future Planning Committees the opportunity to make that sort of decision, and I think that is what is important.

The other thing that I think is getting a little bit lost on this, Mr Speaker, if I dare say it, is we are hanging our hat very much on the amenity value, and I really think that that is the wrong area. We are talking about here a crop. Trees are planted for a purpose in most cases, when it is done by the Department of Agriculture, Fisheries and Forestry. We are not talking of amenity tree planting, we are talking of production tree planting, where they are doing it to provide a product to save the Isle of Man importing that product from the UK, and at the end of the day, as the minister has said, ultimately Tynwald can control the policy of the Department of Agriculture, Fisheries and Forestry, and I think to move that into the area of planning to some degree can neutralise the impact of Tynwald on policies in that area. So I would just say to members, I believe that they should steer clear of the amendment from Mr Braidwood where we say no more than two hectares, because I really feel that it is not going to really answer the problem. Whilst I understand it answers the point that was raised that there is nothing in writing, it is not in the primary and therefore, if it is left to the other legislation, then it could be secondary legislation that might or not cause a problem.

So I just think we need to be very careful on this and I would just ask members - I mean, they are going to make their minds up - to take on board very much what has been said by many members here and I think the point that there has been such a debate on this shows it is not an easy one to deal with, and sometimes when there is a problem you leave well alone, and my view is leave well alone.

Mr Downie: I speak on the amendment, Mr Speaker. In reply to some of the statements made by the previous speaker, he again asked where this two hectares has arisen from. I refer him once again to a document that was produced when he was a member of the Council of Ministers called 'Planning for the Future 2.' It was a full consultation paper supported by the

Council of Ministers. They made comment on it and I will refer to section 5.11: 'We have given careful consideration to DAFF's views. We still feel, however, that if planning controls are to be exercised over other land uses it would be inequitable and unjustifiable not to impose similar controls on the land use for afforestation schemes. We are also conscious, however, of the need to avoid including amenity planting within those controls.' So quite obviously a lot of consideration was given to amenity planting. I have got no problem with amenity planting. Two hectares, if I am not wrong, Mr Speaker, is five acres. That is a considerable amount of forestry that could be planted, and I think it is right and proper that particularly when a government department, or anybody else for that matter, wants to plant an area in excess of that, they should in my view seek planning approval.

Now, the member also said, 'Where is this secondary legislation?' The member is only too well aware that we have permitted development orders which come before this House on regular occasions, and if you want to put a conservatory up which is less than 12 square metres in volume, you can do that without making a planning application. You can put satellite dishes up, you can do all sorts of other things, and those orders quite regularly come before Tynwald Court and we have our opportunity to speak about them. I am absolutely certain in my own mind that if my amendment was successful today the whole issue that has been brought up, including the one which relates to my hon. colleague for East Douglas, Mr Braidwood's amendment, could be dealt with plainly and simply with the permitted development orders, and I think what we are seeing today is a smoke screen. I am just saddened that all of these ministers who have spoken today so far in the debate are not aware of these documents which have been in existence for some time. They seem, in my opinion, in some areas to be completely oblivious of what the planning system has been and how it is made up and, as far as they are concerned, nobody else appears to be able to have a view on this subject. It is a very important matter. We are not growing a crop.

Mrs Hannan: We are.

Mr Downie: We are not growing a crop, we are making a material change in development, and the safeguards of the public have to be taken into consideration and I take issue with the Minister for Agriculture. (*Mrs Hannan interjecting*) In the United Kingdom the majority of conifer forests which are maturing now were grown for a coal industry which no longer exists, for the manufacture of pit props, and some of the more go-ahead local authorities in the United Kingdom are looking to clear these areas out for nothing and incinerate them to produce energy from the waste that they produce. That is what we think of some of our resources in the United Kingdom. I do not see the situation much different in the Isle of Man when we are cutting and trimming out areas of forest just to make firewood out of - no difference at all.

As far as I am concerned, I would be happy to support Mr Braidwood's amendment if mine should fail, but I would urge members to consider the rights of the individual when making their application, particularly when we are talking about large areas of afforestation. Thank you.

The Speaker: I can be helpful to the hon. member: if you are looking at two hectares, sir, you want to look at three football pitches. May I call upon the hon. member for Glenfaba?

Mr Gilbey: Mr Speaker, I felt I must get up because the last hon. member said that trees were not planted as a crop. With the greatest respect to him, this just is not correct in respect of many trees. Actually trees are planted for two reasons: one for amenity, which is the case with the glens and amenity planting to shelter fields, and even the Department of Agriculture has done this in their Forestry Division to provide shelter for upland sheep, but the vast amount of acreage that is in trees in any part of the world is a crop, a much longer growing and maturing crop than those that just take a season, but it is undoubtedly a crop and people plant trees with the objective of felling them and using the timber for various purposes. So to say that is not the case is quite wrong, and indeed I know of a case of a farmer in the Isle of Man who had some land that was not suitable for agriculture so he put it down to trees as a crop with the intention of felling those trees and making some money out of land which he would not have otherwise been able to do.

Now, when we are talking about a crop, usually people grow crops that are suitable for the location. For instance we do not try and grow bananas or oranges here because we know they would not succeed. In the same way, frankly, hardwoods are not a productive crop in this Island and I challenge anyone to say they are. They may look nice as ornaments, but because of our land and our weather they frankly do not make a commercial crop because they take too long to grow. There are places where they are very fine crop - take beech trees in the Chilterns - because the land there suits them, and that is why most of the trees here grown commercially are conifers. Frankly the department are quite right to grow them as conifers, and I would say, having been in that department some 15 years ago - it was one of the first jobs I had, to be in the then Forestry Division - it is ridiculous to talk about them cutting swathes through the land and not caring and so on. Even then, when things were not so environmentally advanced, the chief forester was very conscious of planting and felling in a way that not only provided a sustainable crop but was environmentally friendly, and his successors have done this even more.

So I personally have no doubt that the Bill as drafted is right and that the Forestry Division, as a part of the Department of Agriculture, should have freedom to plant these crops with a view to harvesting them and, as the minister and others have pointed out, because it is a Department of Government there are controls over what it does, because members can always ask questions or, if necessary, move resolutions. So I certainly oppose the amendment of the hon. member, Mr Downie.

The Speaker: Right, can I call upon the hon. Mr Braidwood to respond to his amendment, please?

Mr Braidwood: Thank you, Mr Speaker. I will be brief, but first of all I would like to thank the hon. member for South Douglas, Mr Duggan, for seconding my amendment to enable it to be debated. There was only the hon. member for Castletown, Mr Brown, who asked one question, but I do believe he answered his own question when he was talking about my trying to initially move the amendment as a compromise to satisfy all parties, to have this when the other members were talking about permitted development up to two hectares being put into the primary legislation. The area of two hectares was brought about because I felt it was a sufficient area, as it has been mentioned, of five acres. At least this amendment would bring the area in question into the primary legislation and, as it has been debated, if it was a permitted development it could come back. It could be if it was in a permitted development in

secondary legislation this area could be reduced to zero. At least with my amendment it does give the department the ability to plant up to two hectares of forest without having planning permission. Thank you, Mr Speaker.

The Speaker: I call upon the hon. member Sir Miles Walker to reply.

Sir Miles Walker: Mr Speaker, during the discussion on this particular clause I certainly have not been convinced that a case has been made to include afforestation in the planning process as a development. I do not believe that that case has been made. I have to say I am aware of the consultation document that has been identified by the hon. member, Mr Downie, but it was that and I think it is headed that, 'Consultation Document', for the purpose of provoking discussion in order to lead the department to getting this green Bill drawn up, but it is a consultation document and I think that there will be, somewhere in there, a statement that this is not policy, it is purely a discussion or consultative document, and I have to say, Mr Speaker, I am not aware of a concern, certainly from anybody that I represent and even in a wider arena, about private woodland being put into place by private or afforestation by the individual apart from the department. I am not aware of the widespread concern, so why do we want to bring it into the development regime? I said before, I do not believe a case has been made.

A number of members have stated they are concerned with the department and Mrs Hannan's department's policy on afforestation. Well, that may be the case, but by bringing afforestation into development does not allay or alleviate those concerns. That is not a case for including afforestation in development as far as I am concerned. A number of members have stated their dislike for coniferous planting and used that as the reason for supporting the amendment. It seems to me that that is not making the case for including afforestation in development. I think the closest any person came to making the case for development was the Chairman of the Planning Committee, my hon. colleague, Mr Rodan, where he said that the case for inclusion of afforestation is that it is a change of use and it changes the nature of an area of land. I have to say I also thought he said something about the Planning Committee would be giving consideration to the sort of trees within a planting. That was certainly the way I picked it up. And again, if we are changing the nature of a piece of land by planting it in a way that is going to alter the landscape for 50 or 60 years, does the Planning Committee really need to get into detail of the make-up of that piece of woodland? It seems to me that that is out of the scope of development.

If afforestation is going to be included in development, then so ought to be any change from moorland into agricultural land or vice versa as I believe we are going to see in quite a lot of places in this Isle of Man over the next few years, where there will be reversion of what we would term, certainly agriculturalists, good agricultural land into scrub land or less productive land, moorland. Are the Planning Committee going to say they want a say in that as well? Are they going to require farmers to keep their fields green and not revert to scrub land? I think we get into very difficult and silly situations. Drainage works where there is some drainage and reclamation of scrub land into good agricultural land, in my terms - are we really saying that that should require planning permission? I would certainly hope not. The Minister for Agriculture, I think, made a very pertinent statement. She said that her department, when considering afforestation, can try and satisfy everyone through the consultation process. Now, if she can get to that situation that is great. She can certainly attempt to do that. In my view the

Planning Committee cannot. It is not their role to try and appease this body and that body and that body so there are no objections, so a development can go ahead. It seems to me that that process is far better in the hands of the department rather than putting it through the formal rigours of the development plan.

So, Mr Speaker, I do not think a case has been made. I hope I have made a case for my amendment, sir. I will not be supporting the one in the hands of Mr Downie, which will seek to include the department within the planning system. I have to say I look on that sort of afforestation as a crop, albeit long term. I am certainly aware of individuals who have done planting of coniferous trees as a crop, many of them happening some 20 or 25 years ago with an eye to some sort of retirement prospect that that allocation could bring them. I think, if those ideas are going to be thwarted, then as a House, Mr Speaker, we should have second thoughts. Please support my amendment.

The Speaker: I call upon the hon. member for Douglas West, Mr Downie.

Mr Downie: Mr Speaker, I do not want to miss anybody out, but at the same time I am conscious of the time so I would like to give as much time as I can to everybody within the time permitted, really.

I would just like to thank Mr Henderson for seconding my amendment. I thought he spoke very well and authoritatively on the subject. It is a subject that is quite close to him and he has done a lot of work in that area with regard to the uplands in the Isle of Man.

Mr Karran - it is a pity he is not in the House at the moment. Sadly I think Mr Karran again has lost the plot. He made references to the Mafia and reference to the hospital. This seems to me a very strange statement to make as he is known in the House as a particularly green man. I am still of the opinion that if we leave the legislation as it is, as I explained early on, there is the basic right being taken away, and I think, as I said early on, when a proposal is made for a considerable amount of land to be planted with forest of whatever type, there should be an opportunity presented for it to become a planning issue, and people have the opportunity then to exercise their rights as does everybody else who is involved with a particular issue.

Mr Brown asked, how would the system work? Well, I think Mr Rodan, the hon. member for Garff, explained how the system would work. After the primary legislation there would be a series of development orders which would allow certain schemes to come into being, and they of course would be approved by Tynwald. 'Where does the advice come from?' he asked. If a DAFF application is required it comes through the same channels. There is absolutely no problem with DAFF sitting round the table in the Planning Committee and making a case for an application in front of other people, the same as they would do with a planning inspector. I see no problem with the system whatsoever. He also mentioned, 'Would you need permission to remove the crop?' as he called it after it was grown. Well, I would say not. It would be established at the time that the planning consent was given that it was a crop, and certain conditions could be put on as to how that land was to be returned and what was to happen with all the old roots and stumps and in effect, this was one of the criticisms that we continually face when people see where forests have been cut down. There is this sea of rotten and decaying stumps sticking out of the ground where there was formerly a lovely colour of trees.

Sir Miles agreed with Mr Brown - well, he has done exactly that for the last 10 years, so nothing has changed. He said he thought there was a problem for private woods. He did not agree, he thought people had the right to plant whatever they wanted. I can accept that. I just hope his neighbour across the road decides to put about 150 big conifers in front of his House and about five years from now he will be saying, 'Well, what has happened when I have got no light?' I still think that we can accommodate Sir Miles and we can accommodate the minister by having a fairly flexible approach with the permitted development orders. I do not see any problem with that and all your small wood schemes and support schemes can go through and be quite easily sorted out.

The planning system, as we know, provides for a process and I think the removal of this clause will put the whole system on a much firmer footing. As far as I am concerned, we need to be absolutely up front here. Now, the other thing that worries me is if there is any legislation in the future regarding planning - are we going to see other government department come along and seek exemptions? It would be lovely: 'Can I put my name down for exemptions to certain planning matters in my department?' I can see the benefits in this. People have to realise that as government, we have to be playing on a level field and, if this Bill goes through in its present form, there is no doubt in my mind that the public are being deprived of the right to object or make any meaningful comment on afforestation which can and is a contentious issue and will have a major visual effect on some of the beauty spots in this Isle of Man for as long a period as a traditional house would. So in my opinion there is justification there.

My colleague from West Douglas, Mr Shimmin, said, 'Where does the expertise come for Ag and fish to be able to make its own case?' Well, that is the case now - absolutely no problem and on issues which are outside of his own department the planners and other people make reference to them and government works together on these issues, but you still have the opportunity for the person who has an objection to come in and make his point heard.

It was also said during the debate that another department was dictating another department's policy. Well, I think this is totally erroneous. It would help if the Forestry Division had a policy to begin with (**Mr Cannan:** Hear, hear.) and then we might be a little bit more flexible on what they could or could not do in the countryside. That is one you will get, brother!

Mr Rodan was quite right: he said a lot of these matters could be dealt with in secondary legislation, and Mr Speaker brought that to my hon. colleague from Ramsey, Mr Singer's attention when he asked a question on it. (*Interjection*) Yes, he is so thin he is going down the nick over there. I just wish I could be as successful as he is losing weight!

Mrs Hannan gave us a brief history of afforestation, the need to develop winter work schemes, and I made reference about there being a similar situation in the UK with all this wood that was grown for the coal industry, but things have moved on and we do not do the things now that we did in the 1930s and, quite right, planning approval -

Mrs Hannan: We do not.

Mr Downie: - was not required in the 1930s, but we know better now (*Mrs Hannan interjecting*) and we have a much more balanced system.

She also said that the policy had been in two policy documents. Well, I would love to find it. It is only two one-liners. If that is your policy, I have no confidence in your afforestation programme whatsoever (**Mr Cannan:** Hear, hear.).

Also it was asked, who would carry out environmental assessments? Well, I would like to see proper scoping reports issued by your department, where we can have some proper input (*Mrs Hannan interjecting*) and not *fait accompli* served up like we had over Ballaskella. Hon. members I could go on, but (*Interjections*) time is pressing on and the subject has been well aired. I would just urge members if you are standing up for the rights of the people you represent here today, please vote for the amendment which I have moved, and at least, whatever happens, the people you represent will have some input when there is a major afforestation programme being promoted by a government department or anybody else for that matter. Thank you, Mr Speaker.

The Speaker: Hon. members, let us now see if the member in charge of the Bill can sort the wood from the trees. (**Members:** Hear, hear.) The hon. member for Ayre.

Mr Quine: If I can draw any comfort out of this situation, sir, it is that, having regard to the number of amendments, another conifer has hit the dust! (*Laughter*)

There are a couple of points that have been raised under the heading of 'principle' so perhaps I could start there. It has been suggested that we should make an exception for the department. Now, I will come back to the Bill and I will come back to why this provision is in the Bill, but I just want to make my own decision clear on that issue of principle. As far as I am concerned I do not believe that government should be treated differently from other segments of our community unless there is a case to be made on overriding national interest, and we have a well-established procedure to come before another place if we are going to establish that. So seeing as there seems to be open house in terms of ministers expressing their views, I thought I would just express one of mine.

Members: Hear, hear.

Mr Cannan: Well done, Edgar!

A Member: Quite Right.

Mr Quine: Mr Speaker, there are really four propositions before us, The proposition that is in the Bill, as has been explained by a number of members, represents the corporate view; that represents the view taken by the Council of Ministers. As a member of the Council of Ministers I will vote in accordance with that view. It does not follow that I necessarily support that view. Indeed, the position of our department has been made quite clear here, but I just want to make it abundantly plain that what we have in the Bill represents the decision of the Council of Ministers, and while I remain there, I will support that decision. So that is one proposition.

Now, what we have in the Bill, I think, is fairly clear. The proposition there is that control will apply to everybody except the Department of Agriculture, Fisheries and Forestry. That is the proposition. Along with that, I suppose we have to accept that that puts them in a position where they could erect certain buildings without approval, access roads, we could have developments without the normal planning conditions. That is, I think, inherent in that proposal. Now, if this hon. House is happy with that, I am prepared to vote with it, that is the

corporate view, but that is what that proposition is and I just want to make it quite clear that members understand that.

Then we have three amendments. We have the amendment in the name of Sir Miles Walker. Now, Sir Miles, of course, has been quite frank and open. He says no planning control should be applied to afforestation; take it out; let it run. I cannot support that myself but, if members are minded to run on that basis, so be it, but I hope they are not going to come crying to me when they get complaints. I hope they will realise that they will be on their own, there would be nothing that we could do about it, but it is a proposition - take it out, do not consider it to be a matter of development and let it run.

Now, we then have two further positions. We have a proposition by Mr Downie who says, 'Include afforestation as development on the basis that you can then, having got it in primary legislation on that footing, produce development orders which could relax that in terms of whatever Tynwald may decide, maybe in relation to the department or maybe in relation to a certain level, size of development. That is a matter that could be addressed by a development order'. That is Mr Downie's proposition. And then we have Mr Braidwood's proposition, which is that the department should be subject to planning provided what they are proposing to do does not exceed two hectares - five acres, basically. So you have the four propositions before you. I am quite happy; I am content. It has been a good airing of all four propositions and I am perfectly happy for members to vote on that as they see fit. As I say, I will support what is in the Bill because I am committed to support what is in the Bill. I beg to move.

The Speaker: Hon. members, the motion is that clause 6 stand part of the Bill. To that we have the three amendments, and I propose to take the amendments in reverse order, hon. members. So, taking first the amendment of Mr Braidwood, which is on page 6, line 33: delete the words after 'afforestation' and insert 'provided the land used is (i) no more than two hectares in area and (ii) not adjacent to land used for that purpose.' Will those in favour of the amendment moved by Mr Braidwood please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Rodan, Houghton, Henderson, Duggan, Braidwood, Downie, Singer and Cannell - 8

Against: Messrs Gilbey, Cannan, Quine, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Cretney, Mrs Cannell, Mr Shimmin, Mrs Hannan, Messrs Bell, Corkill, Gelling and the Speaker - 15

The Speaker: Hon. members, that amendment fails to carry, 15 against and 8 for.

Taking then the amendment as moved by Sir Miles on page 5, line 36, omit sub-clause 6(2)(c), will those in favour please say aye; against, no. The noes have it. The noes have it.

Taking the amendment as moved by Mr Downie, which is clause 6, page 6, line 30, omit paragraph (d) and, as I explained earlier, hon. members, there will be a consequential amendment to this which will mean that at the bottom of page 5 in 2(c) the words 'subject to subsection (3)(d)' will also need to be deleted and subsequent amendments of the relettering of (e) and (f) over the page on pages 6 and 7. Is every member clear? Those, then, in favour of the amendment as moved by Mr Downie please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Cannan, Rodan, Houghton, Henderson, Duggan, Braidwood, Mrs Cannell, Messrs Downie, Singer and Cannell - 10

Against: Messrs Gilbey, Quine, North, Sir Miles Walker, Mrs Crowe, Brown, Cretney, Shimmin, Mrs Hannan, Messrs Bell, Corkill, Gelling and the Speaker - 13

The Speaker: Again, hon. members, the amendment fails to carry with 13 votes cast against and 10 votes cast for.

We then, hon. members, take the clause in its entire form. Will those in favour of clause 6 standing part of the Bill please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, perhaps we can turn then to clause 7 and perhaps take clause 8 as well, sir.

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

Sub-clause (1) provides that planning approval is required for any development. A planning approval is defined by clause 45(1) as approval granted by or in accordance with a development order.

Sub-clause (2) provides that no planning approval is required for resuming a previously lawful use at the end of the life of a temporary planning approval.

Sub-clause (3) provides similarly that where an enforcement notice is served against development in breach of planning control, planning approval is not needed to resume a previous use after complying with the notice.

Turning to clause 8, sir, clause 8 provides for the making of one or more development orders which will provide for planning approval for development. This makes the development control system separate from the development plan. At present a planning scheme not only sets out planning policies but also provides for the grant or approval for development, which is both confusing and inflexible.

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

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

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

Sub-clause (4) enables planning approval to be granted by a development order either unconditionally or subject to conditions. A condition may in particular require a further approval to details of design or appearance.

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

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

Sub-clause (7) enables a development order to delegate the power to grant planning approval to local authorities in such cases as are specified in the order. In those cases references to the department in this Bill are to be read as references to the local authority. Mr Speaker, I beg to move that clauses 7 and 8 stand part of the Bill, sir.

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

The Speaker: Hon. members, the motion is that clauses 7 and 8 do stand - the hon. member for Michael.

Mr Cannan: Sorry, Mr Speaker, I was a bit slow. This business of planning approvals - I think it needs possibly to be aired to a certain extent. The inconsistency that appears that people perceive, anyway, in that one party can obtain planning approval for a certain thing and a similar thing seems to hit rough water if not the rocks entirely, and I believe that the Planning Committee or the planning department should first of all have some consistency in their decisions and secondly, that when they are asked for advice and they give advice to an applicant and then the applicant finds that on application the advice taken does not result in an approval, it causes considerable annoyance, to put it mildly. And then there are from time to time some extraordinary decisions which seem to be almost unaccountable, where for instance, in the constituency I represent, a large building went up of 50 metres by 30 metres by 4.5 metres. It did not even touch the sides; it went in as an agricultural building. There was no reference to the Department of Agriculture as to whether the small acreage on the small-holding warranted a building of that size, and when those people, ordinary people who are making application for windows in their roofs or small kitchen extensions and have a certain amount of problems, suddenly see a massive building of that nature where, when approaching Kirk Michael from Ramsey, the pleasing aspect is destroyed at a stroke and forever by this massive building; it causes a certain amount of annoyance to people, and there seems to be no real redress. But what I am saying is that with large buildings like this surely it is incumbent upon the Planning Committee or the planning officers to just check sometimes whether the reasons given for the building are actually warranted by either the Department of Trade and Industry or the Department of Agriculture or whatever purpose they are needed for for commercial activity. There is very little point in talking about areas of natural beauty and protection of the environment when suddenly these monstrosities appear, whether they are in Kirk Michael or in a conservation area in Laxey, if I am reading correctly in the newspapers and from what I am hearing on the radio.

So all I would say to the - well, it is not really the minister because he does not have day-to-day responsibility for the administration of planning matters but I am just trying to hope that somewhere in the planning system it will be taken on board that with some of these things which are perceived by the members of the public to be extraordinary decisions perhaps a little more care in the future is taken by the officials before they bring them for recommendation to the Planning Committee.

The Speaker: I call upon the minister to reply.

Mr Quine: Thank you, Mr Speaker. It is the nature of planning, sir, that if the decision is favourable to you it was absolutely spot on, it was very consistent, and if it is unfavourable to you, it was inconsistent, it was a horrible decision, but what we forget is that these judgements, these perceptions, which are being voiced quite often are perceptions based without the persons voicing these perceptions having access to all the facts. The Planning Committee has all the facts in front of it and this is exactly the same as a court of law (*Laughter*): the facts are there. Now, if somebody does not exercise their rights under the system, that is another issue, but that is there so I see no problem whatsoever with that.

Now, the second point the hon. member makes is advice to an applicant. An applicant comes forward and he gets advice from the planners and the application then runs its course and, although they have taken advice from the planners, the decision of the Planning Committee is different. My view is that that may be disappointing for some person who has done his best to guide himself along the system, but to me that underlines that the system is working properly because it is made very clear to anybody who seeks advice from the planning office that they are giving them advice in relation to the questions which are put to them by the applicant. That is not the same situation as when the application goes before the Planning Committee and evidence is submitted by different parties representing different interests on which the final decision has to be taken - an entirely different matter. The planning officers will do their best to guide them, but it is made quite clear that the planning officers cannot guarantee that the end result will be that the Planning Committee will approve it. If that was the case I would be a very worried man and we would see a great deal more petitions of doleance flying around on planning issues than we have today. So that to me underlines that this situation is working. I do not think there is any point on me commenting on any one individual application; simply to say the procedure is there. It is a three-stage procedure; everybody has more than ample opportunity to make their case and, if it falls short because they have not made their case, then the blame does not lie with the Planning Committee. I beg to move, sir, that clauses 7 and 8 stand part of the Bill.

The Speaker: Hon. members, the motion is that clause 7 and clause 8 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Take clause 9, sir.

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

Sub-clause (1) requires a planning application to be made in accordance with an order - that is, of course in clause 8. The order may either itself specify the contents of the application or any evidence to accompany it or else to enable the department to give directions as to such matters. And sub-clause (2) enables a planning application to relate to development already carried out or an existing use of land and any matter which comes within clause 8(6), which I have just referred to previously. I beg to move, sir, that clause 9 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 9 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 10, sir.

Mr Quine: This clause provides for the determination of planning applications, in particular for the imposition of conditions, and the procedure for deciding on applications. The powers to impose, vary or remove conditions are considerably clarified.

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

Sub-clause (2) sets out specific powers in relation to planning conditions - that is, a condition can relate to other land under the applicant's control even if it is outside the actual site; or secondly, a condition can require the reinstatement of the land at the end of the life of a temporary approval.

Sub-clause (3) enables an application to be made for the removal or variation of a planning condition if the department agrees it can impose a new condition, provided it is consequential on the removal or the variation.

Sub-clause (4) specifies the matters to which the department is to have regard when considering planning applications and applications under sub-clause (3). The development plan is the first thing they must have regard to; the second thing is any statement of planning policy; thirdly, any other matters specified in the development order; and fourthly, other material considerations.

Sub-clause (5) requires the development order to set out the procedure for determining planning applications and applications under sub-clause (3) including the bodies who are to exercise functions and the publicity for and consultations in connection with applications.

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

Sub-clause (7) enables the department to make regulations enabling proceedings on a planning application to be taken concurrently with proceedings for any other kind of consent. Mr Speaker, I beg to move that clause 10 stand part of the Bill, sir.

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

Mr Gilbey: Mr Speaker, I would be grateful if hon. members would be kind enough to look at page 10, and there at the top there is (c), which says 'the publicity to be given and consultations to be carried out, in connection with the determination of such applications.' Those are things which the department must provide for.

Now, we all know that although advertisements can be made every day in the press many people do not notice them, and this is a great problem but it is an even greater problem if someone is applying for planning permission in respect of somebody else's land or building and that person who owns the land or building does not know because there is no doubt at all that planning applications, once made, can affect the value of a building and surrounding buildings by either putting up the value or reducing the value, and even if there is a refusal it can reduce the value of a building or of land because hope value may have been diminished when it existed before. Therefore I think I am right in saying that I am not alone amongst hon. members of this Court in feeling that at the very least, if somebody else applies for planning

permission in respect of another person's property, that other person who owns the property at least should be advised.

Now, it has been suggested that there could be complicated ways of doing this. The method of doing it, I think, is better than provided through orders and therefore my amendment is:

Page 10, line 6; for the words from "and (c)" to "such applications." substitute -

"(c) the giving of notice of any application for planning approval to any person (other than the applicant) who is the owner of the land to which the application relates; and

(d) the publicity to be given, and the consultations to be carried out, in connection with the determination of applications for planning approval and applications under subsection (3)."

(d) is exactly the same as the existing (c) and this provides that the department will find systems set out in orders of advising the owners of land or buildings if somebody else makes an application in respect of that other person's property, and it seems to me this is only right because then the owner has the right to be a party and to say that he does not agree with the application or he supports the application whatever he wishes to do and I feel most strongly that it is only right that a person should at least know if someone is intending to apply for planning permission in respect of his property. This does not say the person has to agree, because I think that would be too complicated and could be wrong in certain instances; it merely says that the owner of the property should be made aware and therefore I hope, Mr Speaker, that this amendment may be approved by the hon. minister and agreed by this hon. House.

Mr Singer: Mr Speaker, I would like to second this amendment by the hon. member Mr Gilbey, because I find it unacceptable, for reasons that I mentioned before, that applicants can apply for development permission on land not owned by themselves and possibly without the knowledge of the landowner. The time of officers in the planning department and the Planning Committee can be wasted as there is no chance of any development taking place whilst the plan may go through all the stages of planning all at considerable expense. The amendment - and the mover of the amendment knows this - does not go as far as I would prefer as I think personally that the permission of the landowner should be obtained before applying for planning to develop on the landowner's land. However, I do agree that the amendment does go a lot of the way to ensuring that the owner of the land is aware of the planning application and can then make representations for or against the plan. So I have much pleasure in seconding.

The Speaker: The hon. member for Ayre speaking to the amendment, sir.

Mr Quine: Simply to say, sir, that I am content to accept this amendment by the hon. member for Glenfaba.

Mr Downie: I have no real problem with the amendment but I would like to highlight a couple of areas where I think there could be. I will give two examples. One is where a situation arises where one is uncertain of the ownership of the land and prior to it becoming what is called *bona vacantia*; when government takes a look, in other words, when it comes into

government ownership or government determine who owns it, it is sometimes advisable to submit a planning application just on the off-chance that you may flush an owner out.

The other opportunity which causes problems from time to time is that when a person is made an executor of a will, he is winding up an estate and there is land in that estate which may or may not be zoned for housing but there is a likelihood that it would increase the value of the estate if planning permission was sought. Now, if the person is dead and you cannot get any information on the subject it does pose a difficulty there.

So in accepting what the members are trying to do, I would say that we need some legal advice about this aspect because you could put people who are winding up estates into a position where they cannot fully realise the value of the land that is left and not act perhaps in the best interest of the estate itself. So just to bring that to the House's attention.

The Speaker: Mr Gilbey, do you wish to respond?

Mr Gilbey: Well, very briefly, Mr Speaker, I would like first of all to thank the hon. member for Ramsey for seconding, in particular when I know it does not go quite as far as he would like, to thank the hon. minister for accepting the amendment and very briefly to comment on the two points made by the hon. member for West Douglas. I think it is better to find 99 per cent of the owners, even after due effort you cannot find the remaining 1 per cent. I accept that there may be occasions - and this will no doubt be provided for in the orders - where the department, having tried hard, could not find an owner, but I hope that will become less and less prevalent as we get the new land registry system in operation.

Regarding the question about trustees, I do not frankly quite understand the point, because if someone has died I presume a notice to them would go to their executors or trustees and the executor or trustee would make a decision regarding *bona vacantia*. This is a very technical matter and in fact there are very few cases of it, as I know through being a member of the Treasury, to whom these cases are referred. So I honestly do not think there is a problem but I would much rather have those minor difficulties for a tiny minority and ensure that the majority of owners did know if an application was made.

The Speaker: The hon. member for Ayre, do you wish to sum up, sir?

Mr Quine: It was simply to move that clause 10 stand part of the Bill, sir.

The Speaker: Hon. members, the motion is that clause 10 stand part of the Bill. To that we have the amendment in the name of the hon. member for Glenfaba as printed on the white paper circulated to you. Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

Clause 10 as amended, then, hon. members. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Could we take clauses 11 and 12, then, hon. member, please?

Mr Quine: Thank you, sir. Clause 11 provides for certain planning applications to be dealt with by the Council of Ministers instead of by the Department of Local Government and the Environment. The first situation is an application of national importance which can be called in by the Council of Ministers and the second situation is that a development order can provide for applications by the department, or relating to the department's land, to be decided by the Council of Ministers.

Sub-clause (1) enables the Council of Ministers to, as I said, call in a planning application of national importance or which it considers should be dealt with by the department.

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

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

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

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

Clause 12 makes provision for the effect of planning approvals, particularly as to their duration.

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

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

Sub-clause (3) enables a development order to specify a time limit for commencement of development or else to provide for a time limit to be specified in the planning approval. I beg to move that clauses 11 and 12 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clauses 11 and 12 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 13, sir.

Mr Quine: This clause re-enacts existing powers under which the department can enter into planning agreements with developers, regulating a development in ways which would not be possible by planning conditions.

Sub-clause (1) enables the department and any person having an interest in land. It should enter into an agreement restricting or regulating the development or use of the land to be noted that such an agreement can be enforced against successors in title of the original party.

Sub-clause (2) provides that an agreement does not preclude the department or any other authority exercising any other statutory powers or require their exercise otherwise than in accordance with the development plan. I beg to move that clause 13 stand part of the Bill.

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

The Speaker: Thank you, hon. member. Will those in favour of clause 13 standing part of the Bill please say aye; against, no. The ayes have it. The ayes have it. Turning then to clause 14, which introduces schedule 2, hon. member.

Mr Quine: Thank you, sir. This clause, as you have mentioned, introduces schedule 2 and it continues the protected buildings register and provides for buildings to be entered into it.

Sub-clause (1) requires the department to continue to maintain a protected buildings register. The criterion of entry is special architectural or historic interest. If it has neither it does not qualify.

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

Sub-clause (3) introduces schedule 2, which contains procedural provisions with regard to registration. Paragraph 1 of schedule 2 requires the department to consult interested bodies before making or altering an entry in the register.

Paragraph 2(1) requires the department to notify the owner and occupier of a building of the entry of the building in the register or the deletion of the entry and, secondly, it gives the owner or occupier of a building and any other person with an interest in it a right to apply for deregistration of the building either within a specified time from being notified of the entry in the register or after the lapse of a specified period after a previous application for deregistration.

Paragraph 3 enables the regulations to lay down the procedure for registration, amendment and deregistration.

Sub-clause (4) requires the register to be public and for copies to be supplied on request. I beg to move that clause 14 stand part of the Bill.

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

Mr Cannell: Mr Speaker, I wondered if I might have the views of the minister moving the Bill on clause 14 for the input of the financial responsibility of some of the decisions of registering buildings of special architectural or historic interest. I raise again without shame a point once made previously regarding Finch Hill United Reformed Church which, apart from its dubious value to a register, was registered without recourse to the people who were in charge of it, the elders of the church. The building was registered and it completely took out the opportunity which was placed before the elders of the church for that building to be demolished and for a replacement congregational gathering hall to be built at the developer's expense in a deal with the Liverpool authorities who ultimately own the United Reformed Church. It took out that possibility. By the time that sufficient representation had been made by Finch Hill on that matter it was too late and the developer had gone - and I am not talking here of weeks, I am talking of years. Meanwhile, with a registration slapped upon it, no-one else was the slightest bit interested, the building was ridden with dry rot, the owners, the Liverpool United Reformed Church and ultimately its local operators, had no money to maintain it and were left in a hopeless situation. Eventually, of course, what happened at the end was it was demolished anyway and it still remains a cleared sight, yet another carbuncle of upper Douglas.

So what I am seeking here is that the department's minister gives me an assurance that the financial aspect is taken into account of this as well. I am reluctant to go on to talk about the Majestic Hotel and its recent registration and deregistration within a few weeks. That was

dealt with in a quite separate manner, but Finch Hill United Reformed Church, just a quarter of a mile from here, less perhaps, is an outstanding example of where there was insufficient regard paid to the financial ability of those who own property to actually maintain it to a standard as they were obliged to do by their inability to demolish it, purely to preserve the building on a special architectural or historic interest which was of a very dubious nature in the case of that particular building.

Mr Karran: Vainstyr Loayreyder, as members know, I am not a big fan of this Bill. I think far too much of it is being left to secondary legislation and I think it will come back to haunt us at a later date. We have just seen in previous clauses, in clause 10(6)(c) about the similar applications. It is all fine and good talking about it in legislation but it is another thing in reality.

I personally will not be supporting any of the clauses as far as the registered buildings are concerned. I was going to bring a private member's Bill and was stopped because this Bill was coming to finish off the panacea of all the problems with registered buildings, and as far as I am concerned the DLGE has got far too many hats and maybe not enough heads to put the hats on, and their record as far as protection of buildings is dismal. I sympathise with my colleague, the hon. member for Onchan, and being a member of that congregation I have a lot of sympathy. I think that unfortunately people had made decisions and they had made sure that we were not going to do anything that could have been of use for that building. There were a number of sensible suggestions put up. The fact that we spend something in the region of 20,000-odd pounds for each car parking space in the multistorey car park - we could have easily have bought that site. The people who are in charge of registered buildings have no commitment as far as the principle of registered buildings is concerned. We could have quite easily knocked down the halls, created 30 or 40 car parking spaces, which would have paid the price paid for the purchase and to give a lump sum to create some sort of art centre within Douglas, but the will was not there because the planners did not want that in the area and because once again there were far too many hats, far too many vested interests, and so that building was allowed to be destroyed, which they simply just enjoy doing in the DLGE. We looked at Springfield Mansion House, where they purposely allowed it to rot; I have raised the issue of the latest purchase of Rockville which, if we are not careful, will end up another piece of real estate that will be allowed to rot. I am not questioning the value of that particular building but the principle of it, that statutory boards are told to allow the dry rot to engulf the property so that you do not have to worry about the planners because if you can get it full of dry rot and you leave it long enough you can then knock it down like Harcroft was. I am talking fact.

I will not be supporting any provisions in this Bill so far as the registered buildings are concerned because all I see is a joke. As far as I am concerned, the sooner it is taken away from the DLGE the better.

Mr Gilbey: Mr Speaker, I think I have spotted a small technical error in this. If the hon. minister would look at schedule 2, which is about the protected building register, it says under 2(2)(a): 'within the prescribed period after service on him of a notice under paragraph 1;' but if you look up at paragraph 1 it says: 'Before entering any building in the register. . . the Department shall consult.' It says nothing about notices at all. The reference to notices is actually in paragraph 2(1) which says: 'As soon as may be after a building has been entered in the register, or the register has been amended by the removal of a building from it, the

Department shall serve a notice on the owner and the occupier of the building stating that it has been entered in or removed from the register.’ Therefore I think that correctly paragraph 2(2)(a) should read: ‘Within the prescribed period after service on him of a notice under sub-paragraph (1)’. I see the hon. minister nodding. In order to help him I have signed an amendment to cover that point but it is purely a technical one but I thought it was easier to deal with it now than perhaps in another place later: I beg to move:

Page 44, para 2(2)(a); for “paragraph 1” substitute “sub-paragraph (1)”

Mr Rodan: I rise to second the amendment, Mr Speaker.

The Speaker: I think you seconded the clause, therefore I would seek . . . The hon. member for Douglas North, Mr Houghton.

Mr Houghton: I beg to second, sir.

Members: Hear, hear!

The Speaker: Can we then ask the hon. member in charge, the hon. member for Ayre, to respond to clause 14 and schedule 2?

Mr Quine: Thank you, Mr Speaker. First of all may I thank Mr Gilbey, the hon. member for Glenfaba, for spotting that error. I thank him for that (**Members:** Hear, hear!) and for moving the amendment, of course, to correct it and also Mr Houghton for seconding that. Thank you very much indeed.

Well, two members have made comments on this Bill. First of all, Mr Cannell has referred to the situation regarding the Finch Hill United Reformed Church. I am not familiar with that case, as I am not with the others, but I would simply point out to the hon. member that if we now turn to schedule 2 we will see that there is due provision there for interested parties to be informed and, if that procedure is followed, I do not see how the owners of a property could be disadvantaged by not being aware that something was going to happen.

Mr Cannell: There could be financial ramifications.

Mr Quine: Yes, well, the financial ramifications would be taken on board in considering each application as it would whether it is a church or anything else. We will in a short while be coming on to some clauses dealing with financial assistance, which of course may be more relevant to the point the hon. member is making. As far as Mr Karran is concerned -

Mr Karran: Your friend.

Mr Quine: - we know exactly where he comes from, don't we? (*Laughter*) Mr Karran has long held the view that the department should hand all this over in an unfettered fashion to a statutory . . . Well, Manx National Heritage he has proposed on one occasion, to run with this without regard to the resource implications, and I have explained at the second reading why we - and this hon. House has, I believe, endorsed that - should strike a balanced position that takes into account both the resource implications and the need to preserve these historic buildings. I believe we have struck that balance correctly. I am sorry that the hon. member feels that because of his position he is unable to support the clauses relating to registered buildings, but that is a matter for the hon. member. I beg to move that clause 14 and schedule 2 as amended stand part of the Bill.

The Speaker: Hon. members, the motion is that clause 14 and schedule 2 stand part of the Bill. To that we have the amendment moved in the name of the hon. member for Glenfaba, Mr Gilbey, which in effect puts brackets round the figure (1) before the colon in paragraph 2(2)(a). That is the effect of the amendment. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. The clause then, hon. members, clause 14 and schedule 2 as amended. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We then move to clause 15 and schedule 3.

Mr Quine: Thank you, sir. This clause requires registered building consent for works affecting a registered building and provides for the grant of such consent.

Sub-clause (1) requires authorisation for any works for the demolition of a registered building or its alteration or extension affecting its special architectural or historic interest. Carrying out such works without authorisation is made an offence.

Sub-clause (2) provides that works are authorised if: (a) the department has given registered building consent; and (b) in the case of demolition, the Manx Museum has been given at least a month's notice and an opportunity to record the building.

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

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

Paragraph 1 enables the department to impose conditions on the grant of consent. It specifically enables conditions to require parts of the building to be preserved, either as part of it or separately. It covers the reinstatement of any damage, reconstruction with original materials and with permitted alterations and enables a condition to reserve any matter for subsequent approval - for example, the materials to be used in any reinstatement.

Paragraph 2 enables a condition to be imposed preventing demolition until a contract has been let and planning approval has been obtained for redevelopment of the site. It enables a condition to be imposed setting a time limit for commencement and completion of the works. If no condition is imposed as to the start of the works there is a deemed condition requiring them to be started within five years. It provides that the registered building consent lapses if the works are not started within the time limit imposed under sub-clauses (2) and (3), and lastly it provides that the time limits do not apply in the case of a consent granted to legitimise works already carried out.

Paragraph 3 enables an application to be made for the removal or variation of the condition attached to a registered building consent. If the department agrees, it can impose a new condition provided it is consequential on the removal or variation.

Sub-clause (5) of the Bill provides for regulations made by the department to lay down the procedure for applying for registered building consent or for the variation or cancellation of a condition of consent under clause 16(8) below. I beg to move that clause 15 stand part of the Bill.

Messrs Braidwood and Downie: I beg to second, Mr Speaker, and reserve my remarks.

The Speaker: We had two in duet. I then call upon the hon. member for Garff, Mr Rodan.

Mr Rodan: Thank you, Mr Speaker. Firstly, may I apologise for the late circulation of this particular amendment but it follows very recent consultation that has taken place between the department and the Manx Museum at which agreement was reached with the Manx Museum that it would be more appropriate that the responsibility for recording a registered building that is to be demolished be placed with the department and not with the Manx Museum. This is recording by way of photographic record and so on. Therefore, in order to effect that change, that transfer of responsibility for recording a registered building that is to be demolished from the museum to the department, it is necessary to move this amendment:

Page 13, line 25; for sub-clause (2) substitute -

“(2) Works for the demolition, alteration or extension of a registered building are authorised under this Part if the Department has granted written consent for the execution of the works (“registered building consent”), and the works are executed in accordance with the terms of the consent and of any conditions attached to it under Schedule 3.”

Page 45, in paragraph 1; at the end insert -

“(4) Registered building consent may be granted subject to a condition requiring the building to be recorded in accordance with a specification prepared by the Department, and the record to be furnished to the Department.”

This amendment firmly places the onus for recording of a registered building prior to demolition to be the responsibility of the department in accordance with proper procedures. The actual recording, of course, may well take on board the expertise that exists within the Manx Museum and the National Trust, but the responsibility will lay firmly with the department to ensure that it is done. Thank you. I beg to move.

Mr Downie: I rise to second, Mr Speaker.

The Speaker: The hon. member for Douglas West, Mr Downie, seconds. The hon. member for Peel, Mrs Hannan.

Mrs Hannan: The member moving the amendment is suggesting that the department may require this to be done. I would have thought that if it was a registered building and if it had been through the process of being registered it was an important building, and I would have thought that *if* it was allowed to be demolished, then I would have thought that the Museum would have an interest in recording that building and I am surprised that they are now saying that they do not have an interest in recording that building, that it is up to the department, and that the department *may* record it. I do not know whether I have read that right or not, but I am concerned that it might be that the department decides that it is not going to record a building that is to be demolished, and there are many reasons why buildings have been demolished or why pieces of industrial equipment have been lost and the Museum have said they would have recorded them if they had got there in time or if they had known who to contact. There are all sort of comments that have been made in the past. I can understand, but if it is an important building today or when it was registered, I would have thought that the Museum would have an interest in recording it and making that information available in the

Museum for anyone who wanted to make the information available to them. I would have thought that the Museum, which is funded by government anyway should be able to provide, should be able to do that. They have got the professionals, they employ photographers and architects and everything else, and I would have thought it should have been the other way round, but the Department of Local Government and the Environment with their possible expertise on conservation. . . but for the Museum to record this if it is deemed to be of interest nationally. So I think this is round the wrong way, myself.

Mr Karran: Vainstyr Loayreyder, the only thing I am concerned about this clause - and I know clause 30 deals with the offence as far as demolition control on registered buildings, if I have read this Bill right - is, can the hon. mover just clarify in his response: I have got a registered building, there are certain facades of that registered building I cannot abide so I demolish those facades that I cannot abide at the moment. The only fine they can give me is £5,000 but there is no power to force me to put back something similar to the facades that are on the building that I cannot stand in the first place. It would more likely pay me to say, 'Well, here is five grand, I will get rid of those awful windows which are costing me a damned fortune. I cannot replace them. It will cost me a fortune.' I just wonder whether the legislation is strong enough. Is there a power there to say 'Right, you must . . . '? We had a similar one on the promenade not so long ago where registered buildings had their wooden balconies all ripped off, and the situation was that the planners shrugged their shoulders and said they could not do anything about it. Now, are we actually putting something in this legislation which would put some teeth in it? In that particular case, if I had been the owner of that building I would rather have paid my £5,000 than have to pay the large amount of money that it would have cost me to replace those wooden balconies that were on the property.

Mrs Crowe: Speaking to the amendment, Mr Speaker, I would like to know if the Department of Local Government has the expertise to record registered buildings and some of the special features that might only be identified by experts in antiquity? As Mrs Hannan has already mentioned, we have lost a great deal of industrial architecture around the Island because these were not identified soon enough, and I would also agree that I think the Manx Museum has an onus to record these and to record them expertly.

The Speaker: I call upon the hon. member for Garff, the mover of the amendment, to respond.

Mr Rodan: Thank you, Mr Speaker. The hon. member for Peel raises a concern, I think, that the department's responsibility in this is not prescriptive. She refers to the fact that registered building consent may be granted subject to a condition requiring the recording of the building and I think her concern relates to the fact that it is seen as being a discretionary obligation on the department to require recording. However, if you look at the wording in the actual Bill as it is currently written, the only requirement for recording to take place is to notify the Manx Museum and, looking at 15(2)(b)(ii), the Manx Museum can state in writing either that it has completed its recording of the building or that it does not wish to record it. So there is, in the Bill as it stands, no obligation for any recording to take place, at the moment. So what this amendment is doing is not requiring recording to take place and she may wish that it was in fact doing that, but the Bill at the moment does not say so because it will not necessarily be appropriate in every case of a demolition of a registered building for recording to take place. In many cases it could be manifestly unreasonable that recording take place. So just as at the

moment in the Bill, as written, there is a judgement to be made whether that is appropriate and, if so, that it be done and that currently is by the Museum, so this amendment places the onus firmly where it belongs, which is the department responsible for registered buildings, and that is the Department of Local Government.

In relation to the comments of the hon. member for Onchan, Mr Karran, I think they were directed at the mover of the clause relating to aid schemes, if I have taken that correctly, and I will let the minister respond, but in relation to the comments of the hon. member for Rushen, Mrs Crowe, who asked, 'Does the department have the expertise to undertake the recording?' well, the department has, of course, as is known, paid professionals and our conservation officer is a highly qualified architect with postgraduate qualifications and membership of various professional bodies, but even she would not claim to have the expertise to deal with every case. In the case of registered buildings in general, do the department have the expertise? We do not have sufficient expertise to complete, for example, the assessments that are required of the buildings contained in the list, some 400 long entries on the list of buildings which have been identified for possible registration and in fact it has recently been agreed that outside professional expertise be brought in by the department to complete the process of assessing whether those buildings are indeed worthy of registration and, just as has happened in that case, so if outside expertise is required by the department, whether that be from the Manx Museum - and in many cases the appropriate people will be the Manx Museum to complete this recording - but if it is not appropriate or not available from the Museum, then indeed the necessary professional assessment will be brought in by the department to ensure that the recording is in fact done.

The Speaker: I call upon the hon. minister to reply to the debate.

Mr Quine: Thank you, sir. I think the point raised by Mrs Hannan, the hon. member for Peel, has been addressed. I just wanted to point out that we are not taking anything away from the national Manx Museum. As far as we were concerned, if they wished to be the authority for doing this we were quite happy with it, but they feel that they have no need to do that. The past practice has been - and I think Ballamona Hospital is a good example - the recording for the Ballamona Hospital was done by the department. So it is a standing practice.

Mr Karran raised the question of whether we have enforcement powers in relation to registered buildings. I am sure he will be pleased, when we move a little further along in this Bill, to see the new sections dealing with enforcement notices.

Again, Mrs Crowe's point about whether or not we have expertise has been addressed by the hon. member for Garff. If we have not got the expertise, we will get the expertise.

The Speaker: Hon. members, the motion is that clause 15 and schedule 3 stand part of the Bill. To that we have the amendment as moved in the name of the hon. member for Garff, Mr Rodan. Those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it. Clause 15 and schedule 3, then, hon. members, as amended. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 16 and 17, hon. member, please.

Mr Quine: Thank you, Mr Speaker. Clause 16 excludes the requirement for registered building consent in certain cases and sets out the criterion to be applied in deciding applications for consent.

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

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

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

Clause 17 provides for emergency procedure for protecting an unregistered building temporarily by serving a building preservation notice.

Sub-clause (1) enables the department to serve a building preservation notice on the owner and the occupier of a building if he thinks it is of special architectural or historical interest and it is in danger of demolition or of alteration so as to affect its character.

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

Sub-clause (3) provides that the notice is to come into force at once and remain in force for three months. It lapses if the building is registered or the department serves a further notice withdrawing it.

Sub-clause (4) provides that the building is treated as a registered building while a building preservation notice is in force - that is, its demolition, alteration or extension is unlawful without registered building consent.

Sub-clause (5) enables a building preservation notice to be served in an emergency by posting it on the building. Provided that it explains that this is so, it has effect as if it had been served on the owner and occupier.

Sub-clause (6) provides that an application for registered building consent, and any consent granted will lapse if the building preservation notice ceases to have effect except where the building is registered. I beg to move, sir, that clauses 16 and 17 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clauses 16 and 17 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Conservation areas, sir, clauses 18 and 19.

Mr Quine: Thank you, sir. Clause 18 provides for the designation of conservation areas.

Sub-clause (1) requires the department, by order, to designate areas of special architectural or historic interest whose character or appeal and its need to be preserved or enhanced as conservation areas.

Sub-clause (2) requires the department to consult the relevant local authority.

Sub-clause (3) requires an order under sub-clause (1) to be published.

Sub-clause (4) requires the department to consider the need to preserve or enhance the character or appearance of a conservation area in exercising any powers under this Bill.

Sub-clause (5) requires the department to make proposals for preserving and enhancing conservation areas.

Moving on to clause 19, this applies similar controls to unregistered buildings in conservation areas as they apply to registered buildings.

Sub-clause (1) specifies the buildings to which the controls apply: they are all buildings in conservation areas, except for registered buildings and buildings of a class exempt by a direction under sub-clause (2).

Sub-clause (2) enables the department to exempt any class of unregistered buildings in a conservation area from registered building control. An exemption must be published in accordance with clause 45(2).

Sub-clause (3) requires the department's consent to the demolition of a building falling within sub-clause (1) above. The scheme of registered building consent under clauses 15 and 16 applies accordingly, subject to modifications in regulations.

Sub-clause (4) provides that any application for registered building consent and any consent granted will lapse if the building in question ceases to fall within sub-clause (1) above, except where the building is registered. Mr Speaker, I beg to move that clauses 18 and 19 stand part of the Bill.

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

Mr Karran: Vainstyr Loayreyder, can the hon. mover tell us who is the department when we talk about 'will deem parts of the Island with special architectural or historical interest'? Can he also tell us who will be the ones who will be concerned about financial constraints as far as this issue is concerned? And how can he honestly stand here and say legitimately that his department can do these functions in these clauses or in the previous clauses, because at the end of the day he has got a hat for development; he has got a hat for planning; he has several other hats. How could he reassure not me but anybody with an open mind about this? He cannot, as the department, be talking about development one minute, conservation the next minute, conservation areas the next minute, industrial zones the next minute for economic development? I just say that this is where these clauses are wrong, in my opinion, because the fundamental principle is that the department is making the decision and the department at the end of day, as we all know, is the minister.

The Speaker: I call upon the minister to reply.

Mr Quine: Thank you, Mr Speaker. I think the hon. member for Onchan is well aware, of course, of the situation and the role which the Planning Committee plays in regard to this. He points out that, as a minister, there are a number of matters which come to me for ultimate decision. That is not peculiar to me as Minister for DoLGE; that is a matter which relates to ministers in various departments, and there are perfectly good procedures which allow for a balance, an impartial assessment of these situations and, as he knows, of course, there is an involvement of an independent inspector which can come into play in these situations. I am afraid he is trying to make a case where no case exists. I believe that this procedure strikes the right balance, as I have said before, and I commend this procedure and consequently clause 18 to the hon. members of this House.

The Speaker: Hon. members, the motion is that clauses 18 and 19 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We then turn to the supplemental provisions as to registered buildings. Clauses 20 and 21, sir.

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

Sub-clause (1) specifies the buildings to which this applies: they are buildings owned, occupied or controlled by the department.

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

Sub-clause (3) enables regulations to modify this part further in relation to buildings of the department.

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

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

Sub-clause (2) enables assistance to be given as a grant or a loan, on conditions, and subject to security for repayment. I beg to move, sir, that clauses 20 and 21 stand part of the Bill.

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

Mr Karran: Vainstyr Loayreyder, I would just like the mover to tell us: when he is at the Treasury and he is wanting to get money for new houses, he wants to get money for a new mortgage scheme, he is wanting to get money for other important issues which have a great deal of input into the day-to-day living as far as individuals are concerned, what I am concerned about is that the department, namely the minister through his Planning Committee who at the end of the day will have a certain amount of autonomy - but once again he is going to the Treasury with a long list of wants, and my point is this, where will registered buildings be in the financial list? My problem is that we have a dismal record. The people in the adjacent island have Adolf Hitler to argue why they have lost so much; we have not got that argument over here. The stuff that has been lost between Port Soderick and Groudle alone - you would not recognise this place from before the war, which, all right, is over 50 years ago, but so much has been lost, and I see this piece of legislation going through and I think that there is not the real commitment in this House as far as registered buildings are concerned because at the end of the day, if there was, they would be wanting to put somebody in who has a bit of spirit, who is not going to go with the flow, who has not got a list of other things, and I am concerned with this piece of legislation; whilst we are giving lip service to the registered buildings on the Island because we really need somebody who is impartial, who has got a keen view point on this section, and I believe that it is not fair. Even if I was in there and I had the problems of the homeless and all the other issues, I would be saying, 'Well, I do not know about. . .', and I believe that there is not the sincere commitment by this government by

allowing this to be left in the hands of the DLGE with all their other hats and vested interests to worry about.

The Speaker: The hon. member for Ayre, Mr Quine.

Mr Quine: Thank you, sir. I am sure the hon. member for Onchan is well aware that I am in no different a position when it comes to setting and determining my priorities than he is. I mean, he stands here often enough on a Tuesday morning whining about his problem and determining his priorities and I am not sheltered from that any more than he is. But the decision is - and he knows this very well - that over the last two years the amount of money that has been made available for conservation and registered buildings has substantially increased, not because I have been successful in getting a material change to my substantive budget, but because I have been successful in being able to vire some funds to supplement it, and that to me is good housekeeping. It is better to do that and provide some additional funds than to get up at every opportunity and moan and groan because they are not available. I beg to move, sir, that clauses 20 and 21 stand part of the Bill.

The Speaker: The motion, hon. members, is that clauses 20 and 21 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Advertisements, sir, clause 22.

Mr Quine: Clause 22 sets up the new system of control of advertisements, replacing the Advertisements Regulations Act 1925 which is outdated and defective.

Sub-clause (1) enables the department to make regulations restricting or regulating the display of advertisements. The powers may be exercised in the interests of amenity or public safety.

Sub-clause (2) enables the regulations to cover such matters as the size, appearance and position of advertisements, the requirement for the consent of the department to their display and the procedure for obtaining consent. The regulations may apply any of the Bill's provisions relating to planning applications.

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

Sub-clause (4) provides that in particular different controls may apply to conservation areas and areas requiring special control. In the latter case the regulations may prohibit entirely certain classes of advertisement.

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

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

Sub-clause (7) provides that to avoid duplication a consent to an advertisement under the regulations is deemed to be planning approval if planning approval is required in that situation. I beg to move, sir, that clause 22 stands part of the Bill.

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

Mr Bell: Mr Speaker, I only have a small point, a query, really, for clarification more than anything else. I do not have a problem at all with the clause but I just wonder if the hon. mover

could explain to us how he sees the situation relating to estate agents' adverts lying within this particular clause and what controls would be brought in over this particular display of what is blatant advertising. I am sure we have all seen in our time, when properties have been up for sale, three or four signs outside every house representing each estate agent which is dealing with the property, and frequently these signs are left up for some considerable period after the property has actually been sold. So I just wonder whether that estate agents advertising comes under this particular regulation and how you would see the handling of that if it would be in any different way to the usual adverts.

Mr Karran: Vainstyr Loayreyder, I have no problems if I know what this clause is actually dealing with when it talks about advertisements, but I am just a little bit concerned about what we are classing as advertisements. I wonder whether the mover can tell us, will these regulations under (3) and (4) have to be approved by Tynwald? I am not so bothered if it is Silk Cut and the likes of the oil or coffee advertisements on large boards, but what I am worried about with this clause is that it is innocently in here about advertisements but does that include election material? Does it include protest material? We have got one at Braddan Bridge at the moment for some trees. Under this piece of legislation, will it save some trees? What I am concerned about with this is, it seems so innocent but I do think we need to know what we are actually passing here today. Are we passing something that has a commercial advantage or is it a matter of a political group? Do we say that we do not want to see the local gospel halls or whatever if they want to put an advert up somewhere to show that they have got something on? Christmas fairs? This is what concerns me here. This looks so innocent and more likely is so innocent, but it seems to me that it talks about commercial advertising and I have no problem with that, but I am concerned about the fact that other sorts of legitimate advertising could be curtailed that is not commercial but political, and I just think the hon. mover needs to clarify that point. He particularly needs to clarify that point if we are going to have approval in Tynwald because I think it would be quite wrong and I think it is a very dangerous road when you can have laws saying you cannot put your 'Vote Quine for Sulby' posters up simply because the other gang would have been in power at the other time or vice versa. So I do think it is important that that needs to be clarified - that it does not curtail legitimate protest posters, election posters or things that or things like for churches that are not done for commercial benefit.

Mrs Crowe: Mr Speaker, I would just like the minister to clarify, if he would, whether the advertisements for the TT would be included in this proposal? I mean, whether whichever major motor cycle firm is negotiating with the Tourist Board then has to go and negotiate with the Planning Committee as well and, whilst I think that needs to be clarified, I would be delighted to know that the proliferation of happy birthday sheets was covered by this legislation.

The Speaker: I call upon the hon. member for Ayre, then, to reply.

Mr Quine: I think a large part of the answer to both the queries that have been raised is in the Bill, of course, because we have a definition of 'advertisement'. It is in fact quite embracing. If hon. members turn to clause 45(1) 'advertisement', you have got a long descriptive definition there of 'advertisement' and so I do not think you would need me to read that out to you. That is there. I mean what we are talking about here is the setting up of a new system of control. Whether or not estate agents are going to be subject to further controls or

whichever controls may apply to them at the moment are, I think, fairly negligible or any other party - that will be addressed when we are drafting regulations and that is going to come here before Tynwald Court. That is where those matters will be tested. So I do not think I can add further than that. What is in an advertisement is quite clearly defined, that is all-embracing. When we get the regulations drafted up then we will see the curtailments and the adjustments that are necessary and they will be reflected in the regulations. I beg to move, sir, that clause 22 stand part of the Bill.

The Speaker: Hon. members, the motion is that clause 22 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Can I invite you to take clauses 23, 24 and 25, sir.

Mr Quine: Clause 23, sir, defines breach of planning control, a concept fundamental to enforcement of control, and makes it an offence to carry out development in breach of control.

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

Sub-clause (2) makes it an offence to start or to carry out any development in breach of planning control. The offence is a summary one, carrying a fine of up to £5,000.

Sub-clause (3) provides that prosecution for an offence under sub-clause (2) does not affect the department's further powers to serve an enforcement notice or a stop notice, which we will be dealing with under clauses 26 and 27.

Clause 24. Sub-clause (1) enables the department to make regulations setting up the scheme under which a certificate can be issued stating whether an existing or a proposed use or past or future operations or anything done in breach of a planning condition is lawful.

Sub-clause (2) defines 'lawful' for this purpose. Uses and operations are lawful if no enforcement notice can be issued and there is no outstanding enforcement notice in respect of them or a breach of condition is lawful if it is out of time for an enforcement notice and there is no outstanding enforcement notice in respect of it.

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

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

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

Sub-clause (6) gives the department power to make regulations as to the procedure for the grant of certificates, including appeals.

Clause 25 gives the department power to require information about uses of land or operations so that it can decide whether there has been a breach of planning control.

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

of land, any person with an interest in it and anyone using the land or carrying out operations on it. The notice can ask for information about any operations or activities on the land and any use of the land or anything to do with a planning condition.

Sub-clause (2) gives examples of questions which may be asked in a notice under sub-clause (1); for example, such questions could embrace, is the land being used for specified purposes?, are specified operations in being or being carried out? and so forth.

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

Sub-clause (4) makes it an offence to give false information in response to a notice under sub-clause (1).

Sub-clause (5) provides that information given in response to a notice under sub-clause (1) cannot be used as evidence against the person giving it on a prosecution for an offence under clause 23(2) as this would offend against the rule against self-incrimination.

Sub-clause (6) provides that serving a notice does not affect any other powers of the department - for example, prosecution, service of an enforcement notice or stop notice. Mr Speaker, I beg to move that clauses 23, 24, and 25 stand part of the Bill.

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

Mr Karran: Vainstyr Loayreyder, clause 23 - I am a little bit concerned about enforcement. We have one officer at the present time doing the whole of the Island. I just wonder whether the hon. mover could tell us why they have not allowed in this Bill for some sort of provision that there should be some calibration of rate value for the employment of planning enforcement officers in the Island, because I think at the present time what we have is a situation where authorities such as Ramsey and Onchan - their ratepayers suffer for having the initiative to take certain roles on from central government, and I just wonder on clause 23 why we have not made the local authorities more responsible. If there is a problem as far as mancaps and the cost are concerned, why can't we have a situation where the Bill says that there will be a liability on all local authorities in order to cover that so that the Bill becomes a bit more enforceable? At the moment there is only one officer, if I remember rightly, and I think that this opportunity should have been taken in this piece of legislation in order to widen the enforcement.

The second thing that I am concerned about is to do with the certificate of lawlessness of the use for development. Under the present legislation, if you were to put a hut up on a piece of land that is not adjoining a domestic property you could have the ridiculous situation where you are actually breaking the law, so I am led to believe. Now, I find that rather a crazy situation but I actually am told that this is the case. Now, when we talk about these certificates, what recourse of action will be taken as far as individuals to make sure that common sense does prevail? At the present time people can quite innocently find themselves in the embarrassing situation where they can put even something as small as a hut on a piece of land and find themselves with a problem with the planners, and I think that it is important that we do know that those valves are there, like the previous ones to do with advertisement; the regulations will be approved by Tynwald, hopefully. So that is common sense. What I want to know is, will there be any recourse before people go down the roads on clause 24 that the

minister or the Planning Committee will be fully au fait with these proposals or you might end up with this situation such as I have said here today?

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

Mr Quine: Thank you, Mr Speaker. First of all it would not be appropriate to put any additional powers in this Bill in terms of enhancing the capability of local authorities to take on enforcement duties. Powers already exist in legislation to do that, and that is why certain local authorities already discharge those duties. So there is no difficulty there. The difficulty with the local authorities is the capability, the capacity, of some local authorities to take on those duties, which is a different matter and that is a matter which we are seeking to address.

If I pick up the other point the hon. member is making, he seems to be concerned that somebody could put up a structure, he did not say what size of a structure -

Mr Karran: A hut.

Mr Quine: Oh, well, a hut. Mr Cannan was complaining about a hut down in Kirk Michael -

A Member: Jurby. (*Interjections*)

Mr Brown: That is his house!

Mr Quine: - but the point I was going to make is this: what we are providing for here in the legislation is a solution to the concerns which you have been mentioning, because here there is now provision for a person to come to the department and ask that question - will this convene the regulations? and get a certificate to that effect. So this Bill will help to safeguard the interests of persons and prevent them from getting into situations where they could fall foul of planning control. So I think the hon. member will find that this addresses his concerns rather than creates any problems for him. I beg to move, sir, that clauses 23 to 25 stand part of the Bill.

The Speaker: Hon. members, the motion is that clauses 23, 24, and 25 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 26 and schedule 4, sir.

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

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

Paragraph 1 of the schedule gives the department power to issue an enforcement notice if it thinks that development is being or has been carried out in breach of planning control. It has to consider the development plan and other material considerations, so it is only to take action against development, which would not be given planning approval, and the notice has to contain certain particulars which are spelt out in that paragraph.

Now, paragraph 2 requires an enforcement notice to specify the time, or times, within which the steps referred to in paragraph 1 are to be taken. Different periods can be specified for different steps.

Paragraph 3 prevents an enforcement notice being issued outside certain time limits: four years after the completion of operations, four years after the change of use of a building to a single private dwelling house and 10 years after the breach in any other case.

Paragraph 4 provides that an enforcement notice takes effect as respects any person on whom it is served and his successors in title at the end of a time specified in the notice, calculated for the time it is served on him.

Paragraph 5 requires a copy of the notice to be served on the owner and occupier and any other person. If it is not served on any one of them it is still valid against others on whom it was served.

Paragraph 6 allows the department to withdraw an enforcement notice or waiver or relax any requirement of it or extend a time limit for action. If it does, it must notify everyone concerned.

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

Paragraph 8 makes it clear that an enforcement notice is not cancelled once it has been complied with. For example, if a notice requires a use to be discontinued and the use stops and begins again a week or a year later, that is still a contravention of the notice.

Paragraph 9 provides that an enforcement notice is cancelled if planning approval is granted to retain buildings et cetera, or to continue a use, the subject of the notice, but a prosecution can still be brought for a contravention of the notice committed before the approval was given.

Paragraph 10 gives a right of appeal to the High Bailiff against an enforcement notice. Firstly, an occupier of or a person interested in the relevant land may appeal against an enforcement notice on certain specified grounds. Further, the High Bailiff has power to quash or vary the notice when deciding an appeal. He can also correct an error in it if he thinks it would not cause an injustice, and other matters are addressed in relation to appeals.

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

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

Sub-clause (4) prescribes the maximum penalty for contravention of an enforcement notice. It is triable either way and carries an unlimited fine at General Gaol; the usual maximum fine for courts of summary jurisdiction does not apply, and the court is to consider what profit the defendant has made out of non-compliance.

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

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

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

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

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

Paragraph 11 - the department may carry out any steps necessary to comply with an enforcement notice and charge the expenses to any person interested in the land. Powers of entry are conferred for this purpose by clause 43(1)(i). There is access to High Court proceedings for recovering any expenses and they may split them between different persons interested in the land. In such proceedings the defendant cannot raise a defence he could have raised on an appeal under paragraph 10. I beg to move, Mr Speaker, that clause 26 and schedule 4 stand part of the Bill.

Mr Rodan: Mr Speaker, I rise to second the clause, and if I may just say that what we are doing with this particular clause in introducing an enforcement notice is giving for the first time to the department a substantial new power which will prove most useful in dealing with various problems that the department has to deal with on a regular basis. At the moment, the situation is that if an unauthorised development is taking place - let us say, for example, it is tipping of spoil, fly tipping, somewhere, apart from any environmental legislation or other legislation that may be in force, the only option open to the department is to serve a stop notice to stop the activity from taking place. There is no power to then put right that which has been done, to put things back to what they were. The stop notice can stop the activity and any further unauthorised development taking place, but in reality the only option available is to ask for a planning application to be made to regularise that and to try for approval for that which has taken place, whether it be storage of spoil or whether it be the construction of a house or some other development taking place. Now, of course, if that is contested it can take up to nine months, right to the appeal stage, before a decision is given on that particular planning application, during which time there may well be parties and neighbours who are aggrieved that it is taking so long to do something about it and aggrieved that there is no power in place when, having served the stop notice, the department cannot put things right beyond let a planning application run its course. So this new power and enforcement notice, which can have the effect of giving a conditional approval, for example, within the notice as if a planning application had been made, can put the situation right and/or indeed it could order the removal of the spoil that had been tipped or the taking down of the structure that had been put up without approval without the need for a nine-month process before a final determination can be made. So this will be a most valuable tool for the department, Mr Speaker.

Mrs Crowe: Mr Speaker, whilst I am sure the minister will be delighted with his extensive new powers of enforcement, could he clarify, can a planning enforcement notice be served on a subsequent owner of a property? For instance, if a property was sold without the owner disclosing that they had added a couple of windows or a little extension without planning permission, would the new owner be liable within that stated 10-year period for the enforcement order?

The Speaker: I invite the hon. member for Ayre to reply.

Mr Quine: Thank you, sir. Just the one point, really, from Mrs Crowe. I am not a hundred per cent sure but I will find that out and let you know at the third reading. It is my understanding that it will run with the property. If it is attached to the actual deed that rests in the registry it will stay there, it will be attached to the property, but I will confirm that for you. I beg to move, sir, that clause 26 stand part of the Bill.

The Speaker: Hon. member, I would equally be interested to know whether the retrospectivity of this particular section will go back beyond the date in which the Bill becomes an Act. Those in favour of the motion that clause 26 and Schedule 4 stand part of the Bill please say aye; against, no. The ayes have it. The ayes have it. Clause 27, sir.

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

Sub-clause (1) gives the department power to serve a stop notice. The purpose is to stop an activity on land which is in breach of planning control and to preserve the status quo. A stop notice is dependent on an enforcement notice issued previously or at the same time. It can only prohibit an activity which the enforcement notice requires to cease.

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

Sub-clause (3) prevents a stop notice applying to certain activities: using a building as a dwelling; it cannot require demolition or other remedial works - these can only be dealt with by enforcement notice; and an activity more than 12 months old, apart from operations or refuse tipping.

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

Sub-clause (5) enables the department to post a site notice on the land concerned so that anyone carrying out the relevant activity on the land will know of the existence of the stop notice. The site notice must give specified information about the stop notice so that anyone seeing it will know what he is forbidden to do. Powers of entry for this purpose are conferred by clause 43(1)(h).

Sub-clause (6) makes it an offence to contravene a stop notice provided it has been served on you or after a site notice has been displayed. Note that the offence depends on knowing of the notice but is not affected by any appeal against the enforcement notice.

Sub-clause (7) makes it an offence to cause or permit a stop notice after the service on you, subject to two days' grace. This, of course, will allow for instructions to be given to contractors.

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

Sub-clause (9) gives a person accused of an offence under sub-clause (6) a defence that the stop notice was not served on him and that he did not know of it.

Sub-clause (10) provides that an appeal against the related enforcement notice does not affect a stop notice, but the stop notice lapses with the cancellation of the enforcement notice and, on any requirement of it dependent on a particular requirement of the enforcement

notice, it will lapse if the latter is removed by the notice being varied under schedule 4, paragraph 6, but this does not affect the liability to be prosecuted for an offence committed before the stop notice lapsed. Mr Speaker, I beg to move that clause 27 stand part of the Bill.

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

The Speaker: The motion is, hon. members, that clause 27 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 28, hon. member.

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

Sub-clause (1) enables an agreement under clause 13 to be enforced against a successor in title of the person with whom it was made. Normally a contract cannot be enforced against a person who was not a party to it, but exceptions are made by the Law Reform Act 1997 in the case of certain undertakings - for example, restricted covenants entered into by one landowner with another for the benefit of the latter's property.

Sub-clause (2) sets out the circumstances in which the powers of the department under sub-clauses (3) to (5) are available to enforce an agreement under clause 13. The agreement must contain a positive undertaking by a person interested in specified land to do something on or in relation to the land.

Sub-clause (3) enables a covenant to be enforced against the successors in title of the original party.

Sub-clause (4) gives the department special default powers to enforce such a covenant. It can carry out the works itself and recover the expense from anyone against whom the covenant could be enforced. Powers of entry are provided under clause 43(1)(i).

Sub-clause (5) requires the department to give three weeks' notice of its intention to act under sub-clause (4) to all persons interested or against whom the covenant is enforceable.

Sub-clause (6) requires a covenant to be registered in the Registry of Deeds before it can be enforced against a successor in title of the original covenantor.

Sub-clause (7) is a technical provision relating to the registration of covenants in the Land Registry. I beg to move, sir, that clause 28 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 28 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Now, hon. members, it would appear as if we have reached a stage in the proceedings when I have to put it to you: in normal circumstances I would like to complete any particular passage of a Bill at the one sitting. This afternoon, having reached the hour of half past five, we still have some 20 clauses to go, a number of schedules and a number of tabled amendments. I feel that we have reached the stage where we should very well draw a line under this Bill at this particular stage if the member is agreeable (**Members:** Agreed.) and in

that case, hon. members, the House will stand adjourned till Tynwald Court on Tuesday next at 10.30. Thank you, hon. members.

The House adjourned at 5.32 p.m.