

**REPORT OF PROCEEDINGS OF
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 30th November 1999
at 10.30 a.m.**

Present:

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

The Lord Bishop took the prayers.

Apologies for Absence

The President: Hon. members, we have apologies for absence this morning from the hon. Dr Mann who is regrettably indisposed.

Rent and Rating Appeals Act 1986 – Rules – Question by Mr Delaney

The President: Now, turning to the agenda paper, item 1, I call upon the hon. Mr Delaney to ask the question standing in his name.

Mr Delaney: Thank you, Mr President. I beg leave to ask HM Attorney-General:

What rules have been made under section 3 of the Rent and Rating Appeals Act 1986?

The President: The learned Attorney-General to reply.

The Attorney-General: Thank you, Mr President. Section 3(3) of the Rent and Rating Appeals Act 1986 provides that the Council of Ministers may make rules for regulating the practice and procedure of the Isle of Man Rent and Rating Appeals Commissioners. No rules have been made for the purposes of the subsection.

The President: A supplementary, hon. member?

Mr Delaney: Thank you, Mr President. I thank the Attorney-General for that reply. Bearing in mind that the rent and rating appeals is a statutory body, affixed, does the Attorney-General agree with me that although in the past it may have not been necessary to make rules, because of the amounts of money involved when people are asking for a review of their rates or the local authorities who may lose that income, there should be a set of rules laid down so that at least there is a consistency in their decisions?

The Attorney-General: Mr President, quite frequently, as I understand it, applicants appear in person before the tribunal to argue their case. These quite often are lay people who do not have the benefit of legal representation and I think we have to balance two things here. On the one hand we do not wish to introduce a system which will deter the lay applicant by unnecessary formal procedures which might, as I say, put them off. On the other hand of course we must accommodate those rather more difficult cases involving quite considerable amounts of money where advocates are involved.

As I understand it, guidelines in non-technical language are issued by the clerk to the commissioners to assist applicants, but I can certainly understand that perhaps the tribunal chairman is anxious that his decisions are not challenged because there is not a formal set of rules.

As I understand it, the then Attorney-General in 1986, when advising when the tribunal was first set up, indicated that rules were not necessary. I have an open mind. Certainly if hon. members felt that it was appropriate that rules be introduced, I would do my very best to put that case to the Council of Ministers.

Mr Delaney: Thank you, Mr Attorney. Mr President, may I ask a supplementary, please?

The President: Certainly.

Mr Delaney: In recent cases, because of the lack of rules, it has been made quite clear people who are actually taking part in this do not know whether they have a right to appear and neither does the chairman know if they have a right to appear in front of them, people who are affected by their decisions. Now, in fair and simple justice it is necessary to have a set of regulations so everyone, the lay person who we may be concerned about having advocates appearing for him, will know exactly what ground rules are laid down on which they may or may not appear in front of the commissioners.

The Attorney-General: Mr President, if that is the case then it certainly seems to me that rules require to be made and of course when and if we have a Human Rights Act, that Act will have a tremendous impact on tribunal hearings such as this.

Mr Delaney: Thank you, Mr President. I thank the learned Attorney for his reply.

Constitution Bill – Third Reading Approved

The President: Now, hon. members, we move on to item 2 on the agenda paper and I call upon the hon. Mr Lowey to take the third reading of the Constitution Bill.

Mr Lowey: Thank you, Mr President. In moving the third reading of the Constitution 1999 Bill, it is vitally important to focus attention on the contents of the Bill as the contents, aims and objectives of it have been drowned out by the debate and inferences to motives of the timing of its introduction and the legislative calendar. Let me appeal to my friends in the media. We have not fallen out with anybody. We have presented our case strongly, I would suggest, and my only gripe with my friends in the press at the moment is, notwithstanding the large coverage in the press recently, no mention of the contents, aims and timescale of this Bill have been placed before the general public of the Isle of Man. However, let us leave all that behind us and concentrate wholly on the legislation itself.

This Bill introduces direct election to the Legislative Council by adult suffrage. This Bill creates and brings together a combination of House of Keys constituencies to make the new regional constituencies, realising vitally important principles of direct election and a regional representation without having to redesign existing constituency boundaries.

This Bill also changes the name of the Legislative Council to the Senate, or in Manx yn Shennad, again looking forward to the future and removing the last vestiges of colonialism or imperialism, giving a modern title that is instantly recognised throughout the wider world.

The Isle of Man is a global player in commerce, finance, insurance, shipping, engineering and also in politics, so it is important that we take this opportunity to redesign and to evolve.

This Bill is short and concise and the more effective for that. It does not confer new rights on this Council. It is worth support for its innovation, its clarity, its effectiveness. In short it meets most of the demands of those who seek reform and it gives them that here and now, not in the future. This Bill gives a timescale that is achievable without major disruption to a tried-and-tested system that is uniquely Manx.

This Bill is worthy of scrutiny. It is worthy of support because of what its aims and objectives are. It may have been conceived and delivered with noise and rancour, but then most births are, so I am told. That said, that could and should be put to one side and now quiet thought and deliberation needs to be endowed upon it.

I am proud to have been given charge of this important piece of legislation. It could contribute to the sound, good governance of this Island, coming as we are into the new millennium. Mr President, I beg to move the third reading of the Constitution Bill 1999 be read.

Mr Delaney: I beg to second, Mr President, and in so doing would like to make it clear this has been now moving amongst us ordinary members of the public, as we are in our other capacity are. I have had no real criticism of what is in this Bill in general and I am sure other members will know the same. The situation is, apart from having our legs pulled about whether our togas will slip or not, the general public see it as a step in the right direction and as I said at the last sitting, the Bill, when it goes downstairs, is up to the other House to put in what their interpretation of what they would want would be and then of course it will return to us.

So really, as the mover has said, this is a speedy step in getting the matter of the position of the Legislative Council resolved and I welcome it and I give it a hundred per cent support.

The President: Hon. members, before proceeding with the debate on the third reading I have to inform the House that I have been notified of two amendments, the first in the name of the hon. member Mr Crowe and the second in the name of the hon. Mr Waft. Now, hon. members, I propose to take those amendments at this stage and I would call upon the hon. Mr Crowe to move the amendment standing in his name. All members have copies, I think, of the proposed amendment. Proceed, sir.

Mr Crowe: Thank you, Mr President. In the interests of more equal representation I am moving amendments to clause 2 which have been circulated to hon. members. If we consider schedule 1 as presently drafted, we have five constituencies but unequal representation. For example, if the Bill was passed, Douglas would have two MLCs in respect of Keys constituencies representing eight members. East Mann would have one MLC in respect of Keys constituencies representing four members. North Mann would have two MLCs for Keys constituencies representing four Keys members. That would be double the representation for Douglas. West Mann would have one MLC in respect of Keys constituencies representing three Keys members. South Mann would have two MLCs for five Keys members. My proposal would provide four constituencies for the Legislative Council, each electing two members and would in all cases equate to six House of Keys constituencies and therefore, Mr President, I so move the amendment in my name.

The President: A seconder, please. If there is no seconder the amendment fails. We move on to amendment number 2 in the name of the hon. Mr Waft. I call upon the hon. member to move.

Mr Waft: Thank you, Mr President. I have no problem with this Bill as it is, it is just the division of the Island up between the members and the problem that hits one immediately is the Douglas area of 16,935 voters. In an effort to be helpful I have suggested that maybe this constituency could be divided into two and to get the nearest numbers possible I have suggested that Douglas North and West with 8,661 voters be one and the second is Douglas South and East with 8,274. This would make it a much more practical proposition and I would put it to the Council to consider that position. I beg to move:

Page 1, line 14, for '5' substitute '6'

Page 4, for schedule 1 substitute -

**SCHEDULE 1
CONSTITUENCIES**

<i>Constituency</i>	<i>Number of Elected members</i>	<i>Keys constituencies comprised in area</i>
<i>Douglas North and West</i>	<i>1</i>	<i>Douglas North Douglas West</i>
<i>Douglas South and East</i>	<i>1</i>	<i>Douglas South Douglas East</i>
<i>East Mann</i>	<i>1</i>	<i>Onchan Middle</i>
<i>North Mann</i>	<i>2</i>	<i>Garff Ramsey Ayre</i>
<i>West Mann</i>	<i>1</i>	<i>Michael Peel Glenfaba</i>
<i>South Mann</i>	<i>2</i>	<i>Rushen Castletown Malew and Santon</i>

Mr Kniveton: I am happy to second.

Mrs Christian: I am happy if the amendment is seconded, Mr President, to support the amendment. I think this is the element of the Bill which is going to create the most difficulty in terms of its resolution. There is an infinite number, possibly, of combinations that people could come up with both in terms of numbers of constituencies, numbers of electorate, geographical area, and I think that what we have proposed is a fair compromise in all those areas.

The hon. member Mr Waft has pointed out this difficulty in terms of the size of the Douglas proposal in the Bill and I think his suggested amendment provides a way of alleviating the difficulty that might be experienced there in having such a large constituency. It does mean that there are some constituencies now with one member and others with two, but I think that is reasonable in that it reflects geographical spread.

We still, for the most part, have a town which features in each of these constituencies and I think that with this amendment we are providing a reasonable proposal for consideration in another place. I think that the very fact that we are seeking to amend this now after our consideration is indicative of the difficulty that might be experienced with other proposals in other places with regard to a breaking-down of the Isle of Man into 32 constituencies; it is indicative of the major problems that that could bring. I think that this deserves our support in providing a workable solution.

Mr Kniveton: I will support this amendment. I feel it is worthy of support by the breaking up of the numbers. Mr Waft has just passed to me the numbers of electorate in each of the proposed constituencies there and I feel it would be worth it, Mr Waft, if you were to advise other hon. members of those exact numbers which show that they are all pretty if this amendment is agreed.

Mr Delaney: I was going to ask a similar question. It seems to me a reasonable sort of amendment, Mr President, and I am sure it will make it easier for people actually wishing to make sure they call on as many people as possible. If they wish to take up a position in the Senate I think it is reasonable. But I would like to know the numbers because my calculations must be at odds with the hon. member's.

Mr Lowey: Mr President, can I say that I too am mindful to accept the amendment moved by Mr Waft. When we started out on this exercise we appreciated this and it has been reflected in another place where a report was brought forward which had 32 seats which means that they will have to change historical boundaries. That is where the vote came 12-12 and I believe they will have great difficulty in the House, in another place, getting a 16-vote majority for any changes when it comes to changing boundaries. This is a scheme which has adopted, and as I have stressed throughout the course of this Bill, we have gone for regional representation. It is not an exact science but my word it is within striking distance, meeting the general principle of direct elections, giving a regional flavour and without changing existing boundaries, in other words what I said before: we have got all the gains without any of the pains and I think it is worthy of consideration.

The reason I am considering this is because it does split the thing into two manageable seats. Of course the other alternative was to go for an all-Island election. We gave that careful consideration and for a variety of sound reasons discounted it at this time. I believe that this amendment enhances, underlines the geographical position and makes it manageable and I think if we had not done it here, then I am certain it might very well have been done in another place. So I am very happy to support the amendment of Mr Waft.

The President: Do you wish to reply, sir?

Mr Waft: Thank you, Mr President. I did mention at the last Council meeting the numbers were relayed to me by the research officer. The two members in the Douglas area would have had to canvass 16,935. One member in East Mann would have had to canvass 9,599. Two

members in North would have to canvass 10,335. One member in West Mann would have to canvass 6,610 and in South two members would have canvassed 10,644. The largest constituency would have been the Douglas area which, if we divided that up to get the most equal numbers, would be Douglas North and West and Douglas South and East which would be 8,661 and 8,274 respectively.

Mr Delaney: I know I am not supposed to come back, Mr President, but I wonder if you would give me some leeway, because of the importance of this matter, to ask the hon. member a question because his figures actually qualify what I have been thinking on this? Well, we are talking here then, my figures -

The President: Hon. member, the hon. member has replied and I will now put the amendment standing in the name of the hon. Mr Waft as set out on the white paper in your possession. Will those in favour of that amendment standing part of the Bill please say aye; against, no. The ayes have it. The ayes have it. Now, with the Bill in that amended form we proceed with the discussion on its content. The hon. Mr Delaney.

Mr Delaney: Looking at the fairness and the opportunity to try and get some situation which would be acceptable, hopefully, to the other place as well, it is going to happen, because of where we are talking figures, that we have two members for just over 10,000 people and two members for over 16,000 people, and I wonder how many members have thought about that situation, according to the calculations made by my colleague, Mr Waft, and I think that will be a sticking point when it comes downstairs, bearing in mind how, since the figures that were given to the hon. member and the increase in the number of people coming to this Island and the increase in the population generally and the spread of them, this will distort all this before it even gets into the statute. I would hope that people will think about this when it reaches another place.

I know for a fact that in my old constituency of East Douglas, which I had the privilege to represent for those 20 years, the extension of that boundary was necessary 10 years ago, 15 years ago possibly, because of the change and the nature of the constituency and when you talk about East Douglas now, if you look at the figures involved, we are talking less than 2,500 people in a Keys constituency. That is what has to be brought into consideration as well. That has to be changed. East Douglas will have to be extended either into the South or probably North Douglas and that is an obvious thing that is going to happen if any equalisation of votes is going to occur and therefore when you talk about East Douglas, that will distort this figure just in the Douglas situation but also will distort it because East Douglas, according to this last amendment, is going with South Douglas, but its natural way to extend itself is into North Douglas, East Douglas. Now, I am sure members follow me in that. Therefore I would say that that will distort it and also the calculation, if we are trying to get to a fairness in this, where we are having 16,000 people represented by two people at this moment in time and two people representing just over 10,000. That is an automatic distortion anyhow.

Mrs Christian: Mr President, I think that the hon. member is talking in hypothetical terms and if and when there is some need for change in boundaries, that issue would be addressed in terms of both chambers, I am sure. What I think we ought to focus on is that we have here determined that we are working on a geographical, regional basis. Now, that has to be evaluated against the numbers in some way or other. We have often heard the arguments that this should be simply a numbers game. I do not believe that is the case. If you have ever

represented a rural area you will recognise that that brings with it certain disadvantages that do not apply in a heavily built-up area in terms of providing the service to the constituency and I think that that has to be given some weight in terms of the distribution of members.

Whether or not the hon. member is right in his consideration of whether these figures will be accepted, I think we just voted in support of an amendment with these boundaries and therefore we should be voicing our support for them and I think that, as was said, there are many ways in which you could divide this cake. I think this is a reasonable one, given the balance between numbers and the geographical spread which we have to cope with.

Mr Waft: I think, Mr President, it has to be said and I would agree that these numbers are not ideal. It is not an ideal split and I am sure there is a long way to go on these numbers for the future and they are changing all the time, with the demographic areas of the Island changing every month, and these will certainly be changed, but it was just so glaringly obvious from the first look at the numbers that this area needs to be split and this was the easiest way to split it with the nearest, the closest number of people involved.

The President: The hon. Mr Lowey.

Mr Lowey: I will reply in summing up, if I may, Mr President.

The President: Does any other hon. member wish to speak to the third reading? I call upon the hon. Mr Lowey to reply.

Mr Lowey: Thank you, Mr President. Can I thank first of all the interest shown by members in this important piece of legislation and can I address the last point raised by my good friend Mr Delaney. I did try to say it was not a totally scientific science and the anomalies are already existing. He spells out that somehow there are anomalies in East Douglas. I can think of the West of the Island with Glenfaba and Peel and what was attempted to be changed the last time there was a Boundary Commission. Nothing came of it because of historical differences in the Keys and the pressures that apply.

As Mrs Christian rightly said, what we have attempted to do this time is not to resolve those historical divisions but actually keep it in a regional vein and to keep as fairly as we can representation in regions as well as trying to marry up the logistics which are already existent. They are there already and what happens in the future when and if we get a bigger population, which we see before our eyes is growing, then of course you are quite right: they will have to be addressed and resolved then.

For this piece of legislation we have said we have gone for speed, we have gone for fairness as best we can within the existing system, and I am certain when they come in the future to resolve the boundary changes the membership of the Senate will actually reflect those new changes, but I hope they will retain a regional flavour as well.

Can I say that in moving the third reading of this Bill I want to say again it was never a delaying ploy: it will expedite matters. This Bill does not add any new powers to the Legislative Council, and that is very important. This Bill gives us all the gains, as I have said, without the pain, and this Legislative Council, I think, has shown that it is open to change, we are willing to adapt and we are adopting our traditional role in moving and improving the working practices of government. This Bill does bear examination and deserves support on its own merits and I therefore beg to move that the third reading of this Bill is read and do pass.

The President: Hon. members, I will put the resolution that the Constitution Bill be now read a third time and do pass. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Bill read a third time.

Douglas Head Bill – Second Reading Approved – Clauses Considered

The President: Turning now to item 3 on the agenda paper, I call upon the hon. Mr Delaney to take the second reading of the Douglas Head Bill.

Mr Delaney: Thank you, Mr President. May I first move this reading by giving a short history of the reasons for this Bill and the Douglas Head Bill as it stands.

The ownership of Douglas Head. Parts of Douglas Head have been open to the public for over 150 years. Its history in many respects mirrors that of the mass tourist industry of the Isle of Man and the growth of that industry from the 1860s led to the development of Douglas Head and the beach below Port Skillion, with the laying out of the public walks and the provision of a hotel, a camera obscura, which I will bring in later on during this reading, an open-air theatre, an incline railway from the harbour, a tramway to Port Soderick and many other attractions. With the decline of the industry these attractions, as we all know, fell into disuse, a process accelerated by the two World Wars, unfortunate as they were, and many were removed. The public walks are still maintained, however, and the camera obscura will soon be renovated.

The open spaces on Douglas Head, once all part of the Nunnery estate of the Goldie-Taubman family are now in various ownerships, public and private, and the position is complicated by the terms of a deed made on 17th May 1870 by Major J S Goldie-Taubman relating to large parts of that land. So far as those terms are still in force, they relate to the land coloured green on the map which I have supplied to members, that has been circulated, referred to in the draft Bill which is called the 1870 deed land in clause 1 of the Bill. Under the 1870 deed Major Goldie-Taubman granted to the inhabitants of Douglas full right and liberty for ever hereafter at their pleasure on foot to enter or walk over and recreate themselves on the land in question and declared that he had no right to build or enclose any part of the land but with reservations of rights of quarrying and to convey land for government purposes.

The rights granted to the inhabitants, which were of doubtful validity in common law, were vested in Douglas Town Commissioners - they were the predecessors, of course, of Douglas Town Council - in trust for the inhabitants by the Local Government Act 1886. The commissioners then were given power to make bye-laws for the land if it were a common recreation ground, subject to the consent of J S Goldie-Taubman, his heirs and assigns. Those provisions were re-enacted in the Local Government Consolidation Act of 1916. The validity of the rights and restrictions created by the 1870 deed were confirmed by the high court as short a time ago as 1977 in the *Yates v Douglas Corporation* case, a decision which settled some questions but raised others, still unanswered, relating to the ownership of the land.

The Douglas Corporation acquired the parts of Douglas Head at various times and it is interesting to note that the beach at Port Skillion was left to it by the will of Robert Archer for their same use and the benefit of the town of Douglas. An area to the north-east of the Head Road was conveyed to the corporation in 1909 and a further area to the south-east was conveyed to it by the War Office, God bless them, in 1910 upon trust for the purposes of the

pleasure ground or place of public resort or recreation. The site of the incline railway, long gone, lying between them and running down to the South Quay, was acquired by the corporation from the liquidator of the railway company in 1956.

Part of the land in the 1909 conveyance was sold to the Harbour Commissioners, which are now of course the Department of Transport, the sale being authorised by Douglas Corporation. The land in the 1910 conveyance was in addition subject to the rights and restrictions of the 1870 deed. A building on it, formerly an amusement arcade known as the Palladium, was sold by the corporation in 1985 and was freed from the 1870 rights and restrictions and the 1910 trust by the bye-laws affecting the land by the Douglas Corporation (Douglas head) Act 1985. The areas now owned by the corporation are shown edged blue on the map and referred to in the draft Bill as the blue land.

Other parts of Douglas Head belong to the Department of Transport and the Department of Local Government and the Environment and parts of the 1870 deed land to the west of the Head Road are in private ownership. Parts of the land to the east of the Head Road which were not conveyed into private or public ownership belong to the trustees of the said Goldie-Taubman estate, the last of whom, the late Leslie Vondy, God rest him, died in 1998. These are shown edged red on the map and are referred to in the draft Bill as the red land.

There is a need for the Bill and this question was raised by my colleague and friend, Mr Lowey, at the first reading. The rights and restrictions of the trust affecting various parts of Douglas Head have held up various developments in the past and in 1933 and 1985 had to be overcome by special Acts of Tynwald.

Two current projects are likely to be delayed or prejudiced by them and my hon. colleague referred to one in relation to the cable. The renovation of the camera obscura, which members will know if they have trespassed on that land or moved across that land, is still surrounded by scaffolding, at great cost to somebody, at the moment and hopefully will come back into operation as soon as possible, and the renovation of the camera obscura could have been laid to the Department of Local Government and the Environment. The laying of the electric cable referred to by my colleague from Britain to the Isle of Man, which is to come ashore at Port Skillion and pass over the red land and the blue land to the Head Road and the construction on the blue land of a building to house related switch gear, well that now of course has been resolved and was resolved earlier with the corporation's agreement. So we are now talking really about the camera obscura.

The situation is so complicated and proves only that there is a need for lawyers in the Isle of Man, as everywhere else, because the case of certainly *Yates v Douglas Corporation* was complicated in itself. Although it referred to a very small piece of land which was conveyed to the said Mr Yates at the time on the understanding it belonged to him, it then turned round in court that a lawyer was sold the land, the land had no rights for anything to happen on it other than ownership and that still remains today in some cases.

Mr President, I beg to move the second reading.

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

The President: Does any hon. member wish to speak on this?

Mrs Christian: Mr President, speaking in support of the second reading, I think what the hon. member has outlined is confusion and complicated legal issues which it is time to resolve and clarify.

There has been some suspicion about the nature of the Bill and what it seeks to do but there is nothing complicated suspicious about it in that sense. I think it is a useful measure at this time to bring some clarity to the situation in relation to the land in the Douglas Head area.

Mr Kniveton: Mr President, I am not going into detail as Mr Delaney has. I think he has told us the story there, but certainly during my lay-off I have had the opportunity to follow the progress of this Bill and of course to witness and hear or read all about the arguments for and against the Bill. However, I am quite confident that this Bill is essential if we are to have any further developments on the land as developments without problems.

I understand that various parts of Douglas Head have been fully open to the public, as mentioned by Mr Delaney this morning, for 150 years. Nevertheless I believe we can now forget all about tourism and tourism involvement or development in the future of this land. I am given to understand that the land is owned by several bodies, not only this government, but also private landowners and the Douglas Corporation. I also agree that the land ownership must be clarified by revoking the 1970 trust of Major Goldie-Taubman which holds some of the land.

The refurbishment of the camera obscura has been mentioned this morning and that is presently held up until such time as this Bill clarifies the situation. That is but one reason, just one reason, to advance the Bill.

It is essential that the rights and interests of the Douglas Corporation and public relative to Douglas Head be clarified and for that reason I support the Bill.

The President: Does any other hon. member wish to speak? The hon. Mr Waft.

Mr Waft: I am just wondering, Mr President, with regard to the gas installation on the South Quay: has there been any movement with regard to perhaps moving that to somewhere else with regard to health and safety reasons or are they now going to remain in that area for a long time to come? I just wondered whether anybody has spoken to them in that regard.

With regard to the other areas on that headland, has there been any thought to try to find out exactly who the ownerships are and perhaps do something similar and bring it all under the auspices of someone who can guarantee the rights and privileges of the people of Douglas for ramblage in that area in the future?

Mr Lowey: I support the Bill, Mr President. I heard my hon. friend Mr Kniveton say something about development. All I wish, in putting the clock back and looking backwards, is that there had been an Onchan Head Bill of 1899 which put some rights and we may have been preserved from the monstrosity of the building line going further and further out and I hope that Douglas Head is not going to become a second Onchan Head, and I am sure this Bill will not allow that, but I support the Bill.

The President: Reply, hon. member.

Mr Delaney: Thank you, Mr President. I thank the members for raising these points. First of all can I take Mr Waft in relation to the gas tanks and in my research into this Bill and

speaking to members, that did not come under the auspices of this particular Bill, so I did not do any research on that, so I do not know what the current position is, but I will try to find out, if I may, for the third reading on the answer.

The situation with the different ownerships. I am one of the fortunate people of the Isle of Man who enjoyed all of this headland all through my youth. I have hunted up there, I have played up there, I have played more cowboys and indians than Roy Rogers ever played up there, but the situation was always confusing and it is necessary to try - and this Bill does it - and get a totality to the situation. Where people are good enough in passing on that, they put off their mortal coils, to give something back to the community, I believe it is our duty to ensure that their reasons for leaving these are kept. I do believe that and over the years certain things, because it has not been clear, have been done which horrified me.

I am sure that there is a need to keep this under close review for the future to make sure that no development takes place and I agree with Mr Lowey. I am sorry that Onchan Head, 'Millionaires Row', was allowed to be developed and from there the rest of Onchan in that direction, because one thing we do have in the Isle of Man is beauty of landscape and we should do what we can to keep it. But that said, I think that there will be a revisitation of Douglas Head in the future to keep it and to develop it for the benefit, if not of the tourists, it will certainly be for the benefit of the people of the Isle of Man. 'Eco-tourism' is the name of the word or 'environment' is the name of the word now. We are in that field and I believe Douglas Head will be part of it and I at the moment, with Mr Lowey and my colleagues on the tourist department, are hoping that with the co-operation of Douglas Corporation and others we will develop some type of eco-wildlife park up there in relation to flowers et cetera et cetera and we are not doing that at the moment and I hope this Bill will help us to consolidate who owns what and where we can actually do that sort of development without putting up monstrosities of buildings which nobody wants to see.

Mr President, I hope I have answered everyone's queries. I would be quite happy to revisit the second reading if anyone has other queries.

The President: Hon. members, I will now put the resolution that the Douglas Head Bill be read a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Turning now to clauses, clause 1, sir.

Mr Delaney: Can I take schedule 1 with this as well, Mr President?

The President: Along with the schedule, yes.

Mr Delaney: Yes, thank you. Clause 1 of the Bill restates in modern terms the rights and restrictions and trusts affecting Douglas Head while enabling proper and necessary work to be carried out in future without legal difficulties.

Sub-clause (1) of clause 1 vests in the corporation on trust for the residents of Douglas a right to walk over and use for recreation the 1870 deed land coloured green on the map. This restates in more up-to-date language the right conferred by the 1870 deed Act which I referred to which is vested in the corporation on trust for the inhabitants by the Local Government Consolidation Act of 1916. The term 'residents' replaces the term 'inhabitants' as being more easily understood today, and note the limitation on the right, and I must refer to that, the rights as set out below.

The device of a trust for the residents is needed because the law does not usually recognise a right as belonging to a fluctuating body of persons who are not capable of owning the property on rights.

Sub-clause (2) restates the restrictions on enclosing the buildings in the 1870 deed but makes it clear that they are prohibited by law and not merely the subject of a covenant by the landowner.

Sub-clause (3) provides that certain works which do not affect the enjoyment of land by the public are not prevented either by the rights granted by (1) or by the restriction imposed by (2). They are works for maintaining, repairing or replacing existing walls and fences, buildings or structures, new walls or fences required for safety purposes.

Sub-clause (4) provides machinery for allowing further necessary works on the 1870 deed land but subject to the safeguards to protect the interests of the public.

Sub-clause (5) requires the consent of Tynwald - and this is important - for any release or waiver under any of the sub-clauses above.

Sub-clause (6) cancels the provisions of the 1870 deed so that the 1870 deed land will in future be regulated by this clause.

I beg to move, Mr President, clause 1 stand part of the Bill.

Mr Lowey: Could I just pose a query? I understand all the technicalities but come to sub-clause (4) of clause 1, 'The Corporation may', whereas all the rest of it is it shall be unlawful, shall, and I understand why (4) is put in and then sub-clause (5) says, 'A deed under subsection (4) shall not have effect unless it is approved by Tynwald'. Now, I can understand that. So the corporation can waive things if it is approved by Tynwald. But it is the next one that gives me a little concern: 'or (b) by the Department, in the case of a deed relating to land the area. . . of which does not exceed 50 square metres.' Now, 50 square metres is a fair chunk of land and that means that the department could do whatever it wanted to do as long as they kept it within 50 square metres. That is half a football field and that is a pretty big site. So the corporation can only do something if it is approved by Tynwald but the department can do it if they keep it within a 50-metre square. That seems an awful big development where the department can do something without the approval of Tynwald, and I wonder why that was thought necessary. I would have thought Tynwald would have been the overriding authority on this and as it is of what I would call public concern, why is it deemed necessary to give an exemption to the department? It is a pretty major departure from the general. Fifty metres on a headland is half a football field.

Mrs Christian: Mr President, I think this clause is important as it does in effect strengthen and clarify the position with regard to the rights of the public in that area and in creating this new trust it does involve the corporation in ensuring that these lands are still available for recreation and so on, but it is sensible in that it allows works to go on which are not going to affect the enjoyment of the land by the public, such as the laying of the cables through the land and maintenance works which are needed to protect the public in such areas of cliffside walks and so on.

The comment by the hon. member Mr Lowey - I am not sure that this is a huge area. In fact it could not be done anyway unless the corporation, as the trustees for the people, wanted

to do it with the concurrence of the Department of Local Government and the Environment. I should have thought that the trustees had a responsibility in the first instance and the corporation had a responsibility under the terms of the trust to recognise the prime concern must be the enjoyment of the land by the public and to that extent I feel the corporation as the trustees of a limited area of land should be released or some waiver applied, but it is not too dramatic to say that that can be done with the Department of Local Government and the Environment's consent. Fifty square metres I would not say is that huge.

Mr Lowey: Half a football field.

Mrs Christian: I do not think a football field is that small.

Mr Delaney: Only small down south!

Mrs Christian: Fifty square metres is five yards by 10 and I am not sure that this chamber is not about that size. I do not think a football field is that small.

Mr Delaney: Mind you, with our state of health that is all we could play football in!

Mr Lowey: Yes.

Mrs Christian: So, Mr President, I do not think that is an unreasonable proviso.

Mr Lowey: Five by five, yes. I have read it wrong. I have gone 50 by 50. My mathematics was wrong. That is why I have never been a member of the Treasury. *(Laughter)* If I may, Mr President, just to tease it out a bit because it is important, I accept all about the walls and the repairs and the rights of way and all the rest of it. I go along with that, but then I cannot see why they would want even 50 square metres. That must mean a building.

The President: Does any other hon. member wish to speak? Reply, sir.

Mr Delaney: Thank you, Mr President. I spent some time the last few days, as the member, I know, was talking to the mover of the Bill in the other place and I asked an awful lot of questions in relation to the Bill. I cannot give the member the answer to this one. I took it as a substation or something similar had to be constructed. That was my interpretation, and I see a nod from the Attorney-General. I think that is the reason because a substation would have to be erected or may want to be erected. But when the hon. member was talking about half the size of a football pitch I was going to vote against this Bill myself. I had not worked it out and a quick calculation actually comes like my colleague on my left here. So the small football pitch is definitely down south. Maybe as you get older you cannot run that far, Mr Lowey, and refereeing is easier. *(Laughter)* So I think that is the reason for it and the Attorney-General, by body language, has informed me that that is the reason. It is for the example of a substation or something similar being built, and I am sure the corporation would require to give their consent there and could prevent it if anything else was going to be built and Tynwald certainly could by resolution stop it. So that is the reason for that.

This question was not raised downstairs. I cannot find any reference to that question being raised downstairs, funnily enough, and I wonder why some of the members did not pick it up. Maybe they did and I did not pick it up myself, but I beg to move clause 1 and schedule 1, Mr President.

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

Mr Delaney: Clause 2 of the Bill deals with the ownership of the open space to the east of the Head Road. It transfers to the Department of Local Government and the Environment the remaining land of the Goldie-Taubman trustees, subject to the payment of compensation. It places on a common footing the trusts for which the corporation holds the land which it owns and it gives the department and the corporation the power to convey part of their land or to grant rights over it for necessary purposes, subject to safeguards to protect the interests of the public.

Sub-clause (1) transfers to the Department of Local Government and the Environment the remaining land of the Goldie-Taubman trustees to the east of the Head Road. This is land edged red on the map and described in part 1 of schedule 2, most of which is subject to the rights and restrictions of the 1870 deed and so also affected by clause 1 above. This resolves doubts about the ownership - the most important part, the reason for this Bill - of the land which has persisted since the decision of the Yates case of 1977.

Sub-clause (2) declares that the whole of the land belonging to the corporation, edged blue on the map and described in part 2 of schedule 2, is vested as public walks and pleasure grounds. The most modern legislation on the provision of parks and public open spaces requires to be which is the Recreation and Leisure Act 1998. Most of the corporation's land is held on similar trusts at present but the status of the Port Skillion and the site of the incline railway is unclear. A small part of this land is also subject to the rights and restrictions of the 1870 deed and is also affected by clause 1 above.

Sub-clause (3) requires the Department of Local Government and the Environment to pay compensation for the vesting of the red land under (1) since this is in effect a compulsory acquisition. The compensation will be determined in accordance with part III of the Acquisition of Land Act 1984, a code governing compensation for compulsory purchase and in any case subject to the rights and restrictions of the 1870 deed and any compensation likely to be paid is very small.

Sub-clause (4) empowers the department to convey part of the red land or grant an interest in it for any necessary and proper purpose. This will enable the department to grant rights to lay the proposed electric cable referred to by my colleague at the first reading over the red land.

Sub-clause (5) similarly gives the corporation power to convey part of the blue land or grant an interest in it for any necessary and proper purpose also.

Sub-clause 6 requires Tynwald consent for any conveyance or grant by the department or corporation under the (4) or (5) I referred to above and the granting of such consent is to be taken as proof that the conveyance or grant is within the powers of this particular clause.

Sub-clause (7) saves the effect of any other statutory controls over disposals of any land by the department or the corporation which will continue to apply the conveyance already granted.

Sub-clause (8) provides that a conveyance or grant of an interest to a public body for the purpose of a public body on an open space will not require Tynwald consent. The bodies concerned are Manx National Heritage or any authority for the purpose of providing recreational facilities. This will enable land to be transferred from one authority to another by agreement when it has been renovated and it may be transferred to the Manx National Heritage. So therefore we are ensuring that the camera obscura can be, when it is completed, moved between government departments et cetera when necessary and if necessary. Any of the red land transferred to the corporation will then be treated in the same way as the blue land, so now we are getting down to some consistency in what happens to the land and how it is controlled.

Sub-clause (9) cancels the existing trusts affecting the corporation's blue land set out in the document listed in part 3 of schedule 2 which are replaced by the terms of the sub-clauses above. This is the one that actually puts it all together and tries to get some clarity into what this land will be for the future and brings it all together and with that in the middle of it is sitting separately, like the heritage trust et cetera, the camera obscura which somebody has to run and somebody has got to control, which was not allowed for in original deeds and this gives some clarity as to how it will be transacted in the future.

I beg to move clause 2 and schedule 2, Mr President.

Mr Crowe: I beg to second and would just add that it is to clarify where there might be any unclear sections in the present Acts or legislation, so I am happy to support this.

The President: Hon. members, I will put the resolution that clause 2 along with schedule 2 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 3, sir.

Mr Delaney: Clause 3 restates the effect of the Local Government Consolidation Act of 1916 under which the corporation can make bye-laws for the whole of the 1870 deed land as if it were a common recreation ground provided by it. The relevant provision of section 315 is repealed by clause 4(3); that I will come to later on, Mr President.

Sub-clause (1) provides that the corporation's bye-laws making powers for the recreational facilities under the Recreation and Leisure Act of 1998 will apply to the whole of the 1870 deed land even though it does not own it, just as if they will apply to the blue land which it does

own.

Sub-clause (2) is a transitional provision, as no order has yet been made applying sections 1 to 5 of the 1998 Act to the corporation. It does not yet have any bye-law-making powers, a matter which members may wish to take note of, so pending the making of such an order the existing bye-law-making powers of sections as referred to in the 1916 Act will apply instead.

I beg to move clause 3.

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

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

Mr Delaney: Clause 4, schedule 3, contains supplementary provisions. It gives the Bill its short title, provides definitions for various terms used in it and repeals and supersedes the spent enactments.

Mr President, in thanking members for the courtesy of supporting this particular Bill through, I do want to emphasise to members it is necessary for the corporation to start working and if history has been right in my time here, bye-laws are necessary for the control of the populace in the areas that local authorities deal with and certainly in relation to Douglas Head I believe the sooner they start getting these bye-laws in operation the better because there are some modern bye-laws, I believe as a member, need to be brought in as well.

I beg to move clause 4 and schedule 3.

Mrs Christian: I beg to second, Mr President.

The President: I will put the resolution, hon. members, that clause 4 along with schedule 3 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Bill read a second time.

Companies (Transfer of Functions) Bill – Second Reading Approved

The President: Turning now to item 4 upon the agenda paper, we have the Companies (Transfer of Functions) Bill for second reading and the hon. Mr Radcliffe has indicated to me that today he proposes to take the second reading only, holding the clauses over to the next sitting of this hon. Council, and I call upon the hon. Mr Radcliffe to move the resolution standing in his name.

Mr Radcliffe: Thank you, Mr President. As you have indicated, sir, I am just taking purely a second reading stage here today in the likelihood of possible amendments coming up to this Bill and in order to give time to examine the amendments and so on I am just, as I said, purely taking the second reading stage.

The Bill is a Treasury-promoted Bill and its principal purpose is to transfer certain functions of the Treasury and the Chief Registrar relating to the registration of companies to the Financial Supervision Commission. Forgive my lack of tone in the voice, sir, but I am just getting over a cold. I hope I sound worse than I actually am.

As I have said there are no new functions introduced in this Bill, it is merely a transfer of existing functions and the aim of all that is to try to improve the effectiveness with which we administer company laws.

A member suggested, I think, at the first reading stage, perhaps almost in jest, that when the functions of company administration were removed from the Chief Registrar there would be little for the post holder to do. I have in my hand a job description relating to the post and there are 32 separate headings there and company law is just one of the 32. So members can be reassured, if you like to say so, that there will still be plenty for the Chief Registrar to look after.

There will be a lot more detail obviously next week at the clauses stage, Mr President, but I would merely move that the Company (Transfer of Functions) Bill be read a second time.

Mr Crowe: I beg to second and just support the Bill. It seems to be basically just the transfer of the administrative and supervisory functions presently carried out by the company registrar. We have had the Company Registry in operation since 1931 when the Companies Act was established and that has worked well. It will be interesting to see how this will work once the Financial Supervision Commission takes over.

On a general note, with the FSC there is always this balance that has to be found of regulating and the promotion of the company sector of the Island. So it will be interesting to see how it does develop. I would like to see a smooth transition and I am sure that will happen, but I am happy to support the second reading.

Mr Waft: Mr President, an amendment possibly will be ready for members next week which will facilitate the possibility contained in the Bill for the transitional period for staff to move to the FSC. Hopefully that will be ready for next week.

The President: Hon. members, I call on the hon. member to reply.

Mr Radcliffe: Thank you, Mr President, although there is little to reply to. My seconder, the hon. member Mr Crowe, has said that the company law has worked well and I would say that the company law will still work well under the aegis of the Financial Supervision Commission.

The hon. member Mr Waft proposes to introduce an amendment, sir, and he has given a short explanation of what that is about. I look forward to seeing the amendment in its full form for our reading next week and I beg to move the Bill be read a second time.

The President: I will put the resolution, hon. members, that the Companies (Transfer of Functions) Bill be now read a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Villa Marina Bill – Second Reading Approved – Clauses Considered – Third Reading Approved

The President: We turn now, hon. members, to item 5 on the agenda paper and I call upon the hon. Mr Crowe to take the second reading of the Villa Marina Bill.

Mr Crowe: Thank you, Mr President. This Bill is about the Villa Marina contract with the Isle of Man Government in accordance with the resolution of Tynwald dated 18th May 1999. In summary the resolution noted the importance of the Villa Marina complex to Douglas and the Island, particularly the need to refurbish and redevelop the complex. The resolution also recognised the inability of the government to reach agreement with Douglas Corporation over the joint scheme. In view of these issues Tynwald gave support for the introduction of legislation for government to acquire the Villa Marina complex, including the arcade, colonnade and gardens.

This Bill is the legislative vehicle to carry out the agreed resolution of Tynwald and I have pleasure in moving the second reading.

Mrs Christian: I beg to second, Mr President, and say I hope that the Council will support this measure. There is such a long history here which all of us are familiar with. It is

rather a sorry tale but it is an important building and complex, not only for Douglas, but for the Island, and I think it is a pity it has come to the need for a Bill to be moved to resolve the issue. Nevertheless I think that if this is something that has to be done to secure the appropriate restoration or development or preservation of the Villa Marina, then so be it. I think if I were a Douglas ratepayer I would be quite delighted to see this being taken over by central government.

Mr Delaney: I am!

Mrs Christian: I think in fairness, as someone who does not live in Douglas, we do have to recognise that it is a facility which is there for the whole of the Island and it is not inappropriate for government to have responsibility for it and so I am going to support.

Mr Delaney: Like my colleague I totally welcome this Bill. The one concern that worries me at the moment has been the rumour and counter rumour in relation to many aspects of this Bill. The latest rumour going round is that possibly sackings of staff will take place, and this has come to my attention only over the weekend. I want to assure the staff that this Bill gives protection to the staff and that any sackings that will take place will not be by the department which has been given the responsibility to take over the Villa Marina. The situation, as I see it, is very clear in the Bill, but unfortunately rumours have been spread by mysterious people in the town, and the staff position is that they are secure in their employment. But I wish to make it clear that anyone found spreading this rumour should be disciplined by the corporation, because I understand that is where the rumours are coming from, and I know, like other members of this Council, no way would we see people lose their jobs because of government action and I would like to make sure that the members and the staff know that, Mr President.

Mr Lowey: I also support the Bill for the reasons spelt out by previous speakers. It is a sad reflection on a day where we do seem to be spending, as a legislature, lots of time on the Douglas Corporation, the Douglas Head Bill previously and here we are with the Villa Marina. But the Villa Marina is a case in point where someone had to blow the final whistle and it is regrettable. But there we are, we have got it. I would like to re-echo really what the hon. member Mr Delaney said. I think it is people with over-fertile minds who refer to the staff. For anybody who reads the Bill, quite clearly in schedule 2 it spells out that that has always been a prime consideration even in the joint promotion of the scheme, that the staff were and are an important part, an asset of that undertaking and we have taken an undertaking of the transfer of the staff with their pension rights, all have been spelt out, and if I may say so, by the minister in another place who spelt out his concerns that the staff should be treated fairly and properly and all their contractual agreements will be honoured, and I think that has got to be spelt out.

There is another rumour which is rife and that is about what I can best describe as the French colonial system of dealing with their colonies: the scorched earth policy. I will be moving an amendment to cover chattels and fittings in the Villa Marina because the Villa Marina is a working entity and it is right that the existing staff should be taking bookings for the complex into the future, and it is only right then, in fairness to their reputation and the reputation of the Villa Marina and the new owners, that we have the wherewithal in that building to actually deliver the high-quality product that the entertainment complex is noted for, and we want to make sure that that happens. To that extent I will be moving a couple of amendments to cover that very point.

I think the corporation have already signalled that they will not demur now from the wishes of Tynwald that this should come into government ownership, and to that degree I am grateful because I think enough money has been spent on legal niceties and not to the benefit of the Douglas Corporation, or much more important, much more beneficial to the Douglas ratepayers. I think that has been a wasted effort. However, that is all behind us and I will be getting mentioned in Terry Cringle's column now: that is twice I have referred to that statement today, it is all behind us now.

But having said that, this Bill is a working document that actually puts into place the machinery for the smooth transfer of the operation into government ownership and that must be beneficial to the people of the Isle of Man as a whole. I support the Villa Marina Bill.

Mr Waft: I think, Mr President, it has to be said that this Bill does go against the principle of the Department of Local Government and the Environment with regard to the devolution of the powers to local authorities under the 'Time for Change' documents and all the different tries they have had reducing the number of local authorities; this has been going on for a number of years since Victor Kneale's time, who was a great proposer of change. However, this situation can not be allowed to go on any longer: we have to do something about it, it has to make progress.

We have heard for many years about the Douglas Corporation wanting to get rid of some of the onerous financial burdens on what they deem to be all-Island facilities which they provide from Douglas Town Council, and this is one of them at the end of the day, but I do think decisions have to be taken. This has been going on for 10 years and it is not one minister, it is several ministers who have had their hands in this and they have all come to the same conclusion, so I think we have to support the decision. Thank you, Mr President.

Mr Crowe: Mr President, I thank the hon. Mrs Christian. It is important for Douglas and the Island to develop the Villa Marina facility which is an all-Island facility.

I thank the hon. Mr Delaney again. The transfer of the staff provisions are contained within the Bill in schedule 2 and it is important that there is continuity of employment.

The hon. Mr Lowey is again talking about the rumour mills which are working fully and which we have to counteract by giving the facts. The staff are protected and there is security of employment when government take over from the corporation. The continuity of the business aspects of the Villa are so important so that the business continues and there is a transfer smoothly from the corporation to the government.

As the hon. minister Mr Waft says, the taking over of the Villa is opposite to the department's wish to devolve power to the local authorities, but as he rightly says, the negotiation has gone on for 10 years without reaching a resolution and this is now to crystallise the situation and provide the all-Island facility. So I would like to move the second reading of the Villa Marina Bill.

The President: Hon. members, I will put the resolution that the Villa Marina Bill be now read a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Turning now to clauses, sir, clause 1.

Mr Crowe: Thank you, Mr President. Clause 1 and schedule 1 vests the Villa Marina complex as shown on the deposited plan in the Department of Tourism and Leisure. It also

transfers the staff of the Villa Marina from the employment of Douglas Corporation to that of the department.

Sub-clause (1) of clause 1 transfers the Villa Marina from the corporation to the Department of Tourism and Leisure. The extent of the property transferred, which includes the Villa Marina Arcade, is described in schedule 1 and shown on the deposited map. The property is transferred subject to any estates and interests, for example the leases of the shops in the arcade which existed immediately before 18th May 1999, the date of the resolution of Tynwald which approved the proposal of the Bill, but freed from any other trust, restrictions, conditions and encumbrances, including any charitable trust which might affect the property.

Sub-clause (2) introduces schedule 2 which transfers the staff of the Villa Marina to the employment of the Department of Tourism and Leisure.

Sub-clause (3) specifies the appointed day on which the transfer of the Villa Marina and its staff will take effect. It will be three months after the passing of the Bill unless the Council of Ministers make an order specifying an earlier date, in which case it will be that earlier date.

Mr President, I beg to move clause 1 and schedule 1.

Mrs Christian: I beg to second, Mr President.

Mr Delaney: Mr President, as Mr Lowey my colleague has said as a member of the Department of Tourism, it is necessary to keep this running as a going entity until we have had the position clear in relation to the refurbishment, the reconstruction of the Villa Marina, with the staff et cetera or new staff et cetera and the people will need to reconstruct it and contracts et cetera, all these things are to come in, but we have to keep the Villa running, and what concerns me here - and it is a matter, I hope, for the Attorney-General at least or my colleague on my left Mrs Christian - is the order, us taking over control of it. If you look at where we are now, starting December shortly, if it is left, in three months it might not be enough time to get all the problems of trying to run, and I have some little experience of running an entertainment complex, necessary for next season, and I would hope that this will be borne in mind by the Council of Ministers, that leaving it till the last instance for this to happen may be a mistake of a magnitude which could damage us in the next summer tourist season and also for those entertainments that our own local people enjoy. So I am hoping that the Council of Ministers will make early provision to make sure that the Department of Tourism and Leisure has control of this so that we can run it as a business operation for the benefit of all for next season.

The President: Now, hon. members, we have clause 1 along with schedules 1 and 2 before the Council at this moment and I am going to call upon Mr Lowey to move his notified amendment at this stage.

Mr Lowey: Thank you, Mr President. As has been already said, the Villa Marina is a working entity and in fairness to the existing staff and reputation of the complex in the hospitality and entertainment marketplace it is essential to have a smooth transition. Therefore to remove any doubt and in fairness to the existing owners as well as the proposed new owners, the existing and any new staff that may be brought in, I believe we need clarity and I believe that my amendment will give us that clarity.

It is important that if you transfer and are taking bookings now for the foreseeable future, and these things are not like going into a room and turning the electric light switch on and off, there is a transitional period and therefore it is important that the fixtures and fittings of the Villa Marina should remain intact and therefore it would be wrong if we did not take this opportunity to insert a clear indication of what is expected from the existing owners and their role. So to that extent I move the amendment standing in my name which I believe has been circulated:

(a) *Page 1 line 1, after "described in" insert "Part 1 of".*

(b) *Page 1 line 8, at the end insert -*

"(1A) The chattels specified in Part 2 of Schedule 1 shall on the appointed day be transferred to and vest in the Department."

(c) *Page 3, in Schedule 1, after "SCHEDULE 1" insert -*

"PART 1"

(d) *and at the end insert -*

"PART 2

CHATTELS TRANSFERRED TO THE DEPARTMENT

1. All fixtures and fittings which were attached to the Villa Marina immediately before the 18th May 1999 and were removed therefrom before the appointed day.

2. All equipment, machinery, tools and furnishings -

(a) which belonged to the Douglas Corporation immediately before the 18th May 1999, or at any times after the 18th May 1999 and before the appointed day, and

(b) which after 18th May 1999 and before the appointed day (or, if disposed of before the appointed day, before the date of disposal)

were only or mainly used in connection with the management, operation or maintenance of the Villa Marina."

That means that the fittings, fixtures, the tables, the chairs, the curtains, the spotlights, the sound systems should remain in place. In other words we do not have what I would call being offered a shell of a building and then saying to the customers that will have already booked in anticipation that they would be enjoying the existing facilities that should be all in place.

As I said, this is in fairness to the existing owners. They will be compensated for them, at the end of the day when the deal has been made, for what is the correct transfer fee. So we are not disqualifying them from a right but it is spelling out clearly what we expect to be left in. I think it is reasonable, I think it is fair, and to most fair-minded people we all have an interest, we all, I repeat, have an interest in the success of the Villa Marina and therefore I think it would be very wise for us to insert this particular clause at this particular time, the amended clause. Mr President, I beg to move.

Mr Delaney: I beg to second, Mr President. I was surprised actually, on reading the Bill, that there was not something like this in already because you are running an ongoing business here. It is no use having the roof and the walls if you have not got the chattels inside to carry on the purpose that the building was set up for and is running as.

I am also aware that we or the new potential owners have got no right of entry without permission of the current owners, which is right in law and proper, but therefore what we will know when we get there is that things may have been removed and I think that they should be told that they will not be removed at this present moment because - how shall I put this - by the information I am receiving it is disturbing, to say the least, and nobody can be expected to carry on for the benefit of the people of the Island and our industry, the tourist industry particularly, a building which has had things removed which actually lends to the ambience of the building, and I am surprised that this was not put in. But this time I fully support it and hope that it will be complied with in the spirit that it was intended to keep entertainment operating at this particular site.

Mr Kniveton: Mr President, I do fully support this amendment and I do congratulate Mr Lowey in spotting the necessity for it within this Bill.

Following up from what Mr Delaney has just said, okay, we know there are curtains, we know there is sound equipment, but we do not know everything that is in there and that is what concerns me: we just do not know everything that is in there. I am assuming we have not had a schedule put to us yet. Certainly after all the controversy that has been rolling about I would not guess so. But it does concern me that not everything will be identifiable. Thank you.

Mrs Christian: Mr President, whilst the hon. member my colleague has suggested that it is somewhat surprising that such a provision was not in the original draft, what is perhaps more regrettable is that it is necessary to put such a provision in -

Mr Delaney: Yes, I agree with you.

Mrs Christian: - and to that extent it has become necessary now as events are unfolding. It cannot be to anybody's benefit to strip assets from the Villa leaving it in a form which cannot be used for the benefit both of Douglas and the rest of the Island and it is important that this particular amendment gets support.

Mr Lowey: Could I just say, Mr President, it is simple. If I was buying a hotel or a business I think there is something called ingoing and goodwill and I am just trying to reinforce the ingoing and goodwill and I thank members for their support.

The President: Reply, hon. member.

Mr Crowe: Thank you, Mr President. Can I thank the hon. members who have spoken in support of the clause and I would thank the hon. Mr Lowey as well for his amendment. I am happy to accept and support the amendment. It will give clarity on the fixtures and fittings. We all want the Villa Marina to be successful and it is important that we treat the Villa Marina as a going concern so that there is this transfer from one body to the other. So I agree with the hon. Mrs Christian that it is regrettable that it has become necessary for this move but I am fully supportive and happy for it to go as part of the Bill. I so move, Mr President.

The President: Hon. members, the resolution is set out at clause 1 and embodies schedule 1 and schedule 2. To that resolution we have the amendment in the name of the

hon. Mr Lowey, circulated to you on the white paper that is in your possession. Those in favour of the amendment standing part of the clause and schedules please say aye; against, no. The ayes have it. The ayes have it. And now those in favour of the clause and schedules as amended please say aye; against, no. The ayes have it. The ayes have it. We move on to clause 2, sir.

Mr Crowe: Clause 2, Mr President, imposes certain restrictions to ensure that the Villa Marina, once it comes into government's hands, is not disposed of without Tynwald approval and cannot be used for other than recreational or entertainment purposes. The property could not be disposed of without Tynwald approval and could not be used in any way other than for recreational or entertainment purposes.

Sub-clause (1) requires the consent of Tynwald instead of that of the Treasury to any disposal of the Villa Marina or any part of it. It modifies the relevant provisions of the Government Departments Act 1987 so that the department may not dispose of the land without the approval of Tynwald.

Sub-clause (1)(a) provides that no permanent building should be erected on any part of the Villa Marina without the approval of Tynwald.

Sub-clause (2) provides that the department is to hold the property as if it had been purchased by agreement for the purpose of its functions under the Recreation and Leisure Act 1998 which enable it to provide recreational facilities and entertainment facilities as defined in sections 2 and 3 of that Act. It also provides that the property may not be used for any purpose other than the provision of those facilities with the exceptions set out in sub-clause (3).

Sub-clause (4) is a saving provision for planning legislation so that any change of use within the limits of the Recreation and Leisure Act would not be exempt from the normal planning control.

I beg to move that clause 2 stands part of the Bill.

Mrs Christian: I beg to second.

Mr Lowey: I would just say that clause 2 spells out really that the Villa Marina shall remain virtually as it is at the moment as a lung of Douglas which is admired by not just visitors but by locals alike, and it gives the lie to any black propoganda that car parks, trading entities or anything else will take place in the Villa Marina after government have taken it, have pinched it and set about their nefarious ways. This is a reassuring clause which tells the public that the Villa Marina will carry on as a prime entertainment complex for the Isle of Man, and I am happy to support clause 2.

The President: Reply, hon. member.

Mr Crowe: Thank you, Mr President. I thank Mr Lowey for his remarks and I agree that the provision of clause 2 is to make sure that the Villa Marina complex and its gardens remain virtually as they are, as a prime entertainments function for the Island, and any amendments to that would have to be approved by Tynwald. I beg to move clause 2.

The President: Hon. members, I will put the resolution that clause 2 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 3, sir.

Mr Crowe: Clause 3 provides for the Treasury to pay compensation to the corporation for the acquisition of the Villa Marina on the same basis as if it had been compulsorily purchased.

Part III of the Acquisition of Land Act 1984 provides for the assessment of compensation based on market value to be settled by arbitration in the absence of any agreement.

The compensation is to be paid into the borough fund, that is, the corporation's ordinary fund, as detailed in the Local Government Act of 1985, section 41 and is not to be earmarked for any particular purpose.

Mr President, I beg to move clause 3.

Mr Lowey: Mr President, could I move -

The President: I have not a seconder yet.

Mrs Christian: No.

Mr Delaney: I will second that, thank you.

The President: The hon. Mr Lowey.

Mr Lowey: Could I move a consequential amendment to clause 3 on the amendment that I moved to clause 1, schedule 1:

Page 2 line 21, after 'Villa Marina' insert 'and the chattles specified in part 2 of schedule 1'.

That regulates the compensation that would and could be paid, and again I want to stress that this is in fairness to the existing owners and therefore they have got nothing to fear from this amendment.

Mr Radcliffe: I beg to second the amendment, sir.

The President: Thank you.

Mrs Christian: Mr President, I certainly have no problem with the amendment. It makes it clear that compensation will be paid as a result of the step we suggested this morning in relation to the goods and chattels that are part and parcel of the complex. In so far as it certainly is appropriate that a measure of compensation be provided to the corporation I think it certainly has been an area of public debate as to what the level of such compensation would be and it would be recognised and measured under the Acquisition of Land Act.

The hon. member, the mover this morning has talked about going concerns. I think this has to be recognised as being a money loser. It is an attraction for the Island but it has to be recognised that it has a substantial subvention from government and one would expect that to be a measure, a component of the consideration of the value of this particular property. It cannot be developed in any other way because of the constraints which apply over it as an entertainment complex and that too is both a protection and potentially to the corporation a disadvantage in terms of the value of the land, but nevertheless it is appropriate that the land is being retained for entertainment purposes, it has run at a loss continuously, it does have a subvention from government and all of that needs to be considered, I think, in determining the level of compensation to be paid.

Mr Delaney: I wish to support the amendment to clarify exactly what will happen in relation to the chattels in that particular complex and I was thinking of this point being made by my colleague on my left here. That is something that has never come out in all the different rows and arguments that have gone on, is the ratepayers of Douglas, not only the tourist department who support by £80,000 a year a deficit on this, but the ratepayers of Douglas on their own have been underwriting the deficits on this building well since the 1950s to my knowledge, because in another place that was where I argued so many years ago as a councillor that this place was a loss and therefore may have been at that time organised and run better by private enterprise.

But the situation is that in all this debate that has gone about this Bill, and this clause highlights it, it has never been mentioned, the fact that the ratepayers, council house tenants who pay there rates, people who cannot afford this money, have been losing money on it. I moved originally 20 years ago the £18,000 intervention by the tourist department support the entertainment at the Villa Marina. That now stands at £80,000. But it is the ratepayers who have underwritten this for so many years with little regard from anybody in my opinion, and now when this money is transferred back for the ongoing situation at the Villa Marina they should be thought about and just thinking there is a windfall coming to the corporation treasury department is totally wrong. I believe this money should be put forward to help to take back the rates increase that has been directly responsible by the Villa Marina over a long period of time so the ratepayers of Douglas, those that pay the rates, can get some benefit from what they have paid for and underwritten for so many years.

Mr Radcliffe: Could I just very briefly comment?

The President: Sir.

Mr Radcliffe: This is the clause, I think, that is the crux of the whole thing, the compensation clause. The perceived value of the property, I think, is poles apart between the two parties involved and it is just going to be a tremendous job, I think, for the arbitrator, whoever that shall be, to resolve the problem, but I have a certain sympathy point made by the hon. member Mr Delaney. The ratepayers of Douglas have subsidised this enterprise for many, many years and hopefully, as he rightly says, the corporation will not regard whatever is received for the property as a windfall but they should try and direct some of that back to aid the ratepayers who have aided them over very many years in keeping the place running, but this is, as I say, the crux clause to my mind and it will take more than a day or two to resolve, I feel quite sure at the end of it.

Mr Lowey: Could I just say, Mr President, on that very point that because the two parties are arguing over the value it should not exclude the fact that the Villa Marina goes on day by day and therefore that can go on in parallel with the handover to the government and for them to get on with what I would call the necessary refurbishment and the necessary reassessment, as has been pointed out, of the current situation before we then go on. So, yes, it is the key, but I do not think it should be used as an instrument to hold up. The one thing government cannot be found wanting on is on the day they get the go-ahead to take it over and then government should be up and running on day one, not three months, six months down the line talking about it because it can only get worse and I think the patient is in need of a blood transfusion like now.

The President: Reply, sir.

Mr Crowe: Mr President, I thank hon. members for comments on this clause which, as the hon. Mr Radcliffe says, is the crux of the whole thing which is the value of the building and there are differing views on what the value should be and what the ultimate end result will be, but this is for an arbitrator to decide, but I agree with the hon. member Mr Lowey that even though the negotiations on a value are continuing, the actual fact that the Villa Marina complex is running and continues running is very important so the two can go hand in hand, the transfer of the business, even though it is at present a loss-making business, and the negotiations for the compensation, so it should not be allowed that there is any further delay or that there is a black hole which the whole thing disappears into. So I thank hon. members for their remarks and ask that clause 3 stands part of the Bill.

The President: Hon. members, the resolution is that clause 3 do stand part of the Bill and to that resolution I have an amendment in the name of the hon. member Mr Lowey which is set out on the white paper and I would put the question. Those in favour of that amendment standing part of the resolution please say aye; against no. The ayes have it. The ayes have it. Now those in favour of the clause as amended please say aye; against no. The ayes have it. The ayes have it. Clause 4, sir.

Mr Crowe: Clause 4 provides for the automatic transfer on the appointed day of any liquor licences and music and dancing licences held by the corporation in respect of the Villa Marina. This of course is vital so that there is continuity in the business operations. I beg to move that clause 4 stand part of the Bill.

Mr Kniveton: I beg to second, sir.

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

Mr Crowe: Clause 5, Mr President, gives the Bill its short title and repeals the existing Acts relating to the Villa Marina which are superseded by clause 2. Mr President, I beg to move that clause 5 stand part of the Bill.

Mr Kniveton: I beg to second, sir.

The President: Hon. members, I will put the resolution that clause 5 do stand part of the Bill. Those in favour please say aye; against no. The ayes have it. The ayes have it. Bill read a second time. Sir?

Mr Crowe: Could I take the third reading, Mr President?

The President: Of course.

Mr Crowe: Can I request that standing orders be suspended, Mr President?

Mr Lowey: Mr President, I would support the suspension of standing orders for this. Nobody can say that this particular item has not been in the public domain, high profile for a very, very long time and now what I would call one of the warring partners, the owners, has become a willing partner. I believe there is no real reason why it should not be. This Bill should be read and finish its parliamentary passage here today. As we have amended it, it will have to go to another place and I think it is in the spirit of suspension of standing orders for practical

purposes that this Bill should be expedited speedily and therefore I will be suspending the suspension of standing orders.

Mr Delaney: I congratulate the member on moving the third reading and I would fully support the suspension of standing orders because this Bill has to be sorted out for the benefit of everybody in this Island.

The President: I will put the resolution, hon. members, that standing orders be suspended to enable the third reading of the Villa Marina Bill to be taken. Will those in favour please say aye; against no. The ayes have it. The ayes have it. I call upon the hon. member to move the third reading of the Villa Marina Bill.

Mr Crowe: Mr President, I believe it is important that we pass this legislation today in order that the Isle of Man Government can refurbish the Villa Marina so that the Island has a first-class entertainments complex for both Island residents and tourists alike. It is especially urgent to deal with this because of the issues that have been raised today and the amendments that we have debated and approved in full and I would like this Bill now to be read a third time.

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

Mrs Christian: Mr President, I certainly support the third reading because it will have to go back to another place in terms of the amendments that have been considered today. I think we ought to recognise, in supporting the third reading, whilst we are taking an important step in relation to the future of the Villa Marina, there is still going to be a long way to go in terms of its restoration and any changes which may be made to that area. Time has been lost in terms of the provision of capital which has been in the capital programme for some time and because of that undoubtedly other things have come along which also need to be done and the Villa Marina will now presumably have to fight its corner in the same way as many other projects at a time when there are major capital works going on on behalf of government throughout the Island. So it is an important step, but there is still a long way to go.

Mr Lowey: Mr President, can I say that I too support the third reading but I support the Villa Marina Bill. I do not think for any local person the Villa Marina has not had an impact on their life of one sort, whether it was the first dance they went to or whether it was their first real entertainment. It is the major concert hall of the Isle of Man, the only concert hall we have. It is the only major place we could hold a major conference at the moment. The proposed joint venture plans which are incorporated in this Bill are all there for all to see. It is on the prime site in the capital. There is not a better site for an entertainment complex anywhere in Douglas but in the very heart, the very centre.

It needs a lot of capital spending on it, as Mrs Christian says. Government's job today is to say, 'Look, this is coming into government ownership. It will be refurbished to the highest standards, it will meet the needs of an industry and the local people and it is right that it should be a charge on central government funds.' All of that then, as Mrs Christian rightly says, has to be if you like competed for in the normal scope of things, but in government there are such things as priority lists.

No-one can doubt the Villa Marina is an ancient lady that certainly needs a bit of plastic surgery. I am not using the word 'plastic' lightly here. It is descriptive. I do not want plastic put

into the Villa Marina. But the Villa Marina certainly needs major surgery, major overhaul. The plans that I have seen, the architectural thing of it, will have an impact in the most vital part of the Isle of Man, Central Promenade.

It is worthy of support and I support the government taking it over and investing heavily and getting the right result.

Mr Waft: I am just a little bit concerned with regard to this Villa Marina Bill. I am partly in favour of it but the different costings that I have seen and heard bandied about are just quite unbelievable and we are going into this situation with the full knowledge of Treasury and the backing of Treasury, but as for what depth of investigation has gone into working out what the compensation will be, I am sure they will be poles apart, as has been said, and if the arbitrator takes as long to decide on this arbitration as he has for the negotiations that have taken place between the Douglas Corporation and Government, it is going to be a very, very long time, but it is only the financial implications and I would have liked a bit better ball park figure than we have at the moment. Thank you, Mr President.

The President: Reply, hon. member.

Mr Crowe: Mr President, I thank again hon. members for allowing the third reading and for supporting the third reading and in the words of the hon. Mrs Christian, it is an important step that we are taking today, there is still a long way to go and there have to be bids, as we know, for the capital to refurbish the building. As the hon. Mr Lowey says, this is a major conference and concert hall for the Island and it needs major expenditure, so I am sure the Treasury will consider the bids when they come along for the renovation costs which will be necessary.

The hon. Mr Waft is concerned about the different costings which we hear about, but it is not until the arbitrator, I believe, sits down and looks at the whole thing and looks under the microscope at all the various issues that are arising that we will come to a balanced judgement at the end of the day.

I also thank the hon. Mr Delaney for seconding this and thank hon. members for their remarks.

So I move the third reading, Mr President.

The President: Hon. members, I will put the resolution that the Villa Marina Bill be read a third time and do pass. Will those in favour please say aye; against no. The ayes have it. The ayes have it. Bill read a third time.

That, hon. members, concludes our business for this day. The Council will now adjourn and will adjourn until 7th December at 10.30 a.m. in this chamber. Thank you, hon. members.

The Council adjourned.