

**REPORT OF PROCEEDINGS OF
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 13th February 2001
at 10.30 a.m.**

Present:

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

The Lord Bishop took the prayers.

National Health Service Bill — Third Reading — Bill Amended — Third Reading Approved

The President: Hon. members, it is nice to have a full House again. Welcome back to each and everybody who has been missing.

We turn then to our order paper on to item 1 and it is the National Health Service Bill for third reading.

Mrs Christian: The National Health Service Bill, as members will recall, updates the NHS legislation and creates a new enabling piece of legislation upon which many regulations will be developed. This will give a great deal of flexibility in relation to the health service but what I think we need to remind ourselves of is the fact that it still embodies the principles of the 1948 Act in that it provides for a health service that is essentially free at the point of delivery. We went through the clauses in some detail. I am conscious that I have held up the third reading in order that we might clarify an issue in relation to the school health service following an amendment in another place and that has had to be carried out in conjunction with the Department of Education because there is an overlap between our two departments. Subject to that amendment being moved, Mr President, I beg leave to move the third reading of the National Health Service Bill.

Mr Radcliffe: I beg to second, Mr President.

The President: Secunder, Mr Radcliffe. Can I then invite Mr Crowe, please.

Mr Crowe: Thank you, Mr President. I am moving this amendment, which is to insert a new clause 16 in place of the original clause 16 which was duly amended in another place. This served to include children, and I quote, 'habitually resident in the Island and in attendance at any other school or college in the Island.' However, the Department of Health and Social Security consider that the original amended clause needed further refinement and after taking advice from the legislative draftsman it was thought better to insert a new clause rather than amend an already amended clause. The new wording makes it clear that the school medical service applies to all colleges and schools on the Island. Mr President, I beg to move the amendment:

Page 10 line 6, for clause 16 substitute —

“School medical service

16. (1) *The Department shall make arrangements for the medical inspection and dental inspection at appropriate intervals of the pupils under the age of 18 in attendance at any school or college in the Island.*

(2) *The Department may provide health education and promotion for pupils in attendance at any school or college in the Island.*

(3) *A person authorised for the purpose by the Department may require —*

(a) *the parent of a pupil under the age of 16 who is in attendance at any school or college in the Island, or*

(b) *in the case of such a pupil who is accommodated at an independent school or college and whose parent is not in the Island, the proprietor of the school or college,*

to submit the pupil for medical inspection or dental inspection.

(4) *A person authorised for the purpose by the Department may require a pupil of the age of 16 or over who is in attendance at any school or college in the Island to submit himself for medical inspection or dental inspection.*

(5) *Any person who fails without reasonable excuse to comply with a requirement under subsection (3) or (4) is guilty of an offence and liable on summary conviction to a fine not exceeding £200.*

(6) *The Department in exercising its functions under subsections (1) to (4) shall act in consultation with -*

(a) *the Department of Education, in relation to pupils in attendance at a school or college maintained by that Department; and*

(b) *the proprietor of the school or college, in relation to pupils in attendance at any other school or college.*

(7) *Regulations may make provision as to medical inspections or dental inspections under this section.*

(8) *Nothing in this section affects any powers of the Department of Education under section 41 of the Education Act 2001.*

(9) *In this section —*

“medical inspection” and “dental inspection” mean inspection by or under the directions of a registered medical practitioner or a registered dentist, as the case may be, employed or engaged, whether regularly or for the purposes of any particular case, by the Department;

“proprietor”, in relation to a school or college, includes a governing body and any other person responsible for its management;

“pupil”, “school” and “college” have the same meanings as in the Education Act 2001.”

Mr Lowey: I beg to second, sir.

The President: Dr Mann.

Dr Mann: Has this amendment been approved by the Department of Education?

Mrs Christian: Yes. Mr President, we had joint meetings with the Department of Education in order to clarify who would be responsible for various aspects of the school health service in that now it is extending to the private schools. The Department of Education did not want to undertake its responsibility in respect of those private schools where it comes to calling people in to undergo a medical inspection. They wanted their responsibility to lie simply with the state schools and so between the two departments we have provided within this draft that the Department of Health and Social Security will have an authority in relation to private schools if they feel that a pupil needs to be called in for inspection and the Department of Education will retain their authority in respect of state schools, so that we hope, having amended their Bill as well, that now there will be no loopholes in respect of who is being responsible for what in the various educational establishments and they are content with this particular measure.

The President: Mr Waft.

Mr Waft: I am just a bit concerned. When you divide responsibilities between departments you can abdicate responsibility likewise and say, 'It is not our department it is the other department.' I am a bit concerned in clause 16(2) where it says, 'the department may provide' and clause 16(1) 'the department shall provide'. Why the difference between the 'shall' and the 'may' in those two instances?

Mrs Christian: Mr President, the 'shall provide' is 'The Department shall make arrangements for the medical inspection! We have an obligation in the department to make provision for medical and dental inspection for pupils under the age of 18. 'May provide health education and promotion': those are somewhat different from providing for medical inspection and it was a 'may' provision in the earlier legislation in any case. Outwith this provision of health education and promotion for pupils there is the general health education and promotion principle embodied in the Act in any case but in discussion with the Department of Education they felt that it would be beneficial to include this, as a repeat if you like, in the school medical service clause. They also provide some health education and promotion, of their own volition if you like, but in discussion between the two departments it was felt that it was reasonable to leave in the provision which already exists in the 1948 Act. The distinction is one is health education and promotion and the other is medical and dental inspection.

Dr Mann: I am conscious of the fact that in another place there is a Bill relating to education. Does this clash in any way with the proposals in another place, because they are subject to amendment as well?

Mrs Christian: Mr President, they will be subject to amendment following our joint discussions. The amendment to our original Bill in another place has had this knock-on effect which has resulted in us needing to talk to Education to clarify these issues between us. There will be an amendment moved to the Education Bill to make sure that we are all -

Dr Mann: Yes, well, I am conscious of that I am just making sure that we were not clashing that is all.

Mrs Christian: No, we have had joint meetings to establish that we are content with what is in their Bill and they are content with what is in ours.

Dr Mann: Okay.

The President: Could I just raise a point myself, Mrs Christian, if I may in relation to subsection (4), 'the person authorised for the purpose by the Department may require a pupil of the age of 16 or over who is in attendance at school or college. . . .' Is there any age limit?

Mrs Christian: No, provided they are at school or college in the Island. This is one area where we did have a discussion about our ability to call in 'adults' but we were advised by the legal draftsman that we can put in such a requirement. It is 'may require a pupil'. I think we would use our discretion in that regard. It is unlikely to be used to any great extent but it is a provision that was there before and we are leaving it in. There has been some debate about whether or not that should have simply retained the 'under the age of 18' to keep it in line with 16(1). However it was agreed that it is acknowledged that there are some young people of the age of 18 and over in schools and colleges and there may be a circumstance where we would wish to have an authority to require them to undergo a medical or dental inspection.

The President: Hon. members, I am conscious that Mrs Christian has been most helpful in responding to the questions but the amendment is in the name of Mr Crowe. Do you wish to reply, sir? Is there any comment you wish to make?

Mr Crowe: No, Mr President, I think the hon. minister has responded.

The President: In that case, hon. members, we have the National Health Service Bill which is for third reading but we have an amendment which puts in a new clause 16. It replaces clause 16 of the National Health Service Bill. Those in favour of the new clause please say aye; against, no. The ayes have it. The ayes have it. I take it, hon. members, with unanimity I do not require anything further because that amendment of course would have required six votes to have carried on this particular occasion. So I then put the National Health Service Bill, including the new amendment, for its third reading. Those in favour please say aye; and against, no. The ayes have it. The ayes have it. That concludes our deliberations then of the National Health Service Bill.

Gaming, Betting and Lotteries (Amendment) Bill — Clauses Considered — Bill Amended — Third Reading Approved

The President: We go on to item 2 on our order paper, the Gaming Betting and Lotteries (Amendment) Bill for consideration of clauses and third reading. So we start then with consideration of the clauses and can I suggest, Mr Delaney, we take clause 1.

Mr Delaney: Thank you, Mr President. If I may say so before getting into clause 1, I am appreciative of members of the Council, the Lord Bishop, Mr Radcliffe and others, because as I pointed out at the first reading and the second reading, the new amendments which had come from another place gave me some necessity of work, which I have tried to do, to find out where this may be taking the people of the Isle of Man. I had some concerns, shared by others I may say, into where the new clause that is coming into this might be. I am satisfied and I am taking this now with the agreement of everyone concerned because they are satisfied that although no legislation is perfect, in actual fact it is necessary to take it through to the clauses stage, hopefully the third reading. My concerns and others' concerns I think will be addressed

by the regulations which it is intended to bring in. I would suggest members keep a close eye on those regulations when they come in, mainly because the new clause does not allow a mechanism in the Isle of Man for local charities to be part of the scratch card brigade that will be coming into the Island should that clause go through. But I am assured that regulations can be brought in to assist some of our smaller charities in the Isle of Man if needs be. Having said that I will get down to clause 1. This clause allows betting offices to open at any time except on Good Friday and Christmas Day by removing all restrictions on their opening. The 1988 Act, Schedule 2 paragraph 1 provides as follows, 'The premise shall be closed throughout Good Friday, Christmas Day and every Sunday and on weekends except between such hours as the Council of Ministers may by order prescribe. Different hours may be prescribed in respect of different days of the year.' This clause will take us into line with what is happening in the adjacent island. Mr President, I beg to move clause 1.

The President: Mr Kniveton.

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

The President: Hon. members, the motion before us then is that clause 1 do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2, Mr Delaney.

Mr Delaney: Clause 2, Mr President, relaxes the restrictions on advertising of betting offices. At present section 20(6) of the 1988 Act prohibits the advertising of betting offices except inside the office or, in such a manner as may be prescribed by regulations, on premises giving access to such an office. Sub-clause (1) allows the advertising of a betting office outside the office as well as in premises giving access to it, provided it is controlled from inside the office and complies with regulations, based on the UK Betting, Gaming and Lotteries Act 1963 added by the Betting, Gaming and Lotteries (Amendment) Act 1984. The amendment by sub-clause (2) is a subsequential amendment. Sub-clause (3) is a consequential amendment but also corrects the faulty cross reference in Schedule 5. Sub-clause (4) is a transitional modification and reference in the new section 20(6) to 'public licensed betting office' assumes that the Betting Offices Bill has come into force. Until it does it is to be read as 'licensed betting office'. I beg to move, Mr President.

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

The President: Hon. members, the motion is that clause 2 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. We turn then to clause 3 for 'Christmas draws'.

Mr Delaney: This is an interesting clause, clause 3, which I wish to move, Mr President. This clause allows tickets for a Christmas draw operated in a public house to be sold in November as well as December. Section 30 of the 1988 Act provides an exemption to the general prohibitions on lotteries in the case of a private lottery which includes a Christmas draw limited to persons working at or customers of licensed premises. 'Christmas draw' is defined in section 30(2) as 'a lottery, the tickets or chance in which are not issued except in the month of December and the draw in which takes place on or after 18th December and before 1st January.' I beg to move.

Mr Kniveton: Yes, and I beg to second, sir.

The President: Mr Crowe.

Mr Crowe: Mr President, yes, a very practical change because I think a lot of lotteries were falling foul of this unwittingly and unknowingly and I think it is very sensible that the law follows the practicalities of it.

The President: Mr Lowey.

Mr Lowey: Could I take that logic to its logical conclusion: why have a two month ban at all? What is the purpose behind banning the sale before? Now, the world we live in is most peculiar because Christmas is not out of the way until we are having Easter eggs sold to us and hot cross buns. January is hardly associated with hot cross buns but I note they are on sale. And yet here we are regulating what I would call Christmas lotteries for local people to two months restriction. If we were logical we would not have any restriction at all. We would curb them, we know we register them and that seems to me to be logical. I cannot see logic in that prescription of taking it from one month to two months other than trying to restrict peoples gambling instincts and that seems illogical if we are extending all these betting abilities in all its forms. Perhaps the mover would like to comment on that?

The President: There being no other member wishing to speak, I am sure the mover will reply.

Mr Delaney: No, tactical I think is a good word and logical is another good word. *(Laughter)* This will make it licensed for one-sixth of the year to sell Christmas lottery tickets or draw. The fact is we have to have periods of the year Easter period I know is being sold directly after Christmas, I am aware of that. I can say that this two months is a reasonable time for people to have bought the tickets for that Christmas period. I myself have been guilty of buying tickets or somebody has sold them to me and is guilty of selling them to me prior to the Christmas period or outside the laid down regulations at the moment.

The President: Mr Lowey.

Mr Lowey: I think it is a point. Here we are talking about 'Christmas lotteries' but if I organised a lottery for Easter or a summer draw there is no restriction on the months pre-sales, then why should it be? I will be supporting the Bill as printed, I must say that, but it does seem illogical to me that if we can permit that sale of lotteries in other parts of the year then why we are restricting Christmas does not make sense.

Dr Mann: Especially as most Christmas fairs are in October.

Mr Delaney: I think you will find we are only trying to amend what is already laid down in legislation here. Maybe it should be totally removed. That is one point of view that may well be accepted by the majority at some time but at the moment we are trying to change the actual existing Christmas draw section. That is the answer to that I think.

The President: The motion before us then is printed as clause 3 in the Gaming Betting and Lotteries (Amendment) Bill. Those in favour please say aye; and against, no. The ayes have it. The ayes have it. Clause 4, Mr Delaney.

Mr Delaney: Clause 4 enables a society lottery to be advertised to the public provided that the advertisement complies with requirements to be laid down by regulations. Section 32(3) of the 1988 Act provides as follows; 'A society lottery is not unlawful if the following conditions are

observed in connection with the promotion and conduct of the lottery that is to say, no written notice or advertisement of the lottery shall be exhibited published or distributed except as follows -

(i) a notice or advertisement exhibited on the premises of the society, or published or distributed exclusively to members of the society;

(ii) such notice or advertisement as may be contained in the tickets, if any;

(iii) every ticket and every notice or advertisement of the lottery lawfully exhibited distributed or published shall specify the names of the society, the name and address of the promoter and the date on which the draw, determination or event or by reference to which the prizewinners are ascertained will take place.'

In other words you are told which number you have got. This clause adds to paragraph (h) a further class of permitted advertisement and notice or advertisement of such a description and complying with such conditions as may be prescribed i.e. prescribed by regulations made by the Commissioners under section 47(1) subject to Tynwald approval under section 47(2). It also adds a further requirement as a new paragraph, that all advertisement except one contained on the ticket must contain information prescribed by such regulations. If we are all clear on that, what I am saying in short is more information to those people wishing to take part. Mr President, I beg to move clause 4.

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

The President: Hon. members, the motion before us is 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, Mr Delaney.

Mr Delaney: This clause, clause 5, Mr President, enables a jackpot prize normally not exceeding £10,000 to be given in a society lottery, which of course members will know is a major change. Section 32(3) of the 1988 Act provides as follows; 'A society lottery is not unlawful if the following conditions are observed in connection with the promotion and conduct of a lottery that is to say; no prize shall exceed £2,000 in amount or value and; no ticket or chance shall be sold at a price exceeding £1'. I think it has served its purpose, the original section in this modern day and age, particularly when we are talking of bringing in scratch cards and at least this will give the opportunity for a £10,000 prize to be offered, which is quite a substantial amount in a small society, I would suggest. I would like to move that clause 5 stand part of the Bill.

Mr Kniveton: I beg to second, sir.

The President: The motion, hon. members, is that clause 5 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Clause 6, Mr Delaney.

Mr Delaney: This clause enables a list of approved bodies, members of which may certify returns of society lotteries, to be amended by order. Section 31(1) of the 1988 Act requires the promoter of a society lottery to file with the Commissioners a return certified by a member of an approved accounting body showing certain particulars about the proceeds, expenses, prizes and sale of tickets. Section 48(1) defines 'approved accounting body' as the Institute of Chartered Accountants of England and Wales, the Institute of Chartered Accountants of Scotland, the Association of Certified Accountants, the Institute of Chartered Accountants in

Ireland, the Chartered Institute of Public Finance and Accountancy. Sub-clause (1) adds a new subsection (1A) to section 48 enabling the Commissioners to amend the list. Sub-clause (2) amends section 47(2), which requires Tynwald approval to regulations and certain orders by the Commissioners, by adding an order under the new section 48 to those orders. I beg to move clause 6.

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

Mr Lowey: Can I ask the mover, is this a new requirement or is this an existing requirement just amended to meet the requirements of this new Bill?

Mr Delaney: It will enable the regulations and the Commissioners to actually change the rules where those people have to by law certify the accounts of local societies for the benefit of everybody can be - I beg to move.

The President: It is reducing the Tynwald approval, that is what it does?

Mr Delaney: Slightly.

The President: Hon. members, the motion before us is that clause 6 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 7.

Mr Delaney: Mr President, this clause allows bingo to be played at functions and enables events such as 'horse race nights' to be run as society lotteries, subject to regulations. 'Horse race nights' are technically lotteries which also count as gaming since they are played as a game. They are strictly speaking illegal but are now so common that it seems to be harmless that it is thought necessary to legalise them. Sub-clause (1) adds a new exemption to the general prohibitions on lotteries via a society lottery which is played as a game as bingo is and complies with the conditions which are prescribed by regulations made by the Commissioners. Tynwald approval under section 42 is required. It is intended that the regulations should be authorised bingo on horse racing nights to be organised as fund raising functions subject to safeguards to prevent fraud and exploitation. Sub-clause (2) avoids overlap between the controls on gaming and controls on lotteries in the case of a society lottery played as mentioned in sub-clause (1). Section 1(2) of the 1988 Act excludes a lawful lottery from gaming controls provided that the winners are not ascertained by more than three draws or other events. This proviso would not cover a bingo session or 'horse race night' allowed under sub-clause (1) unless there are three or less cards or races. This applies the proviso except so far as the regulations otherwise provide. Sub-clause (3) extends another exemption from the controls of gaming that apply to events such as whist drives, a normal entertainment which a number of people have enjoyed over the years, by removing the requirements that not more than one distribution of prizes or awards made in respect of all games played at the entertainment. This legalises games of bingo as fund raising or similar functions of voluntary organisations of which prizes may be awarded after each card. Sub-clause (4) extends the exemptions for society lotteries from the controls applying to pool betting to cover those allowed. Sub-clause (5) deals with two provisions applying to licensed premises; (a) section 37(1) penalises a licensee if the premises are used for gaming with an exemption for unlawful lotteries and (b) section 80(4) makes it clear that giving liquor as a prize in a lawful lottery is not a sale by retail requiring a liquor licence. Both exemptions are extended to cover lotteries allowed by this particular amendment.

The President: Mr Kniveton.

Mr Kniveton: I beg to second, sir.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President. Yes, I think this probably brings some certainty into where there was uncertainty. I think listening to the mover, Mr Delaney, it appears that where there might be grey areas, such as the horse racing nights et cetera, this now makes it absolutely clear and I think the regulations will make it even clearer. Having the opportunity to change regulations from time to time will at least bring the Bill - it will never get out of step with changing values. I think I am happy to support this.

The President: Mr Lowey.

Mr Lowey: I am happy to support it if it brings the clarity which the hon. mover says it will. I did not realise I had led such a shady, illegal existence. I mean I have been a bingo caller, I have been a whist drive MC, I have been to horse racing nights, fund raising for local societies and - let me put my final confessions on the table - I have been to beetle drives. *(Laughter)* Will this cover beetle drives because I might as well get an all-exemption. The point I am really trying to make is will the regulations cover such things as - the mover has mentioned horse racing - we also know that there is dog racing and other forms of sports and we are always told the traditional Chinese people will bet on two flies walking up and down a wall or up a window pane. Will this actually allow those to be covered? What I think the mover in this Bill is trying to do is say, 'Look, we understand these things take place and they are going to be lightly controlled in the sense that that they will be not illegal, they are legal now.'

The President: Mr Radcliffe.

Mr Radcliffe: I have a series of amendments to clause 7, Mr President.

The President: I thought that that was coming forward as a new clause, 7A.

Mr Radcliffe: Well, yes.

The President: We are dealing at the present time just with clause 7 as printed in the green Bill, hon. members. Just with clause 7, 7A will come next.

Mr Radcliffe: Right, thank you.

The President: Hon. members, the motion before us is that clause -

Mr Delaney: Could I just answer?

The President: Yes, you can, Mr Delaney, sorry.

Mr Delaney: First of all I thank my colleague on my right here, Mr Crowe, for his support on this. To Mr Lowey, his point about why he has fly has never won on the window - mine always died or somebody swatted, them. Stewards objection! I will make sure to ask the commissioners or their representatives to make sure these things are covered when they bring the regulations in.

The President: Hon. members, the motion is that clause 7 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Now hon. members, we will take the new clause which was inserted in another place, 7A. Mr Delaney. I think Mr

Delaney moves clause 7A because Mr Radcliffe will have an amendment to 7A and if it is not moved he cannot move the amendment. Clause 7A is the exemption for British society lotteries.

Mr Delaney: Right, 7A is a new clause, Mr President:

Exemption for British societies' lotteries

(1) *In section 29 of the 1988 Act, after subsection (2) insert -*

“(2A) In any proceedings for an offence under subsection (1) it shall be a defence for any person charged to prove -

(a) that the lottery to which the proceedings relate was a lottery which is declared to be not unlawful in Great Britain by section 3(3) (societies' lotteries promoted in Great Britain) of the Lotteries and Amusements Act 1976 (an Act of Parliament),

(b) that the promotion of the lottery was managed by a person registered by the Commissioners under section 33A, and

(c) that at the date of the alleged offence he believed, and had reasonable ground for believing, that it was being conducted in accordance with the requirements of that Act and any regulations for the time being in force under that Act.”

(2) *After section 33 of the 1988 Act insert -*

“33A Registration of managers of British societies' lotteries

(1) An application for the registration under this section of a person as the manager of a lottery referred to in section 29(2A)(a) shall be made to the Commissioners and shall specify -

(a) the name and address of the applicant;

(b) the name and address of the society by which the lottery is promoted;

(c) the purposes for which the society is established and conducted;

(d) the name and address of the registration authority with which the society is registered under Schedule 1 to the 1976 Act or, as the case may be, that the society is registered with the Gaming Board for Great Britain under Schedule 1A to that Act; and

(e) where the applicant is a person mentioned in section 9A(1)(e) of that Act, the name and address of the person certified under Schedule 2A to that Act by whom he is employed.

(2) *The application shall have attached to it -*

(a) a copy of the scheme approved under section 5(3)(c) of the 1976 Act which relates to the lottery, and

(b) where the applicant is a person mentioned in section 9A(1)(d) or (e) of that Act, a copy of the current certificate issued under Schedule 2A to that Act to the applicant or to the person by whom he is employed, as the case may be.

(3) Subject to the provisions of this section, the Commissioners shall, on application duly made under subsection (1) and on payment of a fee of £50, register the applicant in a register kept for the purpose, and notify the applicant in writing that they have done so.

(4) *The Commissioners, after giving the person concerned an opportunity of being heard, may refuse to register the manager of a lottery under this section, or revoke the registration of the manager of a lottery under this section, if it appears to them -*

(a) *that any person has been convicted of an offence committed in connection with a lottery promoted or proposed to be promoted on behalf of the society;*

(b) *that the society is not or has ceased to be a society on behalf of which lotteries may be promoted under the 1976 Act; or*

(c) *the person concerned is not or has ceased to be qualified to manage the lottery under section 9A(1) of that Act.*

(5) *Where registration has been refused or revoked under this section, the Commissioners shall forthwith notify the person concerned and the society in respect of whose lottery he is registered of the refusal or revocation, and that person or that society may, within 21 days of the giving to it of such notice, appeal to the High Court; and Schedule 4 applies, with any necessary modifications, to an appeal under this subsection as it applies to an appeal under section 33(3).*

(6) *Where a person is for the time being registered under this section, that person, or the society in respect of whose lottery he is registered, may at any time apply to the Commissioners for the cancellation of the registration; and the Commissioners shall cancel the registration accordingly.*

(7) *Every person who is registered under this section shall pay to the Treasury on the 1st January in each year while he is so registered a fee of £50, and, if any such fee remains unpaid at the end of that month, the registration of the society shall be cancelled forthwith.*

(8) *The Treasury may by order substitute for any amount specified in this section such other amount as may be specified in the order.*

(9) *In this section “the 1976 Act” means the Lotteries and Amusements Act 1976 (an Act of Parliament).”.*

(3) *In section 47(2) of the 1988 Act, after “33(6)” insert “, 33A(8)”.*

This particular new clause with all its ramifications gave me some concern and, as I mentioned in the opening address, what it is saying is that anybody under the British Act may apply and, if so agreed to by the commissioners, bring in to the Island a brand new legalised form of gaming. That has been accepted in Britain for a number of years. In a small society surrounded by water there is only a certain amount of money that can be spent on gaming of chance or towards a bit of fun but the money is being well used in the Isle of Man for charitable purposes. Once that amount of money that persons have on their person to actually expend on this is expended on scratch cards, there will be I believe very little money running around to go to other charitable purposes, whether it be Christmas draws or whatever others you have. I wanted members to be aware of this, in that it could have effect in some small way on local charities. It is the wish of the other place that they want it. I have agreed with the promoters of this particular Bill to put the Bill through but I have a concern. I think other members should have a concern as well. I enjoy a punt as well as anybody else does but the fact is there is only a certain amount of money in any society that can be expended on anything and this as far as charity is concerned could have an effect. I am somewhat heartened by speaking to our

colleague from the Treasury who has told me of the amount of money in the coffers that has been coming into the Treasury and relayed out to charities on the Island which may help somewhat but I do want hon. members to be aware of what the situation will mean as far as British charities. Nobody in the House of Keys seems to have asked the question when the clause went through, How many people would it enable to come to the Isle of Man? Nobody could give me the definite answer but I am telling you it is in the long number of people, societies who are registered in Britain under this Act. It virtually comes down to every football team has scratch cards of some sort which could come into this Island. I beg to move.

Mr Kniveton: I beg to second.

The President: Mr Kniveton seconds the new clause. 7A. I call then upon Mr Radcliffe to move the amendments which he has to clause 7A.

Mr Radcliffe: Thank you, Mr President. Clause 7A deals with persons responsible for the lottery and says they have to be resident in the Island and that person shall be liable for duty on the tickets. It also covers situations where the commissioners may refuse or revoke an application to be a manager of a British society lottery in the Island, replacing the relevant subsection in the previous amendment. I just propose to deal with that part which deals with those who may legally run these tickets and who is responsible for them. I have copious notes if hon. members would like a wealth of information on this particular section but I would just say that certainly it is pointing out who is going to be responsible and where those responsibilities lie and I beg to move that the new clause 7A be inserted into the Bill.

The President: No, sir. The new clause 7A has been proposed by the hon. member, Mr Delaney, you have amendments to the new clause.

Mr Radcliffe: Amendments to 7A, yes, I beg your pardon, sir. I beg to move:

In sub-clause (2), in the new section 33A(1), at the end of paragraph (d) omit "and".

In sub-clause (2), in the new section 33A(1), at the end of paragraph (e) insert "

"; and

(f) the name and address of a person resident in the Island (who may be the applicant) who is occupying a position of responsibility in relation to the promotion of the lottery in the Island."

In sub-clause (2), in the new section 33A(2), at the end of paragraph (a) omit "and".

In sub-clause (2), in the new section 33A(3), at the end of paragraph (b) insert

"and

(c) a statement in writing signed by the person specified in the application under subsection (1)(f) that he understands that he will be liable under section 37A(8) to pay any society lottery duty, and to make any payments on account of society lottery duty, in respect of the lottery."

In sub-clause (2), for the new section 33A(4) substitute -

"(4) The Commissioners, after giving the person concerned an opportunity of being heard, may refuse to register an applicant as manager of a lottery, or revoke the registration of the manager of a lottery, if it appears to them —

- (a) that any person has been convicted of an offence committed in connection with a lottery promoted or proposed to be promoted on behalf of the society;*
- (b) that the society is not or has ceased to be a society on behalf of which lotteries may be promoted under the 1976 Act;*
- (c) the applicant or manager is not or has ceased to be qualified to manage the lottery under section 9A(1) of that Act; or*
- (d) that the person is specified in the application under subsection (1)(f) -*
 - (i) is not or has ceased to be resident in the Island;*
 - (ii) does not occupy, or has ceased to occupy, a position of responsibility in relation to the promotion of the lottery in the Island; or*
 - (iii) is unlikely, or has failed, to discharge his liability under section 37A(8) in relation to that or any other lottery.”*

In sub-clause (2), at the end of the new section 33A insert -

“33B. *A lottery is not unlawful if -*

- (a) it is declared to be not unlawful by section 3(3) (societies' lotteries promoted in Great Britain) of the Lotteries and Amusements Act 1976 (an Act of Parliament),*
- (b) the promotion of the lottery is managed by a person registered by the Commissioners under section 33A, and*
- (c) it is being conducted in accordance with the requirements of that Act and any regulations for the time being in force under that Act.”*

Mrs Christian: I beg to second, Mr President.

The President: Mrs Christian seconds the amendment moved by Mr Radcliffe. Now, Dr Mann.

Dr Mann: Are we talking about here the lottery tickets that many UK charities actually circulate their members on the Isle of Man with, lottery tickets that have prizes that are presumably offered to Island residents if they take part in these lotteries? Many UK charities actually circulate their members with lottery tickets if they wish to enter. Now, is this totally illegal or are we saying with this amendment that these UK charities should register, pay a fee and presumably pay a proportion of their ticket sales? I am not sure that the actual UK charities are aware that they are breaking a law and I do not know whose job it is to actually tell them. I think it is even true of the Royal British Legion who circularised tickets of a lottery within their normal magazine.

Mr Radcliffe: Could I make a comment on that, sir. In the notes I have before me it says sub-clause (2) of the new section 33B provides that a British society lottery lawful in the UK and managed by a person registered with the commission it shall also be lawful on the Island. This section requires that the lottery concerned is to be operated within the requirements of the relevant UK legislation if it is to continue to be lawful on the Island.

Dr Mann: So it is lawful to -

Mr Radcliffe: I would take it by the notes I have that it is but with the caveat that somebody has to be registered with the commissioners -

Mr Kniveton: I see, that is the difference.

Mr Radcliffe: That is the difference, so I think in all honesty, and perhaps the learned Attorney-General could clarify this, that a registered society in the UK would have to apply to the commissioners here for those tickets to be sold in the Island I would suggest. Perhaps the learned Attorney could clarify that point?

The President: Mr Attorney, do you wish to comment?

The Attorney-General: Mr President, yes, thank you. Under the existing law societies which carry out lotteries, society lotteries, have to register under section 33 and the extension which is provided by this new clause is that if you have a British society lottery, one which is lawful in Great Britain, that lottery may equally be promoted in the Isle of Man and, as we see in the sub-clause here moved by the hon. member, Mr Radcliffe, if a person has reasonable

grounds for believing that the lottery was being conducted in accordance with the requirements of the UK Act and regulations under that Act there can be no offence. But as has been commented by hon. members there is an added requirement that, if you are going to become involved in a British society lottery, that lottery has to be registered here and there has to be someone who is responsible in the Isle of Man, someone who is resident in the Isle of Man who will be responsible for paying the duty which I know the hon. member will come to in his next amendment. So it is putting the British lotteries on exactly the same footing as the Manx lotteries with the added requirement that there should be somebody responsible here for paying the duty.

Mrs Christian: Mr President, I can see there may be some difficulty in this in the sense that many of us will belong to British societies who send you a book of raffle tickets or a book of lottery tickets once a year to either buy yourself or dispose of. They are not on sale to the wider public but it would appear that they should be registered here and we should be paying our duty to the Isle of Man on them. I suspect that there may be a period of time (a) where it would be difficult to identify who is in receipt of such tickets and (b) whether there are any significant numbers of them coming to the Island. I am sure most British societies would be sending them to their registered members in complete ignorance of the fact that there is a different situation pertaining here. In respect of the amendment made in another place, as I understand it that was made on the back of a specific case where someone was selling widely to the public. I would certainly endorse the view that if that is happening, whilst it may be legal because it is legal under the British societies lottery, it is appropriate that the Island obtains some financial benefit out of it and that we ought to be able to retrieve the duty as the hon. member is indicating. So, whilst it may be difficult to police, I think the principles are right.

The President: Mr Waft.

Mr Waft: Mr President, mention has been made of the British lotteries. By that I take it it excludes the Irish lottery which did have considerable following some time ago and why discount the Irish National Lottery? I would just like to make comment. When more lotteries do come into the Island charities do suffer when anything starts up. For instance Hospice, when that began all the rest of the charities suffered at that time and they have built up against since to get their own part of that piece of the cake which Mr Delaney referred to earlier. But now, although for taxation purposes they go to the Manx Treasury, the Manx Treasury then supplies the Manx Lottery Trust from whereby charities can apply to, what percentage of that money does go to the Lottery Trust and what percentage is kept by Treasury? I have not heard from that but I am just wondering if the mover might like to make comment on that.

The President: Mr Lowey.

Mr Lowey: Yes, my only comment is we are taking a sledgehammer. I will be supporting the amendment because I think the revenue could very well suffer. Things like Manchester United Supporters Club or Liverpool or Everton or any of the major clubs that have got big followings on the Isle of Man have these lotteries on a regular basis. You are right. If you are paying that you are not paying your £1 a week or whatever it is to your local football club or choir or whatever and I think it is only reasonable that if those - but it will be difficult to police but I think at the end of the day we have got to make it all embracing and covering and tease it out as we go along I think.

The President: Dr Mann.

Dr Mann: Yes, could I just clarify one thing? Is it illegal for an individual who may be a member of a charity actually subscribing to the lottery or is it illegal for the operator of the lottery to either offer them for sale or give prizes to a resident in the Isle of Man?

Mr Delaney: Well, I take it it would be aiding and abetting but I am sure the learned Attorney would clarify that. I thought it was aiding and abetting.

The President: I think, hon. members, if you have the sheet of amendments as proposed to 7A by Mr Radcliffe, on the second page of that sheet of amendments you see in 33B in heavy type 'a lottery is not unlawful' and it gives the three reasons why it is not unlawful and that refers to 33A and if you look at 33A(7), Registration of managers of British societies, it appears that every person who is registered to sell it has to pay to the Treasury £50 a year. That seems to sum it up and sum up the amendment. Are we happy, hon. members? Mr Delaney to reply.

Mr Delaney: Well, first of all I am glad that members can see the dangers involved in this and the policing of it and you have to be a thought police to police this particular one. I am given assurances after talking to the Treasury Minister and Mr Radcliffe that the chance to look at the way any revenue derived from this will be transferred back into a charity the same as the lottery money is in some way and I am given certain heart that I have asked and that will happen. So maybe we will lose on the swings and gain on the roundabout. It is complicated to say the least I know the intention was, to Mrs Christian if that question was addressed to me, the amendment came in I understand from the mover of it after discussions that it was in relation to Littlewoods' scratch cards which are outlawed on the Island but now this makes legal. I was amazed nobody asked the question in the other place "How many people can it bring in?" Because this does not just deal with Littlewoods' scratch cards. It deals with every other scratch card registered under that British Act and nobody can tell me but they do assure me we are talking in long hundreds rather than dozens and with them coming in, those that wish to put it into the Island, they can do if they comply with the amendment being moved by my colleague for the fee of £50 if it was worth them doing so. That may deter some doing it and they have to appoint somebody local, the registration of a known person, but I would suggest that this will be well worth watching in the next five years to see what actually happens. I am grateful for the support, Mr President. I am moving my clause and I will wait for the amendments.

The President: Now, hon. members, the motion before us is that the new clause inserted in another place, 7A, do stand part of the Bill and to that we have the amendments as moved by the hon. member, Mr Radcliffe, this morning. Those in favour of the amendments, please say aye; against, no. The ayes have it. The ayes have it. So then the new clause 7A as amended, hon. members. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Now hon. members, I understand that Mr Radcliffe has a new clause 7B which we will treat as an amendment. So can we now take the new clause which will become 7B, Mr Radcliffe.

Mr Radcliffe: Thank you, Mr President. I beg to move clause 7B:

Duty on certain lotteries

[7B] (1) After section 37 of the 1988 Act insert -

"Duty on certain lotteries

37A. Duty on certain lotteries

(1) *This section applies to any lottery falling within section 33B(a).*

(2) *A duty of excise called “society lottery duty” is chargeable on the taking of a ticket or chance in a lottery to which this section applies.*

(3) *The amount of the society lottery duty chargeable on the taking of a ticket or chance in a lottery is equal to 12 per cent of the value of the consideration given for the ticket or chance.*

(4) *Subject to subsection (5), the aggregate of everything paid or given by (or debited to the account of) the person taking the ticket or chance for, on account of, or in connection with, the ticket or chance shall be taken to be the consideration given for it.*

(5) *If a price is shown on a lottery ticket or any other document providing evidence of the taking of a ticket or chance in a lottery and —*

(a) *the consideration given for the ticket or chance is of lesser value than the price shown (or is of no value), or*

(b) *no consideration is given for the ticket or chance, consideration to the value of the price shown shall be taken to be given for the ticket or chance.*

(6) *The society lottery duty chargeable on the taking of a ticket or chance in a lottery becomes due and payable (subject to any regulations under subsection (7)) at the time the ticket or chance is taken.*

(7) *Regulations made by the Treasury may —*

(a) *provide for the payment of any society lottery duty due in respect of a lottery of a description specified in the regulations to be deferred, subject to any conditions or requirements that may be imposed by or under the regulations;*

(b) *where a lottery of a description specified in the regulations is being or is to be promoted, require payments (of amounts determined by or under the regulations) to be made on account of any society lottery duty that may become due in respect of the lottery.*

(8) *In respect of a lottery falling within section 33B(a) and (b), any society lottery duty, and any sum on account of society lottery duty which is payable by virtue of regulations under subsection (7)(b), shall be paid by the person is specified under section 33A(1)(f) in the relevant application.*

(9) *In respect of any other lottery to which this section applies -*

(a) *any society lottery duty shall be paid by the person by whom the ticket or chance is sold or supplied;*

(b) *any sum on account of society lottery duty which is payable by virtue of regulations under subsection (7)(b) shall be paid by such person (being a person resident in the Island and occupying a position of responsibility in relation to the promotion of the lottery in the Island) as is specified for the purpose in the regulations.*

(10) *A person required by subsection (8) or (9) to make a payment who fails to do so at the time it becomes payable is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 or, if greater, treble the amount unpaid.*

(11) For the purpose of collecting and enforcing society lottery duty the provisions of sections 121, 123 and 124A to 124G of the Customs and Excise Management Act 1986 shall apply, subject to such modifications as are prescribed by regulations made by the Treasury, as if the person mentioned in subsection (8) or (9)(a) or (b), as the case may be, were a revenue trader within the meaning of that Act.

(12) The Treasury may by order substitute, in relation to tickets or chances taken on or after the date when the order comes into operation, for the rate specified in subsection (3) such other rate as may be specified in the order.

“

(2) In section 47 of the 1988 Act, at the end insert -

“(4) Regulations and orders made by the Treasury under section

37A shall not have effect unless they are approved by Tynwald.”

This new clause deals with duty of excise to be levied on the tickets and it will be known as society lottery duty and the rate of duty would be the same as that on National Lottery tickets, that is 12 per cent, but this rate could be changed by order of the Treasury, subject of course to Tynwald approval. The duty would be payable by the registered manager on the Island or, as a fall back position in the event of their being no such manager, by the seller of the ticket. The duty would come into operation on a date to be prescribed in an order made by the Treasury and approved by Tynwald. The reason for the introduction of this duty would be to ensure that there is a level playing field in relation to National Lottery tickets. There is a duty of 12 per cent included in the price of National Lottery tickets whereas, if not for this amendment, there would be no duty payable on British society lottery tickets. Aside from any commission payable to the vendor without the imposition of the new excise duty, there may be no direct benefit to the Island from allowing for the sale of British society lottery tickets here. In fact, sales of these tickets could have an adverse effect on sales of National Lottery tickets, particularly in National Lottery scratch cards, and thereby would have a detrimental effect on government revenues. It is worth pointing out that all the duty revenue from sales of National Lottery tickets in the Island all currently go to good causes on the Island, namely the Lottery Trust and sports foundation and so on as set out by order of the Treasury. It is no secret that the income from duty on National Lottery tickets will exceed £500,000 in one year and that is too much, I think, for the Island to lose out on particularly when we direct it to our own good causes whereas, lottery duty in the UK, none of it at the moment anyway comes to the Isle of Man at all and is it not right that we should protect our own interests in this? So therefore this new clause 7B deals with duty on society lottery tickets on certain lotteries and I would beg to move, sir, that this stand part of the Bill.

Mr Lowey: I beg to second, sir.

The President: Mr Delaney.

Mr Delaney: As I am not the mover of this clause, could I ask a couple of questions just for information and also to highlight the situation we have got here. I suspect, having done a little bit of homework on this, that the original idea of the clause we have passed which came from the other place, Mr Houghton was the mover of it, was to bring in Littlewoods' scratch cards and available to the public through outlets other than the lottery sales to sell scratch cards.

There are other lotteries as I have pointed out. Is the mover of this amendment aware, or has it been brought to his attention, that the introduction of duty on these so called may deter the very purpose for which the original amendment was brought in? That was the concern because of the duty which is now going to be attracted.

The President: Mrs Christian.

Mrs Christian: Mr President, I think that it presents a level playing field and to that extent it should be supported. It may deter them because they were at an advantage before so to that extent I think that it is appropriate that if we are going to have them at all it does produce a level playing field. The concern is that in looking at that one particular issue we are widening it to all British societies, which will be very difficult to police I feel. Nevertheless, it does give us an opportunity to have at least some return on the moneys which will be flowing out of the Island and I have to say that it is very much a cleft stick when you appreciate that we are getting over £500,000 in duty at 12 per cent. That is a tremendous outflow of moneys from the Island which might otherwise be drawn to local charities.

Mr Delaney: It is more than double the betting duty we are getting.

The President: Mr Radcliffe to reply.

Mr Radcliffe: Well, Mr President, there is little to reply to. As has been said, it does create a level playing field. It may, as a consequence of this new clause, deter sales of certain scratch cards but I would suggest, as I said initially, so be it. I think there are plenty of opportunities for people to buy scratch cards, not necessarily Littlewoods or others, but in the National Lottery there are about 10 different scratch cards as I understand it. I do not support the thing myself. I have never bought a lottery ticket and will not buy a lottery ticket but that is beside the way. Other people do buy scratch cards and why should we not have the duty on them to spend on this Island. I beg to move, sir.

The President: Hon. members, the motion before us is that we insert a new clause to be known as new clause 7B. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Now, continuing with Mr Radcliffe's white paper of amendments, there is a further new clause 7C so we will take that at this stage, Mr Radcliffe, please.

Mr Radcliffe: Thank you, sir. I beg to move clause 7C:

Betting office licences

[7C] In section 4(4) of the Betting Offices Act 2001, for the words from "and expiring" onwards substitute "and expiring -

"(i) in the case mentioned in paragraph (a), on the expiration of 3 months beginning with the commencement of this Act;

(ii) in the case mentioned in paragraph (b), on the date on which it would have expired if this Act had not been passed."

This new clause has emanated from the Department of Home Affairs but has been incorporated in the Bill because it deals with the Betting Offices Bill. It has been identified that because the Betting Office (Licence Holders) (Amendment) Bill will come into force after the date of the issue of the current licences in April and as the licences run from 1st June, this will result in restricted licence holders being granted a 12 month additional licence period without

having to pay the £25,000 licence fee. Because in effect this would mean the department had no licence fees to pay for the regulation of restricted licences, this amendment is being moved to provide for automatic transfer of the licence into a restricted licence but only for a limited period of three months. It will not affect the transfer of betting shop licences. This new clause will provide the licence holders concerned with a three month period to apply for a licence but will still provide the department with three quarters of the licence fee for the period. Again I do not support betting shops either but I see no reason why they should have a free £25,000 year whereas the department could be benefiting from three quarters of that anyway. I beg to move, sir, that clause 7C stand part of the Bill:

Mr Delaney: I beg to second.

The President: Seconded by Mr Delaney. Hon. members, the motion then before us is that we insert a new clause to be known as 7C. Will those in favour please say aye; and against, no. The ayes have it. The ayes have it. We revert now back to the green paper and we have reached clause 8 and I call on the hon. member, Mr Delaney.

Mr Delaney: Mr President, as I pointed out at the second reading I have a particular interest in this clause and I am pleased to be able to move clause 8. This clause extends the controls on amusement machines to cover ships as well as premises on land. The Gaming (Amendment) Act 1984 regulates controlled machines, which covers both amusement machines and amusement with prize machines. It applies only to premises defined by section 17(1) as including any land or any shed, tent, booth, shelter or other structure whether permanent or temporary. This amendment removes the exclusion of a vessel used for navigation from the definition so that a ship on which a controlled machine is kept for use will need a certificate under section 3 of the Act. Members may recall that I raised this issue. I am delighted to see it now brought into legislation because I do not see why anybody should be in a position to run in European, if not world, waters gaming machines or amusement machines in a situation where they do not even have to repair them and no pressure can be brought upon them to even pay out the prizes that people have supposed to have won. It is a licence to print money.

Mr Kniveton: I beg to second.

The President: The motion, hon. members, is that clause 8 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Now, hon. members, we come again to a new clause which has been submitted in another place, 8A, again, Mr Delaney, please.

Mr Delaney: I have just lost my place for a second.

Mr Crowe: The commissioners, is it?

Mr Delaney: Yes, the commissioners, Mr President, the new clause deals with the Isle of Man Gaming Control Commissioners which are renamed the Isle of Man Gambling Control Commissioners. A simple change to their title to make it more modern into actually what they are dealing with, which is gambling. Nobody would deny that and I beg to move that this new clause stands part of the Bill.

Mr Kniveton: Can I beg to second, sir.

The President: Hon. members, the motion before us is that clause 8A do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Now then, hon. members, if we stick strictly to the green paper we have the short title and commencement at clause 9. I have a new clause 9 on the sheet of paper which is in the list of amendments from Mr Radcliffe. So we move clause 9 on the amended list by Mr Radcliffe and I am assuming that we will renumber 10. Is that right? Oh, right, okay. So it is an amendment to clause 9. Right, Mr Delaney. Move clause 9, Mr Delaney.

Mr Delaney: Mr President, that is why I lost my place. I beg to move clause 9 stand part of the Bill.

The President: Mr Kniveton.

Mr Kniveton: I beg to second, sir.

The President: Right, we will do it this way round then and we will have inserted in clause 9 the amendment in Mr Radcliffe. Mr Radcliffe.

Mr Radcliffe: Thank you, Mr President. This deals with provisions relating to duty and says that the duty may be brought into operation on a day appointed by order by the Treasury. It is purely dealing with the technical side, sir, and I beg to move.

Mrs Christian: I beg to second.

The President: Mrs Christian seconds. Mr Delaney, do you wish to comment as summing up?

Mr Delaney: I am quite happy to accept the amendment.

The President: In that case, hon. members, we have the amendments as moved by Mr Radcliffe to clause 9. Will those in favour of the amendments please say aye; against, no. The ayes have it. The ayes have it. And then the clause as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Yes and we will go straight forward, as is on our order paper, Mr Delaney, to take the third reading of the Gaming, Betting and Lotteries (Amendment) Bill 2000. Mr Delaney.

Mr Delaney: In moving the third reading, Mr President, I express my thanks to a number of people. It seems a very simple Bill. Actually it will have a major effect on the everyday life of the ordinary people in relation to how they spend their leisure time, in respect of their hip pocket as well I would suggest. The fact of it is that this is democracy in action and amendments were put and accepted. We have gone through them here. Counter amendments have been put to balance up the whole thing by my colleague from the Treasury. I hope it all works out well. As I have said dealing with the clause, dealing with the ships, I believe that is a major step as far as we as an Island is concerned. That section of it will be controlled. The change of title is correct. I think it is something that is going to be regularly altered with the new innovation of online gambling and everything else. I think there will be major changes that will happen in our society well after we are dead and gone and it is necessary. Unfortunately, gaming, gambling is one of the evils of life if you wish, as smoking used to be to me, but the fact of it is it is going to be there and it has to be controlled and I think this Bill will improve the way it is controlled. I beg to move the third reading, Mr President.

Mr Kniveton: Yes, sir. I am happy to second the third reading. This is obviously a Bill designed to amend a number of lottery issues, particularly following the introduction of the UK National Lottery into the Isle of Man and other UK established lotteries. Now, sir, if approved, Christmas draws at the beginning of November, society lotteries to be advertised, limits uplifted and jackpot prizes, legalising indoor horse racing, which is operated regularly by one of our ministers! Ties up Bingo laws, which will assist Mr Lowey, of course, Mr President, and a new name for the present Gaming Commissioners. Hopefully, with the new clauses, now a happy Treasury with some extra licence and duty charges.

Mr Radcliffe: We are taking a fraction of licensing duty, but we are safeguarding the charities of the Isle of Man rather than Treasury gathering the income from it.

Mr Kniveton: So I support this third reading.

The President: The Lord Bishop.

The Lord Bishop: Yes, I just want to thank Mr Delaney for pointing out one or two of the concerns he had and ringing around to tell us and I hope that some of the amendments by Mr Radcliffe will clarify those points. I find the Bill does not clarify much for me. It makes it a lot more complicated than it was, but perhaps that is a good thing for the gamblers, I am not sure, but if this is the way to clarify law I have yet to be convinced.

The President: Mr Lowey.

Mr Lowey: Yes, it is easy to make light of it, but it is society's wish that they want gaming, betting and lotteries as part of their life, hence the amounts of money that is being played. I think the government's job is to recognise that and to make sure that the regulations are meaningful. I just hope that the Bill meets those requirements because they need to be regulated. If we have learned anything at all it is that if you have these things it is much better to have them open and above board and regulated as opposed to behind the scenes. That is when the problems really start. I believe it is much better to have it openly and well regulated. I hope the Bill succeeds.

The President: The hon. Mr Delaney.

Mr Delaney: I thank the members for the way they have accepted the way the Bill has been put through and that and they have handled the difficulties of it. There is one thing I did not mention. I raised it myself actually. It is the advertisements around betting shops. What else other advertising they can do because they were restricted. I have been given an understanding as far as local football clubs or sports and things like that are concerned the bookmakers on the Island may very well, under regulation, be allowed to support local football clubs et cetera and things of that event by advertising on their shirts, as is done in other places and I think that would be of benefit to some of the amateur clubs on the Island.

The President: Hon. members, the motion before us then is that the Gaming, Betting and Lotteries (Amendment) Bill be read for a third time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

**Food (Emergency Provisions) (Amendment) Bill — Second Reading Approved —
Clauses Considered**

The President: We turn then, hon. members, to item 3 on our order paper, which is the Food (Emergency Provisions) (Amendment) Bill, and I call on the hon. member, Mr Crowe, to take the second reading.

Mr Crowe: Thank you, Mr President. This Bill amends the Food (Emergency Provisions) Act 1986 and has been brought forward as a general measure, but also as a specific measure to address an urgent issue concerning our fishing industry. Bio-toxins which cause paralytic shellfish poisoning, PSP, diuretic shellfish poisoning, DSP, and amnesic shellfish poisoning, ASP, have been spreading close to the fishing grounds within Manx waters. This Bill will enable the Department of Local Government to prohibit fishing in areas which have been infected with bio-toxins. Mr President, if I may respond to the questions raised at the first reading, and I would mention I have distributed an ASP fact sheet which I trust was of some assistance. The questions raised at the first reading were firstly 'What was the source of the toxins?' The toxins are produced by certain marine algae on which shellfish feed. Secondly, 'Why is the algae spreading into the Irish Sea?' I have been advised that these naturally occurring algal blooms can extend over considerable areas and can move with tidal currents. The incidents of algal toxins is increasing globally, hence the spread into the Irish Sea. I was also asked if there was any link to Sellafield and I can categorically assure members that there is absolutely no link with Sellafield. The fourth question I was asked was 'Can any steps be taken to eradicate the toxin, such as spraying?' I would like to advise members that the increased occurrence of algal blooms is thought to be caused by a combination of climate change, oceanic conditions, pollution and the spread of plankton in ballast water. The shellfish will naturally get rid of the toxin in the weeks or sometimes months after the algal bloom has subsided. However, it would appear that the gonad, the roe, is more susceptible to the toxin than the adductor muscle, which is the white meat. The toxin cannot be eradicated by spraying. I was also asked if we are able to check on the landings at any port and, having talked to the Minister of the Department of Agriculture, Forestry and Fisheries, he advises me that the Island's fishery protection vessel knows which ships are fishing around our waters and in addition all the authorities around the Irish Sea are constantly sampling and monitoring the levels of the various toxins in the shellfish. When they get to the trigger level the fishing grounds are closed. This is the reason for this Act to prevent the shellfish getting into the restaurant by having a testing regime. Mr President, as a separate but important issue the Bill also restricts the powers of officers to board and search vessels only in Manx waters. Mr President, I beg to move the second reading of the Bill.

Mr Lowey: I beg to second.

The President: Mr Lowey, seconds. Hon. member, Mr Radcliffe, do you wish . . . ?

Mr Radcliffe: Why the change to fishery inspections? Why has that been removed or amended anyway?

The President: Mr Crowe.

Mr Crowe: Mr Radcliffe has raised a very interesting point. It goes right back to the Food (Emergency Provisions) Act 1986 and, because that was passed with great speed to deal with the Chernobyl crisis, it actually was based on Part 1 of the UK Food and Environment Protection Act 1985. Now, the Isle of Man Bill or the Isle of Man Act actually picked up wider powers than the UK Ministry of Agriculture, Fisheries and Food. They objected to certain

provisions of the Bill on the grounds that they gave Isle of Man officers powers outside Manx territorial waters and over foreign vessels which they considered to be unjustified. So it has taken 14 years to put through an amendment which actually rights something that was done by electrifying or urgent action to protect Chernobyl. So that is really the reason, Mr President.

The President: Hon. members, then, the motion before us is that the Food (Emergency Provisions) (Amendment) Bill 2000 be read for a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We will go on to the clauses stage then and take clause 1, Mr Crowe.

Mr Crowe: Clause 1 widens the scope of the power to make emergency orders under the 1986 Act to cover not only an escape of substances but any circumstances which are likely to create a hazard to human health through human consumption of food and limits criminal liability for breach of an order to acts or omissions within the Isle of Man and Manx waters. An emergency order can designate an area of sea outside Manx waters as an area in which, for example, fishing is prohibited, but only for the purpose of preventing fish caught there being landed in the Island. Sub-clause (1) is introductory. Sub-clause (2) widens the cases in which the department can make an emergency order designating an area in which emergency prohibitions are in force to cover all circumstances which are likely to create a hazard to human health through human consumption of food. Sub-clause (3) requires the emergency order to refer to the circumstances which give rise to the emergency prohibitions instead of to the escape of substances. Sub-clause (4) gives a defence to a charge of contravening an emergency prohibition that the offence took place outside the Isle of Man and Manx waters in place of a more restricted defence which was limited to movements of food et cetera on foreign vessels. Sub-clause (5) requires the making of an emergency order affecting an area of sea to be notified to the Home Office and that is for information only. Mr President, I move clause 1 of the Bill.

The President: Mr Lowey.

Mr Lowey: I second, sir.

The President: The motion, hon. members, is that clause 1 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2, Mr Crowe.

Mr Crowe: Clause 2 restricts the powers of officers to board and search vessels so that they can be exercised only in Manx waters and, in relation to a vessel other than a Manx vessel, only if there is reason to suspect that something has been, is being or will be landed on the Isle of Man. It also makes amendments consequential on clause 1. Sub-clause (1) is introductory, sub-clause (2) makes consequential amendments and sub-clause (3) restricts the powers of officers to board and search vessels so that (a) they can be exercised only in Manx waters and (b), in relation to a vessel other than a Manx vessel, only if there is reason to suspect that something has been, is being or will be landed from it in the Isle of Man. Mr President, I beg to move clause 2.

Mr Lowey: I beg to second, sir.

The President: Dr Mann.

Dr Mann: Presumably there is a power, an equivalent power, of UK authorities to do the same thing in reverse?

Mr Crowe: Yes, that follows . . . There has to be, in the Irish Sea or even in the North Sea or anywhere where there are fishing boats, that the nearest jurisdiction or if you are in territorial waters there has to be power to board Manx vessels if they are in UK waters.

Mr Waft: Can I just ask, with regard to the clause which makes mention to the department responding to circumstances, what testing does take place normally to test the waters of the fishing industry as well as on the boats once they have landed?

The President: Now, we are actually going back I think to clause 1, but nevertheless.

Mr Crowe: If I can, Mr President -

The President: Yes.

Mr Crowe: I do not think Mr Waft was here last week but the Marine Biological Laboratory in Port Erin is constantly testing in the Irish Sea and there is a provision that it will go to a full laboratory in Scotland for assay work, so all of that has to be done to protect the consumer and to protect the industry really.

The President: Hon. members, the motion before us is that clause 2 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Perhaps we can take 3 and 4, Mr Crowe.

Mr Crowe: Thank you, Mr President. Clause 3 makes minor and consequential amendments to the 1986 Act. Sub-clause (1) is a consequential amendment, sub-clause (2) amends various definitions in the 1986 Act, section 8. Paragraphs (a) and (c) are consequential on clause 1, (b) is consequential on sub-clause (3) of this clause and (d) and (e) updates definitions consequentially on the replacement of the Food and Drugs Act 1963 by the Food Act of 1996. Paragraph (f) is consequential on the Merchant Shipping Registration Act 1995 and sub-clause (3) repeals a spent transitional provision. Mr President, clause 4 gives the Bill its short title. No commencement provision is included. The Bill will come into force when the Royal Assent is announced to Tynwald. Mr President, I beg to move clauses 3 and 4 of the Bill

Mr Lowey: I beg to second, sir.

The President: The motion, hon. members, is that clause 3 and clause 4 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Local Government (Miscellaneous Provisions) Bill — Second Reading Approved — Clauses Considered

The President: We, then, hon. members, turn to item 4 on our order paper, the Local Government (Miscellaneous Provisions) Bill, again down for second reading in the hands of Mr Crowe.

Mr Crowe: Thank you, Mr President. This Bill makes minor amendments to certain Acts relating to government and public health and I will refer to each clause as each clause covers a separate topic. The provisions of clause 1 will allow for the alteration of local government boundaries by order after holding a public enquiry and subject to Tynwald approval. The

second clause enables the four pence rate limit on expenditure by local authorities on entertainments to be varied by order of the Department of Local Government. Clause 3 will enable local authorities, subject to the approval of the Department of Local Government, to provide offices and other premises not just for themselves. The fourth clause gives additional powers to inspect records and to take samples by a person who already has power to enter on to land for the purposes of enforcing any provision of the Public Health Act 1990. The fifth clause corrects an error in the Public Health (Amendment) Act 2000. Clause 6 enables the fixed penalty for dropping litter to be varied by order, made by the department, subject of course to Tynwald approval. Clause 7 gives the Bill its short title. Mr President, I beg to move the second reading.

Mr Delaney: Can I just - ?

The President: You are seconding, Mr Delaney?

Mr Delaney: I will second that, yes, I am happy to second, just a query on clause 6. I know why we have got to do these sort of things but it always amazes me and I am sure other people. It is one of these things about fixed penalties. I have never seen anybody and maybe I have missed it - probably reading the wrong paper. The fact of it is I have never heard of anybody being prosecuted for dropping litter or the penalty, so we are increasing something, or giving a revision to increase something, which is never used. It is one of these useless bits of legislation everyone demanded be brought in, but nothing happened with it. I wondered if the member could give us some information when we get certainly to the third reading about how we intend to make sure this thing works or improve what we have not seem to have got.

The President: Mr Crowe to reply to the debate on the second reading.

Mr Crowe: Thank you, Mr President. If I just respond to Mr Delaney's point. The £10 fee is certainly seen as not able to prevent the dropping of litter. Whether there has been prosecutions is something I will find out about and report back at the third reading. But if by having it variable by order allows it to be more, shall we say, penal - I am not quite sure that is the right word - but certainly to try and deter people from littering the streets, but I will respond at the third reading, Mr President.

The President: Hon. members, the motion before us then is that the Local Government (Miscellaneous Provisions) Bill be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Now, Mr Crowe, do we go on to the clauses stage? In which case I invite you to take clause 1, sir.

Mr Crowe: Thank you, Mr President. Clause 1 is to fill a gap in the provisions of the Local Government Act 1985 which allow for the alteration of local government boundaries by enabling an order for that purpose to make supplemental and consequential provisions. Section 6 of that Act enables the Department of Local Government and the Environment to make an order, after a public enquiry and subject to Tynwald approval, altering the boundary of a town or village district. Under section 6 (3) the order can include a provision for the membership of any authority affected, the retirement or appointment of members of any authority, joint board, joint committee et cetera affected, the dissolution of any joint board or joint committee affected, the alteration or abolition of a special district for rating purposes, the transfer of property, rights and liability to any authority affected and a procedure for settlement of disputes. However, sometimes further provision needs to be made to give effect to the

boundary change and it is necessary for a special Act to be passed for this purpose, as happened in 1993 for Ramsey. A similar provision was necessary under previous legislation in 1952 for Douglas, 1966 for Castletown, 1970 again Ramsey, 1971 Laxey and 1985 Douglas. This clause enables provision for the following matters to be included in a section 6 order if required. And this really gives the wider authorities. So firstly it allows the adjustment of rates to give transitional relief for up to 10 years, for example where the parish rates in an extended area are considerably lower than in the existing town or village district; secondly the alteration of a Keys constituency boundary; thirdly, transitional provision for registers of electors, for example, requiring names of persons in an extending area to be taken off the register for one district and added to the register for another; fourthly, cancelling or changing any arrangements for the exercise of functions by one public authority on behalf of another, for example, the delegation of highway, sewerage or planning functions; fifthly, the cancellation or amendment of contracts, for example, a contract between a parish authority and a private contractor for refuse collection; and, sixthly, an extension of the area of the operation of any bye-law; and, finally, the consequential amendment or repeal of any enactment, for example, in any primary or subordinate legislation. Mr President, I beg to move clause 1 of the Bill.

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

The President: Mrs Christian seconds. Mr Lowey.

Mr Lowey: Mr President, I presume this Bill has been sent to local authorities for their consultation and that they have approved these amendments. Can I just express, why the need to amend this? It does seem to me that, under the Local Government Act, the local government department has the authority now to do certain things. This amendment seems to be giving more edge to the department, that they can go in and alter the boundaries or the wards or the services provided by the local authorities. Is there any particular reason why at this time the department should want to sharpen their tools regarding local authorities? Or is that just a perception that I have of this particular clause?

The President: Dr Mann.

Dr Mann: Could the mover just explain the difference between the existing law and the change that is going to be achieved? As far as I can see the only change is that this is going to be an order by the department, whereas previously in major changes there has been actually a Bill introduced. Are we just somehow shortcutting the existing law to make it easier?

The President: Mr Waft.

Mr Waft: Thank you, Mr President, just taking Dr Mann's point, when the Onchan Commissioners amalgamated with the Onchan Parish Commissioners to form the Onchan District there was a transitional period, I am pretty sure, to take into account. . . there was not an immediate takeover. So I just wondered why the necessity now to provide for that.

The President: I call upon Mr Crowe to reply.

Mr Crowe: Thank you, Mr President. Yes, the extra powers being brought into the Act will all be subject to a public inquiry and subject to Tynwald approval. So it is not shortcutting anything. It is just widening the powers. Rather than having to have primary legislation, we are bringing it through that it can be done in the secondary legislation through the public enquiry. So it is basic things which have all been out for consultation with the local authorities, which

they have accepted and agreed. There were some queries as to why, but certainly where you change boundaries - and again it is only subject to a public inquiry and Tynwald approval - you need to be able to take people off one constituency and put them on another, where there are contracts with the former authority and they need to be revised, rather than have it through primary legislation. So it is to improve rather than be a disadvantage, I would suggest.

The President: Hon. members, the motion before us is that clause 1 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it. We turn then to clause 2, Mr Crowe.

Mr Crowe: Thank you, Mr President. This clause enables the present four pence rate limit on expenditure by local authorities on entertainments to be varied by order of the Department of Local Government and the Environment. Section 3 of the Local Government (Entertainments) Act 1950 provides as follows - and this is an extract from that Act of 1950 "The commissioners of any district may in any year expend a sum of not exceeding the proceeds of a rate of" - and in the previous Act before decimalisation it was nine old pennies and it became four pence on decimalisation - "a rate of four pence in the pound on the district in improving or prolonging the visiting season in their district and increasing its advantages as a pleasure and health resort in any form or manner which the commissioners shall from time to time consider desirable and in payment of such reasonable expenses of the commissioners in providing public entertainments on the occasion of, or otherwise in connection, with, public ceremony or rejoicing and in the reception and entertainment of distinguished persons residing in, or visiting their district." This clause enables that limit to be varied by order, again subject to Tynwald approval, either generally or as respect to particular authorities. As I mentioned at the first reading, this problem arose last year with the millennium celebrations, where the commissioners were really limited to a very small rate and it affected local authorities, so it is by request from local authorities to make this amendment. So, Mr President, I move clause 2 stand part of the Bill.

The President: Mr Delaney.

Mr Delaney: I am just querying something. I will second clause 2 but just ask the mover would he read that again. That four new pence is equivalent to 9 old pennies: now we come to truth of it. At the time it was slightly different to that, what they told the public. I wonder if the hon. member would like to reaffirm that figure.

Mr Crowe: Yes, in 1950 before decimalisation it was nine pence and I think there used to be twelve pence in a shilling, I seem to remember. . .

Mr Delaney: That is it exactly. You get my point! The truth is out now!

Mr Crowe: In 1971 with decimalisation 9d became 4p, so there was no change. It was just a technical point on decimalisation.

Mr Delaney: For the first time honesty has prevailed?

The President: Mrs Christian.

Mrs Christian: If the hon. member has seconded. . . if there is an illustration why it is useful to have a power to amend by order, it must be this. If we have had something in since 1950 and they have managed to cope within that, well, perhaps it was generous in the first place, but I imagine that it imposed severe restraint in some cases and I think, for that reason, it

seems appropriate to change this so that an order may be moved to vary the amount - particularly where local authorities may seek to change it. It need not be applicable to everybody but tailored to meet the needs of an individual authority. I support it.

The President: Mr Crowe, do you wish to add anything?

Mr Crowe: No, I think it is self-explanatory.

The President: In that case, hon. members the motion before us is that clause 2 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it. Clause 3, Mr Crowe.

Mr Crowe: Mr President, clause 3 gives local authorities power, subject to the approval of the Department of Local Government and the Environment, to provide other offices and other premises for the following bodies: other public authorities, any partnership between one or more department and one or more local authorities, charitable organisations, doctors, dentists, opticians and other health professionals. It is particularly relevant in the case of one local authority, where there is an urgent request for them to do this, where again it shows that by being too restrictive it causes problems which I believe were never intended. This is really a relaxation to allow local authorities to provide the facilities that are needed in a particular area. So, Mr President, I would move that clause 3 do stand part of the Bill.

Mrs Christian: I beg to second sir.

The President: Seconded by Mrs Christian.

Mrs Christian: I want in particular to hurry this one along because the essence of this is that it was hoped that a local authority might be able to provide accommodation for a doctors' surgery and, because of the existing rules, it was found that the proportions which were to be used by the local authority and the proportions which they were allowed to let out were such as made it impossible. So I do welcome this introduction (**Mr Delaney:** Hear, hear.) of flexibility in this so that we can get a working together and that local authorities are enabled to provide facilities so that services can be delivered to the people in their area where they feel that is appropriate and with the department's approval.

The President: Hon. member, Mr Lowey.

Mr Lowey: I would agree absolutely with the comments made by the minister and the mover of the Bill and there is an urgency on this one as it affects my particular area.

Mr Delaney: As the member along side me has said, there is a need for this obviously, particularly with the Island expanding and we are building new estates and everything else. I honestly believe that it should go a bit further in looking at other provisions outside of the ones it talks about here. There is a role for local authorities. I believe that is what it should be. We keep saying about the government taking things off them, but they should be creating the needs of their people and there are other needs in society nowadays than there was in 1896 when, for example, Douglas Corporation became a council rather than a commissioners. These things have moved on.

The President: Mr Crowe to reply to the debate.

Mr Crowe: Thank you, Mr President. I think if anything ever struck me, it was the inflexibility of a piece of legislation because in the department last year we tried every effort to

accommodate local authority that was doing this but we were absolutely restricted by the percentage they had to take of floor area. We were completely in agreement with the spirit of what they were trying to do but we were absolutely hog-tied by not being able to do it. We are very happy in the department to bring this forward to accommodate that because it is not only the one local authority that has an urgent and imminent need for this but for all local authorities who have partnerships with other authorities who have a reasonable and genuine desire to improve facilities for their local residents. Mr President, I am happy to move.

The President: Hon. members, the motion before us is that clause 3 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it. Now, Mr Crowe, perhaps we could take the new clause 3A, which was inserted in another place.

Mr Crowe: Oh, sorry.

The President: Are you proposing to take it later on in the Bill, sir? I was happy to take it at this stage but if you would rather take it later on in the Bill, the choice is yours.

Mr Crowe: Thank you, Mr President, I will take it at this point in time. This is a new clause, the removal and disposal of abandoned vehicles, and again, as I mentioned at the second reading, this was a late amendment because we were, in the department, facing a real problem with abandoned vehicles and having to serve notice and then put them in a compound and having difficulty in finding storage space. This actually shortcircuits the method of doing it by giving a notice and enabling it to go straight to a scrap dealer. I am happy to move the new clause which gives the department added powers for the removal and disposal of abandoned vehicles as a method of more quickly tidying up what can become an eyesore in the community.

Mr Delaney: I beg to second this one. This is another that I have raised several times at question time with our hon. other colleague, the Minister of Transport in relation to the removal and the storage et cetera, and the problems that they have had in even getting enough storage to store the ones they can lift. I think this will be something that actually legislation will be seen to be doing. I just hope that unlike the litter it will be pressed because the eyesore of abandoned cars, and the danger they can cause to children playing in them around estates, is obvious for anyone to see. I am happy to second this particular amendment, Mr President.

The President: Mr Kniveton.

Mr Kniveton: Mr President, it is a good clause. I fully support it. I think it is long overdue and I look forward to the implementation eventually, I hope.

The President: Mrs Christian.

Mrs Christian: Certainly I endorse the principle behind it. I just feel that there may be some argument about the interpretation of 'opinion'. It allows that in the opinion of the authorities the vehicle be in such condition that it ought to be destroyed. It may be a moot point as to who decides that it ought to be destroyed. I think that the fact that we have a pound at the moment, where vehicles are taken and held for a while before they are finally destroyed, was introduced for good reasons because vehicles were being moved but others perhaps had been overlooked but were in good condition. So I think that the principle is right. It will be a matter of carefully interpreting the condition of such a vehicle in order to avoid further argument.

The President: Mr Waft.

Mr Waft: Mr President, I hope that this will more clearly define the abandoned vehicles because often the general public know the vehicle has been abandoned for I do not know how long, but it seems to be a very long time before the police get around to actually moving the thing (**A Member:** Years!) and quite honestly something needs to be tightened up in that area. Abandoned vehicles can be found quite happily sitting in the same spot for a very long period of time before they are eventually moved.

The President: Mr Crowe to reply.

Mr Crowe: Thank you, I would just like to thank the support for the principle of this because in the past there have been problems with this, over trying to locate the owner, trying to locate the owner who may have left the Island and completely abandoned it or an unlicensed vehicle who are just leaving them in car parks etcetera. Again, I think it is a very good measure and I thank the general support from members.

The President: Hon. members, the motion before us then is that a new clause, having been inserted in another place for the removal and disposal of abandoned vehicles, be placed in at (3A). Those in favour of the new clause 3A please say aye; against no. The ayes have it. The ayes have it. We turn then to clause 4, Mr Crowe.

Mr Crowe: Mr President, clause 4 gives additional powers to inspect records and to take samples by a person who already has power to enter on land for the purpose of enforcing any provision of the Public Health Act 1990. The people authorised under the Act are a Director of Public Health, an inspector of the department or a person authorised in writing by a local authority, who may at any reasonable time enter on any land for the following purposes. If I just detail these purposes which begin with: (a) of ascertaining whether there is or has been on or in connection with the land any contravention of the provisions of the relevant enactment; or (b) of ascertaining whether or not circumstances exist which will authorise or require the department or the authority to take any action or execute any work under the relevant enactment; or (c) of taking any action or executing any work authorised by the relevant enactment to be taken or executed by the department or the authority; (d) generally of the performance by the department or the authority of their functions under the relevant enactment. Subsections (3) to (6) require the production of the person's authority, enable him to take other persons and equipment with him, restrict entry on occupied land and dwellings, require him to leave the land as secure as he found it and provide for the issue of a justice's warrant authorising entry if entry was refused. This clause adds new subsections (3A) to (3D) to section 97 of the 1990 Act. Subsection (3A) gives any person already having a power of entry on land for the purpose of the 1990 Act, power to inspect records relating to any activity carried on on the land, including computer records. A person in charge of a computer may be required to operate it, so as to open the records for inspection. Subsection (3B) gives any person already having a power of entry on land for the purposes of the 1990 Act, power to take samples of the land or anything on it or in the vicinity. Subsection (3C) makes it an offence to obstruct a person inspecting records under (3E) (a) or taking samples under (3B). The penalty is the same as for obstruction of actual entry on land under the 1985 Act. Subsection (3D) applies the 1985 Act, section 36(2), to any information obtained under (3A) or (3B). Section 36(2) makes unauthorised disclosure of any trade secret discovered in the exercise of any power of entry an offence, punishable with up to 2 years and/or a fine. Mr President, I beg to move clause 4 do stand part of the Bill.

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

The President: Now, hon. members, we have on a white paper an amendment, so I call upon the hon. member, Mr Radcliffe.

Mr Radcliffe: Thank you, Mr President. As members may or may not be aware, one of the agricultural organisations was rather disturbed by the content of the Bill as it is before us. Various meetings have been held and various assurances given verbally, and I deal particularly with agriculture here. But assurances given verbally, once that particular minister or whoever is in charge of the department has gone, do not count for much, unless it is set out somewhere in law really. The purpose of my moving this amendment is to clarify that a person taking samples - there is no fight about subsection 3(b), people can get on, there is no question about that - it is just a question of the samples being taken and a person taking samples in accordance with subsection 3(b) shall advise the occupier of the land, or his representative, of the reason for taking the samples and more importantly, because no-one seems to trust EHOs for some reason, that at the time of the taking of such sample, shall deliver to the occupier of the land, or his representative, one half of each such sample, suitably sealed and identified. This amendment has been promoted by agriculturalists, Mr President, and I beg to move the amendment standing in my name, which is, I think a fairly simple and common-sense amendment -

Page 3 line 39 at the end insert:

3BA *A person taking samples in accordance with subsection 3B shall*

(a) advise the occupier of the land, or his representative, of the reason for taking such samples; and

b) at the time of taking such sample deliver to the occupier of the land, or his representative, one half of each such sample suitably sealed and identified.

The President: Mr Kniveton.

Mr Kniveton: I beg to second. I think it is more than reasonable, this clause. I think that owners or occupiers of land should be aware of why people are taking samples from them and, rather like one or two police activities, samples which are taken should be split and given back to the landowner or the occupier. I think the whole thing is very, very reasonable and I fully support it.

The President: Mr Lowey.

Mr Lowey: Yes, I was just going to make the same sort of comparison, really, regarding samples taken by police. I do not think it will inhibit those that need to get on the land, as and when they want to get on the land. To that degree, I think it is a principle that has already been accepted in law and, therefore, I can find no difficulty really in not supporting the amendment put forward by Mr Radcliffe on this occasion.

The President: Mrs Christian?

Mr Crowe: Can I just speak to the amendment?

The President: Yes. Mr Crowe.

Mr Crowe: I hope that members, after listening to what I have got to say as to the reasons why we should reject the amendment and there is a lengthy response here and I hope members will bear with me as to the reasoning why we should not accept the amendment. Mr President, I am firmly opposed to the proposed amendment because I believe it not only weakens the powers of the government and that of the Island's local authorities to protect the health of the public. If I can now outline to the hon. members why we have come to this situation today with this amendment before us. The drafting of clause 4 is intended to provide officers with powers of sampling and to allow them to inspect records when carrying out investigations pertaining to an actual or perceived public health nuisance. The need to take samples and inspect records is primarily so that officers can make an informed decision on what action is needed to protect the health of the public. I am sure that I do not need to point out to the hon. members that in certain circumstances the speed at which this can be done will have an impact on the affect of the nuisance on peoples' health and that anything which slows this process down may have serious results. The amendment before us today comes as a result of concerns expressed by the Manx National Farmers Union, who believe that clause 4 will seriously affect the farming industry. I first became aware of these concerns at a meeting in January organised by the Minister for the Department of Local Government and the Environment with the MNFU and it was held on 5th January. At this meeting the MNFU raised their concerns in respect of officers entering their land, without permission, for all different reasons, including such things as land surveys. I was surprised at the MNFU's objections because I believe that the proposed changes will have very little impact on farmers. At the same meeting the legislative draftsman clearly explained that clause 4 did not give new powers of entry and that these already existed, nor did the provisions of clause 4 extend to any other legislation other than the Public Health Act. The information was welcomed, as some members of the MNFU present had obviously been under the impression that the powers were more general. However, others felt that there should be a requirement for prior approval before entering land and that a reason for doing so should be given. The legislative draftsman confirmed that the current requirement was for 24 hours notice to be given before entering land. The Chief Environmental Health Officer then explained that it was normal practice for his officers to seek approval before entering farm premises and to give as full an explanation as possible why entry was required. Indeed, only be in extremely rare circumstances which were in the public interest would information as to the reason for entry be withheld. He then went on to say that he was not aware of the need for any notices or warrants for entry ever having to be served on farmers. He also inquired if the members of the MNFU present had or knew of any experience of officers entering their land without prior consent. I am pleased to report that the MNFU were unable to give an example. In fact the MNFU members present praised the way in which the department's officers went about their business. However, it became apparent that the MNFU wished clause 4 changed to ensure that in all cases, except where a warrant had been issued, the officers had to give 24 hours notice and also provide details of why access was necessary. The legislative draftsman pointed out that this was not desirable as there may be occasions where in serious, or potentially serious, incidents endangering public health, the disclosure of such information could lead to evidence being removed and possibly disposed of elsewhere illegally and causing further dangers to the public. I have a number of specific reservations in respect of the proposed amendment before us today. Firstly if I address part (a), which states that the person taking the sample shall advise the occupier of the land, or his representative, of the reason for taking such samples. I would not be able to

agree to a requirement which could result in undue delays should the occupier or his representative not be located. For example, if the proof of nuisance was dependent on a sampling procedure, then to comply with proposed amendment in this scenario could make the situation worse and increase the risk to the public. Also it may not be clear what is being sampled as the reason for sampling was to establish whether an unidentified substance was a problem or not. At the present time the department follows good practice and, if possible, officers will speak to the occupier and give a reason for sampling. In view of this, I do not see the need for this proposed change to clause 4. It is surely obvious that officers sampling under the terms of the Public Health Act are sampling to see if there is a substance present which is in contravention of the Act, for example, to ascertain if illegal tipping has been undertaken. I will now address part (b) of the proposed amendment, which requires the occupier to be given one half of the sample, suitably sealed and identified. Again, Mr President, in cases where samples are taken, the department follows best practice and, if practicable to do so, will split the sample into three, submitting one third for analysis, give one third to the occupier and to keep the remaining third for reference. However, it is not always practical or safe to do so. For example, if the officer suspected a noxious gas was being emitted from the premises, it is likely that they will use equipment such as Drager tubes, which sample and analyse at the same time. Using this sample making it impossible to split the sample, yet it provides crucial evidence that a contravention has taken place. Similarly, if someone uncovered a container and suspected it contained dangerous chemicals, it would be extremely dangerous to split the sample on site and to do so would necessarily endanger the officers and the public. I would just add, and remind members, that we are not talking just off farmland in this Bill. It is all land, factories, shops, offices, landfill sites, so it is not just simply to do with land owned by the farming community. In conclusion, this amendment may lead to circumstances that are contrary to the public interest, as it could undermine the department's ability to react quickly in order to protect public health. I therefore, Mr President, urge the hon. members not to support this amendment.

Mrs Christian: Yes, Mr President, I fully understand the wish of the farming community to protect their property from undue approaches or entry by officers of any department but I think the hon. member, Mr Crowe, has given a good reason for rejecting the second part of this amendment in particular. It is not always practicable if you have a dangerous substance to be dealing with sub-dividing the samples without creating further hazard. I do think in respect of public health issues that it is not unreasonable that the clause as printed in the Bill be accepted. The question of balance between public health and people's right to control access is one that we need to consider. I think where hazardous materials are concerned that we do have to bear in mind the public health risk. The other aspect of it which I would endorse is that it is my understanding, well certainly in past experience, it is not farmland which is an area which is particularly a focus for inspections of this kind. It is much more likely to be industrial sites or other dumps and if there are illegal dumps on farmland with hazardous substances, should we not know about it? So having made that point and fully understanding the farming approach to the matter, I do think that we should stay with the Bill as printed.

The President: Mr Lowey.

Mr Lowey: Yes, I said that I would be supporting the amendment on the principle of equal sharing. I do not think anybody objects at all to the powers and the public health element of it. I agree that the officers should have the right to get in early and I have no qualms with that at all

and, yes, if that irritates well, it will have to irritate, but I think that is taken as read. I have listened very closely to the mover of the original Bill and where he says the officers of his department could be endangered or the splitting up of the samples, I have to take note of that. I am pleased to hear that he spoke with the farmers and they could not give him an example of where these powers have been exercised in the past. I am glad to hear it gets down to that sort of detail where you can tease these things out. I think on this occasion perhaps the wisest course then is, having expressed the view that there is concern about it, I think on balance this time I will have to stay then with the Bill as printed. But it is very, very marginal, I must say. If it was only dealing with agriculture I would be saying you should give the samples. The principle has already been established and I appreciate that that is for one substance or two substances as opposed to the many substances that these can actually be dealing with, so I am prepared to give the department the benefit on this occasion.

The President: Mr Delaney.

Mr Delaney: The reason has been given, we are not just talking about . . . I understand the farmers concerns, I can see where they are coming from, but at the same time we are talking about every back garden, yard, shed and everything else in the Isle of Man, building sites and I think that on balance we have got to go and give the officers the opportunity to stop the problem as quickly as possible if there is one being caused and I will go with the Bill.

The President: Mr Radcliffe.

Mr Radcliffe: Well, Mr President, I still think that there is merit in the amendment despite the statements made by the mover of the Bill. This amendment certainly will not weaken the powers of access to land. It certainly will not prevent people taking samples. The speed of access was mentioned, well, this amendment will not hinder anything in that line. The question of one half of a sample: I think in real life if it was gas that one was dealing with, the owner or the representative would acknowledge that it is well nigh impossible to get a half a sample of such as that, but what certainly had been in the mind of people that have asked me to move this amendment is soil samples more than anything else. I acknowledge that the designation 'land' covers more than agricultural land, but I still think that the amendment would not hurt the Bill really and I would stick with it.

The President: Mr Crowe to reply.

Mr Crowe: Thank you, Mr President. Replying to clause 4, I thank members who have spoken and I am very pleased that the tenor appears to be to go with the clause as drafted rather than the amendment. I do take on board Mr Radcliffe's comments. As I said earlier we have met with the MNFU and we will do everything in our power, if this is approved as drafted, to act responsibly and do it in accordance with best practice. I move clause 4, Mr President.

The President: Hon. members, the motion then is that clause 4 do stand part of the Bill and to that we have the amendment as moved by Mr Radcliffe. Will those in favour of the amendment please say aye, against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Mr Radcliffe - 1

Against: The Lord Bishop, Messrs Lowey, Waft, Kniveton, Mrs Christian, Messrs Delaney and Crowe - 7

The President: Well, hon. members the amendment fails, I therefore put clause 4 as printed in the green Bill. Will those in favour please say aye; and against, no. The ayes have it. The ayes have it. Clause 5, Mr Crowe.

Mr Crowe: Mr President, clause 5 corrects an error in the Public Health (Amendment) Act 2000. Section 9 (1) of the 2000 Act substitutes section 24, concerning ruinous buildings, of the Building Control Act 1991 which enables a local authority, by notice, to require the owner or occupier of a ruinous or unfinished building to repair, complete or demolish it. Subsection (4) provides that where a notice is served on a person who was but is no longer the owner he is liable for failing to comply with the notice until he tells the local authority who the new owner is. These are the words that need to be changed. In the Bill it says 'not less than 21 days after service of notice on him' and this should of course read 'within 21 days after service of the notice on him' and this clause makes the necessary correction. Section 10 of the 2000 Act substitutes section 13 (maintenance of open land) of the Local Government (Miscellaneous Provisions) Act 1984 which enables the local authority by notice to require the owner or occupier of untidy or neglected open land to tidy it up. Subsection (2) contains a provision similar to section 9(4) of the 1991 Act with the same error, which is corrected by this clause. So, Mr President, I am happy to move clause 5 as this will put right what was in error.

Mrs Christian: I beg to second.

The President: Mr Delaney?

Mr Delaney: No, I thought you were admiring my good looks. *(Laughter)*

The President: Well, I just wondered whether you were actually trying to draw my attention to something. Hon. members, the motion before us then is 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. Perhaps, Mr Crowe, we can deal with the fixed penalties and short title, 6 and 7, sir.

Mr Crowe: Thank you, Mr President, clause 6 enables the fixed penalty for dropping litter, currently £10, to be varied by order made by the Department of Local Government and again it is subject to Tynwald approval. As mentioned earlier I will bring back at the third reading details of whether any prosecutions have been taken on this Bill.

Mr Delaney: I would also be interested, I am sure other members would too -

The President: Are you seconding, Mr Delaney?

Mr Delaney: I will second it, oh, yes, I am quite happy to second it, but the -

Mr Crowe: I was -

The President: Mr Crowe, I think, was still -

Mr Crowe: I was still -

Mr Delaney: Oh, you have two pages left, don't you? *(Laughter)*

Mr Crowe: If I might, Mr President, just say clause 7 gives the Bill its short title. No provision for commencement was included. The Bill will accordingly come into force on the day on which Royal Assent is announced to Tynwald.

The President: Right, now, Mr Delaney.

Mr Crowe: Mr President, if I can move clauses 6 and 7.

Mr Delaney: I am happy to second this. The situation is on clause 6 that, well, you could also find out for us, if somebody sees somebody throwing litter or dropping litter down in the street, do we either pursue this what was £10 and now proposed to be some higher figure. But they are only effective penalties on people if they are actually applied and if we are having to increase something which has never been used and if we can find also who can apply this. Obviously a policeman can, but can traffic inspectors or somebody who is dealing with the public all the time? If somebody who is there can actually do it we may get some stopping of the dropping of litter around the town which you see obviously as you go around the town.

The President: Mrs Christian.

Mrs Christian: Mr President, I would endorse the remarks of my colleague on my right. I hope that this might signal an intention to start taking some action. It is noticeable by its absence really that this is not being enforced. I can see great sources of revenue outside every office for every fag end that is lying on the ground. If we could have £10 for the offence a lot of revenue could be earned. But that is not what we want, we want to discourage people from dropping litter in the first place.

Mr Delaney: I get some big fag ends outside. . .

The President: Mr Crowe.

Mr Crowe: Yes, thanks, Mr President. I thank Mr Delaney and Mrs Christian for their remarks. I think what we have is a little bit of legislation which is ineffective because if it is not being enforced then it has no deterrent effect. I think the power to increase the fixed penalty should go some way to solving the problem, but I will come back with more information at the third reading, Mr President.

The President: Hon. members, the motion before us is that clause 6 and clause 7 do stand part of the Bill. Will those in favour please say aye; and against, no. The ayes have it. The ayes have it. Well, that concludes our deliberations this morning on item 4.

**Special Committee on the Law Relating to Smoking and Passive Smoking in Public Places
— Report Received and Recommendations Adopted — Referred to Chief Minister's Drug
and Alcohol Strategy Committee**

The President: So we turn then to item 5 on the order paper and I call on the hon. member, Mr Waft.

Mr Waft: Thank you, Mr President. I beg to move:

That the report of the Special Committee of the Council on the Law relating to Smoking and Passive Smoking in Public Places be received and its recommendations approved.

On 7th December 1999 the Council appointed a special committee to consider and report with recommendations upon the law relating to smoking and passive smoking in public places. I have the honour to be the chairman of that committee and am moving that the report be received and its recommendations adopted. As indicated in the report, we have interpreted public place widely in accordance with accepted definitions. Generally speaking we have concerned ourselves with enclosed public buildings. It will be seen from the report that the committee considered written and oral evidence covering a wide spectrum of views as well as

a considerable amount of other documentation relevant to the terms of the inquiry. Smoking and passive smoking are matters which can raise strong emotions on all sides and one where many different interests at least impinge one on the other or even directly clash. In formulating our report and recommendations we have therefore tried to produce a well-balanced way forward to a problem which some would deny exists and yet many believe to be very grave. That has not been an easy task. However, I feel that our recommendations are fair to all and they recognise the rights as well as the duties of all parties. We set them out as we see in Part 3 of the report. Essentially it is generally accepted that smoking kills through cancer and other associated diseases and that when it does not kill it adversely affects the health of the smokers and those who come into close proximity of the smoker. It has distinctly anti-social consequences and has been seen to be on the increase, especially among schoolchildren. In spite of all the negative factors we consider, perhaps because of the acceptance and indeed approbation behind the habit, that those who wish to smoke should be permitted to do so as long as the effect of their habit on others should be minimised. In Part 4 of the report we refer to our investigations into the strategies that are used in other jurisdictions. Details are summarised in Appendix 4. These have led us to the conclusion that two courses are initially open to us: to recommend the introduction of primary legislation along the lines of the private members Bill, which I have been given leave to introduce, or to rely upon a voluntary code of conduct which may produce the same results. It appeared to the committee to be reasonable that, before legislation is enacted, those who will be required to operate it should have an opportunity to demonstrate the effectiveness of voluntary solutions. We are encouraged in the conclusion by the knowledge that the hospitality industry has acknowledged the need for and proposes to introduce a charter and code of practice. It is interesting to note that in the UK there has been a lot of effort and investment into making public houses pleasant and comfortable places to be in, with ventilation engineers providing heating, ventilating and air conditioning systems which create an environment which is pleasant in both summer and winter. I am sure our own establishments, working in conjunction with the environmental officers of the Department of Local Government and the Environment, can create a similar situation and awareness on the Island. To support this initiative we recommend that steps short of primary legislation be taken to require the proprietors of eating and drinking establishments to install air conditioning in large premises and an adequate system of air extraction in the smaller premises. We do not believe that government should provide financial assistance for this work. In associated recommendations we propose that subject to practical restraints - and these can be all sorts ranging from perhaps sheer physical impossibility because of restrictions on space to the special nature of the building itself - they should have a smoking area and that all buildings to which the public have access should have adequate ventilation or air conditioning. The committee were concerned also that many business premises oblige their employees who smoke to go outside to smoke irrespective of the weather. We consider that this is unfair to the employees and we therefore recommend that every large place of employment should be required to provide a ventilated area in which those who are smokers may do so in a pleasant environment. The recommendations which are summarised depend upon the goodwill and co-operation of those concerned. Should these recommendations not prove to be effective within five years, we recommend that the Department of Local Government and the Environment take steps to introduce legislation based on my Bill. Part 5 of the report contains a number of miscellaneous recommendations. Briefly these are that every effort should be

made to improve statistical evidence as to smoking on the Island so that targets can be set and performance measured, that increased efforts be made to discourage smoking, particularly amongst the young and that the cost of remedies designed to break the habit be subsidised. Our recommendations are summarised in Part 6 of the report, but we also recommend that consideration be given to further control of the advertising and promotion of tobacco products. I would like to thank the radiologists, doctors and nurses in Noble's and in Clatterbridge for their diligence, the cancer care charities, the MacMillan and Anti-Cancer Association, the Manx Cancer Help Association, the Lung Cancer Foundation and all other related organisations who daily deal with cancer related illnesses. I would also acknowledge the help given to those Manx patients who are treated in Clatterbridge Hospital by the staff there who offer a centre of excellence to the Manx people - specialists such as Dorinda Palmer, a lung cancer support nurse, who offers counselling services and spends every day with patients with lung cancer. They often come for treatment accompanied by their families who desperately do not want them to die and feel devastated by the thought of living life alone and she states that smoking is linked to 90 per cent of the lung cancers. I would like also to make special mention of Dr Slater, who visits the Island every Thursday, and the other oncologists who provide such excellent service to the Manx public. Great strides have now been made in the treatment of cancers with chemotherapy and radium treatments. The earlier the cancer is detected the greater the chances of successful treatment. It is with this in mind I would especially make a request that it is essential that an MRI machine is made available at the new hospital. Every month we must be sending upwards of 30 to 40 patients to the UK for this service alone, some having two scans done. The minister will have evidence of the amounts. Every year more and more people with cancer are cured. Cancers that in the past were fatal are now completely curable. The medical profession can only do so much, it is up to governments to bite the bullet and take on much more responsibility in highlighting this very serious issue. There must be a recognition that non-smokers must not be forced to work in enclosed areas where smoking is allowed. All government offices and public buildings should adhere to agreed government guidelines. Finally, Mr President, I would like to thank the committee, Mr Kniveton and Mr Crowe, and our clerk, Mr Bawden, for their work on this committee over the past year, also all those who contributed to the report. I would especially like to thank our Clerk, Mr Bawden, who I think this is probably his last special committee who he will be clerking for. Mr President, I beg to move the motion standing in my name.

Mr Kniveton: Yes, sir.

The President: Mr Kniveton.

Mr Kniveton: Yes, sir, I beg to second. Can I say firstly, Mr President, I was pleased to serve on this special committee under the chairmanship of my colleague, Mr Waft I am sure Mr Crowe also would join me in saying how interesting it was to follow through on this, perhaps, controversial subject. Mr Waft has already thanked Mr Bawden for his services which as usual were immaculate in the handling of secretarial and advice side. Without repeating too much of what Mr Waft has said this morning, I would just like to emphasise the main points of our recommendations which we arrived at. Bearing in mind, sir, that the three of us were non-smokers and not one was wanting to be accused of being biased, but accepting without doubt that smokers and non-smokers have their own rights. So our main points - and forgive me for repeating - smokers should not be able to damage the health of non-smokers and that we were adamant on. Air conditioning should be fitted within restaurants and drinking

establishments. Where possible each building to which the public has access should have a designated smoking area with ventilation or air conditioning and large places of employment should have a ventilated area for members of staff who smoke. I have to add here it is sad to see groups standing outside office doorways smoking and throwing their fag ends on the ground. But essentially unless all this happens within five years, steps, we say, should be taken to introduce legislation as set out by Mr Waft's suggested Bill. Now there is only one part of this book which looks a bit like the budget when you open it up. It was an interview or the evidence given by Mr Brunnschweiler and I would please ask if I may just repeat a couple of things here. When he was asked 'Would it not be, then, bearing in mind the medical officers words, more reason for all the pubs to put in extractor fans for ventilation' and I must remind hon. members that Mr Brunnschweiler is not only a brewer, he is a publican, hotelier and he is extremely well-known and accepted authority on the Island and his reply to that question was 'Oh, yes.' He was then asked 'And then would we not exactly cancel out his words, but would diminish his words to some extent.' Mr Brunnschweiler replied 'Yes, I think ventilation has got to come and I think it is a good thing for everyone really.' Again he was asked, 'yes, Mr Chairman, I think I was interested in Mr Brunnschweiler. I think he is obviously favouring self-regulation and a code of conduct.' I think that is very important to note, hon. members. 'I think you are probably aware that there are guides to public charters and various codes that have been drafted by other bodies in the UK and Ireland and so on.' I think that that is a very, very important extract from the report. Altogether, Mr President, as I say, a very interesting exercise and I consider well worthwhile. I also truly congratulate Mr Waft, my colleague, for his drive and energy in raising this subject in the first place. Thank you, Mr President.

The President: Mrs Christian.

Mrs Christian: Mr President, having read the report, it is quite clearly a case that this is an issue which evokes strong feelings on both sides, but nevertheless I think the majority view would be that if people want to smoke we should certainly protect other people from any damage which might ensue to the non-smoker. In terms of the recommendations made in the report I must say personally that I would have some reservations about the effectiveness of voluntary implementation. However, the recommendation is that that should be tried and should be followed thereafter if unsuccessful by the promotion of legislation. In terms of what is going on currently, I would like to just comment very briefly on some of the DHSS involvement. The department does work at the moment with the Department of Education on smoking issues with young people. It is a party to the Smokebuster programme, being an equal partner in funding the Smokebuster personnel with the Department of Education. Currently in terms of trying to get a statistical base we are working on carrying out a survey, again with young people. There was one done a couple of years ago, but we need to update that to see how things are changing. Certainly the department, through the chief medical advisory officer, is of a view I think that we have to do further work to assist people in breaking the habit where they want to break the habit. Now, this is a matter which is inter-departmental in terms of all the recommendations. It deals with buildings, it deals with education, it deals with health care and clearly the department is also working with the charities who pick up the pieces after the event if you like. The hon. mover has referred to the sort of care which is provided for cancer sufferers, but because work is going on in a number of areas - and I am very conscious that in the Chief Minister's Drug and Alcohol Strategy Committee the issue of tobacco is being explored and indeed a tobacco strategy is there in draft form, - I would seek

to move an amendment to the resolution as tabled in order that this report be referred to the Chief Minister's Drug Strategy Committee for consideration in the development of that overall tobacco strategy. It seemed to me that, whilst many of these recommendations are perfectly acceptable, the fact that we are receiving it here and the recommendations are being approved, does not necessarily give anybody else any instruction to pick them up and implement them. I just felt that perhaps if we were to move it to that committee those recommendations might be moved along in an inter-departmental forum, which that is. The one that is not there perhaps is DoLGE, but I am quite sure it could be brought in to consider those aspects of this report which relate to air conditioning and ventilation and so on. I have no argument in general with the recommendations except, as I say, to express some concern that we might wait a long time for voluntary implementation, but other than that, yes, we do need to improve health promotion. We do need to improve the assistance to people to break the habit where they want to and I would generally feel that most of what is in here is a reasonable step a long the way to exploring this issue of imposing some sort of government view on smoking. Notwithstanding the people who feel that it is their human right to do so, but at the same time they rather expect other people to pick up the pieces by funding through their taxation the repair jobs that have to be carried out. So, Mr President, I beg to move:

For all words after 'be received' substitute 'and referred to the Chief Minister's Drug Strategy Committee for consideration in the development of its tobacco strategy'.

Mr Delaney: I will second that amendment, Mr President. I found the report very interesting. After eight months now without a fag I am doing very well. (Mr Crowe: Hear, hear.) One thing that it has educated me is the fact that the amount of people who are making money, so much money. I do not mind anyone making money or profit out of aids to help you pack in smoking. Not a subject was covered. That is the future. People of my age group and less in year terms that is what they should be doing is that I still sit and I have no objection to anyone sitting down with me, a dozen fellows every weekend sit down with me, smoking their heads off and I sit down with them. I do not object to them smoking. I think it is their right to have a smoke if they wish. The situation is that it is worries of two fields, on planning for the future which is on my right here - the situation has been brought up to there and the development of buildings where these provisions are built in to them by the architects and the people who are designing these sorts of things for the purpose they are designed. I have mentioned the price of alternatives. I have got my little baby's dummy which I have and I am quite happy with that and I think I will survive very well if I live to see 70. I think the situation has come where young people are in danger of this lot. I think that the education of them is certainly the way to stop and maybe not get to my stage in life where you have to pack them in at great expense. I think that is where the work has got to be done. I believe that putting it to somebody to do something with is the answer to it. I honestly believe that, at the end of the day, whichever side you come down on, human rights or the rights of everyone to do what they want, kill themselves if they want that is fine, but I think the need is for people to understand the problem and I do not think out there there are many people who understand the problem. Either they are ones who have never smoked and do not seem to know how hard it is to pack them in once you are on it or the people who do smoke cannot understand what all the fuss is about. The fuss is about, and I am an example of it, the damage it does in your best years which is between the ages of 50 and 60. Certainly that is the damage that is being caused to young people. In the report I did not see the percentage of the people who are treated for

cancer who never smoked a cigarette in their life and yet I know an awful lot of them. So that situation unfortunately is there too I think it has gone somewhere this report. If it is put to this committee as recommended by Mrs Christian's amendment, I believe something positive will come out of it. I hope for the young people in the future something positive does come out of it because there is no doubt in my mind that nicotine through the form of smoking is the one that does the damage. Nicotine does the damage in your lung capacity and therefore your general health.

The President: Now, hon. members, I am aware of the Court clock and I am really in your hands. We have an amendment now before us to consider as well and Mr Waft to wind up. Mr Crowe has indicated that he wishes to speak. Now what is the indication from around the table? Do you wish to finish?

Members: Agreed.

The President: You wish to continue to finish. Mr Crowe, then.

Mr Crowe: Thank you, Mr President. As a member of the committee and as a former smoker, I would like to add my comments about the very interesting and illuminating project which the committee embarked upon and to support everything that has been said so far especially by Mr Waft, our chairman, and Mr Kniveton. I was particularly struck by the amount of evidence we received and the different points of view, ranging from pro-smokers to anti-smokers. Particularly helpful were the submissions from the hospitality and catering industry representatives. The medical evidence also was very significant in the effect smoking could have on the individual, even though other smokers who gave evidence and participated in the debate disagreed with the health conclusions but that was their point of view. As we know, social habits change and acceptance of smoking has changed over the years. I am sure we have all seen the old black and white films where smoking in the '50s and '60s was seen to be chic or smart, even sophisticated, and all the films of that era showed many of the heroes and heroines clutching a cigarette. We then moved into a period when smoking became non-acceptable to the majority leading to smoke-free buses, trains, tubes, the underground system in London, in fact in most major industrialised countries a real attempt was made to discourage people from smoking through health promotion and punitive taxation. However, all of these attempts have failed because smoking is addictive and gives pleasure to some people, that we cannot deny. Some would say that it is a calming influence in their lives, others who are thinking of the young people now, especially young girls, see smoking as a slimming device and the fashion model industry even promotes thinness as being very desirable as they look at optimum size for young people and they see smoking as some way of helping this. One of the most interesting submissions we had was the information given from Smokebusters on smoking amongst young people. I am sure members of the committee will remember clearly that submission we had and that one of the comments made was that in one of the schools, it was not named, in one class in a primary school every child smoked. Now that was quite shocking to us all, that that level of addiction occurs in a primary school. The other evidence that I found most helpful was from Dr McLean and from the Roy Castle Lung Cancer Foundation. We did take notice of the licence trade and members will have read of the voluntary code that is likely to be introduced. But I do believe our conclusions are a fair balance between the divergent needs of smokers and non-smokers and I am happy to support the motion and the amendment in the name of Mrs Christian.

The President: Mrs Christian, do you wish to comment any further?

Mrs Christian: No, Mr President, I am grateful for the support to the amendment because I think that it will then take the report forward (**Mr Delaney:** Hear, hear.) in a positive way so I thank members for their support.

The President: Mr Waft.

Mr Waft: I would support the amendment as well, Mr President. I think it is a step forward. It needs to be processed and I think certainly that committee has got a good name for making progress with the issues that they do take up and I would hope to see them treat this issue as seriously as they do the others if not more so. I would support the amendment.

The President: Right, hon. members, therefore we deal with item 5 on our order paper that the report of the Special Committee of the Council on the Law relating to Smoking and Passive Smoking in Public Places be received and its recommendations approved and to that we have the amendment moved by Mrs Christian that after 'be received' be substituted 'and referred to the Chief Minister's Drug Strategy Committee for consideration in the development of its tobacco strategy.' Those in favour of the amendment please say aye; and against, no. The ayes have it. The ayes have it. The motion as amended, hon. members. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Now, hon. members, it was our intention to go into private at this particular stage for consideration of the summary of proceedings of the Council of Ministers. I propose to hold that over I think until our next available chance and simply to say that the Legislative Council adjournment will be to the sitting of Tynwald Court on Tuesday next, 20th February, at 10.30 and thence to Tuesday, 27th February at 10.30 here in our own chamber. Thank you, hon. members.

The Council adjourned.