



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

P R O C E E D I N G S
D A A L T Y N
(HANSARD)

Douglas, Tuesday, 9th November 2004

Present:**The President of Tynwald (The Hon. N Q Cringle)**

The Lord Bishop of Sodor and Man (The Rt. Rev. Graeme Knowles), The Attorney General (Mr W J H Corlett QC),
Mrs C M Christian, Mrs P M Crowe, Mr D F K Delaney,
Mr D J Gelling CBE, Mr J R Kniveton, Mr E G Lowey and Mr G H Waft,
with Mrs M Cullen, Clerk of the Council.

Business transacted

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The Council sat in private at 12.15 p.m.

Legislative Council

The Council met at 10.30 a.m.

[MR PRESIDENT *in the Chair*]

PRAYERS

The Lord Bishop

In this Remembrance-tide, we remember all those who are on active service at this time, especially any known to us. We pray for the peace of God's world. Almighty God, humbly acknowledging our need for Thy guidance in all things, and laying aside all private and personal interests, we beseech Thee to grant that we may conduct the affairs of this Legislative Council and of our Island to the glory of Thy holy name, the maintenance of true religion and justice, the honour of the Queen, and the public welfare, peace and tranquillity of the Isle of Man. Through Jesus Christ, our Lord.

Members: Amen.

LEAVE OF ABSENCE GRANTED

The President: Hon. Members, we have apologies this morning from the Hon. Member, Mr Singer, who is away on departmental business.

Questions for Oral Answer

Lung cancer and smoking Number of cases and protective legislation

1.1. The Hon. Member (Mr Waft) to ask a Member of the Government:

- a. As there are approximately 31,000 cases of lung cancer diagnosed in the UK every year, are you in a position to reveal how many cases are reported in the Isle of Man; and*
- b. as smoking is the main cause of lung cancer, what legislation is envisaged to protect the public from the effects of tobacco smoke?*

The President: On our Order Paper, Hon. Members, we have, as Item 1, a Question for Oral Answer, and I call on the Hon. Member of Council, Mr Waft.

Mr Waft: Thank you, Mr President. I beg to ask the Question standing in my name.

The President: Hon. Members, I call on Mr Kniveton.

A Member of the Government (Mr Kniveton): Thank you, Mr President.

I am quite happy to answer this Question, sir, on behalf of the Government.

Mr President, the annual number of cases reported in the Isle of Man is between 50 and 55 in the period 1994 to 2001. More recent data is not yet available.

However, sir, these figures must be treated with some caution as it is not always possible to identify the origin of some tumours. They are an amalgam of figures registered on Island and those registered at Clatterbridge and other UK hospitals. They cannot, therefore, be guaranteed as 100 per cent accurate, as we are dependent upon the hospitals correctly identifying and recording patients as Manx.

Sir, amendment to legislation is currently being proposed under the auspices of the Tobacco Strategy in the following areas: advertising and promotion of tobacco and tobacco products.

Internationally, experience consistently demonstrates that the introduction of effective legislation to ban advertising and promotion will result in a one-off 10 per cent drop in smoking prevalence in the population. It is hoped to develop and promote legislation which, in contrast to the UK, would not contain exceptions for certain categories for advertising, for instance, Formula 1 motor racing. The effect of such legislation on the Island may not be as marked as elsewhere, since UK advertising will, inevitably, have a spillover effect to the Island, and we may, therefore, have gained some benefit from the recent UK ban.

The second part of the question, sir, smoking in public places: there is compelling evidence that second-hand smoke causes disease in many non-smokers, and kills, perhaps, five to six Manx residents each year – five to six Manx residents each year.

The legislative approach to this problem varies across countries or states. Some, such as California, have brought in bans which apply not only to enclosed public spaces, but open spaces also.

Among the most dangerous settings for the non-smoker is the workplace. Action in the workplace must, therefore, be a priority, although Health and Safety legislation does give some scope for action here. It has been estimated that, if all workplaces were completely smoke free, overall smoking problems could drop by as much as 10 per cent. In addition, there is a clear change in public attitudes to second-hand smoke which would further control in, at least, enclosed public spaces.

Now, the important part, sir, is that the most likely legislative move for the Island would be legislation to ban smoking in enclosed public spaces. Appropriate legislation is now being drafted and progressed within the Health Services Division of the DHSSecurity for subsequent Department consideration.

Mr President, I hope the Hon. Member finds this information helpful.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

Would the Member not consider it surprising that we do not actually know, and you are not 100 per cent correct, in the situation where there is concern as to the 31,000 cases in the UK, but the Isle of Man, with a population of 70,000 people, cannot 100 per cent decide what the effects of smoking are on the Island's population?

I know there is a National Statistics Office in the UK but,

Prayers

Leave of absence granted

Lung cancer and smoking – Number of cases and protective legislation

surely, with the advent of all the computerisation and cost (A **Member:** Hear, hear.) throughout the DHSS, you can give us an accurate account of the effects of tobacco smoking in the Isle of Man.

The President: Mr Kniveton.

Mr Kniveton: Mr President, I believe the answer to that is that, in my original answer, I said *approximately* 31,000 cases of lung cancer diagnosed in the UK each year. Now, the operative word there is 'approximate', sir. Even they, in the UK, do not know exactly how many.

As far as the Isle of Man is concerned, we are a little bit different. We are out on our own. We are out on a limb: Manx people – some, I know. I know of one case this week of a patient who has been diagnosed, and is making their own arrangements for privacy reasons, and that, I believe, is the answer to why we cannot be more exact.

The President: Mr Lowey.

Mr Lowey: Where is the direction by Government in advertising the dangers of smoking, and why should it be left to one individual to almost, single-handedly, be fighting this particular corner? Where is the direction by Government – central Government?

The President: Mr Kniveton.

Mr Kniveton: Well, the direction, Mr President, is as I indicated: it may not be prevalent at the moment, but I have indicated that amendment to legislation is currently being proposed under the auspices of the Tobacco Strategy in the following areas. So, I can assure the Hon. Member, from the information that I have been given, that there are moves afoot.

The President: Mr Lowey.

Mr Lowey: Following that one, would the Hon. Member not agree that the Smoking Strategy has taken second place – in the Government's own words – to the Drugs Strategy; and, thirdly, this Strategy has been in being for the last three years – again, I come back to it: where is the urgency and, if five or six people a year are dying from a known cause, is it not time that Government really put a higher priority on this than it is actually showing up to date?

The President: Mr Kniveton.

Mr Kniveton: Mr President, I could but only agree with the Hon. Member on that point, and I am delighted that the Hon. Member, Mr Waft, has raised the Question – more especially, sir, as he and I were both on a Select Committee of Tynwald looking into passive smoking, and the effects thereof.

The President: Mrs Christian.

Mrs Christian: Would the Hon. Member confirm that, because, as the Hon. Member, Mr Lowey, has indicated, smoking took second place to drugs and alcohol within

the Drug and Alcohol Strategy Group, it has now been determined by the Department of Health and Social Security that they, outside of that Committee, will try and drive forward the Smoking Strategy.

Mr Kniveton: Yes, you have answered what I had in my mind, and I was not sure whether to give that reply, whether I was being accurate, but I believe that is the case. It is all one, now, sir. Thank you.

The President: Mrs Crowe.

Mrs Crowe: Whilst I am fully supportive of, indeed, the questioner and the Answer, I do find that, in the drafting of the Answer, it is surprising that the positive actions taken by Isle of Man Government seem to have been ignored.

We are, perhaps, alone, in that the age at which the purchase of tobacco can be achieved is 18 years of age, which I, myself, progressed in legislation and, also, the fact that children – young children – do have a proof of age card and retailers can be fined up to £10,000 if, in fact, they sell tobacco to juniors.

Now, I know that they get hold of tobacco, and I am not suggesting that they do not, but I do believe that, when an Answer is being given that includes such places as California, it might be well to mention that we do, actually, progress some things positively in the Isle of Man.

The President: I think the question is: do you agree that we are positive in the Isle of Man? (*Laughter*)

Mr Kniveton: I would not dare to do anything else, but that, sir.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

Does the Hon. Member's brief give any idea as to when we can envisage legislation coming through both Houses, with regard to smoking in public places and the banning of such?

The President: Mr Kniveton.

Mr Kniveton: I do not have the exact date, but I have indicated that legislation to ban smoking in enclosed public places is on the move at the moment.

Mr Lowey: It is not in the Government thing for the year.

The President: Mr Waft.

Mr Waft: Would the Member agree with me that the Disability Discrimination Bill has been on the move for the past 10 years?

Mr Lowey: Yes.

Mr Kniveton: So you tell me, Mr Waft.

Mr Waft: Thank you, Mr President.

H M ATTORNEY GENERAL**Serious crime cases
Average time in court**

1.2. The Hon. Member (Mr Lowey) to ask H M Attorney General:

What is the average time taken for a serious crime to be dealt with by the Courts, and what are the factors which contribute to delays?

The President: We turn, then, Hon. Members to the second Question on the Questions, and I call on the Hon. Member, Mr Lowey.

Mr Lowey: Thank you, Mr President. I beg leave to ask the Question standing in my name.

The President: Her Majesty's Attorney General.

The Attorney General: Thank you, Mr President.

Mr President, the Hon. Member asked a similar Question this time last year and, if I may, I would reiterate the relevant part of my then Answer. The time taken to bring criminal cases before the Courts depends upon a number of factors, including the time taken to complete police inquiries, the hearing of committal proceedings, the preferring of any information by the Attorney General's Chambers, and the listing for hearing by the Court of General Gaol Delivery. It is, therefore, Mr President, very difficult to state an average time to bring such cases to the Courts.

I can say, however, that all cases listed for committal hearings before the High Bailiff and the Lay Justices are conducted in a timely manner, and a turn-around time of five working days is usually achieved for the provision of the committal papers to the Attorney General's Chambers.

One common factor that causes delay, and this appears to be unavoidable, is that there is often a wait of many weeks, if not months, for the results of forensic evidence to be received. Upon receipt of the information from the Attorney General's Chambers, the case is listed for hearing, and the Court of General Gaol Delivery employs full case management techniques to ensure that, if a case is ready for trial, then it proceeds to trial within two to three months of a plea of 'not guilty'.

If a 'guilty' plea is entered, the only delay which will occur will be as a result of obtaining social inquiry, psychiatric and other reports, which the Court will need to assist it in imposing an appropriate sentence. The duration of the trial is estimated by the prosecution and defence advocates briefed in the cases and depends upon complexity, type of evidence, number of witnesses, amount of documents and other factors.

Mr President, the Judiciary is keen to promote, through the appropriate Department, legislation which will fast-track the process from committal to first appearance of a defendant in the Court of General Gaol Delivery, and to trial. I can also say that a sub-group of the Justice Working Group has been established, known as the Court Operations Group (Crime), to look into, amongst other things, ways in which delays may be eradicated from the criminal justice system.

The sub-group has representatives from the principal parties involved in the administration and organisation of

the Prosecution and Criminal Court Departments, and will, I hope, work as a useful catalyst towards positive improvements in the system where deficiencies are identified.

Finally, Mr President, I would say that the future use of live television links in the Courts may expedite the giving of certain types of evidence, for example, expert evidence, as experts may not then be required to travel to the Island in all cases.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

I am always grateful to my learned friend for his reassuring words – *but...*

If I listened carefully to the Attorney General, Mr President, one would be forgiven to think that there were only delays of only a matter of months; but if I can give three instances – and they are varied – one is the ship that is lying in Douglas Harbour, that case, which is four years. Is it three or four years?

Mr Delaney: Four years.

Mr Lowey: Drugs, which take up to nearly two years; and allegations against police officers, which, we know, will be heard next July – serious allegations, and they are only allegations. I use them to illustrate my concern that justice does seem, in some instances, to be very long-winded.

I accept that we have appointed an extra deemster, and I accept that we have given them good working conditions in a new Courthouse, and still these are very long waiting lists. None of them, I would suggest, require psychiatric reports and the other list that my hon. colleague has mentioned this morning.

Perhaps he can try and explain why these cases are so long. Is it because of legal hold-ups? In other words, no matter what we do, if the legal profession hold things up, then these long delays can occur, and they should not.

The President: Mr Attorney.

The Attorney General: Mr President, whilst accepting the general point that 'justice delayed is justice denied', I do hope that the Hon. Member will accept that it is quite impossible for me to comment on cases which are very currently before the Court. (**A Member:** Hear, hear.) And, whilst there have been delays in certain cases, I can say that when there is an apparently inexplicable delay, the judges themselves will actually insist that an inquiry be carried out.

That, indeed, is precisely what has happened in relation to a very case that was dealt with in our Courts. There was an indication that there had been delay in bringing the matter to the Court and the then Acting Deemster indicated that, when the matter was finally completed, he himself would instigate an inquiry into why there had been a delay.

Certainly, Mr President, judges do not tolerate delay nowadays and there is, as I say, active case management which means that the Deemsters really do intervene when a case justifies intervention.

Could I also say, Mr President, it was a point I made last year that, although an extra deemster, Deputy Deemster Williamson, had been appointed, he does not actually become involved with criminal matters. His jurisdiction relates to

matrimonial cases and summary cases in the High Courts. He is not involved with criminal matters.

Mr Lowey: No, but that eases the load of the other two Deemsters to deal with the serious cases, which they were dealing with – matrimonial and family matters.

The Attorney General: Yes, I accept that, Mr President, and, as I say, I would like to comment, and it is appropriate I should comment on delays, but only when the cases are finished.

Mr Delaney: May I ask a question?

The President: Mr Delaney.

Mr Delaney: I agree entirely that you cannot mention any cases which are relevant at this time, but there is a case on record of some five years elapsing, as I am given to understand. I am still waiting for some sort of report to come to somebody, in relation to a certain matter, which I will bring to you privately and you may be aware of. Nobody has ever explained to us why the five year delay was on and I wonder if it is true – the case I am talking about – some five years it was before we got to court.

The President: Mr Attorney.

The Attorney General: I am afraid I do not know the case, but what I can say, Mr President, is that it is open to the defence to make an application for the proceedings to be stayed because the prosecution have taken too much time. And the Courts are not afraid to say, 'Yes, it's not fair that the case proceeds because there has been undue delay.' That is the general principle.

Mr Delaney: But is it not true, Mr President, then – and you gave us that answer, Mr Attorney – because of the legal system, people are playing us like fish? And what is happening is, between the legal beagles, the lawyers, and other people who are clever enough, they are just playing the system until that occurs.

The President: Mr Attorney.

The Attorney General: I think, Mr President, that the Deemsters are very well aware of the tactics that can be used by a defence counsel and other counsel and they are very keen to make sure that justice is not going to be delayed.

Orders of the Day

Housing (Multi-Occupation) Bill Second Reading approved

2. Mrs Crowe to move:

That the Housing (Multi-Occupation) Bill be read a second time.

The President: Hon. Members, we now move on to the

second part of our Order Paper, which is the Housing (Multi-Occupation) Bill. It is down for Second Reading and it is in the hands of the Hon. Member, Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

I am pleased to be able to promote this legislation on behalf of the Department of Local Government and the Environment. The main purpose of this Bill is to regulate and control the provision of multi-occupancy dwellings.

A 'multi-occupancy dwelling' means any dwelling occupied by persons who do not form a single household. These properties may also be referred to as houses in multiple occupation (HMOs), and they can be differentiated from guesthouses, which provide tourist accommodation, and are not a person's main place of residence.

The Department is of a view that there is an established demand for this type of accommodation, which fills a need in the housing market, but, at present, there is no way of regulating the standards.

This Bill is intended to address the Department's concerns relating to the occupation of this type of accommodation. Once enacted, the proposed legislation will enable houses in multiple occupation to be legalised, which also allows the appropriate controls, the regulations and codes of practice to be introduced and enforced.

Similar legislation, the Housing (Amendment) Act 1990, already exists to enable the Department to make regulations covering flats. When new regulations are introduced, it will allow the exemption of certain accommodation from the requirement to register: that is, it will allow elderly persons' accommodation provided by the Department of Health and Social Security and a local authority or a joint board, or residential homes provided by Social Services, where the residents do not live independently.

The Department is aware that houses in multiple occupation are in existence, despite their prohibition, and that some avoid prosecution by providing meals, thus classifying themselves as guesthouse accommodation. This current situation is clearly not protecting the public, nor can a ban be enforced without the eviction of a significant number of people, which would cause social problems.

I need to advise Members of Council that, during consideration of the Bill's clauses by the House of Keys, two amendments were successfully moved. The first, moved by the Hon. Member for Middle, effectively changed the title of the legislation so, when it becomes law, it will be known as the 'Housing (Multiple Occupancy) Act 2004'.

The other amendment, moved by the Hon. Member for Ayre, related to clause 3 regarding the Bill's enforcement provisions. The effect of Mr Quine's amendment will mean that the Department will enforce the regulations in any district where the local authority has failed to do so, and that the Department may then recover the costs from that authority.

Having outlined the broad principles of the Bill, I hope the Hon. Members will give it their full support, and I beg to move that the Housing (Multi-Occupation) Bill be read for a second time.

Mr Delaney: I beg to second. It gives me great pleasure, Mr President.

Several years ago, I raised the situation that was occurring, because of the progress of the Island, in the use of more and more properties into multi-occupation situation.

And that indicated that the Island was going ahead, but it was to the detriment of good neighbours and Manx people, who had no way of getting their grievances aired when they were disturbed in the middle of the night.

I have a catalogue here of situations that occurred – some of these situations were indicated to Members through communications, some months ago – halfway through the year.

The situation is that, alright, pressure on these sorts of buildings by companies who wish to bring in staff, and this is the cheapest way of doing it – buy a property, put your staff in – but having no control is damaging the peace and quiet of people who wish to reside in residential neighbourhoods.

An interesting fact is that, when I raised it in Tynwald some several years ago, the situation was in Castle Mona Avenue, which went on and on and on until, now, it became one of the major concerns of the Member's late Department of Local Government. Now, of course, this Bill will address that situation in part.

You aware, Mr President, and Members are aware, I will be trying to further strengthen this Bill, hopefully with their support, but what I am prepared to say, at this stage, is that this Bill will do more for the Isle of Man people who have to reside where these houses exist than all the talk of politicians and all the good wishes and the sympathy of officers of the Government.

I believe this Bill goes a long way to redress the imbalance that has occurred by people who have come from outside the Island, to reside here, to work here, against the people who are indigenous in this Island. This Bill will do that, and I am pleased to second.

The President: Mr Kniveton.

Mr Kniveton: Yes, thank you, Mr President.

To my mind, sir, this Bill is, obviously, a move by the Department of Local Government and the Environment to make sure homes are safe. I am sure that all of us have heard of this multi-occupancy living where tenants have private bedrooms but share – yes, *share* – communal facilities such as kitchens, toilets, bathrooms. That, I consider, sir, to be most certainly illegal.

Furthermore, I know, and I believe that, for some occupants, it is relatively good living compared with those who even share bedrooms: sometimes, many persons per bedroom. I understand that, and I believe, they pay as much as £50 or £60 or £70 per week for that 'privilege' – if that is what we want to call it.

I believe that the lack of regulation shows that many people do not live safely. Multi-occupancy houses, I consider, are certainly illegal – often the greed of landlords – because safety precautions and regulations which apply to other buildings and properties, such as flats, do not apply. I understand that occupants even use cooking facilities in their bedrooms: no fire precautions and below living conditions.

This Bill, if accepted by us – and I believe it will be – will make multi-occupancy living legal by allowing Government or the Department to bring in strict regulations and acceptable standards. Failure to do so could, I believe, bring in fines of up to £5,000.

However, as the Hon. Mr Delaney mentioned, we do have to be careful because, at the same time, Hon. Members, we do not want to create making many people homeless, yet we still have responsibility to ensure all homes are safe.

Property owners must be held responsible if properties are below reasonable standards.

I would like the reaction, Mr President, from not only the hon. mover, but also our colleagues who are in tourism, regarding TT fortnight and the Manx Grand Prix (MGP). I am well aware that property owners – mainly family-owned properties – are let out for substantial sums, not knowing that, sometimes, up to 20 persons – yes, 20 persons – live and sleep in their house. They receive up to £1,000; that is no secret. My calculation: 20 persons times £50 being £1,000. The owner goes off and has a happy holiday in the sun, and that is where the money goes. It is temptation.

This is a prime example of multi-occupancy. All those people usually using one bathroom, one toilet and one kitchen and parking for 10 or more motor cycles or vehicles in the driveway.

Now, the passing of this Bill must have an effect on tourism, if this matter is to be *policed*. I would be interested to hear comments because this does go on in numbers. Homestay, I do not think, comes into this subject that I have just referred to.

Thank you, Mr President.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

The housing crisis we find ourselves in, and which we are digging ourselves out of, at the moment, has forced our hands with regard to legislation such as this. It is important, as has been said by the previous Member, that we do legalise the situation, and make sure that the fire precautions, and all the other precautions are in place, when we have multi-occupancy – and we have a lot of multi-occupancy around the Island, but particularly in Douglas, servicing hotels, et cetera.

We also have a situation with Ballamona Hospital when they decanted a lot of people into the community. We have a lot of community homes, which can be between two, four, six or seven, and there are lines to be drawn as to where multi-occupancy starts and ordinary residents' accommodation begins. The legislation there needs to be looked at, with regard to providing a home in the community for those with learning difficulties, for instance – planning, et cetera.

I do not think that the situation that this puts forward today will resolve anything of that nature but, at least, it does provide some legislation which people can refer to when they do have problems with a next door neighbour, or, indeed, we have to protect the people who are using the residence as well, to make sure they are looked after with regard to all the precautions that are necessary in the normal living life that we have today.

Thank you, Mr President.

The President: Mrs Christian.

Mrs Christian: Thank you, Mr President.

I welcome that Bill and I agree with the Hon. Member who has just spoken that, to some extent, Government's hand has been forced by the situation that we are in, and it is entirely proper, I think, that we do something to legalise multi-occupancy properties and impose standards for those properties.

The alternative was to enforce the position as it stands at the moment, and find that there are many people who would

be homeless and unable to be catered for. There is going to be some pain, I suspect, when the regulations come in, to ensure that we do not have the kind of overcrowding that has been illustrated by another Hon. Member.

But I do think that the important thing about the Bill is that it does contain a measure of flexibility. There can be, within the scope of the Bill, exemptions for certain categories of properties, and I think one has been illustrated, properties, generally speaking, under the control of Government or local authorities, for specific purposes and specific types of care.

Another, which the hon. mover may care to respond to – and I am not clear here where the definition might fall – is, for example, we have a number of young people in the Island who, although do not, by definition, I would suggest, constitute a single household, in that they may not be a family unit... but you do have single people who buy a property and, in order to defray the mortgage costs, share with friends. I would be interested to know how they might be defined in this scheme of things. It may be that they will be defined as multi-occupancy properties, but I would suggest that, on the whole, they have not been a concern, and I would suspect that, in order to monitor this, we will have to focus more particularly on the kinds of properties which are being used to house staff of commercial enterprises in considerable numbers.

Perhaps the mover could respond to those points, please.

The President: Mr Lowey.

Mr Lowey: Yes, I do support the Bill. I supported it when the Member who is moving it was the Minister, and was actually orchestrating this.

I have to say we are catching up. I agree with that too – that sentiment. It is the service industries, by and large, which are expanding – from cleaning to nursing homes and hotels – where this is actually highlighting the problem, as explained very graphically by the former Member for East Douglas, my colleague Mr Delaney, and so it is a vehicle to, rescue a situation which we know is out there in the community.

My only comment on the Bill, Mr President, was the comments made by my friend, Mr Kniveton, when he said that part of the problem, he perceived, could have been in TT week with groups on homestay. Homestay visitors are regulated under regulations which are informed when they actually register with Tourism. Of course, we have no say in that that illegally take in people, but then they do not get tax relief, and all the rest, but they are governed by regulation already.

The President: Mr Gelling.

Mr Gelling: Mr President, I share a lot of the sentiment of Mrs Christian, inasmuch as we have got the vehicle here, but the regulations will be, I would have thought, difficult. Things come into my mind as people serving a meal and, therefore, they could be a guesthouse. Well, could they actually then become a guesthouse and are we going to see a change in...? I heard recently, the definition of a hotel has changed from what it used to be – I think it was: ‘where you stay when you are not at home’; now it is: ‘where you stay up to 29 days’. I being to wonder whether there will be a

time here that a guesthouse will be somewhere you stay for 29 days, but a multiple-occupancy will be somewhere you stay over 29 days.

I think there will be, as Mrs Christian says, some pain here, because there will be probably some very well run establishments, and if those regulations are put in place that will, indeed, protect the good ones, that will be fine, but I do believe there will be a situation where the definition of what is the difference is going to be probably the hardest part of the actual regulations to be put in place.

But I am certainly supportive of the Bill, Mr President.

The President: Mrs Crowe to reply.

Mrs Crowe: Thank you, Mr President.

Firstly, of course, I would like to thank my hon. colleague, Mr Delaney, for seconding the Second Reading. I know of the interest that he has taken, over many years – and I think that it is the optimum point, *many years*. This has been a problem in the Island for many years. These houses are, at the present time, illegal, and without causing great difficulty in closing them all down in one fell swoop, we have to put in place regulation.

So, it is something that really was needed, and I think Mr Delaney was quite right in saying, not only protecting those who are living in these dwellings but also those living adjacent to these dwellings. So, I think the regulation is long overdue.

I thank Mr Kniveton also, although I am not quite sure about this problem over TT week, and I do believe that is a matter for the Tourist Department. I do believe, if Hon. Members know of dwellings that are being let in this way, that they should be informing the Tourist Department, which must have regulations in place to govern all such holiday lettings. I know it is a problem that has been highlighted with regard to commissioners' houses, and I do hope that the Tourist Department are looking into that at the present time. I am sure they are.

With regard to Mr Waft, I think he mentioned about the regulation, and how it would affect people, though I think also we must bear in mind the safety issues with these dwellings, highlighted by Mr Kniveton: things like cooking on small camping fires in bedrooms. It is unacceptable to be placed in these hazardous conditions, without any knowledge, and I think when you see, through the clauses in the Bill, it will be quite clearly defined to anyone what the purpose of these dwellings is.

Mrs Christian, I think, raised an interesting point about the mortgage sharing properties and, of course, those will be shared ownership properties, not multiple-occupancy. If they are all joining together to pay the mortgage or, if, indeed, the Hon. Member of Council is suggesting one person is paying the mortgage, and renting out the room... (**Several Members:** Yes.) Right, okay. If that is the case, I would suggest that they may well be covered by this legislation.

I thank Mr Lowey for his support and Mr Gelling, of course, mentioned that he was fearful that well run establishments may have some problems, and I must reassure him that any well run multiple-occupancy house at this present time, that is observing the regulations and the codes that we all know are there, then they will have nothing to fear from this legislation: nothing at all. This is to protect those who do not run well run establishments.

Thank you, Mr President.

The President: Hon. Members, the motion that I put to Council is for the Second Reading of the Housing (Multi-Occupation) Bill 2004. Those in favour, Hon. Members, please say aye; against, no. The ayes have it. The ayes have it.

Housing (Multi-Occupation) Bill Clauses considered

The President: Hon. Members, we then turn to the clauses and I call on the Hon. Member, Mrs Crowe, to move clause 1.

Mrs Crowe: Thank you, Mr President.

Clause 1: this is the control of multi-occupancy dwellings and defines a multi-occupancy dwelling and allows the Department to make regulations, apply standards, and issue codes of practice.

Subclause (1) defines the multi-occupancy dwelling as 'any dwelling occupied by persons who do not form a household'. That, I think, was the point Mrs Christian made.

Subclause (2) permits the Department to make regulations which apply standards or codes of practice in respect of multi-occupancy dwellings. This includes the establishment of the registration scheme, and setting standards, such as room sizes, lighting, heating and ventilation and the provision of such facilities.

Subclause (3) permits regulations made by the Department to apply standards in respect of any building of which a multi-occupancy dwelling forms a part.

Subclause (4) allows the Department to make regulations which impose the duty of executing necessary works on occupiers, owners and any other persons having an interest in the property.

Subclause (5) allows the Department to limit the regulations to certain descriptions of properties, and to prescribe cases where compliance with fire safety requirements will be a prerequisite for registration.

Subclause (6) requires there to be a consultation with local authorities before making regulations, applying standards or codes of practice.

Subclause (7) allows the Department to make an order to exempt certain premises from regulation.

Subclause (8) requires that any regulations or orders are subject to Tynwald approval, and the Department has prepared draft regulations and codes of practice, and is intending to issue them for consultation, in the very near future.

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

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

The President: Seconded by Mrs Christian. Mr Delaney.

Mr Delaney: Yes, Mr President.

As I indicated, I wish to move an amendment to clause 1:

Clause 1, page 2, line 12 –

For subclause (2)(j) substitute –

'(j) securing adequate sound insulation, from both internal and external sources, in all rooms, and to provide adequate sound insulation in relation to the adjoining property.'

Now, my reasons for this are from bitter experience on behalf of residents round the Island. Members may be aware that, for a number of years, trying to deal with the level of noise has devastated the lives of so many people adjacent to these properties being dealt with in the Bill. In some cases, the problem came about by the sheer number of occupants in houses with a few bedrooms, and where the kitchen and bathroom backed on to party walls. If the occupants were working shifts, sometimes throughout the night, or were playing music, or an argument has developed between the occupiers at midnight and beyond, the current wording of the present Bill, clause (j), would be of no benefit, as it only refers to habitable rooms, while in fact the kitchen and bathroom would not be classed as 'habitable rooms' under the proposed legislation, which would not help the adjacent property occupiers, because the kitchen and bathroom could, in fact, be the main source of noise and disturbance.

In my opinion, and the opinion also held by people suffering the problem – our people – in the past these rooms should have complied with sound insulation.

Therefore, I put my amendment, and I hope that it will be supported. I have discussed this with the Department, thanks to the ex-Minister, and they are of agreement that by putting it in the primary legislation, it will make no doubt exactly what has to be done if these houses are to be in multi-occupation.

Unfortunately, Mr President, I want to touch on two points. I am aware, and have been aware, as the Department has, of houses which are a good earner, have been let to people, up to 10 or 15 people at a time, in four bedrooms and less, where they themselves reduce their costs in those properties, and to make another earner, have sub-let to other friends to come into the property. Now, Members only have to think of the consequences where people are working through the night on shifts, where they are constantly coming and going, obviously cooking and taking baths halfway through the night. The situation is: that becomes a source of irritation.

The Bill in general will deal with the problem of noise emanating from the other rooms, but the situation in the kitchen and the bathroom has become, and is, a real source of aggravation.

Mr President, in moving this amendment, I am aware that regulations can be brought in, but I believe, in this case, the primary legislation should cover those disturbances that will disturb the neighbours.

I want to touch now on, Mr President, a very good point raised by my colleagues on my left and right, in relation to houses let by young Manx people, residents here, where they are sharing the costs of a home. I have had the benefit – and I say the benefit! – for over 10 years of having such people living in my area. When my wife and I bought our two-bedroomed little house to retire to, we were fortunate by having several properties round us in such situations. I can only say this: they have been the residents, the same as I am, of that area and they have been conscious of having good neighbours and being good neighbours, and that we have had no problem whatsoever. So, I have seen this actually in being,

on my own behalf. They consider themselves residents.

The problem occurs, and has occurred, with those people who have no foundations in this Island, who have come as transients and do not really care about long-term relationships with their neighbours, and realise that they are only birds of passage, and if they cause a disturbance in the area, some of them – maybe not all – do not give a damn. That is literally what has happened, and this has brought this to a crucial situation, where we have to do something about it. I believe this Bill will do that.

I do know that what forms a household – the clarification of that is difficult to get to, but I believe that this will be sorted out by regulation, Mr President.

I hope Members will support this amendment I am putting, for the benefit of the people of this Island. I have discussed it with the Minister and the ex-Minister and her ex-officers, and they are willing to see this situation occur in the primary legislation.

I beg to move the amendment standing in my name.

The President: Yes, I would point out to the Hon. Member that it is still permissive in 1(2): the Department *may* make regulations.

Mr Delaney: Oh, yes.

The President: Hon. Member, Mrs Crowe.

Mrs Crowe: Well, in seconding Mr Delaney's amendment, I would say that it is permissive as the President has pointed out, but, in actual fact, the Department would have relied on document E, which is an approved document of regulation already in place, to follow the Building Regulation Sound Transmission Regulations, as we have them in the Department of Local Government and the Environment today.

So, in actual fact, what the Hon. Member of Council, Mr Delaney is requesting in the primary legislation would have been followed in the regulation. So, we did not feel that there was a problem in accepting, fully, the amendment and protecting those who live, as I say, adjacent, and sometimes within the same household, where noise can be very difficult from one tenant to another.

Also in regard to the other mention of, once again, shared properties forming a household in a smaller house – not the dwellings that we are primarily talking about – the Department can limit the regulations to certain descriptions of properties, and I think that is also very important. The descriptions of properties we are talking about are – as those who have constituencies that have a number of these properties in, like the Hon. Member of Council, Mr Delaney, know full well – perhaps ex-guesthouses and the like, with *numerous* tenants that are totally unregulated at the present time.

The President: Lord Bishop.

The Lord Bishop: I am happy to support the amendment, especially as I found (j), in the original drafting, 'in each habitable room', a really rather dangerous phrase, because it would also suggest that there were uninhabitable rooms that could still be let out, which need not, in their way, have any sort of work done on then which I think was... So I am happy to support that.

I am very worried about the first paragraph, and the

'single household' and whether, even with regulation, if there is not a very careful way of defining what a single household is, people will be able to get round the law, even as we are working hard at it here.

I wondered whether the learned Attorney can give us a... Is a household something that can be defined in law? Are we actually talking about something that we can define in law, or is it just a generic term we have dreamt up, to describe everything that is not what we are trying to legislate against? I feel that with that bit there, we could be letting ourselves in for a lot of trouble there.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

When the Attorney is replying, perhaps he could clarify a situation which the amendment has arisen from: the 'external sources in each habitable room'. What is a habitable room, in effect? Is that a room with a bedroom, or a lounge? Why does a bathroom or a kitchen or anything else not comply with being a habitable room? Perhaps that could be clarified.

The President: Mr Lowey.

Mr Lowey: Yes, Mr President.

I will support, obviously, the amendment, because I think it is, at least, trying to apply a standard.

My biggest concern is: while you insulate the room for noise, we do have summer nights and they open windows. You can insulate the rooms all you like: the noise will emanate into the community and thereby hang the thread.

I have had, like Mr Delaney, people complaining to me, especially in the Douglas area, regarding the noise at 4 o'clock in the morning, when people were coming in off night shifts, and they had their ghetto-blasters blasting, the windows were open – not the walls.

So, there are still problems that will have to be addressed, but, again, that should not prevent us from trying to instil rigid standards which we would expect to be applied to us.

I will be supporting it, notwithstanding that I can foresee a problem with somebody with a window open.

The President: Mr Attorney. Have you got an answer, sir?

The Attorney General: Well, Mr President, I think there are some very interesting questions there.

I think that this Bill is probably directed, not towards the examples the Hon. Member, Mrs Christian and the Lord Bishop are raising in their queries. I do not think the Bill is directed, in other words, necessarily, to someone who has bought a property, say, on mortgage, and has invited friends in, to share the living expenses and the mortgage expenses – although, obviously, that sort of situation could be a problem.

But I would anticipate that the main problem is that which was indicated, I think, by the Hon. Member, Mr Kniveton. In other words, we have a situation where an employer buys a property 'on spec', as it were, and crowds the property by his employees, and that, clearly, causes a nuisance, or can cause a nuisance, to adjoining owners.

The Bill after all, Mr President, really, I think, is not directed primarily towards abating nuisances. What it is designed, as I see it, to achieve is a safe environment – a

safe environment for those who occupy the property in a multiple-occupancy way.

So, the Bill is perhaps creating a rod for its own back, when it talks about securing adequate sound insulation in (2)(j), and, of course, we had the amendment which, if I may respectfully say, is a very sensible amendment from the Hon. Member, Mr Delaney.

All of that, I think, in a very roundabout way, is to suggest that perhaps noise should be dealt with in another Bill and, in fact as I understand it, another Bill is coming forward. (*Interjections*) I think the Hon. Member, Mr Houghton, is bringing forward a Bill which will be designed primarily to protect people from the dreadful noise and nuisance that can occur.

Could I also say, Mr President, that, in the normal situation where you have a landlord who lets property out to tenants, the tenants have an implied right to say to the landlord, 'Look, you must ensure that we do not suffer a nuisance or a noise by virtue of our occupancy of the property'. That is an implied covenant in our landlord and tenant legislation.

The difficulty, of course, is that tenants are often very reluctant to launch proceedings against a landlord, who often is very well briefed in the law, and can get advocates, and so on and so forth.

So, I am trying desperately to think what 'single household' means, as I am talking! (*Laughter*) I think, Mr President, that 'single household' in paragraph 1(1):

'...“multi-occupancy dwelling”, means any dwelling occupied by persons who do not form a single household.'

Certainly, in other areas of law, such as in family law, divorce law, a single household really envisages a family living together, a single family – well, is there such a thing as a 'traditional family'? – but, parents and children (*Interjection*) and, perhaps, the larger family as well, maybe their immediate relatives.

I think that, actually, on reflection, a single household ought to have been defined. I think it probably – we can see as we are talking – that there are going to be all sorts of difficulties caused by this and –

The Lord Bishop: Because – sorry – that immediately rules out two friends living together in a house forming a single household.

The Attorney General: Yes. I think, probably, Mr President, that the Department will have to do its best to cope with this issue in the regulations. It is not ideal: I think probably it ought to have been defined in the primary legislation. But the matter having been raised by Hon. Members, I think the Department will be well advised to deal with it in the regulations.

Mr Waft: I think, Mr President, he was going to clarify what 'habitable means'. I think we have slipped away from that.

The Attorney General: I think that that probably has fallen away (*Laughter*) because we have actually got rid of the problem of 'habitable' in (j) –

The President: We will if we accept the amendment.

The Attorney General: – if we accept the amendment. But I think, strictly speaking, it means 'capable of being lived in'.

The President: Did you wish to add something, Mr Delaney?

Mr Delaney: Well, I wish to just cover a couple of points that have been raised on my amendment, if that is alright with you, Mr President.

The President: We will allow you.

Mr Delaney: Thank you very much, indeed.

The research I have done, in my limited ability, comes to the conclusion of some of the following answers: that by regulation, as has been indicated by the Attorney General, and I was given this assurance, a house let in multi-occupation will be covered by those regulations, very clear and very specific, to cover the points I have raised and other Members have raised about couples who wish to share the cost of a common household. I have been given that assurance.

You will also have noticed that I did not move the second amendment, because I have been given also the assurance on those points I raised there.

But the one which really concerns me, and has to concern me, is that, although the Bill is primarily there to secure those persons, I believe, Mr President, the purpose of my amendment – I must clarify again – is for the benefit of those people in our society who have their roots in the Isle of Man, who want to maintain what should be the priority of the Manx people, their quality of life, if I can use that much used expression. One of their qualities of life is to live in peace and quiet in their own home.

I believe that the points made by Members, by the Bishop, Mr Lowey, Mr Waft and the Attorney and certainly raised should be brought to attention. Now, when you go back, I hope that the mover of the Bill will bring these excellent points to the attention of the officers, to secure the fact that they are not forgotten about, and are the main purpose of the regulations for everyone's benefit.

Mr President, I thank Members for the courteous way they have treated my amendment.

The President: Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

Yes, I take on board fully all the comments that have been made. What I will say is the officers, of course, that are involved in dealing with these matters on a day to day basis – many, many cases per day throughout the Island of different households and flats regulations – I am sure will have drafted the regulations in a manner which were clearly defined what a single household is and, of course, those regulations will need the approval of Tynwald.

The President: Hon. Members, the motion I put to Council is that clause 1 do become part of the Bill, and to that you have the amendment circulated to you: for subclause (2)(j), to substitute the amendment on the white paper circulated by Mr Delaney. The second on that white paper has not, and will not, be moved, Hon. Members. So, those in favour of the amendment to subclause (2)(j) please say aye; against, no. The ayes have it. The ayes have it.

I now, Hon. Members, put to you clause 1, as amended. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

We turn then to clause 2. Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

A most important clause: this clause allows the Department to approve and issue any document, whether prepared by it or not, for the purpose of providing practical guidance with respect to any requirements of the regulations. It allows the Department to revise and/or withdraw whole or parts of such documents.

Subclause (7) provides that a failure of a person to comply with an approved document shall not in itself render that person liable to any civil or criminal proceedings, but that where proceedings are taken for a contravention of the regulations, a failure to comply with the relevant approved document may be relied upon, to establish liability.

Mr President, I beg to move clause 2.

The President: Mrs Christian.

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

The President: The motion I put to Hon. Members 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, Mrs Crowe.

Mrs Crowe: This is the enforcement clause, Mr President, and provides that contravention of the regulations is an offence, and that it is the duty of each local authority to enforce the regulations in its district, although the Department may also enforce them where it is considered appropriate to do so.

Following an amendment introduced by the Hon. Member for Ayre, during consideration in the House of Keys, clause 3(2) has now been amended. The effect of Mr Quine's amendment will be that the Department will enforce the regulations in any district, where the local authority fails to do so and that the Department may then recover the expenses from that authority.

This clause also applies to certain sections of the Local Government Act 1985, to actions taken under this Act, namely the powers of entry, powers to execute work, obstruction procedures, and certain financial provisions and certain legal proceedings.

Mr President, I beg to move clause 3 stand part of the Bill.

The President: Mrs Christian.

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

The President: Mr Delaney.

Mr Delaney: Mr President, this whole Act, when it comes in, all hinges...

I have been doing some work recently, not only on this, but looking at other responsibilities of local authorities for the benefit of the communities they serve, and the non-action – and I can only use that expression, 'non-action' – particularly

under section 14, where they can enforce certain regulations, are not being pursued. It is quite obvious. I can only talk about me, and about my own areas and about my own town, but it is quite obvious to anyone walking around this town, who looks at some of the derelict buildings where there are drainpipes dropping, dangers to the public. We are talking about health and safety, and yet we have powers already in force to do something about it, and yet it does not seem to be done. It seems to be pending – pending for years.

I am hoping, and I want to make a plea here, that the amendment moved by the ex-Member for Ayre, was good in its way, because what it is doing is saying, 'If you do not do it, then we will do it and charge you for the service'.

It is a sad day when you have to do that to local authorities, but I believe it was most necessary, and I believe at least in this particular Bill it will be pursued by local officers and the councillors and the commissioners, purely to get something done to save them getting surcharged by central Government. But I hope it is pursued.

The President: Mr Waft.

Mr Waft: I just wonder, Mr President, I know, in the past, we have had problems, for instance, with regard to noise pollution, or something, and you apply to the Department of Local Government and the Environment to check on it, and perhaps do something about it, and they have been told: 'Make a note of when these noises when you hear them, write them down on a piece of paper, and bring it to us after a month or so, and then we can find out exactly what the situation is'.

When they have done that, they have turned around and said something like, 'Well, actually you have got all this information; perhaps you should be progressing this'. That is not on! I think if you are going to have legislation like this, you need adequate staff to make sure it is carried through.

The President: Mrs Christian.

Mrs Christian: Again, I would say we are in danger here of confusing two pieces of legislation, in the sense that this is not to do with noise nuisance. It is to do with the conditions within the – (*Interjection by Mr Waft*) The regulations still will not control noise nuisance outside of the buildings; they will do what they can to enforce proper insulation of the buildings, in the first instance, but noise regulations are covered under a separate piece of legislation, which in themselves may need reviewing, I do not know.

There is an issue, I think, of what constitutes a 'nuisance', and it has to be continuous; it cannot, I think, be simply a one-off occurrence.

But that apart, I do agree that the effectiveness or otherwise of this piece of legislation will depend on the willingness of local authorities to use the powers that are given through this piece of legislation, and I wonder if the mover could indicate what the attitude of the local authorities has been to the progress of this piece of legislation, if she is aware of how they feel about it, and whether or not they are, indeed, looking for it, to enable them to strengthen their hand in dealing with this particular problem.

The President: Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

I think the Hon. Member of Council, Mrs Christian, who is now, of course, a member of the Department, has clearly dealt with the queries from Mr Waft. The noise legislation is in place, and there is a way in which the noise legislation has to be enacted, which does mean keeping a record of noise, and then it is acted upon by the noise experts in the Department. But it is, clearly, a different piece of legislation.

The Hon. Member of Council made some remarks about how I felt about the consultation I had had with local authorities. At that time, I think, when I was Minister, it was quite clear to me that a number of regulations and, indeed, other areas that local authorities had responsibility for, but they, in fact, did not take that authority upon themselves. They did not wish to have that authority, and it did cause problems in the Department, inasmuch as the officers of Environmental Health act as agents for the local authority, and do not act on behalf of the Department.

Now, in this legislation, which is one of the reasons Mr Quine's amendment, I think, was readily accepted and was discussed with me at that time, is the fact that, if local authorities fail to take the action that we require them to take, the Department then will have in power, in legislation, the powers to act on their own behalf. And they can, in fact, act to regulate, and if this provision was in many other sections of legislation, I think a great deal more would be being done in different areas with local authorities.

But that was the reason, I think, for the amendment, and I think it will be very helpful for the Department: if a local authority does refuse to take the appropriate action, then the Department can step in, in its own right, and take that action.

Thank you, Mr President.

The President: Hon. Members, the motion that I put to Council is that clause 3 do stand part of the Bill. I want to make it plain, Hon. Members, that, in accepting part 3, you are also accepting the amendment moved in the other place, in the House of Keys, to subclause (2) so that, in fact, the wording of clause 3(2) has been totally altered; as long as all Members are aware.

Hon. Members, I put to you clause 3. Those in favour please say aye; against no. The ayes have it. The ayes have it.

Clause 4, Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

This deals with the variation of leases, deals with the application to the High Court by the Department to vary the terms of leases where compliance with the regulation conflicts with such a lease, and where expenses ought to be paid by the lessor.

Mr President, I beg to move clause 4 stand part of the Bill.

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

Mr Delaney: Can I ask...?

The President: Mr Delaney.

Mr Delaney: It is appropriate to point this one out here, because I did some homework, as Members are aware, but one of the things that I could not quite get: being an ex-

member of the rates Department, I am keen for the rates to be got, where they can be, to local authorities, so that it reduces everyone's rate. I was trying to investigate – maybe the Member can help me, or get somebody to help me – and these properties are becoming more and more familiar now: you used to get your standard boarding house or guesthouse, but I would have thought the local authorities would be keen to get more rates in on these things. But I got a negative response. Surely, if a house has got all this income coming in, and it is being used by multi-occupants, the rates should vary to reflect that.

And could the Member tell me, is it not a fact, as an ex-Minister, and I am an ex-Minister too, is that that is the situation, and local authorities should be keen to identify these properties and get the extra rates in.

The President: Mrs Crowe to reply.

Mrs Crowe: Well, yes, of course, and of course it applies in many other areas with local authorities. One would assume that, when a house was converted from a tiny Manx cottage to a Manx mansion, the local authorities would be keen again to address the re-rating of such a property. So yes, one would assume that that was the case, and I do hope that, perhaps, with some reformation that these desires may well be met.

The President: The motion I put to the Council, Hon. Members, 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.

We will take clause 5, Mrs Crowe.

Mrs Crowe: Mr President, clause 5 merely contains the interpretation provisions.

I beg to move that clause 5 stand part of the Bill.

Mrs Christian: I beg to second Mr President, but I have to confess that I meant to look up what a rack-rent was –

Several Members: Yes. (*Interjection by Mr Delaney*)

Mrs Christian: Can I ask, please, what a rack-rent is?

Mr Delaney: I love that one too.

The Attorney General: Yes, I have also forgotten to look it up.

Mr Delaney: Rachman rent, do we mean?

Mrs Crowe: No.

The Attorney General: No. My recollection, Mr President, if I may can I come back to Hon. Members. Rack-rent means a standard rent which would be payable if the premises were let by a willing landlord to a willing tenant, but I really must go back to my textbooks.

The President: Lord Bishop.

The Lord Bishop: I will have a go at this one. There is a certain circumlocution here: multi-occupancy dwelling has the meaning given 1(1) and then you go back to get the interpretation of it, which tells you to go back to section 1(1).

I wonder whether it is worth delaying this a little, in order to put an interpretation of what a single household is.

Mrs Crowe: Mr President, it is possible to move amendments at the Third Reading, is it not?

Mr Delaney: Yes.

The President: With Council's agreement, Hon. Members, we could take... I think Council is aware of the concern which is expressed around the table, and if we are prepared to acknowledge that... otherwise, I am quite happy to put the Lord Bishop's –

The Lord Bishop: No, I am guided by –

The President: Okay, Hon. Members. We are dealing with rack-rents, clause 5, interpretation. Any other Member wish to add? No, in that case...

Mr Attorney.

The Attorney General: I am sorry, Mr President, the learned Clerk has very kindly given me the *21st Century Dictionary* of Chambers, which shows that yet again I have give completely useless advice. *(Laughter)*

Mr President, in the dictionary, 'rack-rent' here is referred to as an excessive or unreasonably high rent –

Mr Delaney: Rachman rent.

The Attorney General: – and the verb, to charge tenants such rents. So, a rack-renter, and so on, must refer to someone (**Mr Delaney:** Rachman.) who charges an excessive or unreasonably high rent.

The President: The verb, to charge?

The Attorney General: I am sorry, Mr President, I will have to come back to that, but that is certainly the definition.

The President: Hon. Members, I think in relation to... Mrs Crowe, do you wish to respond at all to clause 5? Oh, hold on. Mr Gelling.

Mr Gelling: Sorry, Mr President.

Could I just ask clarification, first of all: has the Lord Bishop moved that the interpretation add another interpretation as 1(1)? If so, if he has moved it –

The Lord Bishop: No, he hasn't moved it.

The President: No, my understanding is that the Lord Bishop was questioning whether, in fact, it is necessary – as he did when we were dealing with the other – whether we should delay at this stage to allow an amendment to come forward. Mrs Christian made the comment, rightly, that if Council were in agreement, we could move amendments to this particular section at the Third Reading stage. My understanding was that Council were tacitly appearing to accept that move, and so I was happy to move on, on the proviso that Council would be anticipating, maybe, an amendment coming forward at the Third Reading stage.

Mr Gelling: Sorry, Mr President; I would have seconded, otherwise.

The President: With that Mrs Crowe, do you wish to reply to the debate on clause 5?

Mrs Crowe: Yes, I do find, we must point out that none of these comments were made in the House of Keys during the Reading of this Bill, and that there may be some value in having learned Council sitting to revise legislation, in the way that we do.

Because I, too, think, looking at the Bill: what hits me, of course, is that these officers who deal with these problems, as I say, on a daily basis, know full well exactly what a single household is, dealing with it, as I say, all the time. But, unfortunately, in the drafting of the legislation, have failed to identify that persons such as ourselves might not quite know what a single household is, and how it should be clearly defined, and also what the rack-rent might be, and clearly defined.

So, I do think it is sometimes overlooked by officers with such expertise and forgetting that the law is to be interpreted by mere mortals such as ourselves. So, I take on board fully the comments that have been made, and I do hope that something will be sorted out, by the time of the Third Reading, Mr President.

The President: I concur with the Hon. Member: I think it is more important, sometimes, that we get law so that it is read by the person in the street with understanding. *(Interjections)*

Mrs Crowe: Precisely, yes! I referred to us as Members.

A Member: That is right.

The President: In that case, Hon. Members, I put to you that the interpretation clause at 5, do stand part of the Bill. Those in favour please say aye; against no. The ayes have it. The ayes have it.

We will take clause 6. Hon. Member, Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

Clause 6 is the definition of 'flats' and provides that this Bill shall not affect the powers of the Department to make regulation for the control of flats, including tourist flats, under the Housing (Amendment) Act 1990. Where any such requirements conflict with requirements of regulations made under clause 1 above, the regulations under clause 1 shall prevail.

Thank you, Mr President. I beg to move clause 6 stand part of the Bill.

The President: Mrs Christian.

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

Mr Lowey: Could I just comment?

The President: Mr Lowey.

Mr Lowey: The word 'flat' is one that the ordinary

man in the street understands, what a flat is, but the modern terminology now, if I am a marketing man, is 'apartment' – or is it 'condominiums' (*Laughter*), which is the Americanism? So, if these sort of words get used instead of 'flat', I presume we revert back to 'flat' as the description.

Mrs Crowe: The description of a condominium, apartment, penthouse or whatever' may be related back to the words in the legislation. A flat is clearly defined as a flat, in the terms of enforcement from environmental health officers.

Mr Delaney: So, a flat, if you lived in it, is a condominium. (*Laughter*)

The President: Hon. Members, the motion that I put to Council is that clause 6 do stand part of the Bill. Those in favour please say aye; against no. The ayes have it. The ayes have it.

Clause 7: Mrs Crowe.

Mrs Crowe: Clause 7 includes the amendments to the Housing Act, and amends the Housing Act of 1955 to substitute the new definition for 'sanitary defect'.

Mr President, I beg to move clause 7 stand part of the Bill.

The President: Mrs Christian.

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

The Lord Bishop: Mr President, can I be assured in this that the singular that exists all the way through clause 7, that we provide one bathroom and one shower, is covered in the rest of the clauses. So that when I have got 30 people living in my house and charging them rent, I do not just have to provide them with one adequate lavatory.

It just strikes me that somebody reading this could say, 'Fine, I have got the house and I have provided you with one bathroom. I have provided you with one.' And then this wonderful word 'suitable' crops up in the middle of it: it is an interesting legal term! I am not sure, what 'suitable' means. But it just strikes me that there is a danger there, too, that we have invented a whole list here, and it is all in the singular.

The President: Mrs Crowe to reply.

Mrs Crowe: I think, as I say, there is a clear definition here of what the requirements are. The requirements for the numbers of occupants requiring adequate sanitary arrangements will be at the discretion of the officers, will be in the regulations, and clearly defined, as it is at the present time, in most of the legislation. I mean, the number of persons requiring bathrooms for holiday accommodation and flats, and all of those provisions, are laid down in regulation and this is just amending, actually, the 1955 Act, to make sure that there are adequate sanitary arrangements for all occupants.

The President: Hon. Members, the motion I put is clause 7 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Repeal section, and the schedule, clause 8.

Mrs Crowe: Thank you, Mr President.

The repeal as detailed in the schedule: section 1 of the Housing (Amendment) Act 1990 and section 36 and 36A of the Housing Act 1955 are repealed.

The repeal of section 1 of the Housing Act 1990 is particularly significant, in that the legislation that currently makes houses of multiple occupation illegal. It is the Department's intention to ensure that this particular repeal is not enacted until the relevant controls, the regulations and the codes of practice have all been introduced.

Mr President, I beg to move clause 8 stand part of the Bill.

Mrs Christian: I beg to second, Mr President.

The President: A thought just crossed my mind there, Hon. Members: the Hon. Member has made the point that it is the intention of the Department not to bring in the repeal until such time. The repeal would take effect, Mr Attorney, from the day the Bill becomes an Act, and until such time as the Act is enforced, the Department cannot get regulations through Tynwald. So, inevitably, there is to be a repeal element before the regulations can be brought into force. Am I right, Mr Attorney?

Mrs Crowe: Mr President, I do think what I did say was that the repeal would not be enacted: that the officers would not bring forth prosecutions until such time.

The President: This section of the Bill would automatically have been repealed on the Bill becoming an Act. (**Mrs Crowe:** Yes.) But your regulations would not be in force. Mrs Christian.

Mrs Christian: I wonder Mr President, if the Attorney General could advise whether it would be appropriate to slightly amend clause 9, to provide that the Act came into operation 'on such day or days'.

The Attorney General: Yes, Mr President, I must admit when the Hon. Member was presenting her speech on clause 8, the same point that you raised did cross my mind. I think that the answer is probably that clause 9 should be amended so that the Department could bring into force certain sections on certain dates, as it thinks appropriate. Otherwise, the mischief you have pointed out will arise.

The President: Hon. Members, the motion I put to Court is that clause 8 and the schedule do stand part of the Bill. Those in favour please say aye; against no. The ayes have it. The ayes have it.

Clause 9: Hon. Member, Mrs Crowe.

Mrs Crowe: Right. Mr President, clause 9 deals with the short title and commencement by the Appointed Day Order.

Following an amendment which was moved by the Hon. Member for Middle, the title of the legislation has been amended, so when/if it becomes law, it will be known as the Housing (Multi-Occupancy) Act 2004.

Mr President, I beg to move that clause 9 stand part of the Bill.

Mr Gelling: I beg to second, Mr President.

Mr Delaney: Just to do with that matter that was raised by the Attorney General himself, actually, Mr President: would the Minister – ?

The President: I think – Mrs Christian.

Mrs Christian: Mr President, I think, in order to cover the point which has just been raised, I beg to move an amendment to clause 9(3) to add after the word ‘day’ the words ‘or days’ so that it would read:

‘this Act shall come into operation on such day or days as the Department may by order appoint.’

I believe that form of words will allow the Department to introduce it on a staged basis.

Mr Lowey: I second the amendment, Mr President.

The President: I think it may cover the point. I am still a little concerned that, in fact, it is not strictly there, because in fact, as I pointed out, I think, before, that until it becomes an Act, the permissive nature of the legislation which is that the Department *may* make regulations: until it is an Act, they cannot make the regulations.

Anyway, the amendment as moved by Mrs Christian, that we add ‘or days’ has been seconded by Mr Lowey. Mr Delaney.

Mr Delaney: We have already, I think, agreed that this has to be looked at the Third Reading, with the permission of Members. Would that not be the appropriate time to get this amendment at the same time?

Mrs Christian: Mr President, if that is the wish of Council, I would be happy that this consideration either be deferred for clause 9, or that I move an amendment at Third Reading stage, if you prefer it. I will withdraw it, Mr President, under those circumstances, if Members would be happier that we take more time to consider it.

Mr Delaney: Yes.

The President: I think the point is made, and I thank Mrs Christian for, as it were, bringing in amendment there, on the hoof, which could possibly cover the difficulty which is envisaged.

Anyway, Hon. Members, I put to you clause 9, noting that the amendment made in another place that the ‘multi-occupation’ becomes ‘multi-occupancy’ and I assume that the same will be true in the headline of the Bill, as it is reprinted or whatever.

Hon. Members, the motion I put to Council is that clause 9 do stand part of the Bill. Those in favour please say aye; against no. The ayes have it. The ayes have it.

Veterinary Surgeons Bill **First Reading approved**

3. Mr Waft to move:

That the Veterinary Surgeons Bill be read for the first time.

The President: Hon. Members, having completed the Housing (Multi-Occupation) Bill 2004, we turn to the Veterinary Surgeons Bill, which is down for First Reading, and I call on the Hon. Member, Mr Waft.

Mr Waft: Thank you, Mr President.

I am progressing this Bill on behalf of the Department of Agriculture, Fisheries and Forestry. In many respects, the Bill remakes the provisions of the existing Act, the Veterinary Surgeons Act 1949. The main differences lie in: (1) the removal of reference to the long out of date supplementary register; (2) amending the list of minor treatments that may be carried out by unqualified persons, to reflect current usage, as laid down by the Royal College of Veterinary Surgeons; (3) providing powers to make appropriate amendments to the Act by order subject to approval of Tynwald.

There are, therefore, three substantive issues dealt with in the Veterinary Surgeons Bill: (1) in order to practice veterinary medicine in the Island a person must be a member of the Royal College of Veterinary Surgeons, or hold a qualification which is recognised by the Royal College.

The current Act dating from 1949 came at a time when there was still a possibility that experienced but unqualified persons were practicing animal treatment in the Island. They were given the opportunity to go on what was called the Supplementary Register, provided they were at least 28 years of age at the time.

However, 55 years later there is no-one in that category now. The Bill, therefore, removes references to the Supplementary Register. The Supplementary Register was intended as a practical alternative for those with grandfather rights, arising from appropriate experience given, though they did not have a qualification.

The Royal College was established in 1844 and is the regulatory body for veterinary matters in the United Kingdom. It has powers to award fellowships, diplomas and certificates to veterinary surgeons, veterinary nurses and others, all of which are internationally recognised. It also acts as an informed and impartial source of opinion on veterinary matters.

The Royal College has a statutory role under the Veterinary Surgeons Act 1966 of the United Kingdom Parliament to maintain a register of veterinary surgeons who hold its qualifications, or hold qualifications which are recognised as of equal status, to regulate veterinary education and to regulate professional conduct. This Bill continues the Island’s link with the Royal College to provide the regulatory authority and the standards of excellence required for the practice of veterinary service on the Island.

A limited number of specified minor treatments may be carried out by others. The Bill specifies a similar number of specific minor treatments that may be carried out by persons other than members of the Royal College of Veterinary Surgeons. This is mainly to enable standard agricultural procedures to be practiced. Provision is also made for minor treatments to be performed by those who are under supervision as student veterinary surgeons or veterinary nurses. Agricultural students learning about the day-to-day techniques that they can use are also covered.

The Bill provides far greater flexibility than is available under the current legislation of the Veterinary Surgeons Act 1949, by including powers for orders to be made, subject to Tynwald approval, for amendments to various matters.

The current Act enables a list of minor treatments by

unqualified persons to be extended by order. However, there is no provision for amending the procedures already listed, or for removing them from the list. The current list does not now reflect the standards and informed opinion of the Royal College.

In order for the Island's veterinary legislation to reflect current usage, the Act is to be replaced incorporating the up-to-date list. However, the reason that the current list is out of date is that opinion and standards change from time to time. The deficiency of the 1949 Act is that it does not allow for that process.

The Bill on the other hand provides powers to amend the lists of procedures, as and when necessary in the future, subject to Tynwald approval.

Mr President, I beg to move the First Reading of the Veterinary Surgeons Bill 2004.

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

The President: Mrs Christian.

Mrs Christian: Mr President, I understand, from what the mover has said, that this is to update really the provisions in relation to veterinary surgeons and to remove the supplementary list. Could the mover just indicate, there are a lot of amendments removing the words 'veterinary practitioner' from various enactments? Were veterinary practitioners the people on the supplementary list, or is that a change which has occurred within the body of legislation which applies to qualified veterinary surgeons?

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

Being a townie, I do not really know whether that is correct or not, but I will find out certainly for you, for the Second Reading.

The President: Hon. Members, the motion that I put to Council, therefore, is that the Veterinary Surgeons Bill 2004 be read for a first time. Those in favour please say aye; against no. The ayes have it. The ayes have it.

LEGISLATIVE COUNCIL STANDING ORDERS COMMITTEE

Report on Conferences received and recommendation approved

4. Mr Lowey to move:

That the Report of the Committee on Conferences be received and its recommendation approved.

The President: Hon Members, that brings to conclusion our Order Paper for this morning. Our next sitting in public will be –

Mr Lowey: With respect, Mr President, if you turn the page.

The President: I have not turned my page. You are quite right: Legislative Council Standing Orders Committee. Mr Lowey.

Mr Lowey: Thank you, Mr President.

Mr President, could I commend our erstwhile Secretary for writing, so concisely, our conclusions and the reason for the Report.

The Report is simple. On 9th February 2004, the Standing Committee of Tynwald on Constitutional Matters recommended to the Standing Orders Committee of each branch they should consider revising their Standing Orders, in the light of section 10(7) of the Isle of Man Constitution Act 1961, which was amended by the transfer of Governor's functions.

The Keys amended their Standing Orders, and, in essence, said that instead of the Governor presiding over joint meetings with Council and Keys that it should be the President of Tynwald that should be the mover in that, and they amended their Standing Orders accordingly in July.

And your Standing Orders Committee, in essence, think that our Standing Orders should reflect that, too, to bring it in to line and that, in essence, is what we are recommending to this House. It is a sensible approach and the two are in correlation.

I do not think I need add any more than that, and I beg to move what is on the Order Paper: that the Report of the Committee on Conferences be received and this recommendation – which, as I have explained, is to bring us in line with the Act, as approved by Tynwald, and also with the Keys Standing Orders, our Standing Orders should reflect that, too.

Therefore, I beg to move.

The President: Mr Kniveton.

Mr Kniveton: Yes, sir, I am very happy to second that, sir.

The President: Mrs Christian.

Mrs Christian: Mr President, yes, thank you.

This, as the mover has indicated, follows on from a decision in Tynwald on constitutional matters and that, in another place, they have acted on that Tynwald recommendation, that now we are being asked to do so, also.

I fully endorse the principle that any Conference between the branches should be presided over by the President of Tynwald. I think it is an outdated situation where His Excellency was expected to preside.

My only concern – and I am not going to suggest that the drafting is wrong, Mr President – but just to raise a practical issue: the wording of the proposed Standing Order suggests that, in the second sentence:

'the time and place for a Conference shall be appointed by the President of Tynwald and shall be attended by Members of the Council or such Members as the Council may appoint for that purpose, and Members of the Keys to meet the Council'.

The point I want to raise is this option that we are putting in here that Council may, as a full body, meet with the Keys in Conference, or may appoint Members to meet with the Keys in Conference. In the limited experience that we have

had so far of nominating a limited number from this body to meet in Conference, we recognise that that raised issues which had not happened before, when it was traditional, I believe, for the whole of Council to meet with Keys in Conference. That issue was this: that when we had had our discussions with Keys, recommendations then had to have a mechanism for coming back to be discussed with Council, as a full body, not knowing whether or not they would be accepted by the full body, with a potential for the process then having to go on and on.

I would recommend that, although this may, for convenience, give us the option of meeting with a limited number, I would suggest, Mr President, that, in practical terms, it would be preferable in practice if we opted to meet them as a full body, in order to eliminate that potential for to-ing and fro-ing on a long-term basis, and coming to no conclusion.

The alternative is to take out the option and maybe refer the matter back, but I would not wish to do that. I think that if we have the option there, and in the light of experience, Conferences do not come up very often, but maybe in the light of experience deliberate that it might be more sensible for us to meet as a body with the House of Keys, when sitting in Conference.

The President: I think the wording was actually taken from the original Standing Orders –

Mr Lowey: It was.

The President: – but nevertheless –

Mr Lowey: It was a matter that was –

The President: Now, hold on. Mr Delaney.

Mr Delaney: I think my colleague on the left has got an excellent point. I mean this is seen as time wasting – traditional time wasting, if you like. I think that even making sure there is a quorum of this Council present would be the answer. At least a quorum of the Council, or if they want to go down to four even, I would accept that. It would certainly save time.

The President: Mr Lowey.

Mr Lowey: Could I just reply. We left that in, to cater for all circumstances, and, although practice and custom is that we sit as a complete body, for the very sound reasons that Mrs Christian has put in, there may be occasions, in the future, where it may not, but I think the practice is that we would meet as a body.

And I say that we have tried to keep, if you like, the practice and custom, but if you define it to that nth degree there may be a time – and I do not know what it may be, but there could be a time – and so, therefore, I take the point that Mrs Christian raises that we should, as a matter of practice if you like, meet as a body. But that is for Council to decide even when we actually decide to have a Conference. Do we want a small one, or do we meet as a collective body?

So that is not denied us, and I think Mrs Christian is right to point it out now, but the Standing Orders are as in our original ones, which have stood us in good stead right the way through.

The President: Mrs Crowe.

Mrs Crowe: I think it was the final comments of my hon. colleague, Mr Lowey, ‘have stood us in good stead’: actually, they did not stand us in good stead, because I found myself on a committee with the Hon. Member, Mrs Christian, meeting with Keys. Now, to me, it was not the accepted practice that the whole of Council met. We were delegated to meet in Conference, and were left in the position where we did not know if Council were going to accept and, in fact, I still think the Bill is unsatisfactory, in the way it has been progressed. I just wonder if, indeed, the wording should not be changed because we were left, we did not know whether to agree or not to agree, we did not have Council’s agreement and, as it was when we came back, I do not think Council were in complete agreement with what the Conference had decided.

Mr Lowey: I think fireworks was the one that was referred to it.

Mrs Crowe: It highlighted it.

Mr Lowey: It may have highlighted it, but I think that what we have got here is the best position for this Council to be in. We meet normally in committee; for whatever reason we chose to sub-let it in that particular one – and I use the word ‘sub-let’! – subdivide the Council was a matter for expediency I think at that particular time. I cannot think of any other reason why –

Mrs Crowe: But it was not expedient... I am sorry, Mr President, this is my whole point.

The President: It did not work.

Mrs Crowe: It was delegated to others, and I have no problem with that, and I did not know that it was the practice of Council to normally meet as a body, but it certainly was not expedient in this case, and we had to reconvene, I think, to try and come to some agreement.

Mr Lowey: That happened once in 20 years, if I may –

The President: Just hold on, Mr Lowey. Mr Waft.

Mr Waft: I would refer back to previous Conferences, which I have attended, that the whole of the Legislative Council attend and Members of the Keys can talk to us. It is as simple as that. It can be resolved quite quickly. This has been a one-off, I think.

The President: Mrs Christian.

Mrs Christian: If we are still in committee on this!

I accept that the original wording allowed ‘either/or’, and that you have not recommended any change from that, other than the presiding position, but I do feel that the ‘or’ is not very practical.

However, if it stays there... the problem, perhaps, Mr President, is that the Conference position rarely arises and, therefore, when we came to it last time, most people have not been involved in a Conference, (**Mrs Crowe:** Precisely.) and did not, perhaps, recognise that having a minority of Council

on the committee would lead to difficulties.

The President: Can I suggest, Hon. Members, with respect to Mr Lowey, if he may let me: I think the principle is accepted by Council that, in fact, our Standing Orders should be amended to make the change from ‘Governor’ to ‘President’ –

Mr Lowey: That is the key.

The President: – as the presiding officer of the Conference, and, if we accept that, can I suggest that, in fact, the query raised by Mrs Christian, Mrs Crowe, in relation to whether the whole Council should sit, or not, maybe our Standing Orders Committee – which has still got work to do on our Standing Orders to bring them up to date, incidentally, Hon. Members – may very well consider that, and come back in a further report.

Mr Lowey: Absolutely, no problem with that.

The President: If you are happy with that, Mr Lowey?

Mr Lowey: Yes, indeed, Mr President. (**The President:** Right.) Mr President is, of course, in an invidious position because he is the Chairman of our committee!

Having said that, I *do* believe that the key in this particular amendment is to remove the Governor from the presiding position and our President should be... not ‘our’ President; the President of Tynwald, who happens to be our President here this morning as well.

As far as I am concerned, the rest... I am in complete accord with Mrs Christian and Mrs Crowe on this, that we should meet collectively, but we can look at that, and see if you need it...

Do I get the feeling that the Council would prefer it to be in that?

Several Members: Yes.

Mrs Christian: At least a quorum – (*Interjections*)

Mr Lowey: Okay, that is fine.

The President: Hon. Members, with the proviso as suggested, can I just simply put to you that the Report of the Committee on Conferences be received at this stage. Are we content, Hon. Members? (*It was agreed.*)

In that case, Hon. Members, thank you very much. The Committee, I am sure, of Standing Orders will reconsider that one.

Mr Lowey: No problem.

Procedural

The President: At this time, Hon. Members, it does bring us to the conclusion of our Order Paper. Our adjournment is to the Tynwald sitting on 16th November, and, thereafter, to the 23rd November, when we will take further Readings of the Bills before us.

PROCEEDINGS IN THE COUNCIL OF MINISTERS

Summary of Proceedings in the Council of Ministers (September 2004) considered in private

The President: The Council will now sit in private, Hon. Members. Thank you.

The Council sat in private at 12.15 a.m.