



**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, 23rd May 2006

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),
Mr D Butt, Mrs. C M Christian, Mrs. P M Crowe, Hon. A F Downie, The Chief Minister (Hon. D J Gelling CBE),
Mr E G Lowey, Mr L I Singer and Mr G H Waft,
with Mrs M Cullen, Clerk of the Council.

Business transacted

	<i>Page</i>
Welcome	415
Questions for Oral Answer	
1. Senior civil servants – Training expenditure.....	415
2. Rt Hon. Harriet Harman MP, Department of Constitutional Affairs – Invitation for discussion with Members.....	416
3. White Hoe and Quarterbridge Hotel – Plans to purchase properties	417
Orders of the Day	
2. Agricultural Marketing (Amendment) Bill – For Third Reading – Motion not moved.....	418
3. Audit Bill – Consideration of clauses resumed and concluded.....	419
Audit Bill – Standing Order 22(2) suspended to take Third Reading.....	428
Audit Bill – Third Reading approved.....	428
4. Public Health (Tobacco) Bill – Consideration of clauses resumed and concluded	429
Public Health (Tobacco) Bill – Standing Order 22(2) suspended to take Third Reading.....	431
Public Health (Tobacco) Bill – Third Reading approved	431
5. Local Government Bill – First Reading approved.....	433
6. Gambling (Amendment) Bill – First Reading commenced	438
<i>The Council adjourned at 1.06 p.m. and resumed its sitting at 2.30 p.m.</i>	
Gambling (Amendment) Bill –First Reading concluded and approved	440
7. Regulation of Surveillance etc Bill – First Reading approved	443
8. Criminal Justice, Police and Courts Bill – First Reading approved	445
Criminal Justice, Police and Courts Bill – Standing Order 22(2) suspended to take Second Reading	448
Criminal Justice, Police and Courts Bill – Second Reading approved.....	448

The Council sat in private at 3.40 p.m..

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Legislative Council

The Council met at 10.30 a.m.

[MR PRESIDENT *in the Chair*]

PRAYERS

The Lord Bishop

WELCOME

The President: Hon. Members, before we formally start with our Order Paper this morning, I notice that we have in attendance in our public gallery this morning, Mr Elkan Levy, and his good better half, who is the Director and Representative of the Small Communities of the Jewish Community in the British Isles. You are more than welcome to watch our deliberations this morning, sir, certainly, and hope that you enjoy your brief visit to the Island.

Mr Lowey: Hear, hear.

Questions for Oral Answer

CHIEF MINISTER

Senior civil servants Training expenditure

1.1. The Hon. Member (Mr Lowey) to ask the Chief Minister:

(a) How much has been expended on the support/training of senior civil servants over the past two financial years; and

(b) what is the anticipated expenditure for the current financial year.

The President: We turn to our Order Paper directly and we have but three Questions. No 1, Mr Lowey, please.

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

The President: Chief Minister, Mr Gelling, to reply.

The Chief Minister (Mr Gelling): Yes, thank you, Mr President.

In answer to part (a) of the Hon. Member's Question, the figure is £279,237 and that has been expended on the support and training of senior civil servants over the past two financial years, and in part (b), that, Mr President, the anticipated expenditure for the current financial year is £131,152, sir.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

Would the Chief Minister not agree, at senior level, our civil servants should be capable of doing the jobs that they were employed to do, and this rather large sum of money seems excessive?

The President: Chief Minister.

The Chief Minister: Again, Mr President, we had a little bit of difficulty in the fact that the Question, the way it is posed – senior civil servants and support and training – of course, we had to decipher what was support and what was training. What was a conference, for argument's sake, that is support and training – it gives them experience.

We tried to get from each Department what was seen as actual training, but I would say to the Hon. Member you do want the very best out of your civil servants and they must have the training, otherwise, in fact, we would not get the very best from our civil servants – and we do want the very best.

The President: Mr Lowey, Hon. Member.

Mr Lowey: Could I ask the Chief Minister, when prioritising expenditure, does the Government have a policy and is training and conferences for senior civil servants one of those areas that get scrutinised before cuts in services?

The President: Chief Minister.

The Chief Minister: Yes, again, following up on the previous supplementary, Mr President, it depends, again, on the turnover of staff in a Department. For argument's sake, in the Health Service there is ongoing professional training that has to be completed. It is not something you select. They actually continue their training through that particular profession. But, certainly, conferences and other areas of support are left very much to the actual Departments.

So, in the split of facts that I have, Mr President, it is quite clear that Personnel, for argument's sake, have a budget which is more than any other Department because they are training civil servants, but then each Department of Government has their own training for the specific area of responsibility or the skill that is required in that particular Department.

So I would say to the Hon. Member what we spend on training, I would hope certainly that we get far more back, because if you have not got your trained staff, you cannot expect to get that skill returned.

The President: Hon. Member, Mr Waft.

Mr Waft: Thank you, Mr President.

Would the Chief Minister agree that it is vital for our senior civil servants to be up to date with the latest Bills that have gone through, especially with regard to social legislation, employment Bills, Health and Safety Bills, local government Bills and Human Rights Bills, to make sure that they are able to train the rest of the staff in a cascading pattern throughout the whole of the Civil Service?

Mr Lowey: That is their job.

The Chief Minister: Yes, indeed I can agree, Mr President, that without the training we cannot expect the

civil servants to give of their best, and of course, if there are new laws, new legal requirements or whatever, they have to be *au fait* with them. Certainly we have to be selective and make sure that the resources that are, indeed, expended in this direction are spent in the proper manner to give us the best return for the resources we spend.

I did not actually reply, Mr President, to the question that came on the back of one of the Hon. Member's: do we look at training before we make cuts elsewhere? Of course, it is always the case that the easiest places to make cuts, if they are necessary, are maintenance, training and vehicles and it was always the case that that was the easiest thing to cut and I think we have got to be very balanced in this and make sure that our civil servants are trained as best we can train them.

The President: Mrs Christian.

Mrs Christian: Could the Chief Minister indicate what grades this definition of civil servant covers and how many people are involved?

The Chief Minister: Yes, as I mentioned when I answered the Hon. Member, that was one of the difficulties we had because the Departments came back and said, 'Well, where do you want us to go from and what grade?'. So, in fact, what we have tried to do is take out what we would call the senior civil servants, which would be heads of departments and people in heads of divisions and so on, because we did not really have a defined line as to what grade to work from, so this is very much what you call those who make decisions and have the responsibility of making decisions, but I cannot give you the exact grade.

The President: If I can then, finally, Mr Lowey.

Mr Lowey: Thank you, Mr President.

Would the Chief Minister not agree that we are constantly changing the structure of Government and this training is primarily directed at that, and would he also agree that when we change the law, isn't that what they are trained to do? Nothing is ever static.

The President: Chief Minister.

The Chief Minister: Again, the Hon. Member says we are forever changing the structure of Government.

Mr Lowey: We are.

The Chief Minister: We cannot stand still. We must change and we must move on and we must move forward. However, there are things that do come around that change from year to year, even if the structure does not change and the Department does not change.

Things change by way of Health and Safety, as the Hon. Member, Mr Waft, has said. I think it would be very remiss of us if we did not make available the training that is required, because that was one of the very areas that we were criticised a few years ago, say about 10 years ago, that we were not up to speed with our training, that our civil servants were not actually up to the skill requirements that were required. That is why that whole area of training was put in, to enable those people to be brought up so that their skills were right up to date, sir.

Rt Hon. Harriet Harman MP
Department of Constitutional Affairs
Invitation for discussion with Members

1.2. The Hon. Member (Mr Lowey) to ask the Chief Minister:

Have you extended an invitation to the Rt Hon. Harriet Harman MP, a member of the UK Department of Constitutional Affairs with responsibility for Isle of Man affairs, to visit and discuss with the Council of Ministers and Members of Tynwald matters of mutual interest and concern?

The President: I think we will turn to Question 2. Again, Mr Lowey.

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

The President: Chief Minister.

The Chief Minister (Mr Gelling): Yes, I thank the Hon. Member for his Question.

I have not, as yet, extended an invitation to the Rt Hon. Harriet Harman MP, to visit the Island – no formal invitation. However, once she has had the opportunity to settle in and there is certainty that all changes within the UK Government have been completed, I will certainly hope to do so.

Mr President, I have met recently in the Island the new Head of the Crown Dependencies branch of the Department of Constitutional Affairs and this was, I can assure you, a most productive meeting. I was able to be reassured that the positive working relationship between the Isle of Man and the United Kingdom will be maintained, and this is a theme I hope to follow through with Harriet Harman in due course, sir.

The President: Mr Lowey.

Mr Lowey: The reason for the Question, sir, is that, regularly, the Isle of Man seems to be coming off second best when we are dealing with the Department of Constitutional Affairs, formerly the Home Affairs Department, in the fact that whenever somebody is appointed to be in charge of Crown Dependencies, we are at the end of the queue.

The Channel Islands always seem to get them first and I read the Channel Island papers, which I do know the Chief Minister does, sir, and he will be aware that they have already extended an invitation to Mrs Harriet Harman, and I just wondered when are we going to get round it to. Shouldn't we have been first in the door, and not last in the door?

The President: Chief Minister.

The Chief Minister: Yes. I would not agree with the Hon. Member we come off second best, because, of course, the new Head of the Crown Dependencies branch came to the Isle of Man first. She was here within three weeks of her taking up her office. She came to the Isle of Man first.

I agree with the Hon. Member that we should extend an invitation, but very shortly after Harriet Harman was announced as being a Minister in the constitutional office,

it was very shortly after that it was announced that, in fact, she could be moving somewhere else. So, basically, I am not using that as an excuse.

We will invite the hon. lady to come to the Island, but I have to say our actual line of command has been with Charlie Falconer. So, in other words, that is one step above, so I would not say that that has been any way that we have not invited Harriet Harman to come to the Island, but it is he that usually comes to the Island. It is he that I meet when I go over there, so I have not met Harriet Harman at all but I certainly will take the first opportunity to do so.

The President: Lord Bishop.

The Lord Bishop: Would the Chief Minister agree with me that one of the things that needs to be fairly high on the list is the length of time it takes for the Department of Constitutional Affairs to respond to anything, and especially responding to ecclesiastical appointments within the Church of England here on the Island?

The President: Chief Minister.

The Chief Minister: Yes, I think we have a very good relationship with the constitutional office. Of course, they are the post box and everything goes through them and then it goes on elsewhere.

Often, they are held up because the department, or whatever division, actually does not come back to them, but certainly we have a good relationship with them and if the Hon. Lord Bishop has a particular case in mind... I certainly know of one just recently where there could have been a much speedier passage. In fact, it was only when there was further pressure put on them that we were looking for this decision that it happened, but I can certainly sympathise with the Hon. Lord Bishop in that case.

The President: Hon. Member, Mr Waft.

Mr Waft: Thank you, Mr President.

In view of the United Kingdom's change of policy with regard to nuclear power, will the Chief Minister agree that the concerns of the Isle of Man residents with regard to the situation in the UK, that Sellafield would be high on his priority and the Isle of Man policy with regard to that, Mr President?

The President: Chief Minister.

The Chief Minister: I think, Mr President, this is a question that the Hon. Member wishes me to take up with Harriet Harman, perhaps when I meet her or when she comes to the Island, but I certainly have seen the article with the new plants, as designated around the UK.

I have seen two very big black ones right alongside us, but our situation is still the same. The policy of the Isle of Man Government is against those particular reactors and that will be the policy and we will continue to press that home.

The President: Mr Lowey.

Mr Lowey: No. I thank the Hon. Chief Minister.

TRANSPORT

White Hoe and Quarterbridge Hotel Plans to purchase properties

1.3. The Hon. Member (Mr Lowey) to ask a Member of the Department of Transport:

- (a) What plans does your Department have to buy the properties at White Hoe;
- (b) how many properties are involved;
- (c) where will the funding be obtained for these purchases; and
- (d) what short-, medium- or long-term plans does your Department have for the Quarterbridge Hotel?

The President: In that case, then, we will turn to Question 3.

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

The President: This time, I call on the Member of the Department of Transport, Mrs Crowe.

A Member of the Department of Transport: (Mrs Crowe): Thank you, Mr President.

In answer to part (a) of the Question, I can advise that the issue surrounding the noise and vibration being experienced by residents at the White Hoe and Ivy Cottages are, indeed, very complex. The Department has received a report from its engineer, Arup, advising that there are no practical engineering solutions to overcome the noise and vibration problem.

However, the Department of Local Government and the Environment's environmental protection unit noise expert has requested some further testing within the pumping station and along the pump main, to confirm that this is the position. At this point in time, the Department has not changed its opinion that there is no practical engineering solution to overcome the problem. This being the case, it would be necessary for the Department to approach the residents to determine whether they would be willing to sell their properties to the Department.

In answer to part (b) of the Question, I can confirm that there are seven properties affected, four in number at Ivy Cottages, located directly opposite the White Hoe pumping station, and three at White Hoe Cottages, which are some 180 metres distant from the pumping station itself.

Mr President, in answer to part (c) of the Question, I am advised it would be necessary to seek a supplementary vote from Tynwald for additional moneys, if there is a requirement to purchase these properties.

The President: Mr Lowey.

Mr Lowey: There is part (d): what short, medium or long-term plans does the Department have for the Quarterbridge Hotel?

Mrs Crowe: At the present time, there are discussions taking place with regard to the alleviation of traffic congestion at the Quarterbridge site. Indeed, there are some discussions taking place about the siting of an ambulance station, but I must stress these discussions are at a very early stage.

The President: Mr Lowey.

Mr Lowey: Two supplementaries, Chief Minister. Sorry, Mr President. Of the seven properties – we are going to purchase them because there is no engineering solution – will not these people have not only the price of the property, will they not be able to sue for what I would call blighting their lives and for their enforced movement, which the Department has had. Would that be included in the supplementary vote?

Mrs Crowe: All moneys for any alleviation of this problem would have to be included in the moneys when seeking a supplementary vote, but I must stress that, at this present time, there are still further, and I mean further...

There have been numerous tests taking place by the Department of Local Government and the Environment environmental protection officer, who does determine the noise level at this site. So if, indeed, there can be an alleviation, then it would not be necessary for the purchase of this property. At the present time, the Department cannot see a practical engineering solution to overcome the problem.

The President: Mr Singer.

Mr Singer: Can I ask the Hon. Member, is it not a fact that there is an engineering problem? It is not the fault of the people who live there, it is a fault of the design, and therefore why should a supplementary vote be sought from Tynwald for the people to pay for it, rather than the designers, or whoever else is responsible for making the incorrect decisions in the first place?

The President: Mrs Crowe.

Mrs Crowe: Of course, we have and, indeed, are pursuing, at this very time, matters of this nature regarding the design and the siting of this particular pump station. Indeed, quite correctly, if it is decided that it is the design that is at fault, then, of course, that avenue will be pursued in order to regain any moneys that would have to be sought for the purchase of these properties.

The President: Mrs Christian.

Mrs Christian: The Hon. Member, Mr Singer, has asked the question that I intended to ask, Mr President.

The President: Mr Lowey.

Mr Lowey: Could the Hon. Member, and I apologise asking for this, because I do not think she may have the answer, but how does this new application, which the Department will have to make for a supplementary vote, sit with the Answer that was given to Tynwald, that this scheme was on time, on price and on budget?

The President: Mrs Crowe.

Mrs Crowe: I understand the question of my hon. colleague in Council. I think, at the time that that Answer was given, there was not the realisation that this problem could not be overcome.

Mr Lowey: But there was a problem. Would the Hon. Member not agree there was a problem that was known?

Mrs Crowe: Yes, but it is in the hands of the experts to determine just what level that problem is and, of course, with sophisticated noise and monitoring and vibration monitoring now, it is becoming easier to determine such matters. I think this is only a fairly recent development that the noise and vibration problem has been determined by technological measuring.

The President: Mr Lowey.

Mr Lowey: Could I ask one final supplementary regarding the Quarterbridge Hotel? Is the Hon. Member saying to me that the Department – not her Department, but another Department of Government on her behalf, on the Department's behalf – bought Quarterbridge Hotel for £800,000-odd without a plan for what they want to use it for?

The President: Mrs Crowe.

Mrs Crowe: I would suggest that there are plans that are in discussion and, of course, strategically the Quarterbridge Hotel would be at the centre of any plans that would be required to alleviate what is, I think, known by all as a very heavily congested junction into the capital city in the mornings and the evenings, in particular, but...

So the purchase of the property, when it became available on the market, was considered to be of strategic value for any improvements for any Departments of Government.

The President: Mr Lowey.

Mr Lowey: This will be my final supplementary and I thank the Hon. Member for answering so far. Could I say, was it purchased as a building, as a going pub, or was it just site value?

Mrs Crowe: I am afraid to say, Mr President, I do not have that information. Of course, it was actually DoLGE that purchased the property, as, indeed, they normally do on behalf of Government with all properties, so I do not have that information.

It is not an area of my responsibility within the Department of Transport. I do know a little more about the White Hoe problem than I do about the Quarterbridge problem, as I never use that junction, either. Thank you.

The President: Hon. Members, I think that draws to a conclusion our three Questions.

Orders of the Day

BILL FOR THIRD READING

Agricultural Marketing (Amendment) Bill For Third Reading Motion not moved

2. Mr Butt to move:

That the Agricultural Marketing (Amendment) Bill be now read a third time and do pass.

The President: We move, then, on to Item 2, which is the Agricultural Marketing (Amendment) Bill. It is down for Third Reading, Hon. Members. Mr Butt, I understand it is your wish not to move this, this morning. Is that correct, sir?

Mr Butt: Yes, Mr President. I would ask that this matter be adjourned until next week. The Department and the Minister made a commitment to the industry that, before the Bill passed its final stages here, the regulations would be fully completed and agreed and I am assured that they are at a very advanced stage at the moment. It was a comfort the industry required from the Department and we would like to accede to their request and delay this Third Reading until the regulations are finally completed.

The President: Hon. Members, it will be delayed for seven days.

Mr Butt: Thank you, sir.

Audit Bill

Consideration of clauses resumed and concluded

The President: We turn to Item 3, which is the Audit Bill. We move on to further consideration of clauses of the Audit Bill, Hon. Members.

If we just turn to page 10 and clause 10, Hon. Members, in relation to the Audit Bill, that had been moved, so clause 10 is before Council. Does the Hon. Member now wish to go through that again or, Mr Waft, as the Member in charge, do you wish to bring anything further to our attention? Deal with clause 10.

Mr Waft: Just to reiterate, Mr President, clause 10 re-enacts existing powers of an auditor to report an illegal payment or transaction to the High Court, the power to surcharge individual members and officers abolished. This amendment has been imposed through the deficiencies experienced in the United Kingdom in enforcing the power of the surcharge.

I beg to move clause 10, Mr President.

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

The President: It had already been moved, Hon. Members. I just wished to make sure that, in fact, we were up to speed, and does any Member wish to speak to it? No.

In that case, Hon. Members, what I will put to Council is that clause 10 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 11, Mr Waft.

Mr Waft: Clause 11, Mr President. This clause gives a new power for Tynwald, or the Treasury, or the Department of Local Government and the Environment in the case of local authorities etc, to call for an extraordinary audit of a body's accounts if it is thought desirable in the public interest.

I beg to move clause 11, Mr President.

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

The President: Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

Just to say that I am delighted to see this clause. I think it will be of great help, if indeed there are problems with any authorities in the future.

The President: In that case, Hon. Members, what I put to Council is that clause 11 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

Mr Waft: Clause 12, Mr President, gives Treasury power to make regulations as to accounts and audit, supplementing the provisions of the Bill. The powers are based on those in the Audit Act 1983, but considerably enlarged. The additional powers will enable the United Kingdom, or international, accounting and auditing standards to be applied and a body may be required to appoint or nominate an officer who is to be personally responsible for prescribed matters with respect to accounts and audit.

It should be noted that Treasury is to consult various bodies before making any regulations. Clause 19(3) and (4) refers, in that the regulations themselves will require Tynwald approval.

I beg to move clause 12, Mr President.

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

The President: Mrs Crowe.

Mrs Crowe: Mr President, I just would like to clarify that, in relation to this clause, in the keeping and form and preparation of accounts, that what we are saying here is that Treasury can direct the auditors to prepare the accounts in a particular manner.

The President: Mr Lowey.

Mr Lowey: My view is that this clause is only allowing them to make regulations and it is within the regulations that they will attempt, is it not? So it is the regulations that will actually prescribe and they have to be approved by Tynwald, anyway.

The President: If you look at 12G, any duties of the auditor, in addition to those specified in section 4, and if you refer back to section 4, I was wondering what would be the additional duties which could be specified? Mr Waft, reply sir.

Mr Waft: Thank you, Mr President.

This clause allows direction with regard to the GAAP – the generally accepted accounting principles – or other standards or practices. They may be reassured that the detailed matters are within the revised Accounts and Audit Regulations which will be presented to Tynwald for approval upon enactment of this Bill.

The regulations, which are already substantially drafted,

have been subject to the consultation processes undertaken, as mentioned in the introductory paragraph. That is the provisions within the Bill. They are not directing accountants as such; it is the body to which the accountants are going to audit, in effect, and the body will have to apply to the regulator, whether it is GAAP or SORP, or whatever it is, but they are not actually directing accountants as such. They have their own professional groups who direct them.

The President: Hon. Members, in that case, what I put to Council is that clause 12 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 13, Mr Waft.

Mr Waft: Clause 13, Mr President. This clause gives the Treasury an additional power to give directions as to accountants and audit and supplement regulations under clause 12.

I beg to move, Mr President, clause 12.

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

The President: Mrs Crowe.

Mr Waft: Clause 13, Mr President.

Mrs Crowe: I am sorry, Mr President, I was... In fact, it was this clause that I had noted and I am sorry, it was not particularly clause 12, but clause 13. I just want it to be absolutely clear to me that

‘...Treasury may give directions, not being inconsistent with [the] Act...’

etc, but that the Treasury could direct that...

I would like a reassurance that Treasury could not direct the auditors to audit in anything... to different standards, if you... The normal GAAP standards that you would apply now would show pension deficits and the like in the accounting procedure. At the present time that is not done in Government because we do not audit to that kind of standard. So what I was seeking was a reassurance that Treasury could not give directions that the audit could be weakened in any way. That was the reassurance I was seeking.

The President: Mr Lowey.

Mr Lowey: The way I have read this Bill and the notes we have been given is that this is to take account of... Take Douglas, for example. I will take extremes. Douglas Town Council can have an auditor or a finance officer. One of the smaller local authorities – and I will use Maughold, because I do not think... Oh, I cannot, because I have got a Member for Maughold in the Court, but Maughold, as a small thing, it seems crazy to me that the same thing would be applied – the principles of auditing would be applied and the clerk’s salary and all the rest of it.

I do think that there has to be a balance between what you would expect of a smaller one and I think, if I am right, the way I have interpreted this one, this particular clause will take recognition of those things but it must be compliant with the Bill and the regulations in this Bill.

The President: Mrs Christian.

Mrs Christian: Yes, I wonder if the mover could clarify for me, the standards which are applied by the professional bodies obviously are not imported into the Audit Bill, as such. Could this particular provision, along with section 12, ensure that there is a compatibility between the two?

The President: Reply, Mr Waft.

Mr Waft: Thank you, Mr President.

With regard to clause 13, the directions must be consistent with the Bill and the regulations, as has been stated, and must be laid before Tynwald. They are intended to allow Treasury to direct the degree of compliance with the Bill and regulations, as appropriate to the classification and the size of the individual public bodies. In other words, if there was a full audit in the Douglas Corporation or a full audit, perhaps, in Onchan – some of the larger districts with a lot of work going on – the compliance would need to be probably more so in those large public bodies, but in the smaller churchyards and things like that, smaller groups, then obviously you would not need a full-blown, two or three accountants going in to look at one of the very smallest bodies which they have under their jurisdiction.

The President: Mr Lowey.

Mr Lowey: And just to develop that, surely that was the principle we were enunciating last week when we were discussing charities. There are some big charities on the Isle of Man and there are some smaller charities on the Isle of Man.

The size of the charities on the Isle of Man is quite amazing, as we discovered last week, but the idea that, somehow, you would impose on the smaller charities, the same sort of regulation which would need to be applied to the larger ones seems to me that we have to get that in balance.

Mrs Crowe: I do not go along with that.

Mr Lowey: Not yet, but it is the same principle.

The President: Mr Waft, do you need to come back again.

Mr Waft: No.

The President: In that case, Hon. Members, the motion that I will put to Council is that clause 13 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 14.

Mr Waft: Clause 14, Mr President, requires the Treasury to fix the fees for audit by Order, with power to vary the fee in particular cases and requires bodies to pay such fees. There is no change to the current provision in respect of audit fees.

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

The President: The motion I put to Council is that clause

14 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 15, Mr Waft.

Mr Waft: Clause 15, Mr President, requires the accounts of an officer of a body to be audited under this Bill, where the officer receives money or property on behalf of the body, for example, a commission or present received in his official capacity, then his accounts are to be audited by the body's auditor, as at present.

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

The President: The motion, Hon. Members, is that clause 15 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 16, Mr Waft.

Mr Waft: Clause 16, Mr President, requires audited accounts and auditors' reports, including special reports, under clause 8(2)(a) and reports of extraordinary audits under clause 11, to be laid before Tynwald, except so far as Tynwald's Standing Orders provide otherwise. This clause seeks to provide Members with as much or as little detail of the financial statements and summary auditors' reports as the Clerk of Tynwald wishes to provide by way of individual copies to each Member or, as a central file of reference, made available within the Tynwald Library.

I beg to move, Mr President.

Mr Gelling: I beg to second, Mr President.

The President: Mrs Christian.

Mrs Christian: Mr President, I think this would be useful, in the sense that control of what is actually laid before Tynwald will sit with the Standing Orders Committee. It will not need to be in regulations.

There has been an issue, certainly in respect of local authority accounts, that technically the accounts should all have been laid before Tynwald and all Members should have been circulated with copies, which would have been a mountain of paper in respect of the full accounts and, of course, practice has evolved that we never received what should have been laid before Tynwald. We have had an abbreviated version thereof, so I think this will be useful in bringing an element of practicality into the availability of the information to Members.

The President: Do you wish to add to that, Mr Waft?

Mr Waft: I thank the Member for enlarging on that.

The President: In that case, Hon. Members, the motion is that clause 16 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Now, Hon. Members, we turn to Clause 17, Mr Waft, please.

Mr Waft: Clause 17, Mr President, makes new provision for the auditing of accounts of registered charities, substituting a similar requirement of examination in the case of smaller charities and removing any requirement for audit

or examination in the case of the smallest charities. The new provisions provide for exemption below a threshold of £5,000 gross income per annum and relaxed requirements for those registered charities having a gross income over £5,000 but not more than £50,000 per annum. The Treasury has the power, by Order, to amend these thresholds.

I beg to move, Mr President, clause 17.

Mr Gelling: I beg to second, Mr President, but in doing so, could I just ask the hon. mover, when it says, in clause 17(4)

'(a) audited by an accountant or an approved person'

who is the body that approves that person? Is it the Local Government Board or the Registrar of Charities because, again, just going back on that, it used to be that was the case. You got a good gentleman in the parish – I am just talking now about these small charities and these little parishes – and they did the audit, but, of course, we then went into the greater accountancy offices and we were finding that we were paying more for the auditing of accounts than we were virtually bringing through the books. I am just... I am being pointed out by Mrs Christian that it comes further down, but I have not read far enough, Mr President. However, it was just a question to the hon. mover.

The President: Lord Bishop.

The Lord Bishop: Thank you, Mr President.

Do you want me to move both my amendments? My first amendment reads:

'Page 15, line 14

For "£50,000" substitute "£100,000".'

At the presentation, which was immensely helpful, that Members of Council received, we heard about the way in which the top figure of £50,000 is different from that in the UK. My amendment would seek to raise the £50,000 to £100,000. At the present moment, the £50,000 limit covers 85 per cent of the charities within the Island and covers a sum of £3.5 million. By raising that sum to £100,000 it adds four per cent and brings us up to 89 per cent of the charities and would add to that another £1.7 million.

It strikes me that it would still leave us the sum we were told actually that is to do with charitable moneys is in the range of £40 million. It would still leave the very big payers needing to be fully audited.

I think it would be good for us to show the charities that we are aware of the pressures they are under in using charitable money to pay auditors to do a full audit when that, perhaps, is not actually necessary, so in order to open up the discussion on this I am proposing the amendment which puts the £50,000 limit up to £100,000 and adds those extra charities within that.

My second amendment is a purely ecclesiastical one. Do you want me to read it all out?

The President: I think that is actually within clause 22.

The Lord Bishop: I beg your pardon, so it is. I only have one amendment.

The President: Mr Singer.

Mr Singer: I would support this, Mr President, and I will second it, but my amendment -

The President: Wait a minute. Are you seconding the Lord Bishop's amendment?

Mr Singer: I am happy to second this amendment.

The President: Okay, so Mr Singer has seconded the Lord Bishop. Now sir, you have an amendment in the white paper yourself.

Mr Singer: Yes – oh, you want me to speak to that one?

The President: Move your own amendment first.

Mr Singer: Fine, thank you, Mr President.

I think that the Lord Bishop's amendment is good because it will automatically exempt certain charities, whatever their functions are and whatever way they work. It will exempt them from having this full audit, which I am told can cost up to £2,500 and that is an awful chunk of money from money that people have donated to a particular charity. My amendment, however, is slightly different:

'Page 15; after line 14: insert –

“(6) The Treasury may by written declaration (“an exemption declaration”) exempt a registered charity from the provisions of subsections (2) and (4) if it is satisfied that there are good grounds for doing so, and accordingly those subsections shall not apply to that charity in respect of an accounting period specified in the declaration.

(7) An exemption declaration –

(a) shall be subject to such conditions and limitations as are specified in the declaration; and

(b) may be made at any time before the expiry of the accounting period to which the declaration is to apply; and

(c) may be rescinded at any time if the Treasury is satisfied that there are good grounds for doing so; and
(d) shall not have effect if there is a contravention of any condition or limitation specified in the declaration.”

and renumber the subsequent subsections.'

As I indicated at First Reading, some charities which do not have a regular large turnover, which do not have any employees etc can be caught in a trap if they receive an occasional, one-off, large donation, so if we accept the Lord Bishop's amendment of £100,000 and a charity – and I gave an example, I am Chairman of the League of Friends of Ramsey Cottage Hospital and we did once receive a one-off donation of £225,000, I think it was.

So, in that particular year where they received a donation of £225,000, one cheque which is quite traceable from the advocate to the account of the League of Friends, that particular year, under the present situation, they would have to have a full audit and £2,500 would probably come out of that money which it was not intended to do. It certainly was not the intention of the donor and my amendment gives Treasury the ability to use a discretion to exempt, on

application, a charity which happens to come across this kind of problem.

It is a discretionary thing and I certainly agree, where you have a charity with a very large turnover and they employ people and they have shops etc., you need a full audit. I do not think anybody has any doubt of that.

I did speak to the Chief Minister and I have spoken to Treasury. The Chief Minister certainly thought this had been approved in Treasury. I spoke to Treasury and I think their objection, well, not an objection, they felt that, maybe, rather than Treasury it should be the Attorney General giving the exemption but I do not think there is any great feeling about this.

So my amendment is really going to help that one-off small charity, sorry, who receives a one off payment and is not suddenly going to see money disappear from its coffers. There are conditions. Treasury can withdraw it at any time. They can have the discretion to approve it or not.

I would hope that Members would support this because it obviously will leave money in the coffers of a charity.

I so move.

The President: Mrs Christian.

Mrs Christian: Oh, it is not seconded so that is not before us -

Mr Lowey: Put it on the floor, I will certainly second it.

The President: Mr Lowey has seconded Mr Singer's amendment. Right, Mrs Christian.

Mrs Christian: Mr President, one can have a degree of sympathy with this issue, that a charity may receive a large payment which takes them over the limit. I think we need to consider there how complex it would be, then, just to audit that simple transaction. Perhaps of more importance is how the money then goes out rather than the way the money has come in and, notwithstanding the concerns about small charities, I think that charities and the people who run them themselves are vulnerable if they do not have proper controls and audits.

To that extent I think there could be – and I am sure the mover will respond on behalf of the Treasury – a difficulty in determining where the dividing line should be between those which are exempt and those which are not. I imagine anybody who gives any money to a charity may feel a little bit of concern that the purposes for which they are giving it may be not audit, but I am sure that most people would want the security in their minds of knowing that funds are being properly disposed of in the terms of the charity's functions and purposes. Here I would say, and perhaps it does not relate directly to this Bill, but I presume auditors have to look at the functions and purposes of the charities, and I just wonder whether all charities in the Isle of Man have clearly set out what their functions and purposes are.

The President: Mr Attorney.

The Attorney General: Mr President, I find myself having a lot of sympathy with the speech just made by the Hon. Member, Mrs Christian, but if I may, could I just concentrate on one aspect of the speech by the Hon. Member,

Mr Singer, who seems to be concerned that a relatively small charity might receive a large amount which puts the charity over the requisite limit. I would point out that we are not concerned with a one-off endowment, as it were, of capital which will swell the coffers of the charity: the test is what is the income – the annual income – of a charity.

We could, therefore, have a small charity which receives a significant endowment, but that might not put the charity over the required limit for audit and so on, so I do think that is an important point. In other words, a one-off payment or maybe several payments, which would be categorised as capital, not income, will not necessarily put these charities in jeopardy, as it were, of requiring a full audit.

The President: Could we just, Mr Attorney, for my own purpose, could we just hold you on that.

There is a difference between moneys which would be bequeathed to a charity or a society for endowment purposes, in other words the interest to be used *ad infinitum* or, in fact, a donation made which is recognised as in the general account for general purposes so, yes – maybe I am wrong, but there is difference there, is there not? One would be classed as income, one would be classed as capital.

The Attorney General: Well, I am not sure, Mr President.

Perhaps I could illustrate it, just by referring to another piece of legislation we have which is the Charities Act 1986, which talks about the powers of small charities to spend capital and section 1 of the Act says that:

'This section applies to any public charity in respect of which –
(a) the endowment is of a value of £12,000 or less and does not include any land; and
(b) the gross income in the last preceding accounting year was £1,200 or less.'

So the statute there, as we can see, draws a very clear distinction between endowments which are of a capital nature and income from those endowments.

So if we were to take a situation where, say, a testatrix leaves a bequest to the charity, shall we say of £50,000, that £50,000 does not constitute income in the hands of the charity. That is, in my view, a one-off capital payment. The income arises when that £50,000 is invested, whether it is in Government stock, or whatever it is, and then you look at the income.

The President: Well, I just have it in my mind, an element of doubt as to whether it... a pound which a person gives for the charity box in some regard is no different. That could not be classed as an endowment, any more than the millionaire giving £50,000 into the charity box. It is still income. If the millionaire gave the £50,000 specifically for an endowment purpose, I think it is different than putting the £50,000 into the box. One would be classed as income and one would be classed as an endowment. If you can just clear that for me, I would be much happier. Mr Gelling.

Mr Gelling: I think, Mr President, you put your finger right on it because, again, dealing with one of these, you do get exactly that. You get someone who bequeaths to you in the charity, £10,000 with no conditions. In other words, you could spend that capital on whatever you wished within that particular area.

Others do, of course, if I could put perpetual graves and upkeep, which you invest then and you have the income and I can take the Hon. Attorney General's situation that then is the income because the endowment has been invested as capital, but there are others. So it would be very different if somebody gave you the money and said spend it on whatever you like. That, then, is obviously in the fund.

The Attorney General: If I may, Mr President, I entirely agree with that analysis.

My concern was, though, that the Hon. Member, Mr Singer, thought that any large payment would necessarily put a charity into the audit bracket. It might not. As you rightly say, it depends on the nature of the bequest or the payment.

Mr Lowey: But surely the amendment, Mr Attorney, would just give the Treasury a discretionary power to do just that and would it not be... it is belt and braces, maybe, but what harm is there in that?

The President: Mr Butt.

Mr Butt: I would be interested to know what the intention of the original drafter of this section was on income. Did they actually mean just income or endowment, or did they mean everything? I wonder if we could, perhaps, clear that up, the mover or one of his advisers. Would they have realised the difference between endowment and income when this was drafted?

The President: I think they probably did. Yes is the answer.

Mr Butt: Good, thank you. So it is just income that we are looking at in this section.

The President: Yes. Lord Bishop.

The Lord Bishop: Coming back to the Hon. Member, Mrs Christian, I think it is actually important to remember that there is an alternative to audit, which is examination, and examination has about it the same qualities of audit but costs a good deal less. It is not as if we are sweeping away any kind of being held responsible, it is just the fact that we are actually not requiring an international standard. We are actually requiring a slightly less standard, which is examination, which has its own rules.

The President: Mr Attorney.

The Attorney General: If I may, though, I think the significance of the amendment moved by the Hon. Member, Mr Singer, is that there is going to be a total exemption, which I must say I would have concerns about, if it puts the onus on the Treasury, then, to assess whether or not there are good grounds for allowing the exemption.

As Attorney General, it is my responsibility to enforce the law in relation to charities and I think that the more exemptions there are, the more potential there is for wrongdoing, I put it no higher than that.

Mr Singer: On the point you make... if they exempt... all charities are going to have their accounts examined,

whatever, but surely they then have to send them to the Charities Commission, who have to approve them? So they are not just doing what they want with the money, they have still got to show what they are doing with it and for it to be approved.

The President: Mrs Crowe?

Mrs Crowe: No thank you, Mr President.

The President: Mrs Christian? No, right. I am going round the room but, Lord Bishop, you... Mr Attorney, you were considering a question.

The Attorney General: Yes, well I think the question, Mr President, again is an important one. What is the duty of the General Registry, the Chief Registrar? Essentially, the Registry is a repository for accounts. I am not sure that the Chief Registrar would consider himself or herself to be responsible for vetting accounts which are filed.

Indeed, section 2 of the Charities Registration Act simply says that:

'[each] institution which is established for charitable purposes shall file in the General Registry –'

the accounts, and I do not think that it could be said that the Registry has a duty to vet those accounts.

Mr Lowey: No, but –

The President: No provision, as far as you can see, for a vetting by the Registry. Mr Lowey.

Mr Lowey: But, then, the whole idea surely, Mr Attorney is, that that is in public display and can be viewed by the general public to scrutinise an account if they so wish, so the idea that the principle, there is a comfort factor here to the general public. If it says that for the charities, as is now, it is deposited in the Registry office, the public can go and check that if they so wish. That is the only area where they have of going through a public document to see what is happening in a particular charity of a certain amount.

That is the power and there is no difference here. We are saying that this would still be subject to that and I cannot see anything... There is no downside in this to me, there is not a downside. As far as I am concerned, it is a belt and braces and I cannot see anything wrong with a belt and braces.

The President: Lord Bishop.

The Lord Bishop: Can I ask the Hon. Member, Mr Singer, whether he actually did intend that, under his amendment, the whole of sections 2 and 4 would disappear? So, in other words, the charity's accounts would neither be audited nor examined.

Mr Singer: No, this was the advice I had from the Attorney General when I explained what I wanted, or I thought I had explained what I wanted. It was that there should be no change in the form of examination that there is now, where you get –

The Lord Bishop: You were requesting examination, but not –

Mr Singer: Oh yes, but we should not have to go for this overall, as you call it, international standard which was going to cost an awful lot of money. It actually came from the person who was an auditor, who flagged this up that this was going to happen.

The Lord Bishop: But, Mr President, if I may, the way I read it, it means that the whole of sections 2 and 4. So, in other words, the accounts will neither be examined nor audited.

The President: Mrs Christian.

Mrs Christian: I think this is interesting to examine the wording of the amendment. After that, it seems to say you have got an exemption from 2 and 4, but you have got to comply with some conditions, as are specified in the declaration of exemption, so it seems to leave the Treasury a sort of carte blanche to decide what we are going to do with this individual charity. There is no form there about what they have got to comply with and there is a lack of structure, it seems to me, in the way in which – a lack of guidance to the Treasury, really, about how they should handle any particular type of application.

Mr Singer: Mr President, can I say, I go to the Attorney General's Office and I tell them exactly what I want to do and why I want to do it and it comes back to me like this. I am not a legal person. They tell me that this is going to cover what I want to do and now I am told that it will not.

I would have thought that, under the exemption declaration, which is quite clear that Treasury shall be subject to such conditions. One of the conditions could be the Attorney General saying that there still has to be an examination. That could be within the conditions that are put forward by Treasury to make sure that you are still examining all the books, as such.

Mr Lowey: Would it not be fair, if we are talking about structure, that if the Treasury was not sure, they would refer to what the person who moved the amendment, and what we are saying here would be the guidelines, just like it would be for a Deemster or somebody making a judgment somewhere else on a point of law that is in dispute.

The President: Right, Mr Gelling, I think we are going round in circles, Hon. Members. Mr Gelling.

Mr Gelling: Mr President, in listening to the case put and the other comments, it would appear that we are only looking at an amendment that would actually assist in a very rare occasion of a huge amount of benefactor moneys. Surely that would mean that, even if it did apply, that it went over the limit, that that would be the only year that, in fact, they would have to get their books audited.

The only difficulty I see here is, if we are introducing something which appears not to be absolutely nailed down, we are giving discretions for exemption etc., that the difficulty would be that when that did arise, there would be some confusion then as to how and what and how it would be done. I just worry a little that, perhaps, we are getting into an area that, although it would only happen, as I say, very infrequently, that that particular year you would get them audited and then you would reverse back to not getting them

audited because of the fact that you are not over the limit. I just wonder whether that is not the better way, in fact.

The President: Mrs Christian.

Mrs Christian: Mr President, I am just concerned that the illustration the Chief Minister has just given does not fit in with the amendment. It does not say those charities which are just under and might occasionally go over can seek exemption, it says that *any* charity can seek an exemption –

Mr Singer: Discretion, discretion.

Mrs Christian: – and if you are a large charity, has large funds and does not want to spend a lot on audit, you might very well be tempted, in the interests of your charity, to apply for an exemption.

Mr Singer: The Treasury can say no.

Mrs Christian: You can but you are setting up a bureaucracy.

The President: Mr Lowey.

Mr Lowey: Well, it is the point that the Chief Minister has introduced and it is the principle of discretion. But we have already introduced that discretion in this particular Bill for the size of local authorities and we are giving the Treasury a discretion there. We have done and, as far as I am concerned – you are a Member of the Treasury and not me – I have confidence in the Treasury's ability to do just that.

The President: Right, well, I think we have had fair argument on the amendment, Hon. Members. Now, Mr Waft to reply.

Mr Waft: Thank you, Mr President.

Members will forgive me if I do not reply to everything that was said, particularly as it has been around a bit. The Treasury, I do not think, would have any objection to the Lord Bishop's amendment.

The comment I would make is, especially if it was to replace Mr Singer's amendment, it would increase the charities' exemption from 85 per cent to 90 per cent, while the total charity sector income that would be exempt would still be only 13 per cent. That is £5 million out of a total of £40 million, so you would need to have those figures at the back of your mind.

With regard to a question from the Chief Minister, it would be the First Deemster who would decide on the personage, whether they were fit and proper etc, with regard to making approval for persons, particularly if we request that ability.

Mrs Christian: The First Deemster?

Mr Waft: There is already some flexibility for a charity to have its accounts audited by an approved person and not an accountant. This provides a mechanism for individual cases to be considered.

With regard to large donations, which appear to be the problem: one cheque. For instance, personally, from my own point of view, it is not when you actually get the donation,

it is the following year as to how that donation is spent, but whether it is capital or income, that has been discussed, as well.

My only concern with that amendment is the fact that, rather than the Treasury, the Attorney General is the personage to whom all charities have to comply with regulations and he is a sort of overseer, with respect to the Attorney General, with regard to situations that could arise. So, I am tended to think that the Bishop's amendment will cover most of the considerations that the Members have been concerned with, but I would leave it to the Members to decide on Mr Singer's amendment.

Mr Singer: Mr President... Mr President –

The President: Yes.

Mr Singer: – can I just say something? Would it be helpful if there was some kind of combination of the two? I know the Bishop said £100,000. If the figure was to be higher, that would probably incorporate everybody's need.

Mr Lowey: We do not know. We do not know what the size –

The President: I think, Hon. Members, we get ourselves into difficulties the more we go round and look for other problems. Hon. Members, the motion which is before Council is that clause 17 do stand part of the Bill. To that, Hon. Members, you have the two amendments.

Dealing, first, with the Lord Bishop's amendment, the Lord Bishop's amendment which has been circulated to you on a white paper: 'In clause 17, page 15, line 14, for £50,000, substitute £100,000.' Putting to you that amendment, Hon. Members, those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, the second amendment is in the name of the Hon. Member, Mr Singer. That amendment inserts on page 15, after line 14, a new (6) and (7) and then renumbered accordingly if it is approved. Hon. Members, I put to you the amendment in the name of the Hon. Member, Mr Singer. Those in favour, please say aye; against, no. The noes have it. The noes have it.

Now, Hon. Members, that amendment failing, the amendment in the name of the Lord Bishop being approved, I put to you now clause 17, as amended. Those in favour, Hon. Members, please say aye; and against, no. The ayes have it. The ayes have it.

Mr Waft, clause 18, dealing with miscellaneous and supplemental, sir.

Mr Waft: Clause 18, Mr President. This clause imposes a new requirement on the Treasury to set up a consultative body to advise on a public body's accounts and audit.

I beg to move clause 18, Mr President.

The President: Chief Minister.

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

The President: Mrs Crowe.

Mrs Crowe: I just wondered for what purpose would this

body be established. I mean, I know we have a number of bodies throughout Government, that do not seem to do a great deal, but I just wonder what 'to advise on matters relating to accounts which are to be audited.' An auditor audits accounts. What is this advisory body... is there any purpose or perhaps a purpose I do not know about? I just wondered if the mover could tell me why this body is being established?

The President: Mr Downie.

Mr Downie: Well, I would say that, given the areas we have been discussing this morning, I think it would be a good opportunity to have a body and, perhaps, from time to time representative from a group of small charities could come and they would have an ideal opportunity to discuss issues very similar to those that we have discussed today and how to deal with them.

I think within the Bill itself, up to the present stage, there is an area of discretion there that is applied to the Treasury and I am hoping now that, having gone down this route, they will be able to engage in further dialogue and perhaps be a little more user friendly, but at the same time providing all of the safeguards that proper audited accounts should bring.

The President: Mr Waft to reply.

Mr Waft: Thank you, Mr President.

The clause formalises the concept of an Audit Committee, which is something we have looked at for some time. I think the Hon. Mr Downie, Minister of the DTI, has encompassed the thoughts behind that, that there is a committee there, by which problems can be sorted out. I think that is the idea behind that.

The President: In that case, Hon. Members, the motion that I put to Council is that clause 18 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 19, Mr Waft.

Mr Waft: Clause 19 deals with subordinate legislation, regulations, orders, etc under the Bill, requiring either Tynwald approval or laying before Tynwald and requiring consultation with various interested parties before such legislation is made.

I beg to move clause 19.

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

The President: Mr Lowey.

Mr Lowey: Could I... just on this Audit Bill and the charities. Did the Treasury consult with any of the charities, large and small, before introducing this Bill?

The President: Mr Waft to reply, sir.

Mr Waft: Thank you, Mr President.

As a member of a charity myself, I know there has been a problem, perhaps, with negotiating with all the charities. What they have, as I understand it, people they have negotiated with are the auditors who audit the charities and they have given their views on the situation and this is the

finalisation of this Audit Bill. In other words, the bodies who have to do with the auditing of charities.

Mr Lowey: It is a bit one-sided, isn't it?

Mr Singer: Yes, 'Give me the money.'

The President: Hon. Member, the motion I put to Council is that clause 19 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 20, Mr Waft.

Mr Waft: Clause 20, Mr President.

This clause is a new standard form of provision where a member or officer of a body corporate is responsible for an offence under the Bill, committed by the body. For example, failure to prepare accounts in time. A member or officer can also be prosecuted for this offence.

I beg to move clause 20 stand part of the Bill.

Mr Gelling: I beg to second, Mr President.

The President: The motion, Hon. Members is that clause 20 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 21, Mr Waft, please.

Mr Waft: Clause 21 provides definitions of terms used in the Bill.

I beg to move.

Mr Gelling: I beg to second, Mr President.

The President: Again, Hon. Members, the motion that I put to Council is that clause 21 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 22 and schedules 1 and 2. Clause 22 with both schedules, Mr Waft, please.

Mr Waft: Thank you, Mr President.

Clause 22, schedules 1 and 2. This clause introduces schedules 1 and 2, which respectively make amendments and repeals consequential to the enactment of the Bill and also increase monetary limits in certain acts related to charity.

Mr President, I beg to move.

Mr Gelling: I beg to second, Mr President.

The President: The Lord Bishop.

The Lord Bishop: Thank you.

I will move the amendment now when we have reached the right clause.

*'Page 21, for paragraph 2 of Part 2 substitute –
"Church Act 1992 (c.5)*

*2. (1) In Schedule 1, for paragraph 5 substitute –
"Accounts*

5. (1) The Board shall cause its accounts, and the accounts of any property, fund or trust held or managed by the Board, to be made up at least once in every calendar year.

(2) *The standing committee of the Diocesan Synod shall appoint an independent examiner, who shall examine the accounts at such times, and make reports to the Diocesan Synod on them in such form, as the standing committee may direct.*

(3) *The examiner must be either –*

(a) *an accountant, or*

(b) *a person holding a qualification prescribed by regulations under section 11(1)(c) of the Charities Registration Act 1989.*

(4) *The Board shall pay the examiner such remuneration as the standing committee, after consultation with the Board, may determine.”*

(2) *In paragraph 4(5) of Schedule 3, for “£2,000” substitute “£5,000”.*

This is an amendment which affects the Church of England’s auditing and examination. In their presentation, Treasury said as follows:

‘The present wording of the Church Act 1992 in relation to audit of accounts is most woolly. The proposed amendment drafted by the Chairman of the Synod’s Legislative Committee has the impact of clarifying and strengthening the requirements of the Finance Board. Treasury has no concerns, objections or view on this matter.’

Therefore, I beg to move the amendment standing in my name, which allows the diocesan accounts to be ‘examined’ rather than ‘audited’.

Mr Singer: I second that.

Mr Lowey: Speaking as a nonconformist, I would hate to intrude on the Church of England’s financial affairs.

Mr Singer: Don’t they? *(Laughter)*

The President: Mr Downie.

Mr Downie: Could I just ask, perhaps, the Bishop to explain to me. I can see exactly where he is coming from, but there are a lot of other churches and religious organisations in the Isle of Man and I would like to think that if exemption is going to be given in this instance, some of the other churches in the Isle of Man actually make a significant contribution to their church and –

Mrs Crowe: The Baptists.

Mr Downie: I would not like to see access to something like this denied to them.

Mr Lowey: You apply.

Mr Singer: You apply.

Mr Downie: – and I wonder what happens in the present situation, whether they have to... *(Interjection)* but it only applies to the Church of England, I understand. It does not apply to a Baptist Church or people like that who are considerably wealthy and people who belong to that church do make a very positive commitment to the financing of the church and it is growing in popularity. I just wonder how that sits with them or have they got to go through the traditional routes and provide a proper set of accounts and so on?

The President: Chief Minister.

Mr Gelling: Can I, perhaps, ask the mover of the amendment, is this not because the Church of England actually is the established Church and is under law of the land and the others, of course, are free churches?

The President: Mrs Christian.

Mrs Christian: No, Mr President, that is the point, I think.

The President: The Lord Bishop.

The Lord Bishop: Can I, once again, quote from the notes that we had when the presentations were made in relation to the Charities Registration Act 1989 by way of the Religious Charities (Regulations) Act 1999:

‘...the Diocese of Sodor and Man Board of Finance is exempt from any requirements to register as a charity.’

We are also the Established Church and, therefore, everything that we do, as you will well be aware, has to come through Tynwald. The other churches are, by definition, non-conformist, in other words, they do not conform to that which we have to conform to. So they have their own freedom in that sense. They are not bound by the law, as the Church of England is, so they are bound by that law, which, if they are charities, they will have to produce accounts.

I have answered. Mr Waft, I hope that is alright?

Mr Downie: There you are. For which he is very grateful. *(Laughter)*

Mr Singer: Mr Waft said, ‘Whatever you say.’ *(Laughter)*

The President: Mr Waft, do you wish to reply, sir?

Mr Waft: Er... no! *(Laughter)*

The President: In that case, Hon. Members, the motion that I will put to Council is that clause 22 and the two schedules stand part of the Bill, but to that you have the amendment moved by the Lord Bishop. Putting, first, the amendment, Hon. Members, those in favour, please say aye; against, no. The ayes have it. The ayes have it.

The clause and schedules, as amended, Hon. Members. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Finally, clause 23, Mr Waft.

Mr Waft: Thank you, Mr President.

Clause 23 concludes the Audit Bill 2006 and makes supplemental provision as to the short title of the Bill and its commencement. That is, it may be brought in on different days for different purposes.

I beg to move, Mr President.

Mr Gelling: I beg to second, Mr President.

The President: Again, Hon. Members, finally, short title and commencement clause, clause 23. Those in favour, please say aye; and against, no. The ayes have it. The ayes have it.

Audit Bill

Standing Order 22(2) suspended to take Third Reading

Mr Waft: Mr President, could I indulge the Court with regard to the provision of the ability to move the Third Reading. We have gone into this Bill in very great detail and I think any concerns have been thoroughly debated and it would take a short few moments to –

The President: We did mention this before, Hon. Members, when we agreed that we would, at half way through this stage, have a presentation made on the Audit Bill. So with your concurrence, Hon. Members, or I ask for your concurrence, the Member is suggesting that we take, at this stage, the Third Reading of the Audit Bill. Agreed, Hon. Members?

Members: Agreed.

Audit Bill

Third Reading approved

The President: In that case, Mr Waft. Third Reading, sir.

Mr Waft: Thank you, Mr President. May I reiterate some of the comments I made at the First Reading of the Bill?

The purpose of the Bill is to make new provision, replacing the Audit Act 1983, for the audit of accounts of public bodies, to amend the law relating to the audit of charities and for connected purposes. The Audit Bill 2006 seeks to bring our legislation up to date by adopting the highest international codes of accounting, auditing and governance practices, whilst retaining our ability to acknowledge and accommodate the breadth of public sector activity in the Isle of Man and also recognise the need to modernise the audit requirement of our smaller registered charities.

The Bill, Mr President, represents the first legislative changes to public bodies' accounting and audit requirements since the Accounts and Audit (Regulations) Act of 1984 were approved by Tynwald on 15th January 1985. May I thank the Hon. Members for their support in progressing the Audit Bill through its previous readings and for their recognition that the Bill represents robust and comprehensive audit legislation.

Mr President, I beg to move that the Audit Bill 2006 be read for a third time and do pass.

Mr Gelling: Yes, I beg to second, Mr President, and the only comment I have, I think it was something unique that we did in bringing ourselves into a committee position, with people to talk about this and it has been well worth that (**Mr Lowey:** Hear, hear.) particular exercise being done, (**Mr Lowey:** Absolutely.) something we could, perhaps, look at in future as being extremely helpful. So I know we delayed it, but certainly I will go along there and second the Third Reading, sir.

The President: Mrs Crowe.

Mrs Crowe: Well, I thank the Chief Minister, my colleague in Council, for raising the matter of the help that

we had from, not only the auditors, but the officers of Internal Audit and I hope that the same help will be forthcoming when we study the 200 clauses of the new Companies Bill, which requires no audit or no statement of account to the shareholders within the 200 clauses in that Bill, I am led to understand and my reading of it suggests.

So I think we have given a great deal of consideration to the Church Act, the woolly Church Act on accountability and lack of audit and, indeed, on charities and many other smaller local authorities on the Isle of Man. So, I hope indeed, that when we come to consider the new Companies Bill we do exactly the same.

The President: Mrs Christian.

Mrs Christian: Yes, thank you, Mr President.

I am happy to support the Third Reading. I am conscious, although I have not been a Member of it for very long, that the Public Accounts Committee have long had a concern about the audit position in the Isle of Man and this is to be welcomed.

Speaking with my departmental hat on, I think it will also be welcomed there for clarification of the issues in relation to local authorities and other bodies and, as we have discussed before, for improvement of the procedures of laying these accounts before Tynwald through the Standing Orders Committee, though I hope that someone will refer the matter to the Standing Orders Committee for their consideration.

The President: Mr Lowey.

Mr Lowey: Yes, I support the Third Reading and very much along the lines of what has already been mentioned, three-fold really. It is 23 years since the principal Act was amended and it is right that we should be reviewing it when you think of the world 23 years ago and the effect on the Isle of Man today and financial matters generally. I think it is a world apart and it is right that it should have been addressed.

I think the Bill has attempted... and I do take the Chief Minister's point. I do believe that sitting in committee we were... and I do not know whether it was the mover of the Bill or yourself, Mr President, who arranged it, but whoever arranged it, for the meeting with the interested parties, I thought was very, very worthwhile.

Local authorities are expected to present what I would call acceptable accounts. This Bill makes it quite clear to them. I have no doubt at all that this is... there should be no local authority on the Isle of Man now who does not realise the importance of a proper audit trail for their accounts and I think this underlines that and for the charities I think it is welcomed.

I think what we have done in this Council, contrary to what I heard on the radio on Sunday that this Council does not do anything any good any time, anywhere, although we had a (*Interjection*) near enough... but I paraphrase. Our shop steward, Mr Singer, was in good form and, as far as I am concerned, I believe in the charities field today, because of the information that we have gleaned, which was not available to another place when they took it through, or if it was available, certainly in my reading of what their accounts of the debate did not refer to. I think we have enhanced it in the general good and so, therefore, I think it is a Bill well worth supporting.

The President: Do you wish to reply, Mr Waft?

Mr Waft: Yes, I would just like to thank Members, Mr President, for their kind words and, with regard to Mrs Christian: the Public Accounts Committee. I was on the Public Accounts Committee for 10 years and that was the cry throughout all the time I was there, 'When is the new Audit Bill coming through?' Well, we have finally got it, so I hope it will lay some of the problems to rest.

I would like to thank the officers in the accounts who came and gave their time to us, to inform us as to the rights and wrongs of what we are doing. I am sure the officers will make themselves available when we come to the Companies Bill when we come to discuss it in the future. It is rather a large Bill, as well.

Thank you, Mr President.

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

That completes the hearings this morning with the Audit Bill, Hon. Members. It completes its passage.

Public Health (Tobacco) Bill

Consideration of clauses resumed and concluded

4. Mrs Christian to move.

The President: We now deal with Item 4, Public Health (Tobacco) Bill.

Now, Hon. Members, you will be aware that when we were dealing with this we had completed up to the end of Part 2 and we were about to start on Part 3. So, it is for the continuation of clauses, Hon. Members. The Bill is in the hands of the Hon. Member, Mrs Christian, and I ask her to take clause 21.

Mrs Christian: Thank you, Mr President.

This section deals with general matters and clause 21 deals, in particular, with penalties. Subclause (1) deals with the penalty where obstruction is caused; subclause (2) with advertising, breach of the advertising and promotion rules; and subclause (3) deals with public smoking.

I beg to move that clause 21 do stand part of the Bill.

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

The President: The motion, Hon. Members, is that clause 21 do stand part of the Public Health (Tobacco) Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 22.

Mrs Christian: Clause 22 provides that the officers of companies and other corporations can be held personally liable in certain circumstances for offences under the Act that their companies or partnerships commit.

I beg to move clause 22 stand part of the Bill.

Mr Gelling: I beg to second, Mr President.

The President: The motion, Hon. Members, is that clause 22 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Clause 23, Mrs Christian.

Mrs Christian: Clause 23 deals with the laying before Tynwald of any regulations, orders or whatever public documents made under this Act and requires that the public documents shall be laid before Tynwald after they are made and can be challenged at the next following sitting.

I beg to move clause 23.

The President: Mr Gelling.

Mr Gelling: I beg to second, Mr President.

The President: Mr Lowey.

Mr Lowey: Just, again, as we are passing legislation, this is the first time for a while that I have seen a public document used and not regulation. While the mover has explained that it would include a regulation, can she inform me, anyway, it is just my curiosity when I see a different terminology being used, is this to be the general guide for the future or is there a specific reason for this particular Act?

The President: Mrs Christian to reply.

Mrs Christian: I asked the same question, Mr President, because this was new wording in my experience. I was advised that public document meant regulations and any other orders that might be made under the Bill. I have not received an explanation about why it is not in the normal form, but –

Mr Lowey: Uncomfortable with it.

Mrs Christian: – I honestly do not know whether this is the form that is going to be used going forward. It is a draftsman's decision, I guess, which the Department has not challenged.

Mrs Crowe: Modernisation.

The President: The question, now it has been raised, which comes interestingly to my mind: is it a public document if it has not been approved by Tynwald?

The Lord Bishop: Yes.

Mr Lowey: There is no smoke without fire.

Mrs Crowe: If it is published, it is a public document.

Mr Singer: No, it is not.

The President: In the public domain is something different –

Mrs Crowe: Yes.

The President: – from it being a public document.

The Attorney General: Mr President, I am sorry, I do not have an answer for this. On the face of it, it would be best

to have a regulation, would it not? But I hope no damage will actually be done to the operation.

The President: It is now three, four weeks since we moved through clause... to the first two sections, Part 1 and Part 2 of this Bill. If Members would like to sit here and chat for a bit, it might give Members time to have a look back to see if there are any other public documents referred to other than the regulations.

Mr Downie: Mr President.

The President: Mr Downie, have you found one?

Mr Downie: I have not, but to be helpful, I think where smoking, public health legislation, this type has been introduced in other jurisdictions, along with regulations, they have issued codes of practice. They have provided examples where and when smoking is permitted under certain circumstances, where it is not permitted. In Ireland they have even gone so far as to describe the types of buildings that are available for people to use for smoking when there are only three internal parts of the building and the other part is exposed to the elements, as it were.

Obviously, the way things are progressing, we are actually, I would have thought, getting more and more situations like this, because it is all about making good law, but it is also about giving sound advice and examples of what people can or should not do.

Mr Lowey: Yes, I have no difficulty with that, but surely, if you are introducing a new phrase into the legislation, then it should be mentioned in the interpretation and it is not mentioned in the interpretation. I have no difficulty with that, but here is the chance we have. It just seems strange. It is a curiosity, I am sure other Members... well, Mrs Christian has already referred to the fact that she could do just that. It did ring a bell with her. It certainly rang a bell with me.

The President: Sorry, Chief Minister, but it might –

Mr Gelling: I have only found one, Mr President. That is actually in the front, Part 3. It is actually under the clauses, penalties, offences, public documents. Right at the very front –

The President: Mr Attorney.

The Attorney General: Chief Minister, the learned Clerk has very kindly drawn to my attention the fact that public document is defined in the Interpretation Act 1976 to mean:

‘...any order, proclamation, warrant, scheme, rule, regulation, byelaw, resolution, notice or other instrument made under any enactment;’

So, it covers a variety of sins, if I can put it that way, Mr President, including regulations.

Mr Lowey: Yes.

The President: It has, in effect, been used as a catch-all in that case.

The Attorney General: Yes, yes. it would seem so.

Mr Lowey: That is right.

The Attorney General: I am grateful to the Clerk.

The President: Mrs Christian, do you wish to reply?

Mrs Christian: Thank you, Mr President.

Again, I, too, am grateful to the learned Attorney for that clarification and I imagine we may well see this phrase being used in future legislation. Perhaps it is something we will become familiar with.

With regard to codes of practice, there is no provision in this draft legislation for there to be any codes of practice. That is not to say, I suppose, that it would prevent someone bringing codes of practice forward. I am not sure whether you need a statutory instruction to bring forward codes of practice. It may well be when regulations are brought forward, then there may be guidance or documents of clarification produced in relation to those and I note what the Hon. Member is saying, but would just point out that there is not a statutory reference to codes of practice within the legislation.

The President: In that case, Hon. Members, the motion that I put to Council is that clause 23 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 24, Mrs Christian, please.

Mrs Christian: Clause 24 deals with the financial aspects of the Bill and requires that any expenses relating to the Act should be paid out of money received from Tynwald to the DHSS, DoLGE or the Office of Fair Trading.

I beg to move.

Mr Gelling: I beg to second, Mr President.

The President: The motion, Hon. Members, is that clause 24 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 25, Mrs Christian.

Mrs Christian: Clause 25 is the interpretation and defines the Departments which are covered under the Act.

I beg to move.

Mr Gelling: I beg to second, Mr President.

The President: The motion, Hon. Members, is that clause 25 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Finally, clause 26, Mrs Christian.

Mrs Christian: Clause 26 deals with the citation and commencement and provides that the DHSS may introduce parts of the Bill at different times for different purposes, in accordance with Appointed Day Orders which will be laid before Tynwald.

I beg to move clause 26 do stand part of the Bill.

The President: Mr Gelling.

Mr Gelling: I beg to second, Mr President.

The President: The motion, Hon. Members, is that

clause 26 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Mrs Christian.

Public Health (Tobacco) Bill

Standing Order 22(2) suspended to take Third Reading

Mrs Christian: Mr President, may I beg the indulgence of the Council by seeking suspension of Standing Orders to take the Third Reading of this Bill. In fact, I think it was perhaps my informal understanding that it would be tabled for continuation of clauses and Third Reading today.

The President: I acknowledge, Hon. Members, that it was that we were dealing with it previously and we ceased at Part 2 of this particular Bill and Council did consider that, maybe, they would take the Third Reading today, as well. So, Hon. Members, do we have an agreement?

Mr Singer: Mr President, I did ask a question. I think it was the First Reading –

Mrs Christian: I answered those questions, Mr President, I hope.

Mr Singer: Well, I should like to know the answers to the questions that were put, which have not been given to me, and asking now to do the Third Reading, without considering the answers to the question...

Mrs Christian: I am seeking suspension of Standing Orders, Mr President.

The President: Yes, we are seeking suspension of Standing Orders to take the Third Reading, Hon. Members. So that is what I would ask –

Mr Singer: I am not sure, Mr President, I would like to have had the answers to have considered them before I decide how I am going to vote for the Third Reading, because I did have certain reservations on parts of this Bill.

Mrs Christian: Mr President, I am happy to give answers now, but I am just concerned that, procedurally, had we continued with the clauses, I would be giving explanations at Third Reading.

The President: Yes.

Mrs Christian: I am quite happy to play it whichever way –

Mr Singer: Mr President, I know the urgency at this time of the year, but I have made my point. I feel I should have had the answer beforehand, perhaps, but I will not object.

The President: Hon. Members, if you agree to take the Third Reading today, I am sure that the answers will unfold as we take our Third Reading.

Hon. Members, those in favour of suspending Standing Orders to take the Third Reading of the Public Health (Tobacco) Bill: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Public Health (Tobacco) Bill

Third Reading approved

The President: Mrs Christian, Third Reading.

Mrs Christian: Thank you, Mr President and I thank the Hon. Council for agreeing to take the Third Reading today.

There were a number of points raised as we went through the clauses and I hope that I have the answers for them here.

With regard to the vintage or antique type plaques that we talked about, unless they are used in the context of actually advertising the product and promoting the product, they would not be covered by the legislation.

There was a question regarding the provision of Braille signs. I am advised that it is not expected that there will be a requirement to have Braille signage on premises where smoking is prohibited, but the onus will fall on those with management responsibilities under clause 14 to advise persons with a sight impairment that there should not be smoking in a particular area.

On the question of whether or not, for example, a public place, after closing time, then becomes excluded from a smoking ban, I am advised that it is proposed that it will remain a workplace and that the ban would cover that establishment for a 24-hour period. Of course, this will be covered by regulations, which will have to be approved by Tynwald in due course, and I think there would be an opportunity there to further explore those issues. I think the example was given of a public house where the landlord may live on the premises. I think the distinction will be that the private quarters of the resident will not be subject to the legislation, but the public area would be and for an exclusion of smoking it would be a 24-hour exclusion. That is the proposal – I guess that is for argument when regulations come forward.

On the question of ventilation systems, the day before we had our last sitting there was a meeting between an organisation which purports to have a ventilation system, with the DoLGE Minister and professional staff. The firm which made claims about a ventilation system was putting forward a case for its acceptance as a suitable mechanism for cleaning up smoke-filled air. The study which was presented was not considered adequate, as an analysis had only been carried out on a few of the many thousands of components of tobacco smoke, by way of the pilot scheme.

On this basis, the Department of Local Government and the Environment was not satisfied that there was any satisfactory evidence to show that the system worked. It was agreed with the firm who were promoting this system that if they wanted to present a proper case, tests would have to be carried out, adopting protocols and methodology that were acceptable to the professional officers of the Department. Only then would the results be given consideration. I believe that firm, Mr President, claimed that they were operating in some pubs in the United Kingdom. That begs the question then, whether or not they have satisfied the United Kingdom authorities, which is a much larger market than ours, why they sought to introduce this system here? The Department have not said no to the system, but they certainly are not satisfied, at this point, that there is any evidence to show that it would work. I hope, Mr President, that that has answered all the questions which Hon. Members raised at an earlier stage.

With regard to the actual consideration of the Third Reading, the measure has had a great deal of public exposure and there can be very few people who are not aware of the principles which are embodied in the Bill. Its purpose is primarily to ensure a safe working environment for those who do not wish to smoke (**Mrs Crowe:** Yes.) or a safe environment not only just in a working situation, but for anyone who does not wish to smoke in a public place.

It has been some years in arriving before us, as the Hon. Member, in particular, Mr Waft, has had concerns about. A growing number of countries have given cognisance to the evidence that smoking and secondary smoking are responsible for a great many health problems which could be avoided.

So, we are not in the vanguard in proposing controls over where tobacco and other substances may be smoked and we can evaluate the effect of similar measures elsewhere. Indeed, I was sent evidence of the ban in Malta just a few days ago, which has indicated that they have also dealt very successfully with the issue of smoking in public places and in workplaces.

We do know, of course, that there will be revenue consequences if this Bill becomes law, but even more important than the revenue consequences are the positive health benefits that it will bring.

I, therefore, beg to move that the Bill be now read a third time.

Mrs Crowe: I beg to second, Mr President.

The President: Mr Singer.

Mr Singer: Two comments, Mr President, and I would reiterate that the principle of the Bill, I fully support.

I am not quite sure on the comment from Mrs Christian, why she felt because they had this cleansing equipment in the UK, why were they coming over here trying to sell it. They will try and sell it anywhere: you know, that is business.

The other point is, the Hon. Member will remember we were talking about advertising last time, about companies that make cigarettes, then they produce another item under that name. I was particularly looking for it when I went to the airport last week and I noticed Dunhill, for example, their cigarettes were quite openly on display for sale and yet you do buy other products of Dunhill. Now is it Dunhill aftershave – or what else – advertising, also advertising the make of cigarette, or can that be totally separated, as far as prosecution is concerned, because Dunhill is known to be a cigarette?

Mrs Crowe: It is not.

Mr Singer: It is not what? (*Interjections*)

The President: Mr Waft.

Mr Waft: Thank you Mr President.

Just following on from the remarks of the mover. We are not in the vanguard of this movement with regard to banning smoking. We could have been in the vanguard five or six years ago, but that was not to be. However, I would just like to congratulate the DHSS to at last getting this smoking situation finished with.

It goes along with the Employment Bill, the Disability

Discrimination Bill and we have been waiting many, many years for these Bills to come through and it is only in the dying embers of the legislative programme at the end of the years that we finally see light at the end of the tunnel with regard to this. It has not been seen to be the big problem that it was envisaged some years ago.

With regard to the possibility of the air vehicles that are supposed to do away with the carcinogens, I would always err on the side of –

Mr Singer: Clean air.

Mr Waft: – safety and I think that is what any sort of Safety Committee, I think, would go along with. I am sure the Department of Local Government and the environmental health officers would have that in mind when they do consider anything like that and I just... once again, congratulations, Mr President, and I thank the mover for moving it.

The President: Mr Downie.

Mr Downie: Yes, thank you, Mr President.

Like a number of previous speakers, I fully support the principles enshrined in this Bill. I think it is the right way to go. I am absolutely convinced that a huge majority of people support the introduction of this type of legislation, not just here in the Isle of Man, but in many other jurisdictions and there are increasing numbers of other jurisdictions signing up to the same principles, which shows that everyone actually is moving in the same direction.

Over the last few weeks I have had an opportunity to do some research into these ventilation systems and I can confirm the opinion of my hon. colleague, Mrs Christian, that the tests have not been conclusive. There are still a lot of carcinogenic substances left in the expelled air and the tobacco smoke and I think some people in the hospitality industry, perhaps, night clubs, public houses are probably grasping at straws.

I see this from a completely different angle. If you look at countries where they have introduced a better controlled environment for people to go out into pubs and restaurants, in fact, business has improved –

Mrs Crowe: That is right.

Mr Downie: – and this has been identified in areas like Scotland, in Ireland, where the hospitality industry are really seeing the benefits. More and more people are going out to enjoy a meal under better social surroundings and they know, then, that their children and their eating experience is not going to be polluted by someone sitting on the next table breathing smoke across them all night.

As far as I am concerned, the sooner we bring in this legislation in the Isle of Man, having an Appointed Day Order, the better. There are huge health benefits. That is apparent for everyone to see.

Over the last few weeks I have been trying to find Dunhill cigarettes –

Mr Singer: I should have bought some for you.

Mr Downie: – they also make a whole range of other products and, of course, companies like Harrods also have a cigarette brand and I wonder, when the legislation actually

comes in to a much greater extent in the UK and other places, whether these people actually change the brand, because I am sure that it would affect the image of some of these larger companies. The impetus is now growing and, as far as I am concerned, the sooner the better. Let's get on with it.

The President: Mr Lowey.

Mr Lowey: Yes, the title of the Bill is very important. It is Public Health (Tobacco) and if you look at the introduction of a lot of public health issues, going back to sewage and fresh water and all the rest, it is as important as that. I think the evidence is there for all to see who wish to evaluate it on a scientific basis and I think the Member who has presented the Bill is to be commended for it.

Yes, I accept that we are not in the vanguard, but we are not tail-end Charlies either and we are right to take public health seriously. This is a serious matter and I think it is right. We have got about the balance right and I hope when it is practised, it will be practised in a practical, sensible way, but the underlying thing is public health and that is the number one priority. I commend the Bill.

The President: Mr Butt.

Mr Butt: Thank you, Mr President.

I would like to congratulate the Department, as well, on bringing this forward. I hope, when they consider regulations, there are not too many exemptions. I think it should be as strong as it can be to send the message home to people that this is a good thing for the public and the public health.

I think this legislation will, in hindsight, be seen to be a major piece of social legislation, which may bear fruit in 40, 50, 60 years' time as the health of people increases and it is to be commended for that. I think, when we look back on it, the fuss about the problems that may occur will be forgotten about within a year or two, because the evidence in Ireland and Scotland seems to be that it is not the problem people think it is.

There was a television play in 1980 on BBC called *The Flip Side of Dominic Hyde*. It was set in 1980, but it was about a time traveller who came from the future to 1980 and he walks in the rooms where people are smoking in 1980 and he is disgusted, he cannot believe they are smoking. It was on again this week, it was repeated. We have now got to 2006 and we have not moved on from 1980.

I was in a meeting last night where people were smoking and I hope that this Bill will take us into the future, where people do not smoke. I met a person last night who was looking forward to this, with his cigarette, saying when this happens, I am going to give up –

Mr Singer: He says. He says.

Mr Butt: – he says – and that will be his incentive and I hope that works for a lot of people.

Mrs Crowe: Yes, I do.

The President: Right, Mrs Christian to reply.

Mrs Christian: Thank you, Mr President.

I thank all Members for support of the Bill. With regard to the specific issue of brand sharing, as illustrated by the

Hon. Member, Mr Singer. It may be a difficult area in respect of regulation, but clause 8 does provide that the Department can make regulation in relation to brand sharing and I would just quote from it:

'The Department may by regulations make provision prohibiting or restricting, in such circumstances and subject to such exceptions as may be specified in the regulations, the use –

(a) in connection with any service or product (other than a tobacco product), of any name, emblem or other feature of a description specified in the regulations which is the same as, or similar to, a name, emblem or other feature so specified which is connected with a tobacco product...'

So they have got a job to do in the regulations and it could be difficult, but there is a balancing feature in... there is another subclause there, but in subclause (2) there is a provision which ensures that the Department, in making regulations, has to have a balance and that says:

'Provision made by virtue of subsection (1) may prohibit or restrict only that use whose purpose is to promote a tobacco product, or whose effect is to do so.'

The words 'whose effect is to do so' will be the one that might be debated in court or wherever it might be. There could be a difficulty where the same brand name is used on a variety of products, to argue whether or not, if you are selling luggage with a particular brand name on, that you are actually also promoting tobacco. It is going to be a difficult area, but there is legislation here which provides for regulation of brand sharing. I hope that the Hon. Member will be reassured that something can be done where brand sharing could possibly be used to encourage or advertise smoking products.

It has been said that we are not in the vanguard. It is regrettable that the Drug and Alcohol Strategy, in my view, did not adopt tobacco as a part of its work. However, it did not and it was left to the Department then to take it up and the Department have, over the years, now brought forward this legislation, which I feel quite sure will be welcomed by a great many people in the community.

Thank you, Mr President.

The President: Hon. Members, the motion that I put to Council is that the Public Health (Tobacco) Bill be read for a third time. Those in favour, Hon. Members, please say aye; against, no. The ayes have it. The ayes have it.

BILLS FOR FIRST READING

Local Government Bill First Reading approved

5. Mrs Christian to move:

That the Local Government Bill be now read a first time.

The President: We turn now to the Local Government Bill. The Local Government Bill, again, in the hands of the Hon. Member, Mrs Christian, down for First Reading this morning. Mrs Christian, please.

Mrs Christian: Yes, Mr President, just give me a moment. Right, thank you, Mr President.

The Local Government Bill 2006 contains a mixture of measures. Some are designed to provide increased safeguards and others to provide greater freedom for local authorities. Specifically, the Bill seeks to clarify the Department's statutory supervisory role by amending the Local Government Act 1985. In addition, the Bill's provisions are intended to help address a number of issues that have arisen over the years.

The Bill will cover several aims. It will clarify and refine the role of the Department in relation to the operation of local authorities. It will introduce provisions which will facilitate voluntary local government arrangements and it will also make new provisions relating to proceedings of local authorities, their financial management and the transfer of their functions.

The Bill also responds to certain issues that have been raised generally, and more particularly, following the public inquiries into affairs at Port St Mary and Braddan, such as the use of Standing Orders, accessibility of minutes, the Department's responsibility in relation to the setting of rates and the appointment of key officers by local authorities.

The Bill has been the subject of extensive consultation. It was first issued for this purpose in October 2005 to all local authorities, the majority of which responded. As one would expect with a Bill covering a wide range of different topics relating to local authorities, the views were mixed and wide ranging, as well. In response to the consultation, the Department amended several of its initial proposals, such as those in relation to technical assistance in clause 1, standards of performance in clause 2, arrangements between local authorities in clause 6 and Standing Orders, which are covered in clause 8.

After further consideration of the views received, the Department removed a provision that was in the original draft Bill relating to waste collection rate, which received no support. However, the provisions in clause 7, relating to the appointment of officers of local authorities, have been strengthened and, additionally, it includes the requirement that the appointment of any responsible financial officer required under the Audit Act be subject to the Department's approval.

Following consideration of the responses to the consultation process, the Department arranged a special presentation at the Manx Museum in January 2006 to provide feedback on the consultation to representatives of all local authorities and to clarify some points within the Bill which had not been fully understood by some of the local authorities. The Department also made some further amendments to the Bill, following views received at that presentation.

Mr President, the Bill is precise and limited and should have little impact on a well-run local authority. The Department believes that the Bill's provisions will improve the effectiveness and efficiency of local authorities, reduce red tape and ensure that checks and balances are in place to prevent authorities overspending.

I beg to move that the Bill be read a first time.

The President: Mrs Crowe.

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

The President: Mr Singer.

Mr Singer: Just a brief... to say I was very interested and I congratulate the Department on their consultation procedures, because it is quite clear that, with this particular Bill, they have taken into account the views of the local authorities and made efforts to go back to the local authorities to try and get as much agreement as possible.

I am afraid, my personal opinion is we have not had that earlier in the years of this session of Government, but I certainly think that, now, we quite clearly have the support of the local authorities on this. They have had their full say and I will be very pleased to support it.

The President: Mr Lowey.

Mr Lowey: One or two comments. I agree that the Department have taken great efforts to try and consult, but the idea that there is agreement with the local authorities, there is not. Maybe by some of the larger authorities, certainly not by some of the local, smaller, rural areas.

Having said that, I am in general support of the Bill, but I do want to point out one of the clauses at the end is the taking over of the swimming pools and being transferred and I want to make it quite clear that the Department's position is quite clear on this. We do not want to fight with the local authorities, with the swimming pools. Having said that, I have a view on it and I think the view is, at the moment the Department is picking up the deficiencies for all the pools and it is in excess of £1 million and they have no say over the deficiency and the running of that pool and that cannot be right. No matter what system, that cannot be right.

I illustrate it, for example, on the wages that were paid recently. The Peel Western Pool decided to up the rates for the swimming instructors by £5 an hour. Nice work if you can get it, but, of course, that has a knock-on effect to all the other pools, who have had to compete in that market, has had to put it up and it is way above the rate in the UK.

So, there is another example of the deficiency not being met by the local authority and yet the thing has gone up, but on the principle of whether we, the Department, is seeking to do it, we are quite happy to do it. We advise now all the board and the training, wherever we can help. We offer that as a matter of good government and it does make sense that these public utilities, the expertise should be shared and the National Sports Centre, National Swimming Pool, has got all that expertise and it is readily available, but the idea that somehow we are wanting to knock off the local swimming pools...

I think the north are in favour. I think the west are ambivalent and I think the south is opposed. So, again, what I am trying to point out that, although the negotiations in this Bill does say it, I wanted to make it quite clear from the Department's point of view... well, I personally believe that it would be in the best interest.

The Department do not want to take on the fight if we are encroaching onto an area, and I would be interested for the mover of the Bill to say what the feedback... or have I read it wrong? That is my initial feedback from the local authorities in that particular area, but I do commend the attempt to get consensus and I think the regulations that have been brought in and the overseeing by the local government, I think is necessary. I do not think we can have a free-for-all, as we have in the past, and I think the mere fact that the

rules are there should concentrate the minds a little bit more than it is at the present.

So I will be supporting the Bill.

The President: Mr Downie.

Mr Downie: Yes, Mr President, I, too, will be supporting the Bill. I think it has been a long time coming.

I have always advocated the importance of local authorities and, to some extent, have always favoured a review of their functions. Although that has not been possible to achieve in the past, I think what the Bill will do and sets out to do quite well, in my view, will enable them, the smaller ones, to work more closely with the big ones. For example, in clause 5 this will enable the Department, with their consent, to merge two or more local authorities, allows the local authority to make arrangements for other local authorities to discharge any functions on its behalf. It allows for the use of its premises or facilities by another local authority or its residents.

I was privileged to go to the Manx Executive Challenge recently and one of the young, vibrant groups of enthusiastic young people recently completed a survey on waste management, a matter that is always a topic for discussion. It was quite clear that, looking at their findings, there were over 30 (**Mrs Crowe:** Thirty-six.) refuse collection vehicles – I think the number was 36 – and they went into this very thoroughly and they were of the opinion that they could do the work by six vehicles. So there is obviously a lot of saving to be made in some areas.

Clause 10, I think, is very important, where the Department can put forward a ceiling on rates. There is no doubt in my mind, a lot of the present local authorities are being too belt-and-braces in their approach to rates and valuations, particularly when some of them have in excess of £10 million in reserves. You have to ask whether that is the right way to run a local authority, or should they keep, say, six months to a year in reserves and then let the poor ratepayer have the benefit of some of the money coming back into the system?

I fully support the view of my hon. colleague of Council, Mr Lowey, regarding the swimming pools. The Department of Tourism have the expertise, they have the technology, they do all the sampling, and that function fits quite well with what is going on within the National Sports Centre, and I think by bringing them all together we can be more efficient, effective and probably more cost effective in our operation, and, there again, there can be some saving made across the Island.

So they are three small but important points I want to get across and I am very pleased to see we are at this stage and at last we can do something that is going to be beneficial to the local authorities, and at the end of the day, the people who have to pay the rates and finance them.

Mrs Crowe: Exactly.

The President: Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

I really was not going to comment on the Bill and was driven to comment by the comments made by the Hon. Member of Council, Mr Singer, about the consultation and previous consultations. The local authorities on this Island have been consulted to death by the Department of Local Government and the Environment. The fact that they do not

always agree with what is part and parcel of the consultation, the automatic response is they have not been consulted, but I can assure you that there is a unit within the Department that does nothing but consult on a daily basis with local authorities, much to my amazement.

I also agree with the comments that my hon. colleague, Mr Downie, has made about swimming pools. I think it is important that things like safety standards are of a national standard and are delivered. I do believe there must be efficiencies made there within either pool instruction or pool maintenance, whatever it might be, rather than... and I do congratulate these local bodies that are running... I certainly would not want the onerous responsibility, without the expertise, which, certainly, when one is elected as a commissioner... and all of a sudden becomes the representative of a local swimming pool board, with what should be required expertise, and we know that one cannot have that expertise.

So I do believe that the expertise is within the Department of Tourism to manage these matters, and, of course, I totally agree with the ceiling on rates already mentioned and it is an extension, of course, of the powers that are already there for some local authorities at the moment, and have indeed been used on many occasions without it being made public by public wrangling.

The President: Lord Bishop.

The Lord Bishop: Thank you, Mr President.

I shall be supporting this particular Bill. When I lived and worked in the diocese of Portsmouth, it was said that the Isle of Wight was the most over-governed island in the whole of God's creation. I then had not met or been to the Isle of Man, which wins hands down. (**Mrs Crowe:** Yes.) I think, as the person who comes in from outside and who, God willing, will go away again at the end and stop being a nuisance to you all –

Mrs Crowe: No, we will not let you.

The Lord Bishop: – I think one of the great problems that the Island has to face is that it is grossly over-governed and that that is an appalling waste of money. (**Mrs Crowe:** Yes.) It is inefficient. The fact that an Island our size has differential rates I think is bizarre, to put it mildly.

Mrs Crowe: Do not tell that to anyone in Rushen!

The Lord Bishop: There are only 76,000 of us and it is perfectly capable of driving from one bit to another bit to enjoy what the other bit has paid for. I realise that, in one sense, this has not got a great deal to do with this, but I think, strangely, this is a sort of tinkering with the edges, that it is actually not addressing the real problem.

Mrs Crowe: At war with local government.

The Lord Bishop: I have immense sympathy with the Department for having to bring forward a Bill that looks like this and having to try and deal with the bits around the edges, but perhaps a Lord Bishop in another century will be able to vote for a new Local Government Bill that actually addresses the real issue.

Mrs Crowe: Abolishing them.

The Lord Bishop: The great thing is that, of course, turkeys do actually never vote for Christmas. They are never going to do that, and so going around asking local authorities what they think about something, you are always going to get the answer that they want, and at some stage, the national Government has to take responsibility and if the turkeys do not like it, tough. (*Laughter from Mrs Crowe*) The great thing is that, once again, I do not actually have any power to bring anything about in this particular way.

Mrs Crowe: What a shame!

The Lord Bishop: I have made myself, no doubt, unbelievably unpopular with every commissioner in every local authority, (*Laughter and interjections*) but in one sense I think somebody has to say it out loud, when there are a lot of people desperately trying to deal with the situation. I will support this Bill, I will support DoLGE in trying to address the problem, but in my opinion it does not address the fundamental problem which lies at the very heart of what we are talking about here.

I will offer my resignation when I go out of the door! (*Laughter*)

Mr Lowey: That is, if you get to the door!

Mrs Crowe: Just do not visit the parishes!

The President: Chief Minister.

Mr Gelling: Mr President, I was not going to comment, except to say I support byelaws, but I am afraid the previous speaker, the Lord Bishop... That is why the Island is unique, that is why we are different, that is why this is a place people want to come to, because we do deal with these things personally, and so on. (*Laughter*)

The Lord Bishop: What a turkey!

Mr Gelling: What I wanted really just to raise, Mr President, was when I got to clause 15, where it says that

‘...the Chief Registrar shall pay to the local authority any sum referred to in subsection (1)(a) or (b).
[2B] Subsection (2A) applies to an offence consisting of a contravention of –
[a] a byelaw made by a local authority.’

I am only using that, Mr President, to bring to the notice of the mover what I thought was something that is creating difficulties about byelaws: Government putting a great deal of money – and the Hon. Member, Mr Lowey, mentioned the NSC, where the NSC has put money in there from central Government to build a wonderful complex, but the car parking by the power station appears to be in the hands of the Corporation.

What I am asking here is, does that mean that the Corporation are the ones who benefit directly from what I am coming to, which is the aggravation that, certainly, I have had over the last fortnight, whereby they are discriminating against the youth of our Island, for which we are putting an awful lot of money in, where you have a cup final on Saturday between two local, obviously southern, clubs. They wait until the game has started 10 minutes and the officer comes up, goes right throughout, even booked the

Castletown bus that the people came on, the lads came on. I find that something that surely we should, in some way, have control. On Sunday –

Mr Butt: They were not there.

Mr Gelling: – Laxey are playing St George’s, or whatever, grown men, and it is free. I went to search when I was told about this and there is a little tiny sign – about that big – saying Monday to Saturday, £1 for 24 hours. I thought it was a commuter car park. I just thought it was dreadful that these kids (**Mrs Crowe:** Terrible.) and their parents and their grandparents –

Mrs Crowe: Hopefully, no one pays it.

Mr Gelling: I do not know, but 50 or 60 people at £30-odd a time.

Mr Lowey: Freedom to flourish, Chief Minister!

Mr Gelling: Exactly. I only raise it because I wonder –

Mrs Crowe: Let them flourish their penalty tickets.

Mr Gelling: – because I made some enquiries, Mr President, to find that they actually do this. They ring up to ask is there a big game on today and, if there is, they go up and they have got a flourishing –

Mrs Crowe: They are paying someone overtime to do it.

Mr Gelling: I just find that –

Mr Butt: They have done it before.

Mr Gelling: – wrong, and the thing that really... I had to smile at the end of it all, because the dear lady, Anne Garrett, announced 10 minutes into the game, ‘Be careful, because you will get booked out there in the car park,’ and she was booked, as well. So I thought, you see, because once they are –

Mrs Crowe: I hope no one moved.

Mr Gelling: – well in the stadium, the kids playing and those watching, they do not come out. So I just raise the point, is that directly a contribution to the Corporation? In other words, do they do it because it raises funds, (**Mr Butt and Mrs Crowe:** Yes.) or is that an amount of money that actually comes into central funds, to which we have a discretion? That was really the question.

Mrs Crowe: Oh, they are allowed to keep it.

Mr Lowey: It is a disgrace.

Mr Waft: Thank you, Mr President.

As a member of the longest-serving parliament in the world, I take exception to the view that we are grossly over-governed. With an unemployment of less than 2 per cent, with the best economic environment in the western world, I take objection to that. (*Interjection by Mr Downie*)

I support the Bill because of the history of local government recently. However, I do think there is a balance to be struck. If you are to continue to get goodwill from the local authorities, you must be able to take them on board (**Mr Singer:** Correct.) and not just dictate to them (**Mr Singer:** Correct.) and with this balance to be struck, I think that we will hopefully go through this Bill quite easily, but with that at the back of everyone's minds, I think we should be watching exactly what is happening to the local authorities and their views on the matter.

I take on board what has been said by the Chief Minister and I worry for the future Bills that we have with regard to the intentions of people to echo the views of what is down in legislation and how it is interpreted to the general public, so I think we have to be – we are – in a very special position in the Legislative Council to be able to peruse these Bills and make sure we come to the best conclusions at the end of the day.

Thank you, Mr President.

The President: Mrs Christian to reply.

Mrs Christian: Thank you, Mr President.

First of all, can I thank Members for their expressions of support in relation to the majority of the Bill. There has been consultation, as the Hon. Member, Mrs Crowe, has indicated, and, indeed, on this one there has been a pattern of consultation which I have described to you which has resulted in much support for some of the provisions and no support for others, and a mixed bag of support for certain other provisions. So you cannot win them all.

Mrs Crowe: Or anything at all.

Mrs Christian: With regard to the specifics in relation to the swimming pools, I think there are a number of issues there. It is not intended through this measure to indicate that it is the wish of the Department of Tourism and Leisure to go and take over the pools. I think it is a recognition that there are matters here that need to be resolved in due course.

For example, can it be right that those in the areas of the northern, western and southern swimming pool boards have a rate to pay when the east does not? Can it be right that in those areas... and again I would endorse the remarks made about the people who take on the responsibility on these boards. We are grateful to them but can it be right that they can impose a wage rise without any responsibility for the funding thereof, which leaves somebody else with a bill that they had not accounted for?

So there are areas there that do need to be addressed and I think the principle is that, in due course, at some point when a Council of Ministers, or a Department of Tourism, feels that the funding is right and it is appropriate to do so, that an Appointed Day Order could be made, if, in fact, this clause is accepted as we go through.

There has been comment, and again, I will talk about the remarks of the Lord Bishop, and we heard the other day about seeing ourselves as others see us. He clearly comes in with an outside view of the nature of our local authorities and sees us as vastly over-governed. I am not quite sure what the Hon. Mr Waft puts forward is relevant to the issue of over-government, or not, but however, there is, I think, a recognition in this Bill that the major problem is not being dealt with here. It simply is not being dealt with. This is not

about local government reform; it is about dealing with very specific issues of management.

There is an ability in the Bill for local authorities to co-operate, and if you cannot impose in relation to matters such as waste management, then the next step is to say, 'Right, co-operate.' You have the ability to co-operate if these measures are accepted –

Mr Butt: Big difference.

Mrs Christian: – and whilst the Hon. Member, Mr Downie, has illustrated, quite clearly, that there could be great savings made, if there were a rationalisation, earlier moves to rationalise put forward by the Department were not accepted. We hope that, perhaps, this freedom to co-operate will encourage them to look at the issue and deal with it that way, and it can either be driven by Government or, one of these days, ratepayers will wake up (**Mrs Crowe:** That is it.) to the fact that their resources are not always being best used and that some co-operation could make an improvement, certainly in some areas.

The Bill, as has been commented, will introduce a ceiling on rates, with some flexibility, and will address the question of reserves, which the Department considers do need to be addressed within a framework. The tinkering at the edges, which the Lord Bishop has referred to, is perhaps the case, and he talked about turkeys will not vote for Christmas. It is not the turkeys who will not vote for Christmas alone; it is their keepers who will not vote for Christmas either, because in Tynwald it has not been possible to persuade the majority of Members that something should be done about local authority reform.

Mrs Crowe: Absolutely, yes.

Mrs Christian: On the specific question of the car parking, to be honest, from the remarks that have been made, I can only assume that the car park belongs to Douglas Corporation and in that case, any charges and any fines in relation to non-payment will in future go to that Corporation. If there is a charge and people do not pay it, one might say they have every right to take steps, but to be discriminatory on different days, and when you have got a big crowd in, is perhaps morally indefensible.

Mr Lowey: Passing a notice that says 'Welcome to Douglas.'

Mrs Christian: Those are issues which, perhaps, could be taken up with the Corporation, but dealing with the principle of the law that we are going to look at, the changes we do seek in this measure are to give back funding to the local authorities, which we hope will encourage them to take action on issues which do need to be addressed, specifically, perhaps, in relation to litter or unsightly areas, or whatever it may be.

So I thank Hon. Members for their general support of this measure, Mr President, and hope that they will support the First Reading with their votes.

The President: And the motion, Hon. Members, is that the Local Government Bill be read for a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Gambling (Amendment) Bill

First Reading commenced

6. Mr Singer to move:

That the Gambling (Amendment) Bill be now read a first time.

The President: We turn, then, to the Gambling (Amendment) Bill, Mr Singer, down for First Reading.

Mr Singer: Thank you, Mr President.

The Gambling (Amendment) Bill 2006 is promoted by the Department of Home Affairs as an interim Bill prior to the progression of an all-encompassing Gambling Bill in 2007 that will provide for the regulation of all elements of the gambling industry.

The reason an interim Bill is required is that the all-encompassing Bill was large and complex and it was considered unlikely that it could successfully be progressed through all the legislative processes prior to the election and changes are required urgently to the current On-line Gaming Regulation Act (OGRA), to meet the needs of this new and increasingly important industry to the Island. The Department has consulted both internally of Government with the Treasury, the Department of Trade and Industry, and the Gambling Control Commissioners, who are all supportive of the Bill's provisions, and I am pleased to report that similar responses have been received from the industry.

The Bill is an extremely important piece of legislation, and if approved, it will provide for a modernisation of gambling legislation that will establish a regulatory structure in relation to on-line businesses that will, again, put the Isle of Man at the forefront of well-regulated jurisdictions. Since the Department has taken steps to update the secondary legislation, under which on-line casino sites can operate, the Department of Trade and Industry has been inundated with expressions of interest and these have already resulted in some of the largest gambling entities in the world commencing the process of relocating their businesses to the Isle of Man.

However, the Department is at present limited in the changes it can implement, particularly in relation to sports betting, through secondary legislation, because changes are required to primary legislation to modernise the regulation of on-line betting, which is currently regulated under rules that were designed to regulate betting shops. In this connection, the Gambling Control Commissioners have done a difficult job, in the circumstances, to regulate such businesses and have done their utmost to both regulate and assist the industry, while operating with outdated regulative mechanisms.

It is, however, becoming the norm that on-line gambling businesses operate in both sports betting and casino-type games and, at present, this requires operators to apply through two completely different application processes for two separate licences which then have to be regulated under two different incompatible regulatory mechanisms.

There is no doubt this has discouraged some companies from relocating here, and it has made life difficult for on-line sports betting operators. This Bill will resolve these issues by bringing all on-line licences under one application process to the Commission, removing the Department from the decision-making process and putting in place one regulatory mechanism, which will make the system easier to follow

for both the regulator and industry. The Bill is transitional and it provides a mechanism for commencing the process to put in place a Financial Supervision Commission type body for gambling by setting out the constitution of what is to be called the Gambling Supervision Commission, and to transfer the gambling functions of the Department to Treasury in a move towards similar arrangements being put in place as they currently exist between the Treasury and the FSC.

In this connection, the Gambling Supervision Commission will be required, for the first time, to produce an annual report, which will be laid before Tynwald for the purpose of keeping Hon. Members up to date on developments within the gambling industry. The transfer is essential so the Treasury is in a position, as the industry grows, to develop the Gambling Supervision Commission into a body of similar stature to the Financial Supervision Commission, with associated expertise.

The Bill also provides specific licensing objectives to ensure that the Commission takes note of Government's objective to provide a commercial environment in which gambling businesses can flourish, whilst also requiring the Commission to ensure minors and the vulnerable, such as gambling addicts, are protected, and I will refer to that shortly.

Importantly, an appeals mechanism is introduced for the first time, with licence applicants being provided with a system to appeal against the decisions of the Gambling Supervision Commission. Another important change is the ability for the Treasury to set different duty rates and licence fees to suit the many different types of gambling businesses, whose business models are quite different, because some will have a high turnover and small margins, others small turnover but larger margins. It is, therefore, essential that the Treasury is able to set individual duty rates etc according to business type and licence fees to encourage new types of businesses.

Mr President, can I just briefly mention there is a quite natural concern at the problem that gambling may cause some people and the protecting of juveniles. I would like to spend a few moments explaining the situation. The Isle of Man Gambling Control Commission, being the long-established regulatory body for most forms of gambling control in and from the Isle of Man, is fully aware of the damage, both financial and social, which can result from a gambling addiction. It is not a new issue, but with the advent of internet gambling and the availability of home computers, there is a great awareness of problems associated with a gambling addiction. As a result, the Commissioners have posted the following notice on its website under the banner '*Problem Gambling*' and it states:

'All holders of gambling licences in the Isle of Man are, as a matter of course, required to satisfy the Commissioners that they undertake and provide for a high level of social responsibility in their specific gambling activities, so as to ensure that, should a particular player be recognised as displaying signs of addiction, there is immediate access to help and assistance. The Commissioners are working with other international regulators to gain a broad understanding of the international context of this problem, and with local agencies in order to deliver best practice. It is anticipated that this work will evolve over the coming years as, regrettably, there are jurisdictions which permit internet gambling, but do not have any such policies in place and who are, in computer speak, just one click away.'

That is a statement that is on their site, and I thought it

might be useful to outline to Hon. Members what the industry puts in place in the light of best practice to protect those who are vulnerable.

In the formative stages of the e-gaming industry in the late 1990s, there were concerns expressed over the social controls and reputational aspects of engaging with this rapidly-growing sector. Not surprisingly, some of these concerns were born out of a lack of understanding of the businesses and the controls that were being put in place.

A good example would be the way in which the banking community has moved from initial caution, even a critical stance, to now, where they both recognise these businesses as being well managed, with strong procedures in place, and are keen to support them. At the gaming exhibition with the DTI last week in Montreal, HSBC, RBSI, Barclays and Lloyds TSB were all represented on our stand and I would like to say that they contributed to our costs.

Because this was a new technology-driven industry, which is made of modern systems and processors, the operators have in place some of the strongest and effective means, both for combating potential fraud, but also to ensure that they are fully compliant with all regulations covering anti-money-laundering and know-your-customer legislation. Across the industry, this has been recognised by the major banks and regulators alike.

Technology has developed sophisticated tools and products to be able to monitor individual player activity, aid compliance, deliver effective anti-fraud management, and to allow for real-time age and identity verification. Isle of Man operators adopt best practice by linking the leading companies who provide real-time age and identity verification. In this way, operators not only comply with regulatory requirements and protect their businesses, but they also ensure a commitment to socially responsible gaming by ensuring that no under-age gambling takes place and that any signs of problem gambling are identified at an early age.

Here again, the industry has been proactive in supporting organisations such as GamCare, which specialises in educating, advising and counselling on socially responsible gaming and does promote its services on their sites. It is a fact, also, that very few people gamble heavily on the net. In Europe, the average spent on having a bet, which may be over a several-hours' session, is £22, which compares with \$59 in the USA, and does reflect the fact that e-gaming and on-line gambling is a leisure activity for those who choose to participate.

In summary, Mr President, therefore, this Bill provides essential provisions that will modernise the regulatory environment in which the on-line gaming industry can expand to further develop into an additional and valuable element of the Island's economy. The Isle of Man is a success because it has identified many new businesses that fit into its economic model, and given the right environment provided by this and future Bills, this and other new industries will ensure the Island remains a success story envied around the world.

Therefore, Mr President, I move that this Bill be read for the first time.

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

The President: Mr Lowey.

Mr Lowey: I feel a little bit guilty, seeing I brought

through some of the original legislation. However, I am a pragmatist when it comes to this. I wish I was more reassured by the mover of the Bill when he says that they are taking account of what I would call vulnerable people. I am not reassured to be told that on the net there is a statement. That is hardly a defence, really.

I am not reassured when the mover says that they are removing the Department from the scene and they are giving it to a gaming board of commissioners. This is not a criticism of past boards of gaming commissioners or the proposed one. Who would speak on behalf of the industry in parliament if you have removed yourself from the scene?

We have already seen what happened when we removed ourselves completely from the scene with electricity, and therefore I am not reassured to that degree on that. I think there is a difference, as the mover said, that this is going to be a growing part of our economy. I do not believe that we should evolve the economy around gaming, really. I agree it is an element, but whether it is one that should be majored on is another thing.

The reality is we have two extremes, Mr President. I know, 15 years ago, we complained about licences for the bowling festival and we said, 'This is a nonsense in this day and age of betting shops etc. Let's get rid of that. It's part of the fun element, although they bet quite heavily, not externally, but the people who are there at that festival, it is part of the culture. That is a part of what the sport has engendered and it is part of the scene. Here we are having it every year and we said we would get rid of that. We have not. Fifteen years on we are still issuing licences for the special events to be held in June and September, or whenever they are held.

So there is one extreme and the other extreme, in my view, is promoting the country's economy on the back of e-gaming. I appreciate that it is big business because America is now legalising on-line gaming, or if they have not they are very close to doing that. There is a difference between what I would call encouraging the little fellow that is playing the bowls to gamble and the major on line. We have got to strike a balance.

I just thought the mover was trying to over-egg the economic advantages to what I would call the pragmatic approach that I have played, that it should not be denied, but whether we should be majoring as much as we are on the future economy of the Isle of Man on a gambling structure?

I do not like the thought of us distancing ourselves from the political realities of controlling it because I can just hear the next round: 'It's nothing to do with us, boys, it's them' and I think it is much better to have a hands-on and you be accountable to parliament for this. So, with that, I think I will be supporting it but I am just trying to get the balance right.

The President: Lord Bishop.

The Lord Bishop: Thank you, Mr President.

I find this quite difficult to express, but somehow I find e-gaming rather more difficult than face-to-face gaming and I am not quite sure where I am going in that statement but, somehow, it is the individual who sits on their own in their own home, separated from other people engaged in the business of betting and gaming. When you are doing it in a social gathering, there are people around you who can,

perhaps, say to you the time has come to stop, the time has come to rein in but, somehow, when it becomes behind closed doors in your own home, where is that?

Quite clearly here, there is an attempt at regulation but the personality has been taken out of it, it has become much colder. That is my first feeling. I think I have probably got to support this because it is about regulation and if I want any sort of regulation, I have got to support this particular Bill but I want to make it clear that I am not comfortable with e-gaming, I am not comfortable with e-gambling.

I also want to back up something of what Mr Lowey said about the reputation of this country and what it becomes known as. Are we going to become known as an e-gaming centre for the world? For many people that would not be perceived as a good thing. Some people are ambivalent about betting, some people enjoy it and some people are fervently against it, but do we want, as a country, our reputation to be harnessed to that particular wagon? I only put that down as a marker because if that is to be the main source of our income then that will be the reputation with which we are considered by the rest of the world and I think we need to know about that as we proceed down this particular avenue.

So, having read the Bill, I think I have got to vote for it because I think I have got to see put in place some kind of regulation for what is already going on but I want to put down in public, my two warning markers about e-gaming itself and about the reputation of this Island and its Government.

The President: Now, Hon. Members, I think at this point I need to know how many more want to speak and how long you wish to speak for. really... In that case, Hon. Members, I think it would be appropriate, in fact, if we did take a break. We still have two other Items to continue with, so we will resume our deliberations at 2.30 p.m. Hon. Members, we will speak in the order of Mr Downie and Mr Waft.

Thank you, Hon. Members.

*The Council adjourned at 1.06 p.m.
and resumed its sitting at 2.30 p.m.*

Gambling (Amendment) Bill **First Reading concluded and approved**

The President: Please be seated, Hon. Members. When we broke for lunch, we had actually reached a stage where I am inviting Mr Downie to contribute.

Mr Downie: Thank you, Mr President.

I think we need to cast our mind back a few years ago to the legislation that was in place to deal with issues like gaming and gambling on the Isle of Man. There is no doubt about it, in the last few years we have introduced a number of measures which really have, to some extent, stood the Island in good stead. They have brought into play some very good regulatory issues, but because the business of gambling and e-gaming is moving at such a pace – and now we are talking about electronic transactions as e-gaming and so on – there is a need to constantly review this type of legislation.

I am not saying that the Isle of Man should get out there and actively promote and encourage gaming but, at the same time, I think what we have got to do is understand that all of our competitors in the western world really, and now to some

extent in the far east, are reviewing their structures. They are all trying to attract the same type of business.

I would like to be in a position where we could say our economy is doing so well we do not need it. But, unfortunately, it is a legitimate business, like everything else, and I think what you have to do, if you are going to go into the world of gaming, you have to make sure that reputationally, your jurisdiction is very good. You have to have very good regulatory measures in place and it is useful to have some of the top IT companies in the world, based here in the Isle of Man, who have been developing their systems in line with the progression that we have made in gaming and they do provide a lot of checks and balances within the system.

The original gaming legislation that came along did put a ceiling in. It limited the amount of money that people could bet, it was compliant with 'know your customer' so that when people used plastic cards and so on they were not putting themselves in a position that the system was allowing them to get out of control.

The Lord Bishop said he was not comfortable with e-gaming, I equally would not be comfortable with a system where we had the bookie's runner and all the rest of it that most of us at this age in here, have probably grown up with. But the whole world of gaming has become much more sophisticated. When you think of the World Cup, which is coming up shortly in Germany, around the world there will be billions and billions of dollars, pounds, euros and yen, or whatever you want, wagered on that particular event. I think it is much easier for people to do that and there is no doubt about it, sports betting, as it is called, is one of the big areas of increase. Like the pace of IT and e-commerce, our legislation has to keep up to speed with all that is going on in the rest of the world.

I would not like, personally, to have a reputation of the Isle of Man being held up as the gaming capital of the world, I do not think anyone wants that, but what I would like to be in a position to do is to say that, yes, the Isle of Man does e-gaming business but it is well regulated, it is tightly controlled and there are a number of systems in place to make sure the business that is carried out here is legitimate. No way in the future would I ever see it as our main source of income.

Someone a lot more hardnosed than me would say it is probably just another tool in our armoury but, in saying that, I was brought up not to gamble. In fact, I suppose I am one of the few people who had my ear clipped by my father, being found in Reece's Billiard Saloon because he had a downer on things like that. I do not know what he would say if he was alive today.

I think when we look at the legislation that is before us, there has been a lot of work put into it and I am sure that a lot of the issues that may be raised this morning can be addressed. I think we are moving apace and, at the end of the day, I think what we have got here in front of us is an awful lot better and has more protection in it than most other jurisdictions. I think we should not lose sight of that. We need to be very professional, very focused and have a system that is very robust. I will be supporting the Bill.

The President: Hon. Member, Mr Waft.

Mr Waft: Thank you, Mr President.

Well, it is certainly a long time since the local police inspector used to bring his night stick down on the counter

of the bootmaker's shop because he was open five minutes after his couple of hours regulatory responsibility and the fact that the advertising sign outside the shop had to be no more than three inches high. Those days are gone, thank heaven.

Nevertheless, we still have the situation with regard to gaming and gambling. I am interested in the reasons why one thing is gaming and another thing is gambling. By any stretch of the imagination, it is all gambling, whether it is stock exchange or all the in-between, lotteries, etc.

I think we have to decide which way the Isle of Man is going and it is a very personal opinion. My own view is that although the mover did mention that it was a leisure activity, the fact is it is a multi-million pound business and if we want to survive in the world of multi-million pound businesses, irrespective of where they are, I think we should have to get on board and make sure the regulations are in place.

For many years since its inception, we have taken taxation and cuts and betting taxes from the local community and the business people, this is purely an extension of that, albeit a multi-million pound extension of the principle. Whether you agree with the principle or not, the fact is there is a lot of money for the taxpayer involved in this, as well. So there are issues for your social conscience and issues, practicalities, of how much money we need to keep the Isle of Man moving and achieve the necessary funding and all the different directions it is being claimed from.

So this is purely an extension of what we have now and it will regulate to some degree the business that is there to be picked up. I think to turn down this Bill will set us back considerably and I think we have to regulate it if we want to achieve the high standards of regulation, not the quandary within the gambling and gaming and that side of it.

The electronic software now is in place to make sure that regulations are adhered to and we must move from the old concept of the people who used to monitor bookmakers to actually get professionals in to monitor software and the capabilities of making sure that the regulations are in place and they are being adhered to.

Mr President, at this stage I am in favour of the Bill.

The President: Mrs Christian, Hon. Member.

Mrs Christian: Yes, thank you, Mr President.

I think, as far as I am concerned, there are two main issues. One is that we have sufficient regulation to ensure that we are not a conduit for illegal funds of any kind and that people know what the odds are and the thing is properly monitored.

The other aspect has to be this concern about the social consequences of gambling and the hon. mover did say that there is, as I understood it, a statement already on the website saying that we have a policy in relation to this and that there is some mechanism that, where there are signs of addiction, steps will be taken to stop that particular person from gambling. I would just like to understand a little bit more about that aspect of it, if he is able to give us any more information.

First of all, if it is just a policy statement without anything to back it up, it is a little bit hypocritical. I hope it is not, but I really would like to know what mechanisms can be in place, what are the signs, online, that someone is an addict, how do you monitor it and has anybody actually ever been stopped from gambling as a result of this policy?

The President: Hon. Member, Mrs Crowe.

Mrs Crowe: Yes, strange to relate, I had written on top of the Bill here when mention was made about how an early detection of addiction existed. So, like my hon. colleague, Mrs Christian, I would be quite interested in how, in fact, and I would think that the capability is there far more readily, perhaps, with the development of software for some kind of detection mechanism in a way that it would not be there when someone was sitting at a one-armed bandit and playing all day, every day, for the rest of their lives. So I would just be quite interested. Presumably, it will be some software trigger that is built into the technology and, in a way, I find that quite helpful.

I think we are detecting the words of most of Council, I think we all feel a little uneasy about gambling and I suppose it would be just the same if we were moving a drinking amendment bill because both have the same levels of addiction, I would suggest, and both can be just as damaging to homes and families, as each other. So I think we have to have a recognition that it is part of the industries of today and there are gains, as indeed my colleague, Mr Waft, has mentioned for the taxpayer, amongst others, by having this kind of industry on the Isle of Man.

I think once again, as we went back to the Audit Bill this morning, I think it will be the Island's reputation on regulation that will be whether our reputation is damaged in any way and I think that is one of the reasons that I am supportive of the Bill, because it is an insistence upon regulation and I think that it is very important that the Isle of Man should be shown in all aspects of its finance or service delivery industries to be well regulated and to have regulations that can be readily enforced.

The President: Chief Minister.

Mr Gelling: Yes, thank you, Mr President.

Again, I am supportive for the very reasons which have already been expressed, because it is putting a form of regulation in place. Never having been in a casino or gambled in my life, I was made a member of the Commission to look after the casino! It was one of my early jobs when I came into Tynwald and I learnt a lot about gambling and certainly about the areas of difficulty.

I support this from the angle that we do need the regulation, the same as we did when the banks first came into the Isle of Man. It was to keep an eye on them. We found that that was not good enough, we had to put regulations in force.

Just dealing with the point that was raised there about how can this be controlled, I was very interested in the way in which the regulations were being formed to regulate gambling. Somebody said what is the difference between gambling and gaming and, of course, gaming there is supposed to be an element, I should say, of skill, where the other is purely chance.

It is a situation whereby the banks were quite excited in the early days because, very much on the regulations side with the banks, you must not take any funds that do not appear to be legitimate; in other words to know your customer comes first and I was intrigued because, in this case, that is not the case because they have to pay in. Of course, this is where I think the software that Mrs Crowe talks about will probably start to indicate because they are not allowed to pay out until the 'know your customer' has been done.

So I would think there will be certainly indications there that if someone is going over their particular fund and what it is worth, there will be a trigger to say this person is now becoming addicted or otherwise. Certainly, with the thought of returning to Washington some time during the summer, I know that this will be one of the questions that we will be having to be very well up on and be very much... We have our regulations in place. The last time we were there, they were very interested in what the Isle of Man was doing, because of the interest of the American gambling people in the Isle of Man.

So I would say, if we returned without something like this in our briefcase that we would certainly have difficulties coming onto this point of risk assessment. What do we want to be known for? I think I would go along with Mr Downie: we want to be known as a reputable offshore jurisdiction who has got this well regulated, not the other way round, that we are just facilitating. I think that is what we need. We need to make absolutely sure that we are as regulated as you can be to allow it to happen, but not to be abused.

The President: Mr Butt, Hon. Member.

Mr Butt: Thank you, sir.

Like the Lord Bishop, I am slightly worried about the image of the Isle of Man in the branding exercise. I think it is important that this is not a major factor in the outside impression we give. But I can give some comfort to Members in that, in another life, I have been a compliance officer and an anti-money laundering officer for an on-line betting firm and at the last renewal of licence I went to... The Gambling Commissioners, as they are now, made it a condition of the licence – the main condition – that they do take action to make sure they identify addicts, people who are gambling with large sums etc.

I do know that, in the company where I was involved, they do have software which does pick out unusual patterns, which is part of the compliance function, people who bet regularly, or unusually, or big sums. As the Chief Minister says, I think the most they can take out is €3,000 and once they do that, they have to bring in the ‘know your customer’ documentation.

The company, I know, have taken it seriously and they are trying to find ways to identify addicts. I think the fact that I was looking over their shoulder, perhaps, made them be more compliant to look for money laundering etc and I hope that all companies behave in that way. That would be my worry that if we have lots of companies over here, whose main motive is profit, if they do not all have the same exacting standards, we could have some problems, which is why this legislation I would support.

The President: Now, Mr Singer to reply.

Mr Singer: Thank you, Mr President.

There have been a lot of questions so I will go through some points, not identifying what each Member said, but perhaps to clarify the whole situation.

I suppose the first thing I would say is that the concept of ‘online’ is still new and the Bishop talked about the ways of across-the-table betting, so we have got to remember that Isle of Man people can bet now online or on the Island, but we are not just talking about people in the Isle of Man betting, protecting those, we are talking about protecting people from

all over the world.

The nature of the business is that if a company is not here on the Isle of Man they can be anywhere at this stage, because, as long as they have got their servers there, then people have got internet connectivity to that, but what is happening now is that, whereas, maybe, in the past small companies did not want to be regulated, now the whole point of their business is they want to be regulated. They no longer want to be in areas like Costa Rica and Antigua. They want to be in an area which is highly regulated. The Isle of Man is highly regulated, we sell the triple A rating, the companies come here, we have got the best communications in the world and the companies float from the Island because they are major companies now.

So it was said – and I agree – we do not want anyone just to come here to be contributing to the economy. In fact, some of our regulations are such that certain kinds of businesses do not want to come here for the very reasons that I have stated, that we are so strongly regulated. This Bill now takes us out of the situation where, as I said in my original address, we had a Gambling Commission – Gambling Control Commission – which was formed originally to look after the slot machines at the casino, and suddenly they are pushed into a world here of internet gaming. That is why Members will see in the Bill the changing of the membership of the Commission to try and ensure that we have people in there who know the business inside out.

On the definitions, I am told that ‘gambling’ definition is all gambling; ‘gaming’ is casino type games; and ‘betting’ is sports betting. I think Mr Downie and Mr Waft had a very pragmatic approach. I think everyone is concerned about gaming and protection.

The software companies are very sophisticated. It is within that software that they can detect signs of gaming, signs of money laundering. I am told, actually, that if someone gambles – that is, playing say a card game, poker – that that particular person, client, you can go back on their records, seeing what they have played for two years, see the hands they have played and that, besides having the software, they also have people watching. They can detect when someone is not playing the normal games, so if you have got someone in the far corner of the earth, someone somewhere else and they can be seen to be deliberately losing (**Mrs Crowe:** Right.) they will stop it – they will immediately pick that up, which is so sophisticated.

There is a requirement – we talked about the warnings and the help – for each site to have a link to a gambling company that is helping against addiction etc, such as GamCare, such as GamAid, and gambling companies are also responsible for informing each other of problem gamblers. The sports business that we have talked about today will also be brought under these requirements, so they do work with one another.

The Isle of Man’s reputation is, throughout the world – and this is something we came across last week – that it has a high level of regulation but as I say, to an extent that it has discouraged some businesses from relocating to the Isle of Man. Therefore, I do want to make it clear that it is not the Isle of Man’s intention to be the on-line gaming centre of the world, but to be a centre of excellence with only the best of e-gaming businesses in the world located in the Isle of Man.

I have talked about software companies. We have the two top software companies in the world, that is Microgaming and Playtech on the Island here and all their equipment is

approved. It has to be tested and it is very sophisticated.

If I can then come back – and I know it is a major point with Members about how one detects, worldwide, the fact that people are underage – how they are becoming addicted. GamAid.com was the first online professional advisory service which was dedicated to serving the online gambling community, dealing with problems, wherever they arise and offering real help and advice. GamAid gives online gambling operators the facility to provide instant, real time, one-to-one access to professional help to clients who feel they are losing control of their gambling habit, anywhere in the world.

For the gambling organisation, it is quite simple. There is an active button placed on key pages on operators' websites. Clicking the button gives the client direct access to a trained adviser who can begin the process of helping to get their gambling back under control. The online advice is tailored to a client's need and may include step-by-step help with managing a gambling habit, one-to-one consultations and follow-up support sessions or even referrals to specialists.

GamAid also provides online links to support services, forums and specialist counselling, local to the client wherever in the world they might be, and there is even a custom gambling site self exclusion for those who want to take immediate action themselves, which prevents their PC from accessing any online gaming site until they feel they are in control again. They can also be detected, as my colleague here says, if somebody suddenly starts to increase their bets for some reason. That is detected and they can then be contacted or even closed down – their PC – from access, and the companies talk to each other.

Mr Lowey mentioned, I think, about the Gambling Supervision Commission membership and he felt that, perhaps, there should be some political control. Well, the new Gambling Supervision Commission is to be almost like the Financial Supervision Commission. There is no direct political involvement, but as far as the appointments are concerned – to the Gambling Supervision Commission – it was by the Council of Ministers and Mr Karran moved an amendment in Tynwald which then makes it now, not only approval of the Council of Ministers, but to be approved by Tynwald. Membership must include a lawyer as a Chair, and there must be a person with experience in online business and another with experience of gambling business, on the Gambling Supervision Commission.

The reason for having no political membership is to ensure the regulation of the industry is undertaken on an independent basis and the OECD, the IMF and Edwards are all of the view that regulatory bodies of financial and other such institutions should not have such political involvement in relation to the issuing of licences, regulating etc of these industries – there will be no political interference. We do not want political interference in these kind of Commissions.

In addition, there are monthly meetings of the on-line Gaming Forum, which does include political representation – the Treasury Minister, sometimes the Department of Home Affairs Minister – and this ensures that issues of concern are debated and resolved with Government involvement, so there is Government involvement.

Mr President, I hope with those points I have made it more clear as to the steps that are taken to protect gamblers, not just on the Isle of Man but all over the world, whilst ensuring that the companies that come here are only the ones who wish to be highly regulated, want to be highly regulated.

It is part of the whole of industry on the Island; this is part of it, and it does contribute and it will contribute, with duties etc, a good deal of money to pay for our services, but I hope we can understand more that the people wish to be reputable. The ones who do not want to be reputable will stay in their little places where they are not controlled.

With that, Mr President, I hope I have assured the Members more and I hope they will support the First Reading on this Bill.

The President: Hon. Members, the motion that I will put to Council is that the Gambling (Amendment) Bill be read for a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Regulation of Surveillance etc Bill

First Reading approved

7. H M Attorney General to move:

That the Regulation of Surveillance etc Bill be now read a first time.

The President: We turn, then, to the Regulation of Surveillance Bill, again down for First Reading today, Hon. Members. It is in the hands of Mr Attorney. Mr Attorney.

The Attorney General: Thank you, Mr President.

The principal purpose of this Bill is helpfully set out at clause 1 of the Bill. I can do no better than to read that clause:

'It is the principal purpose of this Act to provide a statutory framework to ensure that conduct (see section 2) involving the use of certain types of surveillance (for example monitoring conversations or movements) and the use of covert intelligence sources (for example, informants and undercover officers), takes place in accordance with human rights and to make appropriate provision for –:

- (a) the purposes for which the conduct may be undertaken;
- (b) the persons who may undertake the conduct;
- (c) the persons who may authorise the conduct;
- (d) judicial oversight of the conduct; and
- (e) redress for individuals.'

Mr President, the human rights aspect of the Bill is therefore emphasised.

As has been set out in the revised explanatory memorandum, which has been issued by the Department of Home Affairs, which promotes the Bill, the Bill is consistent with the Human Rights Act in the context of the use of covert surveillance, agents, informants and undercover officers. Most importantly, it provides for independent, judicial oversight of the powers in the Bill. The Bill puts a range of existing investigative powers on a statutory basis. The enactment of the Bill will remove one of the very few outstanding concerns as to the implementation of the Human Rights Act.

The Bill has been subjected to a report and a supplementary report by a Committee of another place, and to various amendments in that other place. I do hope that this important Bill, scrutinised and amended as it has been, will receive the approval of Hon. Members.

As appears in Part 1, the Bill applies to three types

of surveillance, as set out in clause 2, surveillance being explained in clause 3. The Bill is not concerned with obtaining or recording information by a covert human intelligence source, as defined in clause 5, in the presence of a source, nor is it concerned with the installation of a surveillance device authorised by a warrant issued under section 9A(6) of the Theft Act 1981, or under section 71 of the Anti-Terrorism and Crime Act 2003.

The Bill is, however, concerned with interception of a communication in the course of transmission by post, or a telecommunication system where the communication is sent by, or is intended for, a person who has consented to the interception and where the interception is not authorised by a warrant under the Interception of Communications Act 1988.

Clauses 4, 5 and 6 explain the meaning of directed surveillance, covert human surveillance source and intrusive surveillance.

Part 2, Mr President, is concerned with authorisations, the basic principle being that surveillance is lawful if an appropriate authorisation for the surveillance has been issued and the surveillance is in accordance with the authorisation.

Part 3 is concerned with the requirements for authorising direct surveillance and covert human intelligence sources. Persons who are able to grant the relevant authorities are the individuals holding such offices, ranks or positions with relevant public authorities as are prescribed by order of the Department. Where authority has been granted for carrying out directed surveillance, notice must be given to the Surveillance Commissioner, who is to be appointed by the Department.

Part 4 is concerned with the requirements for authorising the carrying out of intrusive surveillance. In this case, the authority must be granted by the Chief Constable or the Collector of Customs and Excise. Notice of the grounds or cancellation of an authorisation under Part 4 must be given to the Surveillance Commissioner. The authorisation cannot take effect until the Commissioner has approved the grounds of the authorisation in accordance with clause 16, although that requirement is not necessary in an urgent case. There is, Mr President, a right of appeal to a Deemster against orders made by the Commissioner.

Part 5 provides that the tribunal, which is established under the Interception of Communications Act 1988, has jurisdiction to consider and determine complaints, and there is a further appeal to the High Court.

Part 6, Mr President, deals with the appointment of the Commissioner and codes of practice.

So, Mr President, with that very brief survey of the various parts of the Bill, I beg that the Bill be read a first time.

Mrs Crowe: I beg to second, Mr President.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

Someone who has... I have noticed there are three of us, anyway, that have exercised this sort of onerous responsibility, and it is an onerous responsibility... Surveillance, it is somehow... It is necessary, regrettably, so therefore it should be properly regulated, clear and concise to those that have got to do it.

I think there has been a lot of serious thought. I think this has been regulated from the time it was first introduced in... I do not know when, exactly. The Attorney will be able to tell us when it was introduced, but it needs to be periodically updated, with technology changing and the like, and therefore I have got to support it. I think it had a very serious consideration in another place.

It is not a comfortable... it is a contradiction in terms, really, isn't it? We talk about the land of the free, and yet those freedoms come at a price and they have got to be watched and they have got to be carefully... because, regrettably, the world we live in today makes it important that we do it. That does not relieve the duty of a civilised society to make sure that it is done fairly and not as a matter of first recourse, but a matter of last recourse.

I think what we have got here is a legislative form that again reaches that balance of freedom for the individual with the rights to protect a lot of people from wrongdoing, and so, therefore, I am supporting the Bill.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

Generally, I am in support of this, but the only problem I have that, maybe, it is a little bit of one step too far. For instance, with regard to Part 3 – the covert human intelligence sources and authorisation of direct surveillance – under that it has got

'in the interests of the economic wellbeing of the Island.'

Just where somebody can have his telephone tapped in the 'economic wellbeing of the Island' does give me some cause for concern as to what would justify that. As the previous speaker has said, people have been in that position but I wondered whether they have the same ability to think about the interest of the economic wellbeing of the Island.

So it is just some of the phraseology in here does give a broad group of leeway for the regulation of surveillance. As we go through the Bill, I will, perhaps, be more aware of what they are trying to do with regard to this and the Human Rights legislation which it is passed to be, in part, because of this, the Regulation of Surveillance Bill has not yet been proceeded with. So I will be watching as it proceeds.

Thank you, Mr President.

The President: Clause 10(3)(c) has been deleted.

Mr Waft: I beg your pardon.

The President: Chief Minister.

Mr Gelling: I think, as being one who has to actually do this, it is, without doubt, a responsible job and I agree with the Hon. Member, Mr Lowey. It is something that there has to be a balance and that is the human rights of the people.

Also, of course, taking the point made that it is the security of the Isle of Man and for serious crime, of course this is where it is treated very much as a last resort. Again, things have had to be changed because, as the Hon. Member has said, Mr Lowey, the information technology changes. The invention of the mobile phone has created all kinds of problems because, at one time, basically it was a land line and that was the end of it, but now there are mobiles that are

picked up today and thrown in the harbour tomorrow, and so it has created a lot more of a bureaucratic nightmare for those that have to deal with it.

Without doubt, it is something that is taken by the Government extremely seriously for the very reasons that have already been made, Mr President, and that is the surveillance of somebody and looking at their human rights has got to be something that is definitely a last resort of trying to actually prevent, or indeed convict, those who do try to create a problem for the security of our Island, and serious crime.

Of course, without doubt, it is the drug menace of the Island which is probably the one that brings it to light on more occasions, but certainly I support the Bill, Mr President.

The President: Mr Attorney, do you wish to reply, sir?

The Attorney General: Thank you, Mr President.

I am grateful to Hon. Members for their general support for the principle of the Bill. If I could just refer to the points raised by the Hon. Member, Mr Lowey.

I think it is common ground that there must be a balance between the human rights of the object of the surveillance and the object of the Bill and, Mr President, if I may just take Hon. Members to clause 10 of the Bill, which I think is very important, and clause 10(2) at page 9. We can see there that

'An authorisation for the carrying out of directed surveillance shall not be granted unless the person having the power to grant it has reasonable grounds to believe

– that is an amendment brought in in another place –

[a] that the authorisation is necessary on grounds falling within subsection (3); and
[b] that the authorised surveillance is proportionate to what is sought to be achieved by carrying it out.'

As the Hon. Chief Minister has pointed out, in subclause (3) the grounds are that:

...it is necessary –
[a] in the interests of national security;
[b] or for the purpose of preventing or detecting crime, or of preventing disorder.

The interests of the economic wellbeing of the Island – that was a ground which has been deleted in another place.

Equally, Mr President, in relation to covert human intelligence sources, clause 11 makes it perfectly clear that precisely the same grounds have to be engaged before the authorisation can be made. So the Bill certainly does endeavour to strike the balance between Human Rights and effective intelligence gathering and there are all sorts of checks and safeguards which we will examine when the Bill's clauses are looked at, which enable someone who has a complaint to have his Human Rights very carefully scrutinised and safeguarded.

I thank the Hon. Chief Minister for his contribution, Mr President. He, of course, does have the experience in dealing with the Interception of Communications Act 1988, and, again, very similar tests have to be complied with, in relation to the operation of that Act.

Mr President, with that, I hope that Hon. Members will be satisfied that it is appropriate that the Bill be read a first time.

The President: The motion I put to Council, Hon. Members, is that the Regulation of Surveillance etc Bill be read a first time. Those in favour, please say aye. No. The ayes have it. The ayes have it.

Criminal Justice, Police and Courts Bill

First Reading approved

8. Mr Singer to move:

That the Criminal Justice, Police and Courts Bill be now read a first time.

The President: We turn, then, to the Criminal Justice, Police and Courts Bill. Again, Hon. Members, this is also for First Reading and I call on the Hon. Member, Mr Singer.

Mr Singer: Thank you, Mr President.

At the centre of the Department of Home Affairs' legislative programme is a commitment to reform and rebalance the criminal justice system, to deliver justice for all, and to safeguard the interests of victims, witnesses and communities.

The Criminal Justice, Police and Courts Bill 2006 contains an essential upgrading of the law to meet the needs of a modern society. When this Bill had its First Reading in another place, it contained 114 clauses. On 2nd May, when it was due for reading of the clauses in the House of Keys, it was on the Agenda following two other Bills, also at clauses stage. Unfortunately, these two Bills took the whole of the Tuesday to debate. Consideration, therefore, had to be given to the time available to progress the Bill on the Wednesday afternoon, and the dangers associated with progressing the whole Bill, which might result in the Bill being timed out.

In this connection, it was recognised that if the Bill did not proceed to Third Reading the following week, it was likely to fall by virtue of the number of sittings left before the election. Because of this factor, it was decided to conduct an exercise to ensure that provisions that were critical to the Department, the courts and other organisations were progressed and those that could be delayed for nine months were omitted from the Bill.

This was not an easy exercise because the Department recognised that every clause provided valuable additions to the criminal justice processes. However, it was decided that, to ensure that the critical elements of the Bill were progressed, some provisions would have to be progressed in the next Bill, which it is intended, subject to the necessary approvals, to be presented to the Keys in February 2007, with a view to the delayed provisions coming into force in July 2007.

As a result of those decisions, the Department was successful in moving 48 clauses and we now have this shortened Bill before us. Although the Bill has been reduced, it is still a positive first step forward in the fight to rebalance the criminal justice system, so that we can restore the faith of victims and witnesses.

At this stage, I would like to thank the Hon. Member of Council, Mr Downie, and the Island's shooting fraternity, for the invaluable advice that was given to the Department during consultation with regard to firearms. The Department will be reforming the Firearms Consultative Forum to discuss any future firearms provisions that are deemed necessary.

The proposals in this Bill contain a balanced package, with public interest being weighed against individual rights. We need strong and effective action, balanced with the protection of the rights of the individual. Upholding both does not undermine civil liberties, but is absolutely fundamental to securing justice and public confidence.

Time and again, we do hear voices of disquiet that the balance has shifted too far in favour of the accused, and the rights of society to be protected take second place. This is a legitimate concern which must be addressed, and this Bill goes some way to doing so. Anti-social behaviour is as corrosive to community life as more serious crime. It is petty crime and public nuisance that cause real distress and anguish to people – vandalism, graffiti, aggression and threats.

That is why part of this Bill introduces anti-social behaviour provisions to allow a court to grant an interim Anti-Social Behaviour Order if it deems that it is necessary to protect persons from further anti-social acts whilst the main order is progressed, and to allow the courts to issue an Anti-Social Behaviour Order as part of the sentence to a person convicted of a criminal offence, to prevent re-offending or victimisation of persons involved in the case.

The Bill introduces provisions for the protection of witnesses, jurors and victims during the investigation of an offence or during proceedings of an offence. This covers intimidation, harming or intending to harm, and harassment. The Department is using the opportunity presented by the Bill to make some much-needed miscellaneous amendments to legislation.

The Bill will provide an exemption from the requirement within the Fireworks Act 2004 for a person, in the course of their trade or business, using fireworks for special effects purposes in the theatre, on film or on television, to notify the Department or place a notice in a newspaper published and circulating in the Island, advertising every time they intend to use a pyrotechnic. The Act has been amended following concerns expressed by the Film Commission and members of the film industry because of the nature of filming and the need, for example, to change filming schedules due to the weather.

The Bill will modify the provisions of the Emergency Powers Act 1936, which is currently restrictive and only allows for certain events to be classified as emergencies. The new definition of emergency introduced in this Bill will include terrorism which poses a threat of serious damage to the security of the Isle of Man, and events which threaten serious damage to human welfare in a place in the Island, or to the environment of a place in the Island.

In this regard, the Minister for Home Affairs made a commitment in another place to consider further amending the Emergency Powers Act in relation to the role of the Governor in Council in regard to emergencies. I have made brief references to some of the provisions within the Bill, and, of course, we will be having a much more detailed discussion during the passage of this Bill through Council.

I would like to give notice that the Department intends to move an amendment in Council to provide a power for the use of electronic monitoring to be attached to any order or a sentence of the court prescribed by the Department of Home Affairs. Again, more information will be provided on this matter when the amendment is moved.

All in all, Mr President, the Bill is representative of the current need to provide protection to our society, whilst containing safeguards to protect fundamental rights of the

individual. The reform of the criminal justice system is both essential and urgent.

Therefore, Mr President, I beg to move the First Reading of the Criminal Justice, Police and Courts Bill.

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

The President: In that case, Hon. Members –

Mr Lowey: Could I just –

The President: Mr Lowey.

Mr Lowey: It is just a general point, really. I just find it rather strange that we get Departments of Government coming now and saying, ‘Oops, the timetable isn’t right.’ We were talking about training senior civil servants this morning, sir, and they get it wrong every time. They knew the timescale and the timetable and in this particular business of getting the legislation through, this Bill was signalled three years ago in the timescale of things and here we are being told major parts of it have had to be omitted, not because it has not been consulted and all the rest, but because of the sheer timescale. Really, this is a reflection on the Department and the Government, surely, that they have not got their act together, for whatever reason.

I think it is wrong for the Department then to say, ‘Well, this is the Bill we would have liked to have had, but we cannot introduce it because of the time,’ as if it was some outside body that prevented it from actually taking place. I do not think that is good enough. I really do not think that is good enough and I find it rather strange.

It would be different if we had had a full timetable in our legislative programme, but from October until Christmas virtually, there was hardly anything crossing our tables. We raised it in this Council: could we actually introduce some legislation to try and get the thing on an even kilter, which I presume was rejected. So I find it rather strange.

Coming back to the Bill, the parts that have been omitted by the Department, I really have to ask what are the parts that have been... Are they all only what I would call the... not detrimental, the contentious bits have been removed? Some of the contentious bits are the very bits that really should be getting moved and the mundane left, because they may or may not be the vital pieces of the legislative machinery that is required. I have no way of evaluating that. I can only trust that the Department has.

But the general point I am making, Mr President, is that I do not think it is good enough for the Department to come along and say, ‘Well, we’re running out of time, boys,’ especially when they have signalled this for three years and it is the end of the parliamentary session, and I do not think, as I say... Perhaps I am being a bit too critical of the Department, but I do think it is regrettable that now half the Bill is being emasculated, not because of anything we have done, or because the timetable has not been adhered to by the Department.

The President: Chief Minister.

Mr Gelling: Yes, thank you.

Again, I have been brought to my feet to speak by the Hon. Member, Mr Lowey, and of course he says, ‘Am I being too critical?’ I would suggest, perhaps, that he is on this occasion

being too critical, because I would like to appeal to the better nature of the Hon. Member in saying that actually it is the consideration of Members... Members expressed certain concerns within this Bill and there was a great fear that, in fact, there would have been so many amendments that it would have gone to a committee, and, of course, there are certain areas of this Bill that are more important than others.

So I would like to appeal to the Hon. Member and say a sensible decision was made in that consideration that, in fact, the areas that were *really* necessary are left in the 48 clauses which we have. It is regrettable that time did not allow, but I think a sensible decision had to be made at that time. What do we do? Do we pull the Bill altogether and not introduce it until the next administration, or do we try to get those clauses which are in here, which Members had expressed not the concern, perhaps, as they had with the others, so that, in fact, we would have that on board? So I would appeal to Hon. Members that this was a way in which we could get what is really required through in this particular administration, to enable us to carry out certain areas of the Criminal Justice and Courts Bill that are deemed to be absolutely necessary.

I would ask Hon. Members to actually consider that it was done as a way in which, not in any shape or form that the Department wished to withdraw, but it was the way, and the only way forward, that we could see that we could actually get it through in this House, sir.

The President: Lord Bishop.

The Lord Bishop: Thank you, Mr President.

Mine is a point of detail that, when we get to clause 104, which, God willing, we will before the last trumpet sounds, (*Laughter*) which is the Fireworks Act 2004, I am interested that, slipped into the middle of this, is an amendment of a Bill that we took some time over and suddenly, because the film industry finds it inconvenient because it rains on one day, they can put a firework display on the next day, when the rest of the population of the Island have to go through a set of hoops just to let off fireworks at any other time of day.

Yes, I could be being curmudgeonly about that, but there is also the fact that if, for instance, a particular group of people have been warned that there will be a very loud firework display in their area on day-whatever, and they have done something about their local animals in order to protect them, and suddenly it rains on that day, so the fireworks all go off the day after, without any foreknowledge whatsoever, we are in a quite difficult situation.

I would like to be assured that that is not the scenario that we are heading for when we come to that particular bit and I do not quite like the way in which it is slipped in as clause 104, in the hope that we might not notice it amongst all the other clauses.

The President: Mr Butt.

Mr Butt: Thank you, sir.

I just inform Mr Lowey, Member of Council, that I am quite pleased the Bill has been emasculated, because I found many sections in it which I did not agree with, I did not approve of, and I notice they have mostly gone from this Bill. Obviously, other Members in the other House must have felt the same, so I suspect that is why it has not gone forward. Not a question of timing, but because they were contentious.

I was looking forward to battle with Mr Singer over the

next few weeks on this, but they have all disappeared, so –

Mr Lowey: So there! They ran the white flag up!

The President: I do not know whether Mr Butt had finished quite –

Mr Butt: I have sir, yes, I am just pleased to say that some of the contentious issues are missing and no doubt they will come back again and then we can discuss them in full.

The President: Now, Mr Lowey, if you wish to come back, I will be kind to you.

Mr Lowey: Thank you, Mr President, you always are considerate.

It still does not explain – the Chief Minister has not explained – how this Bill was signalled to come in on the parliamentary session three years ago. It was on the list to be introduced and out at this stage. I mean, did they think they were going to get a clear run bringing it in in May to the branches? No-one has explained – the Government has not explained – why it was not introduced in October, at the beginning of the session.

The President: Maybe the Member in charge might have an answer for you. Any other Member wish to... Mr Waft?

Mr Waft: No sir, just to say that I think there has been full consultation with the court side of the Bill and I think they are fully in support of the Bill in its entirety.

The President: Mr Singer to reply.

Mr Singer: Thank you, Mr President.

The Department would have very much liked to have had that full Bill through but there have been various... Members will be well aware of some of the dealings... some of the matters that Home Affairs have had to deal with over the last couple of years that were not anticipated. In fact, they have had to take preference and the staff resource, the legislation staff resource had to deal with other issues.

Further resources have now been provided and whilst I would love to have done battle with Mr Butt, that will have to wait to another time (*Interjection by Mr Lowey*). It was a case, really, of a practical decision: did you go ahead with all the Bill, with the risk that it might fall, or did you go ahead with a smaller Bill and hope to get that through? I mean, if Members cause a lot of problems we may still not get it through.

Mr Lowey: Encourage me!

Mr Singer: I will not encourage you, no.

If I can briefly refer to the fireworks mentioned by the Lord Bishop. The Fireworks Act was not the effects of pyrotechnics. What we are talking about in films is pyrotechnics but I would hope that if it was changed, if they changed the day for an obvious reason... it would cost an awful lot of money if you cannot do your filming, if not one day, the next day, that the people in the vicinity, it would be made sure that they were informed, either by letter through the door, on the radio, whatever, so that you had made every effort to tell people that the fireworks display, which are

usually very short, anyway, for the films, would be taking place that following day.

Hopefully, that would be satisfactory but to have to go to get a new licence etc would be very costly and could well discourage people from coming here filming in the first place.

Mr President, with that, I hope it has answered the questions and I move the First Reading of the Bill.

The President: Hon. Members, the motion, then, is that the Criminal Justice, Police and Courts Bill be read for a First Time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Criminal Justice, Police and Courts Bill **Standing Order 22(2) suspended** **to take Second Reading**

Mr Singer: Mr President, as it is still early in the afternoon and we are rather pushed, would it be helpful if I was to, at this stage, do another reading and, perhaps –

The President: Well, you will have to get Members... Are you suggesting, sir, that we suspend Standing Orders to take the Second Reading?

Mr Singer: – perhaps Members might, if Members would think it useful at this time to do it, unless they have other things to do. I am sure they have, but –

The President: Now, Hon. Members, I am in your hands.

Mrs Christian: Mr President, I am happy to second the suspension of Standing Orders for the purpose of having a Second Reading but not the clauses, (**The Lord Bishop:** No.) because I think we have only just had placed before us the amendments today.

Mr Singer: Right, okay.

Mr Downie: Mr President, I am not entirely sure, but I thought there was a successful amendment, a further amendment to the Fireworks Bill in the other place. It gives a little bit more leeway –

The President: There is. There are three, actually, to clause 143.

Mr Downie: That may go some way to satisfying the remarks made by the Lord Bishop. (*Interjection by Mr Singer*)

The President: Hon. Members, I have the... Mr Waft, do you wish to –

Mr Waft: Just with regard, Mr President, of the number of clauses not moved, an awful lot, I would have thought we should have had a new Bill. After all, it could have been produced in that time.

The President: Now, Hon. Members, irrespective of

that, you have the proposition by Mr Singer that we should suspend Standing Orders to allow a Second Reading of this particular measure to be taken, but not the clause stages. It has been seconded by Mrs Christian. Does any other Member wish to speak to that one?

In that case, Hon. Members, I put to Council that suspension of Standing Orders be granted to allow the Second Reading of this particular Criminal Justice, Police and Courts Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Criminal Justice, Police and Courts Bill **Second Reading approved**

The President: In that case, Mr Singer, having got the approval of Council to take a Second Reading, it is over to you, sir.

Mr Singer: Thank you, Mr President.

As I have just said at the First Reading, the subject of criminal law reform arouses strong public debate wherever it is raised and I would like to take this opportunity, first of all, to thank Members for their input in the First Reading and to thank them for supporting the Bill.

One thing I would like to say to Members, if there are any points between now and next week with reading the clauses, if there is anything they are not sure of – and the Bishop has spoken about the fireworks clause – please contact me or the Department to clarify the matters. The officers will be very happy to do so, if that would help Members in the smoother passage of this Bill, particularly Mr Butt.

It was unfortunate that the Department had to cut down the amount of clauses included in this Bill, but I would hope that Members would appreciate the need to defer some of the clauses to enable what, I hope, will be the successful completion of the critical clauses. Although the Bill has been cut down to, in fact, 49 clauses because Mrs Hannan moved a new clause successfully, I still feel that it is a positive step forward in the fight to rebalance the criminal justice system, so we can restore the faith of victims and witnesses.

As for the clauses that have been removed from the original draft of the Bill, the Department will merely move them to the next stage of their continuing overhaul of the criminal justice system and consider them for inclusion in the next Bill, which will be focusing on crime and disorder and youth justice. There is a need to continue to build on what we have already achieved by rebalancing the system to deliver that fair balance between the rights of victims, witnesses and the rest of law-abiding society and the defendant. A modernised criminal justice system demands justice for all and we are on course to deliver it.

In this regard, Mr President, I therefore beg to move that the Criminal Justice, Police and Courts Bill be read for a second time.

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

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

I am not a grumpy old man, as most people tend to think,

Mr Chief Minister. Can I just say, though, that I welcome Mr Singer, the mover of the Bill's, invitation to get a brief or if we have got any queries, but I have to remind him that, as parliamentarians, the real debate takes place on legislation around this table and on this floor and not in the committee rooms or in the offices of the Department.

I know Mr Singer is very conscious of that and what he was saying was, in effect, to be helpful, and I readily accept that, but I do think and I have to state this publicly because I think too much is getting done in legislative terms by going to meetings. That might sound contradictory, considering this morning I was praising the fact that we had a committee meeting with the auditors and what have you. For specialist things, yes, and a one-off, but not in substitution for what should be raised and can be raised around this table so I just make that.

Mr Singer said in his final comments to us this Bill will help to make it a better and fairer place to live in the Isle of Man. I think that is the general thrust of the legislation, I have no doubt about that. I, like Mr Butt, tend to think, though, we need to challenge.

People in executive places, wherever they are, would like us all to be – they are control freaks – they would like us all to be able to do things when they want. When they say jump, we are not to challenge, should we jump at all, but we tend to say how high – and I know I am going over the top a little bit here but that is the truth of the matter and that is not just unique to the Isle of Man, that is the world over.

In this particular Bill, I believe that the Department has tried and if there is a lesson to be learnt from this, Chief Minister, it is make legislation in biteable, sizeable chunks and not try to shove a big wadge of things in one particular Bill. You cannot resolve the world's, or the Island's, problems with one Bill. It is much better taking them in slices and that is the only thing that I have to say.

If I am again rereading the new Bill and, like Mr Waft, we just have the delete, delete, delete, we have to go through the Bill, it will be a bit more difficult. Having said that, if there are difficult ones that I find difficulty with, I will certainly go to the Department, I have no difficulty with the Department, they have always been helpful but I reserve the right to ask an awkward question or two next Tuesday.

The President: Chief Minister.

Mr Gelling: Just a small point. We have just got what has been omitted from the Bill. Are we fairly well assured that, take for argument's sake, not moved 4 in section 1(1), three months, £1,000. In other words, has it been checked through that there are no knock-on's of what clauses have not been moved, that, in fact, it does not annul the rest of the Bill.

I am only asking, really, to make sure that it has been vetted, to make sure there are no omissions that, in fact, we would want to reintroduce, maybe, at clause that they have omitted downstairs to make the Bill correct.

The President: Well, all I can say to Hon. Members is that the Bill that we will deal with is the Bill which comes to us from another place. Whether or not Council, in their

wisdom, decide to reintroduce something, that is entirely up to Council. Mr Butt.

Mr Butt: I would just like to say I will be supporting the Bill, as it stands at present. I broadly agree with it. It has been pared down to the essentials, which I am pleased with and when the wadge, as Mr Lowey says, comes forward, that is, maybe, the time when there may be some contention.

The President: Mrs Crowe.

Mrs Crowe: Just a comment to, perhaps, the person who may well occasionally be considered as a grumpy old man. Very often we hear that same person asking for miscellaneous provisions bills to be brought forward and I think, actually, this is what this Bill is. It is trying to encompass a lot of legislation, various types, within the one Bill, so I cannot think we could criticise the Department for that reason.

The President: Mr Waft.

Mr Waft: Just a point, where it has been 36 clauses in my estimation have been removed – more than the mover said – so it is difficult to find out which ones have actually –

Mr Lowey: Euthanasia in practice!

The President: Right, Mr Singer reply, sir.

Mr Singer: Can I take that last point first. I think that actually 66 clauses were taken out, but I have a list here of the ones that are left in. If it would be useful for Members I could get copies of these circulated to Members. Would that be helpful?

The President: I think anything that would assist Members would be – if you think it is going to assist, Mr Singer, by all means copy it to us.

Mr Singer: Mr Gelling's point: I am told, yes, checks have been made that there will not be any loss of interaction as such, if that is the word. I know what Mr Lowey is saying. I do not disagree with him on the point about having smaller Bills.

I would, finally, like to say, in moving the Second Reading, I do not think Mr Lowey is a grumpy old man, I just think he is grumpy. (*Laughter*)

The President: Hon. Members, the motion that I put to Council is that the Criminal Justice, Police and Courts Bill be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that draws to a conclusion our Order Paper for today. Our adjournment will be to 30th May, next Tuesday, Hon. Members, at 10.30. In the interim, Hon. Members of Council will now sit in private.

The Council sat in private at 3.40 p.m.