

**REPORT OF PROCEEDINGS OF  
HOUSE OF KEYS**

**Douglas, Tuesday, 25th May 1999  
at 10.00 a.m.**

Present:

The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Mr R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon W A Gilbey (Glenfaba); Hon S C Rodan (Garff); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Messrs J P Shimmin and Hon A F Downie (Douglas West); Hon J A Brown (Castletown); Hon D J Gelling (Malew and Santon); Sir Miles Walker CBE LLD (hc), and Mrs P M Crowe (Rushen); with Prof T StJ N Bates, Secretary of the House.

*The Chaplain took the prayers.*

**Rates – Basis for Calculation of Value – Question by Mr Karran**

**The Speaker:** Hon. members, we turn to our order paper, item 1, and I call upon the hon. member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I beg to ask the Minister for the Treasury:

- (1) *Which factors form the basis for the calculation of the rateable value of individual properties;*
- (2) *do any of these factors vary solely on the geographic location of the property;*
- (3) *if so, how are these variations established; and*
- (4) *do you find these arrangements satisfactory?*

**The Speaker:** I call upon the Minister for the Treasury, the hon. member Mr Corkill, to reply.

**Mr Corkill:** Thank you, Mr Speaker. This is a complex subject and therefore it is not possible to give a short answer if I am to cover all the points, so I indulge hon. members' acceptance of what is a lengthy response. Also I will ensure that the hon. member is provided with a comprehensive answer and will ensure that he receives a copy of the fourth schedule to the Rating and Valuation Act 1953 and a paper prepared by the assistant government valuer on how our rateable value is assessed.

Part (1) of the question. Rates are primarily a tax on the occupation of property and therefore a rating assessment is firstly determined by reference to a gross value, which is briefly the annual rental value on the assumption that the property is vacant and to let, with the tenant paying the rates and with the landlord to carry out any repairs necessary to maintain the property in the state to command that rent. This basis applies irrespective of whether the property is owner-occupied or rented and is known as the hypothetical tenancy. The authority for the foregoing is the Rating and Valuation Act of 1953.

To arrive at a rateable value, a fixed statutory deduction is made from the gross value under the authority of the fourth schedule to the Rating and Valuation Act 1953. For example, for dwelling houses and other buildings, or other buildings, only the deduction is 20 per cent or one fifth. 'Other buildings' applies to commercial and non-factory hereditaments as factories are allowed a higher statutory deduction of one third. The present levels of gross values that are applied to all categories of rateable hereditaments are based upon actual rental evidence obtained, analysed, adjusted to fit the statutory definition and then used for a general all-Island rates revaluation that was completed around 1972. The rental information for the period 1968-1970 established what is known as a 'tone of the list' to which all new or altered properties were subsequently related and which will stay in place until there is a revaluation. It should be noted that a ratepayer or rate collection authority can object against a gross value but not directly against a rateable value, although the latter determines the actual rate poundage paid by the application of the various rates in the pound as a multiplier against it. What indirectly affects a rateable value is precisely those factors that would have a direct impact on the level of annual rental income, not capital value, appropriate for the property, either fixed by a valuer following the practices established at the 1972 revaluation or by application to the Rent and Rating Appeal Commissioners, whereupon a gross value can be reduced or in some cases increased.

There are a wide number of factors that are taken into account in arriving at a gross value prior to fixing a rateable value by the application of the relevant statutory deduction. Permanent allowances are generally those established at the time of the 1972 revaluation based upon rental evidence at that time or fixed by quasi-judicial decision via the appeal system or by established rating case law based upon interpretation of the meaning of rating legislation. Such examples would be rental adjustments of the gross value for rural location, category and size of the hereditament, permanent nuisance that affects occupation, access problems, substantially lower rental values for agricultural dwellings - agricultural outbuildings are exempt - layout of the accommodation, age of the building, lack of basic amenities such as a bath or toilet for domestic accommodation, the number of relevant ancillary outbuildings such as garages, storage sheds et cetera, the lack of mains services such as water and electricity supply. Temporary downward rental adjustments of the gross value are given provided that there is a disability that will persist for the greater part of the rating year and there is a sufficient degree of disability - for example, new estate building work, plus associated lack of made-up roads; a building incapable of rateable occupation due to alteration work or due to its condition being beyond reasonable landlord repair, and buildings are taken to be in reasonable repair as per the statutory definition of gross value unless there are exceptional circumstances. I would ask hon. members to note that the foregoing reasons for a rental adjustment is not an exhaustive list and they are sometimes misrepresented as a rates reduction. That is unfair when compared to those properties that do not have them. This is not the case; they are rental adjustments to the gross rental value that statute prescribes should be fixed on all rateable hereditaments based upon established rating practice and rental evidence and which can be subject to a reference to the Rent and Rating Appeal Commissioners.

In answer to part (2) of the question, there are a wide number of factors that are taken into account for which in some cases do include geographical location.

In answer to part (3), an example of a geographical rental adjustment for a particular property would be a rural location allowance which may include allowances for lack of reasonable access, mains water supply or an electricity supply where the location is particularly isolated. When rental values prior to the 1972 revaluation were found to be lower in some parts of the Island than others it was reflected in the gross values at that time, and these will be continued until there is an all-Island revaluation. The 1972 revaluation was based upon actual rental value evidence that existed prior to the revaluation and, where rental evidence indicated different rent levels within individual town areas or in the countryside or in different parishes or villages, then this would be reflected in different gross values as statute determines that rental value is the basis of a statutory gross value, which is the precursor of the rateable value. Such allowances are usually represented as percentage deductions, having been established at the time of the 1972 revaluation and having survived the appeal system at that time or by decisions of the Assessment Board and Rating Appeal Commissioners. However a rates bill can vary depending on the local rating authorities' rate in the pound, which is a more true geographical differential as opposed to the all-Island water rate.

Part (4) of the question, Mr Speaker - the answer is yes, until there is an all-Island revaluation that changes the present tone of the list to a new one based upon modern rental values.

**Mr Karran:** Vainstyr Loayreyder, a couple of supplementaries. Could the minister inform us, for any new legislation as far as values are concerned, will he start looking at capital values instead of rental values, and could he explain why he was so vague when we talk about variations in location? How can he justify that certain villages that are prime places to live have a 30 per cent, 40 per cent or even 50 per cent rate value reduction on those houses? The identical houses will be half the rateable value if they were built there than in Douglas. How can he justify that and is this not just totally unjust and needing to be sorted out as a matter of priority?

**Mr Corkill:** Mr Speaker, with regard to the hon. member's suggestion about capital valuations, this is an exercise that the Treasury has been looking at, is looking into, to see what that would do to the nature of the rating system. It is certainly one option for producing rate revenue. Having said that, the existing legislation is quite clear: it relates, as I have alluded in my answer, to rental values and rates are a property tax. Now, the hon. member says that my answer was vague. I was concerned that the answer was too long inasmuch as it is a complicated subject and the issue he raises about rural properties in relation to town properties - there are a number of issues. One of those, of course, is the services that are available in that area in terms of how rates are set by local authorities, but of course we have a situation where the water rate is an all-Island rate and therefore the hon. member is obviously interested in the actual valuation of each property one by one. It is a difficult subject to debate just in a question, but I can assure the hon. member that the issue of capital values is being looked at, and I think that I will be able to circulate sufficient information to explain to hon. members how valuations are produced at the moment.

**Mr Karran:** Vainstyr Loayreyder, a supplementary. Would the minister please, then, do a list of an identical semi that was built in Douglas and what the rateable value would be in Douglas? We are not talking about the rates; we are talking about the rateable value. And

would the minister do an identical property in all the other parishes throughout the Island where we can find that a property that was built in Douglas would be one rateable value, a property that was built in many of the towns that have the same services and the same facilities as everywhere else can be 40 per cent, 50 per cent lower. This must be wrong. Would the minister see as a matter of urgency that the Council of Ministers gets this revaluation done and gets it done on a basis of the property being done on a capital basis? Would the minister also look at the possibility of making sure a detailed plan as far as identical properties is concerned is made available to members so that they can see the totally unjust way the rateable values are in this Island and how unjust they are at the present time?

**The Speaker:** I think the hon. minister may be able to do an exercise, but I doubt if he has that information this morning. The Treasury minister to reply.

**Mr Corkill:** As I have said already, Mr Speaker, Treasury is looking at the capital valuation as an exercise to see what impact that will have. What the hon. member is really pressuring for, I suspect, is a total revaluation for the whole Island. Now, we have looked at that in Treasury once or twice in my time as Treasury minister; it is a very expensive exercise that will cost millions. It may be that at the end of the day that is the only way forward, but I would suggest that in terms of expenditure the government has other priorities at the moment, and I feel, and Treasury felt some months ago, that it was not justified in spending this amount of money to do an all-Island revaluation, but it may be, as situations change and as new services come on stream - water infrastructure, sewage infrastructure, all these things which perhaps will impact on how rates are charged - these sort of areas may well pressure for a total revaluation and maybe that cost will have to be borne at some time. But I would also point out that I have very little comment from the public in regard to this subject and I think by and by mostly people are generally content with the level of rates that they pay at the moment. Obviously there are variations throughout the Island. Obviously nobody will be completely content, no-one likes to have to pay taxes, have to pay their rates bill when it comes, but generally there has been very little comment about that and I know the hon. member is interested from the water rate point of view, but there is a situation here where the water rate is an all-Island rate and local authorities of course produce differential rates depending on geographical location and services et cetera for different parts of the Island, and these are the issues that have to be balanced up. At the end of the day rates are a property tax and that is based on rental income, as I have already said.

**Mr Shimmin:** Mr Speaker, as one of the representatives for Douglas I can assure the hon. minister that this is something which does get a considerable amount of discussion. Could the hon. minister comment upon also the dissatisfaction regarding not just the rateable value of properties, but also the single occupancy of properties, which is also a major concern to those persons living in properties who have very large rates in the Douglas region, but who also as sole occupants have a higher proportional rate to pay?

**Mr Corkill:** Well, of course, Mr Speaker, this is the very debate that the United Kingdom went into in some detail and of course was known effectively as the Poll Tax, because you are now talking about charging people for services on a per capita basis. That is not something that I think would suit the Island. I think we should learn from other jurisdiction's mistakes, but if one starts talking about individuals as opposed to properties, then that is the route you start to go down. It is a very complex issue. There are a number of ways that services can be

charge for. One, for instance, for the water rate could actually have a set fee per dwelling: whatever the cost of the water is, just divide that up by the number of dwellings or the properties in the Island, and we have done that exercise in response to an hon. member's request and found out that rural properties would actually pay less for their water than they do at the moment, so it is a complex subject with no easy solution, but I do feel that perhaps a revaluation of the properties throughout the Island is inevitable because it is so long since it was done last time, but I would actually favour a formula of modification to that situation which brings us up to modern present-day situations reflecting the rentable capability of properties that are on the Island as of today rather than those of 1972.

**The Speaker:** The hon. member for Onchan. I think a final supplementary, sir.

**Mr Karran:** Vainstyr Loayreyder, would the minister not agree that we are talking about rateable values, not rates but rate levels, and would he not agree that it is totally unjust that you can have differentials - 30 per cent, 40 per cent, 50 per cent - in different locations throughout the Isle of Man where an identical property will have the rateable value of half, not the rates, and would he also not agree that where you have virtually mansion houses in the country that have less rateable values than council houses, there is something wrong with the system, and this is a fact at the present time?

**Mr Corkill:** The second point that the hon. member says is not the case and that has been gone into in the past, and the situation is, as I have said already, it is based on potential rental value and a number of factors are built into that in order to ascertain that figure and, if the hon. member is saying that rentable values for similar properties are the same throughout the Island, then I think he is mistaken.

### **Douglas Harbour Area – Consequences of Road Widening – Question by Mr Henderson**

**The Speaker:** Item 2, hon. members, and I call upon the hon. member for Douglas North, Mr Henderson.

**Mr Henderson:** Thank you, Mr Speaker. I beg leave to ask the Minister for Transport:

- (1) *What proportion of berthing, working and other space will be lost in the upper Douglas harbour, Tongue and Leigh Terrace areas as a consequence of the department's road-widening and car parking schemes; and*
- (2) *what immediate effect will these schemes have on existing users of the areas; and*
- (3) *what future practical implications of these schemes have been identified by your department?*

**The Speaker:** I call on the Minister for Transport, the hon. member for Castletown, Mr Brown, to reply.

**Mr Brown:** Mr Speaker, there are no working berths or other working areas affected by the proposed widening of the South Quay or Leigh Terrace. The widening of the road at Leigh Terrace and South Quay will be accomplished by encroaching into the river and harbour by between two and three metres. The difference in reclaimed width is due to the design of the new wall smoothing out the profile of the river bank and quay and incorporating various projections on the quay wall within the new design. The culverting of the river to enable construction of a roundabout and parking area will cover a length of approximately 108 metres

along the south side of the Tongue. This would leave approximately 80 metres clear for use by small vessels without masts or large cabins.

In answer to part (2) of the question, the immediate effect will be felt during the construction period, when all of the boats moored in this area will have to be moved for safe access to the site by the contractor. Those vessels which need to be moved will be located to other similar berths in the inner harbour.

In answer to part (3) of the question, the future practical implications are the loss of about 10 berths with the possibility of losing all of the current 15 berths. Thank you, Mr Speaker.

**Mr Henderson:** Mr Speaker, could the hon. minister give this House some assurances, then, given that the Tongue area was originally bought by public subscription at some time in the past - what assurances can he give the present users of the area who have got their berths and so on and working spaces that they can continue to enjoy the services that they do now for the foreseeable future?

**Mr Brown:** Yes, Mr Speaker, the honest answer is I am not able to give any assurance that anybody is entitled to have anything within a harbour area. However my department is conscious of the needs of boat-owners in the Isle of Man and within the Douglas area and will endeavour to accommodate that within the harbours in the Douglas area.

**Mr Duggan:** Mr Speaker, could I ask the minister, would he take the opportunity to meet the owners of the small craft regarding the facilities in the harbour and also the charges? (**Mr Houghton:** Hear, hear.) There is a lot of concern down there, sir.

**Mr Brown:** Mr Speaker, whether or not we have a meeting is a matter that certainly I will give consideration to and speak with my colleague, the hon. member for the Legislative Council, Mr Kniveton, but can I say I am surprised there is this concern about the charges, because my understanding is that a small craft is only paying less than a garage in terms of the annual cost and therefore we are talking of a small charge. As far as fees for the new area, no fees have yet been determined. What we have is a lot of rumours.

**Mr Duggan:** That is the concern.

**The Speaker:** The hon. member for Douglas North, Mr Houghton.

**Mr Houghton:** No, thank you, sir, my question has been answered.

**Mr Henderson:** Mr Speaker, given the considerable uncertainty from the hon. minister's answer that he cannot give any guarantees for existing users for the future, can he give a guarantee then that the prices will not be increased as a result of these schemes or any other schemes that might be incumbent on the area in question and that the small boat users and people who use the work space there will not be disadvantaged in any way?

**Mr Brown:** Mr Speaker, there is a great danger that we are trying to generate that boat-owners have a right. The boat-owners have no right except they have access into a harbour, and it must be kept in context that we are trying to improve the area of Douglas. We can keep charges low and do absolutely nothing; what we are trying to do is improve the facilities for existing boat-owners to try and encourage new people to use Douglas harbour, to provide a floating berth area that would be afloat for 24 hours a day for those who wish to use that facility and to accommodate existing boat-owners. No decisions have yet been made as to the

final outcome. Therefore we are, I can say, conscious of some of the concerns that have been expressed. We are also very conscious of the rumours that are being generated which have no foundation whatsoever, and if people would wait instead of speculating and making up their own stories about fees and so on, it would make life a lot easier. What I can assure the hon. member for North Douglas and other members is that we are very conscious of the needs of local boat-owners who wish to remain in the Douglas harbour area for the use of their boats and facilities, and we will take that on board very seriously in any consideration that we give.

**Mr Henderson:** Mr Speaker, I thank the hon. minister for his assurances of taking boat-users' needs into consideration and of course they want nothing but improvements themselves, but could I ask the hon. minister, in conjunction with the hon. member for South Douglas Mr Duggan's earlier question, could he not then accede to a meeting with all parties so that full and proper communications can be undertaken so that there will not be any misunderstandings or rumours, sir?

**Mr Houghton:** Hear, hear.

**Mr Brown:** Mr Speaker, I indicated in response to the hon. member for South Douglas that if that was necessary my department would be only too happy to do that. However, I do not want to give a false impression of a meeting at this stage because, to be honest, there is nothing yet to discuss. Once we have considered the options available to us at the department level so that we know what options are available in terms of whether we charge, what we charge and so on, then clearly it would be in everyone's interest to have a meeting with representatives. However, I think it is a difficulty when you are dealing with representatives, because many of the boat-owners might not be linked to an organisation or whatever, but we will give consideration to that. What I would say is that from our point of view there is no point just sitting there speculating about what might happen. At this time we have not determined any fees for the use of the boats within the inner harbour. That is an issue that we are considering. We have had a couple of initial meetings and instructions have been given to staff to look at options. At this stage, though, no consideration has been given to figures in terms of finalising any figures.

### **Douglas Outer Link Road – Improvements – Question by Mr Houghton**

**The Speaker:** We go on to item 3, hon. members, and I call upon the hon. member for Douglas North, Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker. I beg leave to ask the Minister for Transport:

*Does your department intend to undertake road improvements to the section of the Douglas outer link road from Watterson's Lane at Ballanard Road to Cronk-ny-Mona and, if so, when?*

**The Speaker:** Yet again I call on the Minister for Transport, the hon. member for Castletown, Mr Brown.

**Mr Brown:** Thank you, Mr Speaker. It is my department's intention to undertake some improvements to Watterson Lane, Douglas, and it is anticipated that the works will start during the financial year 2001-2002.

**Mr Houghton:** Mr Speaker, would the hon. minister please clarify what improvements his department intends to undertake, sir?

**Mr Brown:** Yes, Mr Speaker, we are looking to do some junction improvements and also we are endeavouring to progress a longer-term scheme, which would be to widen the road up there and which will require land purchase, and my department has already agreed to endeavour to purchase land to enable us to carry out a scheme.

**Mr Henderson:** Mr Speaker, I am grateful for some of the news the minister has given us there, but can he give us an assurance that, whilst undertaking these improvements, his department will give all due consideration to the very urgent need of some of the narrow footpaths in the area that is under consideration at the minute and is causing particular road safety issues?

**Mr Houghton:** Hear, hear.

**Mr Brown:** Mr Speaker, my department is well aware that the situation in Watterson Lane, as in some other areas of Douglas and throughout the Island, is not ideal in terms that we already recognise we need to widen the road in that area. We are already conscious that the pavement that was built in part of the area is narrow. The reason for that was land was not available. We could not get additional land and the department took the decision to at least provide a footway, albeit not to the full maximum width, so we are conscious of the problems in that area. We are endeavouring to progress a scheme and of course land purchase will be an important issue.

**Mr Houghton:** Mr Speaker, noting that the pavement in question is that that runs virtually along the side of Cronk y Berry new school, would the minister perhaps undertake to site the pavement on the other side, the department side, of the hedge as a road safety measure, sir?

**Mr Brown:** Yes, Mr Speaker, I am not in a position to prejudge how the actual scheme will come out. All I can say is that to improve the safety of both pedestrians and traffic we are endeavouring to proceed with a scheme for that area, and of course the vital component to that is land purchase. The next component to that, of course, is the cost and getting it into the budget. So there will be some works undertaken, we hope, in the year I have mentioned, which is the year 2001-2002, and the larger scheme is to be progressed as we can get that into the programme.

### **Procedural**

**The Speaker:** Hon. members, I am aware that the Court clock has now turned half past ten and we have but seen off three questions this morning. I call upon the hon. member for Ramsey, Mr Singer.

**Mr Singer:** Thank you, Mr Speaker. I move:

*That standing order 43(2) be suspended to enable the remaining questions tabled for oral answer at this sitting to be put.*

**Mr Duggan:** I second, sir.

**The Speaker:** Agreed, hon. members?

**Members:** Agreed.

**Mountain Road – Safety of Roadside Ditches – Question by Mr Houghton**

**The Speaker:** We turn then to item 4 on your order paper, and I call on the hon. member for Douglas North, Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker. I beg leave to ask the Minister for Transport:

*Are you satisfied that the roadside ditches on the mountain road which have been infilled with stone are consistent with an appropriate level of road safety for -*

- (1) normal road users; and*
- (2) the competitors in races?*

**The Speaker:** Again I call on the Minister for Transport, the hon. member Mr Brown to reply.

**Mr Brown:** Thank you, Mr Speaker. In answer to part (1) of the question following the major works on the mountain road following the land slips, it was determined that the functionality of the roadside ditches, which are storm-water drains, was of paramount importance. Hence the construction that we have undertaken, which allows for a good flow of storm-water away from the road. It is considered that the present condition is fully consistent with road safety requirements. The road edge has been clearly marked over the last year with reflecting road studs, the edge painted line has been renewed in a new thermo-plastic material to give better edge clarity and grip. The open nature of the material also prevents water that runs off the bank from running onto the road surface. This is of considerable importance for road safety, especially in freezing winter conditions which often are experienced on the mountain road, where it reduces the threat of ice build-up on the roadway and therefore reduces potential dangers to the motorists.

In answer to part (2) of the question, the department is constantly in communications with the TT course committee and the track maintenance officers and they are fully aware of the works that have been undertaken on the mountain road. Thank you.

**Mr Houghton:** Mr Speaker, notwithstanding the obvious aspects of drainage on the mountain road in that particular area, is he aware that these particular stones are currently causing a serious hazard whereby they are being thrown up by vehicles towards the windscreens of other vehicles, and does he not consider this to be potentially dangerous, sir?

**Mr Brown:** Mr Speaker, I am aware of one incident, and only one incident, where a stone was thrown up into the roadway. However, that happened because the vehicle concerned that threw the stone up went off the roadway and went into what is a ditch, and I think we have to keep in mind that the road area is the tarmacked area, hence why the studs are there, the white lines are there, and people are encouraged not to drive on what is a water ditch, a drain.

**Mr Houghton:** Mr Speaker, continuing from that though, sir, would the minister not consider providing a steel grid cover similar to those used in the UK for the mountain road? Is this not a more appropriate measure which would be acceptable for both racing vehicles, motorcycles and sidecars and the use of anybody else who gets too close to the ditch, sir?

**Mr Brown:** Mr Speaker, certainly I am happy to ask our people why they did not put a steel covering ditch there. My understanding, though, is that it is because of the amount of water that actually comes off the mountainside which is so considerable that we need quite a

large stormwater drain, to use a term. The department in the past has endeavoured to put down stone with a very. . . and I am not sure of the word, but like a tarmac, but it allows water through. That was found not to be successful. Because of the problems of the dangers to the roadway itself it was decided to put virtually an open ditch which is full of stones to allow the water to go through it. I would make the point that it is important that motorists stay on the roadway. If that was a wall and not a ditch they would have hit a wall. So therefore the responsibility is on the motorist, but I will certainly ask why a ditch was not undertaken and the hon. member will be advised.

**Mr Singer:** Could I ask the hon. minister, in the light of the considerable unforeseen land slippage by the mountain road and on other land in that area, have the DoT engineers been asked to check the stability of other land, particularly along the length of the Laxey/Snaefell railway track?

**The Speaker:** I think we are drifting away from the question.

**Mr Duggan:** Off the rails!

### **Householders' Overhanging Trees and Hedges – Question by Mr Houghton**

**The Speaker:** We will move on to item 5, hon. members. The hon. member for Douglas North, Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker. I beg leave to ask the Minister for Transport:

- (1) *In each of the years 1997, 1998 and 1999 to date, how many notices were issued to householders requiring that they trim back trees or other vegetation overhanging footpaths or roads;*
- (2) *what procedure is adopted to check that there has been compliance with such notices; and*
- (3) *where there was found to be non-compliance, in each of the years concerned how many of the notices were followed by -*
  - (a) *issuing a written warning; and*
  - (b) *prosecution?*

**The Speaker:** I call upon the Minister for Transport, the hon. member for Castletown, to reply.

**Mr Brown:** Thank you, Mr Speaker. In answer to part (1) of the question, no notices under section 51 of the Highways Act 1986 have been issued during the period 1997-1999 to date. However, the department has contacted householders where complaints have been received to seek their co-operation for the removal or trimming back of overhanging hedges or trees.

In answer to part (2), after contact has been made the area inspector will then inspect the property some time after a two-week period to check that the work has been carried out.

In answer to part (3) in the cases of non-compliance my department will carry out the work to remove the obstruction in the interests of public safety. Thank you.

**Mr Houghton:** I thank the hon. member for his answer, sir.

## **Douglas Harbour – Marine Collision – Question by Mrs Cannell**

**The Speaker:** We turn then to item 6 on your order paper. The hon. member for Douglas East, Mrs Cannell.

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

- (1) *Will your department be conducting an investigation into the marine collision which occurred in Douglas harbour on 11 May 1999; and*
- (2) *if so,*
  - (a) *who will conduct the investigation;*
  - (b) *will its terms of reference embrace safety considerations which may arise from the site of the existing gas storage facilities; and*
  - (c) *will the report of the investigation be made public?*

**The Speaker:** Again the Minister for Transport, the hon. member Mr Brown, to reply.

**Mr Brown:** Thank you, Mr Speaker. In answer to part (1) of the question, my department is carrying out a review of all berthing procedures involving the use of the Battery Pier tanker jetty in Douglas as a consequence of the recent incident involving the gas tanker. However, it is the Department of Industry's marine administration who are conducting an independent investigation into the circumstances surrounding the loss of control of the *Fenja Kosan* and the resulting collision.

In answer to part 2(a), my department's review of harbour operational procedures will be undertaken by the director of harbours. However, the conduct of the marine administration's independent investigation is a matter for the Department of Trade and Industry, of which the hon. member is a member.

In answer to part 2(b), the proximity of the oil and gas storage facilities in Douglas harbour area is a factor that will be taken into account in the review undertaken by my department.

In answer to part 2(c), my department will be making its review of operating procedures public. The Department of Industry's marine administration's independent report will, I understand, be distributed in accordance with their usual criteria and will be made available to the public. Thank you.

**Mrs Cannell:** Mr Speaker, can the hon. minister advise as to whether or not a risk assessment has ever actually been conducted into the transportation of liquid gas within Douglas harbour, its transfer to the storage tanks and the storage within the tanks adjacent to the harbour? And, if so, could he advise when such a risk assessment was carried out, by whom it was carried out and what was the outcome of the assessment?

**The Speaker:** Minister, if you have the reply.

**Mr Brown:** Well, yes, Mr Speaker, somewhat detailed questions which I had no knowledge of until the question is just asked, and the answer to that is I do not know if a risk assessment was undertaken. However, what I can advise the hon. House is that the health and safety executive of the Department of Local Government and the Environment over many years have endeavoured to improve the situation on South Quay with the storage of fuels and

have utilised the experience of UK professional people to advise them of that, and the health and safety executive of the Department of Local Government and the Environment have made recommendations based on that report and, with the fire service, have endeavoured to improve safety in that area. Whether or not a risk assessment was undertaken I am not aware. Again, I will certainly endeavour to find out if we have any knowledge of that and would advise the hon. member. However, it may well be it is more appropriate to ask the Minister for Local Government and the Environment because health and safety is a matter for them, whilst my department of course recognises it has a responsibility within the harbour and its own land.

**Mr Karran:** Vainstyr Loayreyder, a supplementary. Is the minister aware that the gas was originally brought up the harbour and it was stopped several years ago because of a health and safety check, and does he not agree that this incident just highlights the danger that there is there with this amount of industrial produce in the South Douglas area? And would he look at the possibility of having land reclamation done around at Port Skillion and around the Marine Drive to remove all petroleum and gas installations around so that if any incident does happen at least the explosion would go out to sea and not turn South Douglas open plan?

**Mr Brown:** Mr Speaker, I think we all recognise that where you store any material such as gas or petrol or whatever, then there is a potential danger. What the hon. member for Onchan, Mr Karran, has just suggested would cost millions and millions and millions of pounds to transfer to the area he is talking about. I can advise that when I was Minister for Local Government and the Environment we endeavoured to promote a scheme with a grant from government to move some of the facilities out of the South Quay for two reasons: one was safety and the second was to improve the whole environmental ambience of the South Quay. Unfortunately we were not successful in getting support from government to encourage that scheme to go ahead, but what has been undertaken since then is the consideration about safety. There is a safety plan in place in case of an emergency and that comes into operation when such an incident occurs, as happened when the boat crashed into that quay.

**Mr Henderson:** Mr Speaker, could the hon. minister answer, what legislative provisions regulate the transportation of liquid gases in Douglas harbour, its transfer to storage tanks in the adjacent area, do these regulatory provisions meet UK requirements and also do they reflect standards acceptable to the Chief Fire Officer?

**Mr Brown:** Mr Speaker, as far as the safety of operations within the harbour, then we would tend to follow what is recognised internationally. What members must realise is that Douglas harbour is a relatively small harbour which, over the last century anyway, has developed into a multi-purpose harbour and it has developed for many reasons, firstly because it is the main harbour of the Isle of Man. What we endeavour to do with the fire service, with the health and safety executive, is to ensure as far as possible that we make it as safe as possible and that we take into account what is required to safeguard the public within the confines of the operation within the harbour. I would make the point that the vessel that was involved is a double-skinned vessel; in other words, whilst the outer part of the hull is the ship and its shape, if I use that term, within that is contained another tank which contains the gas. So even if the outer part of the ship, the hull, had been breached, the gas would have been contained in another container within the hull of the ship.

**Mr Braidwood:** Mr Speaker, can the minister advise is there a contingency plan providing for an emergency involving the transportation of liquid gas in Douglas harbour and

the storage of liquid gas in the harbour area and, if so, when was it issued and when was it last reviewed?

**Mr Brown:** Mr Speaker, the Douglas harbour emergency plan was developed in 1994 and developed out of the concerns that were being expressed at that time about safety of gas in the area. Hon. members will also note that Kosangas, 'Douglas Gas', as we call it - when they developed the 'big ball' as we use the term which contains gas, the next phase they did was they actually part-buried the gas container in the reclaimed area of the new breakwater. The reason for part-burying it is that if there was ever an explosion then, based on expert information from those who deal with these things, the explosion would go up into the air and not go sideways. That is why it is covered with soil and material on its sides.

As far as the safety plan is concerned, my understanding is it is reviewed on a regular basis and certainly, after the experience of this incident, there will be a meeting between the officers, as I understand it, who will review the situation as to whether or not the plan was effective. My understanding is it was effective.

**The Speaker:** Item 7, hon. members -

**Mr Quine:** I beg your pardon, Mr Speaker.

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

**Mr Quine:** Thank you, sir. Can the minister advise, have there been other incidents or accidents involving liquid gas transporter vessels in Douglas harbour and, if so, when did these incidents or accidents occur, were they investigated and did investigative reports issue?

**Mr Brown:** Mr Speaker, I am personally not aware of any other incidents. I think there may well have been one when they moved the tanker out from near the inner harbour area, and certainly my understanding would be - because I was a minister at that time that any incident involving a ship is automatically investigated by the independent marine administration, and also any actions would be taken based on that report. As far as health and safety is concerned, all I can say is there has been a lot of input by the health and safety executive of the Department of Local Government and the Environment with expert advice from the United Kingdom on this whole issue and we have to recognise that when we are transporting materials, as any Island has to do, by ship there are always potential dangers. What everybody is endeavouring to do is to minimise that danger to the port and to those who use that facility and those who live in the vicinity of that facility.

**Mr Quine:** Can the minister give us an assurance that a report will issue in relation to the accident which occurred? And can he give a further assurance that that report will reflect all - and I repeat, all - relevant and pertinent facts relating the incident?

**Mr Brown:** I refer the hon. member to the last part of my answer when I made it absolutely clear that my department will be making its review of the operational procedures public and the Department of Industry's marine administration's independent report will, I understand, be distributed in accordance with their usual criteria and will be made available to the public. Therefore it will be available for public scrutiny.

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

**Mrs Cannell:** Thank you, Mr Speaker. Can I ask the hon. minister, what if any control does his department have over the construction specification of liquid gas transporter vessels that actually enter the Douglas harbour? And in the event that this is a matter for the country of registration, can he advise: to what country was this particular vessel registered, what is the age of the vessel and is he satisfied that this particular vessel meets with all the safety standards and specifications desirable for such vessels entering the Isle of Man?

**The Speaker:** Hon. minister, I think there are four supplementaries in there somewhere.

**Mr Brown:** Yes, thank you, Mr Speaker. The Isle of Man is not alone on this issue. We are talking about international standards and the hon. member may be better asking her marine administration as to what they require, not what my department requires. We are a receiver of ships. The actual specifications and standards and what is required is a matter for the marine administration, for the Department of Transport in the United Kingdom, who specify it, and other world organisations, as I understand it. My department will allow any ship that complies with those standards, which also include insurance and usually through Lloyds, as I understand it, to operate within our harbours. We have got to keep this in context. My department's only responsibility in this issue is to look at whether or not our operational procedures are adequate, based on the incident that occurred. All the other issues are outwith the control of my department.

#### **Film Industry – Government Guarantees to Financial Institutions – Question by Mr Karran**

**The Speaker:** We turn to item 7, hon. members. I call upon the hon. member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I beg to ask the Minister for Trade and Industry:

- (1) *What is the total outstanding exposure arising from guarantees or indemnities provided by the government in respect of finance provided by financial institutions to film makers; and*
- (2) *has the government to date been called upon to discharge any liability arising from such guarantees or indemnities, and*
- (3) *if so, what has been the cost to the public purse of discharging the liability?*

**The Speaker:** I call upon the Minister for Trade and Industry, the hon. member for Middle, Mr North.

**Mr North:** Mr Speaker, the total outstanding exposure arising from guarantees provided by the department to financial institutions currently stands at £4,702,582. The department has met liabilities arising from guarantees totalling £3,437,203. The extent of these liabilities is offset by certain counter-guarantees which total £1,185,000. The use of guarantees as a means of providing finance for film production and cash-flow in the investment is one of a number of mechanisms used by the department under the film and television fund. The department fully expects that some of the guarantees will be required to be met, and this is taken into account in the management of the fund. I should make it clear that whereas we have met our obligations under these guarantees, the amounts are still recuperable from the sales income of the project concerned. I would also clarify that all investment decisions made by the department are accounted for within the budget approved by Tynwald for the purpose

of developing a film and media industry on the Island. The department does not make financial commitments beyond the extent of these approved amounts. Details of the operation of the film and television fund are published annually in the detailed government accounts and in the policy document.

**Mr Karran:** Vainstyr Loayreyder, in the detailed accounts it talks about £5.8 million-plus as far as its guarantees are concerned. Is it not the case that the Island's taxpayers will have to pick up the tab on these guarantees if the films do not prove to be a commercial success?

**Mr North:** Mr Speaker, I just already said that the amounts are within the budget approved by Tynwald for the purpose of developing a film and media industry on the Island - no different to anything else in the government accounts.

**Mr Karran:** Vainstyr Loayreyder, I would like to press the minister just to make sure that the moneys that are made available as far as underwriting is concerned is what he states and would he just clarify that point because there seems to be a difference between what is in the book and what he is saying is the case. Could the minister also clarify the amounts that we have lost up to now as far as that is concerned? I think it is important that the taxpayer knows what the liabilities could be in two or three years' time.

**Mr North:** Mr Speaker, I have already given those figures. Those are the liabilities and they are in the government accounts.

#### **Film Industry – Grants and Financial Assistance – Question by Mr Karran**

**The Speaker:** We turn to item 8, hon. members. Again I call upon the hon. member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I beg to ask the Minister for Trade and Industry:

*In each of the last three financial years -*

- (1) what was the total value of grants or other forms of financial assistance provided by your department to the film industry;*
- (2) what was the total equity, or other profit participating investment, made by your department in the film industry; and*
- (3) what financial return has your department received, in terms of dividends or other forms of profit-sharing, from its investment in the film industry?*

**The Speaker:** I call upon the Minister for Trade and Industry, the hon. member for Middle, Mr North.

**Mr North:** Mr Speaker, in each of the last three financial years the department's support by way of grants - that is, tax or production credits - and other direct assistance towards the development of the film industry was, in round figures: in 1996-97, £820,000; in 1997-98, £1,520,000; in 1998-99, £118,000.

The total equity investment by way of loans for the same years was: in 1996-97, £450,000; 1997-98, £1.4 million; and in 1998-99, £920,000. I would explain that the department's ability to secure profit participation is not restricted to those productions where it makes an equity investment. The department seeks to make it a condition of all investments

that it is entitled to a percentage of any future profits and this is negotiated on a project-by-project basis.

Finally, the real value of film activities to the economy has been in the exchequer benefit created by the film industry on the Island. This is related to the level of local spend, which has been in excess of £11 million, and production costs of the films which have totalled well over £50 million, rather than the profitability of the film. Although the concept of exchequer benefit may be perceived by some as an academic exercise, in the case of the film industry the calculation is checked using government internal actual data and audited local spend figures. The income accrued to government as a result of the activities of the film industry already amounts to over £15 million. The department is beginning to receive returns from the profit-sharing arrangements already in place, and in 1998-99 this amounted to a total of £271,015.

**Mr Karran:** Vainstyr Loayreyder, would the minister not agree that if these postdated cheques which have been as guarantees for these films do not come to fruition, we would need a lot more than that to actually cover the money that the film industry is making within the Island at the present time?

**Mr North:** No, Mr Speaker, and I would suggest to the hon. member for Onchan, who I believe has been to see the Treasury minister, who tried obviously without effect to explain to him the financing of the film industry, that if he would like to visit my department I will try and spend several hours with him if necessary (*Interjections and laughter*) to try and hope that he will understand, and I would ask him to go back to the people then that are putting these questions to him to ask that he would then explain to them the intricacies of the film industry because it is a highly complex industry. We, in my opinion, are doing very well. It is early days yet. We are trying to establish a whole industry and I hope that the hon. member will join other members in the House of Keys in supporting this new industry.

**Mr Karran:** Vainstyr Loayreyder, would the minister not agree the hon. member for Onchan is not against the film industry but he is expressing concerns about the fact that we are having to guarantee these productions to several millions of pounds, and the danger is that these things could come at a later date that we have to actually part with money as far as that is concerned and the finance industry, which he made the slip over, could be in a position that it might not be there for us then to have to honour these postdated cheques for two, three, four years in the future?

**Mr North:** Mr Speaker, I would again ask the hon. member - he obviously does not understand what is going on with the film industry - to visit again the Treasury or my department. We will explain to him. I can assure him that the money has been accounted for, is accounted for, and if he cannot understand the figures that I have just given this House, then I am sorry for him. (*Interjections*)

### **Supplementary Benefit Entitlement – Education Grants – Question by Mr Singer**

**The Speaker:** We turn to item 9, hon. members. I call upon the hon. member for Ramsey, Mr Singer.

**Mr Singer:** Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

*Will your department disregard education grants when calculating supplementary benefit entitlement?*

**The Speaker:** I ask the member for Health and Social Security, the hon. member for Rushen, Mrs Crowe.

**Mrs Crowe:** Thank you, Mr Speaker. A person's supplementary benefit entitlement is assessed by determining his or her requirements based on family composition, special needs and housing costs and deducting any income. Normally all income is deducted, but in certain cases some income is disregarded for a particular reason. The income of an education grant is currently subject to a partial disregard. Firstly, an amount equal to £280 is disregarded, representing the cost of books and equipment; and secondly, in the case of attendance at the Isle of Man College, a further £9.50 is disregarded. These disregards are intended to reflect that not all of an education grant is intended to meet living expenses but some of it is intended to meet expenses in connection with attendance at the education course in question. However, I am reviewing these disregards to determine whether or not the figures need updating and, if necessary, I will make a recommendation to the minister.

**Mr Singer:** I thank the hon. member for her reply and I find that certainly the reply is encouraging, because is she aware that a person in receipt of supplementary benefit who then receives the education grant, apart from this small amount of disregard, the total, the rest of the education grant, is deducted from the supplementary benefit? Would she not agree that the remainder will be necessary to cover the education needs - in fact, it barely covers those needs - and that the person at the moment is being encouraged to stay at home to receive those state benefits because under the present situation there is no doubt it is to their severe financial disadvantage to try and improve their education so as to no longer need that state help?

**Mrs Crowe:** Mr Speaker, I am fully aware of the case that the hon. member for Ramsey, Mr Singer, refers to. I have reviewed that case in particular and we will be writing to Mr Singer in regard to that matter this week. I also, as I said, am reviewing these disregards, and if I do determine that there needs to be a recommendation made to the minister I will do so.

**Mr Singer:** May I again thank the hon. member for that reply. Could she possibly tell me, what would be the annual cost to the DHSS to disregard totally education grants when assessing supplementary benefit entitlement, and if the hon. member cannot give me that answer now could she perhaps let me have that information at some time?

**Mrs Crowe:** The cost, I am sure, would be considerable but we have not determined that factor within the department. However, if we can determine that factor easily we will most certainly pass on the information to the hon. member.

### **Railway Inspector – Remit and Responsibility – Question by Mr Singer**

**The Speaker:** Item 10, hon. members, and again the hon. member for Ramsey, Mr Singer.

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

*What is the remit and responsibility of the railway inspector?*

**The Speaker:** I call this time on the Minister for Tourism and Leisure, the hon. member for Douglas South, Mr Cretney.

**Mr Cretney:** Thank you, Mr Speaker. The railway inspector is employed by the Department of Local Government and the Environment under the Health and Safety at Work Act 1974 as applied in the Isle of Man and also under the Isle of Man Passenger Transport Act 1982.

**Mr Singer:** Is the minister aware that the Railway Inspector whose responsibility, as he says, is to DoLGE and the health and safety executive, gives guidance to the public transport department on projects and then is the sole arbiter on their correctness? Is this case of being both judge and jury acceptable to the formation of an unbiased view of a project on the grounds of public safety?

**Mr Cretney:** The railway inspector - I have no doubts as to his impartiality. He offers informal advice to the department. This is on an unpaid-for basis. The same applies on other railways throughout the United Kingdom.

**Mr Houghton:** Mr Speaker, may I ask the hon. minister, does the current railways inspector for the Island have experience of inspecting railways in the United Kingdom?

**Mr Cretney:** The current railway inspector, Mr J H Taylor, was appointed in 1992. Mr Taylor has a background in working with British Rail and the United Kingdom railway inspectorate. He is a chartered engineer, has a degree in engineering and is a member of the Institute of Electrical Engineers.

**Mr Singer:** Mr Speaker, would the minister, in view of his and Mr Taylor's total confidence in the management and administration of the Isle of Man Railway and the MER, make public the Bennett AON Risk Assessment Report and addendum with its findings, which I believe the department received last year, and is Mr Bennett intending to make a return visit and a further risk assessment?

**Mr Cretney:** I will have to look into that matter.

**Mr Singer:** Can I ask one final supplementary? If I may refer to the document, Mr Speaker, that was circulated last week to hon. members by the minister with a list of what the railway inspector terms 'successes he can remember since his appointment', would the minister care to ask him to exercise his memory to circulate a list of the financially disastrous schemes, the incompetent purchases and projects, and the accidents and derailments that occurred during the same period?

**A Member:** Shame!

**The Speaker:** Hon. member, is there a question coming?

**Mr Singer:** Yes, I am asking, would he circulate those as well? I think we need a balanced assessment here by members and we are certainly only getting one side of the story.

**Mr Cretney:** I would agree, Mr Speaker, but unfortunately for some considerable time we have had an imbalance because my department has tried to be fair with a small minority of people who are unhappy with the way the railway is operated. I can assure this House, I can assure the people of the Isle of Man, I assure the people who come and enjoy the railways

that the railways are in a better condition today than they have been for a considerable time. (**Members:** Hear, hear.) We are catching up in forty years' underinvestment in the railways. Before the current transport executive came to the Isle of Man, there were difficulties on a weekly basis in terms of derailments and other things. We recognise that there is still work to do and we are committed to carrying out that work.

**Mr Cannell:** And sending trains to Ramsey!

**The Speaker:** We turn then, hon. members, to items 11, 12, 13 and 14 on your order paper. They are each down for written answer and I understand the answers have been circulated and are on hon. members' desks this morning.

### **Manx Electric Railway – Consultants for Top Shed Trackwork – Question by Mr Cannan for Written Answer**

#### **Question 11**

The hon. member for Michael, Mr Cannan, to ask the Minister for Tourism and Leisure:

- (1) *Who were the consultants engaged to advise on the provision of MER trackwork into the new top shed;*
- (2) *what fee was agreed for the services of the consultants;*
- (3) *what proportion of that fee has been paid; and*
- (4) *do the consultants accept liability to pay compensation for losses incurred as a consequence of the substandard workmanship on the project?*

#### **Answer**

- (1) The consultants engaged on the provision of MER trackwork into the new top shed were Hyder Consulting Limited;
- (2) the agreed fee for the services of the consultants was £19,000;
- (3) of the total fee £3,100 has been paid;
- (4) no consequential losses have been incurred on this project.

### **Manx Electric Railway – Contractors – Price – Question by Mr Cannan for Written Answer**

#### **Question 12**

The hon. member for Michael, Mr Cannan, to ask the Minister for Tourism and Leisure:

- (1) *Who were the contractors for the provision of -*
  - (a) *the new MER trackwork leading to the new top shed;*
  - (b) *the new top shed; and*
- (2) *what was the tender price and what is the estimated final cost for this project?*

#### **Answer**

- (1) (a) The contractors for the provision of the new MER trackwork leading to the new top shed were:

- (i) Hall and Blenkinsop - pointwork;
- (ii) Sharkey Construction - tracklaying;
- (b) the contractor for the provision of the new top shed was Parkinson Limited.
- (2) The construction tender price for this project was £570,914.94 and the estimated final construction cost payable to contractors is £566,080.09.

**Manx National Insurance Fund – Actuarial Report – Question by Mr Henderson  
for Written Answer**

**Question 13**

The hon. member for Douglas North, Mr Henderson, to ask the member for Health and Social Security:

- (1) *Is there a periodic requirement to obtain an actuarial report on the Manx National Insurance Fund;*
- (2) *if so, when was the last actuarial report obtained; and*
- (3) *when is the next report due to be obtained?*

**Answer**

- (1) Section 166 of the Social Security Administration Act 1992 as applied to the Island requires the department to arrange for the government actuary to review the national insurance fund every five income tax years, or such shorter period as the department may direct.
- (2) The last review was undertaken in respect of the five years ended 5th April 1992, and a report on the review was received on 13th March 1995.
- (3) There is currently a review being undertaken in respect of the five years ended 5th April 1997. The government actuary expects that a first draft of the report of this review will be with the department by the end of next month.

**Kirk Michael Local Plan – Planning Applications – Public Inquiry – Question by Mr  
Cannan  
for Written Answer**

**Question 14**

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

- (1) *Will you bring an order to the June Tynwald to suspend all planning applications for new residential development within the area of the Kirk Michael Local Plan 1994 until such time as the plan is reviewed; and*
- (2) *will you arrange for a full review and public inquiry in respect of the Kirk Michael Local Plan within the next 12 months?*

**Answer**

The Isle of Man Planning Scheme (Kirk Michael Local Plan) Order 1994 was made by the Department of Local Government and the Environment on 17th October 1994 and

published as Statutory Document No 420/94. The scheme order was approved by Tynwald on 16th November 1994 and came into operation on 1st December 1994.

The answer to the first part of the question is that the department has no power to bring an order to Tynwald, the effect of which would be to suspend all planning applications in a particular area. Even if the department had the power, it would not be appropriate to introduce a moratorium on development.

As to the second part of the question, it is clearly proper and necessary to amend scheme orders from time to time. However, as is stated in planning circular 2/92, 'if Development Plans are to engender confidence, they must not be subject to frequent amendment and it is therefore intended that all Plans should be operational for at least 5 years'.

The department is reviewing all local plans, some of which, until recently, dated back to 1988. This is an ongoing process and the department has already obtained the approval of Tynwald to new scheme orders for Ramsey, Douglas, Sulby, Arbory and East Rushen, and Foxdale. Other revisions currently being progressed by the department include St John's, Onchan, Castletown, Laxey and Lonan, and Port St Mary. The department is also intending to publish local plans for Peel, Jurby, Braddan and Malew (including Ballasalla). This programme has been endorsed by Tynwald.

The department does not have the resources to progress these plans at a faster rate than is already being achieved and it will be clear from the foregoing that the revision of the Kirk Michael Local Plan is still some way off.

### **Copyright (Amendment) Bill – Third Reading Approved**

**The Speaker:** It takes us therefore to item 15 on your order paper, the Copyright (Amendment) Bill for third reading, and I call upon the hon. member for Middle, Mr North.

**Mr North:** Mr Speaker, as I have indicated previously, the Copyright (Amendment) Bill is intended to update current copyright and performers' protection legislation in order to keep it broadly in line with changes in legislation in the United Kingdom and with developments internationally. It sets out to do this by achieving compliance with the Council of Europe Convention on Copyright and Satellite Broadcasting, which should be extended to the Isle of Man once the relevant provisions of this Bill are made law, adopting certain changes in copyright law made in the United Kingdom under their Broadcasting Act 1996 and introducing a new kind of intellectual property right called 'database right' to protect a person's investment in the compilation of a database, whether electronic or manual in nature.

Many aspects of the Bill are seen as important for economic development as they provide encouragement for the film and broadcasting industry and also support the ongoing development of a database industry in the Island by ensuring protection for those involved, which is in line with international conventions.

At the clauses stage, I undertook to provide hon. members with information about the membership of the Copyright Tribunal. The tribunal is constituted under section 142 of the Copyright Act 1991 and comprises a chairman and two members, appointed by the Governor in Council. Appointments are made for a period of three years and the most recent appointments were made with effect from 1st July 1998. The chairman must be a barrister,

advocate or solicitor of not less than seven years' standing, and the current chairman is Mr M D Miller. The other members of the tribunal are Mr H Brett and Mr E F T Cribb, both of whom, I am informed, have knowledge and experience of direct relevance to the work of the tribunal.

Returning now to the Bill, I believe that it is important for the Island that this legislation be introduced at this time as it ensures that the law in relation to copyright and performers' protection continues to meet current requirements, takes account of new developments which have arisen and keeps us in line with international standards.

Mr Speaker, I beg to move the third reading of the Copyright (Amendment) Bill 1999.

**Mrs Crowe:** I beg to second and reserve my remarks.

**The Speaker:** Hon. members, the motion is that the Copyright (Amendment) Bill be now read for a third time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

### **Children and Young Persons (Sale of Addictive and Intoxicating Substances) Bill – Third Reading Approved**

**The Speaker:** We turn to item 16 then, the Children and Young Persons (Sale of Addictive and Intoxicating Substances) Bill, again for third reading, and I call on the hon. member for Rushen, Mrs Crowe.

**Mrs Crowe:** Thank you, Mr Speaker. A survey recently carried out by the Morecambe Bay Health Authority has shown that one in three 15-year-old girls in that area regularly smokes tobacco. These girls are three times more likely to die from cancer. I do not doubt that a survey carried out on this Island would yield the same results. The legislation before us today is to prevent 15-year-old girls from easily obtaining tobacco and to seek to reduce the availability of tobacco and solvents to all minors. Smoking is the principal avoidable cause of premature death, and without tackling this addiction we cannot possibly achieve a reduction in heart disease or cancer, both diseases so closely linked with smoking. If we can prevent some children from becoming addicted to tobacco, we can prevent their early death from these diseases.

I do not think that this Bill will solve the problems of under-age smoking and under-age sales of tobacco and solvents overnight, but I do feel that, in conjunction with other initiatives and with co-operation between the Department of Health and Social Security, the Department of Education and trading standards, this government can start to address the problems of under-age smoking and under-age sales of addictive and intoxicating substances.

I thank the hon. members of this House who have spoken in support of this Bill and who have, by their support, shown a commitment to improving the health and the futures of the young people of our Island. Mr Speaker, I beg to move the third reading of the Children and Young Persons (Sale of Addictive and Intoxicating Substances) Bill.

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

**Mrs Hannan:** Vainstyr Loayreyder, I note that the mover of the legislation quoted Morecambe Bay Health Authority and the number of girls that are smoking. I wonder why Morecambe Bay was looked upon as being a model. Morecambe Bay, I think, is renowned for not very much happening. As somebody who lived nearby a number of years ago, I know that

not very much happened there, and I think that we could be justly criticised in the same way when it comes to young people. We do not provide anything for young people, especially our 15-year-olds -

**Mr Cannell:** A £10 million NSC.

**Mrs Hannan:** Not everyone has a sports centre. Not everyone has the facilities that were certainly available in my day in my constituency. There were coffee bars, there were places where children, young people, could gather. This, to my mind, is attacking something without providing anything in its place. It is making smoking and intoxicating substances attractive because we, as adults, are banning the sale to shopkeepers. We are, as was pointed out, I think, to the mover of this legislation, criminalising retail operators if they should sell cigarettes to minors.

**Mrs Crowe:** Quite right!

**Mrs Hannan:** We have a problem with selling intoxicating liquor to young people and we have not solved that problem. We brought in licensing laws which have not been applied with regard to the sale of intoxicating liquor and I think that we are attacking this from the wrong way. Over the last 11 years, we have spent a huge sum on health education with LIFE education in schools, and I think what the mover is saying by introducing this legislation is that we have failed. Therefore I think we should go back and look at what we have been doing with regard to education and discuss some of these issues with young people and really taking on the issue of under-age drinking and smoking and intoxicating substances and illegal substances, and discuss these openly and actively. I do not believe we have been doing that. I do not believe we have been doing enough to help young people grow up in a modern world. We have provided, in some areas, facilities, not necessarily based on young people but based on the community as a whole, and my concern is that we are introducing legislation. . . and one of my main concerns really with this legislation is that we are saying 18, whereas the legislation proposed by the mover was for 16, minors. I think, if we stop people smoking and drinking for longer, we could maybe have some changes to the health of young people, but while we continue to make it attractive to smoke, which we are doing by saying it should be illegal, then I do not think we are helping these young people, and I would hope that in the future we can look to providing more facilities locally for young people so that they do not resort to smoking, they do not resort to intoxicating substances.

As I said, in my area many years ago there were coffee bars, there were things for children to do. When I talk to young people, they say they do not go to the youth club because the youth club is really aimed at younger people, so it is aimed at people before the age of 15. It does support them until that age but when they get to 14, 15, they do not see it as being a place for them and I say again that we, I think, have not supported this age group that we are looking at. At 16 children can go into public houses, and that is all that is available for them, where they see people drinking and they see the attractiveness also of smoking.

We talked also in this legislation, and it was not accepted, of taking action on advertising. That was rejected by the House but there has been less advertising of cigarettes and yet the mover of this legislation is saying that smoking within this age range is increasing and I think these are all issues that need to be addressed, and I will be voting against this legislation specifically because it has been raised to 18. I do think it is passing the responsibility that I

think we should be attacking, as a government, onto the shopkeeper who finds it very difficult. Are we then going to ban people working in shops under the age of 18 because they could come under pressure from young people going into shops - this is the problem that we had with the licensing law. That is covered. I am not sure that it is actually covered here, but young people would be under pressure to sell to their peers. So I do think it is only doing part of it and we should be doing much more.

**Mr Duggan:** Mr Speaker, like Mrs Hannan I feel 18 is a bit ridiculous where a person cannot buy cigarettes. Years ago people did not know about the problems with tobacco but now everyone knows it is a danger and it should be left to their own discretion. As members have said even last week, people can get married at 16. I think it is ridiculous. I know the mover, Mrs Crowe, means very well but I personally do not think this legislation is going to make much difference. I would like Mrs Crowe to comment possibly on the remarks of a local solicitor, who rubbished her Bill, more or less, and said it was bad law.

**Mrs Crowe:** He rubbished everyone else's as well.

**Mrs Cannell:** Mr Speaker, this morning I have to concur with most of the. . . in fact all of the comments made by my hon. colleague for Peel.

**Mrs Crowe:** That's amazing!

**Mrs Cannell:** I believe that the provisions under this particular Bill do penalise the shopkeepers. I believe some of the comments that were attributed to a local advocate in the newspapers are probably partially true in that the shopkeeper does have a difficulty because our young people are not issued with identification cards. Granted, if they have a provisional driving licence or something similar, then they can always produce that to prove what actual age they have attained but, other than that, there is no way of properly testing whether the person coming to the counter seeking to buy cigarettes in particular is of an age in which the law provides for them to do that.

Also, looking at the title of this, of course it is 'addictive and intoxicating substances', and I think we have to recognise that we do have an alcoholic problem on the Island. We are saying to our young people, 'Do as we say and not as we do.' I do not believe that that is the right message that we should be bringing forward. I believe that we should be leading by example. Now, I know that certain members will probably scoff and say, 'Hark, listen to the member for Douglas East, she smokes,' and, yes, I do. I am a smoker. I regret that I am a smoker and I started very early, back in the days before such products were illustrated with danger, 'can kill', and so on and so forth and so I, like many people of my age group, were led into believing that it was a cool thing to do and in fact there was a lot of advertising at the time, both by way of shop advertising but also later, when television came in, on television advertising, radio advertising. So, yes, I was one that fell prey to that but I would be very disappointed if my own children felt the need to turn to something like that, and I think what we have to do is to analyse the reasons why our young people turn to liquor and turn to cigarettes and tobacco, and I think this is where the words of the hon. member for Peel ring clear here: that we are not providing sufficient safe outlets for that particular age group, and the member for Peel is right. In the Douglas youth club we have a super youth club - lots of money spent on it in recent years. We have a discotheque downstairs which caters for the older generation, but you will not get 15 or 16-year-olds going to such a venue, having to share it on the same

night with 14 or 13-year-olds. There is at that age, I am afraid, a class distinction and so we should be looking at that.

I believe that this is a little on the heavy hand, this particular Bill. I think it has to be balanced. We have to have an iron glove but we also have to have a kid glove as well. I think it is folly to turn round to our young people and say, 'You cannot do what we do but you will do as we say. You cannot have a drink but we had a drink. You cannot have a cigarette because we are having a cigarette. But at the same time you are aged 16, you can go out and have sexual contact with a partner, you can get married, you can have a child.' Now, that to me is quite ridiculous, that you might enter and embark upon a relationship like that which may or may not end up in wedlock, but you have to wait until you are 18 before you can have a cigarette. I think it is a nonsense.

I believe the mover does have the right motivation in some respects but I was very disappointed last time when we were at the clauses stage when this particular amendment was passed and raised the age from 16 to 18, and it is because of that principal fact that I feel that I am unable, and indeed unwilling at this time, to support such a move. I would be interested, however, to hear the comments by the hon. mover in relation to the criticism that she has received in the media by the advocate who was actually giving a talk, and I believe he also embarked upon another member's private member's Bill which has in fact passed all the stages and is now being activated upon by the police, but I would be interested to know what her comments are.

**Mr Karran:** Vainstyr Loayreyder, the last speaker has not even read the Bill.

**Mrs Cannell:** I have!

**Mr Karran:** It is not about using cigarettes, it is about selling cigarettes, and if there is any problem in this House, it is not people smoking cigarettes, I think some of them want to stop eating the beef around here (*Interjections*) because if I have heard some silly inputs in here. . . The previous three speakers - as I say, as far this affair is concerned, I find absolutely amazing listening to them. How can they come out with such utter claptrap? The poor shopkeepers! Who are making the profit, and the health service are going to pick up the tabs? I listened to the hon. member there pontificating about the situation. Obviously there must be a new bond down there between East Douglas and Peel (*Laughter and interjection*).

**A Member:** Not for long!

**Mr Karran:** What a difference it makes being outside the Council of Ministers!

The situation is this as far as I am concerned: I think the Bill is right, it is a common-sense piece of legislation. I am not surprised at the member for South Douglas's input, or lack of input as far as any of these issues are concerned -

**Mr Duggan:** Rubbish!

**Mrs Cannell:** Speak for yourself!

**Mr Karran:** - but I am a bit annoyed -

**Mr Duggan:** You are talking a load of claptrap!

**Mr Karran:** He spoke! *(Laughter)* Well, at least it is some activity that comes from the hon. member for Onchan and not from some around here!

The point is, for the hon. member for Peel to stand up about the youth service, well, I will tell her about her youth service. When it wants to have a youth club for 8-year-olds - you can forget dealing with 14-year-olds - why do they want 8-year-olds in? Because they are a lot easier to deal with; that is the reason. We talk about education; well, I am a former member of the Department of Education. I am afraid that the situation has not improved and there is far too much of a fixation on just following the United Kingdom in health education and not getting down to the core issues, and I think it is a bit rich to say, from the hon. member who was the former Minister of Education, 'Oh, it is all about education.' Well, we have done a very good job of it, haven't we? The fact is that this Bill does one thing: it makes sure that it is illegal to sell this dangerous substance to kids.

Now, it is all right talking about marriages or talking about sex and talking about all these other things - *(Interjections and laughter)*

**A Member:** Not all at once!

**Another Member:** That is right!

**Mr Karran:** - but at the end of the day we are talking about this one issue. What annoys me in this hon. House - this hon. member tried to do something about the drinking problem and what happened? We saw you running in all directions. If you really want to solve the alcohol problem on this Island, you should put off-licences back to being purely off-licences, and they should not be anything else. It is an absolute tragedy for anybody with a drinking problem to go down two aisles of alcohol in order to buy their food in the supermarket. It should be illegal, and when I tried to do something about it you all went running in different directions, and I just feel, regarding the input up to now on this Bill, they are running in all directions - 'We will do this. We will do that. It should be done this way,' and they come up with nothing practical.

I would just like to say about some of the comments that have been made by the hon. member, there is nobody who gives the hon. member more stick in this hon. House than I do, but I do feel that they were unwarranted in that and, much as I think some in this hon. House should start living in the real world, I think there are some outside this hon. House who are supposed to be advocates who should start living in the real world as far as their comments are concerned.

**Mr North:** That one?

**Mr Karran:** Yes, particularly that one!

Vainstyr Loayreyder, I hope this Bill will go through. Let us not use excuses and say, 'Well, we should sort out the education, we should sort this out.' I have sat around here for years listening to so many excuses for not doing something. This Bill does one thing that I think is important: it says that if I want a shop I should not make profit out of selling this potentially lethal substance to kids. That is what it does and I think this hon. House should support this Bill and I think we should have a bit of honesty and integrity and admit that this is at least one way of helping to solve this issue, instead of saying, 'We should do this', 'we should do that' or 'do nothing', as the hon. member for South Douglas says (Mr Duggan:

Rubbish!) but shrug our shoulders and hope that will pacify the people outside. (*Mr Duggan interjecting*)

If hon. members are sincere about the drinking situation, I will be happy to bring a Bill back to do away with off-licences in shops, but they should purely be off-licences, and I am happy, but the last time that happened, the previous House ran away. So let us not try and cloud the issue. The issue is that we should support this Bill and we should not be looking for excuses because we might lose a few shopkeepers' votes or a few other people's votes as well who have not thought it through.

**Mr Henderson:** Mr Speaker, I am quite happy to support this Bill as I have done all the way through its passage through this House. I am astonished, as probably one or two others are, with some comments this morning because, as I have pointed out before, 20 years in the healthcare profession has taught me one thing, and that is that cigarettes do and can kill people and, if it was my way, I would go over the top with the legislation and probably try and ban them altogether. (**Mr Cretney:** Hear, hear.) I have never seen anything that causes so much damage.

With regard to the big brother tactics that we are all being accused of - and certainly I cannot agree with my learned constituent in the press over his comments on that one (**Mr Houghton:** Hear, hear.) - we legislators cannot always dip in our pockets or the departmental coffers to sort out things educational and supply this and supply that and supply the other. What we can do, though, and I see it as our duty of care to our constituents and people of this Island, is, if we can, pass some sort of Bill or legislation, or whatever form it comes in, that may assist. I am not going to say it will solve everything and I am sure the hon. member for Rushen will agree that this is just a piece in the jigsaw - we do not agree about much possibly but on this one we certainly do - and I fully support it in that context.

We have banned pornography, we have banned books and videos. Why do we ban cannabis? Why do we ban ecstasy? Why do we ban cocaine? Why do we ban all the rest of it? Simple reason - it is harmful and it is addictive, and it can kill, and it can lead you into all sorts of other trouble as well, untold amounts of trouble, and that is why legislation is in place to cover those sort of things.

As far as I am concerned, our hon. colleague for Onchan is quite right when he says that we are selling a noxious substance to the younger element of our society. It will do them untold amounts of harm and there is plenty of scientific evidence to prove that it does do that and it can kill, and to that extent I think we, as legislators, should be doing what little we can. Okay, I might not provide all the coffee shops our hon. member for Peel would like, but at least it will go some way to help. It highlights the issues, it puts it in the press, it puts it to the forefront of the people in education's minds when they are organising their education slots on health issues and it has all sorts of other knock-on effects as well. So to that extent I am fully supportive of it.

**The Speaker:** I call upon the hon. member for Rushen, Mrs Crowe, to reply.

**Mrs Crowe:** Thank you, Mr Speaker. I, too, am quite surprised at some of the comments by the hon. members of this House, particularly regarding the fact that they are mothers like myself, and my aim in introducing this legislation is to protect the children of our Island and to protect them from buying cigarettes under the legal age.

Now, the amendment from the member for health to raise the age to 18 I fully support, and in June I am at a conference in Edinburgh where two days will be devoted to the control of under-age purchases in the United Kingdom, and I feel certain that this legislation will lead the United Kingdom in their decision to follow suit.

The hon. member for Peel asks why I mentioned Morecambe Bay. Morecambe Bay was mentioned purely and simply because it was a place close to home. I could have chosen Birmingham, Liverpool - in fact, there have been surveys done throughout the whole of the UK. The World Health Organisation is pressing all governments to introduce legislation to combat the sale of tobacco and solvents to children under the EC legal age.

There was mention of nothing for young people to do but that has been our cry throughout time, and I do believe, when the hon. member was a young person herself, she most probably complained then there was nothing to do.

**Mrs Hannan:** Not where I lived, there was not.

**Mrs Crowe:** Oh, all right. *(Laughter)*

**Mrs Hannan:** But I did not live where I live now.

**Mr Brown:** In the fields!

**Mrs Hannan:** Yes.

**Mrs Crowe:** As for the education of our young children, there are and have been programmes in place in the education department advising and warning children about tobacco, but if they can go out and purchase cigarettes, what is the point? If we can control the sale of tobacco. . . and control we can, because that has been clearly demonstrated. In Birmingham they have cut the sales of tobacco to children under the legal age by, I think it is, over 70 per cent and that is through a training and education programme with retailers. And retailers are responsible people, and I dare say at one time I sold more tobacco on this Island than any other retailer, but I would suggest that retailers have a responsibility in many areas: solvents, tobacco and alcohol.

We were mentioning the fact too that these smartcards are being introduced by a number of secondary schools on the Island. Ballakermeen, I know, has them in place at the moment, as does Ramsey. It is very easy for the retailer to say, 'Can I see your smartcard?' and it would be very nice if the whole of the Island followed that, and I am sure in time that they will.

Now, the hon. member for South Douglas, Mr Duggan, constantly complains about asthma and about the problems of the chest complaints in his area; I would like to inform that member that the smoking will damage and kill and cause asthma and every other kind of disease to his constituents far more than any incinerator on your doorstep - far more.

**Members:** Hear, hear.

**Mr Brown:** Ban the incinerator!

**Mrs Crowe:** Now, the hon. member for East Douglas, who admits to being unable to quit the addiction to tobacco, wondered why I wanted to raise the age to 18 or why I was supportive of raising the age. It is for that very reason. It has been highlighted that the younger

you start smoking the more addicted you will become, and the hon. member made mention of that in her speech: 'I started young, now I can't give up, now I'm killing myself.' It is not a choice we want our children to make. My aim is to protect our Island's children, and I would have thought that was the aim of every mother in this House, and indeed every father.

**Mr Cretney:** Every member.

**Mrs Crowe:** Indeed. Now, a lot of mention has been made about the criticisms of me by the advocate, a Mr Terence McDonald, I believe.

**A Member:** A model advocate.

**Mrs Crowe:** Well, I just rang this gentleman to check if indeed he had ever met me. Indeed, I did not think I had ever met him and I think, if he had met me, he would have been able to say far worse things about me than the fact that I was dangerous!

**Mr Quine:** He does not know what he is missing!

**Mrs Crowe:** However, he confirmed that he had never met me. He confirmed that he never actually read the Bill (*Laughter*) and it seems his main complaint is the fact that this House is bringing in any legislation, but I thought this was the purpose and this was what we were here for. However, when I mentioned the advocate's exemption order, which I am sure will once again raise its ugly head, he was very keen for that to go ahead, very keen indeed. (*Laughter*)

**A Member:** I wonder why!

**Mrs Crowe:** I certainly do not know, but certainly the gentleman had never met me. His comments that he made about me, as I say, could have been 10 times worse if he had actually met me. (*Laughter and interjections*)

I do thank the hon. member for Onchan, Mr Karran, who has been so supportive of this Bill. The comments he made were made far more clearly than I would have dared to make them about the previous speakers. However, I do hope that this House will feel that it is their responsibility to protect the children of our Island from beginning to smoke. It has been clearly demonstrated that it is very easy to enforce the control of under-age sales. It has been transferred from the police to trading standards, who deal with retailers regarding regulation on a daily basis and I do hope that we have the support of the caring members of this House in their commitment to protect the young people of the Isle of Man. Thank you, Mr Speaker.

**The Speaker:** Hon. members, the motion is that printed at item 16 on your order paper, that the Children and Young Persons (Sale of Addictive and Intoxicating Substances) Bill be read for a third time. Will those in favour please say aye; against, no. The ayes have it.

*A division was called for and voting resulted as follows:*

*For: Messrs Gilbey, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Braidwood, Shimmin, Singer, Karran, Corkill, Cannell, Gelling and the Speaker - 18*

*Against: Mr Duggan, Mrs Cannell and Mrs Hannan - 3*

**The Speaker:** Hon. members, the voting is there have been 18 votes cast for, 3 votes cast against. The third reading therefore passes.

## **Limited Liability Companies (Amendment) Bill – Clauses Considered – Third Reading Approved**

**The Speaker:** We turn therefore to item 17 on your order paper, the Limited Liability Companies Bill for consideration of clauses, and I call upon the hon. member for Rushen, Sir Miles Walker, to take clause 1, sir.

**Sir Miles Walker:** Yes, thank you, Mr Speaker. The Limited Liability Companies (Amendment) Bill is principally about the removal of the 30-year duration in the life of a company formed under this Act. This feature is now redundant in terms of its original intention, and moreover its removal creates a number of new commercial opportunities. So in clause 1, (1)(a) and (b) they deal with the necessary repeals to the 1996 Act by deleting sections 1(1)(b) and section 7(1)(b) respectively and which originally specified the duration limit of an LLC company to be 30 years. Sub-clause (c) inserts a new section (1A) into section 7 of the Act which has the effect of stating that the duration of the company shall not be limited to any fixed period of time except where that is fixed by the articles of organisation. The option available to an LLC to fix the duration of its life and dissolve its affairs at any time it shall determine remains as before, except that there is no longer any overriding 30-year provision. Sub-clause (1)(d) in this clause is a consequential amendment for clarification of the wording of section 27(a) of the Act in the context of the removal of the 30-year limit. There is a substitution here of the word 'fixed', as it appears in the Act, by the words (if any) fixed by the articles of the organisation'. This has the effect of changing the requirement under section 27(a) of the Act concerning dissolution after a certain fixed period to a period under which it will only happen if agreed by the members and specified in the articles of organisation. The resultant treatment of an LLC under this clause will then be broadly consistent with the position of a conventional company formed under the Companies Act of 1931 as amended, in that an LLC has continuity of life unless a resolution of the members or other factors come into play to trigger the dissolution process.

Clause 1(2) in this Bill is intended solely to pick up a small error in the wording of the original Act by replacing the word 'or' at the end of paragraph (b) in section 14(1) with the word 'and'. This amendment is not of significant consequence except that the opportunity has been taken to clarify the reading of this section and to make the correction in this Bill. I beg to move clause 1 stand part of the Bill.

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

**The Speaker:** Hon. members, the motion is that clause 1 stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2, sir.

**Sir Miles Walker:** Clause 2 deals with the application of the Act to new companies to be formed in the future. It also deals with the options available to companies formed prior to the Bill coming into force and clarifies the position of those concluding the process of formation at the point where the Bill comes into operation. So sub-clause (1)(a) in this Bill applies to the operation of clause 1 of the Bill to every limited liability company formed after commencement of it coming into force but is subject to sub-clause 2(5) of this Bill, which I shall come to later, concerning certain companies at a stage of concluding the process of formation. Sub-clause (1)(b) in this Bill in effect provides for the operation of clause 1 to apply to any other limited company which wishes to amend its articles of organisation. In other words, where an existing

LLC is concerned, its members may exercise their rights under sub-clauses 2(3), 2(4) and 2(5) in this clause and resolve to amend the articles to adopt the new regime for the continuity of the company.

Sub-clause (2) in this Bill is inserted for the sake of clarification to confirm that the operation of clause 1 does not in any way extend automatically to LLCs formed before the commencement of the Act except in so far as the option available under clause 2(1)(b) to amend the articles of organisation is exercised by its members.

Sub-clause (3) in this Bill provides affirmation that a limited liability company to which clause 1 does not apply, made by amendment of its articles, may elect that it does apply to it. By including this, an existing LLC shall be able to eliminate any doubt that it has the powers to exercise the right to remove the 30-year duration limit.

Sub-clause (4) is really a reminder and a statement of affirmation that where a limited liability company has amended its articles in conformity with sub-clause (3), then the provisions contained in sections 7(4) and 7(5) of the principal Act shall apply to it. These provisions respectively ensure that amendments to the articles of organisation are in conformity with the members' operating agreement or made with the consent of all of them and deal with the requirement for the change to be registered with the Chief Registrar in the prescribed form.

Sub-clause (5) serves to provide that clause 1(a) shall not extend to certain limited liability companies formed coincidental with the timing of the commencement of this Act on the basis that the articles of the organisation of these companies were delivered to the companies registrar before its commencement. This measure is to provide for a certainty of the cut-off point for the application of this Bill in respect of companies concluding the process of formation.

In conclusion of this clause, may I summarise it by confirming it will provide the ability for all LLCs, whether already formed, having just concluded the process of being formed or to be formed in the future, to fall within the new regime unless, in the case of established companies and those having just concluded the process of being formed, they choose to remain subject to the 30-year duration rule. So in summary, the net effect of the clause is that all companies formed under this Act will now have the choice of continuity of life or the ability to fix duration for the company or to dissolve the company at any time. So I beg to move clause 2 stand part of the Bill.

**Mr Corkill:** I beg to second and reserve my remarks.

**The Speaker:** Hon. members, the motion is that clause 2 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Now, hon. members, it would appear that you have had circulated a list of a new clause and amendment. It is quite specific in the long title of the Bill that it is to amend the Limited Liability Companies Act, it is not a statute law revision Bill, and therefore I would propose that we take at this stage the amendment of the long title. I call upon the hon. member for Glenfaba, Mr Gilbey.

**Mr Gilbey:** Mr Speaker, as you say, hon. members were circulated with a letter and at the second reading I explained the reason why I would be moving these amendments.

Although, as you say, we start with the long title, in a way that is back to front because hon. members will want to know why the long title is being altered. So perhaps I could again explain the reason for the new clause which will come subsequently.

This new clause is proposed due to comments which the Financial Supervision Commission has received from the industry in response to the commission's review of restricted collective investment schemes - that is, unit trusts and mutual funds - with regard to naming and profile of such schemes. The proposal is that restricted schemes should henceforth be referred to as international schemes -

**The Speaker:** Hon. member, if I may stop you - and I apologise - if we just deal with the introduction of the Financial Supervision Act to the long title. I am not prepared to accept an amendment, so we cannot have a new clause. If we deal with the long title, we can then deal with the new clause in principle and thereafter you can deal with it in detail, but I want to get on record that the long title will be altered so that we can deal with the Financial Supervision Act.

**Mr Gilbey:** If you want to deal with it that way, Mr Speaker, but frankly it seems to me back to front, but nevertheless -

**The Speaker:** Hon. member, it is the right way round.

**Mr Gilbey:** Well, I accept what you say, Mr Speaker, but I can quickly say that in order to proceed at all an amendment will be needed to the long title to the Limited Liability Companies (Amendment) Bill in order to ensure that the proposed amendment to the Financial Supervision Act 1988 will fall within its ambit and I therefore move:

*That the long title be amended to insert after "1996" "and the Financial Supervision Act 1988."*

**Mr Braidwood:** Mr Speaker, I beg to second.

**The Speaker:** Hon. members, the motion is that the long title be altered as is printed on your white paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. I now call upon the hon. member for Glenfaba to deal with the new clause as printed on the white paper in principle.

**Mr Gilbey:** Well, Mr Speaker, I will not obviously bore yourself or this hon. House by repeating what I have already said, but I will explain that the rationale behind the title of restricted schemes was originally understandable in that the schemes are restricted in terms of their marketability in the Isle of Man. The fact is that these schemes can be and are marketed elsewhere in the world subject only to local marketing rules in other parts of the world. Now, that is why they were called restricted. They were restricted in their marketability in the Isle of Man. The commission's regulatory approach to restricted schemes will not alter as a result of this amendment. The operators of restricted schemes are free to innovate and develop new products to meet the changing and developing needs of the market place within a flexible regulatory framework. Restricted schemes are not subject to any direct approval or authorisation process and the commission has sought to avoid comprehensive prescriptive regulation. The commission, and indeed the fund industry in the Island, believe that adopting the phrase 'international schemes' as opposed to 'restricted schemes' more accurately reflects the true nature of the schemes whilst improving the international perceptions of such schemes

and enhancing their marketability. This is, of course, a very important point for our industry, which is seeking to develop the Island's collective investment scheme base through its marketing efforts round the world. I am in absolutely no doubt that it is far more logical to call these schemes, which can be and are marketed round the world, 'international schemes' rather than 'restricted schemes' because the very name 'restricted schemes' makes anyone think there is something restricted or difficult about them, whereas the only control in the form of restriction is that they cannot be marketed in this Island domestically, and therefore I beg to move the amendment standing in my name, which I am sure is in the interests of our economy:

*That the new clause [Amendment of Financial Supervision Act 1988] be approved in principle.*

**Mr Braidwood:** I beg to second, Mr Speaker.

**The Speaker:** Hon. members, the motion is that the new clause as printed on your white paper be accepted in principle. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Now, hon. member will you move it in detail for me, please?

**Mr Gilbey:** Mr Speaker, I do not think again I need to bore yourself or this hon. House by going through the details, merely to point out that all the changes set out in the new clause are substituting, for the word 'restricted', the word 'international' and I beg to so move:

*"Amendment of Financial Supervision Act 1988.*

*[ ]. In the Financial Supervision Act 1988 [c.16] -*

*(a) in section 11 -*

- (i) in subsection (1), for "restricted" substitute "international";*
- (ii) in subsections (2) and (3), for "a restricted" substitute "an international";*
- (iii) in subsections (4) and (5), for "restricted" substitute "international";*
- (iv) in subsection (12), for "a restricted", in both places where the words occur, substitute "an international";*

*(b) in section 24A(3)(b), for "restricted" substitute "international".*

**Mr Braidwood:** I beg to second, Mr Speaker.

**The Speaker:** Hon. members, the motion is that the new clause as printed on your white paper stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

We turn then to clause 3, which will become clause 4. I call upon the hon. member for Rushen, Sir Miles Walker.

**Sir Miles Walker:** Thank you, Mr Speaker, I beg to move clause 3 as printed, which deals with the Bill's short title and commencement.

Sub-clause (1) states that the Act may be cited as the Limited Liability Companies (Amendment) Act 1999 and this, of course, has just been amended to include 'and Financial Supervision'.

Sub-clause (2) states the Act shall come into force on such day as Treasury may by order appoint, and the provision for different days being appointed for different purposes is included. I beg to move clause 3 stand part of the Bill.

**Mr Corkill:** I beg to second and reserve my remarks.

**Mr Gilbey:** Mr Speaker, I beg to move the amendment in my name, which alters the title here in line with the alteration in the long title to which this hon. House has already agreed. It is quite a simple amendment. I beg to move:

*Page 2, lines 23 to 26; for subsection (1) substitute -*

*“(1) This Act may be cited as the Limited Liability Companies and Financial Supervision (Amendment) Act 1999.”.*

**Mr Braidwood:** I beg to second, Mr Speaker.

**The Speaker:** Hon. members, the motion is that clause 3 as printed stand part of the Bill, and to that you have the amendment as moved by the hon. member for Glenfaba. Will those in favour of the amendment please say aye; against, no. The ayes have it. The ayes have it.

So clause 3, as amended, hon. members. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

That concludes the reading of the clauses stage. Sir Miles Walker.

**Sir Miles Walker:** Thank you, Mr Speaker. Last week I gave notice to hon. members of this House that I intended to move a suspension of standing orders so that this Bill could be read for a third time today. I do this so that the Bill can hopefully be progressed through the Legislative Council before the summer recess. If the third reading is not taken today then it will be November before Royal Assent can be considered. As I explained at the second reading, there are a number of commercial opportunities that could be lost if we do not progress this measure as soon as possible. So I beg to move:

*That the temporal provisions of standing order 158 be suspended to enable the Limited Liability Companies (Amendment) Bill to be read a third time at this sitting.*

**Mr Corkill:** I beg to second, Mr Speaker.

**Mr Cretney:** I just wish to stand here and support the move to suspend standing orders, Mr Speaker, because on this occasion I think it would demonstrate the flexibilities and the advantages of the small legislature, and we should perhaps do so more often.

**Mr Gilbey and Mrs Crowe:** Hear, hear.

**The Speaker:** Sir Miles, do you wish to comment or reply?

**Sir Miles Walker:** No, thank you, except to thank hon. members, Mr Speaker.

**The Speaker:** Hon. members, the motion is therefore that standing order 158 be suspended in order to take the third reading of the Limited Liability Companies (Amendment) Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

May we move, then, to the third reading of the Bill and again I call on Sir Miles Walker, the hon. member for Rushen.

**Sir Miles Walker:** Yes, thank you, Mr Speaker. I would simply formally move the third reading of the Limited Liability Companies (Amendment) Bill of 1999; there is obviously nothing to reply to that arose during the debate. I beg to move.

**Mr Corkill:** I beg to second and reserve my remarks.

**The Speaker:** Hon. members, the motion is that the Limited Liability Companies (Amendment) Bill be now read for a third time. Will 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 this morning. The House will now stand adjourned until Tynwald on 15th June. Thank you, hon. members.

*The House adjourned at 11.58 a.m.*