

**REPORT OF PROCEEDINGS OF  
TYNWALD COURT**

**Douglas, Tuesday, 17th November 1998  
at 10.30 a.m.**

Present:

The President of Tynwald (the Hon Sir Charles Kerruish OBE LLD (hc) CP). In the Council the Attorney-General (Mr W J H Corlett), Hon C M Christian, Messrs E A Crowe, J R Kniveton, E G Lowey, Hon E J Mann, Messrs J N Radcliffe and G H Waft, with Mr T A Bawden, Clerk of the Council.

In the Keys: The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Hon R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Hon H Hannan (Peel); Mr W A Gilbey (Glenfaba); Mr S C Rodan (Garff); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Mr 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 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, Clerk of Tynwald.

*The Chaplain of the House of Keys took the prayers.*

**Apologies for Absence**

**The President:** Hon. members, we have apologies for absence from the Lord Bishop who is attending the General Synod; from the hon. member of the Council, Mr Delaney, who is off the Island on departmental business; and from 6.30 this evening, the hon. member for Garff, Mr Rodan, has asked to be excused.

**Procedural**

**The President:** Now, hon. members, I am aware that several members wish to attend the funeral at 1.30 today of the late Barbara Cottier, a lady who gave invaluable service to our community. I therefore suggest that we resume after lunch 15 minutes later than usual at 2.45.

I also have to inform you, in connection with items 14 and 15 on the order papers, the Ramsey and Sulby local plans, that certain persons have signified their intention to appear at the Bar in respect of these plans. I think it would therefore be helpful for those persons and for members to know that we will commence those items as soon as practicable after 3.30 today.

**Papers Laid Before the Court**

**The President:** I call upon the Clerk to lay papers.

**The Clerk:** I lay before the Court:

Road Traffic Act 1985 -

Goods Vehicles (Plating) (Fees) Regulations 1998 [SD No 590/98]

Licensing and Registration of Vehicles Act 1985 -

Vehicle Duty Order 1998 [SD No 591/98]

Government Departments Act 1987 : Statutory Boards Act 1987 -

Isle of Man Office of Fair Trading Order 1998 [SD No 579/98]

Social Security Act 1982 -

Social Security Act 1982 (Amendment) Order 1998 [SD No 580/98]

Social Security Legislation (Application) (No. 7) Order 1998 [SD No 581/98]

Social Security Act 1986 : Social Security Contributions and Benefits Act 1992 -

Social Fund Maternity and Funeral Expenses (General) (Isle of Man) Amendment (No. 2)

Regulations 1998 [SD No 582/98]

National Health Service Regulations -

National Health Service (Isle of Man) (General Medical and Pharmaceutical Services) (Amendment) Regulations 1998 [SD No 558/98]

Police Powers and Procedures Act 1998 -

Police Powers and Procedures Codes Order 1998 [SD No 586/98]

Town and Country Planning Acts 1934 to 1991 -

Isle of Man Planning Scheme (Ramsey Local Plan) (No. 2) Order 1998 [SD No 578/98]

Isle of Man Planning Scheme (Sulby Local Plan) (No. 2) Order 1998 [SD No 577/98]

Customs and Excise Acts 1986 -

Customs and Excise Acts 1986 (Amendment) Order 1998 [SD No 570/98]

Animal Health Act 1996 -

Cattle Database Order 1998 [SD No 561/98]

Sea-Fisheries Act 1971 -

Sea-Fisheries (Amendment) Bye-laws 1998 [SD No 567/98]

Immigration -

Statement of Changes in Immigration Rules [SD No 589/98]

Appointed Day Order -

Police Powers and Procedures Act 1998 (Appointed Day) Order 1998 [SD No 592/98]

Reports -

Eighth Annual Report of the Value for Money Committee, October 1998

Isle of Man Water Authority Annual Report and Accounts 1997/98

Isle of Man Water Authority Drinking Water Quality Report 1997/98

European Communities -

European Communities instruments circulated during September 1998 [GC No 34/98]

### **Constitutional Objectives – Question by the Speaker**

**The President:** Now, turning to the question paper, hon. members, I call upon the hon. Mr Speaker to ask the question standing in his name.

**The Speaker:** Mr President, I beg leave to ask the Chief Minister:

- (1) *Do you accept the constitutional objective approved by reference in the Tynwald resolution of 14th July 1981, and subsequently reaffirmed and amplified by the Tynwald resolution of 26th February 1986;*

- (2) *what steps have you and your ministers taken during the lifetime of this House to further these objectives; and*
- (3) *what proposals to do so are contained in the Policy Review 1998 of your government?*

**The President:** The Chief Minister to reply.

**Mr Gelling:** Mr President, the Isle of Man Government's policy in relation to constitutional development is set out each year in our annual policy document, and the current statement is to be found in appendix 1 of the Policy Review which of course was debated by Tynwald last month. Now, our policy on constitutional development picks up some of the key phraseology from 1981 and 1986 but does not reproduce the earlier decisions in their entirety.

Now, if I could move on to the second part of the question, we do of course work within the Isle of Man Government's policy on constitutional development. Consistent with that policy is our participation in appropriate international agreements and over the last two years we have agreed to participate in a range of conventions and agreements dealing with a wide range of issues, including transport, hazardous substances, nuclear accidents, radiological releases, sea carriers' liability, international sanctions, social security, transfer of prisoners and so on. We have also been called upon to defend our existing autonomy in the context of international inquiries about taxation.

The Constitutional and External Relations Committee have addressed a number of topics including presidence at the July Tynwald, Royal Assent procedures, the constitutional position of the Attorney-General, Chief Secretary and Chief Financial Officer and some aspects of independence. Now, the product of this work will be coming forward to members, to Tynwald or the House of Keys, in the near future. We have also been keeping a close watch on developments in relation to devolution in Wales and Scotland.

Now, if I can turn to the third part of the question, within the 1998 Policy Review there are a number of references which are relevant to our policy on constitutional development apart from the restatement of the policy itself. Now, in the introduction to the review, as well as counselling against a knee-jerk reaction to external circumstances, I reaffirmed our commitment to securing more complete self-government and to maintaining the momentum of constitutional change.

Now, within the legislative programme for this year there are a number of Bills which open up new areas of government and autonomy for the Island, areas where we have not legislated in the past. These include residence, human rights, race relations, public records, registration of corporate service providers, statistics, sex discrimination in employment and rehabilitation of offenders.

Then the chapter in the review on external relations in this year's document is longer than it has been before, reflecting the greater interest in external relations matters. Now, within that chapter, of particular significance is the proposal for a British-Irish Council and the recognition of the Island implicit in the invitation to us to participate as a member of that council.

So there is quite a lot in the Policy Review and in the pipeline which is concerned with constitutional development and in particular, looking at the year ahead, the British-Irish

Council, the new legislation and the work of the Constitutional and External Relations Committee will provide an interesting agenda of evolution.

**The President:** A supplementary, Mr Speaker?

**The Speaker:** Yes, Mr President. Whilst I acknowledge the pleasant words which the Chief Minister has commented on in relation to the future, does the Chief Minister personally believe that sufficient progress has been made towards self-determination in the past 17 years?

**Mr Gelling:** Well, Mr President, of course if we look back that far down the road of course we will find that things have changed and in fact if we take some of the items of the 1981 resolution of Tynwald, of course we have had the extension of our territorial seas. So things have been moving on, but I wish to emphasise that for the future we are still stating in our policy document that we want the evolution towards more complete self-government and the recognition of the Island internationally, to take up the responsibilities wherever possible. These are all listed in that policy document and I think if you look back over the years you will find that we have moved quite a long way down the road.

**The Speaker:** Mr President, is the Chief Minister aware that, whilst the Edwards review may not constitutionally have a marked concern to the Council of Ministers, is he aware that there is a perception that the actions taken by another government over looking at internal affairs of the Isle of Man cause considerable concern to those residents on the Island?

**Mr Gelling:** Mr President, this is something that we have of course stated, that it has been a very delicate situation, and the perception of the way in which the review was implemented was something that we did express ourselves as being extremely unhappy with, and I think that is the point that Mr Speaker is making. It is not that they should or could not review our regulations, it was the way in which they actually stated it was being done with our co-operation when in fact it was put upon us within virtual hours of announcement.

So therefore we realise that out there in our community and in our private sector there are people who were concerned at the way in which the adjacent parliament did announce that they were going to look into these regulations, but I think also the way in which the media has portrayed the situation, with leaked information from the early drafts, is that they are going to impose certain things upon us. Well, we have said quite clearly that we will wait for that report and we will introduce whatever we think should be introduced for our Island at the right time.

**The Speaker:** Mr President, in the light of the answer just given by the Chief Minister, can the Chief Minister tell me what steps he is proposing to take to avoid a similar situation arising in the future?

**Mr Gelling:** Well, Mr President, of course this raised the issue most emphatically with the Home Office when it did happen and I would suggest to this hon. Court that the Home Office is certainly aware of the Island's feelings of when it did happen and I would certainly hope that it never happens again.

**Mr Karran:** Eaghtyrane, would the Chief Minister not agree that we had to buy our territorial sea which we should have been able to get under international law and would he

also not agree that that just highlights the lack of any backbone in this Island to stand up for the Manx people?

Would he also not agree that we should spend more time on more important issues such as trying to get the Royal Assent sorted out once and for all, that it is a disgrace that the Manx people can have a foreign government veto legislation in this country and wouldn't it be more important to worry about that than fancy titles for members of government?

**Mr Gelling:** Mr President, I was not aware of any fancy titles for members of government.

**Mr Karran:** You call yourselves ministers.

**Mr Gelling:** But, however, regarding the Royal Assent procedures, I said in my answer to the original question that that is something that will be coming to the Court or the House very, very soon. It is one of the three reports that the Constitutional and External Relations Committee have now submitted to the Council of Ministers, so therefore it will be coming forward.

I would say to the hon. member for Onchan we pursue at every opportunity to go forward in what we as a government and this Court have said for the future: to have more autonomy for our Island. Now, these have to be taken at a steady pace and they have to be well considered and we have to acknowledge international law, and if the hon. member is saying that he would rather not have had the extension to the 12 miles, well, that perhaps is something that he has of his own opinion, but basically it was a big step forward for us to get that extension to 12 miles and then other things have to be dealt with and negotiated after that, but that was the first step which was in fact to get that acknowledged that we had an extension.

**Mr Cannan:** Mr President, will the Chief Minister indicate to this Court what constitutional steps he is intending to take to ensure that the United Kingdom Government does not cause in future an inquiry into any single aspect of Isle of Man Government or Island life?

**Mr Gelling:** Mr President, as I have said, certainly the manner in which any inquiry is called for is what we are concerned about. Now, the situation as to what anyone might inquire about the Island or indeed what we might inquire about the United Kingdom, if it is something that includes a review or whatever, it is something that can be done without probably even the permission of the jurisdiction. It is something where you go and you do your research.

Now, the hon. member for Michael is saying, what can I say to this Court to ensure that it will never happen again. I have already stated that the relationship between the Home Office and this Island now is one of a greater understanding than it was prior to the Edwards review being announced. So therefore I would suggest that they are well aware of the feelings and the mood of the members of this Court and it certainly has been reflected since that time.

**Mr Cannan:** A further supplementary. In relation to the advance of constitutional progress, will the Chief Minister agree that to be perceived in international circles to have a lieutenant-governor appointed by the United Kingdom Home Office through the Queen it would be more appropriate if that person was a person of Manx connections, as in other Commonwealth countries where they have citizens of that country concerned as governors and governor-generals rather than somebody from another country, and that would be

perhaps window-dressing necessarily but at least it would be perceived as an advancement from what we have under the present arrangement?

**Mr Gelling:** Yes, Mr President, the Constitutional and External Relations Committee of the Council are addressing the aspect of independence. That is part of the remit, that is part of our work. It is not part of an aspect that has been given to us to address such as the presidency of Tynwald and so on. But I can assure hon. members that we are addressing that issue, and I suppose that at the end of the day the further we can get down the road in taking a step-by-step approach to something that is exceedingly important for this Island and should not be taken in, as I have already suggested, a knee-jerk effect, the better. It is something very serious that has to be considered very, very deeply. But I can assure hon. members that your committee are aware of this and that is the way we are working.

**Mr Waft:** Would the Chief Minister agree with me, to reach more constitutional independence in the Isle of Man more notice would have to be given to international issues by this hon. Court than has been in the past?

**Mr Gelling:** Yes, Mr President, as again I suggested, we have taken upon ourselves much legislation, international legislation, that we are competent to take on board that we have not done in the past and this is all part of that approach to independence, and I think, again, this is something that we all agree that we should be doing but it is the speed at which we should be doing it which I think is different in the minds of some members.

**Mr Cannan:** A final supplementary. Does the Chief Minister consider that his Constitutional and External Relations Committee reflects the majority body of opinion of members of this Court?

**Mr Gelling:** Yes, I would indeed, Mr President, suggest that the committee does because of course we have Mr Speaker as one of the members; Mr Rodan, the hon. member for Garff; Sir Miles; Dr Mann, the hon. member of the Council; and myself, so I think it does reflect a good selection from within this Court.

**The President:** The hon. member of the Council, Dr Mann.

**Dr Mann:** Mr President, I was just about to ask the same question which has been answered.

**The President:** Thank you.

### **Rushen Abbey – Purchase – Question by Mr Karran**

**The President:** Question 2, the hon. member for Onchan, Mr Karran.

**Mr Karran:** Eaghtyrane, I beg to ask the Chief Minister:

- (1) *Has the purchase by your government of Rushen Abbey and adjacent land been completed; and*
- (2) *if so, when was it completed?*

**The President:** The Chief Minister to reply.

**Mr Gelling:** Mr President, the purchase of the property was of course purchased by Manx National Heritage rather than a department of government. However, I can advise the

hon. member that the answer to the two questions is in fact, yes, and the completion date was 12th May last.

### **Income Tax – Complaints from Non-Residents – Question by Mr Rodan**

**The President:** Question 3, the hon. member for Garff, Mr Rodan.

**Mr Rodan:** Mr President, I beg leave to ask the Minister for the Treasury:

*Does the Treasury receive complaints that Manx income of non-residents is liable to income tax at 20 per cent on the whole of the taxable amount, and without provision for personal allowances?*

**The President:** The Minister for the Treasury to reply.

**Mr Corkill:** Mr President, there are probably two or three non-resident individuals each year who write to the Treasury to complain that income tax at the rate of 20 per cent has been deducted from their government pension without any personal allowances being allowed.

It may help hon. members if I explain that the Income Tax Act only permits personal allowances to be granted to individuals who are resident for income tax purposes in the Isle of Man. This means that non-resident individuals receiving income such as private or occupational pensions, rental income, dividends, et cetera account for income tax on the gross amount of their Manx source income at the rate of 20 per cent, being the rate of non-resident income tax.

Normally the income tax deducted is allowed as a credit by the foreign country in which they now reside. It is understood that in a few cases some of the individuals may not have a tax liability in that country and therefore feel aggrieved that they should have to suffer any income tax.

If it is of assistance to the hon. member, the Treasury does review its policy in this area as part of the annual budget process and would welcome any realistic proposals if he considers it is impacting harshly on any particular group of individuals. At present the numbers involved are not significant enough to warrant a wholesale change to our system. Should the number of retiring individuals seeking alternative climates increase then the position may well change.

**The President:** A supplementary, sir?

**Mr Rodan:** Thank you, Mr President. Would the hon. minister agree that it is inequitable to the many retired Manx Government pensioners who for various reasons choose to live off-Island, firstly to be taxed at not 15 per cent but at 20 per cent, and secondly, unlike retiring UK civil servants coming to the Isle of Man who do have personal allowances applied, they do not? Does he not agree that it is inequitable to these people?

**Mr Corkill:** The hon. member asked a question in this Court previously with regard to public sector pensions and people who then move back to their original jurisdiction or who live somewhere else other than the Isle of Man, and in terms of whether something is equitable or not, I think it would be most inequitable to treat one group of people different from the rest of the community.

**Mr Rodan:** Mr President, would the hon. minister agree that we are already treating one group of people different from the rest of the community and that is those who receive bank income interest gross paid from the Isle of Man, in other words the precedent has already been set in as much as not all sources of Manx income are taxed at source in full at 20 per cent and one source is bank interest?

**Mr Corkill:** The hon. member has a point, but I think the hon. member should also realise that there is a great deal of revenue at stake by applying this sort of thing universally and that is why in my original reply I did ask if the hon. member had any realistic proposals if he did consider that there was a harsh impact on a few people. But from my conversations with people in this situation, a number of former government employees who then move to live in warmer climates when they retire in fact acknowledge that 20 per cent will be deducted and it is only one or two who actually write and complain. Most of them understand the situation and accept it.

### **Irish Corporate Tax – Reduction – Question by Mr Rodan**

**The President:** Question 4, the hon. member for Garff.

**Mr Rodan:** Thank you, Mr President. I beg leave to ask the Minister for the Treasury:

*What action does the Treasury plan to take in response to the proposed reduction of Irish corporate tax to 12.5 per cent?*

**The President:** The Minister for the Treasury to reply.

**Mr Corkill:** Thank you, Mr President. For hon. members who may not be aware of the proposals, there was an announcement on 22nd July 1998 by the Government of the Irish Republic that it had reached an agreement with the EU Commission on the arrangements for phasing in a 12<sup>1</sup>/<sub>2</sub> per cent corporation tax rate for trading profits by 1st January 2003. This is to be achieved by systematically reducing their current rate of 36 per cent by 4 per cent per annum over the next six years.

It should be noted that this announcement has not been well received by some of the other countries within the European Union. It has yet to be seen whether pressure will be brought to bear to amend the proposals and in reality whether economic pressures will enable such a rate to be achieved.

Clearly the Isle of Man must have regard to the actions of one of its closest competitors and indeed to the other international issues facing us within the overall taxation scene. It was for this reason that I announced in my budget in March of this year that Treasury had established a focus group with private sector involvement to consider possible taxation changes and to make recommendations on proposals for a revised strategy for the new millennium. The proposals to which the hon. member has referred have featured in the discussions of the focus group.

Treasury is expecting a draft of that report early in the New Year and will be studying the options being proposed. It would be unrealistic of me at this stage to try and pre-empt their deliberations, but I hope I can assure the hon. member and indeed the business community of the Island that steps will continue to be taken to retain our competitive position.

**The President:** A supplementary, sir?

**Mr Rodan:** Mr President, is the minister concerned in any way that any delay in bringing forward any proposals that the tax strategy group may make may undermine business confidence and risk the possible migration of business from the Isle of Man to the new regime in Ireland?

**Mr Corkill:** I think underlying the whole of this discussion about tax harmonisation, Mr President, is the clear understanding and the clear issue that whereas the Irish Republic is part of the European Union and therefore obliged to follow the directives set by the European Commission with regard to harmonisation of tax, they are following a narrow way forward and that they have little options other than to announce measures such as they have done with the 12<sup>1</sup>/<sub>2</sub> per cent. The Isle of Man on the other hand, not being part of the European Union, has fiscal independence and therefore the criteria that we will be making decisions upon will not be the same as a European Union member will be basing their decisions on.

**Mr Crowe:** Mr President, could I ask the Treasury minister will the focus group be looking at double tax treaties, either existing ones or bringing in new ones, to help the Island?

**Mr Corkill:** I think, as time goes by, in the not-too-distant future the issue of our one and only double taxation agreement with the United Kingdom will certainly be in need of discussion and change.

**Mr Rodan:** Mr President, is the Treasury minister aware of the October 1998 issue of *Offshore Financial Review*, published by FT Finance, and is there any truth in the report in that publication, quote, 'The recent agreement between the Irish Government and the European Commission on a new 12<sup>1</sup>/<sub>2</sub> per cent corporation tax rate prompted a concerned Isle of Man Government to hastily convene a meeting with the Irish Deputy Prime Minister and Minister for Enterprise, Miss Mary Harney, in Dublin, according to well placed Manx sources'? Is there any truth in that report?

**Mr Corkill:** This is news to me, Mr President, and certainly I will investigate the statement the hon. member makes, but certainly the issue of the tax strategy working party which I mentioned earlier was as a result of general international change which the Isle of Man Government has taken note of and which we are going to react to in a positive way, and that decision was made at the end of 1997.

With regard to meetings with the Irish minister, I have no knowledge of that and therefore I will have to investigate the statement.

**Mr North:** Mr President, would the hon. Treasury minister not agree with me that my visit to meet the Tánaiste, the Minister for Enterprise, Trade and Employment in the Irish Republic was purely on matters to do with my department?

**Mr Corkill:** The hon. member's comment speaks for itself and as Minister for the Department of Trade and Industry it is encouraging to note that he has this communication with what is a near neighbour, a competitor but also historically a friend of the Isle of Man.

**The Speaker:** In response to the hon. member of the Council, Mr Crowe, the hon. minister referred to a change in the double taxation agreement between ourselves and the UK. Does the minister consider that that would be a matter of constitutional importance?

**Mr Corkill:** With regard to the double taxation agreement, which is a long-standing issue, Mr President, I do not believe that it is a constitutional issue but I will take further advice on

that, but certainly in the matter of taxation and the freedom of the Isle of Man to determine its own taxation arrangements, then that is a constitutional matter and that is unquestionably the right of people in the Isle of Man to determine through the Tynwald and House of Keys-Legislative Council process.

**Mr Lowey:** Could I ask the hon. Treasury minister if he would inform members of the outcome of his findings regarding investigations of alleged meetings?

**Mr Corkill:** I misheard the last sentence of the hon. questioner.

**Mr Lowey:** In reply to a supplementary question quoting a publication in this Court you said that you were unaware of meetings and you would investigate. Would you make those investigations' findings available to members of this Court?

**Mr Corkill:** Certainly I can write to hon. members and inform them of the facts.

**Mr Lowey:** Thank you.

### **Euro – Treasury Advice – Question by the Speaker**

**The President:** Question 5, the hon. member Mr Speaker.

**The Speaker:** Mr President, I beg leave to ask the Minister for the Treasury:

*What advice or support is the Treasury giving, or planning to give, to local business in anticipation of -*

*(a) the introduction of the euro; and*

*(b) the United Kingdom adopting the euro?*

**The President:** The Minister for the Treasury to reply.

**Mr Corkill:** Thank you, Mr President. The Treasury report, 'Review of European Economic and Monetary Union and its Implications', published in March this year, was a product of the work of a Treasury working party that had been established to assess the practical issues faced by the government and the Island's business community and to determine the role of government in the dissemination of advice and information. The report was not designed specifically to be a guide for business preparations but, from the feedback received, it has proved a welcome and informative document.

At the risk of oversimplification, the immediate issues concerning the euro are for the consideration of business rather than the general public, since the currency itself in the form of notes and coins does not come into being for another three years and in the case of the United Kingdom and ourselves some time after that.

It is clear that the Island's financial institutions are well advanced, indeed by now nearing completion in their preparations. This is only to be expected, since the euro will have an immediate impact on wholesale banking and other financial services.

Other Island businesses that will be affected straightaway from 1st January next year will be those who either as suppliers or purchasers find themselves transacting in the new currency. The narrow focus for these companies are of an accounting and information technology nature, although from a wider perspective all manner of issues arise concerning price transparency, competitiveness, marketing and Treasury operations.

In anticipation of the euro being used by Island companies, the Treasury has already decided that it will accept payments in euros by eurocheque and bank transfers, including the settlement of tax, and has amended its internal accounting systems accordingly. Government has already opened a euro account to accommodate its own dealings arising from the operation of this payment facility.

The introduction of the euro could clearly produce uncertainties for companies. One source of uncertainty that government was recently able to react to was that surrounding continuity of contract. The order laid before this Court last month and on the order paper at item number 6 today for consideration provides that a legal contract is not declared invalid solely because a monetary sum referred to within it is a currency that is being replaced by the euro.

Various departments of government have their own mechanisms for responding to enquiries concerning the euro. The staff of the Economic Affairs Division of the Treasury has been providing a general information service to enquirers, many of whom have been rerouted from other parts of government. I know too that the Financial Supervision Commission and the Insurance Authority have also handled enquiries pertaining to their fields of competence and responsibility. Indeed both bodies have been active in advising financial institutions on the need to ensure that they will continue to meet their ongoing regulatory obligations. Discussions with licensed and authorised institutions have been taking place on their preparedness, whilst the FSC has issued guidance to its licence holders setting out how they should interpret regulations in the light of changes brought about by the euro, and a series of half-day seminars has been held for the finance industry with the assistance of the United Kingdom's Financial Services Authority on these and related issues.

Short of the introduction of the euro proving a total disaster, it can only be a matter of when rather than if the United Kingdom Government adopts the new currency. It would make little sense for this Court to do anything but adopt the currency at the same time.

The government has an essential role in the provision of public education. The majority of public information about the process of changing to a single currency will originate from the United Kingdom. General business information and technical financial information is already being issued by United Kingdom institutions, including the Treasury, the Bank of England and the Confederation of British Industry. The Isle of Man Government will provide specific information for the Island's businesses on requirements related to issues such as taxation or legislation.

When developing an information and education strategy, government will issue its own public information literature, in many instances based on that published by the UK. It will also organise information seminars. Further, it is intended that an advisory office will be established at an appropriate time as a focal point for provision of information and assistance.

Much of the work still to be undertaken by government has already been assessed by the Treasury, and the working party referred to earlier has been collating and examining all manner of publications with a view to devising our own information literature.

When a decision is made by the United Kingdom Government to enter European economic and monetary union, then our planning can readily be accelerated and finalised. We think, however, that before such a time our existing services are proving adequate. One must

also bear in mind of course that the Isle of Man Government will not be the only source of advice and information. I am sure that the various business organisations on the Island, not least the Chamber of Commerce, will be acting as points of communication and dissemination and doubtless too individual businesses and entrepreneurs will have sought advice from their banks and other service providers.

**The President:** A supplementary, sir?

**The Speaker:** Mr President, I thank the hon. minister for his positive reply, for which I am grateful. Is the minister aware that, for example, whilst his comments on financial service is very positive, it is probable that such mundane things as lamb carcasses will be traded in euros very shortly which could very well have an effect on the local market?

**Mr Corkill:** I think it is becoming clear, Mr President, that although the United Kingdom is not participating in the first move on the euro, because of international trade and relations between EU countries, use of the euro will effectively come in by the back door and in a number of areas people have already made decisions, companies have made decisions to use the euro and therefore they are geared up for that. So the comment that the hon. Mr Speaker makes is not a surprise.

#### **Natural Environment – DAFF Preservation Policy – Question by Mr Henderson**

**The President:** Question 6, the hon. member for Douglas North, Mr Henderson.

**Mr Henderson:** Mr President, I beg leave to ask the Minister for Agriculture, Fisheries and Forestry:

*What is your department's policy for preserving, conserving and improving the natural environment in publicly owned areas of national and natural importance?*

**The President:** The Minister for Agriculture, Fisheries and Forestry to reply.

**Mrs Hannan:** Thank you, Eaghtyrane. The department's policy objective, as stated in the 1998 policy review document, is to ensure the conservation of those areas of natural habitats considered to be worthy of protection in national and international terms, and by doing so, to demonstrate government's commitment to the preservation of the Island's flora, fauna and habitats while recognising the need for a balance between conservation and development.

The 1990 Wildlife Act applies to my department's land as well as other lands. Section 36(1) indicates that my department has a duty to have due regard for the environment, especially, and I quote, 'the conservation and enhancement of the natural beauty and amenity of the countryside, the protection of wildlife habitat, and the conservation of flora and fauna and geological and physiographical features of interest'. Other departments, statutory bodies and local authorities also have this duty under section 36(2). This should affect the way their land is managed.

The Manx Museum and National Trust also take account of the natural value of their own public land through their own legislation, and my department staff are able to give advice.

My department is involved in conservation management of such areas as are already designated as areas of special scientific interest, as at the Ayres.

With respect to other areas within my department's ownership, predominantly the hill lands, which cover large areas of natural vegetation and countryside, my department works closely with its hill grazing and shooting tenants to achieve standards of management in accordance with recognised best moorland management practice. In so doing it is acknowledged that this land is open to public ramblage and is traversed by public rights of way.

As regards managing the national glens, the end policy objective is to attain a feeling of managed naturalism. This objective is supported by surveys carried out by my department with regard to both Island residents and tourist groups and has shown that there is a strong wish for the glens to be managed in this way and not developed into sophisticated recreational playgrounds. Whilst not strictly classified as natural environment, the national glens do form a significant land ownership for my department. However, the general feedback as regards the glens is positive.

In addition the policy review document states at paragraph 13.4.1 that my department will 'seek to enhance the wildlife value of all types of its woodland' - this includes national glens - and at paragraph 13.5.4: 'The Department. . . will assist and encourage other Government Departments' and Agencies to fully integrate conservation throughout all areas of activity.'

In putting this policy into action my department has (1) identified the prime area of national and natural importance as the Ayres, an area of special scientific interest partly owned by my department and the Manx Museum and National Trust, and this summer my department put up a protective fence around a little tern nests in that area to encourage greater breeding success which has led to a higher rate of egg and chick survival; (2) organised a forum of naturalists and representatives of interested bodies to discuss the ecological value and management of the Ayres as well as the need for stronger conservation measures; (3) employed two wildlife and conservation officers to advise my department as well as other departments; (4) enhanced the conservation input to forestry policy and planning; (5) prepared a conservation plan for Knockaloe Farm to act as a demonstration for a possible agri-environment scheme for other farms; (6) responded to the proposal for developing a garden at the old sandpit adjacent to Tynwald in favour of maximising the retention of the natural vegetation and its wildlife; and (7) planned assessments of all our glens and hill lands for their conservation value according to ASSI selection criteria to allow for the evaluation of areas which could be considered for designation under the Wildlife Act. Thank you.

**The President:** A supplementary, sir?

**Mr Henderson:** Thank you, Mr President. I thank the hon. minister for her comprehensive reply and I am pleased to note that the Ayres and the hill lands and especially the glens are given special note in that reply. In view of her answer, could the hon. minister give this hon. Court a categorical assurance that her department's plans for the proposed destruction of a semi-natural woodland on Silverdale Glen will be put on hold subject to further consultative processes and further exploration of alternatives?

**Mrs Hannan:** No, I will not do that, Eaghtyrane. At the moment this particular proposal for Silverdale Glen is in the planning process and we await the outcome of that planning process.

**Mr Henderson:** Mr President, would the hon. minister then not agree that the proposals to destroy this piece of valuable woodland are not in the best interests of good conservation, the residents of the area or the people of the Isle of Man? The glen will be for ever spoilt. Would she not agree?

**Mrs Hannan:** Eaghtyrane, this particular area that is being proposed to be developed for a car park takes into account the policy objective of my department which is the need for balance between conservation and development. My department has many considerations with regard to the health and safety of the people who visit this area and it is the health and safety of people in this area which has been the concern of my department for many years now. My department has striven to try to solve the problem of parking in this area and a number of incidents in the area has caused us concern and the need to look for parking in this area. So that is what has brought about this particular need to develop this area and provide this area with a car park.

Some naturalists would say that it is an area that needs to be preserved and others would say that there is not an awful lot of value that is there. It is interesting to note that conservation groups, when they develop an area such as along the Castletown straight, the reedbeds, have developed a car park in that area. So I think it is even recognised by conservation groups that if they are going to maximise an area and introduce the public to an area they also need to provide a car park.

**Mrs Cannell:** Mr President, given that the minister in her long, lengthy reply did refer to managed naturalism, how then can the same department and the same minister endorse a car park and refer to it as managed naturalism? Is that in keeping with managed naturalism?

**Mrs Hannan:** I am so sorry, Eaghtyrane, that the members of this hon. Court do not like a comprehensive answer to the question that is posed. This particular car park will, as far as we hope, be managed naturalism in this area. There is this balance between conservation and development and if we are going to encourage the public to visit the countryside or to visit a particular area, one of the main considerations needs to be the safety of people visiting that area and to provide a safe area.

I said in my reply with regard to the area at Tynwald that we developed there a national park - some would call it an arboretum - but alongside that we had to supply a car park. If anybody has an event in the countryside they supply a car park. There is a field for people to park in off the road. For anybody who goes to any of the shows there are car parking facilities made available. Now, that is not permanent, but in this particular area people do like to visit, they like to visit on a regular basis. It tends to be a lot more in the summer than in the wintertime but we do need to make safety provisions, and in this I would hope that the plan that we have at the moment is more naturalised within the setting of Silverdale and actually will make it safer for people to visit there.

**Mr Henderson:** Mr President, in that light then would the hon. minister also not agree that the removal of many trees in a naturally generating woodland could be seen as environmental vandalism and is contrary to her department's policy of good forestry?

**Mrs Hannan:** Again I come back to this balance, Eaghtyrane. The balance is conservation and development and I think without a car park in this particular area people would not visit the area.

We do have to take difficult decisions in this particular area. People have parked on the road, they have made it impossible for emergency vehicles to get down to the buildings at the mill, and that has caused us a great deal of concern. We have a responsibility, as the landowners there, to provide car parking.

Now, members will say, 'Well, it's been there for long years and you've not done anything in the past,' and that is true, but it is more and more popular as people want to come out and they want to enjoy the countryside and they can get access to the glen, to the little field where they can have picnics and play games and various things in that particular area which is not available in some other places. There is also recreation there such as on the mill pond and the other play equipment that is round about there, including the very famous water-driven carousel. So there is lots that attract people to this area and if it is going to continue like that, my department has a responsibility in this day and age to provide safety for those people.

**Mr Lowey:** Would the hon. minister not agree that her traffic problem is larger than the 30-car car park which she proposes to put in this particular place? So it is not going to resolve her problem.

Would she also not agree with me that the real reason for the car park is not to allow the glens to expand but to increase the commercial viability of the buildings, and that is a contradiction in terms?

**Mrs Hannan:** No, it is not to increase the commercial value of the buildings any more than they are at the moment. My department is very aware of the area at Silverdale, that it should not be developed, and we have had many proposals put to us in recent times suggesting that they should be allowed to develop and develop more commercially, and we have always resisted that. We have tried to keep it as natural as possible because we understand from the people that use this particular area that they like the naturalism of the place. It is not that natural but they like the naturalism of the field adjacent to areas where children can also play on play equipment. So I would refute the comment made by the member of the Council on that particular issue.

This is not going to solve all the parking problems in the area. It is not going to solve them all but it is going to go some way to solving some of them and we have to await the outcome of the planning on this matter.

**The President:** And the final supplementary on this question, the hon. member for Onchan, Mr Karran.

**Mr Karran:** Eaghtyrane, why can't the minister come up with a reasonable compromise and actually go and develop a car park on the open fields that are very near the vicinity of the site? Why can't we see some compromise as far as that is concerned? Is it because of the embarrassment of how much it has cost to buy the land in the first place and if so, wouldn't it be far better for us to forget that and actually go and buy some agricultural land that is in the vicinity anyways?

**Mrs Hannan:** There is no land nearby to buy, Eaghtyrane. There is no land. We have tried for about 15 years to buy agricultural land nearby and we have not been able to. My department would be quite happy to buy land. This is the position that the local authority keep saying, that there is land available, there is not land available. There was a field available on

the main Ballamodha Road and when enquiries were made of the planners they said that it would not be supported in planning terms because the opening would be on to that reasonably fast stretch which would be obstructed because of the roadway and also the loss of too many trees on the roadside. So that land was not purchased, but that is the only land and it was further away from the actual Silverdale mill area than it was thought that the public would use.

### **Kirk Michael – Planting of Sapling – Question by Mr Cannan**

**The President:** Question 7, the hon. member for Michael.

**Mr Cannan:** Mr President, I ask the Minister for Agriculture, Fisheries and Forestry:

*Having licensed the felling of a sycamore tree in the Glebe Field, Main Road, Kirk Michael, will your department now require a sapling to be planted in the exact position of the felled sycamore and place a preservation order on the sapling?*

**The President:** The Minister for Agriculture, Fisheries and Forestry to reply.

**Mrs Hannan:** The answer to the hon. member's question, Eaghtyrane, is no. I should point out that even if my department felt that the proposal was sensible, it does not have the power to impose this requirement when an unconditional licence had been issued for the felling of a small sycamore in the location in question.

As I explained to the hon. member in response to his question in another place, it is not for my department to abuse its powers as a vehicle for endeavouring to counter an unpopular planning decision (**Mr Gilbey:** Hear, hear.) by the hon. member's constituency. As previously indicated to the hon. member, if local residents are distressed by what appears to be an unpopular planning decision, then their route of redress is through the planning procedures rather than attempting to misuse the provisions of the Tree Preservation Act 1993.

I would also confirm for the information of hon. members that if the Planning Committee in approving a development application has authorised works which include the removal of trees, then any such approval overrides any powers available to my department under the Tree Preservation Act. Thank you.

**The President:** A supplementary, sir?

**Mr Cannan:** A supplementary. Cannot the minister clearly understand that a licence was given to remove the tree on the incorrect information that it was required for agricultural purposes, as stated in a letter from her department dated 1st June 1998, when in fact it was required to assist a planning application for 51 houses to succeed? Minister, the felling of this tree had nothing, repeat nothing, to do with agricultural access as stated in your letter.

**Mrs Hannan:** Eaghtyrane, my department was approached by the landowner who wanted to erect a gateway between two fields. He was quite open about his wish to obtain planning permission for the fields but said that in any event, even if such permission was not granted, he required better access between the fields for his livestock. My department's officials examined the hedge in order to determine the best spot for a gateway in terms of the poorest tree which could be removed. A small sycamore was chosen. This was determined by my forestry officers as negligible in tree terms.

There was no abuse of the Tree Preservation Act, no abuse whatsoever. The landowner was perfectly open about why he wanted access between these two fields.

My department granted an unconditional licence because it was for agricultural purposes between two fields.

It is also interesting to note a development across the road, well known to the member for Michael, (**Members:** Ooh!) -

**Mr Cretney:** He should not go on holiday, should he?

**Mrs Hannan:** - and when planning approval was granted a number of trees were felled to allow access to that land. (*Laughter*)

**Mr Cannan:** A supplementary, sir, with your permission. Will the minister agree that regarding the planning approval given for land across the road, the trees were removed, not on the assumption that it was needed for agricultural purposes when it was patently not, it was given on the understanding it was needed for development to provide sheltered housing for the elderly? Thank you, sir.

**Mrs Hannan:** In response to my question I did confirm, and I will confirm again for the information of hon. members, that if the Planning Committee in approving a development application has authorised works which include the removal of trees, then any such approval overrides any powers available to my department under the Tree Preservation Act, and I would say again, Eaghtyrane, that the member for Michael is the only person, other than another constituent of his, that has raised this matter. The commissioners had a meeting and there was no report of this sycamore tree. Thank you.

#### **Land – Maintenance by DAFF – Question by Mr Houghton**

**The President:** Question 8, the hon. member for Douglas North, Mr Houghton.

**Mr Houghton:** Thank you, Mr President. I beg leave to ask the Minister for Agriculture, Fisheries and Forestry:

- (1) *Does your department own land adjacent to the Mountain Road; and*
- (2) *if so, what action does your department take to maintain this land?*

**The President:** The Minister for Agriculture, Fisheries and Forestry to reply.

**Mrs Hannan:** Eaghtyrane, in answer to part (1) of the hon. member's question, I can confirm that my department does own land adjacent to the Mountain Road, especially the sections running from Slieu Lhean in the north to Kate's Cottage at the southern boundary.

As regards part (2), the day-to-day management of this land, most of which is covered with natural vegetation, is carried out by my department and its hill tenants in accordance with the various provisions of the individual grazing leases between the department and such tenants. In addition my department also lets this land to shooting tenants, many of whom work closely with the department in carrying out moorland management. The uplands are very much in a managed natural state and the practices employed do not involve the disturbance of ground surface.

Hon. members will also no doubt be aware that my department has given increased attention to the problem of the aging dry-stone walls in the hills, some of which border the Mountain Road. A programme of repair and renewal has been started this year to ensure that these important elements of the landscape are put into good order.

Due to the frequency of vehicular damage to roadside stock fences on the mountain road my department instigated proposals for setting back certain sections of these fences where they are situated close to the roadway. Considerable lengths of new fencing have been erected this year by my department to assist with road safety.

In recent years my department has also become increasingly concerned at the level of unauthorised vehicular access onto the hills, both by motorcycles and four-wheel drive vehicles. This concern led to discussions with the Department of Transport and resulted in the Greenway Road (Weight Limit) Order 1994 which imposed a weight restriction on certain sections of the uplands rights of way.

Maintenance of the uplands is an important part of my department's responsibilities and is taken very seriously by my department. Thank you, Eaghtyrane.

**Mr Houghton:** Mr President, may I ask the hon. minister, was the reason for the flooding which caused the landslide on the mountain mile due to blocked ditches, and if so, who is responsible for this lack of maintenance?

**Mrs Hannan:** I think I would accept, Eaghtyrane, that what has happened recently on the mountain and in other places in the Island has been quite exceptional and I do not think any of these issues can be put down to blocked drains or any sort of difficulties like that in these particular areas.

It is unfortunate that we have lost a lot of the peat and there has been a lot of slippage, not just onto the road but in other places as well, and it does cause us grave concern that we are losing this potentially from where it was and where it has been developed over very many years through the decomposition of vegetation.

**Mr Downie:** Mr President, the minister in her reply made reference to work being carried out to the stone walling on the mountain. I would like the minister to confirm that in this year's budget there is a figure of around about £25,000 to £30,000 in for stone walling and could the minister indicate to the Court today how much per metre it actually costs to stone wall and how much stone walling will she be able to do this year with the money available?

**The President:** It is up to the minister as to whether or not she answers that question: it is so away from the original question.

**Mrs Hannan:** Absolutely, Eaghtyrane. We are doing the work. We have money put aside. We have had to make savings in other areas because we feel that the work with regard to stone walls on the hills is so important. I have not got the figures in front of me. If the member wants an answer such as that, then that information can obviously be made available.

The work that is going on is quite exceptional. We are very lucky to have such dedicated people who are prepared to go and work on the hills in all weathers to rebuild our stone walls and I am very grateful for the people that are involved using their craft and their skills to rebuild our walls.

**Mr Henderson:** Mr President, a further supplementary. I have been impressed by the answers from the hon. minister so far and certainly in her assurances for the importance of the Manx uplands. Given those assurances, would the hon. minister now not agree that the Manx uplands, certainly in her department's ownership, are of international importance and given

that assurance will she now make an undertaking to this hon. Court of what plans her department intend to put in place to restore this loss of valuable upland habitat?

**The President:** I think we are getting well away from the original question and we move on, hon. members, to -

**Mrs Hannan:** Eaghtyrane, could I answer that one, please?

**The President:** You may answer it if you wish, but I am getting a little bit concerned at, shall I say, the divergence from the original questions of some of the supplementaries. You may answer it, but I am warning the Court I am not going to accept supplementaries which are so detached from the original question as to be nonsensical on occasion.

**Mrs Hannan:** Thank you, Eaghtyrane. I would say I am grateful that the member acknowledges the content of the responses that I am giving this morning in this hon. Court. The work that we do with regard to conservation is increasing within the department, it is extremely important, and I look to further support from this hon. Court in the future with the work that we are doing, but I cannot say that I can restore the hillside. It is not possible to restore the hillside. Not even I can do that.

**Members:** Oh!

#### **Mobile Telephone Network – Question by Mr Cannell**

**The President:** Question 9, the hon. member for Onchan, Mr Cannell.

**Mr Cannell:** Thank you, Mr President. I beg leave to ask the Minister for Home Affairs:

*Are you satisfied that the Isle of Man's mobile telephone network meets the needs of a modern business community?*

**The President:** The Minister for Home Affairs to reply.

**Mr Bell:** Thank you, Mr President. I answer this question as the chairman of the Communications Commission, since it is that commission which has the statutory responsibility for ensuring that licensees under the Telecommunications Act comply with the conditions of their relevant licences.

Manx Telecom provide the mobile telephone network here on the Island and use the latest digital technology to the GSM standards that are used worldwide. Manx Telecom provide that service under a licence granted to it with the approval of Tynwald. That licence required Manx Telecom to make a service available to areas where 85 per cent or more of the population of the Island live by 1st April 1998. Manx Telecom advise me that they currently reach about 95 per cent of the Island's population.

I understand that there are still some areas where it has not proved to be possible to provide a service to the level that Manx Telecom would wish. The primary difficulty has been in obtaining the necessary planning permissions for additional masts at sites at St Jude's and to serve Santon.

The real problem for users is not so much the lack of specific coverage but the fact that there is a lack of continuity of service as people move from one area to another. Manx Telecom are considering how best to make good these deficiencies and I am advised that they will be submitting planning applications for about eight more sites in the next two to three

weeks. These applications, recognising the need for an environmental friendly approach, will be for simple pole-type structures rather than the lattice masts with which we are familiar. However, more will be necessary to provide the same level of coverage.

The next generation of mobile telephones is not expected to come into service in the UK or elsewhere in Europe until 2002 at the earliest. My commission will be discussing with Manx Telecom what their plans might be for the introduction of this new service when we know exactly what is happening elsewhere, but I am assured that the Isle of Man will be in the vanguard in the provision of any new services.

**Mr Cannell:** Mr President, in the light of the reply which I have just obtained I am surprised to hear that there is difficulty with mobile telephones where people move from one area to another. I was convinced that that was one of the primary purposes of having that sort of equipment. But does the hon. Minister for Home Affairs consider it fair to say that the proliferation of ugly communications masts, of which we now hear there may be more, has not really improved reception of mobile telephones in the Isle of Man to the extent where even calls between parties within the capital are sometimes not accepted and that there are many, many black spot areas in the Isle of Man?

**Mr Bell:** Mr President, as I think I stated in my reply, there are still problems with overall coverage by the mobile phone system on the Isle of Man and this is being addressed at present.

I agree entirely with the hon. member when he claims the ugly appearance of the masts which are proliferating round the Island and I have to say I am one of the unfortunate members who have one of these masts at the bottom of his garden and I have to look at this ugly structure every day of the week, so I fully sympathise with the hon. member in the comments that he is making. I am aware, though, that Manx Telecom now realise that there is a fair degree of hostility throughout the Island to a continued proliferation of this type of lattice mast and are now designing, as I said in my answer, a simple pole-type structure which they hope will be more acceptable.

The Isle of Man, I believe, is not unique in concerns about the appearance of mobile phone masts throughout the countryside and there have in recent times been considerable hostility and activity against similar erections, particularly in Northern Ireland. So this concern is widespread and I very much hope that the telecommunications companies are taking note of this concern and will in future provide something which is more environmentally acceptable.

**Mrs Crowe:** Is the minister aware that as a result of a number of complaints the Trading Standards Division of the Board of Consumer Affairs has just completed a very extensive survey of the reception available throughout the whole of the Island? We will, of course, minister, be furnishing you with a copy of that report when we have collated the results.

**Mr Bell:** I have to say, Mr President, I was not aware that this survey was taking place, but if the hon. member would provide us with a copy of her conclusions we would be very happy to follow any recommendations through.

But I would also say if any hon. members have particular problems in their areas relating to telecommunications, either personally or through their constituents, if they would refer those

particular concerns to myself or to the Communications Commission, we will most certainly investigate them and bring any relevant issues to the attention of Manx Telecom.

**Mr Cannan:** Can the minister comment is it correct that unless a person purchases their mobile telephone through Manx Telecom their number will not appear in the telephone directory and directory enquiries will not give the telephone number of that mobile telephone on asking?

**Mr Bell:** I am not aware of that situation, Mr President, but I will certainly investigate.

**Mr Cannell:** Finally, Mr President, perhaps I could ask the hon. Minister for Home Affairs is he aware that now there are strong moves in the United Kingdom to have the reception masts, or whatever equipment is needed now to convey these signals, incorporated into church towers and indeed even to the extent of having them, as the Minister for Agriculture, Forestry and Fisheries would no doubt be glad to hear, incorporated into artificial trees? Not sycamores.

**Mr Bell:** Yes, Mr President, I have heard reference to these developments in the United Kingdom, but I would just add that the environment of the Isle of Man generally, the hilly nature of the Isle of Man in particular, does cause particular problems and has done with the communications long before mobile phones came on the scene. It is an unfortunate situation that we have to overcome. At the moment there is no easy, simple solution other than to provide a string of masts around the Isle of Man to try and get over the problems caused by the hilly nature of the Island. I hope with the advancement of technology and the very fast-moving pace of that advancement that before too long we will be able to do without the significant number which it would appear we are requiring at the moment.

### **Custodial Sentences – Judicial Guidance – Question by Mr Waft**

**The President:** Hon. members, questions 10 and 12 will not be posed. Question 11, the hon. member of the Council, Mr Waft.

**Mr Waft:** Mr President, I beg to ask the Minister for Home Affairs:

*What are the implications for the Isle of Man of the recent judicial guidance on custodial sentences by the Lord Chief Justice of England and Wales?*

**The President:** The Minister for Home Affairs to reply.

**Mr Bell:** Thank you, Mr President. The only guidance that I am aware of that the Lord Chief Justice, Lord Bingham, has issued in recent months is guidance issued in the Court of Appeal in August and I assume that this is the guidance that the hon. member of the Council is referring to in his question.

The guidance deals with cases in which it is borderline as to whether a custodial or non-custodial sentence should be passed and it lays down a checklist of factors that courts should consider when deciding what type of sentence should be passed in individual cases. It results from continuing concern in the United Kingdom about the high prison population, and the aim would appear to be to ensure that a custodial sentence is not passed if a non-custodial alternative is available and would be appropriate in the circumstances of the particular case.

The law in the Isle of Man governing the powers of the courts to impose custodial sentences is, in the first place, to be found in an Act of Tynwald, principally in section 9 of the

Custody Act of 1995. That provision states first that no court shall impose custody on a person unless it is of the opinion that no other method of dealing with him is appropriate, and further, that no court shall impose custody on a young child or a young person, that is, a person under 17, unless the court is of the opinion that the circumstances are so exceptional that it would be inappropriate to deal with him by any other method. The court must normally obtain a social inquiry report and consider the offender's character and mental condition before it sentences him to custody, and a court of summary jurisdiction, that is, the High Bailiff, Deputy High Bailiff, magistrates court or juvenile court must give its reasons in open court for thinking that no other sentence is appropriate.

Subject to those statutory restrictions the court must have regard to any guidelines laid down by the Staff of Government Division and the Judicial Committee of the Privy Council, whose decisions are binding on the Manx courts. Decisions of the English Court of Appeal are not binding, but have persuasive authority and the Manx courts should give way to any guidelines laid down by that court in relation to sentencing, but subject, as I have said, to the overriding constraints imposed by our own Custody Act of 1995.

**The President:** A supplementary, sir?

**Mr Waft:** Thank you, Mr President, two supplementaries. In view of the fact that this Island imprisons more people pro rata than virtually the whole of Western Europe, necessitating greater use of the power of executive release because of accommodation facilities within the Island's prison, will your department undertake a review of the custodial sentencing in recent years and evaluate the benefit or otherwise of such sentencing?

Would the minister undertake to compliment the prison governor on the pragmatic way in which she has had to deal with the results of the vagaries of our judicial system?

**Mr Bell:** Mr President, the exercise as proposed by the hon. member has in fact already started within my department and we are looking at a range of policy sentencing options which we may be able to develop for the future.

It has become quite clear from research which has been done so far that the propensity for a custodial sentence has moved very much to a less serious range of crimes than existed five years ago and I believe this has in fact contributed considerably to the overcrowding and population problems within the prison at present.

We will not, no matter what we do, I believe, on the sentencing front, be able to alleviate the problems at the prison until we get a new development with expanded facilities there.

I take on board the comments, finally, that the hon. member mentioned about the excellent work done by the governor in extremely difficult circumstances. Executive release is not an option that we would, in normal circumstances, have introduced or be so supportive of, but the governor has an extremely difficult situation in so far as she has a fixed number of bed spaces available within the prison. We are under pressure from the Home Office and from the European Committee on Torture and In humane Treatment to reduce the overcrowding and the social problems and pressures caused by that within the prison, and I think under those circumstances the prison governor and the excellent staff that she has in the prison have done a first-class job in handling what is almost an impossible situation.

**Mr Cannell:** Hear, hear.

## **Blackberry Lane, Douglas – Pavement and Street Lighting – Question by Mr Duggan**

**The President:** Question 13, the hon. member for Douglas South, Mr Duggan:

**Mr Duggan:** Mr President, sir. I beg leave to ask the Minister for Transport:

*In the interest of public safety, will your department consider the provision of a pavement, and street lighting, on Blackberry Lane, Douglas?*

**The President:** The Minister for Transport to reply.

**Mr Brown:** Mr President, I can confirm that my department is currently progressing plans to provide a footway along the whole length of Blackberry Lane. (**Mr Houghton:** Hear, hear.)

On the question of street lighting, this is a local authority function and my department has approached the Onchan Commissioners regarding the provision of street lighting along this lane and we presently await their response.

**Mr Duggan:** I thank the minister, sir, for his satisfactory reply.

**Mr Cretney:** Mr President, whilst acknowledging the difficulties encountered in the north-east Douglas and Onchan border, would the minister please confirm that work is progressing to alleviate the real difficulties encountered by residents of South Douglas where the Vicarage Road between Meadow Crescent and the Cooil has very little, if any, footpath provision or lighting and has heavy vehicle use to the extent that it has become a no-go area for pedestrians, except for a few, including my dog and I who risk it regularly?

**The President:** You may reply, sir.

**Mr Brown:** Thank you, Mr President. I can confirm that my department is extremely conscious of the difficulties that are being encountered in that area and I have to say that I think it is most unfortunate that when a large development that took place in this area happened, through the planning process no provision was made to meet the requirements that were naturally going to come from an increase in traffic and that is the time it should have been done. However, now, unfortunately, the costs are going to be borne by the taxpayer through my department.

I can advise the hon. member that I have recently issued new instructions on how we should progress with this scheme and provide a new road and footway in the area and my department's Highways and Traffic Division are presently progressing on the basis of the instructions recently given.

**Mr Houghton:** Mr President, returning back to Blackberry Lane, may I ask if the hon. minister would consider putting the footpath, the pavement on the other side of the hedge as a matter of safety?

**Mr Brown:** Yes, my understanding from the information I have got from my Highways and Traffic Division is that is what they are looking at. I have to say, however, that I am concerned that the department provides footpaths behind walls and hedges where people using them can not be seen by passing traffic and I have made it clear to the Highways and Traffic Division that such circumstances will only be permitted where there is absolutely no alternative.

In Blackberry Lane, of course, as members will realise, there are two large hedges here which are old Manx hedges and naturally my department is concerned to try and avoid the removal of one or other of those hedges. So therefore we are looking at what is the limited alternative. However, what will be very important in the provision of such a footpath is very good street lighting to ensure that those using it at night feel safe.

**Mr Cannell:** Mr President, I would prefer that Blackberry Lane was reclaimed for Onchan where it rightly belongs rather than Douglas as the question -

**The President:** Within that preference, proceed with your question.

**Mr Cannell:** - but would the hon. Minister for Transport not agree with me that the Island's main roads in general need considerably updating in their lighting provision.

**The President:** I think that that is outside the remit of Blackberry Lane.

### **Mountain Road – Maintenance by DoT – Question by Mr Houghton**

**The President:** Question 14, the hon. member for Douglas North.

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

- (1) *Does your department ensure regular maintenance of the Mountain Road;*
- (2) *if so, what is the reason for the present closure of the road; and*
- (3) *how long do you expect it to remain closed?*

**The President:** The Minister for Transport to reply.

**Mr Brown:** Thank you, Mr President. In answer to part (1) of the question the answer is, yes, my department maintains the Snaefell Mountain Road with the same priority as other major routes on the Island. However, because of the location of the road, that is, at a high level, and because it is part of the TT course, regular inspections are undertaken.

In answer to part (2) of the question, the road is closed at present for two reasons, both of which originated on ground off-highway, that is, under the control of others and not my department. First, the carriageway failure below the Gooseneck was caused by a drainage ditch on private property becoming blocked, forcing water onto another route which then caused the water to flow under the carriageway and burst upwards through it, destroying the road construction. Secondly, the peat on North Barrule had become totally saturated due to the recent weather conditions. This has resulted in the peat moving and in some areas the peat has, like a mudslide, flowed onto and over the Mountain Road. My department has removed this peat. However, there are several locations on the Mountain Road which we are concerned about where the peat is showing signs of movement.

My department is working with the Department of Agriculture, Fisheries and Forestry, who own some of the areas affected, and with the other owner, in an endeavour to resolve the problem and secure the safety of the travelling public who use the Mountain Road.

We have sought off-Island specialist advice and have, after a visit to the Island by the specialist, received initial advice and we are awaiting his written report.

In answer to part (3) of the question, it is difficult to predict how long the road will be closed. The repairs to the carriageway at the Gooseneck are nearly completed, but the work

on stabilising the peat will take longer. It is very much dependent, as members will understand, on the weather conditions in this area and at present we have a road closure order in place until 19th December. This will be kept under constant review and it is my department's aim to reopen the Mountain Road as soon as we can. Thank you.

**The President:** A supplementary, sir?

**Mr Houghton:** Yes, thank you Mr President, and I thank the hon. minister for his comprehensive reply in this. May I ask, though, what is the cost to his department to date for the removal of this peat sludge, where has it been taken to, and what is the approximate quantity that has been removed?

**The President:** If the hon. member has any relative figures perhaps.

**Mr Brown:** Mr President, clearly, as I am sure members will understand, we have not got any actual detail costings at this stage of the cost of the works that are required. Our priority, naturally, is to get the work undertaken and, like any contractor, the costs will actually be formulated at the end of the line and we will then know the clear cost of the work.

What I can advise the hon. member is that the majority of the peat has been removed to the Ayres to the tip, because we have no other alternative, and my department has been charged I think it is £70 a load to tip it at the Ayres and certainly up to last weekend, if my knowledge is right, it had cost us £1700 for tipping charges. However, what I would make clear is that people should not underestimate the scale of the slippage up at the mountain and the amount of peat that has had to be removed and again what should be understood is the peat in this form, which contains a considerable amount of water, is just like a slimy mud. It is not the peat you would normally see on the mountainside. So I do not want people to think we have removed nice peat: we have not. It is actually just a matter of mud content which contains peat and it is very difficult to deal with.

**Mr Downie:** Mr President, given that the minister in his reply has indicated that some of the peat has gone to the tip to provide for cover material, what steps does the minister intend to take should there be further slippage in this area, and given that there could be vast quantities of peat to come down onto the Mountain Road, does he now intend to find a separate disposal site for this material rather than put it into the valuable space in the landfill?

**Mr Brown:** Mr President, hon. members of Tynwald are well aware of the joys and ease with which it is to find a tip for anything. Clearly my department would be no different than anybody else in endeavouring to find and locating such a site.

What I would say to the hon. member clearly is that we do not have slippages happening that often, but when they do happen we have to deal with them straightaway and again I would say at this stage that the weather conditions in the mountain and the saturation to all of the peat is somewhat exceptional and my department is very conscious of that, and I would make the point and I would take the opportunity to thank the staff of my department who have worked in somewhat appalling conditions (**Several Members:** Hear, hear.) up on the mountain. Anybody who has worked up there, and I worked up on Snaefell for two winters, anybody who works in that areas knows the conditions that there can be. We should acknowledge that and thank them for working really long hours in very poor conditions. (**A Member:** Hear, hear.)

But clearly we will deal with the issue as and when we can and I am pleased that the member for West Douglas, who is also a member of the Department of Local Government and the Environment, has acknowledged that it has been used as cover material, and as we have been charged £70 a tonne I might well consider charging them for the use of this valuable material to cover their tip.

**Mr Rodan:** Mr President, will the minister agree that whenever the Mountain Road is forced to close from time to time, the result is increasing complaints about speeding vehicles at Glen Mona and congestion on Minorca Hill? Can he advise, is Minorca Hill to be made one-way every time the Mountain Road is closed, as at present, or will his department consult on a more realistic management of the problem on Minorca Hill and at Glen Mona for this ongoing Mountain Road closure problem?

**Mr Brown:** Mr President, I think again I would just say to the hon. member, while I can understand some of the concern he is expressing, we do have to acknowledge that when the Mountain Road closes, either through this or through snow, these are exceptional circumstances and clearly my department has to then utilise the best it can out of the existing highways available to the motorists, and of course the motorists will determine what is their shortest route.

As far as speeding is concerned, if it is within a speed limit area, then clearly that is a matter for the police and they will take what appropriate action is necessary under such circumstances.

As far as Minorca Hill is concerned, it has, as the member is aware and as I am sure everybody else is through public notices, recently since Saturday been made one-way to help ease the problems in the Laxey area whilst additional traffic has been put onto that area. I can not give a clear indication to the member that this will not happen each time, because we do not know the circumstances each time.

All I can say is we will utilise to our best ability the highways of the Isle of Man to assist the motorist to get from A to B as conveniently as possible and also in doing that, take into account the needs of those who live in the area so affected.

**Mr Houghton:** Mr President, returning back to the removal of the peat to the tip, does the hon. minister not think that this really is outrageous and that this peat could not be tipped and spread around the other areas of the mountain, as it is natural vegetation and not tip material that goes to the tip, filling up our tip et cetera, and does he not feel that he is actually moving a mountain to a tip, which is absolutely ridiculous?

**Mr Brown:** Mr President, again I think there is a misunderstanding from the hon. member. It would be not necessarily desirable to put slippage material, which is peat contained with substantial amounts of water, onto an area which is already saturated with water and which is already an area of peat, as it may then have a knock-on effect of making more movement on the existing peat. So clearly my department, in consultation with the Department of Agriculture, Fisheries and Forestry, decided which was the best way to deal with this matter and it was determined that the best way to deal with it at this stage is to take it to the tip, and I think the point that the hon. member for West Douglas, Mr Downie, clearly made was that it is then being utilised as a cover material and if it was not available, then that

department would be purchasing in cover material of another source. So whilst it is not maybe the best solution, it is a practical solution to a very difficult problem.

### **Health Service – Date-sensitive Equipment – Question by Mr Waft**

**The President:** Question 15, the hon. member of the Council, Mr Waft.

**Mr Waft:** Mr President, I beg to ask the Minister for Health and Social Security:

*Are you satisfied that date-sensitive equipment used within the Isle of Man Health Service is year 2000 compliant?*

**The President:** The Minister for Health and Social Security to reply.

**Mrs Christian:** Mr President, in common with other departments and in accordance with the agreed Isle of Man Government approach towards the year 2000 problem, my department has taken steps to complete an audit of all computer software and hardware and all medical equipment that may contain an embedded computer chip to assess its vulnerability to the date change problem and the potential impact upon the provision of services to the public.

Arising from this extensive fieldwork, the department has embarked upon a process of contacting suppliers of embedded chip equipment to seek assurances that it will operate correctly in the year 2000 according to the appropriate industry standards. Unfortunately, many suppliers of embedded chip equipment cannot or are not prepared to provide written assurances that equipment will operate correctly in that year. In those cases arrangements are being made to ensure that business continuity plans are in place to mitigate the risk and to minimise the number and severity of possible year 2000 failures.

Specific resources have been identified to support this planning process. Where suppliers have confirmed that items are not compliant, options such as replacement or removal of those items from service are under consideration. These decisions will depend upon the criticality of the items as defined by the service managers in the fieldwork exercise. Financial resources will be made available for necessary replacements.

### **Nursing Staff – Incentive Packages – Question by Mr Braidwood**

**The President:** Question 16, the hon. member for Douglas East, Mr Braidwood.

**Mr Braidwood:** Thank you, Mr President. I beg leave to ask the Minister for Health and Social Security:

*How many nursing staff have been recruited from outside the Isle of Man in each of the years 1995-96, 1996-97, 1997-98 and in each of those years what was -*

- (a) the cost of the incentive packages to bring them to the Island, and*
- (b) how many of these staff have terminated their contract and left the health service once those incentives lapsed?*

**The President:** The Minister for Health and Social Security to reply.

**Mrs Christian:** Mr President, I can confirm that the number of nursing staff recruited from outside the Isle of Man to the hospital and community services in the years 1995-96, 1996-97 and 1997-98 were 38, 42 and 26 respectively.

Turning to part (a) of the question, I can advise hon. members that no incentive packages as such were offered or provided to these nurses to bring them to the Island. Therefore, as no incentives were given, the answer to part (b) is nil.

**The President:** A supplementary, sir?

**Mr Braidwood:** Thank you, Mr President. The minister says there are no incentive packages. I presume, then, she does not assume that relocation packages are incentives to come to the Island, and also she has not answered section (b) of my question.

**Mrs Christian:** Mr President, the question of removal expenses has not been referred to in the answer because they are not considered to be incentives. They form part of the terms and conditions of service of NHS staff and should not be regarded as an incentive. Their main purpose is to recompense staff for costs incurred in taking up posts on the Island, such as house sale, removal of furniture and personal effects, temporary accommodation and so on.

With regard to the answer to part (b) of the question, as it was phrased in terms of incentives, I have not given the hon. member a reply. If he wishes to have the information in relation to relocation packages, which are part of their terms and conditions, that is a different question.

**Mr Braidwood:** Mr President, can the minister confirm that for nurses recruited to the Island, free accommodation is offered in the nurses home for the first three months and then at a half-price rental for the next three months and also, in addition, two free flights to the UK are offered, and subsequently, once those offers are removed, how many nurses return to the adjacent isle?

**Mrs Christian:** Mr President, as far as removal expenses are concerned, as I have said, part of their terms and conditions allows that a removal allowance be paid. In the years referred to by the hon. member £40,000 was reimbursed to the nurses taking up posts in the Isle of Man, that is, to the 106 nurses from outside the Island. Part of those numbers, 12 of those staff recruited to Noble's Hospital were given three months' rent-free and three months' half-rent accommodation as part of their relocation expenses.

In terms of staff returning to the United Kingdom, with regard to the 106 appointed since the 1st April 1995, only five have subsequently left, of those only two have received relocation expenses, and both of those two post holders had served the required two years under the old section 26 of the general Whitley Council regulations and were not therefore requested to repay those expenses.

With regard to flights, we have had one job advertised with special conditions, but that was not in the years referred to in the question.

**Mr Braidwood:** One final supplementary, Mr President. Can the minister give an assurance that nurses recruited from outside the Isle of Man are not offered an additional carrot of a higher grade to that of Island-based nurses with similar experience?

**Mrs Christian:** I can confirm, Mr President, that the grades advertised in the United Kingdom are exactly the same as those advertised in the Isle of Man.

**Public Electricity Supply – Public Water Supply – Domestic Dwellings –  
Question by Mr Rodan**

**The President:** Question 17, the hon. member for Garff, Mr Rodan.

**Mr Rodan:** Mr President, I beg leave to ask the Minister for Trade and Industry:

*How many domestic dwellings in the Isle of Man are not connected to -*

*(a) the public electricity supply; and*

*(b) the public water supply?*

**The President:** The Minister for Trade and Industry to reply.

**Mr North:** Mr President, as I indicated to the hon. member recently in another place, the number of homes not connected to the public electricity supply varies from day to day, as applications are made by occupiers and new properties are always awaiting connection. I am advised that a best estimate figure would indicate that between 50 and 60 domestic properties are not connected to the public supply at the present time.

Likewise, I do not have a precise figure for the number of dwellings not connected to the public water supply, but I am informed that it is thought to be about 90.

**The President:** A supplementary, sir?

**Mr Rodan:** Thank you, Mr President. I thank the minister for his reply. Would he accept from me that, apart from those dwellings awaiting connection to the public electricity supply, there are a number of Manx cottages through the Island who for many years have never been part of the public electricity supply? Does he agree that at the very time when this hon. Court is being asked to sanction the security of supply of electricity into the next century there are homes in the Isle of Man who are not, in respect of water and electricity, even in the 20th century? Will the minister draw the attention of the MEA to this situation and undertake that his department will have discussions with the MEA about what can be done?

**Mr North:** Mr President, I understand a recent survey by the MEA has identified 19 domestic dwellings which have never been connected to the public electricity supply, and as far as having talks with the MEA is concerned, this is a question really as to whether they want to be connected. Certainly we will talk to them, but the law is there both in the Water Act and the Electricity Act and that really is a question if the hon. member for Garff feels that on environmental grounds they should be connected, then I am sure that that case could be put by his department and certainly would be looked at.

**Mr Rodan:** Mr President, will the minister agree that the problem with these 19 dwellings in many cases is that it is many thousands of pounds that the homeowners are being required to cough up by the MEA, notwithstanding that the nearest public electricity supply can be just a matter of 200 or 300 yards away, that in this day and age for the average homeowner in the old Manx cottages that is completely unrealistic, and will he revisit this whole question to the extent of recognising that perhaps government has, at the end of the 20th century, a responsibility to step in and assist with these high charges that are being quoted by the MEA to their potential customers?

**Mr North:** Mr President, the legislation is quite clear as to what has to be done by the MEA and the Water Authority and I repeat that this question is something better answered possibly by the owners or on environmental grounds, and certainly we have been through this on the Water Authority. If anyone is receiving water which is not wholesome, then really it

should, on environmental grounds, be put in. But under the Acts, both the Water Act and the Electricity Act, those charges have to be made. There is a scheme, as the hon. member will know, on the Water Authority, certainly, for 50 per cent through the Department of Local Government to be granted towards those costs.

**Mr Cannan:** Will the minister agree that, notwithstanding the coming of the next century, at the beginning of this century electricity was provided throughout the Island without these horrendous charges being made to individual householders and that a few householders now are still without electricity and that water supplies were laid the length and breadth of this Island without heavy charges to individual householders and that there are still a few houses left that have not, and further will the minister agree that only 10 years ago in his own constituency in Abbeylands government provided a public water supply to his constituents?

**Mr North:** Mr President, I am sorry, I repeat that the statutory authorities are carrying out their legal responsibilities. If the hon. member wishes to change the law and look at it on environmental grounds or whatever, then, please, we are quite happy to listen to those proposals.

**Mr Karran:** Eaghtyrane, would the minister arrange a meeting with the Minister for Local Government and see whether we can come up with a more progressive scheme in order to address both these issues of the supply of electricity and of water? Would he also not agree that they cannot complain at the statutory authorities if they want them to act commercially, if they do not then provide these uneconomic services? But can he assure this hon. Court that he will take up the opportunity to meet with the minister of the DLGE and come up with a government scheme as far as this is concerned?

**Mr North:** I certainly will give the undertaking, Mr President, to meet and talk with the minister for the Department of Local Government and the Environment.

### **Ellan Vannin Gymnastics Club – Request for Financial Assistance – Question by Mr Shimmin**

**The President:** Question 18, the hon. member for Douglas West, Mr Shimmin.

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

- (1) *Are you aware of a request to your department from the Ellan Vannin Gymnastic Club for direct or indirect financial assistance to build club premises;*
- (2) *if so, when was the request first made; and*
- (3) *what is the current position with regard to the request?*

**The President:** The Minister for Tourism and Leisure to reply.

**Mr Cretney:** Thank you, Mr President. Responsibility for the operation of schemes for assistance in respect of development of facilities by the voluntary sector is delegated to the Isle of Man Sports Council. Although the Sports Council has been dealing with the Ellan Vannin Gymnastics Club for a number of years, it was on the basis that the club was seeking logistical support on issues such as planning. Indeed both the council and the department provided logistical support. The club at that stage expressly stated that they were not seeking funding from the Sports Council or the department.

It was in May last year that the club first approached the Sports Council with regard to funding support. Since then there has been considerable correspondence between the club and both the council and my department.

The Sports Council has considered the request and has determined that whilst they are positive towards the concept of the development of a second gymnastics centre, the provision is not viewed as a priority in terms of the allocation of the available funding. There are very many worthwhile projects which the Sports Council would wish to be in a position to support but unfortunately they do have to prioritise their financial support. The leisure division of the department is in full agreement with that position.

The club has been advised of the position and it has, after discussion with various hon. members, come back with a proposal that the support could be made available by way of a guarantee from government against a bank loan. This suggestion is the subject of ongoing discussions with the Treasury. I would hope to be in a position to advise the club of the outcome of those discussions in either December or January.

Certainly if the Treasury are prepared to agree to put in place a scheme to assist sports clubs in this way and provided that such a scheme would not have any potential impact on existing priorities, the council and the department would be very interested.

**Mr Shimmin:** Mr President, I am pleased the department is positive towards this concept which would be an asset to the young people of the Island, even if the minister is unable to give a grant or loan at this time. However, as the scheme proposed has the unequivocal support of the Isle of Man Gymnastics Association, the British Gymnastics National Development Officer states there is a need for this facility, Manx Spirit, of which the minister himself is chairman, supports the scheme, as do a considerable number of members of this House, and as both gymnastics clubs on the Island presently have waiting-lists, can the minister explain why it seems to be such a low priority in the eyes of the Sports Council?

**Mr Cretney:** I can confirm, Mr President, that I as chairman of Manx Spirit, I as a member of the constituency of South Douglas, and via my departmental responsibilities, we are all in support of further facilities to enhance leisure opportunities for young people, to provide positive things for young people to do rather than, sadly we hear, sometimes to be the case.

The matter of the Sports Council's priority is that the Sports Council has available to it presently £20,000 per annum which it puts towards sports clubs developments schemes - I think that is the title of the item in their estimates - and so obviously they are required, as are all other departments, to prioritise, and this can be a difficult task, there is no doubting that that can be a difficult task. Indeed amongst the priorities they are currently considering is the need for a shortfall in their grass pitches for various field sports, there is a need which has been identified by those in the shooting fraternity for enhanced facilities in that area, and of course I acknowledge and respect that the gymnastics facility which the hon. member refers to is one which is well used. I know there are about 190 members presently and it is felt that they could have up to 300 members, so I acknowledge that it is something positive and something which we would like to help with.

The scheme which is now being spoken of by the Treasury minister and the department I hope can come to fruition and it may be that as a result of that scheme and as a result of the department acting as guarantor we can make some progress. I certainly hope so.

**Mr Houghton:** Mr President, notwithstanding the hon. minister's channel for claims, of course, which is via the Sports Council, would he not be agreeable, especially in this case, to give consideration to the funding from other Department of Tourism budgets, to such a worthwhile cause?

**Mr Cretney:** In my wisdom or otherwise, Mr President, I decided on appointment as Minister for Tourism and Leisure to delegate responsibility in various areas of the departmental activities, either to political members or to, in this instance, those groups of volunteers who have a wide base of knowledge in terms of the sports on the Isle of Man, and those people comprise the Sports Council. They are in the position to determine what they feel to be the priorities and to make recommendations to the department for funding assistance. They are positive towards this proposal, indeed they have met on a number of occasions with the promoters of this particular project.

At this time I think it would be wrong for the department, and I would give recognition here to the one person in particular who is promoting this facility on behalf of the Ellan Vannin Gymnastics Club, I would give him full credit for his persistence, but I would not say that that is always the best basis upon which to make your priority. You have to, across the board, consider what is right for the Isle of Man and in this particular regard what is best for the sport, and I think that the scheme which is now being talked of may prove a way forward.

**Mrs Cannell:** Mr President, I would like to ask the minister who actually decides on the budgetary provision of sports development through the council, through the Sports Council? Is it the council itself, does the department have an input into that, and does the minister not believe that he is in a position also to make recommendations to the Sports Council with regard to prioritising sports development schemes?

Would he not further consider, or does he not agree, that £20,000 per annum towards sports development Island-wide is insufficient to meet the needs of growing youngsters in this day and age?

**Mr Cretney:** In response to the latter part of the question, Mr President, that £20,000 per annum is specifically towards small local clubs to assist them and I can confirm that a number of years ago the Sports Council did request that that budget allocation should be increased over a five-year period. So they have made representation and ideally, as with all things, it would be nice to have more funding available to assist in more ways, particularly when we see the results of the funding, the considerable amount of funding which has gone into sporting facilities over the past 10 years or so and the benefits we can see from that for our young people and others both competitively and from a leisure point of view.

So, yes, I acknowledge that, as the hon. member is trying to say, the department does have input in terms of the budget allocation for the Sports Council and I like to think, and I think the sports people of the Isle of Man would recognise, that I am sympathetic, as have been previous holders of my role, towards their needs.

**Mr Braidwood:** Mr President, we have already heard that there is a large number of children on the waiting-lists of both the Island's clubs, that is, the Ellan Vannin Gymnastics Club and the Ian Bradshaw Centre, and would the minister agree that the building of another facility would accommodate substantial numbers (**Mr Houghton:** Hear, hear.) and be open seven days a week and not restricted to the hours available in schools at a time which suits them? Because at present over 12 hours a week are wasted on setting up equipment. (**Mr Houghton:** Hear, hear.)

Would the minister also agree that in the report submitted to his department by the British Gymnastics Development Officer, Eric Williams, stated that boys on the Island in gymnastics are not catered for as well as the girls and for boys to succeed in gymnastics there needs to be a facility where they can be trained, be given time and have expert coaching?

**Mr Cretney:** Yes, I can acknowledge what the hon. member has said and I think I said during my responses to earlier supplementary questions that I think we are finding there may be the potential to find a way forward with this challenge.

I acknowledge also what the hon. member has said in relation to school facilities being available out of hours, and the volunteers from this club, as do volunteers from a number of clubs, who go out of their way to make sure young people do get the opportunities which are so beneficial to them, and I know that that involves them in a lot of hard work both fund raising and also when they have to, in terms of the gymnastic facilities, on a week-by-week basis get all the equipment out, put all the equipment away, and so it would be far better for them to be in a purpose-built facility. We all agree on that. I think it is just a question of finding a way forward.

**Mr Shimmin:** Mr President, I thank the minister for his wholesome support of this scheme and can I be assured that he will use his best efforts to progress discussions so that the people involved in this club, who have waited many years, may possibly have an early Christmas present rather than a New Year's present?

**Mr Cretney:** Yes, I would love to be in a position to give them an early Christmas present. I am going to meet Father Christmas in the next couple of weeks and perhaps I can report after then.

### **Clean Air Legislation – Introduction – Question by Mr Duggan**

**The President:** Question 19, the hon. member for Douglas South, Mr Duggan.

**Mr Duggan:** Mr President, I beg to ask the Minister for Local Government and the Environment:

*Will your department give consideration to the introduction of clean air legislation?*

**The President:** The Minister for Local Government and the Environment to reply.

**Mr Quine:** Thank you, Mr President. Three legislative enactments are particularly relevant to air quality. Firstly, section 1(2) of the Public Health Act 1990 provides that if smoke is emitted in such quantity or of such content as to be a nuisance, that is, a statutory nuisance, the local authority is empowered to take abatement action; secondly, section 87 and schedule 3 of the Public Health Act 1990 empower the Department of Local Government and the Environment to declare smoke control zones or areas; and thirdly sections 88 to 91 of the

1990 Act empower the department to prescribe air quality standards and take appropriate action in relation to individual premises, where relevant, to achieve compliance with those standards.

Now, the department also proposes, subject to the approval of this hon. Court, to introduce the Collection and Disposal of Waste Regulations under the provisions of the Public Health Act 1990 which among other things will prescribe that many waste management practices, for example the sorting of waste, will be subject to a disposal licence. Currently such activities do not require a licence and this has given rise, in some instances, to complaints relating to emission of smoke through the burning of waste. Under the proposed regulations the practices which have given rise to these problems will be subject to the licensing provisions of the Public Health Act 1990 and a condition can be attached which would prohibit the burning of waste. A failure to comply with such a condition would be an offence without the need to prove nuisance. These regulations therefore would strengthen the department's powers and enable it to address problems of this nature more effectively than at present.

I have advised this hon. Court on previous occasions that the results of the monitoring in relation to smoke and sulphur dioxide on the Island in four sites at Douglas, one site at Ramsey and one site at Peel, since 1990, show that the levels of these pollutants comply with mandatory European requirements and, apart from a few days in the year, also comply with the much stricter guideline values. Against this backdrop, therefore, there is insufficient justification for the declaration of smoke control zones and, as a consequence of that, some exceptional expenditure.

The department has resolved to adopt standards set by the UK Expert Panel on Air Quality in relation to sulphur dioxide, nitrogen oxide, carbon monoxide and PM10s. The department intends to issue a statement on the application of these standards in the very near future.

In order to test compliance with these standards the department has established a continuous monitoring station at the Quarter Bridge. We also have under consideration a proposal for dispersion modelling to further determine air quality in the lower Douglas area and enable a strategy to be drawn up to improve air quality in that area and indeed the Island generally. Once that strategy has been determined and other necessary monitoring completed the department will seek the approval of this hon. Court to the necessary appointed day order to bring into operation the provisions of sections 88 to 91 of the Public Health Act 1990.

**Mr Duggan:** A supplementary, Mr President. As the minister has stated there is all this monitoring going on and has been for a certain time, how is it that so many people are suffering from chest complaints, especially my constituents, like asthma, and does the minister not feel it is the responsibility of his department to ensure that the Island's residents are not put at risk by airborne emissions and pollution?

**Mr Quine:** I am afraid the hon. member should address the Minister for Health about matters such as the incidence of asthma. I am afraid I cannot help him with that. But in terms of the control of pollutants, I have given him very specific information and it is quite clear that we meet the European standards and, with very few exceptions, meet the European guidelines.

**Mr Gilbey:** Mr President, the hon. minister referred to proposed legislation to stop the burning of waste. Could he expand on that? Presumably he is not trying to prevent people having bonfires in their garden to burn their domestic waste, he was talking of industrial waste from building sites, et cetera.

**Mr Quine:** Mr President, I am pleased to confirm that that is the object of the exercise. We have, at the moment, a number of commercial concerns, industrial concerns, and they find it cheaper to burn off waste, quite often quite near to dwellings, rather than have it conveyed and paid for through a proper disposal outlet. We have had a considerable number of these complaints, some of which have gone on for quite a period of time, and so we hope to be able to address these problems through these regulations. There are also of course other matters in these regulations which are unrelated to pollutants or smoke control.

**Mr Duggan:** Mr President, could I ask the minister is the problem really that government is the main polluter and that is why proper legislation is not being brought in by your department?

**Mr Quine:** The answer is certainly not. There is no question of legislation not being brought in because government is the main polluter. I do not think there is any evidence to support that at all. I suppose responsibility for pollution is very broadly spread. To give an example, how many members in this Court arrived by car this morning?

**Mrs Cannell:** Mr President, bearing in mind when the minister responded he informed us that his department is going to bring forward provisions with regard to regulation and the issue of licence to those who wish to burn commercially or at a commercial level, can I ask him will these regulations serve to cover an incinerator operator, for instance, and if the incinerator operator were in breach of such regulations would his licence be withdrawn and in that event what would happen to the waste?

In addition to that can I ask - the minister made the point that we do not have a problem with air quality and so therefore there is not a need or a requirement to bring in air quality legislation - does he not agree that it has also been said that we do not have a problem with another piece of legislation that is coming forward but nevertheless it is coming forward because it is desirable, it is good and it is good social legislation?

So in summing up does he not consider that our good clean air should stay clean air (**Mr Duggan:** Hear, hear.) and that a good clean air quality Act would prevent attracting those who would pollute our atmosphere in the future?

**The President:** Before asking for the reply here I have to indicate that the chair takes a dim view of debating questions. The question should be posed as a question. In certain cases an opportunity has been taken to debate the issue prior to giving the question to the hon. member concerned. Reply, minister.

**Mr Quine:** I think this hon. Court and indeed all responsible citizens recognise the need for good air quality and to preserve and to improve on air quality and I have outlined the steps that we are taking to do that.

The only other point that I think I need to comment upon is whether these regulations, when they are finalised and when they come forward, will have some relevance to the controls to be exercised over the incinerator, and the answer is yes.

**Mr Downie:** Mr President, would the minister agree that a lot of the problems referred to by my colleague for South Douglas, Mr Duggan, the problems that he is experiencing in his constituency could quite easily be dealt with if the local authority for the area brought in as part of their policy a smokeless zone or introduced smoke-free heating with the houses that they currently are responsible for?

**Mr Quine:** Well, quite clearly if one addresses one of the main sources of pollution, which is of course coal fires in that area, that is going to make a remarkable difference, and again this Court has been advised that that is being addressed through the redevelopment (**Mr Cretney:** Hear, hear.) of some 200 houses in the lower Pulrose area.

So far as the impact is concerned that the incinerator is going to have on that situation, it has been stated and explained at the inquiry that it will produce a net environmental benefit because of that relationship to other works which are taking place.

**The President:** And a final supplementary on this question, the hon. member for Onchan.

**Mr Karran:** Eaghtyrane, would the minister not agree with the fact that with government being the biggest polluter surely clean air Act legislation should be policed by someone outside the remit of the Council of Ministers?

**Mr Brown:** The Water Authority!

**A Member:** Yes.

**Mr Quine:** Well, I think there are two questions there and my answer is no to both, sir.

#### **Planning Applications – Processing Times – Question by Mr Karran**

**The President:** Item 20, the hon. member for Onchan, Mr Karran.

**Mr Karran:** Eaghtyrane, I beg to ask the Minister for Local Government and the Environment:

- (1) *What is the current average and median period between the initial submission of a planning application and its consideration by the Planning Committee;*
- (2) *do you consider these periods to be acceptable; and*
- (3) *is there a system of giving priority to the consideration of planning applications and, if so, how does it operate?*

**The President:** The Minister for Local Government and the Environment to reply.

**Mr Quine:** Thank you, sir. In answer to the first part of the hon. member's question, the processing of planning applications within the Department of Local Government and the Environment takes place in accordance with provisions set out in schedule 1 to the Isle of Man Planning Scheme Development Order 1982. These procedures require that an initial decision shall be made on every application for a planning approval within eight weeks of receipt or within eight weeks of receipt of any additional information which may be requested. The current average time taken to make an initial decision on a planning application is seven weeks from the date of receipt of an application by the department.

As regards the second part of the hon. member's question, I believe these figures are very reasonable, given the need to seek the views of the public and liaise with local authorities and other government departments.

If I may now turn to the third part of the hon. member's question, there is no formal system to give priority to consideration of planning applications. In all cases applications for planning permission are processed as expeditiously as possible to the point where they can be presented for an initial decision, bearing in mind the need to ensure that all relevant information is first collated. Hon. members may be interested to know that it is the department's policy to issue 90 per cent of initial planning decision notices within 10 working days of the decision, and in this regard I can report that in the three months ending September 1998 91 per cent of notices were issued within this time compared to a figure of some 30 per cent in 1996 and I therefore believe that this represents a very creditable performance by the office of planning.

**Mr Karran:** Eaghtyrane, could the minister then inform this Court what is the longest planning application that is waiting at the present time as far as getting it proceeded through his department? Is it more than five months, is it more than six months or is it more than seven months?

**Mr Quine:** The short answer is, sir, I do not have that information but of course we can get it for the hon. member if he wishes it.

**Mr Karran:** Thank you.

### **OFSTED Inspection – Question by Mr Lowey**

**The President:** Question 21, the hon. member of the Council, Mr Lowey.

**Mr Lowey:** Mr President, I beg leave to ask the Minister for Education:

- (1) Why is your department inviting OFSTED to the Island to inspect Manx schools;*
- (2) what is the estimated total cost of this exercise;*
- (3) what is its proposed timescale;*
- (4) are all Manx schools to be inspected;*
- (5) what assistance and advice is your department giving to the schools to be inspected; and*
- (6) is the department itself to be inspected and, if not, why not?*

**The President:** The Minister for Education to reply.

**Dr Mann:** Thank you, Mr President. The Department of Education has always had the right to have its schools inspected and has done this over a long period of time, in fact since the middle of the last century. Inspection of schools has always been an integral part of Manx Education Acts. In the past, inspections have been carried out by HMI, Her Majesty's Inspectorate, but since 1993 the same organisation has been called OFSTED, the Office for Standards in Education. Accordingly, to maintain continuity, it is now this organisation which the department would approach to commission an inspection.

The inspection of schools is a necessary part of the running of the Department of Education in order to monitor the quality of education being provided and the standards being achieved. The use of external off-Island inspectors means that schools can be assured of total unbiased inspections with no suggestion of pre-conceived ideas or hearsay knowledge of the schools or staff. The same can be said of the inspections of other public services provided by government departments.

The department has, over the last 150 years, received a large number of inspection reports on schools in the Isle of Man and the current round of inspections that are being carried out is simply a continuation of this long-standing practice. The department sees inspections as helping school development where constructive criticism together with appropriate praise takes schools forward.

The answer to part (2) of the question - the annual cost of the whole inspection programme for this year is in the region of £45,000 of which £11,500 relates to the inspection of St Ninian's High School and the balance to the primary schools inspected.

Part (3). The time taken to conduct an inspection depends to some extent upon the size of the school. In the case of a secondary school inspectors are present for five continuous days and the team is typically 15 or 16 inspectors in total. However, for a primary school the amount of time spent in the school will be considerably less and the size of the team will also be less. Each school receives at least 10 working weeks' advance notice of the inspection and this timetable is in line with current practice.

Part (4). All schools in the Isle of Man are to be inspected over a number of years. The intention of this current cycle of inspection is to inspect one secondary school or further education establishment per year and perhaps three primary schools per year. Therefore this current cycle for secondary schools and the Isle of Man College will be a six-year one, whereas for primary schools it will be in the region of seven to 10 years before all primary schools have been inspected during the current cycle.

Part (5). St Ninian's High School is indeed the first secondary school to be inspected in this current secondary school cycle of inspections. St Ninian's High School was given the requested notice, made fully aware of the inspection processes by both the OFSTED inspection team leaders and the Department of Education support staff, and I have checked this, that the educational support staff most certainly attended to advise. Inspection team leaders have also met and consulted with all the staff, the governors of the school and the parents of the school.

The department's own system of supported schools self-review and school monitoring which have been in use since 1992 use criteria and techniques similar to those used by OFSTED during a whole school inspection. Therefore the OFSTED approach and techniques are not unknown by Island schools and the staff. The last inspection of St Ninian's High School relating to its structure and functions was in 1976 and previous to that was in 1958.

The answer to part (6) - the Department of Education itself was inspected in 1993 and the senior managers and staff within the department found it a very useful and constructive experience. It set out a departmental agenda for improvement. The department welcomes the opportunity to take part in the next round of review of its own structure and work.

**The President:** A supplementary, sir?

**Mr Lowey:** No, sir.

**Mr Shimmin:** Mr President, could I just ask the minister two questions? Firstly, what criterion did your department use in the selection of St Ninian's High School as the first school to be inspected, and secondly, what range of communication of the outcome of that inspection will be made available and to what circulation did the inspection of the department in 1993 get circulation?

**Dr Mann:** I think in choice we obviously had to start somewhere and as far as I am aware we looked first to the Douglas schools who are the largest schools. The only other Douglas school is currently in a fair amount of upheaval with extensive construction work but it will be very high in the programme.

As far as the dissemination of information is concerned, to allow less apprehension amongst the staff of any school being inspected we have agreed provisionally that none of the information that will immediately become available will be publicised. It will certainly not be put on the internet as every school in the United Kingdom is put on the internet and at this stage there will not be a public consultation involving anybody else but the staff of the school itself. So the information will first and foremost be used within the school to help the school in its further progress and will also be available of course to the department itself. It is not being used as a publicity tool against or supporting any particular school.

**Mr Karran:** Eaghtyrane, can the Minister for Education tell this hon. Court what the track record is like as far as OFSTED is concerned in the UK? Are they respected as far as this organisation is concerned?

Can he also assure this hon. Court that I am not right in my belief that this is once again a half-thought-out process which has been blindly brought in from the UK simply because the department is following the UK blindly once again, not to the benefit of the children in his care?

**Dr Mann:** Well, I am not quite sure, Mr President, which part of that question we need to answer. First of all we are not blindly following anybody. We are maintaining a continuity which I think has been clearly set out. We have modified the resulting procedures to ensure that we are not disturbing unduly the work of the schools.

In the United Kingdom every school, I understand, has now had an OFSTED inspection. Every school is now in the continuity process of maintaining the levels of standard. Pupils from the schools in the Isle of Man, our pupils, have to go into the United Kingdom for further education and for work. It is absolutely essential that the standards of education in this Island at least maintain the best standards in the United Kingdom and preferably should be higher and as far as I am concerned they are higher -

**Mr Karran:** You are dragging them down.

**Dr Mann:** - and this department is going to maintain that standard.

Now, I did fail to completely answer the hon. member for West Douglas. I am not aware of any publicity given to the examination of the department in 1993. I will, however, look into in what way that was disseminated.

**Mr Shimmin:** Just taking up that point, Mr President, could I ask the hon. minister whether it was a full inspection of the department or just one or more divisions within that department and if he could get me that information as to whether this was discussed at Board of Education level or with head teachers or the joint associations?

**Dr Mann:** Well, once again I cannot speak for what happened in 1993 except that I believe it was a very full inspection and in fact cost far more to inspect the department than it did to inspect the schools.

**Mr Bell:** Mr President, would the hon. minister agree that the inspection due to be carried out by OFSTED is in no way unique to the Isle of Man and that in fact off-Island bodies, UK bodies, with triennial regularity inspect the Isle of Man police force, the Isle of Man fire services and the Isle of Man probation services and the outcome of those inspections do provide a very valuable managerial tool to the departments in formulating future structures and policies?

**Dr Mann:** Yes, I appreciate the supplementary question and I tried to draw attention in my reply to the fact that other government departments providing public services of great importance follow a similar pattern. We are not alone in that situation.

#### **Ellan Vannin Gymnastics Club – Treasury Underwriting – Question by Mr Shimmin**

**The President:** Question 22, the hon. member for Douglas West, Mr Shimmin.

**Mr Shimmin:** Mr President, I beg leave to ask the Minister for the Treasury:

- (1) *Does your department have the capacity to underwrite the building of premises for the Ellan Vannin Gymnastics Club; and*
- (2) *if so, what further action is necessary before the scheme can be underwritten?*

**The President:** The Minister for the Treasury to reply.

**Mr Corkill:** Thank you, Mr President. Yes, Treasury would be prepared to underwrite the building of premises for the Ellan Vannin Gymnastics Club but would do so on the recommendation of the Department of Tourism and Leisure. This is because, should government be called upon to meet the guarantee, the only department via its Sports Council provided with funds for sport purposes of this nature is the Department of Tourism and Leisure. I understand, however, that the department does not at present regard this item as a priority.

At the moment there is in existence a Sports Club Improvement Loan Scheme to effect improvements for their members' benefit but there is no scheme in operation to guarantee commercial loans. However, my department has received outline thoughts from the Department of Tourism and Leisure on establishing a scheme to guarantee loans, and my hon. colleague the minister for the Department of Tourism and Leisure has referred to this in a previous question. These ideas are to be discussed further at officer and then at political level in the near future. Thank you, Mr President.

**Mr Shimmin:** Just one supplementary if I can, Mr President. Would the minister agree that this issue has already received considerable discussion between his department and the Department of Tourism and Leisure and it appears to be becoming more like a game of pass the parcel rather than a serious attempt to assist in reaching a decision, and also may I ask is the Treasury minister personally in support of this scheme, and if so, will he do everything in

his power to introduce a scheme subject to proper financial scrutiny with the utmost urgency, preferably before Christmas?

**Mr Corkill:** Treasury ministers are more like Scrooge than Father Christmas, (*Laughter and interjections*) and I take on board the hon. member's comments and the frustration that he feels with regard to this situation.

I think some good will come out of the discussions because we have unearthed a situation, I think, between the two departments where there is potential to bring in a scheme to guarantee commercial loans, and this, as I referred to, is possibly a way forward, not just for the Ellan Vannin Gymnastics Club but for other organisations as well.

I do feel that it is a worthwhile project in as much as it is targeted at juveniles. We hear a lot of debate within this hon. Court about particular problems and anything constructive in that area I think is worthy of support and further investigation, and that is what will happen in the next few weeks as Treasury meets with all departments with regard to budgetary issues, and I am sure this will be raised at the meeting with the Department of Tourism and Leisure and the minister for that department.

**Mr Bell:** Mr President, I am sure a great many people will be very pleased to hear this new policy initiative on the part of Treasury to underwrite development of facilities for sporting organisations on the Island. Could the hon. member briefly tell us what sports will be involved as part of the scheme? Does he envisage financial support being given to anglers in the future and does that mean that the hon. member, the Minister for the Treasury, is now prepared to underwrite the refurbishment of the Queen's Pier in Ramsey to provide facilities for sport? (*Laughter*)

**Mr Cannell:** Mr President, I was on a similar theme to say that I welcome the scheme and to ask the Treasury minister if this will embrace all the sports.

**The President:** Hon. members, I do not think that embracement of all sports really relates to the final question.

**Mr Cannell:** The scheme, Mr President.

### **Review of Financial Regulation in the Crown Dependencies – Statement by the Chief Minister**

**The President:** We have concluded the scrutiny of the question paper, hon. members, and I would now call on the Chief Minister to take item 3 on the order paper.

**Mr Gelling:** Mr President, this will be a very short statement.

At the time of submitting items for today's order paper it was by no means clear whether the Review of Financial Regulation in the Crown Dependencies would have been published by today. I requested, therefore, permission to make this statement so that either I could provide members with an initial comment on the review if it had been published or could give an update if it had not. It has not been published, so I will confine my statement to a brief update.

The Edwards review, as it has become known, will be published within the next few days and therefore I will reserve comment on it until after that publication. What I will confirm publicly today is that we will provide a briefing for members of Tynwald on the review simultaneously with the publication in London. We will later on the same day provide briefings

for some 350 invited members of the Island's finance sector. We will in addition be represented in London by the Treasury at the launch of the review when Mr Edwards will meet the press. So we will have an opportunity to respond to anything said at the launch and to make our own statement to the UK national and international media. We will also be providing background information to our friends in the Manx parliamentary group at Parliament.

We cannot of course dictate or even predict how the publication of the review will be presented by the world's press. But I can offer an assurance on this to members that Tynwald will be briefed at the earliest possible moment and that we will be ready to deal with the media and with media enquiries.

I look forward to the publication of the review. It has hung over our heads for far too long already and it will be good to get it behind us, to begin looking at its conclusions and begin using its positive elements for the Island's benefit, and I thank you for this opportunity.

**The President:** Hon. members, the Court will now adjourn and the adjournment will be until 2.45. Thank you, hon. members.

*The Court adjourned at 1 p.m.*

### **Goods Vehicles (Plating) (Fees) Regulations 1998 – Approved**

**The President:** Item 4, hon. members. I call on the Minister for Transport to move.

**Mr Brown:** Mr President, I beg to move:

*That the Goods Vehicles (Plating) (Fees) Regulations 1998 [SD No. 590/98] be approved.*

The regulations prescribe a fee of £15 in respect of an application to the Vehicle Testing Centre for a plating examination or re-examination of a goods vehicle under the Goods Vehicles (Plating) Regulations 1998. Those regulations were approved by Tynwald in July 1998 and come into operation on 1st January 1999. There is also a fee of £15 for appeal against a determination of plated weights of a goods vehicle, and a fee of £10 for a replacement of a plate or a plating certificate.

The fee is intended to reimburse the department for the work involved at the Vehicle Testing Centre when a goods vehicle is examined to determine its plated weights.

Plating and the payment of plating fees is a matter affecting HGVs and large goods trailers. A plating examination will also be carried out if a goods vehicle is being inspected, examined or tested for its roadworthiness under another statutory provision and it has not previously been issued with a Manx plating certificate under the plating regulations. Income arising from the fees regulations is likely to be in the region of only a few hundred pounds per year, largely depending upon how many heavy goods vehicles are inspected at roadside tests or on import because they are more than three years old when they become licensed here in the Isle of Man. Mr President, I beg to move the motion standing in my name.

**Mr Singer:** Mr President, I beg to second and reserve my rights.

**The President:** I will put the resolution, hon. members, set out at item 4 on the order paper. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

### **Vehicle Duty Order 1998 – Approved**

**The President:** Item 5, the Minister for Transport.

**Mr Brown:** Thank you, Mr President. I beg to move:

*That the Vehicle Duty Order 1998 [SD No. 591/98] be approved.*

The Vehicle Duty Order 1998 fixes the rates of vehicle duty under the Licensing and Registration of Vehicles Act 1985. It revokes and replaces from 1st January 1999 the Vehicle Duty Order of 1997, which came into operation on 1st September 1997. Vehicle duty is what we all call road tax.

The order is made so as to take account of around 5 per cent inflation since the last increase. The overall benefit to revenue is therefore anticipated to be about 5 per cent in a full year, increasing the annual revenue of £4.1 million by £205,000 to a total sum of £4.3 million. The principal changes are in respect of ordinary motor cars and vans up to 3,500 kilograms maximum laden weight, where the department proposes that the six charging bands be reduced to four. This has the effect of reducing the vehicle duty on cars and vans between 1,000 cc and 1,200 cc from £55 down to £46. This reduction will apply to about 4,800 vehicles and bring them into the same band as for the approximately 4,700 cars and vans not exceeding 1,000 cc for which vehicle duty is increased from £44 to £46.

Very small cars up to only 550 kilograms unladen weight have their own charging bands which are not affected by restructuring. The maximum duty for such small vehicles is the same as for motorcycles exceeding 400 cc - that is, £35, increased from £33.

Duty on the approximately 21,400 cars and vans between 1,200 cc and 1,800 cc will be increased almost in line with inflation from £66 to £69. Half of licensed motor cars and light vans are in this charging band.

Duty will be increased on cars and vans between 1,800 cc and 2,500 cc from £82 to £92. This will apply to about 8,300 vehicles. It will also be increased for cars and vans between 2,500 cc and 3,000 cc from £121 to £138. This will apply to about 1,400 vehicles and will bring those vehicles into the same band as for the approximately 1,400 cars and vans exceeding 3,000 cc for which duty is increased from £132 to £138.

The restructuring of the charging bands for cars and light vans has the effect of simplifying the vehicle duty category which applies to about 42,000 of our vehicles - that is about 80 per cent of them. Primarily, though, the restructuring has the effect of making it a little more economical to run a car in the 1,000 cc to 1,200 cc range by charging the same duty as for cars under 1,000 cc. On the other hand, the increases in duty on cars and light vans above 1,800 cc and particularly in the range exceeding 2,500 cc may be seen as consistent with the general public perception that such vehicles ought to pay duty somewhat closer to the flat rate of £150 which is charged in the UK.

With regard to other vehicles, it is proposed to increase duty on engineering plant and works trucks from the historic level of presently £19 to a level which is more realistic. This follows the comments made by hon. members in the Court during the debate in July 1997, when a number of members expressed concern at this very low charge for heavy vehicles.

Finally, the last stage of restructuring duty in respect of heavy goods vehicles which commenced in 1994 is now being brought to its completion by this order. I therefore beg to move the motion standing in my name.

**Mr Singer:** Mr President, I beg to second and reserve my rights.

**The President:** Does any hon. member wish to speak to the resolution? If not, I will put the resolution set out at item 5 on the order paper. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

### **Draft European Communities (Euro) (Application) Order 1998 – Approved**

**The President:** Item 6, the Chief Minister.

**Mr Gelling:** Mr President, I beg to move:

*That the draft European Communities (Euro) (Application) Order 1998 be approved.*

The European Economic Monetary Union is scheduled to take place in little more than one month's time. Most financial market participants will now have at least commenced a full review of any contractual documentation and obligations denominated in ecu or any of the 11 participating national currencies.

Those reviews already undertaken have highlighted a number of areas of market uncertainty arising from the introduction of the euro. Most significantly, uncertainty exists regarding the ability of parties to avoid or alter contractual obligations as a direct result of the introduction of the euro. Continuity of contract is a key issue for parties to contracts involving any of the 11 national currencies due to be replaced by the euro on the 1st January 1999. It is also of particular concern to parties to contracts involving the ecu. There are market concerns that the introduction of the single currency could be argued to constitute a *force majeure* rendering contracts invalid or giving one party to a contract the right to unilaterally terminate that contract or to alter its terms. There is also a level of uncertainty about how contracts will be affected by the disappearance of the ecu and its replacement by the euro on 1st January 1999.

While the Island's legal system will be able to deal with any problems involving contractual obligations denominated in any of the national currencies replaced by the euro, through the application of the *Lex Monetae* principle, this will not necessarily provide assistance where contractual obligations are stated in ecu, since the ecu represents a basket of component currencies and is not a currency in itself.

If approved, the European Communities (Euro) (Application) Order 1998 will be scheduled to come into operation on 1st January 1999 and will apply the provisions of the European Community Council Regulation No. 1103/97 to the Island as part of Manx law. This regulation directly addresses the uncertainties faced by parties to contracts written under Manx law.

Firstly, it will confirm that all references to the ecu within legal documents will be substituted by references to the euro at a rate of one ecu to one euro. It will also establish a presumption that all references to ecu, not expressly defined, within a contract are to be interpreted as references to the official ecu as defined by EC legislation.

Secondly, it will provide a high level of legal certainty regarding the continuity of contracts written under Manx law ensuring that the level of certainty is equivalent to the applicable or any European Union state. It reinforces the general principle of continuity of contracts through the explicit provision that the introduction of the euro shall not have the effect of terminating or

altering the terms of existing contracts, neither will it give any party to a contract the right to unilaterally alter or terminate that contract. However, the regulation also seeks to preserve freedom of contract and this provision will be subject to any conditions which may have been otherwise agreed by the parties to a contract.

Additionally, the regulations set out the clear rules regarding the use of conversion rates and the rounding of converted amounts. Although such rules will automatically be applicable through application of the *Lex Monetae*, their confirmation within legislation will serve to emphasise their significance for those companies now preparing their systems to deal with the euro. Mr President, I beg to move the motion standing in my name at number 6 on today's agenda paper.

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

**The President:** I will put the resolution, hon. members, set out at item 6 on the order paper. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

#### **Draft European Communities (Sanctions) (Application) Order 1998 – Approved**

**The President:** Item 7, the Chief Minister.

**Mr Gelling:** Mr President, I beg to move:

*That the draft European Communities (Sanctions) (Application) Order 1998 be approved.*

The object of the European Communities (Sanctions) (Application) Order is to give effect to certain European Community instruments enforcing economic sanctions against the Federal Republic of Yugoslavia and the Republic of Serbia. Council Regulation 926/98/EC reduces certain economic relations with the Federal Republic of Yugoslavia and the Council Regulation 1295/98/EC freezes funds held abroad by the governments of the Federal Republic and the Republic of Serbia and the Council Regulation 1607/98/EC prohibits new investments in the Republic of Serbia.

None of these Community instruments falls wholly within the scope of Protocol 3 and therefore, if the Isle of Man is not to be used as a way of circumventing these measures, they need to be applied in the Island under our European Communities Act. In accordance with the procedures laid down in the Act the order has been laid before the October Tynwald in draft and I would ask today that it be approved.

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

**The President:** Hon. members, I will put the resolution standing at item 7 on the order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

#### **Isle of Man Office of Fair Trading Order 1998 — Approved**

**The President:** Item 8, the Chief Minister.

**Mr Gelling:** Mr President, I beg to move:

*That the Isle of Man Office of Fair Trading Order 1998 [SD No. 579/98] be approved.*

The Board of Consumer Affairs was created in 1981 from what was previously known as the Consumer Council. It is true to say that back in 1981 the board was in effect an organisation whose brief was to represent the interests of the consumer. That was some 17 years ago and the title of Board of Consumer Affairs no longer accurately reflects the present role and remit of the board.

Nowadays the title Board of Consumer Affairs is frequently confused with Citizens Advice Bureau, and certainly newcomers to the Island tend to assume that the board is a quasi-Citizens Advice Bureau. The board now has an important role with all business and industry on the Island as it is the legal body concerned with the maintenance of all trading standards and, from 1996, has enforced the Fair Trading Act.

In recent years there have been a number of approvals by this hon. Court to changes in name of departments in order to more accurately reflect the true remit of that body, and I mention the Department of Tourism, Leisure and Transport which, of course, was changed to the Department of Tourism and Leisure, and the Department of Industry to Trade and Industry and the Highways, Ports and Properties was changed to the Department of Transport. The proposed change of name from Board of Consumer Affairs to Isle of Man Office of Fair Trading will more accurately reflect the board's present role and remit. However, I must also emphasise that the service to consumers on the Island will not be diminished in any way.

Finally, the Board of Consumer Affairs has not been able to identify any personal or significant financial costs that will be associated with the change of name. So therefore, Mr President, I beg to move the motion standing in my name at item number 8 on our agenda paper today.

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

**Mr Cannell:** Mr President, just very briefly, I welcome this and had the pleasure of a tour of the department the other day, where I was amazed at the work that they do, but would urge the Chief Minister to redouble efforts to try to achieve legislation which will enable the newly titled department to rid the Island of bogus tradesmen who are currently, I believe, bedevilling my own constituency. Although there have been some recent successes in prosecution, the department is still hand-bound by the inability of legislation to be perhaps progressed in the right lines to be able to rid of us of this scourge of cowboy builders.

**Mr Lowey:** Mr President, I think it would be wrong as a former chairman of the old Consumer Council not to get up and say 'au revoir' to the name - I seem to be saying au revoir to quite a lot of things lately! But the reality is, while it would appear to be cosmetic, the name, if I digest what the Chief Minister said this afternoon, I am a little concerned that perhaps the drive and the cutting edge of this particular department may be blunted with its new name. I hope not. I take comfort in the fact that it will not affect the consumer's rights because I do believe this body is the watchdog for consumers; consumers need a champion, and I do believe that the old Consumer Council, contrary to what the Chief Minister said, may have upset a few newcomers to the Island but I am sure the ordinary members of the Manx public knew exactly where to go for advice. I wonder now whether they will be so confident. I hope the new department will redouble its efforts to make sure that their services are still made available and are known to the public who have consumer problems.

**Mr Karran:** Eaghtyrane, I have to say that this just highlights what I said in Question Time this morning about us being more interested in fancy names than the realities of the situation. I have to say that I find it rather amazing that we are talking about fair trade when, quite frankly, this department is impotent to be able to do anything as far as monopolies or anything like that is concerned. Once again we have got ourselves stuck on these fancy titles, trying to bring in the perception of being the same as the adjacent isle but not putting in the legislative package that should be in in order to protect people.

I think this is little more than window-dressing. I am not particularly happy with the proposal that is in front of us now. I think, before we start worrying about fancy titles, it is about time that we sort out the foundations of many of the issues that are in front of us instead of worrying about the titles of them.

I would just like to know, what package of measures are going to be coming through from the department of fair trading now? There are things that were going to be done when I was on the Board of Consumer Affairs that still have not been done because of vested interests in the Council of Ministers. I am disappointed that you are wasting our time with this proposal in front of us here today.

**Mrs Crowe:** Mr President, I do feel I have to rise to my feet to defend the department. Firstly, the consumer will not be disadvantaged in any way. I think the majority of consumers on the Island know exactly where to come to to get an adjudication into fair trade, but that is what we do. We do not only represent consumers; we do represent the traders on the Island as well and we have to advise them on the legislation that is in place, and in fact I would say, to the criticism from my hon. colleague from Onchan, that my department, I think, brings forward more legislation than any other department, and I think you will find in the next few months we will be bringing forward a considerable amount of legislation including legislation under the Fair Trading Act that will not only strengthen consumer credit regulations but many other regulations on the Island. The title 'Office of Fair Trading' is not a fancy title but it would mean that people that needed the appropriate information to have the correct information to comply with Manx legislation would know which department to go to to get it. Thank you.

**Mrs Cannell:** Mr President, I too would echo some of the concerns already raised on the floor thus far. What I would like to ask is, as we are changing the name to 'Office of Fair Trading', will this lead to an increase in provision within that particular department? Will we be able to include other things, and will we require more staff in order to operate those other things?

What I would like to see this new office undertaking is an improved information literature exercise in terms of - and I would echo the comments by my colleague in Onchan - cowboy builders; particularly vulnerable are the elderly in relation to this. Now, we have heard over the last 12 or 14 months or so that the consumer board were contemplating legislation with regard to cowboy builders but we have not seen anything to date. Will the change in the position of this board improve or provide a better way in which to pursue this particular piece of legislation which is very much in need?

I am pleased that the chairman of the board has informed us today that the board initiates more legislation possibly than any other government department. What does concern me with that remark is, is it enforceable legislation? We come back to the old business that the

board, as it is now until we approve this order, has no teeth. Will changing its title give it extra powers and will it give it more teeth? Just by point of clarification, looking at the schedule and the consequential amendments that would be required, I note that it has here the Pedlars and Street Traders Act 1906, and I would ask the Chief Minister if that should also include the Street Traders (Amendment) Bill, which of course updates the Pedlars and Street Traders Act 1906.

**Mr Brown:** Mr President, I am really brought to my feet because I think members are getting a bit lost on this one. Clearly all it is is a change of name. Responsibilities stay exactly the same as they are and there is no point in asking questions about 'will it do something different?' The answer is no. The answer is that the change of name is purely that - just a change of name. A number of points that I would make: whilst I support the change of name, I think it is going to be very important for the new board to actually make it absolutely clear to the public, who will suddenly lose the name 'Consumer Affairs', that 'Fair Trading' includes the consumer. One of the problems you could say with the title 'Consumer Affairs' is of course it gives the impression it only protects the consumer, and of course it does not; it is a dual role, and this is one of the difficulties in the Isle of Man where we have a relatively small governmental structure. Whereas in the UK they have an Office of Fair Trading and they have a Consumer Affairs Board, both doing two different roles, within the Isle of Man they are somewhat consolidated because of the nature of our structure, and I do think it is very, very important that the chairman takes on board that there will need to be a continual exercise of promoting it as still there to look after and protect the needs of the consumer.

As far as the literature is concerned, I was surprised there was actually criticism of that, because I have to say whilst there is a lot of literature available from government boards and departments, in fact, Consumer Affairs, I always find, is one of the best to provide information for the consumer and certainly, whenever I have gone to them, if they have not got the information, they are usually pretty quick to provide it and get it to help people out. And the cowboy builder bit - well, we all know there are difficulties in what is a very complicated system on that one, and I understand the Department of Trade and Industry and the Board of Consumer Affairs, soon to be the Office of Fair Trading if this passes, are in fact actively trying to find a way forward with Mr Attorney to try and deal with this very complex issue without damaging local contractors who are here, resident on the Island.

So I am quite happy for this change but I do think there is a clear responsibility on the new Office of Fair Trading, which still remains a board of Tynwald, to actually make sure the consumer is aware it is still there, alive and kicking.

**The President:** The Chief Minister to reply.

**Mr Gelling:** Mr President, first of all can I thank those members who have supported the resolution before us today, and can I say by way of reassurance to my hon. friend in the Legislative Council, the change of name will take nothing whatsoever away from the board's efforts. As it says in the policy document, the board provides advice to educate and assist consumers on their rights and traders on their legal obligations by providing advice. Now, what I am saying is that will not diminish to the consumer and that the consumer will still be getting that advice. They are putting together packages, I know, so that people are better advised on what their rights are, so I want to reassure the member that that will not be the case because of the change in name; it will not be taking it away from the consumer. Basically we are

hearing about fancy names, but I can only repeat: the name has got nothing whatsoever to do with the role of the present-day remit; the change is purely and simply to reflect the remit of the present-day board and it will better reflect it and it has not been a case of choosing a name and then we will try and support it. It is in fact their present-day role.

If I can just go to Mrs Cannell, who asked about the legislation, I am informed that it is incorporated, so that should reassure Mrs Cannell that that is on board.

I can do no more than to ask for support for the change of name and I therefore ask that people support the item at number 8 on our agenda paper today and I so move.

**The President:** I will now put the resolution, hon. members, set out at item 8 on the order paper. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

### **Social Security Act 1982 (Amendment) Order 1998 – Approved**

**The President:** Item 9, the Minister for Health and Social Security.

**Mrs Christian:** Mr President, I beg to move:

*That the Social Security Act 1982 (Amendment) Order 1998 [SD No.580/98] be approved.*

The Social Security Act 1982 of Tynwald provides the Department of Health and Social Security with enabling powers to apply appropriate United Kingdom legislation to the Island by order approved by Tynwald. This is the only function of that Act. The Act contains a list of the United Kingdom Acts to which the enabling power applies. The order before the Court today simply adds an Act to that list. It does not apply any of the provisions of that Act. The position is explained in more detail in the memorandum which has been circulated to hon. members. The order is of a technical nature; it is simply an enabling mechanism. I beg to move.

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

**The President:** I will put the resolution, hon. members, set out at item 9 on the order paper. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

### **Social Security Legislation (Application) (No. 7) Order 1998 – Approved**

**The President:** Item 10, the Minister for Health and Social Security.

**Mrs Christian:** Mr President, I beg to move:

*That the Social Security Legislation (Application) (No.7) Order 1998 [SD No. 581/98] be approved.*

The amendments being made by this order are again of a purely technical nature and have been found necessary since the application of the Job Seekers Regulations. Details of the provisions have been set out in a memorandum which has been circulated to members. I beg to move.

**Mr Cannell:** Mr President, I beg to second and again reserve my remarks.

**The President:** I will put the resolution, hon. members, set out at item 10 on the order paper. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

**Social Fund Maternity and Funeral Expenses (General) (Isle of Man)  
Amendment (No. 2) Regulations 1998 – Approved**

**The President:** Item 11, the Minister for Health and Social Security.

**Mrs Christian:** Mr President, I beg to move:

*That the Social Fund Maternity and Funeral Expenses (General) (Isle of Man) Amendment (No. 2) Regulations 1998 [SD No 582/98] be approved.*

The Social Fund Maternity and Funeral Expenses (Isle of Man) Regulations 1987 provide inter alia for a payment to cover specified funeral directors' fees and certain additional expenses when arranging a funeral to a maximum of £500. These amendment regulations increase that amount to £600. I beg to move.

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

**The President:** Hon. members, I will put the resolution set out at item 11 on the order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

**National Health Service (Isle of Man) (General Medical and Pharmaceutical Services)  
(Amendment) Regulations 1998 – Approved**

**The President:** Item 12, the Minister for Health and Social Security.

**Mrs Christian:** Mr President, I beg to move:

*That the National Health Service (Isle of Man) (General Medical and Pharmaceutical Services) (Amendment) Regulations 1998 [SD No 558/98] be approved.*

The regulations for which approval is being sought under this item amend the terms on which general medical and pharmaceutical services are provided under the National Health Service. These regulations effect a change in schedule 3 to the principal regulations which contain a list of drugs and other substances which may not be prescribed at NHS expense. After receiving advice from the department's chief administrative medical officer and after extensive consultation with the medical profession the department agreed a policy that the drug Viagra should only be available from a general practitioner by way of a private prescription. Whilst Viagra is the first drug available in tablet form for the treatment of male erectile dysfunction there are other forms of medication available under the NHS for the treatment of this condition. The department has prepared and circulated to all members an explanatory memorandum in relation to the regulations which I hope has been helpful. I beg to move.

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

**Mr Singer:** Mr President, it was thought at one time that Viagra was going to be blacklisted in the UK and I read yesterday that it is not going to be totally blacklisted but will be available for certain conditions. With that in mind, is the department going to reconsider at any time that perhaps it should be available for those specified conditions as in the UK, or is this going to be a total blacklisting of this drug?

**Mr Rodan:** Mr President, I have no difficulty at all with the proposal here that Viagra not be prescribed on the NHS. I agree with the statement that it is a new and expensive treatment and quite clearly I think it would be at this stage wrong for it to be available on the NHS, but

what I do have a concern about is the reference in the explanatory memorandum where it stated, 'It is a new and expensive treatment, the effectiveness and long-term safety of which are not yet fully understood.' Now, the latter part of that statement is re-inforced by the press release that was circulated to all hon. members some weeks ago from which we read that experience with the drug so far is that it appears to be safe although deaths associated with its use have been reported. These deaths are not thought to be directly due to the use of Viagra, though some may have occurred when Viagra has been used at the same time as certain cardiac drugs against safety advice. The drug appears to be effective in some individuals and in some types of MED. Again, it is not yet clear whether some success in clinical trials will be translated into success in everyday use, and again Viagra is a new and expensive treatment; its effectiveness and long-term safety are not yet fully understood.

What concerns me about that statement, particularly in the press release, which occupied much of the reasoning of the department for not making it available on the NHS, is that whether drugs are effective and safe is not a matter for the National Health Service regulations as to whether they should be available on the NHS; it is properly a matter for the committee on safety and medicines and the Medicines Act - different legislation altogether. It is that Act that properly considers the effectiveness and safety of drugs and specifies as a consequence the legal status that they should have, whether they are controlled drug, prescription only, pharmacy only or general sales status. So what concerns me is the criteria that appear to be used. The whole thrust of this argument is to do with effectiveness and safety. Expense is a different matter and I agree with the argument on expense, but safety and effectiveness are not considerations, I would suggest, as to whether a drug should be blacklisted. That properly belongs in Medicines Act legislation.

**Mr Karran:** Eaghtyrane, the reason why we decided this proposal should come in front of you today was that there was a question mark about safety. Now, whether the hon. member is saying that that is not a responsibility of my department or not, it was part of the issue. Obviously the other part of the issue was the fact that they reckon that there is something like 20 per cent of the male population who more likely could benefit from such drugs at the present time, and the question has to be raised as we have a drugs bill of, I think, somewhere in the region of £3 or £4 million at the present time. I feel that this hon. Court has to accept there are certain times where drugs cannot be expected to be put onto the prescription where there is more of a therapeutic and questionable benefit in the first place. I do not hope that this will be something that will happen on a regular basis. This is a one-off proposal, hopefully, and I am sure that hon. members will realise that there is a question mark about how viable this drug is as far as what it is supposed to do.

**Mrs Christian:** Mr President, if I could respond to the question of decisions taken in the United Kingdom in relation to this drug and the position in the Island, we have made a decision for the time being that this drug should not be available on the NHS. It is clear that if it is available in other places there may well be pressure on the department to reconsider that position. The department has undertaken to review the position in relation to Viagra after a period of time has elapsed. I cannot say that that is going to be in a matter of weeks. I would expect it to certainly be over a longer period of time whilst we evaluate the usage of this drug in other places.

With regard to the concerns expressed by the hon. member for Garff, quite rightly he has indicated that there are bodies set up to establish whether or not drugs are safe. I think the concern, perhaps, with this drug is that there is a danger that it may be used against medical advice in circumstances where, used in combination with other drugs, it can be unsafe, and the view in the department was, after undertaking consultation with the medical profession, that this is not an unreasonable position to take for the time being. We will be evaluating the use of this drug in other places.

**A Member:** Hear, hear.

**The President:** I will put the resolution, hon. members, set out at item 12 on the order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

### **Police Powers and Procedures Codes Order 1998 – Approved**

**The President:** Item 13, the Minister for Home Affairs.

**Mr Bell:** Mr President, I beg to move:

*That the Police Powers and Procedures Codes Order 1998 [SD No 586/98] be approved.*

The Police Powers and Procedures Act was passed in June and it will come into operation on 11th January 1999. The Act requires my department to issue codes of practice in connection with various aspects of the powers and duties of police officers under the Act and, in accordance with that requirement, my department has made five codes which were introduced by this order now before the Court.

The codes provide comprehensive guidance to police officers on their duties and responsibilities under the Act. If approved, the codes will come into operation on the same day as the Act, namely 11th January 1999.

The codes are based on the codes made under the Police and Criminal Evidence Act of 1984 of Parliament, modified to take account of the minor differences between the two Acts and local circumstances.

All codes have to be readily available at all police stations for the consultation by police officers, detained persons and members of the public. One aspect of the Act is the right of a detained person to have access to legal advice. The Act amends the Legal Aid Act of 1986 to enable the Legal Aid Committee to make a duty advocate scheme under which detained persons can receive free legal advice. I can now inform hon. members that a scheme has been made with the concurrence of the Treasury and will come into operation at the same time as the Act and the codes, namely 11th January.

I am advised that this scheme does not require to be formally laid before this Court but I understand that copies of the scheme have now been circulated to all hon. members.

These codes are of major importance because of the detailed guidance they give to police officers as to how they must carry out their duties under the Act. They give protection to detained persons and also to those who are responsible for detaining them. By the time the codes come into operation every police officer will have been trained in the operation of the codes. This has been a major exercise and one that I was keen to see undertaken and

completed before the Act and codes were brought into operation. Mr President, I beg to move the motion standing in my name.

**Messrs Duggan and Shimmin:** I beg to second, sir.

**The President:** Does any other member wish to speak to the resolution? The hon. Mrs Cannell.

**Mrs Cannell:** Thank you, Mr President. In relation to the Police Powers and Procedures Act I wonder whether or not the hon. minister has availed himself of the papers which were given to members that do have some queries in them, and I refer to the Tynwald briefing papers. There is a query with regard to code A, guidance note (1)(d), and it states, 'Nothing in this code effects the routine searching of persons entering sports grounds or other premises with their consent or as a condition of entry.' Now, although it is not apparent that police searching of persons entering sports grounds in the Isle of Man is a common or anticipated exercise of police powers, I am concerned that some of the interpretation within this code that is laid before members today seems a little bit confusing, and I wonder whether there have been any mistakes made during the preparation of the document.

We are also, of course, asked whether we wish to consider whether reliance on the text of the English codes of practice may not create some ambiguity. For example, code A, paragraphs 4(3) and 4(7)(a) refer to the national search record. We may wish to establish whether there is to be an independent Manx search record or whether the wording implies that there will be a common search record between England and Wales and the Isle of Man. Similarly, code D, paragraph 2.2(1)(a) refers to the national media, and code E, guidance note 5(a) refers to national guidelines approved by the Department of Home Affairs. We need to clarify whether or not 'national' means Manx or whether it means something more.

Again 1.2, code C, annex A, paragraph 5, which deals in part with intimate searches of juveniles, appears to differ in the regard from the parallel provisions of the code of practice for England and Wales. Again I think we need some kind of clarification here. It is also asserted that the sentence in relation to code C, annex A, which begins 'In the case of a juvenile' does not make grammatical sense; and secondly, the concept of an intimate search being apparently authorised of a juvenile where the juvenile signifies in the presence of the appropriate adult that he prefers the search to be done in the absence of the adult does not require, unlike the English code of practice, the adult to agree to the search or otherwise; thirdly, unlike the English code of practice, there appears to be no requirement for a record to be made of the decisions taken by the juvenile or by the appropriate adult.

There are a few other things and I am sure the minister will have availed himself of these particular queries and I wonder whether or not he has some kind of satisfactory explanation of them. Thank you, Mr President.

**The President:** Reply, minister.

**Mr Bell:** Mr President, I have seen the Tynwald briefing notes myself. I have referred them to my officers for assessment. I am assured that there is nothing in there of any substance which in any way will inhibit the performance of the regulations and the codes which we are considering today. These codes are based very closely on the working codes which exist in the United Kingdom with minor amendments for the Isle of Man local situation. I am

assured that they have been scrutinised very carefully before coming to this hon. Court, and I am confident that the advice I have been given is satisfactory and therefore I beg to move.

**The President:** Hon. members, I will put the resolution set out at item 13 on the order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

### **Isle of Man Planning Scheme (Ramsey Local Plan) (No. 2) Order 1998 – Objectors Heard – Adjournment Debate Commenced**

**The President:** Now, hon. members, we come to two planning items and, as you are aware, section 14 of the Town and Country Planning Act of 1936 provides that in respect of orders under the Act such as the ones referred to in items 14 and 15, any local authority or interested person may appear at Tynwald when such order is being considered and may oppose the approval of such order. Standing order 8.1(2) requires those persons to give three days' notice of intention to appear. We have had, hon. members, such notice in respect of both these items, so the procedure I propose to follow, with the Court's approval, would be first of all to invite petitioners to come to the bar of the Court; the petitioners will give their name and inform us as to who they represent whether they represent an organisation other than an individual. Having learnt of that, we will then have the resolution moved and seconded and before the Court. I will call on petitioners to present their case following that resolution being moved. If that is agreeable to the Court (**Members:** Agreed.), I call upon the hon. member, the Minister for Local Government and the Environment, to move item 14 on the order paper.

**Mr Quine:** Thank you, Mr President. I beg to move:

*That the Isle of Man Planning Scheme (Ramsey Local Plan) (No. 2) Order 1998 [SD No 576/98] be approved.*

**Mr Rodan:** Mr President, I beg to second.

**The President:** Now, with the resolution before the Court, may I invite petitioners to state who they are, who they represent.

**Mr G Clarke:** Thank you, Mr President. Hon. members, my name is Geoffrey Clarke. I am Secretary to the Society for the Preservation of the Manx Countryside.

**The President:** Thank you, Mr Clarke.

**Ms P Newton:** Thank you. My name is Patricia Newton. I am an independent planning consultant and I am here acting basically on behalf of myself as a planning consultant.

**The President:** Thank you. Now then, I am going to call on Ms Newton to address the Court first.

**Ms Newton:** Mr President, members, my role here is as a planning consultant. I have to advise people on plans, how they will affect their property. I have done so in a case of this plan but my role is also to question the wider remit of the plan.

First I would like to make a brief comment about the statutory procedures. The document, the order, refers to the 1996 Town and Country Planning (Order Procedure) Regulations 1996. Under section 3(2) of those procedures the draft document may only be considered within 12 months of all the research process and public consultation. The draft order was issued in March 1997. The last public consultation period on the document was in

July to the end of August 1995, i.e. the 12 months, was well exceeded by the draft order. I would say that that would mean that the draft order itself, the order that went to public inquiry, was not necessarily in accordance with the procedures. The earlier 1995 draft had never been published or advertised as a formal document. It was published, it went through extensive public consultation but it was never advertised under the earlier 1936 regulations. I will leave it to the Court to decide whether or not that makes the current document legal in terms of having fulfilled the procedures.

In relation to the plan and order as a whole there are certain items I would wish to query. There are others I fully support within the plan, but regretfully I feel there are some that cannot be supported, they are not justified by the separate written statement that the department has put forward, and there are others that are confusing because the zonings on the order, i.e. on the plan maps, do not necessarily tie in with what is written in the written statement.

My queries relate to primarily the area in the first place referred to variously as the Vollan Fields, Bridge Road and Bride Road. This is the area of the new zoning in the north of the town. This zoning was introduced following the public inquiry into the plan. It had never previously been proposed as an area of housing. In the 1995 plan it was specifically mentioned that it was considered but rejected by the department at that time. To quote paragraph 3(1) of the document they say it is clear that there has not been and is not a shortage of development opportunities for new housing in Ramsey, and that quotation is made in relation to existing allocated land, land allocated both in the terms of the 1982 development plan on the edge of Ramsey, i.e. still in Lezayre, and in the 1989 statutory Ramsey plan at present. Paragraph 3.2 of the written statement goes on to say, 'It should be noted that there will remain a general presumption against built development in the countryside adjoining the Town Boundary with the exception of the areas around Lezayre Road and Jurby Road. . .' Those are nowhere near the Bride Road, i.e. the Bride Road area is in the countryside, it is adjoining the town boundary. This paragraph 3.2 is saying these areas should not be allocated but in the order before you on the map it is allocated.

At the time of the public inquiry into Ramsey there was considerable confusion over the naming of this area. It was referred to both by the Ramsey Commissioners at the time as Bridge Road. Bridge Road does not exist. Bridge Lane does and there is a small housing site off it. The fact that it was referred to as Bridge Road is reported in the inspector's report on the public inquiry. It is also called Bridge Road in part of this written statement before you. I would therefore suggest, as a new zoning referred to as Bridge Road at a public inquiry, what hope do the the residents of Bride Road, Ramsey, have to know that this area was the area being to referred to north of their land, land had never been allocated before? Thus we have an area of land that was not cleverly defined at public inquiry now incorporated into a document where they say there is no need for it; they do not want land in the countryside to be developed.

The possible justification for it, I believe, that the commissioners put forward was that other areas of land had been de-zoned. In one case the cited area of land was around the Grove Museum. That area of land never came into the original Ramsey plan and it had never been zoned for residential development. It has always been zoned for the Museum. The other area of land is Ormly Hall, fairly close to the land that we have here at Vollan Fields. The reason it was de-zoned was because of its environmental impact and yet here we have an even larger area than that close by being zoned now. It simply does not add up.

What the plan now has or does not have in comparison to its draft is any reason or justification for the zonings. The various drafts all contained a lot of figure work in them, and that figure work has gradually diminished to nothing in terms of the housing land. In total the amount of land still allocated under existing zonings is somewhere in the vicinity of 61.4 hectares. Translated into housing, that could be at a density of 10 houses to the hectare, quite a low density: 600 houses, over 1200 people. That is with existing zonings which still stand in this plan. If one also allocates the Vollan Fields one has an extra possible 20 hectares, another 200 houses, another 400 to 500 people.

What justification is there for this? We have huge residential areas in Ramsey but we have no employment. We do not seem to relate it to the roads; we do not seem to relate it to the schools. In transport links we have areas on the west side of Ramsey in the policies for Lezayre Road, Gardener's Lane. These areas can get to the centre of Ramsey, they can get to the south of the Island, Douglas in particular, without having to cross the river and yet in those policies it is said that before they can be developed in one place there should be a new bridge over the Sulby River going north. However, for the Vollan Fields area, this area to the north, which fairly obviously has to get over the bridge to get either to Ramsey town centre or to the south of the Island there is no stipulation that there should be a second road bridge over the Sulby. Where are we sending the traffic to? Are we going north or south?

In terms of schools, all the existing schools at the moment are south of the river. In terms of the inquiry the Department of Education apparently said they wanted a school to the north-west. The allocation has ended up to the north-east, but there is still no commitment to provide a school, so if you approve this plan today, by 2nd December a developer could come along with a proposal but there is no school, there are no adequate roads to serve it. There is only one road over the stone bridge for a possible huge development.

As for the other areas, what effect will this zoning have on the landowners of land which has been zoned or allocated for a very long time? Do they not have the right to expect that their land should be the next to be developed? The zoning for the Vollan Fields is a mixed industrial residential development. Why should this now be proposed? Why should this not have been undertaken in areas like Pooyldooie, which we know have long since been waiting for someone, presumably government, to put in the services to enable development in that area; it has been ripe for a long time but we all recognise there is a huge cost in developing it. Wouldn't it be far more practical to have positive policies that encourage the development of that area rather than, out of the blue, come with another area to the north? If the area to the north is considered more suitable than Pooyldooie and other areas, then surely there should be more land dezoned, not just an increasing amount zoned for development. That is hardly fair on the surrounding people.

We have progressively in the last few years seen first Laxey, then Onchan and Castletown - all have people rise up, shall we say, in objection to planning applications for huge developments in areas they did not know had been zoned. Is this not going to be exactly the same case in Ramsey? We have an area which has crept into the plan at the last minute, a plan that has been on the go since about 1990 and it is being developed.

In employment terms, as I said, if an area is to be developed one should have some kind of positive idea of where they are going to be employed. At the moment one can only suggest that the reason why areas are not developing in Ramsey is because people cannot find

employment in Ramsey. Figures are not given, but when they were, it was realised that, low as unemployment is in the Island, it is higher in Ramsey than anywhere else, presumably because there are not jobs. There is not an office block, to my knowledge, that can accommodate more than 30 people. The town has lost two such office employers in recent years because of this. Surely the emphasis should be on providing alternative employment, not just rezoning land for more industry. You need buildings to accommodate people. I would therefore request, because of this zoning in particular, that the plan is not approved.

My other points are with regard, in particular, to the map, the order, in relation to the actual written statement on some other items. In the orders on the map we appear to use a lot of zonings that refer back to the 1982 development plan zonings, as indicated in the key. However, there are statements in the written statement that do not tie up with these, or at least could do with clarification. Throughout the plan, while we have not had much justification for all the housing and industry policies, we do have huge justification for the nature conservation ones and yet not one of these areas identified for nature conservation is shown on the order maps. This point was brought up at the public inquiry but simply does not seem to have been taken on board. For a developer, therefore, it is almost as if you are dealing with two plans, one in writing and one on the map.

The final area of concern is in terms of some of the policies for environmental action areas. These appear towards the end of the document - namely the Waterloo Road, North Shore Road and Albert Street area. Draft plans detailed what action could be taken in terms of both built environment and nature conservation. The natural environment - North Shore Road is an area of mixed housing and industrial use. It is specifically stated in the plan that they want to get rid of some of the services in the area and make it a housing area. This is in the written statement. We are also saying it should be an environmental action area but the zoning on the actual order documents remains as light industrial. What good is light industrial to areas of housing that want to be improved, and what encouragement is it to anyone wanting to establish a marina nearby? Waterloo Road is an area where housing is in various different conditions. However, the plan says we want tree-planting. What good is tree-planting? It will uplift the pavements and it will uplift the sewers, dare one say it again? I am sure the Waterloo Road residents are not terribly happy about that.

We are therefore left with a plan that, while, as I said, it has some very good ideas in it, I feel that at the end of the day has not been thought out thoroughly, and the reaction to the public inquiry suggestions certainly not been taken on board in the manner that one would expect them to be considered and properly justified if these changes are going to be made, especially in terms of the zoning of the Vollan Fields. Thank you.

**The President:** Thank you, Ms Newton, for your presentation. Now, at this stage of the petition, hon. members may wish to pose a question to you to clarify points which you have made in the course of your address. Does any hon. member so wish? The hon. member for Ayre.

**Mr Quine:** Yes, thank you, Mr President. Ms Newton, you were working in the planning office up until when?

**Ms Newton:** Until 1996.

**Mr Quine:** And when did you start employment in the planning office?

**Ms Newton:** In 1990.

**Mr Quine:** Right. Is it not a fact that you yourself were involved in some of the work in regard to the Ramsey Town Plan?

**Ms Newton:** I said there were some good ideas in the plan, yes. *(Laughter)*

**Mr Quine:** I thought that that would be about it, yes.

**The President:** Hon. member, I do not appreciate this line of questioning at all. **(Several Members:** Hear, hear.) I think it is completely unfair. What the petitioner did in the past, in your department or any other department, has little relevance to her petition of today.

**Mr Quine:** Right, thank you, sir. May I ask if I can continue?

**The President:** Yes.

**Mr Quine:** Thank you. These points that you have made today in regard to these planning issues - were they not put to the inspector in a very comprehensive form at the inquiry?

**Ms Newton:** Most of the points were, but of course I, like anybody else, did not have a chance to respond to the suggested zoning of Bridge Road, which is not Bridge Road but Bride Road, Vollan Fields. Like anybody else I was confused by the reference to it, and it was not until the draft plan came out in March of this year that I realised what was actually proposed.

**Mr Quine:** Right, but apart from that point about Bride Road or Bridge Road, are you satisfied that your points were made to the inspector?

**Ms Newton:** My points were all made then. They were all made again in March, again, I think. I have not -

**Mr Quine:** Thank you, Mr President.

**Mr Bell:** Mr President, just one or two points. Could I ask Ms Newton first of all whether a resident of Ramsey, having lived there for a number of years, would be confused by a misprint appearing in a document such as this, describing it as Bridge Road rather than Bride Road?

**Ms Newton:** I think they could be, yes.

**Mr Bell:** You think someone living in Ramsey would be confused? They would think you were talking about somewhere quite different?

**Ms Newton:** Well, I believe the fact that they did not hear Bride Road - they would switch off, shall we say.

**Mr Bell:** You would not think that the majority of people in Ramsey would associate the Vollan Farm area with Bride Road and not some mythical Bridge Road?

**Ms Newton:** With respect, the actual inquiry into the plan and the report on proceedings does not refer to Vollan Fields; it refers to Bridge Road, not Bride Road.

**Mr Bell:** Can I ask, going back a little further, if you were aware of the boundary extension application which was made by Ramsey Commissioners a number of years ago?

**Ms Newton:** Yes, sir.

**Mr Bell:** Yes, and presumably you are aware of some of the rationale behind that boundary extension application in the first place?

**Ms Newton:** I was aware that the boundary extension was to take in what logically by that time had become part of Ramsey, a lot of existing built development. For the areas outwith that, I can understand that Ramsey Commissioners would want to safeguard the future of the areas but, just like Douglas Corporation, is not allowed, or has not got all the land zoned up to their boundaries for development. I do not see why there should be a presumption because of an inquiry into the boundary, as there was, that all land in Ramsey should be zoned right up to the boundary.

**Mr Bell:** Would you see much logic, then, in Ramsey Commissioners applying for a boundary extension simply to take in areas of the countryside to keep its green belt?

**Ms Newton:** Well, I do not suppose they thought of it that way, no.

**Mr Bell:** Would you agree, then, the logic behind the boundary extension, which then drew in this area of the broader Vollan Fields that we are talking about, was in fact generated because of a feeling on the part of the commissioners that there was a requirement in the near future for more development land within the boundary of Ramsey and that at that time the existing land within the Ramsey town boundary was not available for development?

**Ms Newton:** I am not aware that any land was not technically available; after all, there are compulsory purchase powers to make land available. It was all allocated and it was undeveloped and it remains that way today.

**Mr Singer:** Mr President, can I just continue on the Vollan Fields situation? When the boundary extension took place, as Mr Bell said, what did you think? Was it your opinion that even though the boundary extension was where it was, there should be no development on that site?

**Ms Newton:** I think I considered the site in terms of its planning implications, not in terms of where an administrative boundary goes. In planning implications it has serious environmental landscape implications, especially if you have got somewhere like the Albert Tower and look down an Ramsey; it is a logical place to look at Ramsey from and the Vollan Fields is not the area most suited to development to fit in with the environment. There is plenty of land at the moment allocated. If that land is not available and cannot be developed, then we should be thinking in terms of rezoning some areas, even more areas than have been, for instance, before you start rezoning at the moment, or reallocating.

**Mr Singer:** Is it not a fact that the planning department, after the extension, and probably yourself because you were there, recommended to the inspector that there should be no development, this land should remain as it was, agricultural land, but the commissioners said that it should be now zoned as mixed use development, and the fact is that the inspector rejected the department's view and accepted the view of the Ramsey Town Commissioners?

**Ms Newton:** That would appear to be the case, yes.

**Mr Singer:** But could that not be the case? Could he not have accepted that because there is still a buffer outside that land, a green buffer between there and the next area? There is still a green buffer even if there is development on that land?

**Ms Newton:** There obviously is agricultural land beyond it, but the commissioners' view, as recorded in the proceedings, was that some of the land previously quoted as being undeveloped had been developed and they felt this would be more. There is no mention of buffers and, as I recall, the Ramsey boundary report certainly, in terms of land to the west, specifically referred to the buffer zones as being on the Ramsey side of the town boundary at the edge of Ramsey, not the green field site on what is the Lezayre side of the boundary.

**Mr Singer:** May I just briefly ask you about the school? You are aware of the difficulty with the schools at the moment in Ramsey?

**Ms Newton:** I am aware they have not got capacity and that the system of schools is not primary schools as such, it is infants and junior, which is different from the rest of the Island.

**Mr Singer:** Could you repeat your objection, then, to the fact of the positioning where the recommendation is for the new school in the north? You objected to that.

**Ms Newton:** I am not objecting. I am saying that there is no positive policy in the plan that a school will be built there, whereas if you allocate land, you are more or less without any constraint in terms that that land cannot be developed until a school is provided. You could end up putting huge stress on the existing system. That might not be the intention, but it could happen because there is no constraint provided in the policy.

**Mr Karran:** The situation as far as boundary extensions are generally done on the basis of the rateable value in the new area. That is what gets boundary extensions. Could you tell me, as a person who has got a knowledge of planning, why would we want to put light industry at the east end of the Vollan Fields when we are spending large amounts of money on trying to promote tourism when one of the top hotels in the area, the Grand Island, is on one side and we are talking about putting light industry only across the road from it? Is that a good planning issue?

**Ms Newton:** Well, the only possible reason I could think is, unless it is a film studio, which seems to help keep the hotel going, I cannot really give any good answer as to why it should be.

**Mr Karran:** So in planning terms it is a bit of a nonsense?

**Ms Newton:** Without having looked at it in detail, I would think so, yes.

**Mr Karran:** Are you aware, in planning terms, as far as the proposed new school at Thornhill, you mentioned the fact that we have an infants and primary system. Would you see a new school being in that area to promote the policy of the Department of Education wanting not to socially mix children in education, so all the rich kids and all the better off kids go to Thornhill and the rest from the Ponderosa do down to Auldyn School? Would you see that as being good planning policy as far as social provision within Ramsey is concerned because that is what is going to happen?

**Ms Newton:** I think it is difficult as a planner to really take on what are basically educational considerations. The difficulty in whatever site, I think, you choose in planning for a new school in Ramsey is that one area does closely relate . . . No one area will give you a decent social mix if you look at the immediate surrounding houses. They are all either one, possibly, or the other. Thornhill might give you a better mix than some.

**Mr Karran:** A further question, then. Wouldn't it be more of interest or more beneficial to make sure there is a social economic mix as far as education is concerned to make sure that all the primary schools are very near each other so that they can have an open catchment in all the schools so that the children of Ramsey can be educated on the basis of education, not on the social stigma of where they live, and is that not good planning terms and that is why the proposal to put it by the Groves is a bad proposal?

**Ms Newton:** It would certainly seem a suitable solution to have schools sited where, as you say, they cannot be associated closely with one particular social class, as you mention, a sort of central location, but you have to consider distances that especially the infant end of the primary range have to travel or walk to school and what main roads they have to cross.

**Mr Karran:** Can you also tell me you said about the confusion, which I could understand, about the difference between Bridge and Bride Road and I think that there is a legitimate concern there, but also down at the old river road, or whatever that is called, where it is going to be predominantly residential down by the old ford, what would your view be as far as this is concerned, especially in light of the recent problems we have had over Sulby with building on flood plains? Is this a good place to be building, proposing residential on a flood plain on the other side from the public open space by Poylldooie?

**Ms Newton:** Could I just clarify? Are you meaning on the north side of the river or on both sides of the river?

**Mr Karran:** On the north side of the river.

**Ms Newton:** I would not have thought it was, but I have to say, as an officer, I would not recommend approval to applications. . .

**Mr Karran:** Can I just ask a final question? In your submission you talked about the lack of industry in Ramsey to fill the existing areas designated for residential development. Why have they decided to have this situation? Do you think it is a good idea having the Poylldooie/Ballachrink proposal residential? Surely it would have been far better to have it all industrial instead of residential for the top half and the bottom half, towards the river, is light industry? Is it a good place to put it next to a power station, residential?

**Ms Newton:** I think the Poylldooie/Ballachrink area - you can argue it both ways. Having industrial land at the east, one could provide new roads that would logically help serve the area. Further, it is better to have industrial next to the power station; that would also be a logical place for it and it was so allocated in the earlier plan, but of course we do not really know what the future of the power station is. If the situation has changed in recent plans it certainly is not indicated here if there is any long-term future for the power station.

**Mr Gelling:** Could I ask, Ms Newton, at the very early stage of your statement to the Court you actually raised a procedural problem. While recognising and accepting your planning skills, was this statement a legal statement that you have received whereby the procedure was wrong, where you said that the time difference . . . In other words, are you suggesting that we should not be considering this today because of the procedures?

**Ms Newton:** I am flagging it up, sir. It is a difficult one because this plan has been on the go for a very long time, but I am concerned that those 1996 regulations were brought in very,

very quickly and, as a consultant, we are obviously expected to conform to what regulations there are and this might be interpreted as a breach of regulations that were brought in.

**Mr Gelling:** Thank you, Mr President.

**The President:** Well, I think there are no further questions, Ms Newton. I wish to thank you for your presentation (**Several Members:** Hear, hear.) and for the helpful manner in which you responded to questions from the floor of the Court. You may stand down. Thank you. Now, we turn to Mr Clarke, and I would ask Mr Clarke to address the Court.

**Mr Clarke:** Thank you, Mr President, hon. members. I am here to speak on behalf of the Society for the Preservation of the Manx Countryside and Environment, which is a voluntary organisation. I will admit that I find the title cumbersome so if I may just refer to it as 'the society' throughout, if that is acceptable, though I hope I do not actually need to refer to ourselves again.

The objections of the society are much along the lines of those that Ms Newton has put forward. We endorse all that she said, though I was unaware until the start of proceedings even that she would be here. So there has been no concurrence except in thought and analysis of the plan. The society's principal objection is the way that the Vullan Fields, in particular, appear to have been selected and adopted, that throughout the period of public consultation and discussions this had never come to the knowledge of the society that it might be included. Indeed, word that had been on it was that it had been rejected by the department. It was brought up at the public inquiry, again with no anticipation. The society had had no opportunity to prepare a case of rebuttal on put-down. The proposal seemed to have come forward with no landscape analysis, traffic modelling for the area, assessment of any impacts on either the housing or the industry. Indeed, it is unusual these days to propose areas of mixed use. It is normally a description used for existing areas where housing and industry has grown up together. They are usually now separated in land use terms. I am a qualified planner. I see no great objection to the development of a mixed use proposal, though there are obvious hazards of noise and disturbance from the industry to the residents living nearby. The other side is that it can give advantages that if people from the housing are working in that same industry it cuts down on the traffic, but there has been no analysis on any of this. Given that it is allocated for mixed use, it could all go for industry and no further housing in the area. That may be a good thing, it may not. Again, there is no analysis or assessment of the impact of the proposals.

One of the reasons, perhaps, why the society was somewhat caught out by the inclusion of this proposal following the public inquiry was that, if I may refer the members to the inspector's report - and I note that the inspector is a surveyor rather than a planner - on page 2, paragraph 8, the case for the Department of Local Government and the Environment by Mr Vannan states in his second paragraph that progress with the local plans programme must continue due to pressures such as limiting residential development to already allocated areas. This area has never been previously allocated and, for most of the public, never even discussed. The adoption of this plan would seem to clearly breach that and, whereas some of the land has been de-zoned, at least people were aware that it was potentially going to be developed. This area has come in apparently out of the blue with no analysis or assessment of the impact, both on the community or on the physical environment.

I think at best the adoption of this plan, as it stands, is at least premature. There are areas already allocated for industrial development, mixed use development and housing. There is adequate time to leave this out of this plan and for the plan to be either revised or adopted without the Vollan Fields and, at such time, if it becomes pressing for this land to be developed, the plan can be reconsidered. Indeed in Kirk Michael, I think it has had three local plans so far in a far shorter time than Ramsey has had altogether. It is also possible for the Court to adopt the plan with the exclusion of an area, as has happened with the Braddan Plan, and the area known as Camlork went back for reconsideration. I hesitate to use that as an example because of the political and legal impact that that had, but again that was an area that had been allocated for development for a long, long time. This is not. The reason I use Braddan as an example is that you can adopt the large part of a plan for expediency but exclude a certain area for further consideration if the Court decides that that is an appropriate approach. I personally think that the plan ought to be considered in its totality, and that with the inclusion of the Vollan Fields it should not be adopted.

I also have concern, and the society has some concern, about the area zoned for industrial development on the west side of Ramsey alongside the railway line and south of the river. Again, it seems to have been allocated purely on the grounds of the field boundaries and town boundaries. In many of the sector statements for the rural countryside area it states that the public footpath that runs along the disused railway line will be protected from the effects of development. This zoning goes right alongside the extent of the railway line. It could have been angled in much closer to where the existing developments are and kept the industrial development away from the public footpath amenity.

Whilst the society will endorse many of the detailed matters that Ms Newton has put forward, our concerns are principally on those two allocated land areas and particularly the Vollan Fields and how it was adopted with no opportunity for the society, or for other members of the public, to really have the opportunity to rebut it. Thank you, sir.

**The President:** Thank you, Mr Clarke. Questions? The hon. member for Ramsey, Mr Singer.

**Mr Singer:** Can you tell me, did you attend any of the public consultation exhibitions that were held in Ramsey to see what the proposals were?

**Mr Clarke:** I did not, sir. I have only been recently appointed as secretary. Most of the work has been done by a Mr Ian Bleasdale from our society, who is our planning officer. He is off the Island at present.

**Mr Singer:** Are you aware whether Mr Ian Bleasdale, then, attended the public consultation exhibitions and displays that were held in Ramsey?

**Mr Clarke:** I know he did attend them, yes.

**Mr Singer:** He did, fine. And then you say that there was no knowledge to the society that the Vollan Fields were going to be proposed for mixed use?

**Mr Clarke:** Not until the public inquiry, I believe.

**Mr Singer:** But you did say that you knew that the department had rejected that proposal?

**Mr Clarke:** Yes, I believe that was the case.

**Mr Singer:** Therefore if you knew the department had rejected it, you were aware that there was a proposal by Ramsey, Ramsey wishing it?

**Mr Clarke:** No.

**Mr Singer:** No, but were you at the actual inquiry?

**Mr Clarke:** I was not, no. Mr Bleasdale was.

**Mr Singer:** Mr Bleasdale was. So Mr Bleasdale must have been aware that Ramsey Commissioners had put the case for mixed use on that land?

**Mr Clarke:** I do not know whether he was aware of it or not. I think he knew that the department had considered it. I do not think he would know whether the Ramsey Commissioners had considered it or not, but I am working on supposition. I am afraid I stood in -

**Mr Singer:** But obviously you would agree that the inspector listened to both sides of the story and came down in this particular case on the side of Ramsey Commissioners?

**Mr Clarke:** He did, yes, though again -

**Mr Singer:** So can I say, therefore, really, when you say you did not know about it, or your society did not know about it, the fact is they could have known about it if they had taken care to be at the inquiry and listened to what Ramsey Commissioners had to say.

**Mr Clarke:** Mr Bleasdale was at the public inquiry representing the society, but I believe that he certainly did not know of the proposal with sufficient opportunity to prepare a case against it.

**Mr Singer:** You say that there are other areas in Ramsey that you feel are suitable and are zoned for residential and mixed development. Are you referring to Pooyldooie?

**Mr Clarke:** Yes, and I was meaning to refer to either residential or industrial, and a mixed use area.

**Mr Singer:** Are you aware, whilst this area has been zoned for residential and housing, why it has not been developed?

**Mr Clarke:** I do not know why it has not been developed, I know that it has not been developed and I would think that if it is not going to proceed and other areas are needed, then there should be an exchange of zoning as hinted at alluded to by Mrs Newton, but merely adding others without deleting those which are not going to go ahead is wrong. It leaves people in a quandary. They are left with the zoning where nothing is happening, and yet it remains zoned for this uncertainty for a long, long time.

**Mr Bell:** Mr Clarke, you have expressed some concerns about the zoning for industrial use of part of the Pooyldooie/Ballacreg. Are you aware that this land has been zoned for industrial for a great many years? It is not something which has just come to light now in this recent report.

**Mr Clarke:** I think, on my close examination of where the line is actually drawn, it has changed slightly, but I could not aver to that absolutely at the present.

**Mr Bell:** So at best you are saying the line has changed slightly. Will you also agree that, immediately adjacent to the land we are talking about, there is already in existence an industrial estate?

**Mr Clarke:** Indeed, yes, I am aware of that.

**Mr Bell:** And therefore you would think from a planning point of view it would be quite logical to extend that industrial estate into the adjacent fields?

**Mr Clarke:** I think that makes quite a lot of sense. My concern is the way it extends along the railway line, which is used as a public footpath rather than extension per se. It is the actual juxtaposition of the land to the railway line.

**Mr Bell:** As the railway line runs immediately adjacent to the existing industrial estate, could you then tell me how you would, as a planner, incorporate the land on the other side of the railway line without actually in some way involving the railway line?

**Mr Clarke:** Right, well, I think one has to accept that it is there, it detracts from the amenity of the public footpath, but that is an existing situation which cannot be resolved, but if the zoned area with . . . I hope all of you have your plans out; there is a field boundary runs up right through the annotations (C), (E) and where actually is superimposed 'residential/industrial'. I would have thought that by having the boundary following that field boundary the minimum amount of area possible is against the railway line and it opens out to create more space as it gets away from the railway line.

**Mr Bell:** Does your map, No. 2 (South) accord to my map No. 2 (South) which has a red dotted line delineating the Pooyldooie estate running alongside the railway line -

**Mr Clarke:** Yes.

**Mr Bell:** - which is actually in the Pooyldhooie land itself?

**Mr Clarke:** Yes.

**Mr Bell:** It does not actually incorporate the railway line into that estate?

**Mr Clarke:** No, that is correct, but it is alongside the railway line.

**Mr Bell:** If this land was to be developed, it is almost certain that, when detailed plans were put in, this railway line would be excluded; the footpath, as you call it now, could well still remain in existence, because it is not delineated.

**Mr Clarke:** Oh, I am sorry, I have not meant to suggest that the footpath along the railway line will go, but that the industrial development will be, as it were, over the hedge, and that, I think, that will detract from the amenity. I am not suggesting that the amenity will no longer exist, merely that it will be downgraded by an industrial estate alongside.

**Mr Bell:** You are aware, of course, I am sure, as a member of the society of the excellent work done by Ramsey Commissioners over the years in developing the riverside walk -

**Mr Clarke:** Yes.

**Mr Bell:** - through the area of land owned by the commissioners themselves, an area of which I believe this plan will add to if it is agreed, which in itself incorporates a very scenic public footpath right alongside the river.

**Mr Clarke:** Indeed, excellent work by Ramsey Commissioners.

**Mr Bell:** So if, in fact, there is industrial development on the area, which is designated, there is still a very, very scenic alternative for the public to use very close by.

**Mr Clarke:** There is, but I do not see that that is the reason to let this second route be spoilt by immediately adjacent development.

**Mr Bell:** But you are aware of the problems in attracting light industry into Ramsey and the shortage of employment opportunities, as we have previously been told, in Ramsey, and therefore it would be quite logical for a piece of land to be allocated for industrial development adjacent to an existing industrial estate?

**Mr Clarke:** Yes, and indeed and I have no objection to the Ramsey Commissioners trying to promote industry with or without housing as a mixed use development. The society is concerned about the way it has been brought in, to the society's knowledge, at a very late stage without full consideration and assessment of the situation and that it is not part of an exchange of zoned land, it is in addition to, when areas are not yet developed.

**Mr Bell:** Just one further point then, Mr President. Really repeating the question I asked earlier, is your society aware of the background to the Ramsey Commissioners boundary application some years ago?

**Mr Clarke:** I am afraid I cannot answer that. I was not involved -

**Mr Bell:** You would assume if you are putting in the views that you are at the moment, that someone in your society would have been aware of the rationale behind the boundary extension.

**Mr Clarke:** I can only assume that they were aware of the desire to extend the boundary. They may or may not have been aware of any rationale for such extension.

**Mr Bell:** Would you think it logical, though, that if the commissioners had applied for a boundary extension to incorporate Vollan Fields it would not be simply to incorporate a piece of the countryside into the town of Ramsey, but that there would be some logical developmental need for that inclusion to have taken place?

**Mr Clarke:** I am working on supposition. It may be that Ramsey Commissioners wanted to retain that as open space in case the neighbouring authority wished to develop it.

**Mr Bell:** You would not think it is logical that that was driven by the need for more land to develop within the town boundary?

**Mr Clarke:** There is some logic in that. I would not say that it was a foregone assumption by us.

**Mr Bell:** Are you aware of any other boundary extensions on the Island which have taken place, which have deliberately incorporated areas of the countryside simply to bring green belt within the town boundary?

**Mr Clarke:** I am not, but then I have very little knowledge of the various boundary extensions to the towns and villages anyway.

**Mr Bell:** One final point, then: on the usage of this Vollan Fields you will agree we are talking at the moment about zoning rather than detailed use?

**Mr Clarke:** Oh indeed, and what concerns me is that because it is zoned, as soon as the plan is adopted and approved that there will be great difficulty in resisting it in some applications in detail when there is no development brief for the land or draft of how it might be developed. There is no indication of where access may be taken or indeed where it may not be taken, and I think, if it is going to be adopted, this land, for development, there should be a planning brief to go with it.

**Mr Bell:** Do you not think it logical that the planning authorities would ask for a development brief for this whole area before planning is allowed to develop piecemeal?

**Mr Clarke:** They may find it very difficult to resist, as indeed they have in many other of the towns.

**Mr Bell:** But you would agree that the planners have the last say in this and, if they insisted on a planning brief, a planning brief would have to be developed, as has happened in other areas?

**Mr Clarke:** I think that unfortunately the planners do not always have the last say. They do lose decisions on appeal. I know, again, a member of the legislature makes the decisions from the appeal inspector's reports, but it is not the planners that have the final say.

**Mr Quine:** Your society at the public inquiry, Mr Clarke, they were represented by your chairman, Mr Quirk, were they?

**Mr Clarke:** I believe so. I am not sure whether Mr Bleasdale was there. I think Mr Bleasdale was there as well, but I did not attend.

**Mr Quine:** Yes, and Mr Quirk submitted a detailed written submission of 12th May 1997 setting out your society's views on all these matters?

**Mr Clarke:** I believe so. I will take it. . . if you say so.

**Mr Quine:** And is it not a fact that it is recorded in the inspector's report that the society was generally supportive of the draft circular and considered it to be a big improvement on earlier issues - in other words they were lending their support to the draft circular?

**Mr Clarke:** In general we do support it, but the draft circular that went to the public inquiry had the Vullan Fields allocated as agricultural land, but overall we were supportive of the revision of the plan and with the Vullan Fields as agricultural.

**Mr Quine:** Just one final question, if I may, Mr Clarke: you are aware that the department published the final version of the local plan in March 1998?

**Mr Clarke:** Yes.

**Mr Quine:** So it has been in the public domain since that time.

**Mr Clarke:** The plan that is before the Court now?

**Mr Quine:** Yes.

**Mr Clarke:** Yes.

**Mr Quine:** Thank you.

**Mr Gilbey:** Mr Clarke, in July 1995 the department issued the consultative draft written statement and then in June 1997 or thereabouts they prepared the draft Ramsey Local Plan. Are you telling us that in both those documents the area known as Vollan Fields was shown as an area of open space?

**Mr Clarke:** Without reference back to my various documents I could not be certain of that, but I think that is the case. I am only representing the society as well as I am able. I have not been involved in the earlier analysis and consultation, I am afraid, but I believe it was zoned as open space.

**Mr Gilbey:** If you and Ms Newton, it seems, both suggest that, so what you believed happened was that at the inquiry Ramsey Commissioners argued that it should not be open space, the inspector was persuaded by the commissioners and he recommended - because he could only recommend to the department - that it should be changed from open space to what is shown now and the department, despite their previous views, accepted his recommendation. Is that how you see it happening?

**Mr Clarke:** That would appear to be the case, except, if I may correct, possibly sounding pedantic, I believe it was annotated agricultural rather than open space.

**Mr Gilbey:** Ah, agricultural?

**Mr Clarke:** There is a difference in that open space could be developed as playing fields or golf course et cetera. I believe it was allocated agricultural, which obviously has very different implications on the visual aspect, even without buildings.

**Mr Gilbey:** Right, thank you very much.

**Mr Downie:** Mr Clarke, on the subject of the Vollan Fields, I would refer you to page 15 of the written statement, the second paragraph. Would you accept that within that written statement at the end of the paragraph it states 'Development may proceed only in accordance with an overall scheme for the whole area' and would that not indicate that, following the adoption of this local plan there would be no other option than to put a master plan together which dealt with areas for landscaping, use class orders, and this would totally outrule any sort of sporadic development on that area?

**Mr Clarke:** Well, indeed, but unfortunately the plan does not specify who is to produce that overall scheme. It may well be that the developer produces such a scheme and says 'Right, we are in accordance with the plan, we want it approved' and I think it should specify that it is the department that lays out the overall plan, or at least a development brief. That is not proposed within the document.

**Mr Downie:** Would you be happy today, then, if the minister reinforced this point, that the development may only proceed in accordance with an overall scheme for the whole area? Would you be happier with that?

**Mr Clarke:** Well, no, my society objects to the land being dezoned at all at present and this certainly is a way of ameliorating the effect, but the society is opposed to the way that the land has been included at this stage.

**Mr Downie:** So what you are saying is that your society does not wish to see the opportunity to have a business park in Ramsey, to perhaps bring special incentives to stimulate the economy in the north of the Island?

**Mr Clarke:** We are not saying that at all, sir. We are saying that any such proposal ought to have been properly considered in the context of a landscape analysis, traffic modelling et cetera, not that it should not have one, but where there has been a proper analysis of whether this is the site or whether there are other sites that are equally more suitable and available.

**Mr Downie:** Thank you, Mr President.

**The President:** I think there are no . . . oh, yes, one from Mr Rodan, the hon. member for Garff.

**Mr Rodan:** Thank you, Mr President. I understood you to say, Mr Clarke, that you felt that the Court, approving this scheme this afternoon, would be premature. Now, do you mean by that, then, that we should carry on with the 1988 scheme, because that is sufficient, or do you feel that we should start again, have a new inquiry, come to a better result than the one that we have before us?

**Mr Clarke:** I think there should be a new inquiry, at least on the part of the Vollan Fields area that was brought in only at the public inquiry, though my personal opinion is that it would be better at this time to reject the plan rather than 95 per cent of it, not because we are opposed to the plan - as was pointed out, our society was broadly in support of the plan; we would like to see Ramsey as a thriving town and with local work and industry - but it is the way that it has been adopted, and I think that the 1988 plan has now been going for 10 years, it has so far worked quite well and I think possibly six months' or a year's delay would not be amiss, given that if this land is zoned and within a matter of weeks an application comes in and it is developed, that development is going to be there, basically for ever, and it seems to me to be rather expeditious on a matter that has not been fully analysed.

**Mr Rodan:** Do you accept that a fresh public inquiry may well come to the same conclusion, that the Vollan Fields should be zoned for mixed use?

**Mr Clarke:** I accept that that is a possibility and my society, I am sure, would accept the outcome of such a public inquiry. We obviously would be disappointed, but if that was the finding where the issues and the matters have been properly discussed by all persons that are aware of the Vollan Fields and the road properly described as Bride Road so that it has been fully in the public discussion, then if we lost, so be it, but it is the way it has been done.

**Mr Rodan:** But what you are really driving at is that the last public inquiry the inspector made - the conclusion from that was quite improper, then, in respect of the Vollan Fields?

**Mr Clarke:** I think it was improper. I certainly think it must have been superficial. Well, whether it was improper or not would be for the Court to judge. My feelings are that it probably was.

**Mr Rodan:** Thank you, Mr President.

**Sir Miles Walker:** Mr Clarke, I think you said that the Court could approve the plan, but leave out an area for further consideration. Can I ask where you have got that impression from?

**Mr Clarke:** Well, it did so with the Braddan Local Plan where it adopted all of the areas other than for the Camlork area, which went back to a further public inquiry for discussion.

**Sir Miles Walker:** Yes, I think you will find the Camlork land was included in a development plan which was approved. It then was reconsidered and it came back to this Court. It was my understanding you can only approve or reject an order such as this.

**Mr Clarke:** You are probably more correct than me.

**Sir Miles Walker:** I wish you were right, sir! Thank you, Mr President.

**Mr Clarke:** Well, when it went back to public inquiry it was only about that section.

**Sir Miles Walker:** Absolutely.

**Mr Clarke:** That is what I was getting at, not the whole plan becomes the subject of the further public inquiry.

**The President:** Well, I think that concludes our questioning session, Mr Clarke, and again I would thank you also for your presentation and for your most helpful responses to questions posed from the floor. Thank you very much.

**Members:** Hear, hear.

**Mr Clarke:** Thank you, Mr President.

**The President:** Hon. members, the debate resumes and I call upon the hon. member for Onchan, Mr Karran.

**Mr Karran:** Eaghtyrane, I wish to move that this item be adjourned to the sitting of February, 1999 and the reason why I feel that we should move the amendment for the deferment of this is to give the Department of Local Government and the Environment to take on board some of the legitimate concerns that have been expressed from the Bar of this Court today.

I do believe that there has been, I am sure for genuine reasons, a lot of misinformation as far as this order is concerned today and I think it is too easy through certain people's zest to have this proposal just rushed along and agreed today with the fact that there was a fundamental mistake concerning Bridge Road and the Bride Road and it would have a bearing on people, and it is all right people saying it is not.

I am also concerned today that I hear that somehow the reason why we have extensions for local authorities for towns it is to do with rateable values. The issue is nothing to do with the planning process; it is to do with the rates, and that is the reason why you generally allow for extensions like I suffered, being the member for the old Middle sheading with Douglas: it was to do with rateable values, and I think it is wrong to say that that should come into the equation and that somehow, once it is taken over, then all control should be lifted as far as development is concerned.

I am concerned today that there are a number of issues I am not happy with in this proposal. I want to try and be constructive. I would be forced to have to vote against this proposal, not just because of the Vollan Fields; I feel there is some legitimate argument that there could be residential use put there. That is a good argument, but I think these organisations should be given the opportunity to consult with the department before this order

comes back to us in February, because I cannot understand how you can have the eastern end predominantly more for light industry. I mean, here we are, we have one of the best hotels on the Isle of Man and we have the scenic view of the light industry park on the other side of the road! I just cannot understand how that can be good planning sense in my opinion, and I find that ridiculous. If this land has to be used, then, fair enough, it should be used for residential, but I think it is wrong that you get it through the back door. We have to play fair and I do not think we have played fair as far as this is concerned. There was misinformation and I think we owe it to the organisations so that there can be further consultation. Is there a crisis out there at the moment in Ramsey?

**Mr Bell:** Yes, there is.

**Mr Karran:** Will Ramsey collapse? We help all the time. We hear the usual tones from the member for Ramsey. When we try to do anything it is always not good enough.

That concerns me on that issue alone, but what really concerns me is the Whitebridge or the old river road - this area predominantly residential. Now across the road I was very keen on seeing a proper camp site many years ago when I first was elected in this area and I wanted to buy the house there for a youth hostel, but alas we unfortunately did not succeed in that proposal, but what does concern me is that we have an area down there that appears to me, from my admittedly limited knowledge, to be on a flood plain. Now, I am getting it in the neck in Sulby; will I now have the members of Ramsey screaming and shouting that I have got to remove half the water out to Sulby reservoir because there is flooding in Ramsey at a later date and then screaming when I get around to July and I have got to put restrictions on water use that we should not be in this situation. I believe that there is a fundamental flaw as far as that is concerned and I think it strengthens the proposal for an adjournment and for further consultations.

If I go on further I am fundamentally opposed -

**The President:** I would remind the hon. member, you have another two minutes.

**Mr Karran:** Well, Eaghtyrane, there are other fundamental issues why I believe this thing should be referred back. The Department of Education's policy for going against socially economic mixed in education is appalling, in my opinion, and this idea of having the council house kids going to one school and the rest of the kids going to another and that is what you are proposing in this proposal here today with Thornhill. That is what you are going to end up with, the Ponderosa School, and that is not good for education, it is not good for society and it is not good for Ramsey.

As far as the Pooyldooie and Ballachrink is concerned, I believe that that should be broadened out to be a more industrial area in my opinion, where the residential area... The case has been made with the Speaker, there is plenty of residential areas in Ramsey as far as development is concerned. I believe that there is no justification for that extra area, but if we believe in fairness and justice we recognise there has been a mistake done by the DLGE, then the only fair and honourable thing to do is to refer this back to February and allow further consultations to go on and let us see whether we can come up with a reasonable proposal from that. Let us see how we get on in February. I believe we have a right and I think it would be wrong of this Court not to adjourn this issue and give them the opportunity as far as this is

concerned, and I hope other hon. members will consider seconding my proposal. I beg to move:

*That debate be adjourned to the February 1999 sitting.*

**Mr Gilbey:** Mr President, I should be very pleased to second that motion for the following reasons. First of all, I agree with much of the principle that the hon. member for Onchan has said, but also to give not only the department, but more important other persons who may be interested in this matter time - and you may agree with the Society for the Preservation of the Manx Countryside - to advise the department and, more important, to tell hon. members of this Court and perhaps appear at the Bar of this Court in February, because we are making a decision which will be permanent. If this land is zoned for development, that is a permanent decision for ever and it seems to me that it is much better to get it right than to risk making a decision which is wrong. The department itself has always believed in the maximum consultation regarding plans.

Now, as I see it, what has happened is that the department quite clearly proposed in its consultative draft written statement in July 1995 and in its draft Ramsey Local Plan in the summer of 1997 that this area should be agricultural. This is the Vullan area, which is the one that particularly concerns me. So all the public would have thought that this was going to remain as agricultural - people nearby, people in the town, people throughout the Island.

Now, I know it is easy to say, 'Ah, they should have all turned up at the public inquiry so they could hear what other proposals were made and so, if they did not like those proposals, they could object'. Now, in the case of the Foxdale Plan I have begged my constituents to turn up at the public inquiry so that they could object if people put up last-minute ideas, last-minute ambushes. Now, this is just what has happened. Ramsey have come along, the commissioners, and have had every right to suggest that this land should not remain zoned for agriculture, it should be zoned for mixed use. Ramsey have persuaded the inspector of this and the inspector has put it in his report, which has been accepted by the department, and that is the department's right, but all this has meant that, as has been said, many people may be and have been quite unaware of what has happened, and I think it is only right that they should have a chance to express their views. If nobody else expresses their views against it, if there is no strong feeling against it, I suspect this hon. Court in February will agree to the order. On the other hand, if there was strong objection from other people, this hon. Court might not. But deferring this is the only way to give people a chance.

We cannot, unfortunately, as the hon. member for Rushen, Sir Miles, has said, just take part of the plan. Today we have to decide either to do as the hon. member for Onchan has suggested, adjourn it, or we have got to approve it or we have got to reject it. And personally, if we cannot adjourn it, I would feel inclined to reject it, because I do feel it is so important that people who are interested should have an opportunity to express their views about things that can affect them forever, because I have seen so much wailing and gnashing of teeth by people who have not known of planning proposals and then, years later, have realised what is happening on their doorstep. But I remember -

**The President:** I am sorry - hon. members, presiding over an adjournment debate is rather like being by a boating pool - your time is up, sir. *(Laughter)*

**Mr Gilbey:** I hope that this adjournment will be supported.

**The President:** Thank you. The hon. Mr Downie.

**Mr Downie:** Thank you, Mr President. I am afraid I cannot support any motion before this Court today to adjourn this matter. I listened with much interest to the two petitioners today and I would like to congratulate them on the case that they made (**Mr Gilbey:** Hear, hear.), and one of the comments that was made at the outset was the length of time it has taken to get this thing moved and a decision made. I also note with interest that neither of the two persons who came along and gave evidence today are residents in Ramsey. One, I believe, lives in Laxey, the other one in Douglas.

**The President:** Hon. member, the petitioners are in order.

**Members:** Hear, hear.

**Mr Downie:** I accept that, Mr President, but it seems to me strange that we have not anybody at the Bar of Tynwald who will actually be affected by this plan because they live in Ramsey. The commissioners, I think, made a very good case at the public inquiry. I think everybody has had their opportunity to have their say and to make their case and, in all honesty, hon. members, unless we can get some decisions made in this Court and get on with these local plans, we are going to fall now at every hurdle. Thank you, Mr President.

**Mr Quine:** Mr President, I do not see what useful purpose would be served by adjourning this matter to February. The order has been made; the order is here to be approved. If we adjourn it, I do not see how any amendments can be made to that order. As far as I can see, you have to go through a repeat process. So, subject to any advice the learned Attorney might wish to give on that matter, I really cannot see what useful purpose would be served. If the adjournment was being sought on the basis that hon. members wished further information before they passed judgment, I could see some merit in that position but I honestly believe that members have all the possible information that they need before them and although - and this is very much the adjournment debate - hon. members must bear in mind that matters have been said and I have yet to have my say, because Mr President quite rightly required me to move the motion and then let the petitioners have their say. So I do not believe that it would be appropriate for this matter to be adjourned. There is an opportunity to be given to me yet and to others to respond to some of these other matters, but beyond that I think the critical point in whether or not this should be supported is, what would it achieve? Thank you, sir.

**Mr Bell:** Mr President, I am quite alarmed at the tone that this debate has taken with the two movers in favour of adjournment. They are expressing their worry that the legitimate concerns of the petitioners at the Bar are being overridden, were not listened to, that the residents are not being listened to, and yet they seem to have missed completely the fact that we are dealing here with a normal town plan zoning exercise which has gone through all the normal processes: it has probably had the longest period of gestation of any of the local plans, to my knowledge the best part of two years, it has had public display in Parliament Street for a number of weeks, it had a large number of people attending the presentations, it has had considerable publicity in the town. As a result of the presentations made to the planning inspector at the public hearing, we have a plan before us now which identifies a method of developing Ramsey over the next few years.

The hon. member for Onchan who moved this adjournment resolution complains about misinformation; the only point that the hon. member has raised relating to misinformation is a

misspelling of Bride Road and Bridge Road, and I can assure you, anyone who lives in Ramsey, who has had anything remotely to do with Ramsey and the north of the Island knows full well which is Bride Road and which is Bridge Road. There is no possible opportunity for confusion in that situation.

**Mr Karran:** Of course there is.

**Mr Bell:** The hon. member says, 'Of course there is'; I can assure the hon. member, who lives in Onchan, there is no confusion in Ramsey, especially the residents living in the area, as to where Bride Road is. *(Mrs Hannan interjecting)* It is a complete red herring, and the hon. member for Peel, who is talking away in front of me, is under the same misapprehension. It is fair that all our organisations, such as the preservation society, should be able to have a say in this development, put their views to the department and be consulted in the process. But I would suggest this has happened. The society did attend the public hearing, they put their views forward, their views were considered and presumably some were accepted and some were rejected. That surely is the democratic process; this surely is the whole purpose of a public planning hearing in the first place.

The plan as presented to Tynwald today has the full endorsement of Ramsey Town Commissioners, who are the Ramsey representatives, and I can say personally, since this publication has been out I have only had one constituent approach me with any concerns about it at all, and that is after it has had considerable publicity subsequently. There has been no groundswell in town against it or any real element of it apart from this one complainant.

The areas which are being disputed by the hon. member for Onchan, particularly in Pooyldooie, already are zoned and have been zoned for a great many years; it is not anything new. The industrial land is more or less as it has been for the last great number of years. The hon. member says that the whole of Pooyldooie should be given over to industrial land because there is plenty of housing land elsewhere. There is not plenty of housing land elsewhere and that is why the boundary extension was applied for by the commissioners a number of years ago, because there is inadequate suitable land within the town of Ramsey for future housing development, whether it be public or private. That is why the Vollan Fields have been brought into this particular exercise. When the boundary extension took place it was certainly, as the hon. member says, partially to bring in the rateable income from the properties which have been developed on the periphery of Ramsey, but it was also to provide an opportunity for the town to expand in the future. That was the whole intention behind it, and I am absolutely sure that the Department of Local Government, who heard that boundary extension, would not have agreed to it if that application was simply to bring some green space to within the boundary of Ramsey. It was fiercely opposed by Lezayre Commissioners at the time and I am sure that the minister at the time would not have agreed to it, they would have gone along with Lezayre Commissioners if the intention of Ramsey Commissioners had simply been to incorporate green space to within the boundary of Ramsey.

**The President:** Your boat, I understand, is sinking!

**Mr Bell:** Mr President, I would just really endorse the point made by the hon. minister and plead with members not to adjourn this debate. Enough debate and discussion and public consideration of this has already taken place. I would urge hon. members to reject the movement for adjournment and get on with the debate.

**Mr Brown:** Mr President, as members will be aware, ministers, of course, have had the opportunity to discuss the basis of this local plan, as it is an order of Tynwald, prior to it coming here, and I am therefore happy on what is laid out within the plan after discussing it with the minister and his department. However, two fundamental points have been raised here by the objectors today which I cannot ignore as a member of Tynwald and which I believe are very important.

We are talking about here an order of Tynwald which we are being asked to approve and which I say I am happy to approve, subject to two very important procedural points that were raised which I believe have to be responded to here today. The objectors said, and one of them made a point, the order that is before us has not complied with the 1996 regulations; I think it was Ms Newton said that, and I would ask that the Attorney-General, or, if not him, somebody else, clarify that for the Court so we are clear on the situation. The second point was made by Mr Clarke and he made a number of points which again have to be clarified before I believe Tynwald can decide on this plan, and this has nothing to do with whether or not people agree with the plan; this is about people's rights under planning law that this Court has laid down.

Mr Clarke said the original draft plan which went to the public inquiry on 10th June 1997 did not show the land at Vollan Fields for mixed use; it only identified it for agricultural use. Now, if Mr Clarke is correct on that, that is fine, that tells us what happened there. He then went on to say that the inspector after the public inquiry recommended in his report, which of course we have not been privy to, that it should be changed from agricultural use to mixed use. Now, my understanding is that if that is correct and if the department has accepted the change recommended by the inspector in the original draft plan, then the department has to produce a further draft plan for further public inquiry, showing the land designated and so changed by the department. Now, either I am wrong in this or I am right in this, and I would ask the Attorney-General, if he can, to clarify the position for members of Tynwald as to whether or not, if a draft plan goes out for public inquiry and it is subsequently recommended by the inspector to change a designation of land to a new designation, it is then considered by the department and the department agrees with that recommendation, then they have to produce a further draft plan which will then be subject to a further public inquiry so the people in that area are aware of the change. Now, as I say, I have no problem in supporting the proposal before us, but I do believe it is of paramount importance that the rights and procedures are carried out correctly before Tynwald passes this and, if there is any doubt at all, I have to say I will have to consider what my position would be, and I would say that if we are not able to get an answer straight away, then maybe an appropriate break might help us.

**The President:** Hon. members, the question has been posed by the hon. member for Castletown, and the learned Attorney-General has agreed to respond to your question, sir.

**The Attorney-General:** Thank you very much, Mr President. If I may, sir, I would like to endeavour to deal with question 1, and if perhaps I could hold over question 2 until after the tea break, I would be very grateful. The position is that Ms Newton has raised an important procedural point and she has made reference to the Town and Country Planning (Order Procedure) Regulations 1996.

Now, I have been given a copy of these regulations in the course of this debate of hon. members and I think that one important matter is that those 1996 regulations came into force

on 1st November 1996, and to that extent, as I understand it, they did not have any application to the preparation of the issues order, the draft order, which was prepared by the department. Rather, it is the case, as I understand it, that the old Town and Country Planning (Development Schemes) Regulations 1936 continued to have application to the procedures which had to be followed by the department in relation to this matter.

From the brief amount of time I have had to consider those regulations, it seems that there are essentially five stages which have to be complied with in accordance with the 1936 regulations, and if I could summarise them as follows: first of all, an officer of the department prepares a draft plan or scheme and then the department seeks assistance through informed consultation with those persons who have particular expertise or an interest in the matter; the draft provisional order is then prepared and representations are sought from interested persons; the department then considers whether any other modifications should be made to the draft provisional order, and then finally the department publishes the draft scheme order and announces the date of the public inquiry. Now, from the instructions which have been given to me in the course of the debate, I can confirm that the board has complied with those regulations. As I say, though, I do appreciate it is a matter of fundamental concern to the validity of this proposed order and, if I may, I would like to consult further over the tea break and perhaps give a further view thereafter.

**The President:** Hon. members, I think it would be appropriate to enable the Attorney-General to have the time to research the questions being posed, and that will enable the Court to proceed on a basis of legal opinion with further items on the debate. Now, the Court will adjourn and the adjournment will be until 5.30. Thank you, hon. members.

*The Court adjourned at 5.10 pm.*

**Isle of Man Planning Scheme (Ramsey Local Plan) (No. 2) Order 1998 –  
Debate Concluded – Motion Carried**

**The President:** We resume by inviting the learned Attorney-General to address the Court on the issues raised by the hon. member for Castletown.

**The Attorney-General:** Thank you very much, Mr President. Over the tea break I had the benefit of advice from the draftsman who prepared the regulations and I have also had a chance to look at particularly the transitional provisions which are contained in regulation 5 of the 1996 regulations. The relevance of those is of course that because the 1996 regulations were setting up a new regime in respect of applications coming into effect after 1st November 1996, nonetheless the regulations had to deal with regulations which might already be in being at that time and the essence of the transitional provisions is this, that if the department complies with the 1936 regulations, which, as I said earlier, is the relevant set of regulations, then the department will be deemed to have complied with all the relevant regulations. In other words they do not need to concern themselves with the new regime under the 1996 regulations, they simply have to comply with the 1936 regulations, and the relevant point which I think is of concern to hon. members, and indeed to myself, is whether or not there was any requirement on the department to advertise generally and the answer to that is no. The 1936 regulations provide in essence that a copy of the draft order has to be given to the commissioners of the district concerned and also to any landowner who might be affected by the order.

Now, I do not know, I cannot say to this hon. Court whether the draft order was so circulated. What I can say to hon. members is this, that certainly there was no requirement for the department to advertise generally and therefore I think, with the greatest respect to Mrs Newton who made her plea at the Bar, the point as to the procedure is not a good point.

Now, the other question raised by the hon. member for Castletown I think relates to the power of Tynwald as to whether it can approve part of the order or all of the order, or whether it has power to adjourn. I think that was the essence of the question; he is shaking his head. As I understand it, the position is that Tynwald has the power to accept the whole of the order or none of it at all. In other words if it approves this order, it approves it. If it does not like it, it rejects it, it rejects it. Having rejected it then of course the whole procedure would have to be followed de novo.

Mr President, in the short period of time I hope that that is of some assistance to hon. members.

**The President:** On behalf of the Court, Mr Attorney, I express our gratitude to you for researching this so quickly over the tea break. The hon. member for Castletown.

**Mr Brown:** Mr President, I am afraid that the Attorney has picked up a point that was made by other members. I am sorry but I do think it is an important point. The point I made was whether or not the procedure, which has been challenged by one of the objectors, on how a local plan goes forward, has been followed correctly. The point that was made, if I may reiterate so it is clear again, is that the department did not follow the correct procedures in terms that, firstly, it produced the draft plan. That draft plan then went to public inquiry. That draft plan identified the Vollan Fields as agricultural use only. The inspector, after holding the inquiry, recommended in his written report to the department that that land should be zoned for mixed use, presumably after representations made to him. The point I was asking for clarification on was whether or not it was then, as it is my understanding, that the department, when it agreed to the recommendation of the inspector to zone the land for mixed use, was then obligated under the planning law to produce a further draft plan showing the amendment to show that this land was now being rezoned and therefore subject to a further public inquiry so that the people of Ramsey knew that it was being rezoned for that use.

This was the point that Mr Clarke was making and is the point I have sought clarification on, as I do believe procedures in this area are very important because of the importance of the local plan, and whilst I personally have no problem with the plan as put forward, I have a concern when procedures are being questioned as to whether or not the law was complied with.

**The Attorney General:** Mr President, I am sorry. That is indeed the point. I had just forgotten that. My view is that it is the very essence of the public inquiry that the inspector can find and hold as he thinks fit, having listened to all the evidence and submissions which are put to him. That is the whole point of the inquiry and then having made his findings, for example that there should be a change from residential to agricultural or vice versa, it is then for the inspector to make his recommendations known to the department. It is then of course for the department to decide whether or not to accept those recommendations and then the department comes to this hon. Court for final approval.

I do not think it would be feasible if, whenever the inspector holds against the department, in other words does not accept the provisional plan, I do not think it would be reasonable or sensible to expect then that every time the matter should be heard again and sent back and the procedures dealt with again. The essence is that all these matters must come to a head, the inspector is there, he is the expert, he makes the findings, he then makes a report to the department and, as I say, it seems to me from the procedures in this particular case that everything is in order in that respect.

**The President:** The hon. Mr Lowey, do you wish to speak?

**Mr Lowey:** No, sir.

**Mr Brown:** I just thank the Attorney for responding to that.

**The President:** The member for Ramsey, Mr Singer.

**Mr Singer:** Thank you, Mr President. The impression as this debate has gone on seems to be more that the statutory procedures and consultation were not correctly carried out, and I think it needs to be stated that they were carried out absolutely correctly. There was a full and proper public consultation because there was a full public exhibition in Ramsey which all the public were able to attend. Of course the views were different between the planning department and the commissioners and others, but at the public inquiry, at which I understand Mr Quirk of the Society for the Preservation of the Manx Countryside was present, Ramsey Commissioners stated their case for the change to the Vollan zoning.

Now, the inspector made his decision having heard all the evidence and he decided that the Vollan should be mixed use and the sort of mixed use that is envisaged, certainly by the commissioners, is not highly industrial but more of the type of high-tech industrial, small offices, actually the sort of development which would probably complement the Grand Island as a hotel. To call for more public consultation, to call for almost an instant replay because you do not like the final result is not democratic.

Now, the hon. member for Onchan made some rather nonsensical statements about the schools and the catchment areas and the social mix, and I reject those completely. We need new five to 11 schools in Ramsey, particularly in the north of Ramsey, because, as he knows and as I have stated before in this chamber, the present Victorian school is bursting at its seams and has to be replaced.

Now, the Pooyldooie land is zoned and it remains zoned as residential and also mixed use, but the fact is that there are known difficulties in developing this land.

The inspector made his recommendation. The recommendations do have the full support of Ramsey Commissioners who represent the people. I, like my colleague, have only had one person on the telephone complaining of this zoning and it was probably, I should imagine, the same person, so we had half a complaint each, but I would say to members of this hon. Court that I hope they will support the recommendations because it is very important for the future of Ramsey that this plan is accepted.

**The President:** Does any other hon. member wish to speak at this stage? May I put the adjournment resolution then, hon. members. Do you wish to reply?

**Mr Karran:** Yes, Eaghtyrane. I would just like to say I hope hon. members will see that it is important that we do what is right and I believe that we do a disservice to the credibility and integrity of this Court if we do not support the proposal in front of you by myself today. I hope that we will not have another glorious victory where they win the vote and yet their whole philosophy is built on the wrong precept of the fact that they are doing it wrong, they know it is wrong, and I hope this hon. Court will not allow a situation where that will happen, that you will vote it through, they will have a glorious victory, the government, and yet morally they are totally and utterly wrong as far as it is concerned.

**The President:** Hon. members, the amendment I have in my hand is that item 14, the Town and Country Planning Acts 1934 to 1991, Mr Karran to move that debate be adjourned to the February 1999 sitting, item 14. Will those in favour of that proposal please say aye; against, no. The noes have it.

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

*In the Keys -*

*For: Mr Gilbey, Mrs Crowe, Mr Duggan, Mrs Cannell and Mr Karran - 5*

*Against: Messrs Cannan, Quine, Rodan, North, Sir Miles Walker, Messrs Brown, Houghton, Henderson, Cretney, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Corkill, Cannell, Gelling and the Speaker - 19*

**The Speaker:** Mr President, the motion for adjournment fails in the House with 19 votes cast against, 5 votes being cast for, sir.

*In the Council -*

*For: Messrs Lowey and Radcliffe - 2*

*Against: Mr Waft, Dr Mann, Mr Kniveton, Mrs Christian and Mr Crowe - 5*

**The President:** In the Council 2 votes have been cast in favour of the adjournment motion, 5 against. The adjournment motion fails to carry and we resume the debate on the original resolution. Does any hon. member wish to speak?

**Sir Miles Walker:** Just a point of order, sir. Does the minister not get an opportunity to present his case on the resolution? The minister moved formally the resolution but he has not been up to explain his case.

**The President:** I think that is entirely up to him. He has given me no indication that he wishes to move that I am aware of.

**Mr Quine:** Yes, I do wish to present my case.

**The President:** If the hon. member wishes to speak further on the resolution I recall a previous sitting where the mover of such a resolution gave us the full case. Today the hon. member formally moved. I have not seen from the hon. member any indication that he wishes to proceed further with it. It is formally before the Court. Do you wish to elaborate or not, sir?

**Mr Quine:** Yes, I certainly do, sir.

**The President:** Right.

**Mr Quine:** I only moved it formally because that is what I understood your request to be, sir.

**The President:** If the hon. member wishes to address the Court, by all means I will hear his representation at this stage.

**Mr Quine:** Thank you. Mr President, I think in the light of some of the comments here today I would like to set the scene as to the process we have followed here.

The process of reviewing and revising the 1988 local plan for Ramsey began when the department published the consultation document Ramsey into the 21st Century and that was a number of years ago. This generated over 100 expressions of interest and opinions which were carefully examined by the department's planning office. This exercise proved to be helpful and it enabled the department to take these matters into account in producing a consultative draft written statement. This was issued in July 1995 for public comment. A public meeting was also arranged and a public exhibition was held in Parliament Street to ensure that all residents of the town and interested bodies had an opportunity to make their views known to the department and following on from this a modified document was published by the department in August 1996 in the form of a draft local plan. Again representations were invited on this draft plan from the public and other interested persons or bodies.

The legislative procedures require the department to hold a meeting with the local authority and this statutory meeting, so to speak, was held with Ramsey Town Commissioners on Wednesday, 28th October 1996. The department was represented at that meeting by the hon. member for West Douglas, Mr Downie, who at that time was the member of the department with responsibility for planning matters. As a result of the exchange of views at that meeting the commissioners were able to submit their written comments to the department on 27th November 1996. These were considered by the department at its meeting on 2nd December 1996 when the content of the draft plan scheme order was finalised. The draft plan scheme order and maps were then prepared to reflect the decisions which had been taken.

Public notice, dated 8th May 1997, was given of the public inquiry into the draft order and this inquiry was opened on 10th June 1997. It took place in the Ramsey Methodist Hall. It was conducted on behalf of the department by Mr Peter Bexson, an independent planning inspector. Mr Bexson submitted his report, dated 13th July 1997, to the department setting out his recommendations.

The main issue arising from Mr Bexson recommendations was the one for the rezoning of the Vollan Fields from agricultural use to mixed use. This conflicted with the department's view at that time for the proposed zoning of this land as the department had determined in December 1996. Further discussions were then held with the Ramsey Town Commissioners whose views were given further consideration by the department and the contents of the scheme order were finalised at a meeting held on 13th July 1997. It was at that meeting that the department determined, in the light of the commissioners' views, that the area of land known as the Vollan Fields should be zoned for mixed use and that the area of land known as Clifton Park should be rezoned from open space to residential.

The final version of the written statement was then prepared and published. This is required under the Town and Country Planning Act 1934, section 9, for the department to consider whether it is necessary or desirable to include provisions in the planning scheme

order with respect to compensation for any persons whose properties may be injuriously affected by the making of a scheme order.

Public notice was issued by the department in March 1998 inviting representations to be made. Two such representations were made to the department in respect of two properties and these were considered by the department at a special meeting on 1st June 1998 which was attended by the claimants.

The department concluded, in relation to the first claim, that of a Mr E Watling, that it was in the public interest for the land in question to be zoned as proposed for residential purposes. The department noted that the zoning affected by the present order could be short term in nature and that the land concerned had been brought into Ramsey by way of the Ramsey boundary extension in 1993. The case for the boundary extension was made at that time because of the need for more development land. Consequently the department concluded that no order should be made for compensation in that case.

In regard to the second claim, or the second representation, that was made by a Mr Corlett the department concluded that no case for compensation in respect of injurious affection had been substantiated. The making of the planning order would not alter the present zoning of the land in question as open space and it was the claimant who was seeking a different zoning from that currently in force. Again the department decided it would not be appropriate to make provision in the order for compensation for injurious affection.

One or two other matters have arisen during the course of the debate so far and I would like to comment on those.

First of all there is the matter of the two legal issues. They have been, I believe, fully addressed by the Attorney-General and I trust members are satisfied that the proper procedures have been followed.

The second is this question as to Bride Road and Bridge Road. Two points I think I would make on that. In terms of the order which is being approved today neither Bride Road nor Bridge Road appears on the order which this hon. Court is being asked to approve. The reference to Bride Road and Bridge Road relates to the draft written statement and in one place, it is quite true, in one place in that statement it refers to Bride Road and in another place to Bridge Road. They have been already amended by the department. In terms of what this hon. Court is required to do, there is no Bride Road in this order.

Now, the matter of the representations made by Ms Newton and Mr Clarke - Ms Newton, I believe, on her own account and Mr Clarke on behalf of the society - these representations were made at great length to the planning inspector, and hon. members will be aware that they are referred to in fact, well, not Mr Clarke's representations because the society was represented by a Mr Quirk, but the position is that the society was represented at that meeting and the case, the points that were made were put forward by their representative, the society's representative at that time. Again, in relation to Ms Newton, she made a lengthy submission and that submission is specifically referred to in the inspector's report. So quite clearly those points have been considered by the inspector and he has taken a view on them which is reflected in the report.

If I may just comment on two further matters, this issue of Pooyldooie and its designation for industrial use. That does not represent any change over the existing position. Pooyldooie is currently so designated. There is some fine-tuning to the parameters of the area but that represents the status quo by and large.

The Vollan Fields - well I referred to that in the main part of my address. I do not think I need to comment upon that further.

To summarise the position, the revision of the Ramsey Town Plan, which is contained in the Isle of Man Planning Scheme (Ramsey Local Plan) (No. 2) Order 1988, has been completed by the Department of Local Government and the Environment in full consultation with interested parties and in full compliance with the procedures that we are required to follow and in particular with the Ramsey Commissioners who are supportive of the order which is before you, as indeed is virtually everybody that has been consulted. Accordingly, Mr President, I beg to move that the motion standing in my name be approved. Thank you, sir.

**Mr Karran:** Eaghtyrane, I am still not satisfied as far as this order is concerned. I personally feel that it is wrong. We have had a number of points that have been put here today. We talk about fairness, that they had an input into it and then they talk about the Vollan Fields. When they were asked for their input the Vollan Fields were going to be agricultural use, not industry, not light industry.

I find this whole report, this whole plan, absolutely crazy and I think we should not be allowed to be blackmailed like we are told that if we do not go and approve this proposal today my Onchan plan is out of the window for two years. I think that is an appalling situation. If something is right, it is right and if something is wrong, it is wrong, and this draft plan is wrong in my opinion. It is wrong on a number of points, as I said.

Agreeing to this draft plan gives a green light to the Department of Education for the fact that we will not have education on a social-economic mix if you vote for this plan today. We will see a school being built in north Ramsey and what we will see is a situation where we will have a school that will predominantly educate the kids from council houses and we will have a school that will predominantly educate the kids from the private houses. Now, fortunately there are a number of houses in that area so that hopefully it will not be as bad as some other schools throughout the Island where we have no kids going to them apart from kids from council house estates. There is nothing wrong with that in the fact that the stigma is there, but the fact of the matter is it is not good for education. So this plan is supporting a policy where you are going to have a situation where Ramsey is going to fall prey to what we have seen in other areas in the Island if we support this plan.

As I have said, I am concerned about this plan that there has been not enough thought as far as flooding is concerned because I can see people coming back to the Water Authority saying, 'Well, even if you weren't built as a flood defence, you're going to have to lower your water down because there could be a flash flood', and this will be something else that will be brought out and I believe that we should bite the bullet and we should throw the plan out. We have given the department the opportunity to come back and I believe it is wrong for us to allow this plan to go ahead.

I am sure that I am a lone voice as far as this is concerned. I feel that you have done a disservice to Tynwald and to the procedures of Tynwald. You have had people at the Bar of

this Court who had legitimate complaints and you have ignored them and I think you have done a disservice to the people of the Isle of Man and I shall not be supporting this order in front of you today.

**Mrs Crowe:** Mr President, just a point of clarification from the minister. Could he tell me if the Vollan Fields development zone was clearly shown on the plans and models that you said were available for public consultation throughout the town of Ramsey or was this area shown as agricultural land? Because, from what you said, I understood that it was only after a meeting in 1997 with the commissioners that this land was rezoned. But I would just like clarification that the public did have an opportunity to see the land zoned and not zoned as agricultural land. Thank you, Mr President.

**Mr Corkill:** Just briefly, Mr President, I think hon. members are faced with a situation where with an order such as this one is faced with a proposal where you vote for or against a proposal which may well be beneficial or may well be acceptable in the large amount and it is a matter of whether we accept it warts and all, and I think as the debate has gone on this afternoon that the largest wart, as it were, on the plan is the issue relating to the Vollan Fields and certainly this is where I come from. It is an area that I feel sensitive about, having grown up in Ramsey, but then in those days Ormly Hall estate was also green fields and so time moves on, and from my own point of view I do not feel that it is unreasonable that one day those fields will be built upon, but what I would like the minister to explain to me is that the way in which the shaded area on the Vollan Fields is mixed use, residential or light industrial. Does the department have a particular view one way or the other? Because in other parts of the plan it is quite clearly delineated that certain parts are to be for industrial use and certain parts are to be for residential use, and we have had this debate about the different areas in the town.

Now, backing up that statement, paragraph 4.14 in the written statement refers to the fact that any industrial development would then be restricted to the east, and what I do not understand is that if that is the view, bearing in mind that this area has been changed anyway as the process of consultation has gone on, why it has not been made quite clear what the department thinks is suitable for residential use and what they think should be industrial use, because elsewhere in the town it is quite clear, other than of course in the old part, the existing part of the centre of Ramsey where one has mixed use established, but this is a green field and therefore surely it can be determined as to what the purpose of this land will be in future. And I take on board the hon. member's, the mover of the motion's statement that the Ramsey Town Commissioners are in support of the order, but certainly it came to my notice that when this area at the Vollan was redesignated, there were raised eyebrows and that it did cause a certain amount of debate.

The other point I would make of course is that the written statement, as I understand it, is not part of the order and therefore one will have to rely on something which is not part of the order in terms of the way that the Vollan Fields will be developed in future.

I would reserve my judgement at this time in terms of how I vote on the order until I hear what the minister says in response to that, but I think with all these plans there are bound to be issues that members may not like on an individual basis and we have to look at the overall document, which has taken many, many years to arrive at this Court and it would be a shame,

I think, to undo all the good things, because even the petitioners to the Court said there were a lot of good things in the plan, and I would agree with that.

With regard to the written statement, I also understand that this was externally written outside of the department and I would be appreciative of whether the minister could confirm that in fact external consultants were used with regard to the preparation of the statement, whereas other written statements, one of them at another item on the agenda today was prepared in-house, and so there is an issue there with regard to continuity throughout the Island in the way written statements are prepared.

But certainly I will listen to what the hon. minister has to say, but certainly I feel that the way that the Vollar Fields are designated could have been more definitive.

**Sir Miles Walker:** Mr President, when I left home this morning or the other day when I was looking back on these plans I decided that this was one that I could support, that the proposals in it were broadly acceptable. Having said that, I would like to make it clear that I do not like the procedures, and I know that the minister and his colleagues are not in charge of the procedures, they are laid down, but I do hope that in the light of this sort of a debate, they take the opportunity just to review them (**Mr Gilbey and Mrs Hannan:** Hear, hear.)

It seems to me almost impossible to ask a member of this hon. Court, living in a particular place in the Island, to pass judgement on a plan which is brought forward from an area that perhaps they do not know particularly well or perhaps it is right on their own door step. It seems to me that there are genuine difficulties there.

I hear words like 'wide consultation' and 'plans have been largely agreed' and 'very few objectors', and I just wonder then have we reached the lowest common denominator rather than arrived at a good planning solution, because I have to say I think those two things are very far apart and I would like to think we have arrived at a good planning solution and I really do hope that this is the case with this particular plan in Ramsey.

Now, if this procedure makes any sense at all it has to be that it brings to public attention proposals for development or lack of it in a particular area, and I think that is why the advice given to us by the Attorney-General was so important, that the procedures have been properly gone through, and that being the case, if in fact these proposals are not widely known or as widely known as they ought to be, then I think it does put those procedures back into question.

Now, I do not know if these proposals are widely known. I can only assume that they are because we have been told they were widely advertised and the people in Ramsey generally knew about them, and the hon. members representing that town have had an individual on the phone responding to some of the publicity or something. So I have to accept that the proposals are known.

Then I just wondered then if we had adjourned this case, if we had adjourned this resolution and we had had 300 people, perhaps all signing their names on a petition saying they were opposed to it and we came along in February, would that have meant then that as a Court we should vote against it because 300 people have been either whipped into action to sign a petition or have volunteered themselves, because again I am not convinced that would be good planning. It seems to me that planning is not just the will of the majority. There are a number of planning principles that have to be considered by the department.

So that is why I voted against the amendment. It seemed that it was not going to take me as an individual any further forward and it was not going to clarify my mind when we got to February. I think the proposals are fairly and squarely set out in front of us.

Now, I am not a Ramsey man, as members know, but I do know the Vollan Fields, I know where they are, I think I know the impact on the surrounding land and, as I say, I do not find the development of that particular area in Ramsey or adjacent to Ramsey unacceptable. It seems to me that it is reasonable. It is on the outskirts of the town. There is a planning brief going to be prepared. I do not know who by. I would hope it is by the developer rather than the office and that he could come up with something that is acceptable, but that is a matter to be decided.

So it just seems to me that that area of land is broadly acceptable and again I do not mind land being brought into these plans. I do not have any personal problem with that at all. I have a great problem when the reverse applies because it seems to me that there are a number of different questions then that are raised.

I think there is a great danger in these plans going into too much detail, setting out in black and white what should happen and how a place should be developed over a period of perhaps the next five years or so. I think it is almost impossible to tell today what the needs of Ramsey are going to be in four years' time or even three years' time and yet we are asked to say, 'Yes, this is all right: this shall happen', and we know, don't we, that when an application comes forward these plans are relied on entirely by the Planning Committee: 'Yes, we will approve that' or 'No, we won't approve that' or to the objectors 'Yes, we will approve that because it is in the plan' or 'No, we will agree with you, it's not in the plan so it should be turned down.' It seems to me that that is too black and white and that the planners should be able to come to a decision, bearing in mind what is happening to a community at that time, and that is why I like the development plans which show broad areas of land acceptable to development. If that development was zoned for residential land, then that would include open space and it would include playing-fields and it could include schools, because they are all ancillary uses to that residential main zoning and it seemed to me that that sort of development plan was much more acceptable than this one: getting down to fine detail and asking me as a member representative of the constituency of Rushen the very fine detail of what ought to go on in individual places within Ramsey.

So my mind has not changed. I am going to support the resolution, having listened intently to the Attorney-General who assured us that the procedures had been carried out fully and the people in Ramsey had the opportunity to find out exactly what was proposed for their area, and I remain unhappy with the whole procedure.

**Mr Lowey:** Mr President, I shall be brief. However, this is a court and when you are in court you are supposed to have no doubts before you make a verdict. Normally the minister, I have to say, clears any doubts and he has been particularly lucid this afternoon, but again I still have this nagging doubt and I have to spell it out as I see it.

I have a doubt, and I have the highest regard and respect for our learned Attorney and I would not even pretend to be able to hold a debate with this learned gentleman, but I do remember very well in years gone by that the opposite point of view was given to us as a Council regarding planning. If a field had been zoned, and the point I want to make again to

illustrate to the Court - the Vollan Fields was brought in as a suggestion that it was to remain as a greenfield site. During the debate of the committee stage it then changes and the recommendation is that they are going to change that to residential/industrial use. Then the people who had appeared were not in a position to pass a comment on that because they did not know it was going to be an option, and if that decision had been spelt out, then when it came back my belief was that it then had to go out for an appeal to go through the procedure again. However discouraging that may be, if I remember rightly, that was the decision that had been relayed to me and that was my belief when I was listening to this.

Now, this afternoon the Attorney has spelt out that he believes the department, and I understand the department takes advice from the law officers and that is the way it should be, but am I reassured? I have to say I have a doubt and if I have a doubt, then I have no doubt at all how I should vote and that would be to say no to this resolution and I regret to inform the minister I will not be supporting the resolution.

**Mrs Christian:** Mr President, I rise to endorse the concerns expressed by my hon. colleague Mr Lowey in the sense that we have had legal advice this afternoon about the procedures and the fact that they apparently have been correctly followed. The concern which perhaps the hon. mover can dispel by alluding to the way in which the public inquiry is held might be mitigated or even driven away.

My concern, like my hon. colleague's concern, is that if you are making representations to a public inquiry on a draft plan you are speaking to that particular plan. Could he confirm whether or not, when someone comes to a public inquiry to propose some amendment to that plan, such as has been the case with the commissioners in Ramsey, those who have made representation on the basis of the original draft have an opportunity to make a repeat observation on the new proposals from other people. In other words all the cards need to be on the table for people to make a proper, balanced representation. Is that in fact the way in which the public inquiry was conducted or not?

I think two points have been made. One is that we need a public consultation process in order to get people's views on the planning issues and we are not to be driven simply by public opinion on popular view but as long as these observations are made on the basis of planning issues, but if you do not know clearly what all the alternatives are, then how can you make proper representation to the inquiry?

**Mr Cannan:** Mr President, I will support this resolution. I have a little familiarity with the north of the Island and I am also satisfied with the way that these public inquiries into these development plans are conducted. I have experience of them in Kirk Michael. We had an inquiry in 1992 and we had it again at the request of this Court in 1994. I took the resolution to this Court to have a second public inquiry into Kirk Michael.

The point at issue here is what we have, and going back to the way things are represented, only those who object to the plan can appear at the Bar. There may be in Ramsey 5,000,6,000,7,000 people - I am not sure of the current population - and there may be all but two who approve, maybe many more who disapprove rather than two, but the vast number that approve have no representation other than their elected representatives and, incidentally, that is their job in this Court, to represent the views of the community to which they are elected, just the same as previously I have done on a very similar thing which I have

just mentioned. The view of those representatives, balanced views of those representatives, should carry because they are the people elected to represent the town, they are the people who know that community, are trusted by that community and presumably if they make errors of judgement and stand for re-election they are accountable should they make an error of judgement.

I believe it is important that if the commissioners are satisfied, the elected representatives are satisfied, there is no volume of dissent within the community, then there can be very little problem with what has been proposed, because all this Court is doing this evening is passing judgements, judgements of individual members, judgements of members who do not represent that particular community, judgements of members who may have their own views, but how can their own views be imposed upon a community which they do not represent? And I believe that it is important that if the community is satisfied, the inspector, an independent inspector, is satisfied and there are no large numbers of objectors and if there are not objectors, then presumably the people must either be in favour or at least satisfied or not moved to make an objection, then I can see nothing wrong with the way we do things and the way these orders are presented.

Just one minor aside before I sit down: I sometimes marvel at the collective responsibility and the cohesion within the Council of Ministers.

**Mr Rodan:** Mr President, I am a little concerned that despite the assurances of the learned Attorney-General that the proper procedures have been adhered to there is a continuing debate as to the appropriateness or the validity of the procedures themselves. The fact of the matter is that the procedures under the 1934 Act and the 1996 regulations laid down that in respect of the Vollan Fields that issue was considered properly and tested at inquiry, and the public inspector came to a certain conclusion which he listed as one of his recommendations to the department. The department considered the recommendations and in respect of the Vollan Fields agreed with the inspector's recommendation and per the regulations, the 1996 regulations, it then proceeded to publish a scheme on the basis of the inspector's report and send it to the local authority.

In March 1998 a public notice was issued following the final agreement of the scheme by the department in which invitations for injurious affection were solicited. Therefore the scheme was cast into the public domain and indeed claims for injurious affection were received relating to Vollan Fields, as a result of this advertising in public of the agreed plan. So there we have the evidence that it was considered in the public domain and the public responded.

Now, some members have raised the question and clearly believe that it would be far better that when any changes are made to the draft order, to the draft plan, following the inspector's recommendations, these should be tested at a further inquiry, and that has been said once or twice. Now, I can only think that some members have thought about this because they have been reading the current, not the draft, the current Town and Country Planning Bill which is in another place, which does indeed in one of the schedules make specific provision that following a public inquiry and any variation by the department to the plan as a result of an inspector's recommendations, that variation goes to a further public inquiry. So this is where it is coming from, but that is

not -

**Mrs Hannan:** No.

**Mr Rodan:** Well, that is in the draft Town and Country Planning Bill, it is in the Bill, it is clearly in the Bill, and procedures will follow from that Bill if enacted. But the present procedures, as we have been clearly told, have been followed. So there should be no continuing debate about that. We may not think they are entirely appropriate, but they have been followed.

I would confirm to the hon. member for Rushen, Sir Miles Walker, who is concerned that things are not laid down in black and white, and he has said this several times, and that there should be flexibility, that it is precisely to reflect that flexibility that is required that this particular Ramsey Local Plan is more flexible and less restrictive than it otherwise might have been in stipulating certain areas to be either for residential or light industrial and is saying in fact mixed use and not only mixed use but an overall development scheme, certainly in the case of the Vollan Fields. There is where the built-in flexibility lies to allow the Planning Committee to consider things, to consider applications which many members would wish to see as leading to either development or further residential; the flexibility is built into this particular plan.

But I was brought to my feet really on the basis of the continuing doubt as to the procedures. I can confirm that the department adhered to the 1996 regulations to the letter and all the matters were properly considered.

**Mr Downie:** Mr President, I do not want to labour the point. I think my colleague from Garff has covered quite a lot of what I was wanting to say. Basically, though, I think it is important to remember that in the context of the local plans and the consultative process decisions taken prior to a public inquiry can only be regarded as provisional and this is because it is the task of the Department of Local Government and the Environment to seek views, take them into account and then produce a draft planning order and arrange for the same to be properly aired by the independent planning inspector at the planning inquiry.

A lot of our planning process is really to try and take some of the politics out of it, to give the people in the area where the local plans are being produced the opportunity for their say, and as far as I am concerned I think it is like a judge in a court. The planning inspector is there to weigh up all the arguments and then for him to determine in his report his judgment. That then is received by the Department of Local Government and the Environment and they then determine the content of the plan for submission to Tynwald.

I think what we are doing, hon. members, is we are trying to dabble here in areas. We have been told it has been two years, this consultative programme, there has been lots of input from different people, and I think it is sad that particular members of this Court see it as an opportunity to pick off what they perhaps do not like within this plan.

I also want to stress the importance of how vital it is that government departments make representations when these local plans come along and turn up at planning inquiries and if there is a problem with access or egress or traffic we want to know about it and I think the inspector has to look at that, and the inspector is not going to approve an area of land for development if it cannot be accessed or drained or something else or if indeed it affects an environmental issue or will devastate a particularly rare species or wildlife in their area.

I think when you look at the inspectors' reports of the last few local plans that have been prepared government's input across the board from departments has been totally abysmal and I think that we are beginning to realise now just how important these documents are and what sort of effect they do have on society, but at the end of the day it is down, I think, to the local people to understand the importance of the planning system, make their views known through their local representatives, and MHKs can turn up on behalf of constituents, as can councillors and commissioners and so on and so forth, but I think the system we do operate under is somewhat complicated.

But I would urge members to vote for the motion that is before you today and let us get on with this plan. There is absolutely nothing wrong with it as far as I am concerned and I think the sooner we bring it into operation the better. Thank you.

**The President:** Reply, minister.

**Mr Quine:** Thank you, Mr President. There is no subject like planning to bring out a range of views and if you want to experience a little flagellation, seize upon planning. We have as many experts as we have days in the year, but that is the nature of planning and that is something we have to live with.

If I could just briefly touch on some of the points that have been raised by hon. members, the hon. member for Onchan has focused again in his further submission on the Vollan Fields and the question of mixed use. Regarding the position with the Vollan Fields I hope the facts are now quite clear. This was an area which was in agricultural use and it was recommended by the inspector that it should be for mixed use. Now, whether it be agricultural use or whether it be mixed use was all part and parcel of the debate at the public inquiry. People have had an opportunity to input into that. That was there and if you read the reports that you have got here you will see that they were discussed at considerable length. So there is no question of anybody being denied access there: that was part of the debate and that was discussed, heard by the inspector and a decision taken by the inspector.

Now, the question of whether or not the site identified here is suitable for a school. Quite clearly the preponderance of views in terms of those who took part in the Ramsey Local Plan, making their inputs, questioning, is that it is suitable. The hon. member for Onchan is approaching it from a different angle. He is approaching it from a view that he has often explained in this Court, often promoted in this Court and that is that he feels schools should be sited to induce a social mix. I have no problem with that argument, but this is a planning matter which has been decided through a public process.

Again, Mrs Crowe raised the question of the Vollan Fields. I hope I have explained that in the context of clearing up Mr Karran's point.

Now, Mr Corkill referred to this plan as 'warts and all'. I think there is some substance in that because when you go through a planning process and you come out at the other end with a plan such as this there is no possibility that the end product is going to satisfy everybody. It is just not attainable. But the hope is, and I think it is a reasonable expectation, that if you have had broad public consultation, if you have had the proper interest been shown, you will get the best balance that you can, the best reflection that you can both in terms of what the people in the area would wish to see and in terms of planning values, sustainable development. But we are striking a balance, we are always striking a balance.

Mr Corkill asked whether there was an external consultant used in this process and whether that in some way accounts for the difference in the presentational form of this report from the other which we will be considering later. The answer is, yes, there was some outside input. It was not on the basis of a consultancy as such, it was on the basis of the retention of the services of a person from the private sector because we did not have at that time sufficient staff to man the planning office, but it was on that basis. But in terms of the change in form, I think that is a reflection of (a) the passage of time and (b) the fact that several planning officers were involved in progressing this document because of that passage of time.

Now, Sir Miles says, are these procedures acceptable? Well, these are the procedures and we have followed these procedures. We all may have different views on certain aspects of these procedures. I have a view that has been, I think, made by somebody else here today. I think there is something wrong when you bring, for example, a local plan forward here and the objectors can come up here and make a viewpoint but the large silent majority are not able to come here, not even the local authority, and support the plan.

So, yes, I am sure there is room for fine-tuning in our planning procedures. There always has been. There always will be. We are putting through a new Town and Country Planning Act, and as hon. members are aware of course, flowing from that will be new orders. Those orders will reflect at least some variations in procedures, if not entirely new procedures, and you will have an input into those orders and so far as we can we will end up with a procedure that has the broad support both of this hon. Court and of the public.

I think Mr Lowey's position is quite clear. He says he is going to vote against it, and the strength of his argument is that he holds a different legal opinion from the Attorney-General. Well, Mr Lowey, you are entitled to do that, sir, but I do not see much merit in that case.

Now, if I could just move on to a point that has come out of Mrs Christian's contribution and that is the way that we arrive at a decision. We go through a public inquiry and that public inquiry takes into account a whole range of opinions, and that inspector, unlike ourselves, has an opportunity to test those witnesses, he has an opportunity to test that evidence. It may well be, as indeed it is in this case, that you will have certain individuals who have made their representations and they have not been taken on board by the inspector and they might not feel too happy about that. But the procedure is sound. It is essentially a judicial process. The witnesses have an opportunity to come and make their case, and the inspector sits there and he judges that, takes account of the law, takes account of local opinion and a whole range of matters, and being an experienced planning inspector he arrives at a decision. Now, that is part of the decision-making process in the same way as the inspector's report, I would suggest, for a planning appeal is part of the decision-making process. It is then for the department to take a position, a final position on that, vary it if it needs be, and then to bring it forward to this hon. Court who have the final say in the matter. I see nothing wrong with that procedure, nothing wrong with that procedure at all.

I thank Mr Cannan for his observations.

**Mr Cannan:** You can rely on me, Edgar.

**Mr Quine:** Absolutely, David.

**Mrs Hannan:** Only on certain things.

**Mr Cretney:** Not when he was Treasury minister!

**Mr Quine:** Ah, that was a long time ago.

**Mrs Hannan:** It was.

**Mr Quine:** I thank Mr Cannan.

I thank Mr Rodan for his contribution to this debate and explaining the legal position there and I am glad he brought out this question of mixed use of the Vollan site because I just want to revert to that very briefly if I can. We have had more than one member here today saying that what we want in the planning order is flexibility. Through a designation of mixed use we are providing a basis for flexibility, flexibility within certain parameters, in other words it is not open use. So I believe that having mixed use in a situation such as the Vollan is a very happy proposition. I think it is something that we can work with and seek to meet planning needs to the greatest possible extent.

But what we must not forget - and this is in the documents here - is that it is made quite clear that that area will be subject to a planning brief and that is a considered decision by the Planning Office as to how the different elements within that site should be placed and stack up and that is where they take into account the compatibility of one development with another, those on the site and those that are adjacent to it, and that again is spelt out in the documents which we have here before us.

Now, Mr Downie - I thank him for his input in support of this.

We have had a long debate and, as I say, with all planing matters we have got a wide range of views, but what you have before you is an order that has run the full the statutory process. Views have not been inhibited. The proper procedures have been followed and I believe that the proper decisions have been arrived at and I would invite hon. members to support and approve this order. Thank you, sir.

**The President:** Hon. members, I will now put the resolution set out at item 14 on the order paper. Will those in favour please say aye; against, no. The ayes have it.

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

*In the Keys -*

*For: Messrs Gilbey, Cannan, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Corkill, Cannell, Gelling and the Speaker - 22*

*Against: Messrs Duggan and Karran - 2*

**The Speaker:** Mr President, the motion carries in the House, 22 votes cast for, 2 votes cast against, sir.

*In the Council -*

*For: Mr Waft, Dr Mann, Messrs Kniveton, Radcliffe, Mrs Christian and Mr Crowe - 6*

*Against: Mr Lowey - 1*

**The President:** In the Council, hon. members, 6 votes have been cast in favour of the resolution, 1 vote against. I declare the resolution carried.

Now, hon. members, standing orders require me to ascertain your wishes as to how long you would like to sit this evening. Does the Court wish to carry on or does the Court wish to adjourn at this stage?

**Members:** Adjourn.

**The President:** I sense a unanimous sense for adjournment. In that case, hon. members, we will adjourn and the adjournment will be until 10.30 tomorrow morning.

*The Court adjourned at 6.40 p.m.*