

**REPORT OF PROCEEDINGS OF
TYNWALD COURT**

**Douglas, Tuesday, 16th May 2000
at 10.30 a.m.**

Present:

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

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

The Lord Bishop took the prayers.

Welcome to the Speaker

The President: Hon. members, I am very pleased this morning to welcome the hon. member for Michael to Tynwald Court in his new role as Speaker of the House of Keys. I have no doubt that he will carry out his duties efficiently and well and during my tenure in that seat I enjoyed his support as deputy and I feel the years of service that he has given to the House will be of advantage when he deals with the day-to-day duties. Whilst we all hope he will enjoy the privilege that the office brings, running in parallel are constraints which I hope he will not find too arduous.

The Speaker: Thank you, Mr President.

Papers Laid before the Court

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

The Clerk: I lay before the Court:

Merchant Shipping (Miscellaneous Provisions) Act 1996 -

Merchant Shipping (Fees) (Amendment) Regulations 2000 [SD No 212/00]

Road Traffic Act 1985 -

Road Vehicles (Maintenance and Use) (Amendment) Regulations 2000 [SD No 178/00]

Motor Cycles (Protective Helmets and Visors) Regulations 2000 [SD No 189/00]

Highways Act 1986 -

Highway Closure (Walpole Avenue, Rear Lane, Douglas) Order 2000 [SD No 77/00]

Customs and Excise Act 1993 -

Export of Goods (Control) (Amendment) Order 2000 (Application) Order 2000 [SD

No 129/00]
Interest on Repayment of Customs Duty (Application) Order 2000 *[SD No 165/00]*

Customs and Excise Acts 1986 -
Excise Duties Order 2000 *[SD No 166/00]*

Hydrocarbon Oil Duties Act 1986 -
Hydrocarbon Oil Duties Act 1986 (Amendment) Order 2000 *[SD No 167/00]*

Value Added Tax Act 1996 -
Value Added Tax Act 1996 (Amendment) Order 2000 *[SD No 168/00]*
Value Added Tax (Increase of Registration Limits) Order 2000 *[SD No 169/00]*
Value Added Tax (Fund-Raising Events by Charities and Other Qualifying Bodies)
Order 2000 *[SD No 170/00]*
Value Added Tax (Charities and Aids for the Handicapped) Order 2000 *[SD No 171/00]*

Social Security Act 1982 -
Social Security Legislation (Application) (No. 7) Order 2000 *[SD No 203/00]*
Social Security Legislation (Application) (No. 8) Order 2000 *[SD No 204/00]*
Social Security Legislation (Application) (No. 9) Order 2000 *[SD No 205/00]*

Employment Act 1991 -
Employment (Recoupment of Benefit) Regulations 2000 *[SD No 206/00]*

Pension Schemes Act 1995 -
Pension Schemes (Application) (No. 2) Order 2000 *[SD No 207/00]*

Social Security Contributions and Benefits Act 1992 -
Income Support (General) (Isle of Man) Amendment Regulations 2000 *[SD No 208/00]*

National Health Service (Isle of Man) Act 1948 -
National Health Service (Isle of Man) (General Medical and Pharmaceutical Services) (Amendment) Regulations 2000 *[SD No 47/00]*

Licensing Act 1995 -
Permitted Hours (Licensed Premises) Order 2000 *[SD No 188/00]*

Oil Pollution Act 1986 -
Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Order 2000 *[SD No 193/00]*

High Court Act 1991 -
Rules of the High Court (Amendment) 2000 *[SD No 145/00]*

High Court Act 1991: Criminal Jurisdiction Act 1993 -
Criminal Justice (Defence Costs) Rules 2000 *[SD No 182/00]*

Historic Buildings Conservation Scheme -
Historic Buildings Conservation Scheme 2000 *[GC No 18/00]*

Report -

Report of the Select Committee of Tynwald on the Supply of Services (Exclusion of Implied Terms) Order 1998

Government Departments Act 1987 -

Appointment of Members of Departments (No. 2) Instrument 2000 *[GC No 19/00]*

Value Added Tax Act 1996 -

Value Added Tax (Chiropractors) Order 2000 *[SD No 218/00]*

Value Added Tax (Abolition of Zero-Rating for Tax-Free Shops) Order 2000 *[SD No 217/00]*

Value Added Tax (Amendment) (No. 2) Regulations 2000 *[SD No 175/00]*

Value Added Tax (Increase of Consideration for Fuel) Order 2000 *[SD No 176/00]*

Value Added Tax (Amendment) (No. 3) Regulations 2000 *[SD No 177/00]*

Customs and Excise Management Act 1986 -

Excise Goods (Sales on Board Ships and Aircraft) Regulations 2000 *[SD No 216/00]*

Excise Duties (Deferred Payment) (Amendment) Regulations 2000 *[SD No 173/00]*

Excise Goods (Export Shops) Regulations 2000 *[SD No 172/00]*

Finance Act 1996 -

Customs and Excise Duties (Interest Rate) Order 2000 *[SD No 174/00]*

Currency Act 1992 -

Currency (Global Challenge Crowns) Order 2000 *[SD No 150/00]*

Children and Young Persons Act 1996 -

Children and Young Persons (Display of Warning Statements) Regulations 2000 *[SD No 214/00]*

Department of Transport: Road Traffic Act 1985 -

Direction of the Department in respect of Administration of the Inspection of Taxis and Hire Vehicles *[GC No 11/00]*

Gaming, Betting and Lotteries Act 1988 -

Crown Green Bowling Festival (No. 1) Order 2000 *[SD No 209/00]*

Crown Green Bowling Festival (No. 2) Order 2000 *[SD No 210/00]*

Mental Health Act 1998 -

Mental Health Review Tribunal Rules 2000 *[SD No 127/00]*

European Communities (Isle of Man) Act 1973 -

European Communities (Federal Republic of Yugoslavia Sanctions) (Funds and Investments) Regulations 2000 *[SD No 190/00]*

Appointed Day Orders -

Children and Young Persons (Sale of Addictive and Intoxicating Substances) Act 1999 (Appointed Day) Order 2000 *[SD No 215/00]*

Public Health (Amendment) Act 2000 (Appointed Day) (No. 2) Order 2000 *[SD No 202/00]*

Law Reform Act 1997 (Appointed Day) (No. 3) Order *[SD No 183/00]*

Reports -

Reports of the Chief Secretary on Complaints made against Government Departments and Statutory Boards for the year ended 31st December 1999

Interception of Communications Act 1988: Report of the Commissioner for the year ended 31st December 1999

Report by the Speaker of the House of Keys dated 20th April 2000

Apologies for Absence

The President: Hon. members, before we turn to our question paper, we have apologies for absence from the hon. member for Rushen, Sir Miles Walker, and the hon. member for Middle, Mr North, both being away on departmental business.

Law of Trespass – Question by Mr Henderson

The President: We turn then to the question paper, hon. members, and I call upon the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr President. I beg leave to ask the Chief Minister:

Does your government intend to introduce legislation to consolidate the law of trespass?

The President: I call on the Chief Minister to reply.

Mr Gelling: Yes, Mr President. I am not aware of any problems in relation to the law of trespass and we have no proposals within the legislative programme at present to codify or consolidate the existing law. However, if any member is aware of any difficulty and would care to submit details and any suggestions for changing the law I have no doubt that the Council of Ministers would give that submission careful consideration.

Mr Henderson: Mr President, I thank the Chief Minister for that answer but could he give an assurance that he would report back to hon. members, given that the present law of trespass on private land only provides, or seems to provide for damage to property or if a person or persons is refusing to leave that land, if they are, for instance, trying to follow a public footpath system and walk across a private field to get there, they will only be nominally dealt with, if at all?

Mr Gelling: Yes, indeed, Mr President, because of course there are few specific criminal offences. Most of the civil law is a matter of common law, most of the trespass law is common law in fact and therefore, as I have already said, if the questioner or anyone has any specific problems, obviously we will pay attention to that.

Mr Henderson: Mr President, I thank the Chief Minister again for that but would he further concur that this uncertainty needs clarification both for public and private landowners in the matter of land becoming confused, lying between the high median water mark and low median watermark whereby private landowners could make a claim that that is their land?

Mr Gelling: Mr President, again I think probably the questioner is referring in the question to consolidation when probably in actual fact it is not consolidation perhaps we are looking at, it is codification that perhaps is required in this direction, and as I say, I am quite content to speak with the hon. questioner and explore that particular area.

Mr Karran: Eaghtyrane, would the Chief Minister not agree that the change in the law was made some years ago as far as the position as far as the median line and the low water situation and the hon. member could quite easily bring amendments to the Criminal Justice Bill if that was the case?

But would he also not agree that it is important that we do not give the impression that we agree with the ever-increasing disease of what is happening in the United Kingdom where we used to walk once freely where we cannot walk now (**Mr Henderson:** Hear, hear.) because of the fact that the new landowners will not allow you?

A Member: Hear, hear.

The President: The Chief Minister to reply but before he does I would remind hon. members that in fact there is a written answer which covers the shoreline and I think you have that on your desk. Chief Minister?

Mr Gelling: Yes, Mr President, I know there is concern in some areas in respect of this, particularly on the coast. I myself in my own area know only too well the difficulties that we have had, but co-operation has been forthcoming and we have been able to retain the path all the way round that particular area. But I do understand the concern from the member for Onchan and it is something that will have to be watched very carefully.

Residence Bill – Introduction – Question by Mr Quine

The President: We turn to item 2 on the question paper and I call on the hon. member for Ayre, Mr Quine.

Mr Quine: Thank you, Mr President. I beg leave to ask the Chief Minister:

What is causing the delay in introducing the Residence Bill into the legislature?

The President: Again the Chief Minister to reply.

Mr Gelling: Yes, Mr President. There is no delay in introducing the Residence Bill. It is included in the legislative programme for 1999-2000.

Mr Quine: What is the current position in relation to the Bill? Are you awaiting comments from the Home Office, and if so, for how long have you been awaiting the comments from the Home Office?

Mr Gelling: Yes, the situation is quite clear, Mr President. It has been away to the constitutional unit of the UK. It has come back. We then asked our sub-committee of the Council to look at certain areas. They have come forward with recommendations which the Council of Ministers have indeed recommended should be put in the Bill.

Mr Quine: Would the Chief Minister care to advise us as to the specific difficulties seen through the eyes of the Home Office in relation to this Bill? Quite clearly there is more behind this than what we have been advised today. Could he just spell out for us what are the concerns of the Home Office because otherwise, of course, there would have been no occasion to refer it back to the constitutional committee?

Mr Gelling: Mr President, there is a long history of course to this Bill and I could go through as to when it first started from 1990 and so on and of course hon. members are quite aware that it for several years lay dormant because of a case that was actually going forward,

so therefore nothing happened. But basically I do not know what the hon. member is referring to when he says that there are hidden areas here. This will all come out when the Bill is produced and the Bill will be produced very soon and it will be there for, obviously, members to debate.

Mr Karran: Eaghtyrane, would the Chief Minister not agree that the people outside desperately want some sort of legislation in order to protect the quality of life and what assurances can we take that this new proposed Bill will not be as effective as a chocolate fireguard?

Mr Gelling: Again, it is a very complicated and detailed situation, Mr President. I do not underestimate that. But it will be up to members themselves to decide what the Bill will do and will not do.

Mr Quine: Mr President, if I could revert again to the point that I was pursuing earlier, can the Chief Minister specify for us what are the concerns of the Home Office? What particular areas are of concern to the Home Office?

The President: It is a repeat supplementary, Chief Minister.

Mr Gelling: The answer to that, Mr President, is that I will not or cannot give the hon. member that particular detail. If that particular detail had been addressed in the question as to what the hold-up was and perhaps what the problems were, I would have had it.

Residence Bill – Consideration of Draft – Question by Mr Delaney

The President: Item 3, I call on the hon. member of the Council, Mr Delaney.

Mr Delaney: Bearing in mind the answers already given, I beg leave to ask the Chief Minister:

When did the Council of Ministers last consider a draft of the Residence Bill?

The President: The Chief Minister.

Mr Gelling: Yes, Mr President, the Council of Ministers last considered a draft of the Residence Bill on 27th January of this year.

Mr Delaney: A supplementary, Mr President. As stated by the Chief Minister, can I ask him the questions that were not asked? What were the reasons for the hold-ups by the Home Office of this Bill and what were their concerns? The answer can be given now, I understand.

Mr Gelling: Mr President, it just so happens that this is on the agenda of the Council of Ministers this Thursday and we have briefing papers and obviously members of the Council will be discussing it and will be made familiar with whatever problems the hon. member perhaps refers to.

Mr Delaney: A supplementary. Would the Chief Minister give a clear indication that after some 11 years since your predecessor brought the introduction of this Bill, we, the members, may be made aware, soon after you have made the decision, of what is in this Bill through the Bill being printed and also whether or not all the ministers agree with the contents of that Bill?

Mr Gelling: This of course has been out for consultation on so many occasions, Mr President, and obviously it will follow the same course as all Bills and that is the Council will discuss it, the Council then will probably go forward with their Bill to be printed and I would

suggest to the hon. members that the normal courtesy of a seminar or a meeting to explain the ins and outs of the Bill will be available to members.

Rates – Instalment Payments – Question by Mr Singer

The President: We turn then to item 4 on the question paper. The hon. member for Ramsey, Mr Singer.

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

Will you make arrangements to enable all ratepayers to pay their rates by instalment?

The President: I call on the Minister for the Treasury, the hon. member Mr Corkill.

Mr Corkill: Thank you, Mr President. Such arrangements are already in place by virtue of section 5 of the Rating and Valuation (Amendment) Act 1991. In fact payment of rates by instalment was in place many years before that Act statutorily provided for it.

I would also refer the hon. member to the statement relating to free payment by instalment on the demand note itself. Not all ratepayers, of course, want to pay by instalments because they like to obtain the discount and over 90 per cent fall into this category.

I must stress that Treasury is only acting as a collecting agent. It does not set rate levies but passes proceeds to the rating authorities as soon as received.

The discount date and rate are also set out in the appropriate legislation.

The Treasury does not collect for Douglas, Onchan, Braddan and Port St Mary who successfully collect their own rates and payment of rates can be by direct debit, Switch card, cash or by cheque. People without bank accounts, of which there are still a few these days, are not disadvantaged: they can and do pay by cash instalments at the Treasury counter and at post offices.

Mr Singer: Mr President, can the hon. minister therefore explain why when one of my constituents in Ramsey telephoned the rates department he was told that unless he had a bank account he could not pay by instalments and the fact is that those people who do not have bank accounts are those people who are probably the least advantageous in our society and are being told that they have to find perhaps £300 or £400 in one go. Can he therefore confirm that I can tell my constituent that he can pay his rates by instalments and perhaps it should be at the local post office (**Mr Houghton:** Hear, hear.) rather than him having to come all the way into Douglas?

Mr Corkill: Mr President, I have a couple of examples here in my hand of people who are doing exactly that, so I cannot comment on the particular circumstance that the hon. member refers to, but if he had raised it with me I could have investigated it.

Depositors' Protection Scheme – Inflation – Question by Dr Mann

The President: Item 5, hon. members. I call on the hon. member of the Council, Dr Mann.

Dr Mann: Mr President, I beg leave to ask the Minister for the Treasury:

As a matter of policy, will the Treasury consider restoring the inflationary dilution of protection afforded by the depositors' protection scheme operated by the Financial Supervision Commission?

The President: Again I call on the Minister for the Treasury to reply.

Mr Corkill: Mr President, the level of compensation currently offered to a depositor to a bank that is participating in the depositors' compensation scheme is 75 per cent of his deposit, subject to a maximum payment of £15,000. This level of compensation has remained unchanged since it was first introduced in January of 1991.

The level of compensation under the European Union deposit guarantee directive is 20,000 euros which equates to 90 per cent of 22,222 euros. The sterling equivalent is approximately £12,000 so that is the level of compensation under the European Union deposit guarantee directive.

It must be remembered that the scheme is funded by all participating banks through annual levies but only after a participating bank has defaulted. There is no standing fund. It is important that the scheme is realistic and does not seek to be overly optimistic in terms of the compensation it offers.

The current level of compensation does, in my view, provide an adequate level of comfort to a large number of depositors and there are no plans to restore the inflationary dilution of protection afforded by the scheme at this time.

Dr Mann: Mr President, a supplementary. Would the hon. Treasury minister accept that there has been an inflationary dilution and that this Island stood out by having a very effective protection and that protection is now being reduced? The object of the scheme is to compensate people in the Isle of Man, not in the European Community.

Mr Corkill: Mr President, I would accept that obviously year-on-year inflation does accrue and therefore that figure could be seen as being diluted, but the reality is of course that the Isle of Man more or less stands alone in the way that it has this protection scheme and of course the Edwards review was very complimentary to the Island in the fact that we have this small depositors' compensation scheme.

I was also interested to note with the Edwards review that Jersey and Guernsey were also being encouraged to produce similar schemes in the light of what the Isle of Man has successfully achieved over the years. I will be interested to see what progress they make with regard to those schemes.

But going back to our particular scheme, which obviously is the key interest, I would refer to my comment in my original reply which is that we should not seek to be overly optimistic with such a scheme.

Planning Policy – Replacement Windows – Question by Mr Singer

The President: I understand, hon. members, that the question down as number 6 wishes to be bypassed. So we then turn to question number 7 and I call on the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr President. I beg leave to ask the Minister for Local Government and the Environment:

Following the recent recommendations by an independent planning inspector which you have accepted, will you review your department's policy on replacement windows for properties which are neither registered buildings nor in conservation areas?

The President: I call on the Minister for Local Government and the Environment, Mr Gilbey.

Mr Gilbey: Mr President, the hon. members of this Court will probably recall that the hon. member for Ramsey tabled a very similar question in October of last year. At that time I advised that the introduction of the new Town and Country Planning Act would provide the Department of Local Government and the Environment with an opportunity to re-examine all the existing planning circulars. Part 1 of the Act has now been brought into operation. This not only facilitates the preparation of the new development plan, which is the department's first priority, but also enables the revision of the circulars and their reissue as planning policy statements which must be laid before this hon. Court. I anticipate that some, at least, of this work will be undertaken during summer.

I shall certainly request that in the preparation of a new policy statement in respect of window replacement regard must be had to decisions in respect of recent appeals.

Members will also be aware that the department is formulating general policies in respect of registered buildings and conservation areas and in conjunction with these a scheme of financial assistance for works which would include the installation of replacement windows not only within such buildings and areas but also in other buildings of particular interest.

I hope that, taken together, these various measures will address satisfactorily the concerns to which the hon. member has referred in both his present and previous questions.

Mr Singer: I thank the hon. minister for his answer and can I ask him will his department, in reviewing the situation, take into account the inspector's recommendations that the interpretation of the windows policy was inconsistent and administratively unfair and that under the present system it is a fact that those who break the rules do so with impunity, whilst others seeking to obey the rules have encountered difficulties and additional expense?

Mr Gilbey: Mr President, as I said, I shall request the planning division and its chairman that in preparation of a new policy statement in respect of window replacement regard must be had to decisions in respect of recent appeals.

Mr Singer: Mr President, could I ask the hon. minister when he expects this new policy statement to come forward because there are a lot of people who are waiting for that decision because they at the moment feel they are in great difficulties in renovating their homes?

Mr Gilbey: Mr President, we hope that it will be during the course of this summer and I personally very much support the changes which I am sure will be in the new statement. However, the department's number one priority is dealing with the strategic and area plans to enable us to provide more houses, which I am sure is even more important (**Mr Delaney:** Hear, hear.) than the minority matter of windows.

DLGE Visit to Belgium – Question by Mrs Cannell

The President: Item 8 on the question paper, the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr President. I beg leave to ask the Minister for Local Government and the Environment:

Do you intend to make public the purpose of your department's visit to Belgium at the beginning of May 2000?

The President: Again I ask the Minister for Local Government and the Environment to reply.

Mr Gelling: Mr President, in answer to the hon. member's question I can confirm that the department does intend to inform this hon. Court of the purpose of that visit to which she refers and plans to do so at the next sitting of this hon. Court.

Mrs Cannell: Mr President, would the hon. minister not agree with me that the actual purpose of his department's visit was to look over a mass burn incinerator in Belgium and can he further confirm that he and his department have missed an ideal opportunity to actually go and visit a PEC plant (**Several Members:** Hear, hear.) which is the alternative to mass burn incineration and has the public's support? Would he agree with me that he has missed an opportunity here?

Mr Gilbey: Mr President, I am not going to be drawn into saying the reason we went until I am ready to do so which will be, I hope, at the next sitting of this House, and I certainly do not consider any opportunity has been missed to visit a PEC plant. In fact one has been visited on behalf of the department, and more particularly the Chief Minister and the Council of Ministers, by someone far more qualified to judge it than myself or, with respect, the fellow members of the Department of Local Government.

Dr Mann: Mr President, why should a visit to Belgium by a minister be a state secret?

Mrs Cannell and Mr Duggan: Hear, hear.

Mr Delaney: He was buying chocolates! (*Laughter*)

The President: Minister, do you wish to reply to that?

Mr Gilbey: The answer is why should it be so interesting?

Mrs Cannell: Mr President, does the hon. minister not agree with me that it is of great public interest to know that his department has been to Belgium to witness a mass burn incinerator which is his department's preferred option for dealing with waste, and further, can he explain to this hon. Court why he has this dogged attitude for mass burn incineration despite the public concern, the health concern and the environmental concern?

The President: Hon. member, the incinerator has been introduced as a supplementary. I am not going to go down a debating line of incineration but the minister may reply.

Mr Gilbey: I am not going to be drawn into explaining what we went to see or where we went to see it.

Mrs Cannell: Shame!

Mr Duggan: That is silly!

Mr Gilbey: There is no reason to at all. What I can say with absolute certainty is that an incinerator of the type which this Court has been pursuing, quite rightly, for the last few years

is the right type, it is proven technology, whereas it is quite clear that PEC plants and similar operations are not proven and it would be a considerable risk of public funds and operational -

The President: Hon. members, even ministers are not going to go down the line of debating incineration. The hon. member of the Council.

Dr Mann: Yes, thank you, Mr President. Would the minister advise us as to whether the Council of Ministers' press relations officer knows why you went to Belgium last month?

Mr Delaney: Does the wife know why you went?

Mr Brown: The APG must.

Mr Gilbey: Quite frankly, I have no idea whether he knows or not and I am not particularly concerned.

Mr Karran: Eaghtyrane, can the minister inform this House, did he go to visit Belgium to see the problems they have got with pollution because of incineration, like the recent communications that have come to our attention as far as pollution effects from incineration in the United Kingdom? Can the hon. member tell us is this the case why he went there, because of the fact that certain agricultural produce had to be banned for a number of years because of the abuses as far as incineration? Is that the reason why the hon. member went?

The President: Hon. member, again we are widening the subject. The minister may reply if he wishes and then I will move on. Thank you.

Waste Disposal – Costs per Tonne – Question by Mrs Hannan

The President: We will move on then to item 9 on the order paper and I call on the hon. member for Peel, Mrs Hannan.

Mrs Hannan: I beg leave to ask the Minister for Local Government and the Environment:

What are the current costs per tonne of -

(a) incineration;

(b) recycling; and

(c) landfill?

The President: Again I call on the Minister for Local Government and the Environment, Mr Gilbey, to reply.

Mr Gilbey: Mr President, in November 1998 the Department of Local Government and the Environment provided a presentation to hon. members of Tynwald on the comparable costs of the disposal of the Island's waste by either incineration or disposal to landfill. At that time the costs per tonne for incineration of the Island's waste were estimated to be in the region of £89 per tonne with landfill costs, assuming a 25-year solution, in the region of £74 per tonne.

At the Tynwald sitting in November 1998 the department was authorised to progress the integrated (energy from waste) incinerator facility to tender stage at an indicative cost of £37.3 million at June 1998 prices and to proceed on the basis of a single contract for design and building operation and to investigate the option of utilising external finance for the project. Since that time the department has been progressing the procurement of an (energy from

waste) incinerator facility to serve the whole of the Island and the department hopes to be presenting to the June sitting of this hon. Court a financial motion seeking Tynwald support for the procurement following a satisfactory conclusion of the tender process.

Prior to the June sitting of Tynwald it is the department's intention to make a presentation to all members of this hon. Court to update them on the waste management strategy, the procurement process for the proposed (energy from waste) facility and the comparable costs which will have been identified as part of that process.

In relation to the specific question of the hon. member, I do not feel that it would be appropriate for me to disclose cost details in advance of the June sitting of this hon. Court. This is because there is an obligation on the department to respect the commercially sensitive nature of matters which remain subject to negotiation as details of the proposed operating contract resulting from the tender process are finalised. I would beg the hon. members' indulgence and understanding in relation to this matter and would assure them that it is my intention to provide the very fullest information to this hon. Court following the comprehensive briefing to be held on 13th June, to which briefing invitations will be dispatched in the next few days.

Following determination of the waste management strategy, the department's officers have been proceeding with procurement of an (energy from waste) facility in accordance with Tynwald's instruction. As part of this procurement process, some comparable costs were investigated between incineration and landfill. On the basis of a 25-year solution and the best information available from consultants and costs in relation to the Ballaharra landfill site it has previously been demonstrated that there is no significant cost differential between the two disposal options, as I said earlier.

In relation to recycling, the initiatives that the department has been involved in so far - scrap metal, paper, glass, aluminium cans and batteries - have all proven to be costly experiences, primarily because of the off-Island shipping costs and transportation costs attached to the removal of the materials for recycling. There is no immediate market available in the Isle of Man for any materials currently reclaimed before going to landfill. It is unlikely that the Island could support reclamation or recycling of materials to produce a usable product and market that product successfully on the Island. For this reason, any recycling initiative is invariably going to require shipping off-Island into a marketplace with a heavy subsidy from government. Even then unless someone is prepared to accept the materials there is no point whatever in exporting them.

However, the department is currently progressing a scheme for the composting of green waste. The composted products will be used to reinstate a former landfill site at Port Erin. This initiative will not significantly alter the volume of waste to be disposed of to incineration and so far no detailed cost estimate in terms of transportation and recycling costs has been ascertained.

Mrs Hannan: Eaghtyrane, could I ask the minister why he is selective in his support of Tynwald resolutions? On one hand he says that it is a Tynwald resolution to proceed with incineration and yet Tynwald resolutions suggest that it should be reduce, reuse, recycle, then incineration, and in regard to that resolution and policy in the reduction of waste, can government not come to an arrangement with importers of products that their packing

materials and all that that envisaged cannot also be shipped out? They ship it in at great cost to us, the consumer, so could they not also ship it out again and could that not be a licence to operate in the Isle of Man?

Mr Gilbey: Well, I am sorry that clearly the hon. member did not hear what I was asked on the radio this morning, not in connection with her question because I would never refer to a question, but in connection with the views of some other group. The policy of the Council of Ministers and the department is perfectly clear and is set out in concise terms in the policy document and it is to reduce, reuse and recycle. When we come to reduction it is very difficult and I actually took the example of the packets of cornflakes you get that are not one packet of cornflakes but inside the big packet there are about a dozen smaller packets and frankly the amount of paper and stuff involved is more than the amount of the different kinds of cornflakes, but these are supplied by firms who do not manufacture just for the Isle of Man, they manufacture for far bigger markets and we have no control on what they produce but our housewives, all purchasers want to have the right to buy them and I do not think it would be very popular if we were to say these things cannot come into the Island. Equally, it is clearly quite impractical to suggest that the supermarkets should then have to collect or pay for the removal of such waste. They would merely put up the price to their customers and the cost of living.

When we come to reuse, the government is going all out to get reuse. Our four civic amenity sites are doing a tremendous business in reuse. Goods are being brought in and a lot of the goods brought in are being snapped up within a few minutes by people waiting for bargains and many more things are also being taken over a longer period. So certainly reuse is going on.

Regarding recycling, again the department is making every effort to bring that about and everyone must have seen the many banks of containers into which people are encouraged to put glass, paper, aluminium et cetera et cetera. So every effort is being made to have reuse and recycling.

I have also pointed out that in fact incineration, when we get it, is a form of recycling because it turns waste which would otherwise just be buried in the ground into electrical energy, which must be environmentally a good thing.

The thing that I admit we are weakest on is reduction, but I have explained the reasons for that and if the hon. member or anyone else can think of any really good ways of getting a reduction in waste I should be very interested to hear of them.

Mr Duggan: Mr President, could I ask the minister has he checked up on all the incinerators that have been closed down due to the environmental impact and very high running costs?

Mr Karran: He is not interested in that.

Mr Gilbey: You will find that any incinerators that have been closed down are ones that are very elderly and have almost come to the end of their working life, but what is far more important is that in the UK there is legislation to reduce the amount of landfill tipping by 20 to 30 per cent over the next I think it is 10 years and this is going to be done by the construction of up to 150 or more incinerators and frankly if it was felt these were so dangerous, would a

country such as the UK be planning to build 150 of them? The answer must be a resounding no.

Mr Delaney: Mr President, bearing in mind that the question asked was, 'What are the current costs per tonne of incineration, recycling and landfill?', will the minister in future, when getting the figures together, bear in mind the cost to the Island of the images created last Monday evening on North West News where they had eight minutes of time showing flocks of seagulls and rubbish up at the Ayres site and the cost of that in PR terms and the image given of the Isle of Man, of how we live and how we intend to live, rather than how we really are, trying to look after the environment of the Island?

Mr Henderson: Hear, hear.

Mr Gilbey: I am so glad that the hon. previous Minister for Local Government has raised that very helpful point. I have never tried to defend the Wright's Pit. It is most unfortunate. It is most unfortunate that in the public interest it is vital it continues until we get an incinerator, but that is just one of the reasons why we need an incinerator as fast as possible and not to have its provision delayed so that we do not have pits such as that Wright's Pit, either there or anywhere else in the Island, and I think it is the most powerful argument for the need for us to get on and agree to have an incinerator.

Mr Cannell: Hear, hear.

Mrs Cannell: Mr President, does the hon. minister understand the real meaning of the hierarchy of waste management which Tynwald has approved? Would he agree with me if he does understand that, that the reduction which is at the top of the hierarchy is achievable and is an important initiative? Further to that, is he aware that the United Kingdom have actually engaged an officer in a full-time post on a given term contract to actually oversee the introduction of the reduction on importation, unnecessary imported packaging, plastic components that cannot be reused or recycled? Is he aware of that? Is he further aware that the reason the United Kingdom Government have engaged such a person is to meet with the EU directive to which I believe we are also obligated?

Mr Gilbey: Well, if the UK does this it is excellent news for us because everyone in this hon. Court knows that the vast majority of consumer goods that come to this Island come from the UK and go to the UK market, so if the amount of packing material et cetera is reduced in the UK it will automatically be reduced in this Island, which is an excellent thing. But if the hon. member, as I have said, Mr President, has any specific ideas as to how we can bring about a greater reduction in this Island, the department would like to hear from her, but I do not know that we have had any positive ideas from her as yet.

Mrs Hannan: Eaghtyrane, I would like to return to the question that I asked on recycling, the costs per tonne of recycling. The minister stated that it was very heavy costs on shipping and transport which prevented government from being involved in some of this recycling, so could the minister provide further information about this hierarchy of the waste solution which is reduce, reuse, recycle, then incineration? Is it the understanding of the minister that with incineration there would be a continuation of reduction, reuse and recycle or is everything going to be incinerated? Could I also ask him what is recycled at the moment? He spoke about bins being provided for the public. What is actively being recycled at the moment, that is, disposed of to recycling units?

He stated with regard to waste disposal about the cost of cardboard or whatever, when he said the cost would be passed on to the customers for ultimate disposal. (*Mr Downie interjecting*) Would he not agree with me that the customers pay anyway -

Mr Delaney: Speech, Mr President.

Mrs Hannan: - whether they pay at the beginning of the disposal route or whether they pay at the end of the disposal route as in incineration or landfill? With regard to dumping at the Ayres, would the minister not agree that instead of it being an indictment on the Isle of Man in general it is an indictment on the government and not the people of the Isle of Man that a landfill is available to us now.

The President: I have been very lenient, hon. member. The minister to reply.

Mr Gilbey: There were so many questions in that speech, Mr President, that I do not know -

Mrs Hannan: They were questions.

Mr Gilbey: - which to answer first. I certainly cannot remember them all.

Mr Delaney: Go to the internet!

Mr Downie: Yes, go to the website!

Mr Gilbey: The main point and the most important one is what is our policy when we have an incinerator and it is perfectly clear. It is set out very, very clearly in the policy document. The first step is reduction, which we have discussed at some length this morning, Mr President. The next one is reuse and the next one is recycling and then you come to incineration of what is incinerable and there will always be some inert waste, such as building material, that will have to be landfilled, but that is totally different from the type of landfilling happening at Wright's Pit East.

The hon. member then asked what is recycled. Well, at the moment glass is recycled, coloured and white glass. Aluminium is recycled. Some paper is. We would like to recycle much more and we were recycling much more but the price collapsed. In fact people do not want certain types of paper at all. Also we are recycling certain clothing as well and I can assure the hon. member we are very keen to recycle as much as we possibly can, but obviously everything in this world is a matter of balance and it is a matter of balance between the desirability of recycling as much as one can and the balance of cost that that brings about.

Regarding the point about the public pay in the end for waste disposal, of course they do, and the department and government have also accepted the policy of the polluter pays, but I frankly think it would be very difficult to suddenly start telling national chains like Marks & Spencer et cetera that they have to make a contribution over and above what they do through their own rates et cetera for waste disposal because of the packing materials they bring in. They do not have to do that in the adjacent isles and I would have thought it was extremely difficult to suggest that they did and if we forced them to somehow, undoubtedly they would increase the cost of goods in their shops and pass it on to the consumer at that stage.

Ramsey Swing-Bridge – Reopening – Question by Mr Singer

The President: We turn to item 10, hon. members, and I call on the hon. member for Ramsey, Mr Singer.

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

When do you intend to reopen Ramsey swing-bridge?

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

Mr Brown: Thank you, Mr President. It would be my department's intention to reopen Ramsey swing-bridge to pedestrian and vehicular traffic as soon as the installation of the new drive control system is completed. It is anticipated that the latest the works will be completed is 2nd June. Thank you.

Mr Singer: I thank the hon. minister for his reply but can the hon. minister assure the people of Ramsey that reopening the bridge on the date, which is TT week, you hope to reopen it, will be a permanent situation and that any suggestion that it is to be closed yet again after TT week is incorrect?

Mr Brown: Mr President, I can confirm that, subject to there being no more problems with the mechanism of the bridge or anything else to do with the operation of the bridge, then there are no plans to open the bridge in terms of access being denied for pedestrians and vehicular traffic after 2nd June.

Mr Singer: I thank the minister for that answer but is your department satisfied that having taken this expert advice on the mechanisms et cetera of the bridge, on reopening the swingbridge will be in a suitable condition to undertake the normal working as in all its previous years and that its use will in no way be restricted?

Mr Brown: Mr President, I think it is worth making the point that we are dealing with a very old structure here and my department has invested considerable amounts of money to safeguard the long-term future of the bridge and we are as disappointed as anybody that our efforts have resulted in problems with the mechanism which, as I say, is over a hundred years old and we are endeavouring to use the best efforts, the best advice we can, and we sought that from Rolls Royce engineers in the United Kingdom, to ensure that what works are put in hand will resolve the problems that we have encountered with teeth breaking on the mechanism within the bridge and hopefully the investment that has been done recently and the works that are presently being undertaken will result in the bridge being able continue its operation as normal.

Mr Lowey: Would the minister release the costs that have been accrued to the department on repairing this bridge in the last five years? If he has not got the figures to hand I am quite prepared to accept a written answer later but I do think it is important that we know, the public knows, just how much money has been spent on trying to keep the bridge in its present condition.

Mr Brown: Mr President, the department's recent expenditure on blasting the bridge, repainting the bridge, undertaking repairs to the underside of the bridge and the mechanism is going to cost in the region of £370,000.

Mr Houghton: Mr President, may I also ask the minister what is the cost of the bus service, the special bus service, provided to run people round the harbour instead? What has been the cost to date and who is it borne by?

Mr Brown: Mr President, the free shuttle bus service that my department felt was warranted due to the closure of the bridge has cost to date £8,550.

Battery Egg Production – Abolition Timetable – Question by Dr Mann

The President: Item 11, hon. members, and I call on the hon. member of the Council, Dr Mann.

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

As the European Union has agreed a timetable for the progressive abolition of battery egg production, will your department introduce the necessary regulations to ensure that the Island follows the same timescale?

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

Mr Downie: Thank you, Mr President. The Welfare of Livestock Regulations 1996 make provision for the welfare of laying hens in battery cages. Under these regulations, which mirror the equivalent UK regulations, battery cages were required from 1st January 2000 to meet conditions on size, feeders and drinkers. Officers of my department have visited the four battery cage operators on the Island and have confirmed that all cages in use meet with these conditions.

The hon. member is correct in stating that a timetable for the progressive abolition of battery cage production has been set out in Council directive 1999/74. If I may, I will explain this timetable.

All existing cages must, by 1st January 2003, meet the minimum standards set for unenriched cages having at least 550 square centimetres per hen of cage space together with minimum provisions for feed troughs, drinkers, height and floor of the cage. None of this type of cage may be built or used after 1st January 2003 and they will not be permitted at all after 1st January 2012.

The directive provides for the use of enriched cages where the hens must have at least 750 square centimetres of cage area, a nest litter, perches, feed trough and drinkers. Cages purporting to be enriched must comply with these standards by 1st January 2002. Basically, therefore, producers would have the choice of establishing new units which meet the criteria for enriched cages by 1st January 2002 or to upgrade their existing cages to meet the unenriched criteria by 1st January 2003.

I am happy to advise the Court that after consultation with the industry it would be my department's intention to introduce regulations under the Animal Health Act 1997 that would require Manx battery egg producers to abide by the timetable as I have indicated.

It is, however, a matter of record that the UK Government have yet to introduce regulations which implement the EU directive and my department would not wish to distort competition between Manx producers and UK producers which could cause economic difficulties.

I would also add that the UK directive also provides minimum standards for other alternative systems, for example free-range perchery eggs. The new regulations would also provide standards for this type of production. Thank you, Mr President.

Disability Discrimination – Report – Question by Mr Waft

The President: We turn then to item 12 on the order paper, hon. members. I call on the hon. member of the Council, Mr Waft.

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

- (1) *When did your department receive the report on disability discrimination in the Isle of Man;*
- (2) *when do you intend to publish the report;*
- (3) *what has been the cause of the delay in progressing this report; and*
- (4) *when is it intended to include a disability discrimination Bill in the legislative programme of the government?*

The President: The Minister for Health and Social Security, Mrs Christian, to reply.

Mrs Christian: Mr President, the final report has not yet been received by my department from the social services division. They have been attempting to integrate the discrimination report with research into the needs of people with disabilities and present a unified report into the whole area of discrimination and the needs of disabled people. The report is expected to be received by the department in July of this year. The department hopes to publish the report in August this year.

There has been a delay because work pressures have been very heavy in the social services division.

When the department receives from the social services division with their comments on the reports, which I understand will incorporate a recommendation for the introduction of an appropriate disability discrimination Bill, this will then be passed to the Council of Ministers. Such a Bill would cover issues such as access to buildings, employment and access to goods and services and would therefore require the involvement of a number of government departments.

Mr Waft: Mr President, the minister and I will shortly be meeting later on this week. A meeting of the Chronically Sick and Disabled Persons Committee will be meeting the voluntary organisations and high on that programme will be the need for the progression of Bills. Would the minister like to take this opportunity to inform disabled persons on the Isle of Man the date on which the Chronically Sick and Disabled Persons (Amendment) Act, which was brought forward by the now Minister for Tourism in 1991, which received Royal Assent in 1992, will be signed and therefore finally brought into effect?

Mrs Christian: Yes, Mr President, I will take this opportunity, as the hon. member has indicated, to give some steer to disabled members of our community. Partly we have had difficulties, as the hon. member knows, in assessing the requirements of the chronically sick and disabled Bill. However, this year the department have allocated two of their head count to the appointment of two additional social worker posts which will enable the assessments of

need to be undertaken as required under that Bill. It is likely that the papers in respect of these two posts will be passed to the Civil Service Commission in the next four weeks and we will be looking to appoint staff by September of this year with the hope of introducing an appointed day order in November of this year.

Mr Waft: Mr President, would the minister agree with me that if the timescale taken to introduce fully the amendment Act, nearly nine years, were a comparison, the disability discrimination Bill could take another 10 years to implement and does the minister think that that is fair to those disabled within our community?

Mrs Christian: Mr President, it will be a matter for the departments concerned to give sufficient emphasis to the disability discrimination Bill if such is brought forward. I would agree with the hon. member that the period of time taken to introduce the chronically sick and disabled Bill in all its parts has been inordinately long. However, I think it does point to the importance, when passing legislation, of members of the legislative branches fully understanding the implications of the legislation they are passing and I would suggest that since that Bill was dealt with new mechanisms have been introduced to make proper assessments of the manpower requirements of the legislation in hand and the financial implications of such legislation. I am not convinced that at the time the chronically sick and disabled Bill was moving through the branches such assessments were properly made or the implications properly recognised by the members of the branches at that time. It has taken a long period of time to bring this to fruition. It does need financial resource and it does need a head count, both of which we now have in place with a view to making the Bill fully functional by the end of this year.

Mr Singer: Mr President, would the hon. Minister for Health and Social Services not agree that as perhaps 10 per cent of the population can be considered to suffer from some kind of disability the introduction of a disability discrimination Act deserves to be presented sooner than in three years' time, which was a figure mentioned by the Chief Minister to a previous question in another place, and that certainly this legislation is more urgent than perhaps some other legislation planned for earlier introduction and therefore will the hon. minister attempt to persuade her colleagues in the Council of Ministers of the urgent need to protect the human rights of those disabled people in the Isle of Man and that this Bill deserves an early introduction, certainly less than three years?

Mrs Christian: Mr President, yes, I would endorse the views of the hon. member for Ramsey. Certainly we have made some progress with discrimination legislation but it is very slow. I would agree that now, hopefully, when we have the report within a matter of months we should be able to press ahead with it rapidly in terms of taking it through my department and to the Council of Ministers and I would hope that the departments concerned there will sympathetically view the requirements of the disabled members of our community and introduce legislation in a fairly short timescale. I am not going to commit myself to what that timescale might be. I would suggest that a disability discrimination Bill will have fairly heavy requirements for our population at large in terms of access and so on to buildings. However, I am quite sure that the members concerned and the ministers concerned will view them very sympathetically.

Mr Waft: Mr President, in view of what the minister said with regard to the timescale, isn't it more important, minister, that this be commenced as soon as possible so that consultations

will begin to take place with those concerned and it would appear that in some cases it is much easier to get Royal Assent than to get the minister to sign the Bills because of financial constraints, and could the minister confer with the Department of Local Government and the Environment to make a start on disabled access to government buildings, including this hon. Court?

Mrs Christian: Mr President, I think the Department of Local Government and the Environment already has an officer who is supposed to look at access issues and deal with those issues now, so I would suggest that the hon. member directs his question in that area to see how they are fulfilling their particular responsibilities. But I would agree with him that certainly we will try and progress this as quickly as we can now that we have the resources to do so.

Postboxes – Collection Times – Question by Dr Mann

The President: Item 13, the hon. member of the Council, Dr Mann.

Dr Mann: Mr President, I beg leave to ask the Chairman of the Post Office:

- (1) *Has there been a recent review of collection times at postboxes on the Island; and*
- (2) *have any subsequent changes been made without public notice or consultation?*

The President: I call on the Chairman of the Post Office, the hon. member for Douglas West Mr Shimmin, to reply.

Mr Shimmin: Thank you, Mr President. In answer to both questions I can advise that there have been no changes made on collection times, either with or without public notice or consultation.

In expanding the answer and clarifying the position I can say that the Isle of Man Post Office is currently in the process of refurbishing post offices and postboxes Island-wide which involves the replacement of letterbox plates or tablets which show the collection times and details. Because of the total number of letterboxes involved, a programme has been arranged to cover a number of years, in liaison with the two companies involved.

Within this process we are also engaged in sandblasting and repainting the letterboxes and this has drawn considerable praise from members of the public. I would express my thanks to the previous chairmen of the Post Office, Mr Cretney and Mr Downie, and the board members for promoting this initiative.

Returning to the timings of the collections, I repeat: these have not changed. There are a few extra relief collections taking place over and above those that are scheduled and listed on the plates, but the reason for this is to assist the operational side of our business. If some of the mail is brought into the office earlier, then this can be processed before the bulk of the evening collections arrive, which is an obvious advantage, giving us more time for sorting before the evening air mail dispatch from the Island. Local mail posted in boxes which are scheduled for an early morning collection, that is, before 7.30 a.m., will be delivered that day.

The Post Office is focused upon public satisfaction and if any hon. members or the public have experienced particular difficulties we are keen they raise these issues so the matters can be resolved to everyone's benefit. Thank you, Mr President.

Mr Kniveton: Mr President, a supplementary question, please, to the Chairman of the Post Office. In view of the recent attempt to close down a postal box at Onchan, can I ask him has there been a decline or increase in the number of collection boxes or postboxes in the Onchan and district areas over the last three years?

Mr Shimmin: Mr President, in trying to rectify the misinformation accidentally just given out by the hon. member, there was an issue with regard to one postbox in Onchan, due to the actions of another department of government who were looking to extinguish part of the footway on which a letterbox was positioned, but that issue is currently being resolved, but it is not nor has it been the intention of the Post Office to remove that box, but when an opportunity like this arises we have to look at the possible health and safety issues of the historic position of boxes. We therefore are looking at which is the safest position for that box and it will be relocated in the area at a position which is suitable both for safety and also members of the public.

Returning to the specific question on the number of boxes, I would advise that there has been a slow increase in the number of boxes as opposed to any decline. Hon. members would be aware that, were boxes to be removed from their areas, there would be a great deal of hostility. The Post Office is currently aware of that and therefore with new housing developments we have expanded the numbers rather than reduced them.

If the hon. member has a more specific question in regard to an area of his known position I would look into that specifically, but I would advise the Court that we have some 240-plus letterboxes around the Island and I am advised that there are about 60 in the Douglas/Onchan area at current times.

Dr Mann: Mr President, I must ask the Chairman of the Post Office Authority whether he is really aware of what is happening out there. I know of several collection boxes where the collection time has altered from 6 or 6.30 to 7.30. For one in Onchan in particular the times changed, the early morning collection disappeared, the late evening collection disappeared. After I spoke to the hon. chairman, suddenly the early morning one reappeared. I do not honestly think you really know what is going on out there.

Mr Shimmin: I would advise the hon. member of Council that I have every confidence that I know as much about what is going on in the Post Office as he or any other hon. member does about their own departments for which they have responsibility. There are issues that are raised non-specifically in questions and therefore answers are resolved to those purposes. If an hon. member then wishes, for whatever reason, to change the tone and actually try and get to specifics which have not been clarified in the question, then any hon. member in this Court will find themselves at a disadvantage. I am advised by the Post Office that the times have not been changed. If he has any matters that he raises to contradict that I will take it up with him at the appropriate time.

Department of Trade and Industry – Removal of Mrs Brenda Cannell MHK – Question by Mr Quine

The President: Item 14, the hon. member for Ayre, Mr Quine.

Mr Quine: Mr President, I beg to ask the Chief Minister:

- (1) *When did the Council of Ministers take their decision to remove Mrs Brenda Cannell MHK from the Department of Trade and Industry and was this decision unanimously supported by all members of the Council; and*
- (2) *was this action instigated by the Minister for Trade and Industry and, if so, what evidence was provided in support of his recommendation?*

The President: We turn then to the Chief Minister to reply.

Mr Gelling: Yes, Mr President, it is not the practice of the Council of Ministers to reveal voting patterns on individual issues. To do so would undermine the workings of collective responsibility and I have nothing to add to the public statements made on this matter, other than to confirm that Council's recommendation to His Excellency regarding the change in membership of the Department of Trade and Industry was submitted on 19th April, sir.

Mr Duggan: Mr President, could I ask the Chief Minister, would it not have been better practice to have Mrs Cannell in with the Minister for Industry to discuss this matter instead of holding a kangaroo court?

Mr Gelling: Mr President, I think it is fair to say that members who are department members are not employed by the Council of Ministers, they are members of a parliamentary situation who are offered jobs or enquired as to whether they would like to take on responsibilities within departments. Now, this was not treated in any other way than has been the situation in the past and, no doubt, possibly in the future, sir.

Mr Delaney: Mr President, bearing in mind the Chief Minister's non-answer which he has just given, could I ask him then why the Chief Minister's information to members was as under the sixth paragraph and I quote, 'It was the unwillingness to work with the Department of Health and Social Security in discussing her concerns and her continuous undermining of the hospital project which left the Council of Ministers with no realistic choice but to sever Mrs Cannell's link with the Department of Trade and Industry'? My supplementary then, Chief Minister, is if it was for that reason, wasn't Mrs Cannell, the hon. member duly elected to this Court, in a right that she should have been called in and given what parts of her undertaking and responsibilities to the Department of Trade and Industry, a separate department from the health services, was undermining that department? And also as a supplementary may I ask, if any other member questions another department which they do not like, will they be under the same remit to be sacked arbitrarily?

Mr Gelling: No, that is not the case at all, Mr President. The situation was quite clear, that this was discussed at length and when I say at length it was discussed at length as to the problems that outbursts and statements that were being made were from a person who was responsible for the construction industry within the government. She was seen as the political spokesman for the construction industry. When you get approaches from people outside of government as well as members who declare that the situation is causing problems within government in our efforts to try to save taxpayer's money I think this is the problem, that the scene was being set as if there was no-one looking after the taxpayer's money. The situation is quite clear: we have a hospital to build and we want to build it at a cost as little as possible for the taxpayer. The situation became untenable; it was made quite clear that that was the reason.

Also the statement made quite clear the situation that should the hon. member wish to serve on another department of government, that was open to that person. Now, I have had no correspondence or any indication from the hon. member as to whether that is the case, but certainly the situation has happened, as I have said before, where a member has stepped down or been asked to step down from a department because of the situation that is created there, and that is what happened here, and as say, the situation is quite clear.

As far as I am concerned I was extremely dismayed, because I, at the beginning of this administration, had asked all members would they join in with the executive government, would they join the government in a position within a department and this certainly in this administration was the first time that in fact I had a position whereby a member had stood down, but of course it was not the first time that a member of this Court was not in a department because that also happened before also, sir.

Mr Quine: Is it not a fact, Chief Minister, that the decision to remove Mrs Cannell from the DTI was taken by way of a series of telephone calls between yourself and members of the Council of Ministers on the 20th April 2000, and was this action initiated by a telephone call from you to your ministers or by telephone call from a particular minister to you and, if so, who was that minister? Lastly, in relation to that particular question, is this decision recorded in the minutes of the Council of Ministers?

Mr Gelling: Mr President, the article in yesterday's or we should call it today's *Examiner* from the hon. member for North Douglas, Mr Henderson, proclaims that the decision was made on the 13th and was not relayed to the 20th. The decision was not made on the 13th, so I can rectify that. The decision was made in a series of either personal conversation or telephone calls for the simple reason that I had been off the Island at the Home Office on the 6th April and at that meeting it had been decided that there would not be a Council meeting on the Thursday before Good Friday. I was then in a situation whereby on the 13th, after a long debate and a long discussion about the situation that was before us, and, I can say, without officers, it was left then for me to contact the hon. member to discuss the problems that we had in front of us. I would say unfortunately, within hours of the Council of Ministers' meeting on the 13th, there was a media statement put out and an interview on Manx Radio which basically was saying that the hon. member herself was risking her position on the DTI in doing so, so the member must have realised what she was doing and what she was saying. It was nothing to do with free speech; it was the situation that was being portrayed.

That situation therefore made it very, very difficult and I therefore instigated the telephone calls and the conversation with ministers to ask what the situation was at that time because, do not forget, it is a Governor in Council situation, it is not my prerogative to ask members to move from departments, and that is how the decision was made, so the decision was made actually on the 18th and 19th April, sir.

Mr Lowey: Mr President, would the Chief Minister not agree that while he has responsibility for his ministers, the ministers have responsibility for their membership (**Mr Delaney:** Hear, hear.) and can the Chief Minister therefore inform the Court, did the member's minister raise the matter with the Council of Ministers for them to make a decision? And I say so on the grounds that we do say that the Manx Government is an open government, the Chief Minister has said so many times, and I think in the thing of open government that simple fact should be made known to this Court.

Mr Gelling: Mr President, the hon. minister for the department had expressed concern to me, sir, and if that addresses the situation in expressing concern to me, that is expressing concern to the Council. That is how it was actually put and again I would say, yes, my door is always open, members know this, and I am not trying to do anything, only to keep what I have always said and that was that when members come to see me and they speak to me, that is confidential between them and myself. If I was to start going into what other members have come to me and spoken about, I get members of the public writing to me asking me, 'Is it correct that this member wanted to do this because of such-and-such a thing?' I write back accordingly that it is confidential between that member and myself.

Mr Delaney: Mr President, bearing in mind that the hon. member referred to in the question had the full support of the recognised building industry on this Island and she was expressing their concerns, their concerns expressed through the media, does the Chief Minister think it is right and proper that someone who is carrying out their remit given to them by the minister should be sacked for not complying with some regulations or should be kept in office because she is carrying out the remit with the support of the industry she is supposed to represent?

And my second question is, bearing in mind that the minister now, we know, complained to the Chief Minister, wasn't it right and proper that if you were not available to speak to Mrs Cannell, then he should have called upon her to come to him and he could have explained the situation, or does he believe that ministers, as I believe they have, have the right to hire and fire their members, as certainly we in the Council do, as and when they want with the support of the Chief Minister rather than being done in such an arbitrary fashion?

Mr Duggan: Hear, hear.

Mr Gelling: Yes, Mr President, it would appear that basic rules are being laid down where there are not basic rules but, however, I would again ask the question that it is a two-way road, this. Members leave departments and I only hear about it, I am never told about it, I never get a letter, the Council does not get a letter, they just leave a department, so therefore one would suggest that perhaps that also should be forthcoming therefore as to why are they leaving a department? However, the hon. member and the hon. questioner of the Legislative Council is saying 'the full support of the recognised builders and construction industry'. Now, I would like someone, some time, to tell me what is a recognised construction or building company in the Isle of Man? If they are on the register and they are eligible to build in the Isle of Man for government and Treasury's rules and regulations fit, who are we to say, 'You are recognised and you are not recognised'? It is a very, very difficult situation, and again I had representation from the construction industry also in to see me, so therefore if the hon. questioner is saying that the full support of the industry was behind the member and therefore she should not in fact have left or been taken from the DTI, one also has to think that they are there responsible for government, not just representing the industry that they perhaps are looking after, they are there to represent government's interests in that particular industry and to represent into the government in a proper and responsible manner what those concerns are and that is what I suggest is the problem and again I would just take the hon. member, Mr Delaney, who says, 'the minister complained.' Actually what I said was he had expressed concern.

Mr Delaney: In the fullness of time.

Mr Cannell: Mr President, a supplementary if I may. Would the hon. Chief Minister not agree that this situation is not exclusive to this individual circumstance of Mrs Cannell and the DTI and that departments are made to experience considerable difficulty with the working efficiently of those departments when some contain members committed to alternative policies and those members go to the extremes of disclosing confidential business which is then utilised to put down questions through that opposition agency, notwithstanding they are content to draw the appropriate salaries from that position?

Mr Gelling: Mr President, here again I refer to the article briefly that is in today's paper and the hon. member has suggested that the penalty that the hon. member who has left the DTI or was taken off the DTI has suffered is a financial penalty. Now, I can say - this is referring to the hon. member for Onchan - a financial penalty is something that I have never ever considered. To me we are elected into this parliament by the people of the Isle of Man to represent them, for which we get a certain resource. We are then invited to take part or to represent or go into a department, for which we get an additional resource, but as far as I am concerned that is not a consideration and was never a consideration in this particular case. **(Mrs Crowe:** Hear, hear.)

But I can refer to the hon. member for Onchan who has just resumed his seat that asked the question. He himself, actually talking about the financial return, was without a position within a department for months when he came first into this Court because we try to get square pegs in square holes. Now, if the hon. members are saying let us go back to the board system where it used to be you were told, 'You go to that department', and you went whether you liked it or not, you were allocated to a department and that is what you had to do.

But quite honestly the situation is quite clear: we have some members who are dualling up on two departments, but they get nothing extra for that. Just one department gives them the departmental extra, but if you do two departments or do more work there is nothing extra for serving two departments, and there are some members that do that.

But, replying to the hon. member, the situation is quite clear: no financial reward or anything in that line was even discussed when we were discussing this position.

Mr Singer: Mr President, can the Chief Minister, having said that Minister North expressed his concern to the Chief Minister, explain why, when asked in public on April 18th, Minister North said that Mrs Cannell was not to be sacked, and that was said in public before witnesses, yet the Chief Minister's letter of dismissal was written probably the next day and delivered on the 20th?

Mr Gelling: I cannot comment, Mr President, because I was not present when this was made in public, sir.

The President: Now, hon. members, I have been very lenient but I will return to the original questioner for a final supplementary. Hon. member for Ayre.

Mr Quine: Thank you, Mr President. Is the Chief Minister aware of four particular events arising out of this scenario, that first of all Mrs Cannell had full delegated authority for the construction industry; that secondly, on the 17th February the minister stressed to Mrs Cannell that the DTI must work closely with the Employers Federation to get to the bottom of the EPH Crowe matter; thirdly, that Mrs Cannell sought confirmation from the minister of this instruction

on 14th March; and fourthly, that she received a response from the minister dated 16th March, issued immediately following a Council of Ministers meeting retracting that instruction? Can the Chief Minister explain the cancellation of the minister's instruction to Mrs Cannell and his change of heart?

The President: The Chief Minister to reply.

Mr Gelling: Mr President, again unfortunately the minister is not present in the Tynwald Court and therefore it is only he that can explain the situation. The only thing that I can say is that the hon. member did have the delegated responsibility in the DTI for the construction industry, but the other dates and times and letters are something where I am afraid I will have to rely on the minister for the DTI to answer the hon. member.

Public Comment by Ministers and Members – Question by Mr Singer

The President: We turn then to item 15 on the order paper, hon. members, and I call on the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr President. I beg leave to ask the Chief Minister:

Can you justify the differentiation of the criteria applied by your government to members of the Council of Ministers and members of departments in regulating their public comment on government business?

The President: Again I call on the Chief Minister to reply.

Mr Gelling: The answer is yes, sir.

Mr Singer: How does the Chief Minister justify the fact that over the last three and a half years he has had ministers who have openly defied agreed Council of Ministers decisions, ministers who have revealed confidential items in public, ministers who have opposed other ministers in public in this hon. Court and ministers who have expressed doubts in public on the Chief Minister's sincerity and yet not once during that three and a half years has any minister been dismissed for this open defiance of ministerial policy, and yet the minister and the Council of Ministers have brought down the full weight against the hon. Mrs Cannell who does not have ministerial responsibility but in fact was just expressing concern at the policies of another department, concerns which were expressed and which were felt by not only her but other members of this hon. Court, members of the building industry and the general public?

The President: I think there is a question in there somewhere, Chief Minister.

Mr Gelling: Yes, the position, Mr President, is quite clear. The position of a minister is set down in guidelines on collective responsibility and basically there are no similar guidelines for members of departments and therefore I would say there is the distinction between ministers and members and it is quite clear and justifiable and that is that there is a higher level of collective responsibility required of ministers and basically I would say, therefore, that members do have much more flexibility and freedom to comment on things within government that they are concerned about, certainly far more than a minister has.

Mr Delaney: How can the Chief Minister say that we have more flexibility who serve and are happy to serve on departments than the ministers when really they can be arbitrarily dismissed if the Council of Ministers do not like what they are doing under non-written rules? How can the Chief Minister possibly consider that a strength when you have rules which, as

has been pointed out in the question, are broken and no action is taken, but we who have no rules if it is not liked by the ministers, or a minister as it turns out, can be dismissed and we have no rules to follow?

Mr Gelling: Mr President, I am quite sure that members are quite clear on their responsibilities to a department -

Mr Delaney: We are.

Mr Gelling: - and I would therefore say that even in the words of the hon. member that we are speaking of this morning in the statement it said, 'What I am doing is probably going to get me the sack.' I would say that that had obviously been in her mind when she had made these statements and as far as I can see I cannot understand why the situation is being highlighted and personalised when in fact it has happened in the past and no doubt will happen in the future where a member's position, as can a minister's, becomes untenable within the department.

Mr Henderson: Mr President, how then can the Chief Minister reconcile all that has gone on, given that we also have a situation of transfer of information by members with dual departmental responsibilities, which is clearly designed to establish defences of recipient departments?

The President: We are going round in circles, hon. members. Chief Minister.

Mr Gelling: Well co-ordinated questions also, I would suggest, Mr President.

Mrs Crowe: Yes.

Mr Delaney: Good government!

Mr Gelling: Basically I would suggest to the hon. member who has just asked the question that if you are on a department and you have information that is helpful to another department of government for them to address a concern -

Mr Quine: Contrary to public interest.

Mr Gelling: - I would expect them to actually try to assist in overcoming that problem by going through the appropriate channels of government and to ask their minister and themselves to meet with the minister and the members of the other department to try and resolve that concern.

Several Members: Hear, hear.

Mr Quine: Can the Chief Minister specify the specific regulations or criteria which it is alleged that Mrs Cannell broke in relation to her pronouncements? I think it is important that the public understand whether or not there is a specific regulation, a specific infringement which your Council of Ministers are asserting has been broken by Mrs Cannell. If so, what is it and what is the reference?

Mr Gelling: I could not help but overhear the statement that was made prior to the question and that was, 'Yes or no if it's against public concern.' I just cannot understand where that is coming from. Who judges whether the public are concerned about something and therefore you do not give the information to another department of government?

No, sir, there are no regulations and guidelines - I have already answered that - for members of departments and I have made it quite clear that the situation is open and we have said in all the statements that a position within government is there to be found if the hon. member wishes to serve.

Mr Cannell: Mr President, would not the Chief Minister agree with me that the public would be considerably better served if the departments had no representation from those who are committed to opposition?

Mr Gelling: Well, it would certainly be an easier passage, Mr President -

Mrs Crowe: Absolutely.

Mr Gelling: - but that is not what we are here for. We are here to try to get a consensus of people who have one thing in mind and that is the people of the Isle of Man (**Several Members:** Hear, hear.) and I think that is where I find I am a little dismayed that in fact we find ourselves in this position.

Mr Lowey: Would the Chief Minister not agree that instead of members waiting to be asked to jump, they could take the honourable thing and resign if their opposition is so great? The point I am making surely must be, Chief Minister, that in your guidelines you can sometimes ask a member to resign as opposed to putting a gun to their heads.

Mr Gelling: Well again I think the questioner has put forward what could or might have happened. That is not what has happened. But certainly in the past I think you will find that members have in fact found their position quite clear and they have in fact stood down from that position, and as I say, the hon. member we are discussing has already done that on the Department of Home Affairs where perhaps they found it untenable, so they removed themselves from that department. So, yes, I take on board what the hon. member of the Council has said.

Mr Delaney: Getting on to the question, thank you, Mr President, where it says in the question about members in departments in regulating their public comment on government business. Would the Chief Minister agree with me that this deed that has been done as the subject of the question was badly done as the public perceive it to be, and I am sure of that and I hope other members are, and would he also agree with me that it is a member's duty, as a member of parliament, not of government, to bring to light where public money has been misused or is being abused and in this case the member concerned maybe did it wrongly but actually was giving the public that information through the proper and right questioning in this Court and with a right to make statements under the responsibility she was given?

Mr Gelling: Mr President, again, I do not want to get into the detail but if the information that the hon. member is suggesting was told to the public, that the taxpayers would have to pick up the company who had gone into liquidation's debts -

Mr Delaney: She did not say that at all. She never said that at all. That is wrong.

The President: Hon. member.

Mr Gelling: - I fail to find how on earth that is giving the public the information that they are looking for -

Mr Delaney: She never said that.

Mr Gelling: - because that is what I have seen in print and that is certainly what I am hearing on the radio, the tape that I received. So, Mr President, no-one is saying that members of this Court should not speak out and they should not question and they should ask about anything and everything, except, as I have already said, when they are representing, with delegated responsibilities, a certain part of our economy and our people in this Island and they are calling for their being sacked from the job and they are members and they are recognised as being people in this Island who can do work for government, I would suggest that even that is becoming untenable, sir.

Mr Quine: Mr President, having established that Mrs Cannell has broken no regulations in regard to public pronouncements by government or parliament can you advise us whether there is any evidence of any confidential or restricted documents being released by Mrs Cannell? I have been through the press release which you seem to have taken offence to. I see nothing there that is not already in the public domain.

Mr Gelling: Mr President, all the information that was in there was already in the public domain but it was the slant that was put on it to alert the taxpayers to the situation. *(Interjections)* Now, we are not in a court of law here, dealing with legalities and statements, and here is a situation that we had that had become untenable.

Mr Quine: It does not fit your purpose.

Mr Gelling: That is wrong, Mr President, it does not fit our purpose. The situation is quite clear, and as I have said, it was a unanimous decision of the Council of Ministers to go to the Governor, as the Governor in Council is the situation here, for to reconstitute the Department of Industry. That is the situation, sir.

The President: The hon. member for Onchan. I think a final supplementary, hon. members.

Mr Corkill: Thank you, Mr President. Will the Chief Minister confirm that the public suggestion by the hon. member for Douglas East, Mrs Cannell, to abandon the management contracting process for the building of the new hospital would have cost the taxpayer tens of million of pounds?

A Member: Hear, hear.

Mr Quine: It may still cost them that.

Mr Gelling: Mr President, I think this basically is the nub of the whole question, that what was being put out to the public and what the public were being told was the situation as the hon. questioner has just illustrated, which was causing us concern, sir.

Incineration – Proven Technology – Question by Mrs Hannan

The President: We turn to item 16 on the order paper, hon. members, and I call on the hon. member for Peel, Mrs Hannan.

Mrs Hannan: Eaghtyrane, I beg leave to ask the Chief Minister:

(1) *Was the comment made in your recent statement -*

'this is a problem of mounting urgency for the environment of the Isle of Man as a whole. We have to move forward with the proven technology currently available'

referring to incineration and

(2) *if so -*

(a) *which proven technology for incineration would your government be using;*

(b) *how many incinerators adopting that technology are in use; and*

(c) *how much waste, where such incinerators are in use, goes to landfill?*

The President: Again, the Chief Minister to reply.

Mr Gelling: Yes, Mr President. My comment did relate to incineration. That is the answer to the first part.

On the second part, (a), incineration with moving grate technology has been chosen by the government. (b) The exact figures are difficult to ascertain. Certainly in excess of 300 plants are in use in Europe and there are many others operating worldwide. In answer to (c), again it is difficult to be precise. All inert waste, i.e. soils and hardcore et cetera, is not sent for incineration but the predominant proportion of household waste, other than that which can be recovered for reuse or recycling, would go to the incineration plant when one is actually in position, sir.

The President: The hon. member for Peel, a supplementary.

Mrs Hannan: Yes. I wonder could the Chief Minister answer the question about how much waste goes to landfill following this proven technology and if he is suggesting that there are three - maybe I could ask that when I come back to the other.

The President: The Chief Minister. Thank you. The Chief Minister.

Mr Gelling: Sorry. I was waiting for the punchline in the question. Sorry, Mr President, could the questioner repeat it?

Mrs Hannan: I can repeat the question, Eaghtyrane. How much waste, following this proven technology of incineration, goes to landfill or other disposal routes? Could I qualify that by saying how much waste that goes into the incinerator comes out at the end of the incineration procedure?

Mr Gelling: Sorry, Mr President. In other words the hon. questioner is stating that the answer to the last part was not how much inert waste goes to landfill -

Mrs Hannan: You never answered that.

Mr Gelling: - that does not go into the incinerator -

Mrs Hannan: No, you did not answer that.

Mr Gelling: - it is what inert waste that comes out of the incinerator actually has to go to landfill after the process is finished. If that is the way I understand it, and again I only answer this off the top of my head, Mr President, I would imagine it is somewhere around 25 or 30 per cent which will be left after the burning operation, sir.

The President: Now, hon. member for Peel, you have indicated you may a further supplementary.

Mrs Hannan: Yes. The Chief Minister suggested that this is proven technology. He suggested that there are 300 such incinerators being produced. Is the incinerator that is suggested for us a similar technology to these incinerators that are operating at the moment?

Mr Gelling: Again, the information that I have been given, Mr President, is that that is the question that has been asked, is the incinerator the same as, and I would say it will be the same as, if not improved, as modern technology of today has superseded those that were built maybe two years ago. So I would say it is the 300 plus the very latest design and the latest emission reducers or whatever you call those things that are up the chimney.

Mr Duggan: Mr President, a supplementary. Regarding the figure the minister of DoLGE mentioned this morning of £89 per tonne, does that include the utilisation of the extra plant for electricity?

Mr Gelling: Mr President, I am sorry but the minister responsible for producing this and dealing with our waste, the hon. minister for DoLGE, probably could have answered it but I have not got that information, I am sorry.

Mr Karran: Eaghtyrane, would the Chief Minister not agree that neither he or his minister would be able to answer any questions on this, and would he also not agree that this is yet another policy where the civil servants have once again got control where his minister and his department are led blindly by the nose as far as this whole nonsense of incineration in this country is concerned?

Mr Houghton: Just like in your department!

Mr Gelling: Mr President, again this is Tynwald policy. It has been Tynwald policy. It has been ratified I do not know how many times. So it is the policy of this Court, not civil servants. Civil servants give us the information, but this Court makes the decision. Now, that is the policy of government and nothing has come up that has persuaded us to go down the other route as was suggested about PEC plants and all this, but again I must emphasise what the minister was saying. It does not stop the reduction and the recycling and everything else that is in that policy. The last resort is to burn the residue.

Mr Karran: A supplementary, Eaghtyrane. Would the Chief Minister not agree that his block vote got the incineration through Tynwald Court, and would he also not agree with the fact that the situation is that there will be no other forms as far as refuse is concerned because you will need every scrap of rubbish to try and make some logical financial sense of this insane policy of incineration?

The President: Chief Minister, you can ignore the first part of the supplementary.

Mr Karran: Well, it is a fact.

Mr Gelling: Again everyone has got different ideas about how we should deal with our waste, but again can I say it will be coming back to this Court, it will have to come back to this Court when members will be better informed about the whole situation and I would say that that is when the decision will be made whether or not we have a mass burn incinerator, sir.

Mr Lowey: Would the Chief Minister give the Court his views why the present technology or recommendations are going to succeed when taking his minister who said he wants a 25-year strategy after consulting with consultants? It is the very route we went down for

pulverisation which was a disaster, to The Raggatt tip which was a disaster, and the retreat by the Local Government of the high standards which were going to be installed in the incinerator since they announced that. What confidence has the Chief Minister got, that I have not got, that makes him sure that this will work?

Mr Gelling: The only confidence I have, Mr President, is first of all to agree that the pulverisation plant was a total disaster. However, moving on from that, we have the experts, the independent experts, who are advising us of the situation. Now, we have even been to re-look at the new technology that is emerging and we are hearing all about this new technology, but when you really get down to the heel of the hunt you find that the only one that is dealing with waste as we know it, domestic waste, is actually only authorised to run at 50 per cent of its capacity because they are still testing it and trying it and therefore it is premature.

Now, the situation we have is that we have not got time to wait for that technology and once again I would suggest that at least we have here a policy of this government which has been ratified on many occasions, which is for a mass burn incinerator after reducing and recycling, which has been proven and bettered and improved and will be of the latest design.

Mr Lowey: And standards reduced.

Mr Gelling: And I would suggest again that the standards of emission certainly will have been reduced, not the amount of refuse.

Mrs Hannan: I wonder could I ask the Chief Minister, Eaghtyrane, when he made the statement, 'We have to move forward with the proven technology currently available', was he aware that the proven technology is not there? He stated that it was to be improved upon with regard to these 300 incinerators that are already in operation. He said it would be improved upon. So is he suggesting that this technology is available and working or is he suggesting that there are going to be improvements which have not been proved?

Mr Gelling: Mr President, the original question was how many are operating in Europe up to the standard of the one that we are looking at. Now, the answer was 300. What I am suggesting is that with this incinerator by the time it is actually produced and built, if other innovative ideas come forward that make it even better and reduce it to a nil up the chimney, that is what we will have. We will go for the very, very best that we can get that will eliminate any of the nasties coming out of the chimney, sir.

Landfill – Household Waste – Question by Mrs Hannan

The President: Item 17, again I call on the hon. member for Peel.

Mrs Hannan: Eaghtyrane, I beg leave to ask the Minister for Local Government and the Environment:

- (1) *What percentage of household waste will go to landfill following the introduction of (a) incineration and (b) recycling; and*
- (2) *what is the comparable percentage at present?*

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

Mr Gilbey: Mr President, following the introduction of incineration at least 90 per cent of household waste will go to the incinerator. Of the remainder, 80 per cent will be recycled and the balance will comprise materials which do not lend themselves to incineration or recycling.

At present all domestic waste collected door to door by collection authorities is taken for landfill disposal. Only that waste taken to recycling centres can be recycled. This is at present only about five per cent of the total domestic waste stream but the department is striving to improve these figures with additional incentives.

I would like to assure the hon. member in this Court that the department is putting a great deal of effort into reuse and recycling. As I have said, there are four very active civic amenity sites which are based on these activities and three of these will be greatly improved as soon as we possibly can to a standard even higher than that of the existing fourth one, and a green composting operation will be introduced as soon as we possibly can, planning permission has already gone in for this, and I hope that it may be operational within the next 12 months, but we are very determined on these matters and I can promise this hon. Court that they are not overlooked in any way.

Mrs Hannan: Eaghtyrane, could I ask the minister what percentage of household waste will go to landfill following the introduction of incineration?

Mr Gilbey: Well, the hon. Chief Minister answered this question, that it could be between 25 and 30 per cent but it is a totally different kind of landfill. You are then tipping inert material which can be tipped virtually anywhere with complete safety. But there is a further point, that even that may not be tipped because there is a great deal of work going on and in some places already the clinker from the bottom is being used for road building, for hard filling and even being mixed into building blocks with concrete et cetera and therefore hopefully very little indeed, and I can assure this hon. Court that I am determined, as far as is humanely possibly, to see that, except in some terrible emergency, no products are tipped that are not completely inert. The one exception will be the chimney ash from the scrubbers, as has been mentioned by the hon. member for South Douglas. This is a relatively small total amount and even there we are confident that in the next few years a way will be found of cleaning this up or using it so that it can have a worthwhile use and is not wasted.

Mr Singer: Can I ask the hon. minister, whilst he is encouraging the use, quite rightly, of civic amenity sites but he does talk about recycling and reuse of goods being left at these sites, is the minister not concerned at the fact that a lot of these items, electrical items and other items, are in fact discarded items and that people who will pick them up could well be subject to accidents, particularly with electrical products, and can he tell me who is responsible if somebody does pick up a faulty electrical item from a site and then reuse it and is subject to being hurt?

Mr Gilbey: I think a lot of the items are actually taken away to be broken up and the parts from them used, but a good example of where this is so excellent is that some people throw out bathroom suites that have only been used a few months because they buy a house which has a new bathroom suite and someone else comes along and picks a virtually completely new bathroom suite, and I have seen them down there, and I personally think that this should be warmly encouraged.

Mrs Hannan: Eaghtyrane, is the Chief Minister aware that at the public inquiry going on at the moment the figure of recycling was put at one per cent, possibly three per cent, and does the department actually know how much material is being recycled but certainly not as much as five per cent?

Mr Gilbey: Well, I do not know what the Chief Minister knows. You actually asked if the Chief Minister knew this. As far as I am concerned the fact is that at the moment we believe it is about five per cent, give or take, though we are trying to build this up and certainly we want to build this up and no-one should think that because we have an incinerator in the future we are going to reduce our efforts for reuse or recycling. That certainly is not the policy of this hon. Court, nor of the government, nor of the department.

Environmental Policy – Question by Mrs Hannan

The President: Question 18, the hon. member for Peel.

Mrs Hannan: I beg to ask the Chief Minister:

- (1) *Does your government have a green environmental policy;*
- (2) *if so, when was the last audit of this policy undertaken;*
- (3) *when will it next be undertaken;*
- (4) *does it determine how resources can best be reduced, reused and recycled; and*
- (5) *does it include within such determination the potential resultant benefits to the environment and public purse?*

The President: The Chief Minister to reply.

Mr Gelling: Yes, Mr President, the government's central policy on the environment is set out on page 48 of our last Government Policy Review 1999. Now, that general policy is amplified by particular policies being pursued by individual departments in particular topic areas.

Now, the various policies are reviewed annually to ensure that they remain relevant and up to date, and we do take environmental issues very seriously and recognise the importance of the environment to the fabric of our Island and the necessity for the Island to play a part in protecting also the global environment, sir.

Mrs Hannan: Could I ask the Chief Minister when the last audit of this policy was undertaken?

Mr Gelling: Well, Mr President, every year we go through the discussions with the different departments and their different environmental issues and also of course we have our seminar prior to that, which we have just had recently for this year, where members, and I know the hon. member for Peel, took the opportunity to raise many of these environmental and incineration items at that seminar. So therefore the answer to the hon. member is that it is reviewed every year at our annual policy discussions and the eventual debate, sir.

Mr Lowey: Could the Chief Minister inform the Court which of the government departments are taking the lead in monitoring those areas of the Rio convention which we are signatories to, and those areas which we are party to have a timescale, in other words 2010, 2005, and as we are signatories to it, who is the lead department and are we getting, to use

the hon. member for Peel's words, an audit on how we are matching up to those requirements under the international agreement which the Chief Minister has referred to?

Mr Gelling: Mr President, as I have said, all departments of government somewhere have their own but there has to be someone that collates that altogether. Now, it is recognised the Department of the Environment is the one department of government that looks after the issues such as Sellafield and further afield, in other words the international scene, and co-ordinates the position with regard to the Island, but when it comes actually to register our concerns or our protests it is actually through the Chief Minister's Office and through the United Kingdom, sir.

Mr Downie: Mr President, could the Chief Minister confirm that as well as government's policy with regard to the recycling of glass, aluminium cans, cardboard, paper and other materials, government policy actually encourages the recycling of scrap and cars, and this is supported by a subvention from government, and also as part of our policy that demolition materials and old buildings are crushed down and reused and these figures with regard to the cars and the scrap metal and the demolition materials are not taken into the equation, so therefore the figures which are provided or quoted from time to time really bear no resemblance to the amount of recycling that actually takes place on this Island and is supported by government?

Mr Gilbey: Hear, hear.

Mr Gelling: Indeed, Mr President, I thank the hon. Minister for Agriculture for actually posing the question but it was actually for information for the Court, and this is going on. Only last evening I had a farmer on telling me how he is actually breaking down glass and putting it through his old meal mill and producing sand which he puts into aggregate which he makes for rough concrete, and there is a lot of recycling going on that obviously we do not all know about, but certainly taking again the hon. member of the Council's question, at the end of the day it needs to be co-ordinated, all these little individual things that are going on, and perhaps there is a lot of it not being quantified and perhaps not even known about.

Mrs Hannan: Eaghtrane, could I ask with regard to paper does government use paper which has been through a recycling process and also if paper used by government is put to recycling, as it is a very valuable commodity?

Mr Gelling: Again, in answer to the hon. member I would say I certainly hope, where possible, that is done. Sometimes it is actually signified on it that it is recycled paper, but there again if it is not so designated I do not know does that mean that it is not in fact, but certainly it is something that I will take up with our people in the purchasing department, but I am quite sure that if that is possible we should be doing our bit in trying to use recycled paper, sir.

Housing – Discouragement of Speculation – Question by Mr Karran

The President: Item 19, the hon. member for Onchan, Mr Karran.

Mr Karran: Eaghtrane, I beg to ask the Chief Minister:

What action does your government intend to take to discourage speculation in housing?

The President: Finally the Chief Minister to respond to this question.

Mr Gelling: Mr President, at the end of the day we believe in free-market economics and would not seek as a general proposition to intervene in the natural operation of the market, as that would create distortions and, I would suggest, inefficiencies. We did have some years ago a land speculation tax and that was a measure which was driven forward, but I would again suggest it was ineffective.

Now, the answer to rising house prices again I would suggest must lie in increasing the supply of houses available so that the natural market conditions ensure the removal of the benefits and the incentives of speculation in the housing market.

Now, as members will be aware from reports made to the Court over recent months, the Department of Local Government and the Environment is spearheading a number of initiatives aimed at increasing the flow of new housing and we obviously look forward to seeing the benefits of those initiatives over the months ahead, Mr President.

Mr Karran: Eaghtyrane, so would the Chief Minister not agree that his government, with the response to that question, is giving a green light to the speculators who are buying up all the houses that should be going to first-time buyers (**Mrs Hannan:** Hear, hear.) and what is his government going to do as far as this social problem is concerned at the present time?

Mr Gelling: Mr President, I cannot disagree with the hon. questioner. There is evidence out there that this is happening. People that have got money to invest are being advised to take their money out of finance houses and put it into property, and there are people going around buying small estates of houses which takes them off the market and then they are put out for rental.

Now, I was only at the end of last week speaking with an estate agent and we were discussing this particular problem and we are going to continue those discussions because he was maintaining that there was a way in which this could be addressed that would not distort the market but would certainly leave, as the hon. questioner said, those houses that are built for first-time buyers available to individual couples, if that is a correct statement, to be able to buy rather than a person buying them as an investment.

Mr Lowey: Does the Chief Minister not agree that the only reason the land speculation tax failed was we brought it in too late and it hit everybody but the speculators?

Would the Chief Minister also not agree that the problem for housing is primarily that of land? With the price of materials in the last 10 years rising by an average of 12¹/₂ per cent, land has risen by 100 per cent, and therefore the problem surely must lie in the release of more land for building and is his government really prepared to put the emphasis where it should be in getting land to developers or individuals to build?

Mr Brown: We are now.

Mr Gelling: Yes, I think that situation is being addressed now, but I think, like the speculation tax, it might be that it should have been done a couple of years ago, and this is how the cookie crumbles or how the circle is squared or whatever the terms are, but certainly the situation now is that the prices I am hearing of land being purchased certainly are not for first-time buyers. It would be impossible to build first-time buyers' unless government went in with a tremendous subsidy to actually make it happen.

Now, I have even been disappointed of late because in the debates and the questions that are being posed people in the Island with consciences have actually come forward and one particular gentleman came to me and said, 'I bought this land a long time ago. It's at a price I could afford to do it but I find that because the village plan went through last year it's too soon to go back to readdress this and give it residential status because it would make a fool of the plan', and we seem to be in a position where we have thwarted every initiative that we should be able to take.

So certainly I understand the problem, I know it is frustrating, but basically again I would suggest to hon. members, look around, there are quite a number of houses actually being developed in areas that perhaps you might not expect, and basically until we get more houses out there and there, are some lying empty, we are not going to, I do not think, hit this particular problem because that will start to level out the prices and people will have to sell at a more reasonable price because otherwise they will have them left on their hands, sir.

Mr Henderson: Mr President, would the Chief Minister not agree with me that the best way forward for any good housing policy for his government would be to tackle this completely immoral situation by way of a full and proper assessment to see how bad this issue is and then to conduct such actions as necessary to try and get some of these houses released?

Mr Cretney: And who is the member responsible for housing?

Mr Gelling: Well, again independently the Department of Local Government and the Environment are actually addressing this. This is why they have gone out with advertisements to first of all see how many people are out there that are looking for houses and also to address the problem, and again it is not very easy to turn round and say, 'You're building houses but there are going to be restrictions on who you sell them to', and therefore government has got to be in there somewhere either with providing the land or providing its service or something to be able to call those odds.

Mr Karran: Eaghtyrane, would the Chief Minister not agree that houses should be nests and not nest eggs, and would he also not agree that at the present time his government is void of any policies to resolve this scandal? Can he give an assurance to this hon. Court that his government will not act like a dog in the manger when people bring up legitimate ways of legislation and you get the block vote of the executive that have no way of doing anything, stopping any legitimate movement as far as that is concerned?

The President: I fear the egg is going to hatch out of this nest, Chief Minister.

Mr Gelling: Mr President, I understand, I know where the hon. member is coming from and about the legislation he was going to put forward, but certainly our advice was that that in turn was not the remedy, but certainly it is not something that we have forgotten. I can assure you that the Council of Ministers are more concerned about the housing position in this Island than we are being given credit for. *(Mr Cretney interjecting)*

Mr Cannell: Mr President, would not the hon. Chief Minister agree with me that although the speculation on housing estates by recognised developers, while not illegal, is certainly immoral?

Mr Gelling: Yes, well it depends which side you are on, I suppose, Mr President. If you own them and you are getting a fair return for your business it would be looked upon as a

commercial undertaking, but certainly from where we are, when we are trying to house our own young people, it is a very, very difficult situation and it certainly is not helping.

The President: The final supplementary, I think, the hon. member for Onchan, Mr Karran.

Mr Karran: Eaghtyrane, would the Chief Minister not agree with placing some policies as far as increasing the tax levels on all houses that generate rent income to about 40 per cent? Would he also not look at other ways such as introducing, as a matter of urgency, some reasonable rent laws that make them have some teeth as far as affordable rental income is concerned?

Mr Gelling: Mr President, I fully understand the hon. member who is posing the questions and his concern regarding housing. He has been asking questions -

Mr Karran: For three years.

Mr Gelling: - not for months, but probably for the last 18 months or a couple of years. But I want to assure him that the questions also are being posed in the Council of Ministers. I do not think we go a month without a heated debate on housing. So I can well assure the hon. member that he is not not being listened to. He is being listened to as we listen to every other member who has got a concern about anything, but, in particular, housing is one that we are addressing and we are: it is a live situation.

The President: Although I indicated that was the final supplementary, the final final supplementary, Mr Cretney.

Mr Cretney: Yes, thank you very much, Mr President. Could I ask the Chief Minister to confirm that this problem has not just arisen in the last six or 12 months, this problem has been upcoming for a considerable time and week after week after week under the former Minister for Local Government ministers raised their concerns in relation to this problem and nothing happened?

Mrs Hannan: Hear, hear.

Mr Brown: Who was that?

A Member: Mr Quine.

Mr Gelling: Not divulging what happens in the Council of Ministers, Mr President, but I can confirm what the hon. member is saying: this was raised on many occasions and on lots of them the ministers were frustrated with nothing coming forward.

The President: Okay, hon. members, that concludes the oral part of the question paper. For written answer you have 20, 21, 22 and 23 and I understand they have been circulated to hon. members and are on your desks.

Foreshore – Ownership – Question by Mr Henderson for Written Answer

Question 20

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

Does your department own the land between the median high tide mark and the low watermark?

Answer

Ownership of the foreshore around the Island between mean high water and mean low water is vested in my department with the exception of the foreshore that lies within the Douglas town boundary.

Nursing Staff – Reasons for Leaving – Question by Mr Henderson for Written Answer

Question 21

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

With respect to both trained and untrained nursing staff employed by your department who have left departmental employment in each of the years 1997 to 1999 inclusive, in cases other than retirement or dismissal -

- (a) what reasons did they give for leaving; and*
- (b) what percentage returned the leaving questionnaire?*

Answer

In answer to part (a) of the question, the reasons given by trained and untrained nursing staff leaving departmental employment in each of the years 1997 to 1999 inclusive were as follows:

- domestic responsibilities;
- moving from Island;
- moving to other healthcare employer;
- moving to private sector;
- further education/training;
- set up own business;
- working conditions;
- dissatisfaction;
- pregnancy;
- other reasons.

With regard to part (b) of the question, the practice of centralising the exit questionnaire process commenced only in April 2000. That being so, no records have been retained centrally on the return rate for exit questionnaires in respect of the system used prior to April 2000.

Nursing Staff – Exit Interview – Question by Mr Henderson for Written Answer

Question 22

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

In cases other than retirement or dismissal, when nursing staff leave DHSS employment does any person within the department line management structure conduct an exit interview with them?

Answer

All members of nursing staff who leave the organisation, for whatever reason, are given the opportunity to discuss their reasons for leaving with a relevant nurse manager. This is an informal process and it is up to the member of staff to determine whether or not they wish to take up the opportunity. Having said that, it is extremely rare for a nurse not to discuss his or her reasons for leaving, with the line manager.

**Civil Service Pension Scheme – Discontinuance of Payments –
Question by Mr Singer for Written Answer**

Question 23

The hon. member for Ramsey, Mr Singer, to ask the Chairman of the Civil Service Commission:

- (1) Are you satisfied that the present civil service pension scheme which discontinues the pension payment to a widow or widower on remarriage or cohabitation is fair;*
- (2) why does this rule not apply to homosexuals living together;*
- (3) is this scheme subject to a reciprocal agreement with the UK; and*
- (4) what would be the annual cost of continuing to pay these pensions?*

Answer

- (1) The principal civil service pension scheme, in common with all other public service pension schemes, does provide that pension payable to a widow or widower may cease or reduce during the period of remarriage or cohabitation. It is the personal circumstances of the scheme member and/or dependant and the provisions of social security legislation relating to guaranteed minimum pension which govern the cessation or reduction in each case. However, the rules also provide that pension may be restored where there are compassionate grounds or the remarriage or cohabitation comes to an end.

The benefits which accrue for both the individual and dependant relatives are payable according to scheme rules and to that extent it is for individuals to consider the overall benefits of the pension scheme before making a choice whether they wish to contribute to the civil service scheme for which they are eligible or to opt out. Therefore it is for scheme members to decide whether in their view the scheme rules are fair or unfair. However, the pension arrangements for all Manx public service staff are no different to those applicable to their UK counterparts.

- (2) The position of homosexuals and their rights as dependants or otherwise under the scheme rules is a complex matter and raises both legal and moral issues. There is no specific reference to homosexuals under the existing scheme rules and the reasons for this could only be speculative. However, the scheme is analogous

to the UK principal civil service scheme and it is known that the position of homosexuals is under active consideration as part of a review of the UK scheme. In due course the Civil Service Commission will consider any changes which may arise.

- (3) There is no reciprocal agreement with the UK but the UK principal civil service pension scheme is adopted by analogy for Manx civil servants. Also a number of pension schemes for other Manx public servants are analogous to that scheme. Therefore what is applicable to UK civil servants is similarly applicable to Manx civil servants.
- (4) Public service pension schemes are not operated on the basis of self-funding, as is the case for private sector pension schemes, but are funded from general revenue. Thus any improvements in the benefits payable under the principal civil service pension scheme would have to be funded from the public purse. The annual cost of continuing to pay pensions to dependants in circumstances of remarriage or cohabitation is difficult to predict. However, in the period 1992-1999 civil service pensions totalling £4,110 per annum ceased as a consequence of the remarriage of two scheme beneficiaries.

Forestry Policy – Statement by the Minister for Agriculture, Fisheries and Forestry

The President: Therefore we turn, hon. members, to item 3 on our order paper and I call on the Minister for Agriculture, Fisheries and Forestry, Mr Downie.

Mr Downie: Thank you, Mr President. Hon. members will recall that the department has for some time been engaged on a review of its forestry policies. In this respect a statement was made to this hon. Court in December 1998 which set out the basis for an environmental impact assessment which was to be carried out for the Ballaskella site. This study has now been completed and members circulated with a summary of the findings.

As part of this review of forestry policy the department is now consulting all interested parties for their views on the findings of the environmental impact assessment and to this end a presentation has been arranged to which hon. members have been also invited.

It had been intended to report back to this hon. Court with the proposed new forestry policy by June this year, but the department wishes to give all parties adequate time to fully consider the comprehensive Ballaskella study. As a result I will be making a further statement in October which will relate to a policy formulated from the public response together with proposals originating from my department. Thank you, Mr President.

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

The President: There is no need to second a statement, sir. I thought you may have had a question.

Merchant Shipping (Fees) (Amendment) Regulations 2000 – Approved

The President: We turn then to item 4 on the order paper, the Merchant Shipping (Miscellaneous Provisions) Act 1996. I call on the Minister for Trade and Industry, in this particular case handled by a member, Mrs Crowe.

Mrs Crowe: Thank you, Mr President. I beg to move:

That the Merchant Shipping (Fees) (Amendment) Regulations 2000 [SD No 212/00] be approved.

The purpose of the Merchant Shipping (Fees) (Amendment) Regulations is to amend the Merchant Shipping (Fees) Regulations 1999 to provide that the 1999 regulations do not apply to an operator who contracts to pay a fee in accordance with the alternative fees scheme.

The power to provide for the exclusions from regulations in certain cases is specified in section 26 of the Interpretation Act 1979.

The regulations also make some minor editorial amendments and corrections to the 1999 regulations.

The alternative fees scheme will introduce an alternative method of paying fees for the statutory certification and survey of cargo ships and mobile offshore drilling units on the Isle of Man Shipping Register. Ship owners will have an option of either paying a monthly fee of £160 under the scheme or continuing to pay survey fees in accordance with the 1999 regulations, as at present.

The scheme encompasses the department's mandatory survey requirements for a Manx registered ship and allows the operator to budget with accuracy for the costs involved in the survey and certification of a ship by a surveyor from the department.

The regulations and alternative fees scheme will provide a steady annual income, based on the number of ships already on the Isle of Man register. This income will be additional to any income generated through new build and preregistration survey work. Also, any survey work which falls outside the alternative fees scheme will be charged in accordance with the provisions of the 1999 regulations.

Two visits are envisaged to each ship on the register in any five-year period and the cost of these visits will be offset from the annual receipts received in that five-year period. Entry to the scheme can only take place following a visit to the ship by the Isle of Man Surveyor paid for under the provisions of the Merchant Shipping (Fees) Regulations 1999.

It is anticipated, based on the owners of 200 ships opting to join in the scheme, that a monthly fee of £160 will generate income amounting to £384,000 per annum. The regulations have been drawn up after consultation with the shipping industry and the Treasury.

The regulations will come into operation, if Tynwald approves so, on the 22nd May 2000. The alternative fees scheme will also take effect from that date.

Mr President, I move this motion standing in the minister's name.

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

Mr Singer: Could I ask the hon. member of the department? The alternative fees scheme, as I understand it, is split into monthly payments as regards paying a single fee, as in the 1999 regulations. Can you tell me whether there is actually overall a difference in the amount someone pays by opting into one scheme rather than the other?

The President: The hon. member for Rushen to reply.

Mrs Crowe: I believe the case is that it will make for much easier budgeting for the ship-owners when they can make an allowance for the actual number of the visits on a planned prepayment scheme. Thank you, Mr President.

Mr Lowey: Again, could I just press the point? Is the new scheme going to bring in more revenue or less revenue?

The President: Now then, hon. member for Rushen, you had replied to the debate. Do you wish to respond to that which is really the question which Mr Singer had asked from Ramsey?

Mrs Crowe: Mr President, unfortunately I would not have knowledge of that in advance. It will be retrospective knowledge as to how many fees are generated in the course of a year.

The President: Right. Hon. members, the motion then is that printed at item 4 on your order paper, that the Merchant Shipping (Fees) (Amendment) Regulations 2000 be approved. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Item 5, Minister for the Treasury.

Supplementary Authorities – Motion Carried

Mr Corkill: Mr President, hon. members, I have pleasure in moving this resolution which stands in my name:

That Tynwald authorises the Treasury to expend in respect of the year ended 31st March 2000 from the capital transactions account sums not exceeding £77,265,197 in payment of items set out in column 6 of the schedule hereto.

1 Department	2 Item	3 Project	4 Vote 1999/00	5 Actual 1999/00	6 Excess Vote 1999/00	7 Additional Amount to be Authorised for Project
			£	£	£	£
Education	1	Laxey School Extension	1,130,600	1,145,950	15,350	–
	2	Castle Rushen Post 16 Accommodation	538,800	713,416	174,616	–
	3	QEII Post 16 Accommodation	591,700	737,080	145,380	–
Health & Social Security	4	Ballamona – Centre Block Demotion	–	7,927	7,927	–
	5	Community Mentally Ill Strategy	–	20,865	20,865	–
	6	Northern Community Hospital Elec. Services	13,600	16,136	2,536	–
Local Government & Environment	7	Kirk Michael Elderly Persons' Unit	22,500	28,579	6,079	–
Tourism & Leisure	8	NSC Phase 3 – Construction	229,000	1,386,951	1,157,951	–
Transport	9	Union Mills Sewer Refurbishment	47,000	69,972	22,972	–
	10	IRIS Storage Tanks, South Douglas	814,350	816,530	2,180	–
	11	Douglas/Santon Transmission Main	215,000	241,648	26,648	–
Borrowing Authorities	12	Local Authority Loans	3,000,000	4,309,693	1,309,693	–
	13	IOM Water Authority	1,477,000	75,850,000	74,373,000	–
			8,079,550	85,344,747	77,265,197	–

Notes: 1. Column 6 shows the Supplementary Capital Vote required to authorise the overspending of the Vote that occurred in the last Financial Year. Exceeding the Vote for the year does not necessarily imply that the total cost of the project approved by Tynwald has been exceeded. Exceeding the Vote for the year can arise simply because a project proceeds faster than originally estimated.

2. Column 7 shows overspending of the project, if any, against the total cost of the project previously approved by Tynwald. (Nil for 1999/00).

The need for the supplementary authorities arises from those items of capital expenditure where the amount spent last financial year exceeded the capital vote approved by this hon. Court. The schedule accompanying this resolution, as set out on today's agenda in column 6, shows the excess capital expenditure during the last financial year for which approval is now necessary.

The Chief Financial Officer has, of course, to honour contractual obligations and has had to make the payments even though it was evident that the schemes were going to become overspent for the year.

It is often difficult for a department to forecast accurately the value of payments to be made in a particular year on a scheme which overlaps several years. Any overpayments arising may be the result of underpayments on previous years and insufficient moneys carried forward or they may arise from continuing schemes with the provision for 1999-2000 being overspent because the work proceeded quicker than anticipated. In that case we would obviously look for a subsequent reduction in the following year.

Of the 11 schemes referred to in the schedule that have overspent their vote for the year, none has exceeded the total amount approved for the schemes and are still within the total vote, albeit not for the particular year of 1999-2000. In most cases the projects are as yet incomplete and have proceeded faster than expected and additional funds were authorised for 1999-2000 onwards in the February 2000 budget.

I should perhaps explain to hon. members the large entry of over £75 million under item 13 of the schedule that accompanies this resolution. The amount is simply a consolidated loans fund loan through the Isle of Man Water Authority. This reflects Treasury's approval to the authority's wish to borrow £75 million, repayable in 30 years' time, to provide long-term finance for their capital programme. In practice it was more cost-effective for Treasury to make a bond issue itself on behalf of the authority and to then on-lend the issue on parallel terms to the Water Authority. The bond issue proceeded successfully and a little faster than anticipated. The loan sanction of £75 million shown in this year's Pink Book for the financial year 2000-2001 was, by just a matter of a few days, in the wrong financial year.

I beg to move the resolution at item 5 in my name, Mr President.

Mr Radcliffe: I beg to second and reserve my remarks.

Mr Henderson: Mr President, I would just like to ask if the Treasury minister could qualify his comments in relation to the additional votes that we are being asked to pass here today in that he said that although there is an excess of expenditure this year, all the projects are still within the overall price that they are budgeted for and in that case everything is still on target because there could be a perception that we are in fact authorising £77 million-plus in excess votes when in actual fact it is just the fact the minister said that some of the contractors are delivering the goods early and we still are in fact within budget.

Mr Crowe: Mr President, just a small comment on the great success of the loan issue for the Water Authority, and I think we should all take credit in the Isle of Man's ability to raise money on international capital markets, but is he contemplating using this for other capital schemes in the future?

Mr Lowey: On the Water Authority borrowings, could the minister explain to me whether the reserve funds which the Water Authority has been building up over the last few years are included in excess of this for the capital schemes? And also to remark on the NSC phase 3 construction which, as the hon. minister has said, was brought forward to give us some more time to get the facilities ready for the Island Games next year and for the Department of Tourism, we have actually carried out 97 per cent of the capital schemes in the given year. What is the average percentage of take-up on the capital schemes for government overall?

Mr Brown: Mr President, I am just brought to my feet really by the comments by the member of the Council, Mr Crowe, and just give a contrary view. It has taken us 50 years of hard work to actually get rid of our national debt and get to a stage where the Isle of Man government is in a position to fund its own capital programme and therefore control the borrowing costs within house and I would certainly be saying to the Treasury minister that I would not be supportive of the Isle of Man Government actively going out to borrow money on the private market where it costs considerably more than it costs to lend our own money to ourselves, unless the Isle of Man got to a stage where it did not have the capital resource so to do, and I think that is a point I would just make.

Finally just a point that the hon. member of the Council, Mr Lowey, made, I would not get too hung up on the percentages because one of the problems all departments of government have is in fact if they have to go for planning or if there are delays on tendering or whatever it may well affect the percentage spend of departments in their capital programme and does not necessarily reflect a lack of will of trying to progress schemes.

Mr Karran: Eaghtyrane, I would like to agree with the member of the Council, it has been a very successful event as far as the bond issue is concerned. It has shown that the Isle of Man has got a higher creditworthy rate than many countries throughout the world. The issue that the hon. member of the Council raised is that we have still got reserves on top of this as far as this is concerned and obviously we have to find a way, if we are not going to come directly to this hon. Court and get direct finance, like IRIS and the incinerator, of raising the money.

I think it is wrong for the hon. member for Castletown to try and make out that we have gone this way because it is actually cheaper for us. (**Mr Delaney:** Hear, hear.) It is more effective for us than any other way and I think the hon. member needs to go back to Council and maybe argue that we should have been given an interest-free loan, but we were not being given anything for nothing, and it does sadden me at times in this hon. Court that credit does not get given to the people who are in the vanguard in this government, developing the real policies.

But what I am also standing to say as far as this is concerned is that I hope that members will appreciate that, even allowing for us getting this bond, increasing rates is an issue that many people are concerned about, but at the end of the day this hon. Court has got to make a decision on that.

But at the end of the day also the issue is we must give credit to the Treasury and the Chief Financial Officer who worked as far as this bond to get us the status that we have got where we are regarded higher than places like Japan and other places that are world leaders as far as the economies of the world are concerned, and the Isle of Man is a far safer place to

invest in and part of that is the fact that we have stability within our government system, and I think that that is an important factor that people must remember when we talk about point-scoring against each other, that stability is important for the whole economy of the Isle of Man; it is a good day today as far as that is concerned.

Mrs Hannan: Eaghtyrane, I am surprised by the comments made by the member for Onchan because in a question that he was posing before about housing he was making the opposite case, that people should not invest in areas where they could make money and now he is suggesting that we are -

Mr Karran: No, exploit people.

Mrs Hannan: Well, we are being exploited. We have enough money to fund so that the Water Authority does not have to pay this form of interest -

Mr Karran: Give us the money then. Move a motion.

Mrs Hannan: - which obviously is picked up by the ratepayers. It has not come before this hon. Court except for this facility that is here before us today.

So the only reason I got to my feet is that I am surprised that the position has changed totally with regard to an area that he is responsible for when he was making the alternative with regard to housing and people investing there.

I too have a difficulty with people taking houses out of the marketplace. I also have a difficulty with this. Water is one of the most wonderful things that we have and, yes, it costs us -

Mr Singer: Not in Ramsey.

Mrs Hannan: - and people complain about it. I am sorry, but you have water. In some countries in the world they have to walk for 10, 12 hours to pick up water and it is not water of the standard that we have in this country, and therefore for every penny that we are able to pay, and we are very wealthy, we get water and it comes out of a tap. We do not have to worry about walking 12 hours to get water and bringing it back and when we get it back it is hardly fit to drink and certainly would kill us if we were drinking it.

So let us get it absolutely in place that we are now wealthy enough to be able, with our reserves, to support water and the updating of facilities and I think it is something that maybe we should look at before we get completely into this £70 million-odd investment from the private sector. We are in a privileged position, we do not have government borrowings, we do not have huge borrowings, we do have money in reserves, unlike most other countries in the world. So it is not surprising that the private sector are putting money in: they would not give it to us if we were not in this situation.

Mr Delaney: Just a query from myself, maybe a humble man that I am. I take it that the policy I am reading on this debate has all been agreed by the Council of Ministers and that is how it got agreed to when it gets on the agenda and I think that should be clarified by the minister because I would hate to think that we are doing something which has just been agreed by the chairman on his own. I am sure he is not that audacious. He has got the agreement of the Council of Ministers to this.

Mr Waft: Mr President, there are concerns out there with the escalating water rate and to see this item on the agenda - £74 million, £75 million - we would all encourage this sort of borrowing perhaps and the bond issue and the way it has been gone about, but the problem is, as I see it, unless something is done to try and address the escalating water rate for the people who are very concerned about how they are going to pay their bills in the future, the way it has been increasing at the moment is going to get quite out of proportion and there are concerns. I would like perhaps the Treasury minister to have full discussions with the Chairman of the Water Authority and the Council of Ministers as to how we can address this for the future. Thank you, Mr President.

The President: I call upon the hon. member for Onchan, Mr Corkill, to reply to the debate.

Mr Corkill: Thank you, Mr President. I guess a number of policy issues have surfaced because of the table in the agenda listing certain things, but if I can start with the hon. member for Douglas North, Mr Henderson's concern, of course we put this item on the agenda in the way that we do in a tabulated form to make it clear publicly that in fact we are not dealing with overspending as such, what we are dealing with is an accounting exercise to keep the spending in the right financial years, and this hon. Court has to give approval for that and so this is why we are here seeking that. So I was rather concerned, having explained carefully to certain media people confidentially that there was no headline out of this, to hear a little bit of comment trying to stoke up as if there is something under the carpet that has not surfaced with this, because obviously I cannot comment prior to a debate in Tynwald about these sorts of issues when there is something on the agenda, but the item is tabulated in such a way that we try to make it extremely clear.

Now, nothing in life is perfect, particularly accounting, and therefore when capital projects move quicker or slower these adjustments have to be made.

Now, the hon. member of the Council, Mr Crowe, was the first to mention the Water Authority bond. Now, I just want to make it quite clear, bearing in mind comments from other members, that this was an opportunity, it was an investment opportunity because of the particular way that the bond market had been behaving over the last year or so, to actually peg down costs for the Water Authority, and to put it quite simply, that money which has been borrowed, which has come to the Island and is now allocated to the Water Authority, is already invested at a rate much higher than what it is actually being borrowed at. So from the taxpayer's point of view and from those who are having to pay water rates, which is obviously everybody, the deal, as it were, is a good one.

Now, just dealing with the Water Authority bond issue and let us get that out of the way, it has been a very interesting exercise, I think. Treasury has undertaken to do this, and it is not really relevant to this agenda item, but I think it is important that we make it quite clear that this is not a change of government policy at all and it was mentioned in the February budget; it was quite clear what we were doing and Tynwald Court approved that budget. So, in answer to the hon. member Mr Delaney of the Council, this has not just been agreed with the Council of Ministers, it has been agreed by Tynwald, as in fact has the whole of the water strategy -

Mr Delaney: Why are ministers asking you questions?

Mr Corkill: - which my hon. colleague from Onchan confirmed has produced that report with the strategy and in that was a tabulated chart of projected water rate increases, and I think it was a unanimous vote, if memory serves me right, that this Water Authority was so important to the Island's infrastructure, and the one thing that I am absolutely convinced that this generation has to do is improve the infrastructure of this Island because we have the ability to do it and it is a moral duty that we get on with it because we do not have too many other problems to worry about compared to previous generations who had world wars and low incomes and that sort of thing to deal with, no reserves, and so I make no apology for the strategy of getting this water dealt with for the future, and we do take it for granted. I think the hon. member for Peel said words to that effect, that perhaps we do take for granted that water is in fact a wonderful thing.

I jest sometimes with my hon. colleague that the Isle of Man may be the only place in the world where the water is brown and the whisky is white, but in fact it is these very issues of having to re-lay pipes to prevent these deposits, which are harmless and they are manganese deposits, so let us not have any hares running, that have to be dealt with. We need a new filtration works, we know that, and regarding that, in terms of Mr Waft's concerns about water rates, it is a front-loaded problem because obviously the most expensive part of the Water Authority strategy is to build a new filtration works and that is expensive, there is no getting away from it. It is a 1930s working museum, as my hon. colleague has referred to.

So the bond issue has come about as a result of the financial industry pointing out to government, as a good friend and as a good neighbour, the opportunity that existed. Now, whether that particular economic situation with the bond market will carry on, I am not perhaps qualified to say. The opportunity was taken at that time. Whether that opportunity will be there in the future will have to be decided upon, but certainly in terms of departments of government there is no change and in fact we, as Mr Brown has said, have been and continue to be very proud of the fact that we have done away with our national debt, but I do not regard this as national debt: this is an opportunity and that is the point.

The hon. member of the Council, Mr Lowey, also mentioned the NSC and the success of his department that he has responsibilities within, and that would be wonderful if everybody did this 97 to 100 per cent delivery because we would not need these sorts of resolutions. But life is not that perfect and I think in the budget speech I made reference to the fact that regarding the delivery of the capital programme, I cannot remember the exact per cent now, but it had improved greatly from previous years and so we carry on the struggle.

The other thing that I really want to make out of the Water Authority bond is the hard work that the Treasury officers put in and the Water Authority officers and the very fact that a triple A rating was secured for this Island, because there are many institutions and many countries who cannot achieve that, and the Isle of Man has achieved that and I do hope that one of the by-products of this bond issue is the fact that our financial services can use that to market the Island very successfully, and I know they are already doing that, and so every time I get the opportunity I will mention triple A rating for the Island.

I hope hon. members will appreciate that those are the points. It is an accounting exercise and I beg to move.

The President: Hon. members, the motion is that printed at item 5 on your order paper, headed 'Supplementary Authorities'. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, it seems an appropriate time to take a break from our deliberations. The Court will now stand adjourned until 2.30 when we will recommence at item 6.

The Court adjourned at 1.05 p.m.

Old Government Office – Refurbishment – Fees to Tender Stage – Expenditure Approved

The President: We turn again, hon. members, to our order paper and to item 6, the old Government Office refurbishment. I call on the Minister for Local Government and the Environment.

Mr Gilbey: Mr President, I beg to move:

That Tynwald approves the expenditure of a sum not exceeding £400,000 on fees to tender stage in respect of a scheme for the refurbishment of old Government Office.

At a sitting of this hon. Court in February 1995 permission was given for the Department of Local Government and the Environment to incur capital expenditure on the refurbishing of the top floor of Government Office to provide improved facilities, not only for the Chief Minister and the Council of Ministers, but also for the Office of the Clerk of Tynwald and the members of the legislature and, last but by no means least, the general public. At the time, it was made quite clear that this was only a temporary arrangement until such time as the department, in its capacity as the main provider of accommodation for government and the legislature, would come forward with a scheme for refurbishing old Government Office and the old General Registry building for use by the legislature and the Office of the Clerk of Tynwald.

In preparing such a scheme, the department was tasked by both the Tynwald Management Committee and the Keys Consultative Committee to consider all reasonable options and, after considerable discussion at both officer and political level, several options were identified that were finally narrowed down to just two. The first option entailed the refurbishment of the old Government Office and the old General Registry building plus the construction of a new link between the two buildings, whilst the second went further in that it included the demolition of the strong room annexe to the old General Registry and the construction of an infill building, thereby consolidating all three buildings into one complex.

After considerable discussion and consultation between all the relevant bodies it has been agreed that the department should commend the second option for approval. Essentially there are two reasons for this: firstly, it is this option which best meets the requirements of the proposed occupants and users; and secondly, from a property management point of view, this option makes the best use of what is a very valuable site.

Whilst at this stage I do not wish to go into too much detail and indeed, as explained at the presentation to members last week, much of the detail has yet to be finalised with the Tynwald Management Committee and the Keys Consultative Committee, I should like to briefly mention some of the improved facilities which the new development will provide. At this stage I would like to thank those hon. members who did come along to the presentation.

Returning to what will be provided, there will be shared offices for the members with interview rooms for meeting their constituents in private. There will be improved library service for both members and the general public and, given that the library is the sales point for many government publications, the provision of extra space will be a bonus. This will be easily accessed at ground floor level. There will be an opportunity to increase the size of the Tynwald chamber which, for the first time, will provide access to the Tynwald chamber for the disabled. Generally, there will be better access and circulation for all occupants and users with a new rationalised entrance off Finch Road. There will be additional room for the staff of the Clerk of Tynwald, who are presently having to operate in cramped conditions.

This window of opportunity to redevelop has taken place partly as a result of the phased redevelopment of the land commonly known as the 'government triangle' site. I should stress that this is a one-off opportunity which should be grasped, as the retention of the present unsatisfactory situation is not a viable proposition.

Therefore, the motion before members is in respect of fees not exceeding £400,000, which will carry the scheme up to the tender stage. This is likely to take approximately 18 months from the appointment of the consultants and realistically it is likely to be the first half of the year 2002 before the department will be in a position to come back to this hon. Court for the further advancement of this scheme. Mr President, I beg to move.

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

Mr Henderson: Mr President, I rise to support this scheme for various reasons and I am quite pleased to see that it has advanced to this stage, and I was pleasantly surprised at the presentation which I attended and certainly by the officers' help in assisting me with my enquiries in providing me with various diagrams which other members may not be fortunate enough to have this afternoon. But, in progressing my support, there are just one or two things I would like to point out and highlight, and one certainly is the cramped conditions that exist within the Clerk of Tynwald's Office, and indeed the facilities for members themselves which are, I think it is fair to say, more than cramped at times and it is impossible to work effectively and meet the needs of the community with everyone working away in the one room, and I welcome the ideas that have been generated here to put that straight, and hopefully I will be lucky enough to appreciate those facilities when they do come on stream. It is something that I believe is long overdue and it is nice to see this site being utilised fully to produce the goods.

What I would say to the hon. minister is, though, not to give the impression that here we are today voting in some plush offices for members but something that will be good, effective and enable members to help their constituents and progress the departmental work more effectively. It is not a case of going out as members expending money on themselves, it is a case of being effective, and I am not supporting any plushness whatsoever, I am supporting effective facilities with reasonable furniture and structures in place, and that is a point that the department need to get over when they are doing the PR with this.

I also welcome the new positioning of the Tynwald library. I think that is a great idea. It is on the ground floor, it is eminently more accessible for the general public and also the disabled access to it (**A Member:** Hear, hear.) - well, we have got a lift to the third floor but it is still difficult, very difficult for people, in fact. The Tynwald public library, I think, is almost a hidden resource from the general public. Some of the more interested members of the public

in the community know of its existence, but I think there is an opportunity here when this comes on stream that some good regular PR and advertising needs to be undertaken to show the public that this great facility is there. Time and time again I get queries from the general public about checking debates and things and this facility is there, the *Hansards* are available to them to come and have a look at, and I think they should be made more aware of that. I like the idea of an additional library store because I am only too well aware of what happens to valuable information and literature if it cannot be stored. In my former job I saw rakes and rakes of valuable information having to be ditched, basically, because it could not be stored - valuable reference material; I notice the Health minister is looking a bit shocked but it was all right (*Laughter*) but, nonetheless, for educational purposes and career progression it was a sad day to see it go out in bin liners, so anything to help the storage and improvements in that section has got to be good.

Again, I would ask the hon. minister who is moving this today to ensure that the message goes out clearly to the general public that this is not an exercise for members of Tynwald or MHKs just voting in things and facilities for themselves. These are public facilities as well, and we are also talking about disabled facilities, and I think it is great that we are looking at something to enable disabled folk to access this actual chamber. That has got to be a plus, those are the kind of signals we want to be sending out, and I would ask the hon. minister to ensure the departmental PR is on form for this one and make sure that people and the press realise what it is we are attempting to do here. It is not building our own nests, it is building something for the public as well and for their information. So, overall I am pleased with this and look forward to a speedy progression and implementation of everything I see before me in the plans.

Mrs Hannan: Eaghtyrane, I agree with everything that the member said who has just resumed his seat, but I think another addition to this which I do not think has been mentioned is that it does actually relieve office space for other areas. Tynwald vacates the offices that they are occupying at the moment and therefore it frees that space up when this other development takes place, and I think that has got to be the advantage; knowing the value of office space in and around Douglas, then to relieve some of that there are additional advantages to the taxpayer in the event of that, and I think all that this scheme does, but also freeing up that accommodation so it can be used by others, in actual fact is an added incentive for doing this and therefore I believe that this investment is very worthwhile when you think of the investment that was put into Murray House, which cost something like £5 million to purchase in those days, and therefore I think this amount of money to get to the tender stage is money well spent when we are looking at freeing up of other office accommodation and also making work off government and the three Houses of Parliament easily accessible to members of the public, and therefore I will be supporting it.

The Speaker: Mr President, this is to be wholeheartedly welcomed. I believe that as the Island operates in a global economy projecting itself worldwide it needs to enhance the parliamentary setting, it needs to improve its availability to the public and this project does all those things. To the left of the white building known as 'The Wedding Cake' the untidy backs of buildings will be enhanced, the public will have proper access to a parliamentary library, a proper access for the purchase of government documents and circulars. There will be a better access to parliament and there will be better facility for members to serve the community to

which they have been elected and are asked to represent (**A Member** Hear, hear.), and on the balance of all that and as we move into the new millennium and as the Island continually projects itself onto the world stage in the global economy I believe that this motion should be wholeheartedly supported.

Mr Shimmin: Mr President, I too will support the motion. However, I would make a request of the minister if he is able to answer today. By supporting the motion today we would be advancing the case so the drawings could be brought to a level that we could consider once again as Tynwald. My concern is that once the design is well advanced, it is then too late for many members to actually put forward views which they may not be in agreement with. Certain proposals which have come forward at the meeting which the minister held indicate certain changes to this chamber and other areas, and it would be useful for members to have an input into the architectural design team before they have produced a full complete picture which is then voted for or against. I would therefore urge the minister, if it is within his power, to ensure that as the project proceeds there is an opportunity for members to have an input as the picture becomes clearer. Thank you, Mr President.

Mr Brown: Mr President, I fully support this proposal to advance the improvement to the building we call the 'Wedding Cake' building, which is the old government offices and area, and I would congratulate the minister for at last progressing this scheme because I think it is very unfortunate that we have lost two years plus when the previous minister would not bring this scheme forward, and I would make the point that in my opinion I believe we should move to a stage where matters involving the legislature should financially come under the control of the Tynwald Management Committee to ensure they are looking after facilities for members. As the hon. member for North Douglas made the point, what we are talking about here is not provision of facilities for government departments; and of course ministers have accommodation within their own departments and on occasions - and I think all of them do - allow members to have facilities there. But we are talking about members having adequate facilities to efficiently and effectively look after their constituents and others who they are representing and to scrutinise government policy. We have advanced quite some way since the early 1980s and what we have now was a temporary stop and, as the hon. member for Peel made the point, we are paying to the private sector for office accommodation whilst we are utilising space within the 1977 Government Office, the red brick building, and this will in fact enable us to move forward to provide proper facilities for members and to ensure that we can then move out of the private sector rental into our own property, other offices like the Attorney-General et cetera.

So I welcome this very much and I would just make the point that the hon. member, Mr Shimmin, made, just echoing that, that I hope, whilst we are getting the drawings undertaken, that the priority for this building will be for use by members of the legislature. If we are not providing members with adequate facilities they cannot effectively and efficiently look after their constituents and, if necessary, scrutinise government in the way that is expected, and I think that has a far higher priority than just making the scheme look right in terms of how it may be presented. At the end of the day, whatever we put in that facility is going to cost money because it is an old building that needs refurbishing and, in my view, a very important old building that some may well say should be actually protected, but I think that we need to

ensure we have the right facilities when this is done and that, I think, is the point the hon. member, Mr Shimmin, for West Douglas made.

But I do support the minister wholeheartedly, I congratulate him in getting here, and the sooner we can get this thing advanced for the benefit of the Island, then the better it is.

Mr Bell: Mr President, I only have one point to raise, really. I obviously fully support this scheme for the various reasons which have been outlined, but I do take up the point which was made about the need to tidy up the rear area of Government Office, which at the moment certainly does not enhance the prestige of a parliament building.

I just wonder if the hon. minister could give us any information at this stage, at least, whether it is his intention, whilst this redevelopment takes place which, I am sure, will enhance the appearance of the building, that an opportunity will also be taken to deliver on the promise which was made to this hon. Court a few years ago when the courthouses were built to landscape the area which is currently being used for temporary parking at the back of this building. A categorical assurance was given by Mr Callin at the time when he moved the resolution for the development of the courthouse that an opportunity would be taken to create a green lung in that area at the back of Government Office. We are getting more and more concrete in this part of town; I think it would be an excellent opportunity to at least make one small concession to providing a limited area of open space in this vicinity, not only to enhance the appearance of the courthouse and the government office buildings itself but also to provide people working in this area a small area to relax, in perhaps, at the lunchtime or whatever.

I appreciate that we do have a parking problem in the town (**Mr Henderson:** Hear, hear.) but I do not believe that should necessarily be allowed to override all other considerations, and we do have a wonderful opportunity here to link the landscaping of that particular area with the redevelopment of this Government Office to provide an extremely attractive environment for everybody concerned in the area.

Mr Lowey: It is getting a bit monotonous, Mr President, however. (**Members:** Hear, hear.) I am on my feet really on two fronts to say I support the resolution before us. There is never a right time to invest in facilities, but again, as has been said by members, it is for the public, it is particularly for the workforce that we employ, because I believe that their efficiency will be enhanced if they are given modern conditions in which to work, because I defy anybody to tell me that the conditions they are working under at the moment are anything less than Dickensian.

I am also on my feet because I know that the Treasury minister this morning said the Island has a reputation for being a triple A jurisdiction. Well, we can only be a triple A jurisdiction if the services we are providing, and that certainly includes government, are up to triple A standards and I think this is an investment in that. I just thought it was a little sad when I read in today's newspaper the comments that somehow the Legislative Council were responsible for this and, as we would not be about, there was not much case being made actually to do it. However, I think it becomes a little rich when the press, who already have a purpose-built building for their workforce and for their services to be provided, then complain when we say in this Court that our people should be given the same, and I believe in the right

interests of the Isle of Man this is the right decision, I commend the minister for having it here on the floor and I look forward to the occupants moving in sooner rather than later.

Mr Karran: Eaghtyrane, I must disagree with my hon. colleague for Council as far as this is concerned. I find to hide behind the fact that we are going to get disabled access in here when it is going to cost us somewhere in the region of about £6 million - to talk about the reason why I am on my feet, I would have said nothing, but when I listened to the hon. member for Castletown talking about, 'Oh, we need all these facilities for better scrutiny' and here we see in another place only the other day where we have brought in standing orders that will bring us into a situation where there is going to be less opportunity to put in the input that will be needed in the legislation. I find it absolute crass hypocrisy in this Court to try and make out that to use these sort of things when as a senior member of this Court I see less input in scrutiny by individual members, if the truth is known, than there was 15 years ago, and as far as I am concerned I will not be supporting this proposal in front of us today. I do not think that it is not a worthy project in many respects as far as doing something with that property down there, but I question that we need to seriously look at ourselves. A few more extra office facilities for members of Tynwald to make us more effective? It is nonsense. I see this government allowing ourselves to make members more and more impotent, and new offices are not the way forward in order to try and con the people outside.

As far as the £400,000 is concerned, what concerns me is, will we have a situation over the more they spend the more they get, and what sort of controls will be put on this development to control the costs? I think the minister needs to tell us that, because far too often there is no incentive in government projects to be efficient with the taxpayer's money because the fact is that it is not in their interest because the more they spend the more they get, and we have only got to look at all the other projects, and I think we should be making a stand -

Mrs Hannan: Like water.

Mr Karran: - as far as this is concerned. The hon. member mentions water, we actually put it out to tender, as I say, and we got reprimanded over that. It is a shame she does not know her facts.

Members: Ooh!

Mr Karran: Now, the next point that concerns me is when I hear the hon. member for Ramsey talking about us needing this green lung. We all agree we want that green lung, it would be lovely to put grass where all those civil servants park on a daily basis, but as his government has failed to sort out the car parking problem (**Mrs Cannell:** Hear, hear.) and the people who will be affected by the removal of those car parking spaces are not the chief executives who all have a private car parking space; it will be the ordinary low-paid, low-ranking civil servant, and I think before we do anything about taking that away, which has a considerable value to many of our civil servants, we should be sorting out the car parking problem for these people rather than trying to hide from it.

So I was not going to speak but, especially after hearing the member for Castletown, a senior member of this government, I worry that we are being bought off with facilities when the power of individual members is in ever-decreasing circles (**Mr Houghton:** Hear, hear.) as far as getting things done, and more and more the civil servants have got more power than the

members (**Mr Houghton:** Hear, hear.) in this hon. Court, and it is wrong to support this, in my opinion.

The President: I call upon the minister to reply to the debate.

A Member Thank God for that!

Mr Gilbey: Mr President, thank you very much. First of all I would like to thank Mr Crowe for his seconding and then Mr Henderson for his support and for also attending the presentation. I agree that the development should be of a good and effective standard but not over-luxurious or over-plush (**A Member** Hear, hear.) I would certainly personally support that. I also concur with him that we should get the services of our library better known.

I would thank Mrs Hannan for her support. As she rightly says, the redevelopment will free up the present half of the top floor which is now occupied by the legislature, the Clerk of Tynwald and the library, and this will enable it to be used by sections of government.

I would like to thank Mr Speaker for his support. As he says, the development will certainly greatly enhance the site, which is an appalling mish-mash at the moment.

In reply to the member for West Douglas, Mr Shimmin, I certainly confirm that Tynwald will approve the final contract, as it does all major contracts. He says that he would like input from members, but frankly I am sure he will agree it would not be possible to have the individual input from 33 people who might have 33 different views. However, I am certain that the Tynwald Management Committee will ensure that that committee has a major input into the design and I would therefore suggest that it should seek the views of members at the design stage perhaps by having a meeting with all the members which will be attended by the design team. That would seem to me a sensible way of doing it.

I would like to thank the hon. member for Castletown for his warm support and also the hon. member for Ramsey, Mr Bell. Regarding the area now used for temporary parking, this will need to be used temporarily by the construction team while the rebuilding of the old Government Office is going on. Once that has been completed, that site will then no longer be needed by the construction team and we should have plans ready to decide what should be done with it once the construction team no longer want it.

I would like to thank the hon. member of Council, Mr Lowey, for his support, although personally I have no comments on his reference to the press as I have not seen myself what they have written.

The hon. member for Onchan, I hope, will on reflection support the resolution, because I would like to point out to him the following facts. First of all, the redevelopment will release from the use of the legislature the Clerk of Tynwald's office and the library, half the top floor of the existing government office, and therefore will enable that space to be used by parts of government. But, as a further point, at least for a number of years initially some of the new offices that will be developed on the proposed development site will be used by the government, although the majority of the area will be used by the legislature. But when we talk about the legislature we must remember it is not just the members; as has been explained, there is the Clerk of Tynwald's Office, who of course are entitled to have as good an office accommodation as the civil service, and it also includes the library, so I think that as it is going to have this varied use and as it is going to release the half of the top floor that is used at the

moment, it is fully justified. I am sure that we should proceed with it and I am sure that we should proceed with it, and I hope on reflection the hon. member will decide that he can support the resolution. I beg to move.

The President: The motion, hon. members, is that printed at item 6 on your order paper headed 'Old Government Office Refurbishment'. 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, Rodan, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Corkill, Cannell, Gelling and the Speaker - 19

Against: Mr Karran - 1

The Speaker: Mr President, the motion carries in the House of Keys with 19 votes in favour and 1 against.

In the Council -

For: The Lord Bishop, Messrs Lowey, Waft, Dr Mann, Messrs Kniveton, Radcliffe, Mrs Christian, Messrs Delaney and Crowe - 9

Against: None.

The President: Hon. members, with the Legislative Council voting 9 for, none against and the Keys 19 - 1, the motion therefore carries.

St John's – Landscaping of Coill ny Ree – Expenditure Approved

The President: We turn, then, to item 7 on the order paper, again in the hands of the Minister for Local Government and the Environment, Mr Gilbey.

Mr Gilbey: Mr President, I beg to move:

That -

- (i) Tynwald approves the expenditure of a sum not exceeding £262,200 for the development of the landscaping scheme at St John's Sandpit, Cooil ny Ree;*
- (ii) Tynwald authorises the Treasury to expend out of the Capital Transactions Account during the year ending 31st March 2001 a sum not exceeding £19,000 for additional expenditure on this project.*

In March 1993 this hon. Court gave permission for the then Department of Highways, Ports and Properties, as the agent for the Tynwald Ceremony Arrangements Committee, to purchase the redundant sandpit at the rear of Tynwald Hill. The intention was that in due course a scheme should be drawn up to create on this site an important amenity for the enjoyment of the general public. Unfortunately, due to other commitments, it has taken some considerable time to consult all the relevant government agencies and environmental bodies to reach a consensus on how best to proceed returning this site into an asset both for St John's and for the Island as a whole. I am pleased to say that this consultation has now been completed and the department is able to come forward with its proposals.

The site is currently overgrown with mixed woodland trees, shrubs and undergrowth. Examples of the common spotted orchid are present and an area in the centre of the site consists of seasonal wetland covered with willows. Essentially what is proposed in the master plan drawn up by the department's specialist landscape consultants is that the area should be developed by integrating the existing areas of natural flora with areas of ornamental planting. This is seen as best meeting the aims of nature conservation and approving amenity facilities in the vicinity of Tynwald Hill and the fairfield. The central feature will be an avenue of trees on an east-west access running from Tynwald Hill with additional features and sculptured elements that reflect past, contemporary and future elements of life in the Island. For the first of these features it has been decided to commission a statue of Godred Crovan, otherwise known as King Orry.

The sum of money currently being sought will allow the basic infrastructure to be put in place. This will include a viewing platform from the top of the area at the rear of Tynwald Hill and a network of pathways including a timber board walk for the seasonally wet area in the bottom of the former sandpit. The main entrance will be near Tynwald Hill. Thereafter further phases will be undertaken as and when funds become available. Subject to this hon. Court's acceptance of this motion the intention is to start work on the site at the end of May with a view to the infrastructure being completed and the area opened officially on Tynwald Day 2001. I beg to move.

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

Mr Henderson: Mr President, I am quite supportive of this particular project, especially as it has been bought for the public of the Isle of Man. If it is going to be as successful as the arboretum and the growing popularity of Garey ny Cloaie from where we had the garden party last year I think it can only be tremendous. It is an added facility and expands what we have already got there. I think it is an excellent idea and any purchase of land for the public has got to be good.

I would draw to the minister's attention, though - he already has mentioned them but I want to flag them up out of my own interests - that in developing this area the Bronze Age burial site towards the edge of the site should be taken careful note of. He has mentioned the wetlands but I would ask him to take careful note when they are progressing this of those wetlands because there are orchids and other rare things growing in there. It would be nice for the public to enjoy that as much as they can with interpretation boards and so on so they can realise the value of the area, not just a formalised section, which is nice, but come and see some of the wilder side of things, and I would also ask for caution on the Peel Road side of the project where it is known that lizards which are a protected species are living at present, which again would be nice for an interpretation board so the public can enjoy some of the scarcer wildlife of the Island. Otherwise, Mr President, I am happy and content with the project.

Mr Downie: Mr President, I too am fully behind this scheme and I also would like to advise members that we will have great pleasure when the scheme is adopted by the Department of Agriculture, Fisheries and Forestry. Members will know that we are moving a lot more now towards amenity forestry and countryside and wildlife and when the members come along to the presentation of our forestry policy they will see that there is much more emphasis on that side of our operation.

However, I would like to put a marker down today. I unfortunately was not here when Godred Crovan was about (*Interjection*) so I have no idea what he looked like but I will tell you, hon. members, I would far rather take that area over, Cooil ny Ree, with a statue of Sir Charles Kerruish in it (**A Member:** Hear, hear.) who has done something in my lifetime and who I am very, very proud to be associated with, and I would ask the minister to bear that in mind when he is looking at the layout of the gardens itself. I think it would be a more fitting tribute to have somebody with his background and service recognised in there as would some guy who came in here and stole a few sheep (*Laughter*). Thank you.

Mr Radcliffe: Mr President, I feel I have to say that I cannot at this moment see the need or the urgency for pursuing this particular project at this particular time. It will, of course, be very nice to have a third amenity area at St John's but surely, priority-wise, this particular project should be down much further down the list. It certainly is well down in my list of my priorities and if the minister really meant what he said this morning, and I quote, 'More houses are more important than windows' then surely more houses must be more important than developing a former sand hole, and that is all it is.

This item on the agenda as it stands seeks the sum of over a quarter of a million pounds to be spent, as I say, on this hole in the ground, and this is only the start, hon. members. It will not be the final figure by any means. In fact, the hon. minister has said this is the first phase; there will be further phases. The minister also mentioned such rarities as spotted orchids, the hon. member for North Douglas has mentioned the lizards, and I feel quite sure that in order to try and protect these rarities costs will inevitably escalate. I also ask myself how many people will use the area when it is completed. We have, I suppose, all of us been walking in the arboretum at times. Certainly I have been in there on occasions and there were not too many people about, and I feel that this particular area will be the same. After the first rush and the big wonder of it all, people will then be rather scarce, I feel, walking round about in the place.

The fact is that money is available for departmental schemes of all sorts, but I would say again, let us get our priorities right. I ask the question, would it be a disaster if this scheme is not furthered at this time? Certainly it would be no disaster. It has already been held in abeyance for some years and it would take no harm by being held off for quite a while longer.

I would say that the department and government would rise immeasurably in people's estimation if this money were to be spent, and other moneys of like ilk, were to be spent in trying to help our young people achieve their ambition in life, which is to have their own house and, no matter how modest, to have their own property.

I will not be supporting the proposal, Mr President; in fact, I will be asking for a vote against.

Mrs Hannan: Eaghtyrane, I think, if members can just think back two years, this particular area was a little wonderland all to itself. It did not need us to come in and interfere with it to improve the wildlife opportunities for this area. It was a wildlife area. There were trees, birds, spotted orchids, whatever. It did not need man to interfere with it, and yet we think we are so superior that we can go in and we can make improvements to it. This was an area of reconstituted woodland. It was a wet area. It was an area where there was undergrowth where birds lived quietly and privately without us interfering with them, and all the time conservationists, farmers, naturalists, all the rest are complaining about the loss of birds and

habitats and all the rest of it, and here we are here today suggesting that £262,200 should be made available to the landscaping of this area, and we are told that a statue of Godred Crovan is to be mounted there. Now, anybody who has seen the statue that has been proposed of Godred Crovan - it is about 100 years old so it is very Victorian and, as the member for Douglas West said, we would not recognise him but maybe we could get George Cowley to pose for the event. I am sure he would not be too far away from Godred Crovan and George would welcome that.

But there is a serious thing here: to introduce sculptures and all into the landscape is fine. We have plenty of walks within glens and forests where we could do that, and I am just a bit sad that we think we are so superior that we have got to come along and lay out gardens and all the rest when this was an area in our ownership which was not threatened at all, and we could have left it so that it was a wild area dedicated to nature. I am just sad that not necessarily we but man thinks they are so superior that we have to change all of that.

On a different note, I am concerned that the entrance to this is alongside the main Peel Road and I do think that, certainly if there has not been consultation with the transport people, then a barrier should be put up alongside the road there. I really think that it is something which should be looked at in very, very serious terms as there have been accidents there in the past and I would not want to see another one of people visiting and children running out of there. So I would hope that issues such as that can be addressed, but I am just sad that we think we are superior.

Mr Delaney: Mr President, all I would have done if I had stood up is congratulate the minister on this and the last item, but I have risen to my feet as I thought, and I am sure the majority of members in this Court certainly who have been interested in the subject for more years than I can remember in housing thought, that if this would take one bricklayer, one labourer, one plasterer of a building site who are building houses for our people this would not have a hope in hell of going through but, as I understand it - unless I have been misled - we are talking here about a gardening project, not a building project, and the amount of money, by the way, we are talking about on this, unless the resolution is wrong and there is something else going on I do not know about, is something that may at the present-day prices build three houses to get this job done - *may*.

Now, I am confused, as usual - nothing new in that for Dominic Delaney and I am prepared to admit it - but I thought this once again was a government project led by the minister on behalf of the people of the Island through the Council of Ministers, which includes the Treasury, and therefore this was getting that support, but if the case is not so, I would like to know, because the members of this Court, the majority, would jump to their feet if anything they thought, as I said, was slowing down the government main aim and thrust of supplying homes for our people, and if this is going to do it I want to hear somebody who is in the driving seat telling me this could be the position, but I have been assured and I went to the exhibition; I have been out this last fine day to look at the site, to remind myself what the site was like, and I have got news for the members who may not have been out there: it is wildlife park, but unfortunately modern man has deposited broken bottles, an old pram and some plastic bags in a great majority there which could be cleaned up, I grant it, but it has not been bothered with and, as I understand it, plastic bags and cans and things are dangerous to nature - I am learning quickly, I suppose, too late in life, but that is what I am told.

Now, I feel if that is the situation that this wants to be looked at and we are going to keep it as a wildlife park we will have to do something with it like put a walkway through it and indicate and put some sort of system that people can get to see it, because I am sure that one of the beauties of nature is man's ability to view nature, but he cannot view this. I have tried. I know I am not as fit as I used to be, but I have tried and with great difficulty. I got about seven, eight feet into the site. So something is going to have to be done with it if we are going to enjoy this piece of nature in all its splendour, plus plastic bags.

I support it in the understanding that the government support it - that means all the government. Individual members have the right to vote against it, but I would like a clear picture to go out. This has been on the cards a long time in the background, and if that was the case people should have been speaking up before now, before we got to this position, because I spent an interesting lunchtime; a very nice lunch or sandwich was given to us and a very good explanation by the officers concerned. That took money to do that - not a lot, but it took money and time, and if it was not going to be happening it should not have happened. I support this project in the way it is intended. If somebody else has got an idea of leaving it as some wild bird sanctuary, that is what should have been in front of us because it has been around long enough to talk about, but do not give the illusion that our people are not going to get houses because we are doing this to an old sandpit. (**Mr Cretney:** Hear, hear.) It is not true. It just is not true, and I think that is the worst reason to vote against this, (**Mr Cretney:** Hear, hear.) because it might stop the main aim of government of putting houses up. It is not true, Mr President.

Mr Shimmin: Mr President, it is becoming a little bit tiresome listening to some of the mischief being propounded by the previous speaker which is on every issue that is coming in when this is a collective vote, and now we have this afternoon the fact that a member of the Treasury had the audacity to actually raise a personal view, which I would have thought in the parliamentary context is exactly the forum in which he can do it. Like Mr Radcliffe, I do not find this high on my priority lists. However, much of what the previous speaker said I do endorse entirely. This is not at the expense of prioritising away from those issues which we all hold dear. I do disagree with Mr Radcliffe when he says, how much use does the arboretum get? As a father of a young family we are regularly out there and have enjoyed it for years and I continue to believe that many, many people on the Island (**A Member:** Hear, hear.) do enjoy that area and will enjoy this one when it is developed. The comments of the previous speaker are exactly right: it is no good having these havens of nature that are inaccessible to anything other than the most determined naturalist. (*Laughter*)

Mr Delaney: You do your own thing! (*Laughter*)

Mr Shimmin: I will let you work out which way it should be! Mr President, we have to get access into some of these areas, and the nature in which the designs which we saw last week showed that this is going to be a sensitive way of letting the members of the public - by nature many members of the public are busy people with limited time - enjoy their leisure time having access into the countryside. I am delighted to be a part of something which is going to actually be there long beyond any of these hon. members in the Court today. We as a government often talk about having plenty of money in the coffers; then surely, at times something for the beautification of the Island is a necessary and worthwhile expense for the people of the Island rather than all of the time we spend on the more material matters which are all of concern to

us, but this is one which is a good scheme, should be supported. It is not at the expense of other areas and I endorse everything that Mr Delaney had said from the Council, excepting his position of taking up Mr Radcliffe's right of freedom of speech. *(Mr Delaney interjecting)*

Mr Lowey: Mr President, I am on my feet, really - I am worried because it is the second time I will be supporting the Minister for Local Government. That is not a problem. The second thing is that I want to know what this Court has got in for Godred Crovan this month. Last month you voted for him to be one of the patriots (**A Member:** Hear, hear.) *(Laughter and interjections)* of the Isle of Man at the last millennium and then a month later you are throwing stones at the chap. Well, I did not know him. I knew his brother but I did not know him *(Laughter)* but, seriously, hon. members, there is no doubt at all about the St John's site being one of historic importance to the Manx nation. It is, and it came within that of being declared one of the world's heritage sites within that. It is right and it is proper that the opportunity should be taken to enhance that area. It is the spiritual home of Manxmen who have gone overseas and, coming up to our national day, I would have thought this Court would have been totally united in taking into ownership another piece of scrub land at the moment.

Yes, I listened to what my good friend Mrs Hannan said, the hon. member for Peel; that was the argument that was used in 1978 when I was in this Court when we decided to build the arboretum. There is nothing wrong with it now. It is farmland, it raises a few sheep and it has got the wildlife. Now, if anybody can tell me that we have not enhanced that area (**A Member:** Hear, hear.) then I am prepared to argue with them. As far as I am concerned I think that is a lasting tribute to the millennium. This could be the first step - and I use the word, I do not dodge it - in enhancing the back of the hill. I believe that St John's, which is a little village, should not be developed too much, but I do believe this site is of such historic importance to the Manx nation that wherever possible the government should be in control of it. This is an enhancement of our spiritual home and I would urge everybody to support it.

The President: I call on the minister to reply.

Mr Gilbey: Thank you very much, Mr President. I would again like to thank the hon. member for North Douglas, Mr Henderson, for his support. I certainly note his point about the Bronze Age burial site being protected and, as I have said, it is the intention to protect the valuable flora there.

Mr Cretney: And the lizards!

Mr Gilbey: The hon. Minister for Agriculture pleases me in that he is keen to take over the site for his department as soon as possible. He suggests a statue of Sir Charles Kerruish instead of Godred Crovan. Well, this is not a matter for me or the department to decide; this is really a matter for the Tynwald Management Committee to consider and I am sure, having heard the suggestion, they will give it due thought.

Now, the hon. member for Council, Mr Radcliffe, knows very well that I personally would not have initially embarked on this scheme despite the fact that it is in my own sheading. However, I must point out that this hon. Court decided in 1993 -

A Member: That is right.

Mr Gilbey: - to purchase the site with a view to developing it as public open space and therefore the Council of Ministers and the department have followed the instructions of

Tynwald, and personally my attitude is quite clear: that once it has been decided to proceed with a policy or a project I believe one should support it in every way possible regardless of one's own initial views. I have done this with the hospital. I have always said we should have redeveloped Noble's, but once the decision was made I strongly support what is now proposed and believe everyone should work, whatever their previous views, to making sure it is a success.

However, it would be ridiculous to say that this proposal is in any way detrimental to our drive for housing. Firstly, we can afford, fortunately, the cost of this plus whatever we may need to spend on housing. Secondly, there are far better sites for housing development and we are not taking this away as a housing site. If it was zoned for housing it might be totally different but it is not zoned for housing.

The hon. member for Peel, Mrs Hannan, would prefer it left wild. Now, she may be correct in this. However, I would say to her and to Mr Radcliffe that having spent £70,000 on buying the site it would be absolute madness to leave it completely wild and do nothing with it. At least, as Mr Delaney says the very smallest thing we would have to do is make it so that people could enjoy it. So I think, having bought it, having decided on the general policy we should go ahead as is now proposed. Regarding road safety that will certainly be taken into account.

As the hon. member for Council, Mr Delaney, says we are talking of a landscaping scheme to produce an area of public open space of a very high standard for people to enjoy. We are not talking of building construction, and I again emphasise that what is proposed here will in no way be detrimental to our housing policies.

I totally agree with the hon. member for West Douglas, Mr Shimmin, that Mr Radcliffe has a total right to express his views whatever they may be and whenever he may hold them. I certainly accept the hon. member for Council Mr Lowey's very good point that only last month we accepted King Godred Crovan as a Manx patriot and it now seems a bit strange that we do not want his statue, but certainly it was the decision of the Tynwald Management Committee that we should have his statue there and indeed the outline of a statue was agreed, but I am sure the committee will consider the point that has been made that there should be an alternative statue. Mr President, I beg to move.

The President: Hon. members, the motion is that printed at item 7 on your 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, Rodan, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 20

Against: None

The Speaker: Mr President, in the House of Keys the motion carries with 20 votes in favour and no votes against.

In the Council -

For: The Lord Bishop, Messrs Lowey, Waft, Dr Mann, Mr Kniveton, Mrs Christian, Messrs Delaney and Crowe - 8

Against: Mr Radcliffe - 1

The President: Hon. members, there are 8 votes cast for and 1 against in the Council, 20 for in the Keys. The motion therefore carries, hon. members.

Road Vehicles (Maintenance and Use) (Amendment) Regulations 2000 – Approved

The President: We turn to item 8 on the order paper. I call on the Minister for Transport, hon. member for Castletown.

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

That the Road Vehicles (Maintenance and Use)(Amendment) Regulations 2000 [SD No 178/00] be approved.

I move today new regulations which we believe will improve road safety. Hon. members have had an explanatory memorandum which has been circulated and which gives more detail. The effect of the new regulations is to prohibit persons from driving motor vehicles while using mobile cellular telephones which are held in the hand. The regulation does not apply to the use of such apparatus in motor vehicles which are parked, whether by the roadside or elsewhere. Whilst driving, using hands-free mobile phones is not prohibited under these regulations.

The object of the proposed regulations is to ensure that people do not use mobile phones in circumstances in which they could cause an accident by inattention. Hence the regulations will cover driving, do not extend to parking and cover hand-held mobile phones rather than mobile phones generally.

Extensive consultation was undertaken by the department on this issue, and I thank those who participated in that for the comments that were made, and amendments were made to the regulations based on some of the comments that we received. I therefore beg to move the motion standing in my name.

Mrs Hannan: I beg to second.

Mr Braidwood: Mr President, I was going to second. I am very pleased to see this regulation introduced and that the department had the foresight to follow my suggestion in May of last year and introduce this legislation to prohibit the driving of motor vehicles while owning a hand-held phone. I am sure that the majority of the general public will support this ban as we already know that many accidents have been caused and fatalities, the majority of them in the UK, where the attention of the driver has been distracted whilst he has been holding a conversation.

Mr Downie: I, too, rise to support this. It is long overdue. There are a lot of people who, in my opinion, are driving in a manner which is likely to cause danger to other road users by being on the telephone and not giving their full concentration to traffic. I would just like to ask the minister if he can clarify whether this issue actually comes into force with immediate effect or there will be some appointed day. He has indicated that leaflets will be produced. I would suggest that perhaps at the Quarterbridge, as part of the TT, if you can get it in, he puts a sign on the bales there to say that anyone using a portable telephone whilst driving will be

committing an offence and will be liable to a fine of whatever it is, and that we get it in as quickly as possible. Thank you, Mr President.

Mr Cannell: Mr President, I would like to raise a couple of observations on these regulations which I welcome to some degree, although I must confess to having been a transgressor previously on some occasions.

I am not certain that the observation that hands-free sets by drivers could be safe. I thought I had read in a reasonably responsible newspaper publication only the other day that in fact the opposite had been found. But there are many sundry distractions when driving vehicles which can pose at least the equal of doing this. You can have families kicking up a shindy. You can be eating. Someone the other day, apparently, was let off after originally being picked up for eating a Mars bar while driving down the motorway.

Mr Delaney: Listening to Question Time on Manx Radio!

Mr Cannell: And there are lots of other things which can distract you. I think it is possible, because I have done live radio commentary with a hand-held phone admittedly on closed roads during the cycling races and I have also driven a car where a hands-free apparatus has been picked up and clearly the latter is more acceptable. But it is not any different, in my opinion, talking on a telephone to talking to anybody in the back of a car - the front is different - but trying to address someone in the back of a modern car with head restraints and all the noise inhibition material which has been put into the cars these days is a very tricky thing to do before you ever get on to the fact that people can be changing their radios, they can be doing all manner of other things which are equally distracting.

Then you come to something that does not appear to be covered. If you have a hand-held telephone and you are not holding it in your hands, what is to stop you doing that with it?

Mr Cretney: How is that going to be reported in *Hansard*?

Mr Cannell: Plenty of people do it. I did it in the interest of research at lunchtime. You can drive along having a conversation, as nearly every woman would tell you when they are doing the dishes and heaven knows what else, and still be talking quite adequately on the phone -

Mrs Cannell: And the men! (*Laughter and interjections*)

Mr Cannell: - as my bill will testify. It is only a minor point, but what would be the position if someone was to say, 'Right, we won't hold the old phone in our hands like this, we will drive along like this and talk on the telephone'? Is that prosecutable, or is it not?

Members: Yes, yes.

Mr Cannell: Why?

Mr Cretney: Can we have pictures in *Hansard*?

Mr Cannell: It is a hand-held telephone -

Mr Delaney: Give us a demonstration.

Mr Cannell: - but it is not being held in the hand. So are you going to say it could be a hand-held telephone? My mobile telephone, I can actually say, is connected to the car,

because it is permanently on a charger into the cigarette lighter. There is a little bit of a grey area here and I would be interested to see what the minister says about it.

Mr Crowe: Mr President, I rise also to support that. I did put a submission into the Department of Transport suggesting that hands-free mobiles should continue to be used and I think this covers that, so I think that has addressed the concern that I have.

What I particularly would like to ask the minister about is this question on his explanatory notes about leaflets also being produced for visiting motorists. I know the hon. Mr Downie has mentioned this about visiting motorists coming by Steam Packet or coming by air and hiring a car. I think they need really good warning or probably the hire car firms will have to have notices in every car and the Steam Packet probably to hand out notices with the tickets, because I would feel very sorry for any visiting motorist who would be totally unaware of this new regulation which might hit them quite hard, and possibly the police might be given some leeway on a caution for a first offence or something like that. So, I would like to see the regulations imposed with a gentle hand, shall we say.

Mr Henderson: Mr President, I certainly support this motion before us today and I too submitted various amounts of evidence to the Department of Transport. I think it is more timely than ever now because the mobile phone is more accessible than ever, especially with the charge cards that go with them now. I have never ever seen so many people driving around while the wheel is being manipulated with one hand and the phone is going in the other, and some of the cornering and roundabout techniques are astonishing. Even more astonishing is the mobile phone user who is conscious of the dangers of using a mobile phone while they are driving, so they execute an emergency stop when it rings. So, I would like the Minister for Transport to take that one into account, because that is a beauty when it happens right in front of you; it is just as dangerous.

I am very pleased that the Department of Transport have taken into account the evidence that I submitted, and probably others too, in that two-way car radios, especially for the likes of taxi-users and business owners, have been taken into account here and exempted. I am pleased with that and also for the hands-free units which may help, and that will also obviously cover emergency services and so on.

As another point, it shows another piece of legislation where the consultation process has been good and it proves that thorough consultation can produce something that is pretty good, and I think this has encompassed a lot of use in trying to get something as good as you can get without going over the top and I fully support it, Mr President.

Mr Gelling: Yes, the hon. member that has just resumed his seat actually has covered one of the points, Mr President, that I just wanted after having said I am supporting the resolution, and that is, what do people do when the phone rings? They are very demanding and of course they only ring so many times and then they cut off, and this is the one experience I have certainly had where people just stop and they do just stop, because they know it is going to stop ringing after the next buzz and they want to be able to tell that person, 'Hang on, I'll park and ring you back' or something, but to actually not even be able to answer it is going to be extremely difficult, and I would suggest that in our advertising and in our PR about the hand-held, we want to also emphasise that people should also find a suitable place to park before they answer it, sir.

Mr Singer: Mr President, as you are well aware, I own a mobile phone. I am a bit concerned about the reasons for not including the hands-free sets, because the comment in the information sent round is that the Chief Constable advised that a complete ban on mobile phones is unenforceable in view of the police inability to detect them, but that does not say that it is just as distracting as using a hand-held phone, and it is this distraction that bothers me, because it is equally distracting to use a hand-held one as a hands-free as it is, as was mentioned by the hon. member for Onchan, to fiddle with the radio. People do fiddle with the radio and the car swerves. So I believe that perhaps if we are going to look at a ban it should have been on a complete ban saying that when the police did pick people up for using hands-free then perhaps they should do. We also have to remember that the information that I read is that, as far as radiation is concerned, the hands-free phone emits three times as much radiation and is therefore three times as dangerous as the use of a hand-held phone, and I think this is also something to take into consideration.

Mr Lowey: I thought it may surprise hon. members - three strikes and I would be out, supporting the government! Strange to relate, I believe this legislation is well-intentioned but I do not think it will work for the very reasons said: I do not think it can be enforced and, if it cannot be enforced then, with the greatest respect in the world, all we are doing is making ourselves feel good that we have done something. Now, my belief is that all of the cases have been jokingly put here this afternoon, but it is serious. The biggest distraction is having somebody else in the car with you; are we going to ban them? And that is serious. Can anybody tell me where the scientific evidence has been produced to sustain this case in the Isle of Man?

Mr Downie Read RSPA.

Mr Lowey: Well, with the greatest respect I would suggest you look in the Manx papers in the last 12 months and show me any accidents that have been caused by people driving motor cars with a phone in their hand. And you are kidding yourselves if you try to suggest to the general public that by doing this you are reducing accidents when there is no evidence, I suggest. Forget RSPA - they are in the business of producing figures.

In the Isle of Man context, I do not see it. I have certainly had no great rush of people telling me that they want this, and, by the way, I do not use a mobile telephone, so I do not know whether you hang them round your neck or put a string round your neck and hold them there; I do not know what you do when you get in a car, but whatever it is, I do not believe it is enforceable. I always remember an Attorney-General - and it was His Honour Jack Corrin - that said, 'Any law that is unenforceable in fact is bad law' because you bring the lawmakers, the law enforcers and the law itself into disrepute, and in this particular case I believe you could be in danger of that, albeit well-intentioned. So, therefore I do not, I regret that I will be unable to support the minister and his proposals here this afternoon.

Mrs Christian: Mr President, the views of the hon. member of Council, Mr Lowey, concern me a little bit in that they seem to say that there is a difficulty, so because of that let us not do anything at all. I would suggest that in formulating the order in the way it has been done we are at least taking one step in the right direction. As the hon. member has said, there may not have been many recorded accidents in the Isle of Man, but I am sure that there have been a tremendous number of near misses as a result of people driving with the phone in one

hand, and if we can do something which will at least make people stop and think, then maybe that is a good thing to do.

There may be difficulties in enforcement; in fact, the police officer may have to see this happening in order to take action. It might be difficult for other people to report it and produce evidence to guarantee that that was happening at the particular time, but at least where there is a measure in force which prohibits the use, it might make people consider what they are doing.

Now, other hon. members have been concerned that there is no provision here covering the other type of phone which is not hand-held and it has been illustrated that there are many activities in the car which might distract you from driving with full attention, whether it is eating or talking to other people, putting CDs or tapes in or whatever. There is provision in the legislation for people to be stopped if driving inappropriately in those circumstances, and that will still apply, whether it is caused by one of these other reasons or by using the phone which is not a hand-held phone. Clearly, it would be very difficult for the police to produce evidence that you were using a non-hand-held phone simply on the basis of seeing you chatting away, as some of us do sing in the car or whatever it may be. But I do think that if you are driving is impaired by virtue of talking on a non hand-held phone or any other activity, there is a measure there already which can be activated by the police.

Mr Shimmin: Mr President, the first time this issue came to my attention was almost two years ago following the speed limit debate, when some members of the public raised this as a road safety issue. It has taken nearly two years before this has got to this stage, and I regret that in that time the public of the Isle of Man have experienced an explosion in the use of hand-held mobile telephones. I think the department is right to bring this in. However, I do think the department now has a major difficulty in selling to the members of the public that which we are going to move today, because the sheer proliferation in the use of mobile phones whilst driving is one which I am sure every member here sees almost on a daily basis and often numerous times on a daily basis. Each of those people have got into a habit of utilising the phone in that way and there has been very little coverage, as far as I am concerned, to alert those members of the public that this is going to happen, and although the minister will say that, yes, there has been that publicity, I think it is one where the majority of people will support this strongly. I have no sympathy for those people who drive in a dangerous manner which I believe using mobile phones in cars is, but I do urge the minister to get as much publicity across on the reasons for this and to understand that there are large numbers of people who are going to have to educate or re-educate themselves, which I believe is why this is somewhat overdue. Had this been brought in a year or two ago I do not think we would have seen the explosion in use of hand-held phones. Now I think there are going to be more and more people who will actually view the politicians of the Island in a negative light because we are bringing something in now that they have become accustomed to over a long period of time. I think this is the sort of area where, in hindsight, it is easy to look back upon, but I think we would have served the people better had we anticipated this growth and maybe stopped it quicker rather than now allowing people to get into a habit and having to re-educate them. Thank you, Mr President.

The President: I call upon the minister to reply to the debate.

Mr Brown: Thank you, Mr President, and I thank members for their interest in this subject, naturally, a matter that I think has given us all some sort of concern and different points of view and thoughts on. I can remember when the issue was first raised with me, I was a little bit sceptical as to whether or not there was a need to do it and in fact was unsure whether we should do it, and what happened was that, in my own mind, I thought it is an issue we should keep an eye on, and I would just make the point that the point made by the hon. member for West Douglas, Mr Shimmin, when he said we should have anticipated the growth. I think our concern and our delay was that we were starting to recognise there was growth and that that growth was actually going to get more and more in terms of people getting used to having mobile phones, and, in that anticipation and because of the effect that it would have, the department, I believe rightly, undertook a period of consultation with the public to give an opportunity to those who are likely to be affected, whether they used the phone now or were thinking of in the future, to have an input into the proposals that the department had and, as the hon. member for North Douglas, Mr Henderson says, the department modified its proposals to what I believe to be realistic proposals, and I think that in anything where we are going to infringe on new technology, where we are going to limit and restrict what people can do in a car, then of course we have to try and be as realistic as possible or the public will reject it and that, I think, is a real view, and I hope it is.

A number of members have made the point about their concern about people doing it: 'is it really necessary?' 'Is it the right way forward?' 'Will people rebel against it?' et cetera, et cetera. Well, basically cars had seat belts in them for something like 20 years before we brought compulsory seat belts in. The vast majority of people comply with the law. The advantage with the law being in is that those who do not can be prosecuted by the police, and I have to say an issue that still gives me considerable concern - and we undertook an advertising campaign recently - is the amount of parents who allow children in the front and back of cars without their seat belts on, and we continue to promote safety in that way. I would urge parents, firstly, to ensure their children are safe, but secondly, to advise them that if they do not have the seat belts on, their children are liable to injury but they are breaking the law, and therefore we see that as important. So, to answer the question, the majority of people, if we are sensible about any regulations and laws we bring in, will accept them, and we believe this is an issue where we hope this will happen.

The other issues that were raised were what happens if . . . and the hon. member Mr Cannell, who showed us what he was talking about (but, as the hon. member for South Douglas, Mr Cretney, said, 'How are they going to record that in Hansard?') was actually indicating somebody driving a car with a phone on their shoulder leaning their head to talk on the phone. Well, of course, that will be illegal, because using a hand-held phone in any way within the car while you are driving is illegal, and the advantage will be, by having a specific law, that the police are not relying on driving without due care and attention or careless driving, which they have to prove a different offence: they have to prove the driver was actually doing something that was dangerous and they have to prove that the driver was being inattentive. With this specific regulation, it will just be illegal to drive using a hand-held telephone.

Now, I will just give an example to members of a situation I saw a couple of weeks ago which absolutely horrified me and that was in Castletown - a narrow street, which members may know as Hope Street and which is down by the harbour, and when you have got cars

parked there is just enough width for another car to pass, and there was a gentleman driving down the road with his left hand on the steering wheel, the mobile phone in his right hand on his left ear trying to drive down the road while there were children walking up the pavement. Now, if anybody believes that should be allowed to happen, then I do not, because I believe that is dangerous. If he had caught the kerb, he could not have controlled the car in time and I have to say he was not going that slowly. So the situation is that unfortunately some people are driving in a situation that is potentially dangerous.

Whether or not we stop people using phones full stop was an issue that we raised with the public, and the reason we did not do it with hands-free phones was that we believed this was a realistic step forward and we believe that people will accept it, and I would make the point that if somebody's phone rings and they suddenly stop, then they can be done for driving without due care and attention if they cause an accident or if they are seen by a police officer, even if they have not used the phone. So there would be a responsibility, whatever happens, on the driver to drive sensibly.

As far as the situation with a number of issues that were raised, the issue was raised about distractions generally. I think it is fair to say we all know that all of us at some time are distracted when we are driving a vehicle. That distraction might be a plane we have never seen before suddenly flying over the Isle of Man, it might be somebody you know or think you know walking along the road, it might be because you are tuning your radio in instead of watching what you are doing or it might be eating food. (*Interjections*) So, the whole point is, yes, there are a number of distractions. The view the department has taken is, here is a technology which we believe creates a greater distraction and, very importantly, takes one hand off the wheel for a period of time while somebody is having a conversation on the phone, so we believe there is merit in it.

I think the other important issue, in answer to Mr Lowey's point, the hon. member of Council, is about the distractions and no accidents. There may not have been any accidents yet and we may be fortunate for that. There are certainly people driving who are not watching what they are doing while they are talking on the phone, they are going over 'Give Way' signs when they should not be, they are sat at traffic lights talking when the lights change, causing irritation, and they are not as attentive as they should be. Now, that is not all of them, but that is some of them. The advantage with this will be that it will be a specific and clearly defined offence to use a mobile telephone that is not hands-free whilst driving, and if a policeman spots you doing it you can be prosecuted, and I think that is the important issue.

I would just make the point that in terms of publicity which a number of members raised - and I thank you for the points made - the effect of the regulations does not come in until the 1st July, and we did that deliberately because we do want to undertake a reasonably extensive advertising campaign through the local press; we do want to print leaflets. The issue about leaflets has been in our mind for some time now because the Isle of Man has a number of highway laws that are different to those in the UK and we know are catching out people visiting the Island who do not know about disc parking, because some areas of the UK do not have it, who do not realise that our seat-belt law is different than theirs, and this is another one where in fact using a phone, if hon. members pass these regulations today, will be an additional difference, and the idea of the department is to produce leaflets, to give them to the Steam Packet Company, to give them to the car hire companies and to ensure as far as we can that

the public are aware, those visiting the Island and the locals, that in fact these are offences under Manx law.

I hope, hon. members will take on board the points I have made. I hope I have responded fully to their points and I ask members for their support on what we believe to be an important step forward in road safety. I beg to move.

The President: The motion is that printed, hon. members, at item 8 on your order paper, headed Road Traffic Act 1985. 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: Mr Rodan, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Corkill, Cannell, Gelling and the Speaker - 17

Against: Mr Karran - 1

The Speaker: Mr President, the motion carries in the House of Keys with 17 votes in favour and 1 vote against.

In the Council -

For: The Lord Bishop, Mr Waft, Dr Mann, Messrs Kniveton, Radcliffe, Mrs Christian and Mr Crowe - 7

Against: Mr Lowey - 1

The President: With 7 for, 1 against in the Council and 17 for, 1 against in the Keys, the motion carries, hon. members.

Motor Cycles (Protective Helmets and Visors) Regulations 2000 – Approved

The President: We turn, then, to item 9 on the order paper, and again it is in the hands of the Minister for Transport.

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

That the Motor Cycles (Protective Helmets and Visors) Regulations 2000 [SD No 189/00] be approved.

The effects of the regulations before hon. members are threefold: (1) to widen the range of permitted helmets which may be worn so as to include those complying with the latest standards; (2) while leaving it optional to wear visors, to require any visors worn to conform with the relevant standards; and (3) to prohibit the sale of helmets and visors meeting outdated specifications. Subject to a strictly limited number of exceptions specified in regulation 4, regulation 6 requires every person driving or riding, otherwise than in a sidecar or on a motorbicycle on a road to wear a protective helmet of the kind defined in regulation 3(1). Riders lawfully wearing existing helmets will be unaffected. The regulations do not prohibit the wearing of helmets complying with standards which go as far back as 1956, but rather continue to authorise their wearing as well as the more up-to-date helmets complying with improved standards. So the regulations increase rather than restrict the range of helmets which may be lawfully worn.

The regulations permit riders to wear helmets which are tested and approved in other countries and which provide similar protection to those complying with the relevant British standard. Regulation 8 does not make it a requirement to wear a visor but instead provides that if they are worn they must comply with the relevant standards. Consultation was undertaken with the drafting and I beg to move the motion standing in my name.

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

Mr Cannell: Mr President, I do not have much quarrel with the basis of this. I remember the arguments that were put forward when the compulsory helmet legislation was advanced and I was not against it then either, because I was one of the first people to regularly wear them in competition which involved riding on the roads, even though there was no legal necessity to do so until that came in, and in general there is not any quibble about riding motorcycles and needing to wear helmets, though you might argue that it is the only part of the motorcyclist's attire which actually is compulsory because there are no regulations to make him wear anything else except complying with the standards of decency. You do not have to wear any particular clothing which might protect you in accidents but you do have to wear a crash helmet. But I am very glad to see that the minister, after consultation, appears to condone the continued wearing of what we know as pudding-basin helmets, which are the non-full-face ones with visors, which allow the people who actually prefer to use open-face helmets with goggles still to be able to do so. That is a matter of personal preference and there could be an argument cited which says that many of those helmets are actually thought by some people to be considerably superior to the very, very difficult helmets to remove, the full-face ones.

I also think I heard him say that the standards of other countries would be maintained in that their standards of acceptance would be acceptable here, because there are certain types of helmet now, particularly on the German market, where the lower part of the helmet is hinged down, the top part of the helmet and the visor is hinged up. It is a most peculiar thing. They are called Nolan helmets, they cost a fortune, they are passed on the continent but I gather that, up to now anyway, they were unacceptable here because they had not passed the British standards.

Mrs Crowe: Quite right.

Mr Cannell: One thing I cannot accept, somehow - and yet I know I would be making a rod for my own back with my friends - is riding in a sidecar of an open type without the passenger wearing a helmet. Now, that does not stop them wearing one if they feel they want to, but it does seem something of an anomaly that you can be attached to a motorcycle sidecar and not have the same requirements, though of course you also have plenty of closed sidecars where it would probably be claustrophobic to do so.

You also have the further anomaly of the trike machines we see around. There are one or two and apparently they fall outside of the regulations and you see the owners and as soon as you see them you blink; you think 'He's pushing it, no helmet on.'

Finally, a point which was made when just such an occurrence came up during the helmet laws for Great Britain, and that was the exemptions at number 4. Now, we do agree that if a motorbike can be cast as a mowing machine or it is being propelled by a person on foot those should be exempt from wearing helmets, but I cannot possibly subscribe . . . and

although paying great attention to the previous debate this afternoon I have been occasionally allowing what passes to be my brain to go into a mode of trying to think of anything else where a religious conviction debar you from complying with the law. I cannot come up with one. I think there are some but I just cannot place it, but why should someone who happens to adhere to a particular religion be outside of the requirements if we view this as being sufficiently stringent where, if you are a member of the Sikh community you do not have to wear a helmet purely because your religious beliefs demand that you encircle yourself in a turban? It is unacceptable. That is distinction. It is absolutely going against every other principle which we have accepted in this hon. Court fairly recently where we stand and huff and puff about discrimination. If that is not a reverse form of discrimination I do not know what is. I agree it is probably not a very great problem in the Isle of Man at the moment, but it just seems inequitable to me to say 'Ah, well, they have turbans so they've no need to wear a helmet.' Now, some of the helmets that get worn, of course, are ancient and only when they are picked up by the police for perhaps another offence does it emerge that the helmets are old or they have been in previous accidents where they have been damaged, and you might argue that if you had a turban on you probably stand a better chance of being uninjured than wearing some of the old fibreglass helmets that there used to be. But that is not the point. This is purely down, 4(c), 'he is a follower of the Sikh religion and is wearing a turban.' So what?

The President: I call on the minister to reply.

Mr Brown: Thank you, Mr President, and I acknowledge the points made by the hon. member for Middle, Mr Cannell, and -

Mr Henderson: What?

Another Member: Onchan.

Mr Brown: Onchan, sorry. It used to be Middle. I would just say that as somebody who used to ride motorbikes myself I can understand very much the points that he has put forward, and I would just make the point that as somebody who used many years ago to ride with a helmet that was open-faced, I used to enjoy that too except when it used to hail. Then it used to hurt, but otherwise it was pretty good! We are quite keen, where the helmets meet a standard, that there is no reason to restrict people using helmets in that way. What we have seen, of course, over the years is a development because of the compulsory changes in safety and the standards, really, which need to be met of us updating our laws, and this is one that is the same.

As far as sidecars are concerned, that is an issue where there have been arguments, I think, over many many years as to whether people in three-wheel vehicles and people riding in sidecars should be exempt from wearing a helmet if they are actually in the sidecar, and I think the point is that the evidence and the information available shows that that is not a problem, and I suspect that that is really a point of view that we can all have.

As far as the Sikhs are concerned, that is a change in our legislation. That is after quite a number of years now - it must be nearly 20 years anyway, I suspect - of seeing whether there is a problem. In the UK there are arguments on all sides saying that a person - and the hon. member, I think, acknowledged this - wearing a turban can be as protected as somebody wearing certain types of crash helmets, which will continue to be the law, and we just feel it is appropriate so that if we do have any, for example, Sikhs visiting the Isle of Man who are on

holiday at TT time, riding motorbikes, they are not in contravention of the law, and that is the sort of situation we could have and we are quite satisfied that the regulations that apply in the UK in this standard are acceptable here in the Isle of Man.

I beg to move the motion standing in my name.

The President: The motion, hon. members, is that printed at item 9, the Road Traffic Act 1985. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Highway Closure (Walpole Avenue, Rear Lane, Douglas) Order 2000 – Approved

The President: Item 10, the Minister for Transport.

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

That the Highway Closure (Walpole Avenue, Rear Lane, Douglas) Order 2000 [SD No 77/00] be approved.

The hon. members have all had an explanatory memorandum circulated showing a map of the area concerned, and the purpose of this order is to extinguish the rear cul-de-sac lane running to the west of Walpole Avenue from its junction with Lord Street and Bath Place on the grounds that it is no longer needed for public use and for the purpose of enabling development to be carried out in accordance with the planning approval. If the order is approved by Tynwald, the highway, which has become redundant following demolition of the premises it once served, will be extinguished and cease to be a public road as from 1st June in the year 2000. My department has carried out provisions of this as required under the legislation. I therefore beg to move the motion standing in my name.

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

Mr Karran: Eaghtyrane, I just get a bit disappointed with the likes of these orders. Here we have a situation once again where the wealthy developers get the planning gain. I find it incredible that we have a situation where this amount of land must represent hundreds of thousands of pounds' worth of development land to the developer there and we have got nothing. We have heard on previous things about wanting a green lung behind government offices, which is very very nice, but where do the people go and park? I just think that this Court should not support this because I think there should have been some negotiation for some land so that you could have maybe either a bit of open ground on part of the development or there should have been the possibility of widening Walpole Avenue so that you could have horizontal parking. We have a parking crisis here but once again we have a situation where, when it is the big boys, let us just lie over and play dead. Admittedly, I suppose I might have a bit of an axe to grind when I owned the old Manx house at the Braaid when they were trying to claim that the porch was on the highway and I ended up being the proud owner of a roundabout, but it does annoy me, the same inconsistency that we see time and time again in government: when it comes to the big boys, we will do whatever.

I believe this should not be supported today. It is an opportunity here where we should be saying to this developer, 'Yes, we'll give you half the cubic size of this if we can widen the road so we can get horizontal . . .' and I do not want the idiotic sort of response from the minister, saying 'Oh, well, that's planning.' Here we have a situation where you have a public highway with a public access and I believe that this is the sort of opportunity that should be used so that we should be able to get something out for the local community and I shall not be

supporting this proposal today because I do think that we should not be supporting this proposal. We have got a car parking crisis. Here we have an opportunity where you could double the facilities of car parking in this area and still give some gain to the developers. I believe we need consistency and I think it should be referred back to the department, and I hope hon. members will support that.

Mrs Hannan: Eaghtyrane, this highway closure comes under the Highways Act of 1986 and it states: 'Where the Department is satisfied that it is expedient that a highway should be extinguished on the grounds that it is not needed for public use or for the purpose of enabling development to be carried out in accordance with planning approval, the Department may by order (in this Act called the Highway Closure Order) extinguish the highway,' and this is really why we have brought this before the hon. Court today. While it is no longer needed for public use, it could be argued that it has never been used for public use except access to the boarding houses which used to face onto Walpole Avenue and it allowed access to the backs of those properties. In bringing this before the Court today obviously it is for the Court to decide whether this extinguishment is correct or not but, having considered it in the Department of Transport we feel that it is to allow this development to take place on the whole of the site. Now, that is not to say that Walpole Avenue could not be extended in some way as part of that planning approval or it would not say that any development on that land would not have to provide parking, but this particular highway would not have allowed parking anyway. It was a narrow service lane to the back of these properties on Walpole Avenue but it was not a highway that took the public from one place, to another and therefore I would hope that members will support it to allow for the development on this area but with planning to allow for car parking on site.

Mr Waft: Mr President, I just wondered - it is just for clarification. I was listening to the hon. member for Onchan when he referred to just handing this piece of land over to the developer and taking it in perspective, if it was the square metreage it would amount to quite a considerable, area which could be used for parking. But I just wondered, in view of the situation with regard to the throughput of traffic et cetera, my understanding was that any lanes in the areas of Douglas and Onchan, when they were asked whether they wanted the lanes to be done up it was always a case of 'Oh, well, the residents of that area own part of that lane,' therefore you need the position to be clarified with regard to who is going to pay, and that whether it was an adopted or unadopted lane always came into dispute. So I would just like clarification that this piece of land or the land area, the lane, does not belong to the boarding houses or the hotels which were on Walpole Avenue, whether they actually owned the lane or whether it was in the ownership of the Department of Transport, but in other areas I know that when you asked somebody to do up the lane the Department of Transport always turned round and said 'Well, you own half the lane and the people on the other side of the lane own half their lane so we will do it if you are prepared to get all the street together to vote towards putting money towards it.' So just a point of clarification. Thank you, Mr President.

Mr Braidwood: Mr President, I have some sympathy, actually, for the member for Onchan because in this area there are areas that are very restricted for parking and I know the member responsible for highways has said when the planning comes through hopefully there will be on-site parking, but when you look at the area in question I would say we need some on-street parking. If the planning came, we could have a lay-by the length of Walpole Avenue

to compensate for the land which is being given over to the developer, and I hope that will be taken into consideration. Thank you.

The President: I call on the minister to reply.

Mr Brown: Yes, thank you, Mr President. Whilst the points made by the hon. member for Onchan, Mr Karran, may have some validity to them, I would just say to hon. members that the important issue here is whether or not a public highway, as it is classed in terms of the legislation, is needed to be retained for public use - a straightforward question, a straightforward answer. It is either yes or it is no. My department's view is it is no, there is no logic at all in us maintaining this at the public expense, a highway that will go to nowhere, because the properties it used to serve have gone.

A Member A road to nowhere.

Mr Brown: A road to nowhere, sorry. So therefore that is that issue. My understanding is that the planning application is in principle, and also I would just say I do not have any problem in looking to see if there can be planning gain. My department does that on a regular basis with developers in terms of seeing if we can readjust land boundaries so that the developer does well and, more importantly, the Isle of Man does well, and I have to say I certainly do not lie over and play dead for a developer, no matter how small or how big or whether it is an individual, no matter how small or how big, because my view is I will do what I believe is in the best interests of the people of the Isle of Man and the taxpayer, and if we can get a benefit out of that and that benefit has merit, then we will endeavour to negotiate that.

Now, as for this land and its ownership, it will either be land that is dedicated or it will be land that is in the ownership of my department. If it is in the ownership of my department, then clearly the developer is going to have to pay something, whether it be a nominal amount or the land value, to get the land offers because just by extinguishing it as a highway does not take away ownership of land. That still remains in the ownership of the department if it is ours. If it is dedicated land it will revert back to the original owners - in other words, the people who have taken over in title the land in question. So there is no problem there. There are two different issues and I would say to the hon. member for Onchan the first issue in when he considers his vote is, is this land worth retaining as a public highway maintainable at public expense? If the answer to him is yes, then he should vote against it. If, however, the answer to that question is no, then I hope he will support the highway being extinguished. If then, as the hon. member is saying, my department should consider endeavouring to get the best planning gain out of the use of the land that hopefully subsequently belongs to my department, then we can only get that if we extinguish the highway. So it is as straightforward as that. We cannot free our hands until we have done that, so from my point of view there is no point in maintaining it. We have gone through the legal process, no objections were received from the public about this issue and whether or not we can get any benefit - and my department is quite happy to look at that, as has been indicated by Mrs Hannan - then I would just urge members to vote in favour of extinguishing this highway to enable us to move to the next stage.

As far as the point made by the hon. member of the Legislative Council, Mr Waft, where he is talking about shared ownership, then that would tend not to be a highway that is adopted and is under expense maintainable by the public purse; in other words, it would be an unadopted highway.

Mr Karran: A point of order, Eaghtyrane. This Court has been misled. We have never got money for land for roads that have been shut off.

Mr Brown: Since when?

The President: Hon. members, the motion is that printed at item 10 on your order paper, that the Highway Closure (Walpole Avenue, Rear Lane, Douglas) Order 2000 be approved. 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, Quine, Rodan, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Corkill, Cannell, Gelling and the Speaker - 19

Against: Mrs Cannell and Mr Karran - 2

The Speaker: Mr President, the motion carries in the House of Keys, 19 votes for and 2 votes against.

In the Council -

For: The Lord Bishop, Mr Waft, Dr Mann, Messrs Kniveton, Radcliffe and Mrs Christian - 6

Against: Mr Lowey - 1

The President: Hon. members, 6 votes have been cast for in the Council, 1 vote against, 19 votes for in the Keys with 2 against. The motion therefore carries.

Now, hon. members, I think it would be an appropriate time in which to have a short adjournment. I think the Court will sit again at 4.45 p.m. Thank you, hon. members.

The Court adjourned at 4.25 p.m.

Export of Goods (Control) (Amendment) Order 2000 (Application) Order 2000 – Approved

The President: Hon. members, we are up to item 11 on the order paper and I call on the Minister for the Treasury.

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

That the Export of Goods (Control) (Amendment) Order 2000 (Application) Order 2000 [SD No 129/00] be approved.

The purpose of this order is to restore matters in regard to exports to Indonesia to the position existing prior to the imposition of a temporary ban on the export or re-export of military goods in September 1999. In response to an EU initiative and with effect from September 1999 the UK and the Isle of Man introduced a prohibition on the export of military goods to Indonesia in the wake of the violence in East Timor. The prohibition included a ban on the export of such goods in transit or in transshipment through the Island. The prohibition expired in January and this order has the effect of, firstly, revoking the Export of Goods (Control) (Indonesia) (Application) Order of 1999 which imposed the ban and, secondly, removing the reference to Indonesia in schedule 3 of the Export of Goods (Control) Order 1994 which

prevented the re-export of goods in transit or transshipment, but any exports destined for Indonesia would, of course, continue to be subject to the normal licensing controls. I beg to move.

Mr Radcliffe: I beg to second, sir.

Mrs Hannan: Eaghtyrane, the minister said that the licensing would continue, but is he satisfied that the situation in Indonesia has now settled down and that there is not the likelihood of military action against minorities, whether it be East Timor or any other area within Indonesia? I would have thought, because of what has gone on in Indonesia and East Timor, that these restrictions should have been in place much longer before rewarding them with opening up this military capacity again for the export of goods to East Timor. It took long enough to get any controls on military goods and all the rest of it because it was said that it could not be used against their own people, it would be used for defence, and we all know that that was not the case. So isn't it a bit premature to be lifting this embargo?

Mr Henderson: Mr President, I must concur with the views expressed by the hon. member for Peel. For once we are in agreement here with concerns on this issue, because it seems to me - and I would like the Treasury minister to come back on this to clarify - there is a slackening on controls. Is that my understanding of the situation? If so, is this premature and will we find ourselves again in a situation where perhaps there was an alleged training of Indonesian pilots who were taking part in hawk jet training flights over Ronaldsway? I would like some clarification on the issue. Thank you, Mr President.

Mr Waft: Mr President, I think by recent reports the Council of Ministers are going to look at the exportation or the opposite of allowing licences to Third World countries though the Council of Ministers. I would just say that we should not be seen to be rubber-stamping these things as they occur or as is the Foreign Secretary's will to do so or not to do so as the case may be. I think, if we are going to go down this route, it has to be thoroughly investigated by the Isle of Man and not just accepting what is done in the United Kingdom. I can appreciate the point that we do not want to be seen as a back door for any things happening that we would not like to see happening within the international community but, at the same time, if we are to be viewed as an Island in our own right and responsible in the way we react to certain situations throughout the world, the Foreign Office or the Home Office must be seen to know that we will be viewing critically any stoppage of exportation of certain things or indeed allowing them through. It does have very long-standing effects on the country involved and often, when certain goods are banned, they affect the poorer parts of the community and not the parts that the Foreign Office or the Home Office would like to see affected. So there is more to these things than just rubber-stamping them as they go along. As long as the Treasury minister does appreciate where I am coming from I think that is all that we can ask for at this stage. Thank you, Mr President.

Mr Gilbey: I must say, Mr President, I find the remarks of the last three members quite astounding. We might all like to be totally independent but the fact is we are not. The fact is the adjacent isles, whether we like it or not, are responsible for our foreign affairs and this is totally a matter of foreign affairs.

But there are more important matters than that. Frankly, it does not make any difference if we do not revoke this, because once it is revoked all the trade will go through the UK. It does

not make any difference at all. It is highly unlikely any trade will be coming through here in arms in any case because there are not armament companies here, but if the UK lifts this sanction, this embargo, all the trade will go through them. There is absolutely no point in us not lifting it as well, whatever our thoughts are, and it seems to me it would be very complicated to start getting out of line with the UK on these matters.

The President: The Treasury minister to reply.

Mr Corkill: Thank you, Mr President. I think any civilised person who reads the newspapers and sees the media coverage of the events that went on in Indonesia and East Timor would probably be disturbed by what they saw, and so it is understandable, I think, that hon. members are concerned about this particular order. But what I would like to say is that this order is a customs and excise 'mechanics', for want of a better word, and it is based on the fact that initially the EU had a common position on this, an international common position, and the arms embargo was set to run from 16th September 1999 to 17th January 2000, and that was it. Now, obviously since that time the UK has taken a position, as has the rest of the EU, with regard to the position there and, as the hon. member for Glenfaba, Mr Gilbey, has pointed out, this is an international issue and therefore I suppose that issue of policy in respect of the UK and the EU's decision is outwith my jurisdiction and the jurisdiction of this Court, but nevertheless I do take on board the concerns that here we are lifting the ban on a situation which is still unsettled - it may be out of the news for now, but unsettled - and when accepting this order and reading the brief for the order that certainly was very much in my mind. But at the end of the day it is a logical, mechanical process, this particular order; it merely puts us in line with what the UK is doing and that is often the way with the VAT orders that I bring to this hon Court because of our customs and excise common issues with the United Kingdom and thereby with Europe, so all this order does is put us into line in that respect. And also on the basis of what Mr Gilbey said, of course in the unlikely event of trade circulating through the Island in this particular respect it would just merely happen in the United Kingdom.

Nevertheless, I take the point that if arms sales are wrong then they are wrong, and it is very hard, of course, to perhaps understand when they can ever be right. Certainly I am not one in favour of massive arms sales to actually diminish the rights of minorities in other states but of course, that is the way of the world with large international governments, and I do not believe it is my position today to actually make comment one way or the other on that. This is an order which puts us in line; it just follows the procedure which has emanated from the EU which the UK has adopted and I really cannot add more except that that is the position. I take on board the comment of Mr Waft, member of Council, where he just said he hoped that I in moving this was aware of the situation but that was probably the best he could hope for today, and I would say to him that I do accept what he is saying. I beg to move, Mr President.

The President: The motion, hon. members, is that at 11 on your order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Interest on Repayment of Customs Duty (Application) Order 2000 – Approved

The President: Item 12. I call upon the Treasury minister.

Mr Corkill: Thank you, Mr President, I beg to move:

That the Interest on Repayment of Customs Duty (Application) Order 2000 [SD No 165/00] be approved.

Mr President, the purpose of this order is to reduce the period following which interest on repayments of customs duty accrues to an import or other payer of customs duties. There is an explanatory note and I beg to move item 12.

Mr Radcliffe: I second, sir.

The President: The motion, hon. members, is that printed at item 12 on the order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Excise Duties Order 2000 – Approved

The President: Item 13. I call upon the Treasury Minister.

Mr Corkill: Thank you, Mr President, I beg to move:

That the Excise Duties Order 2000 [SD No 166/00] be approved.

The purpose of this order is to introduce into Island law the changes to excise duty rates announced by the Chancellor in the United Kingdom budget of 21st March. These changes are effected by means of amendment to the Alcoholic Liquor Duties Act 1986, the Hydrocarbon Oil Duties Act 1986 and the Tobacco Products Duty Act 1986. I beg to move that item 13 be approved.

Mr Radcliffe: I second, sir.

Mrs Hannan: Eaghtyrane, I just rise to express my concern that there has not been a rise in the duty on spirits; it remains at £19.56 per litre of alcohol and it is now effectively 35 per cent less than it was in 1980. Now, I realise that these are rates which have increased - I think this is my understanding anyway - and that they have come from the UK, and I just want to register my concern. The problem with alcohol is very great and I would actually suggest that it is getting greater, with children drinking large amounts of alcohol - two cases, one this weekend and one the previous weekend where children, certainly one child, was admitted to hospital. So it is with great concern that this duty is staying the same. It does not matter how the people get the alcohol, but the duty is much less than it was in 1980, so you could say over 20 years we have become more affluent and spirits have become more available and I would hope that Treasury can look at this. If other duties are going up I fail to see why the duty on spirits is not also increasing at least in line with inflation to pay for some of the problems, if nothing else, that we have with alcoholism and that are brought about by the consumption of alcohol, especially our young. Therefore I would hope that something can be done and I would wait for the Treasury minister's response on this to see if there is anything that can be done.

The President: Treasury minister?

Mr Corkill: Thank you, Mr President. I too share the hon. member for Peel's concern about young people who drink prematurely and drink spirits and drink when they are not supposed to. That issue, of course, is not just one of the level of duty to do with the product but, having said that, it is obviously a factor in the overall equation. The point I would wish to make is that we are part of the single market because of our customs and excise union with the United Kingdom, and therefore throughout the European Union we have a common customs area, which means products can move around within that area and we are probably

all aware of the price differential between certain European countries and the United Kingdom marketplace whereby there is a lot of transborder shopping going on and obviously the rate of duty and the attractiveness of that in terms of the price differential to the consumer is a big factor. I would imagine that the United Kingdom Chancellor, in setting these rates of duty which under the agreement we follow along with - and that is what the process of this order is all about - will have paid respect to a number of factors, the level of duty with regard to under-age drinking, but I would guess is probably more concerned with the issue of smuggling and transborder shopping which is distorting the marketplace in the area of beer, wines and spirits.

With regard to what we can do about it, which is obviously important to the hon. member for Peel and, I am sure, to most members, the Chief Minister's Drug and Alcohol Strategy has got input from the customs and excise; Mr Denis Maxwell, the chief collector, is a member of that Drugs and Alcohol Strategy team and he is able to provide a lot of useful information, perhaps not as much as we would like because of the structure of things but to do with consumption figures on the Island and that has been a part of the process that the Chief Minister has been chairing. I beg to move, Mr President.

The President: The motion, hon. members, is that the Excise Duties Order 2000 be approved. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hydrocarbon Oil Duties Act 1986 (Amendment) Order 2000 – Approved

The President: Item 14, the Treasury Minister.

Mr Corkill: Thank you, Mr President, I beg to move:

That the Hydrocarbon Oil Duties Act 1986 (Amendment) Order 2000 [SD No 167/00] be approved.

The purpose of this order is to amend the Hydrocarbon Oil Duties Act 1986. Firstly, subsection (1) of section 13 is amended and a new subsection (1)(a) inserted. This change makes clear the existence of two distinct possible offences in connection with the misuse of rebated oils. I beg to move item 14.

Mr Radcliffe: I second, sir.

The President: The motion, hon. members, is that as printed at item 14 on your order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Value Added Tax Act 1996 (Amendment) Order 2000 – Approved

The President: Item 15, the Treasury minister.

Mr Corkill: Thank you, Mr President, I beg to move:

That the Value Added Tax Act 1996 (Amendment) Order 2000 [SD No 168/00] be approved.

The purpose of this order is to make two sets of amendments to the Value Added Tax Act 1996 analogous with changes to United Kingdom law announced in the budget of 21st March. Schedule 1 to the Act is amended so as to extend the availability of the five per cent reduced rate of VAT to the installation of energy-saving material in any home - it was previously only available when it was grant-funded. Secondly, grant-funded installation, maintenance and repair of central heating systems in the homes of qualifying pensioners,

grant-funded installation maintenance and repair of home security goods in the home of qualifying pensioners and grant-funded installation of heating system measures such as room heaters, boilers et cetera in the homes of the less well-off. The reduced rate does not apply to do-it-yourself installations.

This is something that was brought in as part of the United Kingdom budget and in parallel we wish to introduce it here in the Isle of Man, but of course the changes to the supplies eligible for the five per cent rate of VAT will perhaps have most effect where involved in the installation of energy-saving materials. In the light of announcements in the Isle of Man budget with regard to the five per cent rate introduced on repair renovation and extension to buildings, the effect of this order is largely subsumed into that of the earlier initiative. The Isle of Man initiative is far wider. I beg to move.

Mr Radcliffe: I second, sir.

Mrs Cannell: Mr President, I personally welcome this particular order. I think it is very appropriate at this moment in time for the Isle of Man, bearing in mind that we are all very energy-conscious because of the cable which is presently being laid and also, of course, because of the monitoring of wind energy within the Isle of Man being undertaken at the moment. What I would ask the hon. minister, though, is that on the explanatory note at the back under '1. The installation of energy-saving materials.' Will his department or another department be issuing some sort of literature or leaflet to fully explain to people when considering the installation of the same which would help them and enable them to determine whether or not they would actually qualify under this particular provision? It is a good move. The pity of it is, of course, that it is coming from the United Kingdom and not coming from the Isle of Man itself, and I would in the future perhaps ask, with a little bit of respect, the minister to perhaps be looking at issues such as this for our own people without relying upon the UK under the agreement to be imposing the same upon us.

The President: Treasury minister to reply.

Mr Corkill: Yes, I take on board the comments, Mr President, which is exactly why in the February budget, of course, we introduced the five per cent rate for many of these issues and more with regard to repairs to homes, and we think that has been well received. The customs and excise division of Treasury did produce a booklet which has had wide distribution with regard to the eligibility of traders and of consumers with regard to the five per cent VAT. It is true to say that there are still a few unanswered questions as people are beginning to pick up on the availability of this now reduced rate and something that has been on my mind is that perhaps we could boost the knowledge of this five per cent VAT in terms of knowledge to the population of the Island and maybe now is the time to do it, adding the energy-saving aspect and the environmental side to that aspect. I would also like to say that the five per cent rate has not just had publicity within the Island but in fact it has had quite a lot of publicity off the Island, particularly in the United Kingdom where forces lobbying for an equivalent rate have been unsuccessful, and there is a political debate going on as to why the Isle of Man has achieved it, bearing in mind we are inside the common customs area, and yet the United Kingdom Government has decided not to do that. So it is an area of flexibility within the agreement that we have seized on, but of course this order before us today is just reflecting changes within the UK and we are subsuming it into the whole package but the point made about publicity is a good point. I beg to move.

The President: Hon. members, the motion is that printed at item 15 on your order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Value Added Tax (Increase of Registration Limits) Order 2000 – Approved

The President: Item 16, the Treasury minister.

Mr Corkill: Thank you, Mr President, I beg to move:

That the Value Added Tax (Increase of Registration Limits) Order 2000 [SD No 169/00] be approved.

The purpose of this order is to give effect in Island law to changes announced in the budget in the United Kingdom on 21st March. With effect from 1st April 2000, amendments to schedules 2 and 4 to the 1996 Act will have the effect of increasing the registration and deregistration limits found in those schedules by a figure of £1,000. From that date a business will be obliged to register for VAT if the value of its taxable supplies exceeds £52,000. The basic limit below which traders may apply to cancel their registration rises by the £1,000 to £50,000. These rises represent an increase of about two per cent and are intended basically to keep a status quo maintaining the proportion of business community required to register and those not registered. I beg to move.

Mr Radcliffe: I beg to second.

The President: The motion, hon. members, is that printed at 16 on your order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Value Added Tax (Fund-Raising Events by Charities and Other Qualifying Bodies) Order 2000 – Approved

The President: Item 17, Minister for the Treasury.

Mr Corkill: Thank you, Mr President, I beg to move:

That the Value Added Tax (Fund-Raising Events by Charities and Other Qualifying Bodies) Order 2000 [SD No 170/00] be approved.

The main purpose of this order is to amend schedule 10 to the Value Added Tax Act 1996. It also makes a consequential amendment to an earlier order. I beg to move item 17, Mr President.

Mr Radcliffe: I second, sir.

The President: The motion, hon. members, is that printed at 17 on the order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Value Added Tax (Charities and Aids for the Handicapped) Order 2000 – Approved

The President: Again, the Treasury minister, item 18.

Mr Corkill: Thank you, Mr President, I beg to move:

That the Value Added Tax (Charities and Aids for the Handicapped) Order 2000 [SD No 171/00] be approved.

The purpose of this order is to make various amendments to groups 12 and 15 of schedule 9 to the Value Added Tax Act 1996 with effect from 1st April. The amendments will

firstly allow charities and other organisations which give their profits to charities to sell donated goods free of VAT to people who are disabled or those on prescribed benefits. Previously, goods had to be offered to the general public as a whole in order for a zero rating to apply. Secondly, zero rating is extended to apply to the charity of services providing, extending or adapting bathrooms, washrooms and lavatories in residential accommodation and day centres where the work is done to suit the conditions of handicapped people. Thirdly, item 1 of group 15 is amended and allows for the zero rating of the sale, hire or export of donated goods by a charity and for it to also apply in respect of donations of goods to a charity for sale, hire or export. And finally, restrictions placed on charity advertising eligible for zero rating are lifted. Zero rating will be available for supplies to charities of advertising, whether by television, publications or other means. Excluded from the extended relief are mailshots and similar procedures using e-mail or the telephone. Also excluded are supplies involved in the creation and maintenance of a website and supplies to a charity directly used by it to design or produce an advertisement.

The intention of the changes is to facilitate charitable giving and follows consultations in the United Kingdom between HM Customs and Excise and various charities and the publication of draft legislation.

A separate order will make further changes in the 1996 Act redefining what a fundraising event for charitable purposes may be. The revenue and resources effects of these changes are minimal in the Isle of Man. I beg to move item 18 be approved, sir.

Mr Radcliffe: I second, Mr President.

Mr Waft: Could I thank, Mr President, the Treasury minister for his charitable thoughts on the past items. I just wondered if perhaps, when he thinks again about Camelot, he might think about allowing some of the charities on the Island to apply to the Treasury minister rather than go through the different fields they have to go through to get some return from the amount that is invested in the lottery. Thank you, Mr President.

The President: Treasury minister, do you wish to respond, sir?

Mr Corkill: Yes, I understand the point the hon. member is making, but of course this legislation has got nothing to do with lottery legislation and there is the Public Lottery Trust, which is available to any member of the public on the Island to make application to. There is the wider aspect of being full members of the UK-style lottery in terms of being on an equal footing in terms of the fact that charities there, whether disabled or other, are able to make application to share in the profits of the lottery. I beg to move the item, Mr President.

The President: The motion, hon. members, is that printed at 18, that the Value Added Tax (Charities and Aids for the Handicapped) Order 2000 be approved. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Social Security Legislation (Application) (No. 7) Order 2000 – Approved

The President: We turn, then, to item 19 on the order paper, this time for the Minister for Health and Social Security to move.

Mrs Christian: Thank you, Mr President, I beg to move:

That the Social Security Legislation (Application) (No. 7) Order 2000 [SD No 203/00] be approved.

This order applies to the Island three items of subsidiary legislation of the United Kingdom Parliament relating to jobseekers allowance, disability working allowance, back-to-work bonus and to child maintenance bonus payments. The regulations being applied by the order make a number of minor amendments to the law. They extend, for instance, the disregards in income-related jobseekers allowance by providing that income from personal pensions, retirement annuity contracts for payments received from a pension scheme as the result of the death of another person are not taken into account in calculating benefit. Further details of the changes are set out in the memorandum which has been circulated to hon. members. I beg to move the item standing in my name.

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

The President: The motion, hon. members, is that printed at 19 on your order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Social Security Legislation (Application) (No. 8) Order 2000 – Approved

The President: Item 20, again the Minister for health and Social Security.

Mrs Christian: Thank you, Mr President, I beg to move:

That the Social Security Legislation (Application) (No. 8) Order 2000 [SD No 204/00] be approved.

Item 20 applies to the Island six items of subsidiary legislation of the United Kingdom Parliament. The regulations being applied by this order cover a range of benefits making a number of minor amendments to the law. They extend, for example, the circumstances in which child benefit will continue to be payable if the child is temporarily absent from the Island, having education outside of the United Kingdom. Except for the statutory instrument concerned with sports awards, which also applies to family income supplement, all of the matters covered relating to the subsidiary legislation form part of the reciprocal agreement with the United Kingdom. A memorandum has been circulated to hon. members giving full details and I beg to move this item standing in my name.

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

The President: Hon. members, the motion is that printed at 20 on the order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Social Security Legislation (Application) (No. 9) Order 2000 – Motion Lost

The President: Item 21, Minister for Health and Social Security.

Mrs Christian: Thank you, Mr President. I beg to move:

That the Social Security Legislation (Application) (No. 9) Order 2000 [SD No 205/00] be approved.

This order amends the Social Security (Disability Working Allowance) Regulations 1991 to provide that those persons resident in the department's care in the community homes are excluded from entitlement to disability working allowance. It also prevents access to DWA by

those few learning disabilities cases resident in the community for whom employment is provided by the department for purely therapeutic purposes.

In recent years the department has been arranging, through its social services division, for the residential accommodation of those with learning disabilities to be provided care in ordinary houses in our towns rather than through institutional provision at Ballamona Hospital and its satellite units. As part of this programme designed to maximise the personal potential of the individuals concerned, a few of the more able clients are being found paid employment for therapeutic purposes. The fact of this work can, however, give rise to a DWA claim, which is a benefit intended to top up to prescribed limits the earnings of people with a physical or mental disability which puts them at a disadvantage in getting a job. It is a parallel to family income supplement for able-bodied workers for people with family responsibilities and low earnings. However, DWA was never intended to be available for underpinning the earnings of those clients whose residential care and daily living needs are wholly met by the state through the department without any charge to the clients.

The purpose of this order is to exclude title to DWA in such cases. It does not, however, affect the title of such persons to other appropriate benefits for disablement such as severe disablement allowance. I beg to move, Mr President.

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

Mr Henderson: Mr President, I note the size behind me but I have been good till now, but I am afraid I have got to make a comment on this order before us.

Now then, what do we have here exactly? An innocent looking little number, I think we will all agree. Well, reading out paragraph 4 of the explanatory note on the order itself, it says, 'As these people are treated as hospital in-patients they should not be entitled to in-work benefits. This amendment is closing a loophole in the legislation' et cetera. That sounds okay; it sounds like things are being progressed and loopholes are being shut and everyone in the community homes are doing well. It does not sound so bad, but let us examine this a little further, dig down a little deeper and just see what we really have. What I think we have here is actually a benefit cut. If my understanding is correct, what this simple innocent little order is attempting to do is to say that some people are in actuality getting benefits that are not really due to them as they are still classed as hospital in-patients. I quote again: 'The claimant will simply return to those benefits which were in payment prior to them commencing part-time work.' What this is actually saying is that the affected people will return to a system which pays less than they get now, and in some cases, in my opinion, a lot less and, in my opinion again, a benefit cut. The history of these cases is interesting, as a residential social worker using initiative managed to obtain for this client group disability working allowance as the system allows it at present. So all the clients in social services community homes with learning disabilities claiming DWA could now be in for a shock. Maybe I did not make that point very clear; the people we are talking about - and I hate having to draw attention to them, but when it comes to their rights I will stick up for them every time, no matter what and however hard sticking up for them might be - are some of the most vulnerable people in our community, people with learning disabilities, mentally handicapped people. If they were self-sufficient and could get on and have families that could cope with them and have them at home, then they would not be living in permanently staffed community homes.

What is going here? If I have got this right, the hon. Minister for the Department of Health and Social Security, Mrs Christian, is asking every member of this hon. Court to vote what is essentially a benefit cut on very vulnerable mentally handicapped people. That cannot be right. The DHSS in the immortal words of John McEnroe cannot be serious with this initiative, surely? Well, Mr President, hon. members, the DHSS seem to be serious. I have met with the serious officials at my own behest and organised a briefing to go into the nitty-gritty of this order and have subsequently recontacted the officers to ensure I have got this as right as I can, and it seems to be true. If we pass this order some of the most vulnerable people in our community are going to suffer.

If that is not bad enough I find that there are only about 20 of these special people in the community homes. When I was making my enquiries regarding this issue an argument was advanced that because they are having their housing and living expenses paid then they should not be having two bites at the cake. Someone else said, 'Oh they just buy ice creams and sweets with the benefits.' and that was a senior person who should have known better. I have to report to this hon. Court that this is not quite the real picture. Yes, some inventive care worker with the best of intentions and the clients needs at the top of their priorities set the precedent and managed to obtain disability working allowance for these people. That is what I call a good advocate for client rights. Anyhow, the trouble is they have become used to this level of benefit and, further still, they do not just use the money for sweets because if necessary they have to buy their own clothes and all their own personal effects, and that is from a budget ranging from client to client but roughly round about £30 to £50 a week, usually paid out every two weeks in normal terms but I have broken it down for weekly expenses to give some sort of illustration. The maximums would appear to affect only about 10 people. Now, if that is the case I just cannot believe it. Ten people who are mentally handicapped who, through no fault of their own, or the care worker, who only used the system to get the best for the clients in their care, are now going to be penalised as at the end of this payment period the next payment could be reduced by as much as half, a huge impact if that money buys clothes and all the other things necessary to make some sort of reasonable quality of life for these people and, as the hon. Minister for Health pointed out, living in normal homes in normal streets.

You know, I thought I was dreaming when I read this order. I thought this cannot be real. The implications and message and bad PR it sends out is staggering. How on earth are we to know what effect this order is going to have? Who are we going to hurt? Which client will be unable to afford an item of clothing or some other thing they are saving up for? We are told, trumpeted out recently by the DHSS, what good care these people receive, which is fair enough, and that it was promoting normality. This is not promoting normal normality at all. If an ordinary member of the public was overpaid by a government employer or by social security they do not suffer severe cuts. It is immoral. A payback system is negotiated of how much they can afford every week or month to pay back the amount not as sudden or you get nothing this month. There is not even any mention here of an assessment on the individual's concerned to see what the impact of a sudden cut would be, absolutely no thought, in my opinion - bureaucracy gone mad. Not even any mention of a stage reduction; I find it unbelievable.

I may be using strong words, but I feel strongly about this issue. We have just given the Human Rights Bill a second reading and passed it almost unanimously in another place. Well,

if there is ever a case for a discrimination issue and breach of human rights I am afraid we are coasting dangerously close to it here: as far as I can see, not a thought of the impact or a way of stage reductions to help those who may have any commitments to meet. It is bad enough when people with disabilities are treated like this but this is really stooping low in that are the DHSS really that cash-strapped to implement this on some of the most vulnerable people in our community? That is why trade unions were formed.

Are hon. members really expected to vote this through this afternoon, people like the hon. member Mr Crowe of the Council, hon. member Mr Waft of the Council, hon. members in the lower chamber? Are we really expected to go for this in a big way? Are we prepared to vote this through just like that? Just think and reflect for a moment, Mr President, hon. members, on the signals we have already sent out with other things when we have looked at the minimum wage Bill, the sex discrimination, termination of single parent allowance, the loss of benefits for deaf people who use a hearing aid. Just what are we trying to achieve here this afternoon? This morning in Question Time there was a very important issue raised at question 12 on the disability discrimination Bill. Well, I ask you to think about this very carefully, hon. members. What are we about to do?

This further, in my opinion, bungling directive which has passed through the Council of Ministers must be thrown out. I call on the minister to withdraw this order until a full assessment has been made on the likely impact this order will have on our mentally handicapped in this community, what effect it will have on them in terms of a sudden withdrawal of support. I hope, minister, you can tell me that this order does nothing of the sort, I really do, but I will tell you, Mr President, if we are going to go ahead with this distasteful contrivance on the lines I have just indicated of my understanding, it will be sending out one of the worst messages ever about the caring, sharing society we are used to trotting out.

I will be calling a division at the end of this and it will go down on public record who voted a benefit cut on a handful of mentally handicapped people, a position these vulnerable people find themselves in through no fault of their own, and this government is saying we should not be making a special case with them. Don't they deserve it? They have never been able to enjoy a full, capable life like the rest of us and the frustration they have to bear because they know, they understand they have limitations and can never have what we have. Please, hon. minister, pull this order off our agenda. Thank you, Mr President.

Mrs Cannell: Mr President, well I have to say I am in total agreement with much of what the previous speaker has stated this evening.

Looking at it and looking at the explanatory memorandum, of course the DWA stands for 'disability working allowance'. In the same memo the hon. minister is saying that of course such persons, these persons being of a mental disability or learning disability, can claim for other appropriate benefits such as severe disablement allowance. Now, I would suggest that there is a big margin of difference there between disability working allowance and severe disablement allowance. Some of these people may not be regarded as having a severe disablement but however do have quite a profound learning disability but nevertheless are able to do particular work. Again of course the department is very helpful and does say that for those few people who have a learning disability who are resident in the community the department provides for them by way of employment of a purely therapeutic purpose, but I would suggest a lot of these purely therapeutic purpose employment positions do actually earn

money. It might only be a small amount of money but they do earn money and so therefore, whether they are therapeutic or not and one would suggest that all employment for such people with learning disabilities will have a therapeutic nature to it and a value to it, which is very important to them, they deserve to be paid for that.

Now, in the third paragraph down of course it says that those who are more able, the more able clients, are being found paid employment. Well, I know that some are and some are quite successful in their particular jobs, but they are being paid at rates reflecting their limited abilities, but again I see nowhere within this particular paper as to an idea of what those pay rates are, how they reflect at least on the three versions of disability, being profound, moderate and just a small disability. What sort of wages are they getting? Do they get anything from the department for the therapeutic employment?

It also specifies here of course that they are disadvantaged in getting a job because of the disability working allowance. Well, I would suggest that a lot of these people are disadvantaged in getting a job simply because we do not have any act of discrimination for people with a disability, which, as the previous speaker mentioned, was talked about this morning by the hon. member of the Council, Mr Waft. So they are disadvantaged in many ways in getting a job, not because of their disability, but because there is not a protection afforded to them to ensure that they are not discriminated against.

I would ask the health minister that if she is proposing to withdraw the disability working allowance for those few cases, and the previous speaker alluded to a number in the region of 10, what is the alternative provision for them if they feel that they have insufficient means by which to live, bearing in mind that they do have to buy their own clothes, their shoes, their toiletries and they have to pay for their own leisure? If they have a taxi they have to pay for that. If they go out or if they have a holiday they have to pay for that and so it is really cutting down their opportunities as I see it. So other than the severe disablement allowance which is mentioned in this order, what other type of allowance could these people apply for successfully and be rewarded with?

But before answering that question I would ask the hon. minister what is her reasoning for actually doing this, what is the reason behind it? It is such a small move but it would have such a profound effect on a very vulnerable proportion of our society, and can we have information on what they receive at present? Can we also be informed as to what the effects are going to be on these individuals financially, bearing in mind some have family support and some do not? All of these things, I feel, should have been provided to hon. members today before even considering supporting or otherwise this particular Social Security Legislation (Application) (No. 9) Order. Is this simply something that is coming through under the reciprocal agreement with the United Kingdom or is there some other sinister reason as to why the minister is putting it to members today?

I for one will not be supporting it. I will not support a cut in benefit for somebody who is in a vulnerable position, notwithstanding the fact that I have absolutely no idea what these people are receiving financially now from the state. I may know what they are receiving by way of accommodation, therapeutic jobs, et cetera but what they actually end up within their hand or in their pocket I have absolutely no idea of and I for one will not vote to reduce whatever tiny bit of money those people have in the first place.

I hope other hon. members' consciences will be pricked today because I believe this will have a profound effect on a very small number of very vulnerable people who look to us to be responsible for them. Thank you.

Mr Delaney: Mr President, not that I want to prolong this but to just find out one simple question: in the workings of the financial runnings of the Isle of Man what amount of money is going to be saved by the government revenues from this order? I want a straight answer. There must have been an estimate done and I would like that so that we all know what we are talking about in real cash terms, savings to this administration by this order.

Mr Braidwood: Mr President, one point I was going to ask Mr Delaney has just asked. Now, for the two previous speakers I do believe they have brought up some relevant points.

Looking at the order itself, the people who are employed are the more able clients of the department who are in the homes in the public sector and for the earnings of such persons the rate equates to about 50 pence an hour. Now, we are talking about more able clients. Those will have families as well. They will have parents, they have probably got siblings, and the small amount of money, I think, if you are only talking about 10 people, through DWA will enable them to buy things and apart from themselves for their families as well and I do feel that if it is not a great amount of money we are being . . .

Mr Singer: Mean.

Mr Braidwood: Mean, yes, I think, in one word, and I hope the minister will reconsider her position.

Mr Waft: Mr President, I wondered how this fitted in with the last minister's provisions with regard to the handicapped and the charitable way he put forward those motions. I just hope that I am not reading it as everybody else is reading it.

Mr Delaney: You are!

Mr Waft: Are we really saying that we are going to exclude them from making a disability working allowance? I have had the privilege of going round just recently looking at some of these homes and seeing the people who actually live there and work there and have their life and the staff's life surrounding them. Half of these people could not even claim for disability working allowance anyway, so who is filling it in? (**Mr Henderson:** Hear, hear.) There is somebody filling it in and it must be the staff think they are entitled to it, and what really can be behind this? Is the full weight of bureaucracy imposed on this small section of the community who might be receiving something they are not? And then I thought, 'Well, I wonder if it is anything to do with the minimum wage. I think maybe that will have an effect later on when the minimum wage comes in', but how will that affect the situation? And I just could not for the life of me find out where the department was coming from with regard to this.

It mentions that some of these persons moving into these homes have been found employment by the department purely for therapeutic purposes, and all credit to them if they can fulfil some small job for therapeutic reasons and I am sure there are many of those. It goes on to say they will simply return to those benefits which were there in payment prior to their commencing part-time work and any therapeutic earnings will be subject to a fixed disregard. Now, if that can be put forward in more common usage so that we are all aware of this section of the community, will they be gaining or will they be losing money at the end of

the day? I think that is what we have to ask ourselves. Are we penalising them or are we closing loopholes for the sake of bureaucracy? And we need to find out exactly what is going on here. That is all we need to find out. Thank you, Mr President.

The President: I call upon the minister to reply.

Mrs Christian: Thank you, Mr President. I think we need to take a look here at some of the comments that have been made and examine them in the light of what disability working allowance is about. Now, hon. members are all very familiar with family income supplement in that it provides that if you have a family situation and your income is not particularly high, government will top it up to enable you to meet your everyday living expenses. The same thing applies in respect of disability working allowance for people who have a disability which disadvantages them in terms of getting work. Their top-up is higher than that for family income supplement. It is a top-up on what they are able to earn within the limits of their disability to enable them to meet their everyday costs of living: their housing, their food, their heating, their clothing, everything that all of us have to provide in our everyday lives.

The situation we have before us is that there are people who are provided for fully by the state in having their housing, their food, their heating all met for them and therefore disability working allowance is not appropriate in these circumstances. Disability working allowance is so that it can assist you to pay for your rent, to pay for your heating, to pay for your food. The people to whom this order applies do not have to pay for any of those things. They are provided free.

Mr Delaney: So they should be.

Mrs Cannell: What about their clothes and their toiletries and their expenses?

Mrs Christian: They have an allowance to meet those things.

Mr Delaney: So they should be.

Mrs Cannell: They don't just live, eat and sleep, you know.

Mrs Christian: Yes, I am not arguing. They have an allowance, as does everybody in the care of the DHSS, to meet their personal requirements. There is a personal allowance of £22 a week, plus income support, disability living allowance of £14.20, plus anything they may wish to earn themselves up to about £58 a week. So they can have an income of a not inconsiderable amount without any outgoings except their own toiletries or, as the hon. member has indicated, their sweets or whatever, and that is why we want to make a distinction between those people who have to provide all the requirements of life themselves and those people for whom the state is providing those requirements. The state is paying out hundreds of pounds a week in a very expensive programme to provide accommodation for people with learning disabilities, and we all applaud and endorse that. What I think we have to recognise is that there is a difference between the situation of the people who are fully funded in our care and those people with a disability who are working to support themselves in the entirety of their daily needs, and that is why the department, before this procedure grows and the claims numbers grow, wish to establish the principle that there is a difference here.

Now, the hon. member has alluded to the fact that a member of staff, quite properly, recognised that there was a disability working allowance available and quite properly, one would say, encouraged the people who were doing some work, whether it be paid therapeutic

work which the department has organised or whether it is work that the staff have assisted them in getting or our employment programmes have assisted them in getting, to apply for DWA. Now, there was nothing wrong with that: it currently meets the rules. But we do seek to recognise that DWA was never designed to meet the situation where all their care needs were being funded by another pocket of government, and that is why we want to make the position clear in respect of these people.

Now, it is very easy, very emotional and very emotive to say, 'Oh, you're taking away a lot of money from these people.' Indeed their disability working allowance, which is a percentage of the difference between the prescribed amounts and what they are actually earning, could come to a considerable sum, it might be £60 or £70 a week, but the point is that the person who is out there working and paying for themselves has a requirement to use that £60 or £70 a week to pay for their everyday necessities whereas these people do not, and whether or not the hon. members consider that is appropriate use of government funds is for them to decide today.

I would suggest that if you were normalising things, these clients would then be asked to pay for those everyday needs that are currently being funded in the same way as any other person receiving disability working allowance would be required to pay.

Mr Cannell: And they would be worse off.

Mrs Christian: We are not asking them to do that. We are simply trying to clarify the position of DWA and what its purpose is so that where resources are being used they are being used for the right purpose.

There is a small number of people receiving this benefit. It has been recognised early on as these claims start to come in that this is not the purpose for which DWA was designed. If hon. members do not agree with this, obviously they will not support the particular resolution before us.

The hon. member Mr Braidwood had indicated that the disabled could receive this benefit and hand it over to their families. I would suggest that their families, if they have a need, should be claiming in their own right and not using this as the mechanism for receiving a benefit from the state to hand back to their families.

The experience of the department is in any case that most of this personal allowance funding goes into a Post Office account and sits there in most cases. That is quite right and proper. If these people want to save their money, that is fine. If they want to use it on a holiday or a music system or whatever else, that is fine, but I think we have to recognise that this is not the purpose for which DWA was designed in the first place.

Mr Delaney: Could I ask for that answer: the amount of money that we are actually going to save through this at the moment?

The President: If the minister can reply.

Mrs Christian: Mr President, I do not have any figures on what it would save because it varies from individual to individual depending on how much they earn in any one week -

Mr Delaney: An estimate?

Mrs Christian: - and what the prescribed amounts are. I do not, I am afraid, have an estimate of what it would cost, but the point is that it could be a very growing amount, it could amount to several thousands a year. *(Interjection)* To the hon. member, the point is not what it costs, the point is the principle of whether or not DWA is to be given to people who do not have to meet the everyday costs of living. That is essentially the principle, Mr President.

Mrs Cannell: Mr President -

The President: Hon. members, the motion is that printed at item 21 on the order -

Mrs Cannell: A point of clarification, please, Mr President.

The President: The minister has responded. I have allowed one. We will leave it at that, hon. member, and the motion that is in front of us -

Mrs Cannell: The minister is misleading the Court.

Mr Brown: Ooh! A point of order.

The President: Hon. member, I do not think in any respect that the minister has in any way misled the Court in her comments this afternoon. Can I say that the motion before the Court -

Mrs Cannell: Mr President, I did ask to speak and you denied me.

The President: - is that printed at item 21 on the order paper, that the Social Security Legislation (Application) (No. 9) Order be approved. Will those in favour please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

In the Keys -

For: Messrs Gilbey, Rodan, Mrs Crowe, Messrs Brown, Cretney, Shimmin, Downie, Mrs Hannan, Messrs Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 14

Against: Messrs Quine, Houghton, Henderson, Duggan, Braidwood, Mrs Cannell and Mr Singer - 7

The Speaker: Mr President, the motion carries in the House of Keys, 14 votes in favour and 7 votes against.

In the Council -

For: Mr Radcliffe, Mrs Christian and Mr Crowe - 3

Against: The Lord Bishop, Messrs Lowey, Waft, Dr Mann, Messrs Kniveton and Delaney - 6

The President: Hon. members, in the Council there are 6 votes cast against and 3 votes cast for; in the Keys, 14 for, 7 against. With the branches in disagreement it goes with the House.

Mr Delaney: No, Mr President, I challenge that.

Mr Lowey: It fails.

The President: The motion fails.

Employment (Recoupment of Benefit) Regulations 2000 – Approved

The President: So we turn then to item 22 on the order paper, the Minister for Health and Social Security.

Mrs Christian: Mr President, I beg to move:

That the Employment (Recoupment of Benefit) Regulations 2000 [SD No 206/00] be approved.

The regulations in item 22 are an updating and consolidation of the Recoupment of Unemployment and Supplementary Benefit Regulations 1992. They do not reflect any change in policy.

The regulations enable the department to recover from a compensation award made by the Employment Tribunal to former employees who can show that they have been unfairly dismissed any jobseeker's allowance or income support which was paid during the period subsequently covered by the award. The recovery can only be made to that part of the award which represents compensation for loss of wages.

Further details have been circulated to hon. members. I beg to move the item standing in my name.

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

The President: The motion, hon. members, is that printed at item 22 on your order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Pension Schemes (Application) (No. 2) Order 2000 – Approved

The President: Item 23, the Minister for Health and Social Security.

Mrs Christian: Mr President, I beg to move:

That the Pension Schemes (Application) (No. 2) Order 2000 [SD No 207/00] be approved.

This order applies to the Island three items of subsidiary legislation of Parliament concerned with personal and occupational pension schemes and to the state earnings related pension scheme.

The amendments being made are all concerned with the operation of the schemes and are for the protection of scheme members. They also need to be applied to ensure that the law governing the operation of these schemes remains the same both in the Island and the UK. To the extent necessary the changes have been applied administratively pending formal approval.

Full details of the provisions are set out in the memorandum which has been circulated to hon. members. I beg to move.

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

The President: The motion, hon. members, is that printed at 23 on your order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Income Support (General) (Isle of Man) Amendment Regulations 2000 – Approved

The President: Item 24, the Minister for Health and Social Security.

Mrs Christian: Mr President, I beg to move:

That the Income Support (General) (Isle of Man) Amendment Regulations 2000 [SD No 208/00] be approved.

These regulations amend the Income Support (General) (Isle of Man) Regulations 2000 which hon. members will recall were approved at the March sitting of this Court.

The amendment regulations, which come into operation on 1st June, amend the principal regulations to bring them into line with the amendments being made to the jobseeker's allowance and to correct a number of anomalies.

Further details of the provisions are set out in the memorandum which has been circulated to hon. members. I beg to move.

Mrs Crowe: Mr President, I beg to second.

The President: The motion, hon. members, is that printed at 24 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 2000 – Approved

The President: **Item 25, again the Minister for Health and Social Security to move.**

Mrs Christian: Mr President, I beg to move:

That the National Health Service (Isle of Man) (General Medical and Pharmaceutical Services) (Amendment) Regulations 2000 [SD No 47/00] be approved.

The regulations that we are considering now amend the terms on which general medical and pharmaceutical services are provided under the National Health Service.

The main purpose of the regulations is to make a minor amendment to schedule 4 to the principal regulations. It is intended that this regulation will enable patients who, directly prior to the introduction of amendment regulations in 1999, were receiving treatment for erectile dysfunction but who ordinarily do not fall into any of the categories of patients for whom treatment is allowed to continue to receive that treatment.

The department has circulated a memorandum explaining this matter in more detail. I beg to move.

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

The President: Hon. members, the motion is that printed at item 25 on the order paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Permitted Hours (Licensed Premises) Order 2000 – Approved

The President: We then reach item 26 on the order paper and I call on the Minister for Home Affairs, the hon. member for Ramsey, Mr Bell.

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

That the Permitted hours (Licensed Premises) Order 2000 [SD No 188/00] be approved.

The order before the Court will, if approved, permit all on-licence premises to remain open between the hours of 12 noon and 11 p.m. on Sundays, starting from Sunday 21st May until 29th October inclusive. This will in effect allow all on-licence premises, if they wish, as this extension is optional, to stay open during Sunday afternoons in the summer months and allow half an hour extra until 11 p.m. to bring Sunday closing time in line with closing times on weekdays.

The change is being introduced as an interim measure prior to the Licensing Amendment Bill being considered by the House of Keys later this year and is being proposed as a result of representations from, firstly, the tourism and leisure industry who now feel that our visitors are disadvantaged in comparison to competitive destinations elsewhere, and secondly, our own Island residents who feel equally discriminated against, bearing in mind the UK has had all-day Sunday opening of on-licence premises on Sundays for a number of years.

The approval of this order, which is supported by the Department of Tourism and Leisure and the Isle of Man Constabulary, will improve the availability of leisure facilities on Sundays, increase the choice of venues for meals et cetera and for watching what has now become a very popular pastime, sporting events on television on Sunday afternoons.

The law as it stands does not allow temporary orders for periods in excess of four weeks. Therefore to permit a trial period of this length it is necessary to make the order permanent. However, I have given and will give an undertaking to evaluate the success or otherwise of this change in September. At that time, after consultation, a final decision will be made as to whether this order should be considered permanent or whether the opening hours should revert to the present position.

I believe that this change will be widely welcomed by our tourist industry and our Island residents alike and will respond to the change in attitude to licensing issues which is currently under way within our community. I beg to move.

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

Mr Downie: I rise to support the principle of this but I do want to put my marker down, as I have already mentioned to the hon. minister.

This Sunday was one of the first Sundays we have had for a long time where we enjoyed excellent weather and it was nice to see people out enjoying themselves and making the most of the late spring sunshine. However, at around about half past three, four o'clock on Sunday afternoon there were upwards of 150 people sat in the vicinity of the yachting pond, the children's playing area and on the gardens area of the promenade with copious amounts of drink, all in pint glasses and bottles which they had obviously bought or purchased from the hostelrys on the other side of the road. Now, whilst I have nothing against licensed premises being open on the Sunday afternoon, nothing against properly run establishments where they have an area set aside at the front and it is under control, I am not going to support people drifting round the town, getting involved in unsocial practices, carrying pints of beer through the street and other places.

So I want an assurance from the minister today that in supporting a new way of life, as it were, in the Isle of Man, he will give an undertaking that there will be a much greater police presence and anybody who is consuming alcohol which they have purchased under the guise

of consumption on the premises will not be allowed to walk freely in certain areas and become a nuisance. Thank you, Mr President.

The Lord Bishop: Mr President, I just wanted to make a few comments. I am delighted that earlier today we respected the turbans of the Sikhs in a very sensitive way and I think it would be nice if I recorded that there will be quite a number of deeply religious people on the Island of varying denominations who would be concerned by this and I just wanted to put a marker down that that has been noted in this Court.

For my own part, I think we had this debate before the end of last year on new licensing rules for the weekend of the millennium and I certainly am not against an experimental period. I did get an assurance from the minister at that time that there would be a report on the results of that weekend. I note in this note given to us today that it says everybody agreed that the behaviour was good, but we have not had a definite report, any of us, from you on any specific items at all of what happened that weekend, and you did give an assurance, certainly to me in the debate, that that would happen, and I am just really saying that this time I would like something more specific than just one line in a note to say what were the outcomes, what were the specific points made by the police and licensees, and if you are going to make a decision, who is going to make the decision in September before you come to Tynwald in October? I would hope that we would all have some part in making a firm decision about the future because in item 4(2) you include police, licensing courts and licensees and then et cetera. Perhaps the Church comes under the et cetera, but I would like to be a little bit prominent in that if we are going to be asked to give some sort of statement in what I believe is a social event, a social concern, and my own view is that the Church is very much involved in that area.

So I would hope that the experiment goes well and I would like some sort of very firm comment at the end of it.

Mr Singer: Mr President, in referring to this order before us I would also like to refer to the document that has been sent round, the explanatory document, because that does indicate that this proposal is leading into the examining of the permitted opening hours for licensed premises as taking into account the proposed changes in England and Wales.

Now, in the department's explanatory notes there are two items covered, firstly this order to alter the permitted hours for the supply and consumption of liquor on Sundays between 12 noon and 11 p.m. from May to October, and secondly, the consideration of deregulating the licensing hours to allow the freedom to open up to 24 hours a day, seven days a week.

Now, the order before us I am prepared to support, as it is stated quite clearly and it has been referred to that a review will take place in September having consulted all the interested parties. The consideration, however, of the 24-hour, seven-day week system is not as clear-cut and whilst representations are said in the explanatory document to have come from organisations that represent the tourist and the leisure industry, this is not a view shared by many of those in the licensing trade.

I personally felt that I should be aware of the views of the publicans in my constituency before forming any view of my own and before taking into account the views of the general public who, certainly in the smaller towns and villages, live in the near vicinity of licensed premises. I would say that a considerable proportion of licensees at this juncture are extremely

concerned and dubious of any advantage that will accrue to their business with the introduction of a 24-hour, seven day a week permitted opening hours, certainly the effect it would have on their profitability if they do not open for extra hours. My debate with them is ongoing and their final considered views I would be pleased to fully communicate to this hon. Court if and when the proposal comes forward.

But it does appear to me that much of the pressure is coming from the brewery and one can only surmise what their reasons are at this time. However, it is a fact that in Douglas, whilst the brewery control many of the public houses, they do not control the nightclubs and it would clearly be in their interest to keep the customers in their premises till the early morning hours rather than lose them and any further business after midnight to the nightclubs.

The department of Home Affairs, in their explanatory document, do cite two temporary extensions to licensing hours in the last 12 months, quoting them as proving highly popular. If one of these extensions was in regard to New Year's Eve, then for many public houses the actual millennium eve was a financial disaster. Some closed as early as 8 p.m. due to there being no business, and so of course the licensees and the police reported no problems because there was nobody in the pubs, they were all at home, and that is a fact that has been given to me by a licensee.

What I would say to hon. members in this Court is this: please take the time to go out and speak to the licensees in your areas, particularly the independents, ask them for their personal views as to the need and advantages and disadvantages that they see of the 24-hour proposal so that you are influenced when you make a decision by the views of all the interested parties, not only those demanding change. Thank you, Mr President.

Mr Kniveton: Mr President, I believe that many hon. members will acknowledge that the two trial temporary extensions over recent months - New Year's Eve, millennium eve and TT week last year - were successful and created no real problems for anybody.

I believe that particularly, as the minister has said quite clearly, this experiment, and that is what it is initially, will be evaluated in September and a decision to be approved by this hon. Court should be made thereafter to decide yes or no for the future, decide whether that is acceptable.

I believe, even as a teetotaller, that the request is reasonable and we should allow or approve the new permitted Sunday hours. I will support the motion with this knowledge.

Mr Karran: Eaghtyrane, I have no problems as far as this motion is concerned. I just wondered whether the hon. mover could just explain. We have a family licence now, I believe, where certain institutions, certain pubs are classed as family premises or family-friendly premises and I just wondered whether it would have been possible to actually have done this for them and not for the rest because I have no problems with the principle of people going out to eat and they have to be forced out of the bar, and I think that is a loophole in the law, but I am concerned that we legislate not for the majority but for the minority, and I just think that if it had been for them I would have been a lot more happy. I will be supporting the proposal but I just think that it would have been better if it had been for these family-friendly pubs, I would have been a lot more happy with this order, than giving it to just any old drinking hole as far as that is concerned.

The other issue that I would like to say is that I would hope that the Chief Minister would not take on board that because we support this we are going to support any moves at a later date, because people who are in the licensing trade who have talked to me about this have said that if these proposals come out they will be a recipe for disaster, as they see it, in the fact that most pubs will end up having to employ security on top of everything else. Now, maybe that is scare-mongering but that came from legitimate people who are not licensees but work in the licensing trade and they say that they reckon that will happen. So I do hope that the Chief Minister does not think that we will support willy-nilly things in the future if we support this.

But I just wondered if he could just clarify whether we could have just done it for these pubs that are supposed to be family-friendly, whether it would have been better just to have done this for those sorts of pubs, in my opinion

Mr Cretney: Mr President, just a few brief remarks if I can. Obviously I will be supporting the motion which is on the paper today.

I do believe that last year the TT experiment, which I think a number of us thought in advance would be a success, was a success. I think people generally act sensibly if they are given the opportunity to.

I take on board the comments which were made by my colleague from West Douglas, Mr Downie, and I think that is a matter of control, it is a matter of adequate policing of whatever the particular situation is. For example, I hear what he says about the boating pool area, the former boating pool/paddling pool area on Douglas promenade which is across the road from their licensed premises. However, if you were to take, for example, the North Quay area, it seems to me that it would be a really attractive and would not be an abused opportunity for people, in a more continental-style fashion, to have a pleasant drink in the afternoon in a very attractive location, but I think each has to be taken on its merits and I think a useful way forward would be if there were the ability to designate certain areas for drinking outside of licensed premises in areas which could be properly managed.

Also, if I can comment on the family-friendly situation, because that is one where more and more people are taking their youngsters or whatever out for a meal in a civilised way, licensed premises have themselves updated and got themselves in a situation where they meet that particular market demand, and I think that we need to recognise that and that people are not disadvantaged if they do come to the Isle of Man, or our own people equally, that we are not recognising that that is an area where we should be perhaps developing into the future.

In terms of the licensed premises order which is on the paper, from time to time I take the opportunity to meet with people who do choose the Isle of Man as their holiday destination, and I am sometimes giving out prizes. I did that the other night and the group of people who I met the other night were from the Crown services, a responsible group of people who were over to play in a volleyball tournament, and without any prompting the chief fire officer, who was one of the people on the committee, said to me the only thing they had been disappointed about was that this particular facility does not exist, whereas it does elsewhere, and he could not understand that. They had enjoyed their volleyball and then on the Sunday they were going out for a run in the countryside and could not understand why a facility which does exist

elsewhere was not here. Now, these are not people who are just here for a big booze-up or anything, these are people who came for a sporting event, and I think it is repeated time and time again with sporting events.

I think we need to do what we can, monitor the situation. I think it is right the way in which the minister is proposing to do this, that we will, he will review at the end of this period and report back, I think that is exactly the right thing to do, but I think as long as we can monitor, as long as we can manage difficult situations which I acknowledge can exist in some places, I think this is a civilised way forward and I welcome it on the agenda today.

Mr Cannell: Mr President, I am probably one of the ones that the hon. minister occasionally refers to as Luddites on this type of matter. It is a description which I would not accept because with reference to the millennium programme which was suggested, far from actually being proven to be a Luddite, I think that myself and others who spoke similarly were proved to be quite correct because what was being asked for at the time was, I think, something to the degree of 37 hours non-stop licensing availability. In the end the people voted with their feet and said they did not want it. That does not mean to say that the facility should not have been in place and in fact at the end of the day it all worked out well with no difficulty whatever. But we are not talking about that and we are not talking about 24-hour licensing for 365 or 366 days, we are talking about a temporary order here which in the main fits the tourist trade, and on that basis alone I cannot as a member of the department, nor would I even if I was not, oppose it.

It is the differentials that I have always hammered away at, where you actually go to your local and have a drink and time is called when you perhaps want another drink, but you cannot have it because those are the hours, but you can toddle down to Douglas promenade and go into certain establishments for a small admission fee and crack on drinking throughout the afternoon, so if that is not hypocrisy I do not know what is. And it is the same at chucking out time on the ordinary nights at 11 o'clock, or 12 o'clock on Friday and Saturday, you cannot have any more drinks if you want them but you can go elsewhere and get them, and the same applies to the off-licences. You cannot go in and buy a bottle of beer in an off-licence at times which are at variance with those of the pubs, but you can go down the promenade and fill yourself to the brim with ale if that is the desire you have and in fact many are doing that. Where they get the money or where they wish to do that is not of concern to us here. It is equalisation which I suggest is what we need.

One item which does concern me, though, is the provision for children to be associated with the pub longer opening hours, and it is a very unedifying spectacle to see bored kids running around either inside or closely outside of pubs while their parents pretend that they have satisfied their needs with a bottle of lemonade and a bag of crisps. It is not a spectacle, I suggest, we wish to encourage.

But on the basis that this is an order which will provide for extra hours on Sundays for the period from now until what we used to call the back end, though I am pleased to say that has been extended considerably now, and on the basis that the 24-hour thing will be quite something separate I will give my vote in favour of this, but I do have some reservations about the catering for children and I would call upon the hon. minister to refer me, please, to the distinction which can be made between children accommodated in public houses where

meals, genuine meals, are being served and the point that the children may still be running round in the same establishments a number of hours later.

The President: The minister to reply.

Mr Bell: Thank you, Mr President. First of all could I just remind hon. members, although I can understand the temptation to stray, that the resolution before us today is nothing to do with the introduction of 24-hour drinking or any other such description as some of our members have chosen to put on it. It is simply to do with a temporary order, at this stage, to allow all-day, that is, 12 noon until 11 p.m. opening, optional opening of on-licence premises on a Sunday. So although I will answer some of the points, most of the issues which have been raised in relation to 24-hour drinking are irrelevant. I would say, though, on that particular point that, perhaps for political purposes or other reasons, the concept of deregulation which has been discussed in the United Kingdom and which we have started to look at for the Isle of Man does not introduce compulsory 24-hour drinking in the Isle of Man, which is the impression certain members seem to have been given. It is to simply allow the licensees the option to open at a time which suits them, to take pressure off the licensing court so that they have not got to be dealing with extensions all the time and indeed, which is what I think will happen in a number of areas, pub opening times in fact will be less than they are now because they will not have to open at unprofitable times. So I would just like to put that marker down. We are not talking about 24-hour drinking, we are simply talking about flexibility in opening times.

If I could go through some of the points which have been raised, Mr Downie, the hon. member for West Douglas, has raised the issue of people drinking on the promenade and he has raised this issue with me on a number of occasions and in the main I agree with his concerns. I too was on Douglas promenade on Sunday evening, it was a beautiful evening and there were a lot of people out and there were a number of people drinking on the promenade wall and in the prom gardens. At the time I was there it was all very relaxed, there were no problems, there was no unpleasantness, and although certain people may not like to see others drinking in public as the issue itself, the area where they were was well behaved and there were no particular problems and I was there for some time while this was going on.

But I would just remind hon. members that this was happening at a time when licensed premises in fact were closed. It is not because we are talking about extending the hours we have got, this problem, it is there now.

Mr Downie: They stock up and take it across.

Mr Bell: It is there now.

Mr Downie: It is against the law.

Mr Bell: The proposals which we are putting forward which would allow for Sunday opening at that particular time I am sure would encourage most of those people, if not all of those people, to stay within the licensed premises. The problem is that at that time on a Sunday after 3 o'clock, even in Douglas in the summer, there are very few places for people to go for that type of refreshment.

The whole question of people drinking in the street is one which we would like to address, if we can, in the forthcoming licensing amendment Bill, but it is a question of balance.

As the hon. member for South Douglas himself has said, there are areas of Douglas such as the North Quay where frequently on a warm summer's evening or afternoon you will find people sitting on the quayside outside a public house, causing absolutely no problems whatsoever to anyone, enjoying the sunshine and having a friendly chat and a drink, and I can see no problem at all with that. Equally, we have times during the year, and we are coming into it now in TT time where, for example, when the Bushy's operation is running and one or two other areas around town, where there are people drinking out of doors. Now, that is a separate issue to people who in many cases are drunk and are taking several bottles with them on some occasions and walking through the street and sometimes causing problems. Now, it is to try and find a form of words in our legislation which will separate the two that is causing us the problem.

I accept the point that he is making, that the ones who cause trouble in the street are the ones we want to try and restrict and disarm, if you like, from their alcohol, but we would also like to recognise the fact the people do enjoy a drink outside on a summer's evening or whether it is a Sunday afternoon or any other evening in the week and I can assure the hon. member we are looking at the moment at some form of words which would permit that. At this stage I cannot give the hon. member an answer as to quite specifically how it will work but if we can make it work, then I will be including that in the forthcoming Bill and of course it is then for the hon. members to decide themselves whether in fact they are prepared to support that legislation.

I thank the Lord Bishop for his comments. I have in fact spoken to him on this issue, I think on two or three occasions, and I accept his concerns. There are obviously religious views to take into account, but I would also say there is the wider public's view to take into account. We are talking about consumers here. I would only repeat what I said. We are not making this compulsory. Those who do not wish to enjoy the extra facility will not be affected at all: they will still be able to go to church, they will still be able to sit at home, they will be able to go to B & Q, or anything else they wish to do. This is simply responding to those people who wish to have that facility for a Sunday afternoon. It will not in any way prevent people going to church and I cannot see how people's religious sensitivity will be offended by what is proposed and I would simply repeat what I have said on other occasions.

This situation has prevailed now in the United Kingdom for a number of years. It has been a very popular move in the United Kingdom and all our research has shown that it has caused absolutely no problem whatsoever, it is generally well used by families, by those who like a friendly drink on a Sunday afternoon, and to my knowledge has not offended the Church in any way at all, so I cannot see why introducing a similar facility into the Isle of Man will cause any undue problems here.

The Lord Bishop mentions the millennium experience. We did have a debriefing within the department on it. It was a very if not the quietest New Year's Eve that the police have experienced. There was no trouble at all with the extended hours, in fact a lot of policemen really were sitting around doing nothing on New Year's Eve because the anticipated problems did not materialise.

Mr Cannell: The hours were not needed.

Mr Bell: Well, the option was there. We were not forcing anyone to open. All we were doing was, again, deregulating. It was introducing total freedom - if they wished to open, they could open, if they did not wish to open, they could close, and surely that is what freedom of choice is all about. We are offering freedom of choice for the consumer and freedom of choice for the operator. If they do not wish to open, even on this Sunday facility, then they will not be obliged by the legislation to do so.

The decision ultimately as to whether we continue this order or not will be by Tynwald. We will be bringing it back to Tynwald and we will be asking you to vote on it.

Mr Singer's comments - again, I am sure we all know where Mr Singer comes from.

Mr Duggan: Ramsey.

A Member: The same place as you!

Mr Bell: And the reason for the comments; exactly. His comments were almost entirely to do with the deregulation of hours and I do not think he made any comment about the Sunday order, actually.

Mr Singer: I said I will support it.

Mr Bell: Oh. Well, that's a start.

Dr Mann: They are talking.

Mr Cannell: Minister floored.

A Member: You get on well together, you pair, don't you?

Mr Bell: Mr Kniveton - I thank him for his support.

Mr Karran refers to the family licence. We are, again, as part of the new Bill which is being drafted, looking at a number of extra provisions to encourage and control family use of these premises and, again, members will have the opportunity to comment on that at the time. I do not think it would be feasible, and I do not think it would be fair either, to introduce this order simply for pubs to cater for families as glorified restaurants. We are not looking for that, we are looking to cover the whole range of consumer demands in that manner.

Mr Cretney - again, I thank him for his support. I know the Department of Tourism have been hoping for changes in this area for a long time because the tourist industry is currently having to work at a handicap to the United Kingdom and when we have visitors, such as we experienced this weekend, and I was at the same function as the hon. minister, people are frustrated that they cannot enjoy the same facility as they can at home. I know it is getting a bit hackneyed now but at one time the Isle of Man did used to advertise the fact that we had longer opening times than the United Kingdom as part of our tourist promotions. Now in fact we have the most restricted in the United Kingdom, and I think we should not forget that point.

I would also point out again, regarding the hon. member for South Douglas, Mr Cretney's commenting on the pubs becoming more family-friendly, that the traditional drinking den that people still seem to have in their mind is almost a thing of the past. The pubs now generally are becoming more like café bars than the traditional hard-core pubs and perhaps some of the comments today is a reflection on the fact that not many members visit these hostelrys very often and they are simply living on their own prejudice.

The hon. member for Onchan, Mr Cannell, finally - I thank him for his support. Again he refers to the situation at New Year which I believe was very successful and it gave the people the opportunity to choose what form they wished to see in the New Year, and I think that is absolutely right, and overall I think it worked very well.

Children in pubs - again, as I have said, we are looking at ways of improving that. There is no question that the experience on the Island, but most certainly off-Island, has been that where families are encouraged into public houses there is far and away less disorder, it is a far better managed environment altogether and, as I say, because pubs are moving more towards café bars, I think we will see a lot more of that in the future.

So I hope I have answered hon. members' points. All I would say is, again to repeat, that this is an experimental period of three months or four months to the end of October. We will review it in September and if we find that there have been no problems, and I have to say personally I do not anticipate any problems, we will be seeking to make this order permanent and it will then operate from the end of October. So I beg to move.

The President: Hon. members, the motion before you is that printed at item 26 on your order paper, that the Permitted Hours (Licensed Premises) Order 2000 be approved. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Now, hon. members, it appears to me that there is no likelihood of completing our agenda paper this evening. In that case I think it would be an appropriate time to retire and if the Court is in agreement we will meet again 10.30 tomorrow morning. Thank you, hon. members.

The Court adjourned at 6.30 p.m.