

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 31st October 2000
at 10.30 a.m.**

Present:

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); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Mr J P Shimmin and Hon A F Downie (Douglas West); Hon J A Brown (Castletown); Hon D J Gelling (Malew and Santon); Sir Miles Walker CBE LLD (hc) and Mrs P M Crowe and Mr J Rimington (Rushen); with Prof T StJ N Bates, Secretary of the House.

The Chaplain took the prayers.

Welcome to Visitor

The Speaker: I am pleased to welcome this morning, sitting in the gallery, Mrs Clare Griffiths, an officer of the National Assembly of Wales. Welcome, and I hope that you find our proceedings of some interest.

Mobile Phones — Record of Ownership — Question by Mr Houghton

The Speaker: Now, hon. members, we will turn to the order paper and, starting with questions, question 1, the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg leave to ask the Chief Minister:

Why does Manx Telecom not record ownership details of customers purchasing mobile phones?

The Speaker: Chief Minister to reply.

Mr Gelling: Mr Speaker, standing order 48 states that the object of a question shall be to obtain information on a matter within the special cognisance of the person to whom the question is addressed. Now, I would suggest that this matter is therefore not within my special cognisance. However, trying to be helpful to the hon. questioner, what I can say to the hon. member is that Manx Telecom have three different services and it is not right to say that they do not keep details or record ownership on all their mobile phones that are purchased, because they have the Pronto service, where there are 3,247 phones in use in the Isle of Man where bills are sent on a regular basis, so obviously they have a record of all those customers; then there is the Pronto personal service where there are 14,466 phones in use in the Isle of Man, and again they have monthly billing systems so they have the name and address of all those users; but then, on the third service, which is the Pronto Go, where there are 7,164 in use, they are the ones that are sold as a package with a voucher system, and of course they are sold over the counter as, to put it bluntly a job lot to which they do not have records, sir.

The Speaker: A supplementary, Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker. In view of the recent enactment in another place of the Protection from Harassment Act, does the Chief Minister not agree that Manx Telecom should be encouraged to record the details of customers when Pronto Go mobile phones are sold to allow for an effective method of tracing an offender if such offences are disclosed? Also, would this not assist those who inadvertently lose their mobile phones to have their property restored to them if found by someone else, sir?

The Speaker: Chief Minister to reply.

Mr Gelling: Yes, well, first of all, Mr Speaker, of course exactly the same service is operating in the United Kingdom, in fact more so because, of course, there are many suppliers of this type of basically throw-away mobile phone. In the Isle of Man, because of our licensing situation, we find that of course Manx Telecom are the ones that are selling those particular package phones. Now, from what I understand from some of the enquiries I have made, that is exactly what they are: they are sold over the counter and basically they are swapped around between people and nobody knows who actually is using them. I can understand where the questioner is coming from, but they are, as well, very, very valuable because again I understand by speaking with education personnel yesterday an awful lot of the children, especially the girls, use them because their parents buy them for them so that they can be there as a protection. So what I would say to the hon. questioner is this: they have a very, very good use but, as is always the case no doubt, they could be abused also, and it is certainly something that we could speak about with the Communications Commissions, because I know they are reviewing that particular area at the moment, and they could perhaps look at it. But I can certainly not promise the member that there is anything that can be done to actually stop the sale of those mobile phones, Mr Speaker.

Double-Decker Buses — Modifications — Question by Mr Rimington

The Speaker: Question 2, Mr Rimington.

Mr Rimington: I beg to ask the Minister for Tourism and Leisure:

- (1) *Do standard production double-decker buses require to be modified to meet obligatory Island specifications; and*
- (2) *if so -*
 - (a) *what is the present cost of making the modifications; and*
 - (b) *how long do the modifications normally take?*

The Speaker: Minister for Tourism and Leisure to reply.

Mr Cretney: Thank you, Mr Speaker. As a general rule there really is no such thing as a standard production double-decker bus, although occasionally a manufacturer will build one or two vehicles for stock purposes, to United Kingdom construction and use regulations. These require modifications to meet Isle of Man lower weight limits. In the United Kingdom two-axle vehicles are legally permitted to operate at 18,000 kilograms or approximately 18 tonnes maximum total laden weight with a rear axle of 11,500 kilograms. Under Isle of Man legislation the limit is 16,260 kilograms - i.e. 16 tonnes laden weight, and 10,170 kilograms for a rear-drive axle respectively.

The hon. member will be aware following last week's Tynwald resolution that my department is currently in the process of purchasing eight buses. Of these only three are stock purchases, which are to be modified by the supplier free of charge. Subject to the suppliers' work programme the modifications would normally take a couple of days.

The Speaker: A supplementary, Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. I did understand that there was an extra cost involved with such modifications. Would the minister confirm to me that if such modifications did require extra cost, then he would seek an exemption from the Department of Transport in respect of these vehicles?

The Speaker: Minister to reply.

Mr Cretney: Mr Speaker, there is no extra cost involved and I would not seek such exemption. I believe that the Isle of Man roads are a fragile thing which we have to be very careful about (**Members:** Hear, hear.). It is something which I feel quite strongly about and I agree with the Department of Transport policy on.

Children in Care — Fostering — Question by Mr Henderson

The Speaker: Question 3, the hon. member for Douglas, Mr Henderson, to ask the member for Health and Social Security.

Mr Henderson: Thank you, Mr Speaker, I beg to ask a member for Health and Social Security.

- (1) *What is the policy of your department on taking into care children who have been determined to be at risk;*
- (2) *where such children are taken into care by the Department, what is the policy of the Department on fostering them;*
- (3) *where the department does foster such children, what is the policy of the department of fostering them off the Island; and*
- (4) *in what circumstances do decisions of the department to take children into care, to foster them or to foster them off the Island require an order from the Manx court?*

The Speaker: Mr Cannell, member for Onchan, member for the Department of Health and Social Security to reply.

Mr Cannell: Thank you, Mr Speaker. In reference to the hon. member's question I can say that the social services division of the Department of Health and Social Security is the division responsible for welfare matters concerning children and their families. The key policy of the department is to provide services that avoid children being received into care. A range of services has been developed to achieve this objective including social work intervention, family centres, psychological psychiatric services, family aides, day care and several specialised family programmes. Such work is usually undertaken after a full assessment and detailed care plan have been agreed. Where children remain at risk within the family, alternative solutions will be examined, which could be placement with another member of the family or reception into care, whichever is felt to be in the best interests of the child.

The majority of young people who are in care are in on a voluntary basis under the provision of section 82 of the Children and Young Persons Act 1966. Parents must agree to such an admission. If parents do not agree to reception into care but the child is felt to be at serious risk, then the department must apply to the courts for a care order where the department would have to prove that the child was in need of care, protection or control. In that case the court would specifically require proof that the child was either beyond the control of its parents or that circumstances could be shown to exist as listed in section 2(2) of the Children and Young Persons Act 1969.

Once a child has been taken into care the department would attempt, so far as is possible, to place that child within a family situation, either within its own family or with foster-parents. Over half of the children in care in July of this year were either living with a member of their own family or with a foster-parent.

Children come into care for a great variety of reasons which, on one hand, could be as a result of illness of a parent or parents or by being beyond the control of those parents. Where children are fostered depends very much on the needs of the children. The great majority are accommodated on the Island. Many of the foster-parents specialise in a particular age group or type of problem children. The department also have eight contract carers who work on a full-time basis fostering children with emotional or behavioural problems or who have been allegedly abused.

There are difficulties in recruiting foster-parents on the Island despite several recent high profile recruitment campaigns. However, there are currently 36 foster-parents registered.

The department would look to place children in foster homes off the Island only where it was shown that there were no suitable foster homes available on the Island, or their needs could not be met on the Island. There are eight such children currently being fostered off the Island. They comprise children who are to be adopted by adoptive parents in the United Kingdom, and they are usually fostered with the family for a period before an adoption order can be made. There are four children in such situations in the United Kingdom.

Where it is important to keep a family together and this cannot be done on the Island because of the number of children in the family, consideration would be given to place the children with foster parents or their family in the United Kingdom, and three such children are placed with their family in the United Kingdom.

Another consideration is that where the child's behaviour or problems cannot be managed on the Island a specialist fostering placement will be looked at with a specialist agency in the United Kingdom who have appropriately skilled foster-parents and support services available. There is one child currently so placed.

Finally where an application for a care order is made it is usual, that when a child appears before the courts, to ask the courts to endorse the care plan, and if this involves placement off the Island the court would give agreement. Where a child, subsequent to being placed upon a care order, needs to be placed off the Island the concurrence of the court is often sought, but legal advice indicates that the permission of the court is not necessary. Where the child is in voluntary care permission of the parents must be given for a child to be placed off the Island. Thank you, Mr Speaker.

The Speaker: A supplementary, Mr Henderson.

Mr Henderson: Yes, please, Mr Speaker. I thank the hon. member for the professional reassurances that he has been able to give the people of this Island in relation to this sensitive subject, but is he happy that a child may be taken into care off-Island and granted - we must always think of its safety and well being first and that it is being removed from its friends, school, land of its birth into an alien location and can he confirm or reconfirm this is only done as a very last resort or extreme emergency when nothing else has been proven to work?

The Speaker: Mr Cannell to reply.

Mr Cannell: Thank you, Mr Speaker. I concur with the view taken by the hon. member that it is a sad situation where anybody is forced to leave the Island for whatever circumstances, but I regret to say that there are, as I have outlined, some occasional circumstances where nothing else can be done. Every source will be taken up to see if that can be avoided, but I regret to say that the behaviour of some of the children is such that some foster-parents are unable to accommodate them and they have to be put into a placement order off the Island. I would add, though, that that is constantly monitored and any possibility of an improvement which would allow them to return to the Island would be undertaken at the earliest possible juncture.

The Speaker: A supplementary, Mr Duggan.

Mr Duggan: Thank you, Mr Speaker. Could I ask the member, when a child is brought into the care of the department are they not supposed to be in by certain hours? It has come to my attention from concerned parents that children should be in at, say, 8 o'clock or 9 o'clock and they are wandering the streets until late at night. Also, could I ask the member, have you not got a child psychiatrist to deal with these cases?

The Speaker: Mr Cannell to reply.

Mr Cannell: Yes, Mr Speaker, I agree that there is some latitude in what used to be a pretty hard-fought curfew time, and indeed I am sure that hon. members from this Court will recall that if you were on some kind of benefit from the social services at one time, you had to actually comply with a curfew for that too. Every effort is made to make sure the children are not out roaming the streets. Occasionally I am afraid some do get through the net. Every effort is made to tighten up that procedure and, as regards Mr Duggan's second question, I can assure you that every effort is being made to secure the services of a child psychiatrist - without success up to now but hopeful of that situation being rectified very shortly.

The Speaker: A supplementary, Mr Downey.

Mr Downey: Thank you, Mr Speaker. I would like to ask the member for the social services, is he aware of an interview which took place on Manx Radio yesterday where a senior officer in his division and another political member of the department alleged that children were being taken into care because of a housing shortage in the Isle of Man? Could he indicate the number of children involved and is it still not a policy of his division to put families in these circumstances into bed and breakfast accommodation?

The Speaker: Mr Cannell to reply.

Mr Cannell: Yes, Mr Speaker, I did hear the interview with the director of social services yesterday and I did hear him allude to an alleged housing shortage in the Isle of Man posing difficulties for the division which I represent, and indeed that was not without concurrence with myself, and, yes, we are encountering difficulties in finding suitable placements because of the number of calls upon accommodation at a moderate and reasonable cost, which is being taken up by a number of employees coming to the Island looking for similar accommodation and who are staying for longer than just short stays that we would look for for these children. So, yes, they are in difficulties; the division is in difficulties with that. I do not think it was to score any political points particularly, but it is a situation which needs constantly monitoring, sir.

The Speaker: A supplementary, Mr Singer.

Mr Singer: Thank you, Mr Speaker. Could I ask the hon. member, could he tell me, has he any idea the number of children that are now considered to be at risk and are in some form of care on the Island, and is this in fact increasing or is it decreasing?

Secondly could I ask him: he mentioned children who were in care and then being adopted; does his department have any policy of supporting the adoption of children in care by the carers without taking into account the natural parents' views or seeking those natural parents' permission?

The Speaker: Mr Cannell to reply.

Mr Cannell: Yes, Mr Speaker, I do have a number of tables here which signify the number of children in care, fostering et cetera, over a number of months. I think it would probably be easier if I let the hon. member have those. Suffice to say I am afraid to say this is an increasing number. I wish it was nil; I wish we were moving towards a situation where we did not require to spend a very, very considerable amount of money in providing these services. We are talking of the figure of £1,500 per child per week for off-Island placements. That is a very considerable sum. It is only a recourse when no other option is available to the division, and if the hon. members could come up with an alternative solution I would be delighted to discuss it with them because it appears to me the alternative is to let the children just roam around causing even more mayhem.

As regards the hon. member's question about adoption and its natural parents, very frequently the natural parents do not wish to have any further involvement with the child and that is the most sad situation of all. But in fact, if there is any opportunity for the parents to have an input into the suitability of potential adoptive parents, then that opportunity is taken up. Not in all cases, though, because it is not suitable in every case, sir.

The Speaker: I will allow two more supplementaries. Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Returning to my original concerns for children being moved off-Island, could the hon. member give us some sort of clarification? If a child is moved off-Island into care or a foster home, what chances has it got of being reunited with its parents if that home situation which caused its removal in the first place improves for the short and long term? And also, how long can a child be isolated in an off-Island situation, and have any studies been undertaken to assess any long-term effects this may have?

The Speaker: Mr Cannell to reply.

Mr Cannell: Yes, Mr Speaker, I think it is fair to say that sending a child off-Island is not sending it to Van Diemen's Land (*Laughter*) or to any punitive force, it is just sending it to a place which has more specialist resources and the opportunity to give that child a proper steer in life that it may not have enjoyed in the Isle of Man, for whatever reason. And in fact frequently children who have gone off the Island and away from all the pressures of their peers here have shown an instantaneous improvement, and nobody is more delighted than the division if that occurs. But I regret that there are a few strays who do not show any signs of improvement.

Now, as regards the parents, of course, there are two situations there. They may have been the root cause of the difficulty to start with, in which case it is far better for the specialist to try to get the child into its later life on the right grounds. But if in fact the parental situation does improve and can be shown to improve and palpably improve and stay improved, not just a short term thing over a weekend where the parents might say, 'We will be nicer to each other, let's have our child back' - if they demonstrate visibly that they are more capable of managing, then of course we would like to reunite the children with their natural parents.

The Speaker: A final supplementary, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. In view of the resources necessary for this sort of child placement, could the member confirm the current status of the new White Hoe facility and the number of students or young people currently in the Cummal Shee facility, please?

The Speaker: Mr Cannell to reply.

Mr Cannell: Yes, Mr Speaker. The hon. member's question regarding Cummal Shee - I am pleased to say now there are less than the maximum number being accommodated there thanks to the new situation which is about to open up at White Hoe. There are two developments at White Hoe, of course; I presume that the hon. member means what I call the gate lodge, just for convenience to separate the two. That is ready to go, it is being furnished at the moment and we will hopefully have that facility operating very, very shortly. I am pleased to say we appear now to have planning permission also for the secure unit (**Mr Houghton:** Hear, hear.) which will be built alongside there and will work in conjunction with that, and we also have the new management teams in Cummal Shee and at Leece Lodge, and I hope that I will be able to tell this hon. House that there has been a substantial improvement in the facilities we can offer.

Mobility Allowance — Increase — Question by Mr Henderson

The Speaker: Question 4, member for Douglas North, Mr Henderson, to ask the member for Health and Social Security, Mr Rimington.

Mr Henderson: I beg leave to ask the member for Health and Social Security.

Will your department consider providing an additional single substantial increase to the mobility allowance element of social security benefits, specifically to compensate recipients for the consequences of the recent substantial increase in the price of oil?

The Speaker: Mr Rimington to reply.

Mr Rimington: Thank you, Mr Speaker. The hon. member is aware that it is neither the department's present policy, nor indeed a practical proposition, to cherry-pick individual item in

the retail price index and apply the increase therein to elements of particular benefits. The increase in the price of oil is reflected in the Retail Price Index which will be applied across the range of benefits from next April.

I would like to thank the hon. member for this opportunity to perhaps clear up some confusion with the mobility allowance, which is part of the disability living allowance. To qualify for the disability living allowance, for the mobility element it says, 'You are likely to be able, from time to time, to benefit from facilities for enhanced locomotion - that is, taking advantage of outdoor journeys - and you need to satisfy the disability conditions.' Those disability conditions for the higher rate, which is the vast bulk of the case load, are the following: 'unable or virtually unable to walk, have had both legs amputated at or above the ankle, born without legs or feet, both deaf and blind, severely mentally impaired with severe behavioural problems and entitled to the higher rate of the care component.' I think, as the hon. member will realise, that the effect of the mobility element of the disability living allowance is to provide for those recipients an overall benefit to help them in their life to get out and about but also probably mobility in the home. It is a wide-ranging allowance to help those particular disabled individuals.

The connection with the oil prices - the transport side of it - would only be a minor part of that. The petrol would only be a very small fraction of the content of the mobility allowance, if indeed any at all. A lot of disabled people are probably looking for the occasional taxi usage or possibly using public transport.

Secondly, the question does specifically relate to the substantial increase in oil, and I see from the member's statement in the press that he is referring to old-age pensioners and heating oil, which is not related to the mobility element of the disability living allowance, and that comes within income support in other ways. Thank you Mr Speaker.

The Speaker: A supplementary, Mr Henderson.

Mr Henderson: Yes, thank you, Mr Speaker. Could the hon. member confirm that, I am afraid, sarcasm is not going to solve this problem? Could he also confirm that in fact the Retail Prices Index for oil and so on has risen to 12 times the rate of inflation, which will impact on this particular element of benefit? (**Mr Houghton** Hear, hear.) Could he also confirm that this element of benefit has not received the same sort of inflationary rise that it should do? Therefore, in fact, the present-day impact of this benefit is nowhere near what it used to be several years ago at its inception.

The Speaker: Mr Rimington to reply.

Mr Rimington: Mr Speaker, I can confirm that I have read the Retail Prices Index, as indeed has the member, and that the price of oil, in particular, and gas has gone up quite considerably, but I would also repeat and emphasise that the mobility allowance within the disability living allowance is not related to heating oil and that is covered within other allowances within the benefit system. Thank you, Mr Speaker.

The Speaker: A final supplementary, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Will the hon. member not accept that the current rate of inflation has eaten into this benefit and therefore needs really a 300 per cent boost to make it any way realistic?

The Speaker: Mr Rimington to reply.

Mr Rimington: I cannot accept that, Mr Speaker. The benefit is quite clear, what it is for, and it is a shame, perhaps, that we should have been discussing this in relation to other benefits. But the mobility allowance within the disability living allowance is specifically to aid people's locomotion; it is not related in any shape or form to the price of heating oil and I would appreciate if the member, in future, could direct his questions to the right element of the social security system. Thank you.

Social Security Benefits — Collection by Appointees — Question by Mr Houghton

The Speaker: Question 5, the hon. member for Douglas North, Mr Houghton, to ask the member for Health and Social Security, Mr Rimington.

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

What arrangements exist between your department and the Post Office to allow agents of beneficiaries to collect weekly benefit payments on their behalf?

The Speaker: Mr Rimington to reply.

Mr Rimington: Thank you, Mr Speaker. A person can be appointed to act on behalf of a beneficiary if there is a power of attorney or a receivership order. If neither of these exist, form BP17 can be completed if the beneficiary is unable to act on his own behalf. The form requires the completion of a medical certificate in part 5. Where a person is appointed on a BP17 the appointee takes over the role of beneficiary to sign for and collect the benefit and to notify changes in circumstance which may occur. Where a beneficiary is able to act on his own behalf but unable to attend in person at the post office, form BP19 can be completed by the beneficiary authorising someone else to collect his benefit. Where there is a BP19 authorisation it remains the responsibility of the beneficiary to notify any changes in circumstances. The beneficiary also signs the orders with the deputy acknowledging receipt of the benefit.

Whereas forms BP17 and BP19 authorise an agent to collect a benefit on a permanent basis it is possible for the beneficiary to simply sign the back of an order to authorise someone else to cash a particular payment. For example, a beneficiary who is paid by an order may be temporarily unwell and may authorise a neighbour to encash a particular week's benefit. Where he is paid by cheque he can so authorise an agent by completion of a BP19. The facility to simply sign the back of a cheque was withdrawn because of fraudulent misuse of that facility. Thank you.

The Speaker: A supplementary, Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker. Does the hon. member not agree with me, though, that these powers of attorney, receivership orders, form BP19s et cetera are extremely confusing for the ordinary person who only merely requires their benefit to be picked up perhaps one week in a year or so on, on occasions when they are not quite well enough to call at the post office to collect such a benefit? So could some form of simpler system be indeed brought forward by the department, sir?

The Speaker: Mr Rimington to reply.

Mr Rimington: The department is always willing to aid and assist individuals with their particular problems and they can be contacted to do that. The circumstances which are quite unique and which the hon. member refers to cannot be ordinarily dealt with by signing a cheque because, as the hon. member knows, that process has been subject to fraudulent misuse and was therefore withdrawn after consultation with the post office, and I would perhaps suggest in relation to this that we are looking at quite detailed administrative matters which are actually beyond my remit as a member who is in charge of the policy of the department, and that such matters can be addressed through the normal administration channels.

Marine Drive — Structural Survey — Question by Mr Henderson

The Speaker: Question 6, member for Douglas North, Mr Henderson, to ask the Minister for Transport.

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

- (1) When, prior to 1999, was a structural survey of Marine Drive undertaken; and*
- (2) did that survey conclude that (i) areas of the drive were unsafe or (ii) the drive should be closed?*

The Speaker: Minister for Transport to reply.

Mr Brown: Thank you, Mr Speaker. In answer to part (1) of the question our records indicate that recent structural surveys and option reports have been carried out in 1977, 1989 and 1992.

In answer to part (2)(i) the reports conclude that certain areas of the Marine Drive were unsafe for full opening to unrestricted traffic without major works, and in answer to part (2)(ii), as Marine Drive has been closed due to the condition of the highway and the rock face, which made it unsafe for full unrestricted traffic use, the reports were commissioned to identify how it could be reopened and the costs associated with any full reopening.

The Speaker: A supplementary, Mr Henderson?

Mr Henderson: Yes, please, Mr Speaker. I thank the hon. member for the confirmation of those reports and the fact that the Marine Drive could not be opened without major works being implemented. Could he also confirm that one of the most dangerous parts of this Marine Drive and the survey which we have just spoken of is at the Horseshoe where in fact the roadway is laid over as shale or shingle infill and that the half of this road which is remaining could be subject to the same fate as the other half, which slid down 200 feet of rock face?

The Speaker: Minister for Transport to reply.

Mr Brown: Thank you, Mr Speaker. I fully answered those questions in another place in the October place and the member knows the answers.

The Speaker: A supplementary, Mr Duggan.

Mr Duggan: In that case I will be brief, Mr Speaker. Could I just ask the minister to confirm that it is the policy of his department to endeavour, if possible, to reopen the Marine Drive even if only one way?

The Speaker: Minister to reply.

Mr Brown: Mr Speaker, again I refer the hon. member to the answers I gave in Tynwald, which were quite clear that we are examining the whole issue.

The Speaker: A final supplementary, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Given that the original reports have made health and safety implications, could the hon. minister give an assurance here today that should the Marine Drive become open in any shape or form there will be some sort of public insurance liability put in place for the general public should anyone slide down 200 feet of rocks?

The Speaker: Minister, I am not sure that is relevant but -

Mr Brown: I would like to answer.

The Speaker: Minister to reply.

Mr Brown: Thank you, Mr Speaker. The hon. member could not have been listening attentively in Tynwald the other week when I gave these full answers to the hon. member (**A Member:** Hear, hear.) and I advised him quite clearly that the public would not be put in danger by my department and that is why (**Members:** Hear, hear.) we employed these consultants, and the hon. member is only too well aware of that, Mr Speaker.

Waste Minimalisation — Question by Mrs Cannell

The Speaker: Question 7, Member for Douglas East, Mrs Cannell, to ask the Minister for Local Government.

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

What methods do you propose to adopt to ensure the minimalisation of waste in order to comply with your department's strategic waste management plan 2000?

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

Mr Gilbey: Mr Speaker, the Island's waste management plan, advanced details of which have been circulated to hon. members, will be published early in November and represents a key planning tool and sets the whole of the government's waste management strategy into the wider context. One of the key elements of the waste management strategy approved by Tynwald and to be reflected in the waste management plan is waste minimalisation.

I think it is important to understand what is meant by the term 'minimalisation', which involves dealing with the quantities and harmfulness of waste at source. The waste hierarchy which the Island has recognised as good practice suggests that the most effective environmental solution may often be to reduce the generation of waste. Waste minimalisation is one of the central elements of any sustainable waste management strategy. However, we must be realistic in recognising that our geographical and population size and our high dependency as an Island community on imported goods which are packaged elsewhere for much larger markets, in some cases for worldwide markets, will always make it difficult for us to influence external changes. We can and will, therefore, seek to get support for initiatives in other places to change packaging practices in the interests of safeguarding our environment. We shall also seek to encourage larger firms on the Island with branches further afield to

introduce more environmentally friendly policies. The department is also examining its own practices at this time with a view to improving current practices and will seek to persuade others to do likewise.

For the future, the department proposes to develop an education programme to encourage schools, local authorities and the general public to participate in waste minimalisation initiatives. These might include avoiding the purchase of overpackaged and overwrapped goods, using reusable containers which can be refilled locally, choosing to use durable long-life goods which are built to last and can easily be repaired, encouraging the recharging of batteries and long-life low energy light bulbs and avoiding the use of disposable items such as throw-away cups. The department will shortly be recruiting a recycling officer part of whose responsibilities will be to progress issues such as these.

Finally, the department as established a Manx Recycling Forum comprising public and private sector representatives to share experiences and ideas for improving minimalisation, recovery, reuse and recycling measures.

The Speaker: Mrs Cannell, a supplementary.

Mrs Cannell: Thank you, Mr Speaker. I thank the hon. minister for his open and frank remarks. Was the minister, however, aware that Liverpool City Council were considering waste management matters at the same time as the department was considering the same and, in view of that, did the department seek any useful dialogue with one of our nearest neighbours, the Liverpool City Council, who, I am aware and the minister is also aware, have voted against mass burn incineration and gone for pyrolysis and kerbside collection of waste for recycling and composting? Has any useful dialogue ever occurred between his department and the Liverpool City Council?

The Speaker: Minister to reply.

Mr Gilbey: I should think one of the last places we would talk to is Liverpool City Council! Liverpool City Council's record is hardly one to be praised. Furthermore, I would say that Liverpool is in a totally different position to us: they are not an Island remote from other sources of disposing of refuse. We have been into all these points numerous times. If you are in a conurbation like Liverpool with other conurbations up the motorway you are in a totally different position, because if your system goes wrong you can just send your waste up the road, which we cannot do, not only, as everyone very well knows, because of the cost of transporting it et cetera but, far more important, because it is again the EU and UK laws. We are not, as we all know and are proud of, part of the UK, we are not part of Europe and therefore we cannot export any but very special wastes to them.

The Speaker: Now, hon. members, I do not intend to allow this to become a rerun of the incineration the debate. (**Members:** Hear, hear.) A supplementary, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. Could I ask the Minister for Local Government and the Environment if he is going to encourage all departments of government to minimise their waste, and what action will he take in furthering that policy?

The Speaker: Minister to reply.

Mr Gilbey: I thought, Mr Speaker, that I did mention that we should be looking at how we did things as well, and that is not just the department but also other parts of government, but

of course there is no reason why members who are keen on these matters and are in other departments should just wait for the Department of Local Government; perhaps some of them would like to set their own initiatives.

Mr Quine: Hear, hear.

The Speaker: A supplementary, Mr Singer.

Mr Singer: Thank you, Mr Speaker. Can I refer the minister to part of his answer where he talked about influencing the changing of packaging practices and where he has talked about influencing major multinational companies off the Island to change their packaging practices? Could he perhaps enlarge and tell me how he personally intends to have any influence in ensuring that this happens, or is it just a statement that is pie in the sky and means absolutely nothing?

The Speaker: What is your question, sir?

Mr Singer: Could he enlarge, please, on how he intends to influence these major multinational companies?

The Speaker: Minister to reply.

Mr Gilbey: My actual wording, Mr Speaker, was 'We can and will, therefore, seek to support initiatives in other places to change packaging practices in the interests of safeguarding our environment.' What we will do is tell the UK Government and others how we support these initiatives. My words were quite clear: 'to support initiatives in other places.' I also said we would seek to encourage larger firms on the Island with branches further afield to introduce more environmentally friendly policies; that would be by talking to the representatives of those firms, but we have to be quite clear, as I also said, that we must recognise that most of the goods that come to this Island are packaged not for our specific benefit in accordance with our specific wishes but to meet much larger markets in the UK and probably round the world, and one has got to be quite frank that they are not going to take a great deal of notice of what we said; we have got to be perfectly frank. I have always said that. I have said that when the hon. member for Ramsey was not there; I have made that perfectly clear in the debate in Tynwald about a month ago.

The Speaker: I will take two more supplementaries. Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker, my final supplementary. Will the hon. minister and his department consider initiating discussions for the introduction of kerbside collection of waste for composting and recycling in view of the public of the Isle of Man's desire to see more of this type of collection undergone by this department, and will he consider doing that before the commissioning of the mass burn incinerator facility, please?

The Speaker: Minister to reply.

Mr Gilbey: Mr Speaker, I am going to follow your wise advice: I am not going to be tempted by the hon. member to make any comments about incineration. That matter was decided in another place by an overwhelming majority. (**A Member:** Hear, hear.) But what I will say is that, as I promised in that other place, we will look at the possibility of kerbside collections, but it is not such a panacea as some people make out. It has been found to have very real difficulties and problems and again, as I have also pointed out, the government is not

the collection agent. It is not just a matter of the Department of Local Government saying, 'We will do this.' There are a large number of local authorities who are all responsible for their own waste collection and they would have to be persuaded to take any steps. For instance, it is interesting that in the south of the Island, I gather, two or three new waste collection vehicles have been purchased which have not got these facilities, and I cannot imagine the local authorities there being very keen to get rid of new vehicles immediately and get other ones but, as I have promised, we shall look into this with all the pros and cons and report to another place, as we promised to do.

The Speaker: A final supplementary, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that his department talks in double-talk as far as minimalisation and recycling is concerned, especially when he looks at just basic things within government departments? Take the example of my own department, where loads of paper have been thrown away and given to the staff to be used as scrap simply because it has a stupid new sign on it when it is perfectly good paper that could go out, and does the minister not agree that this just highlights - there is no real commitment about recycling at all, because my department and other departments must have had to follow this crazy dictate of having to dump all this paper because they did not have this silly new crest on?

The Speaker: Minister to reply.

Mr Quine: Your department?

Mr Gilbey: Yes, as is usually the case, I am afraid I do not agree with the hon. member at all and, what is more -

Mr Karran: I would worry if you did!

Mr Gilbey: - I think that each department is largely responsible for their own paper. I wonder what he has done to stop what he is complaining about and, as a member of the department, whether he has taken it up with his own minister.

Betting Offices Bill — Third Reading Approved

The Speaker: Right, hon. members, that finishes question time for today. We will now move on to item 8 on the agenda, the Betting Offices Bill for third reading, Mr Bell.

Mr Bell: Thank you, Mr Speaker. The purpose of this short Bill is to establish a licensing regime to distinguish public licence betting offices - that is, the long established betting shops - from the newly emerging restricted licence betting offices, which in fact solely relate to international telephone betting. Betting shops will only be able to accept bets locally and from the United Kingdom, which happens at present. Restricted licence holders will be able to accept bets from elsewhere in the world but not from the Isle of Man or the United Kingdom. Whilst betting shops will continue to operate as at present, this Bill will allow the Gaming Control Commissioners to set up a formal regulatory regime for international telephone betting, which will include an annual licence fee of £25,000 and the ability to employ suitably qualified staff to effectively supervise these new operations.

As I explained at the clauses stage last week, my department has undertaken extensive consultations since the original Bill had its second reading in June of last year. As a result, the

Bill has been amended considerably to reflect new thinking on this issue and, in particular, the restructuring and relocation of the industry elsewhere. This new industry has already become established on the Island and a number of new employment opportunities have been created which has also started generating income for Treasury and, in a small way, will contribute to the overall diversification of the Island's economy.

There were no outstanding questions to be answered from the clauses stage, and so I beg to move the third reading of the Betting Offices Bill.

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

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, can the mover of the Bill just clarify to the hon. House: when it talks about having a fee of £25,000 per annum, in the schedules does it have a device as far as being able to reflect any increases as far as the fees are concerned? And I just wondered why we have gone for £25,000 when these licences go for hundreds of thousands of pounds when they are up for sale, if not more.

The Speaker: Minister to reply.

Mr Bell: Mr Speaker, these fees will be capable of adjustment in the future, and £25,000 after consultation was considered to be an appropriate fee at the time.

The Speaker: Hon. members, the motion is that the Betting Offices Bill be read for a third time. Those in favour please say aye; those against, no. The ayes have it. The ayes have it.

Contracts (Rights of Third Parties) Bill — Third Reading Approved

The Speaker: Item number 9, Contracts (Rights of Third Parties) Bill, Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. This Bill reaches its third reading today. It is a Bill of highly technical nature promoted by the Council of Ministers on behalf of the Attorney-General and is to reform the law of contract by enabling third parties to enforce contract terms in certain cases, and as I have said, it is based on the Contracts Act 1999 of Parliament. The Bill reforms the rule of privity of contract under which a person can only enforce a contract if he is a party to it. The rule means that even if a contract is made with the purpose of conferring a benefit on someone who is not a party to it, that person, the third party, has no right at present to sue for breach of contract. This has been found to cause injustice and hardship in some cases as it can operate to the frustration of the intention of parties in contract and this process has long been criticised by the courts. The Bill sets out the circumstances in which a third party is to have a right to enforce a term of the contract, the situation in which such terms may be varied or rescinded and the defences available to the promisor when the third party seeks to enforce the terms. It makes it clear that clause 1 does not affect the promisee's rights or any rights the third party may have independent of the Bill, and finally the Act does not apply to certain contracts whether wholly or partially as defined in its clause 6.

Mr Speaker, I have the honour to formally move the third reading of the Contracts (Rights of Third Parties) Bill 2000.

Mr Duggan: I second that, Mr Speaker.

The Speaker: Hon. members, the motion is that the Contracts (Rights of Third Parties) Bill be read a third time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

National Health Service Bill — Further Consideration Adjourned

The Speaker: Now I move to item 10, National Health Service Bill, Mr Karran to make a statement.

Mr Karran: Vainstyr Loayreyder, I do not wish to proceed with the Bill today. I hope to see it on next week's agenda.

Gaming, Betting and Lotteries (Amendment) Bill — Second Reading Approved

The Speaker: Item 11, the Gaming, Betting and Lotteries (Amendment) Bill for second reading, Mr Bell.

Mr Bell: Mr Speaker, as a result of a consultation exercise in which members of Tynwald, the Isle of Man Gaming Commissioners and interested parties were asked to comment on the present gaming laws, the Council of Ministers agreed to appoint a committee to consider the comments made and to consolidate the proposals which will be incorporated in the Gaming, Betting and Lotteries (Amendment) Bill. The committee reported to the Council in May 2000, as a result of which the Bill is before you today and was drafted to make minor amendments to legislation relating to gaming lotteries and amusements.

The Bill will remove the control on opening hours for betting shops, which are currently 8 a.m. to 10 p.m., with the exception of Christmas Day and Boxing Day when betting shops will be prohibited from opening. Advertising by licensed betting offices in the Island will be the same as those in the United Kingdom, permitting advertising on the outside of the office. The sale of tickets for Christmas draws on licensed premises will be extended into November and not restricted to December as present. Voluntary bodies will be permitted to advertise society lotteries provided that the advertisement contains information prescribed by regulations made by the Gaming Control Commissioners about the promoter, the objects of the body, the prizes, the price of the tickets and the time and place of the draw et cetera. Society lotteries will also be able to offer jackpot prizes of up to £10,000. The Gaming Control Commissioners will be given the additional powers, by regulations, to specify other approved accounting bodies to submit financial returns on behalf of a society lottery. Horse racing nights will be legal for the first time, the gaming commissioners being provided with the powers to make regulations laying down the rules according to which such events can be run. Rules will include limiting them to charitable organisations prescribing maximum stakes, minimum deductions for society funds, restricting advertisements, prohibiting their operation otherwise than as a lottery, and in other words preventing betting based on the form of horses or riders. The anomaly in respect of bingo will be removed to allow bingo to be played at similar functions. The control on amusements will be extended to machines on passenger vessels within Manx territorial waters while on a voyage to or from a harbour in the Isle of Man.

This again is another short Bill, a tidying-up exercise of a number of outstanding items which the Council of Ministers believes need addressing at this time, and therefore I beg to move the second reading of this Bill, Mr Speaker.

Mr Duggan: I would like to second, Mr Speaker.

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I am quite willing to support this Bill, which does go some way to amend certain out-of-date matters, thus bringing those matters into the twenty-first century.

I would, however, ask if this hon. House would give due consideration to a new clause or clauses I may wish to table at the clauses stage which will deal with a proposal to allow the sale in the Island of scratch cards by companies trading in the UK such as Littlewoods Pools. In the case of Littlewoods, they have been operating the sales of scratch cards alongside their well-known pools business for a number of years now and have a well-respected reputation for their professionalism in this field. Hon. members will be aware of scratch cards being sold at National Lottery outlets which operate alongside their sales of lottery tickets. However, the outlets of the sales of National Lottery tickets and scratch cards are severely limited in number. There are, therefore, many other outlets who themselves form a huge majority and are debarred from enjoying the extra source of income generated by the sales of scratch cards, and indeed the Treasury is losing out on the revenue which will be gained by those sales. It is for this reason that this hon. House should support these small businesses, especially in times when these businesses are, in some cases, suffering serious decline.

If I am able to bring forward appropriate legislation to permit the future sales of scratch cards to this hon. House at the clauses stage of this Bill, I would be very grateful if the hon. members would give me their support. Thank you.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like to ask the mover in clause 5 why we have gone for local charities not to exceed a pound and why we have put the maximum amount to be £10,000. Can the hon. mover also just clarify the point of the anomaly that there used to be as far as not being able to use land or property for prizes; that has been resolved. And can the hon. member also tell us whether there is still a provision as far as any gambling debts; are they enforceable as far as being able to be sued for?

The Speaker: Mr Brown, member for Castletown.

Mr Brown: Yes, thank you, Mr Speaker. I just rise, really, to add my support to the Bill before us. I think it has changes that are long overdue (**Mr Houghton:** Hear, hear.) and, to give an example of the nonsensical situation we have in the Isle of Man, the UK National Lottery can advertise in the Isle of Man its lottery and yet a local club cannot advertise bingo, and that is the sort of thing that this legislation will update as well as the prizes and the funds that are available, and I do believe that we do need to bring this Bill in, in fact, to help many of the voluntary organisations on the Isle of Man by making better provisions.

So I fully support the Bill. I was a member with the hon. member for Ramsey on the committee that had a look at this and we believe that this Bill provides very valuable updating and especially with regard to horse-racing which, whilst everybody, I think, thought was all right, in fact in legal terms had not been covered, so I fully support the Bill.

The Speaker: Minister to reply.

Mr Bell: Thank you, Mr Speaker. Could I first of all thank Mr Houghton for his support for the Bill. He has discussed the issue of scratch cards with me, and at this stage in principle I

am quite happy to accept an amendment from him on that, but obviously it will depend on what the amendment contains, but in terms of accepting it for debate I am happy to go along with that.

The hon. member for Onchan, Mr Karran, refers to the size of the bet and why £10,000? The size of the bet, really, is to reflect the small localised nature of the gambling in question. It is not to encourage gambling; it is to support local organisations and a pound was felt to be appropriate. The £10,000 figure came in, I think, to cover instances where there are roll-over prizes where the maximum prize perhaps might be £2,000 or £3,000 and it is not won for a period of time, so there is a maximum limit on it. It was felt that if the roll-over prize went too high it may on some occasions actually stretch the ability of some of these organisations to pay the bigger prize. So we think we have got the right balance on this one and it is certainly a considerable relaxation on what the current situation is.

Whether land or property could be given as prizes we have not considered. At this point we are looking at small Isle of Man charitable lotteries and fund-raisers. We are not talking about substantial competitions such as the one which was referred to. And again, gambling debts would not come in the remit of this particular legislation. Again I can only say we are talking about small local lotteries, charitable fund-raisers; we are not talking about gambling in the wider sense.

I would like to thank Mr Brown for his support. He did work with me on this committee and I think we have covered quite a number of anomalies which have been identified to us over the last few years, and I hope that particularly the local charitable organisations, local sports clubs, the pensioners clubs, whatever will get some benefit (**A Member:** Hear, hear.) from these new measures which we are currently introducing. So I beg to move the second reading of the Bill, Mr Speaker.

The Speaker: Hon. members, the motion is that the Gaming, Betting and Lotteries (Amendment) Bill be read a second time. Those in favour please say aye; against no. The ayes have it. The ayes have it.

Adoption (Amendment) Bill — Second Reading Approved

The Speaker: Item 12, Adoption (Amendment) Bill, Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. This Bill is based upon the United Kingdom Adoptive Act 1999 (Intercountry Aspects) and is intended to give effect in Manx law to the Hague Convention 1993 on the protection of children and the co-operation in respect of intercountry adoption. The Bill will therefore amend the existing adoption law, the Adoption Act 1989, in respect of intercountry adoption. It also enables the ratification by the United Kingdom of a new convention on intercountry adoption to be extended to the Isle of Man which will be implemented in regulations. In addition, it will introduce sanctions to deal with unacceptable practices in intercountry adoption.

Adoption is a legal procedure whereby, under a court order, a child under 18 ceases to be in law the child of its natural parents and becomes the child of its adoptive parents. 'Intercountry adoption' is a general term referring to the adoption of a child resident in one country by adopters resident in another. Intercountry adoptions involving parents living in the Isle of Man are not yet very common. There are currently around three a year, but there is

some evidence to show it is increasing in frequency both on the Isle of Man and in the United Kingdom. The latter sees over 300 children every year adopted from overseas. It is therefore important that the Isle of Man should have proper machinery in place to regulate such adoptions.

In 1993 an international convention met at the Hague and the agreement that followed seeks to impose stricter requirements on intercountry adoptions to protect against cruelty and neglect. The convention has been ratified by the United Kingdom and this Bill will enable the measure to be extended to the Isle of Man.

It has increasingly become the practice in the United Kingdom to unofficially adopt children in other countries where people avoid the official adoption procedures and bring children into the country without approval. There are about 100 such cases each year. This Bill seeks to prevent this happening by creating new offences of failing to comply with regulatory requirements.

When the current law on adoption was introduced in 1984 intercountry adoptions were unusual and detailed provision was not, therefore, included in the Act. The Department of Health and Social Security, or an adoption society approved by the department, may make arrangements for the adoption of the child except in the case of where the child is a relative. The process is set out in regulations and the Bill will enable the DHSS to apply the existing regulations with amendments and make new regulations to implement that 1993 Hague convention.

An adoption order made in the United Kingdom or the Channel Islands is recognised by law in the Isle of Man, but an order made in an overseas country is recognised by law only if it is made in a country designated by order, the Adoptions (Overseas Adoption) Order 1985. An adoption order made in a country other than a designated country is therefore not recognised, and the adoptive parents must make subsequent application to a court in the Isle of Man or, in the case of the United Kingdom or the Channel Islands, a court in those jurisdictions for an adoption order to permit this. The Bill provides that adoption orders made under the 1993 convention in any convention country are to be recognised, but members should note that this Bill does not deal with nationality, which is dealt with by the United Kingdom legislation by its extension to the Isle of Man.

The convention is important in that it acts as a framework setting out minimum standards for intercountry adoption to work in the best interests of the children concerned. The convention is underpinned by the United Nations Convention on the Rights of the Child, which includes references to adoption where parents can no longer look after their child.

The Bill enables regulations to be made to give effect to the Hague convention and also to regulate intercountry adoption in both convention and non-convention cases. Consultation has taken place over the contents of the Bill within relevant sectors of the Department of Health and Social Security and with the adoption agencies for the Isle of Man who are largely the Manx Churches Adoption and Welfare Society and Nugent Care, with whom the department currently contract, as I mentioned in an earlier item, for various services including adoption.

The Bill will have no additional financial or manpower consequences. It strengthens the law relating to adoption and ensures that in terms of intercountry adoptions the Isle of Man complies with best practice in the interests of the child.

I hope I can rely upon the support of hon. members for this important measure, Mr Speaker, and I now formally move the second reading of the Adoption (Amendment) Bill 2000.

Mr Gelling: I wish to second, Mr Speaker.

The Speaker: The motion is that the Adoption (Amendment) Bill be read for a second time. All those in favour please say aye; against no. The ayes have it. The ayes have it.

That completes our business for today and the House stands adjourned to Tuesday next, 7th November, at 10 a.m. in this chamber.

The House adjourned at 11.08 a.m.