

**REPORT OF PROCEEDINGS OF
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 26th February 2002
at 10.30 a.m.**

Present:

The President (the Hon N Q Cringle), The Lord Bishop (the Rt Rev Noël Debroy Jones), the Attorney-General (Mr W J H Corlett QC), Hon Mrs C M Christian, Messrs E A Crowe, J R Kniveton, E G Lowey, Dr E J Mann and Mr G H Waft, with Mrs M Cullen, Clerk of the Council.

The Lord Bishop took the prayers.

Apologies for Absence

The President: Now, hon. members, we have apologies this morning from both Mr Radcliffe and Mr Delaney, who, as you are aware, are indisposed.

Smoking in Public Places — Report — Question by Mr Waft

The President: We have but a short order paper in front of us and the first item is a question.

Question 1. The hon. member Mr Waft to ask a member of the Council of Ministers (Mrs Christian):

With regard to the Legislative Council Report on the Law Relating to Smoking and Passive Smoking in Public Places and the referral of the report to the Chief Minister's Drug Strategy Committee on 13th February 2001 -

- (a) when is the Drug Strategy Committee expected to report the matter, and*
- (b) what steps have been taken in the meantime -*
 - (i) to discourage smoking in public places, and*
 - (ii) to encourage people, especially the young, not to smoke?*

The President: I call on the hon. member, Mr Waft.

Mr Waft: Thank you, Mr President. I beg to ask the question standing in my name.

The President: I call on the member of the Council of Ministers, Mrs Christian, to reply.

Mrs Christian: Mr President, in answer to part (a) of the question I can advise that the Drug Strategy Committee has noted the Legislative Council Report on the Law Relating to Smoking and Passive Smoking in Public Places. The Chief Administrative Medical Officer and Director of Public Health has formally commented on the report to that committee and has submitted a number of proposals as part of a draft island tobacco strategy, and this has recently been considered by the committee. I regret that I am unable to advise the hon. member as to when the committee will be in a position to report on the matter widely.

Turning to part (b) of the question, the emphasis to date regarding the dangers of smoking have been aimed at educating the public through health promotion initiatives and through a process of encouraging organisations to adopt a smoke-free environment in the interests of their staff and the public. Many government-owned and operated buildings have, over recent years, become smoke-free and in my own department a no smoking policy has been widely introduced across the health service. By way of example, such a policy will be implemented in the new hospital with some strictly limited provision for smokers.

I can advise that in advance of the proposed tobacco strategy, for which funding has yet to be confirmed, my department has funded the training of a small number of smoke cessation

counsellors which, it is intended, will lead to the introduction of a pilot specialist smoking cessation service, although this is dependent upon adequate funding being identified. In the meantime, government continues to support Smokebusters in their work with primary school children, as part of an initiative which is jointly funded by the DHSS and the Department of Education.

The President: Hon. member Mr Waft.

Mr Waft: Thank you, Mr President. Could I ask the minister whether either the Medical Officer of Health or anyone else has had discussions with the likes of Heron and Brearley's with regard to their charter for smoking in public places, for ventilation standards et cetera? Have there been any discussions taking place apart from noting the report and the future Island strategy?

The President: Mrs Christian.

Mrs Christian: Yes, Mr President, some discussion has taken place. It is clear that I think that Heron and Brearley are the only people who have, I think, taken any action in response to this. Certainly the Licensed Victuallers do not appear to have responded to the report. It is a view of the chief medical advisory officer and Director of Public Health that voluntary action is likely to be unsuccessful, and I think his proposal is that statutory provisions be introduced. That is part of the tobacco strategy, which is being looked at by the Drug and Alcohol Strategy Committee.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President. Would the minister agree that in restaurants and in other eating establishments passive smoking can be a problem and, as we have heard, if voluntary measures are not working, should we be considering enacting legislation to discourage smoking in restaurants and public places?

Mrs Christian: Yes, Mr President, I think I have just said that the advice to the Drug and Alcohol Committee in the formal part of the tobacco strategy is that statutory provision will be more effective than voluntary co-operation, which thus far seems not to have worked except in limited areas.

The President: Lord Bishop.

The Lord Bishop: Thank you. Mr President, would the minister not agree with me that it is very pathetic to see lots of people on the pavement outside the offices in the main streets, smoking away because they are not allowed to smoke indoors and they then go back indoors leaving all their butt ends on the road? And could something not be done either to discourage or to ban smoking by office people on the roads by giving them some sort of facility indoors where they could do that without causing such a mess outside?

Mrs Christian: Mr President, I would entirely agree that those of us who are non-smokers and possibly some smokers find it offensive that people who are normally quite responsible somehow do not recognise that cigarette ends are litter, and the appalling state of our streets reflects the fact that they do not regard it as litter and they perhaps ought to.

Insofar as government officers are concerned, a policy has been developed and agreed by the Personnel Office which requires that there should be no smoking in government offices, but the departments do what they can to provide some area for smokers. Now, I am not in a position to comment on how effectively that has been introduced. What I think it needs to be run in parallel with is a cessation service which will assist those people who want to stop smoking, and the whole thing needs to be globally tackled, really. But perhaps I can just modify what I said before to the hon. member: the proposal is that we have legislation against smoking in public places. I am not clear at the moment whether the example given by my hon. colleague in respect of restaurants would be defined as a public place, and I would have thought that it is for those

people who object to smoking to make clear to these establishments when they use them and that public pressure should be brought to bear in relation to the provision of non-smoking environments for those who neither smoke themselves nor wish to be passive smokers of other people's product.

The President: Mr Lowey.

Mr Lowey: Could I ask the minister a supplementary? She mentioned that she has an education programme with the primary schools. Do I take it from that, by excluding the senior schools, that there is nothing being done in the senior schools, and would she not agree that that is the generation where habits are formed? And where I have seen smoking in senior schools, I must say I have not seen any in primary schools, although I suggest that their habits are getting formed there. So I am not objecting to that, but the minister specifically excluded what I would call a real problem area.

The President: Mrs Christian.

Mrs Christian: Yes, the hon. member refers to the Smokebusters programme which I understand is directed primarily at primary schools. That is not to say there is no provision made in secondary schools, but it is not made under the Smokebusters programme. Life Education certainly covers the issue of smoking and that goes round the secondary schools. In addition to that we are trying to beef up our health promotion work generally in order to convey the message that smoking is dangerous. As I have indicated in my answer, some of this work will be carried out on a pilot scheme and is dependent on us finding adequate resources to get that going.

The President: Mr Waft.

Mr Waft: Could I ask the minister: provided funding is made available, when can we expect the Island tobacco Strategy to be put forward and indeed the smoke cessation strategy?

The President: Mrs Christian.

Mrs Christian: I cannot answer that, Mr President. It is a matter for the Drug and Alcohol Strategy Group to determine how quickly this is progressed. Bids have been made for the implementation of elements of the strategy, and if we are successful in getting the funding for that, then clearly we can get started on the cessation programme and boost the health promotion programme.

As regards the provision of legislation, I have no indication at all as to what the timetable on that might be.

Mr Waft: Thank you, Mr President.

Peel Harbour Works — Preliminary Investigations — Contract — Question by Mr Waft

The President: Can we turn then to the second item on our order paper?

Question 2. The hon. member Mr Waft to ask a member of the Department of Transport (Mr Kniveton):

- (a) *What investigations will be made prior to the commencement of the water retention project and footbridge in Peel Harbour, and*
- (b) *has any firm yet been awarded the contract?*

The President: Again I call on Mr Waft.

Mr Waft: Mr President, I beg to ask the question standing in my name.

The President: I call on Mr Kniveton, member of the Department of Transport to respond, please.

Mr Kniveton: Yes, thank you, Mr President. In answer to the question from Mr Waft, prior to the submission of the planning application for a new jetty, footbridge and water retaining flapgate in Peel Harbour the department carried out first of all a condition survey of the quay walls, a comprehensive environmental assessment, a survey of ground conditions along the line of the proposed jetty including bore hole data, a survey of ground water movement in the East Quay and an assessment of possible flooding due to ground water changes; furthermore, a wave study, including an assessment of the post construction effects and a topographical survey of the harbour bed.

Mr President, the department realised that all these reports must be included in a planning application in today's world. The DoT has realised it is no good submitting a planning application for any project or even similar to this without including all this information. As far as a firm being awarded the contract, no contract has yet been appointed to construct the proposed scheme because Planning has not yet approved the scheme.

The President: Mr Waft.

Mr Waft: Thank you, Mr President. Could I ask what the benefits are of this proposed scheme?

The President: Mr Kniveton.

Mr Kniveton: Right, thank you. Well, there are a number of benefits worth considering and which have been considered by not only my department but the Department of Tourism and the Chamber of Commerce and all sorts of people involved in this. It is essentially to provide shelter and improve berthing to the inner harbour. Previous surveys and reports have identified the need for increased shelter for vessels from severe inshore sea and swell conditions. A wave study report has indicated the structure will *significantly* improve conditions within the impounded area during periods of strong north-west and north-easterly winds. Seaward of the proposed new structure conditions will probably be worse, but in such strong north-west and north-easterly winds these berths are normally untenable at present.

The jetty and swing footbridge would provide a pedestrian access from East Quay to West Quay and subsequently Peel Castle, Peel Hill, Fenella Beach and the breakwater. Historically there was an access across the harbour, but for many years this facility has not been available and, although walking around the quays is still a popular pastime, vehicles are used more frequently to go to the castle, breakwater or Fenella Beach. Now the new pedestrian access to the castle and Fenella Beach and surrounding area will be beneficial to the town as a whole and to local tourism. It will also reduce the need for non-commercial vehicles to use the West Quay and breakwater.

Finally may I say, sir, the retention of water in the inner harbour over low water would enhance the aesthetic value at all stages of the tidal cycle. A water retention facility for the inner harbour would provide potential for water-borne tourism.

The President: Mr Waft.

Mr Waft: Yes, thank you, Mr President. Can I ask the member what allowances have been made for the migratory fish?

The President: Mr Kniveton.

Mr Kniveton: Thank you, Mr President. Concern has been raised, and prior to planning application, that the proposed impounded water could adversely effect migratory fish in the River Neb, so, to facilitate the passage of fish, a fish pass costing in the region of £55,000 has been incorporated into the scheme, which has the added benefit of acting as a spillway to control the level of the impounded water. The Department of Transport commissioned Port Erin Marine

Biological Station, or the laboratory, to investigate movements of migratory fish to small dry harbours. Their report was attached to the planning application.

The President: Mr Waft.

Mr Waft: Could I ask the member what company did the environmental impact study and who was responsible for the engineering and design?

Mr Kniveton: Right, the assessment was done by Posford Duvivier and the design work itself was done in-house by the DoT Design Services.

The President: Mr Waft.

Mr Waft: Could I ask, Mr President, with respect to the suspended solids and the build-up in the sediment with regard to the old mine workings - the cadmium, lead, zinc, copper, arsenic, those sort of things, whether these heavy metals, which could be washed down, have been taken into consideration and the effect on the harbour?

Mr Kniveton: Yes, they have all been taken into account in the assessments which I have referred to earlier and again they have been included with the planning application submitted.

The President: Mr Crowe.

Mr Crowe: Mr President, can I ask: in simplistic terms then, Mr Kniveton, are we replicating what we have in Douglas Harbour? Will the same be in Peel with pontoons floating in the inner harbour there?

Mr Kniveton: Right, the theory is, Mr President, that the operation of the harbour will be the same as in Douglas and will be controlled by CCTV camera for the opening and closing of the gate to allow vessels in and out. At the first stage - and we believe it will never be - pontoons will not be in the harbour. The outside wall will be used and, as I say, the water retained to keep them in position, but we do not plan 'pontoon parking', should we call it.

Mr Lowey: Could I ask, the member says 'CCTV' and one can understand that being applied in Douglas because they have a harbour control; can you tell me where the harbour control is in Peel that is manned 24 hours a day?

The President: Mr Kniveton.

Mr Kniveton: Yes, thank you, Mr President. I can explain that one for Mr Lowey, bridge operation or flap-gate operation. Bridge operation, the footbridge will normally be operated remotely from Douglas Harbour Control, but will be capable of local operation. It is envisaged that bridge movements would vary a maximum of five or six times a day to permit the passage of vessels. Now, normal operations for Douglas Harbour Control will include monitoring of pedestrian and vessel traffic, using an array of CCTV cameras similar to those used to operate Douglas Harbour. We are coming into this modern technology age and it is amazing what things can be done. A plant room will be required for the bridge and flap-gate operation, which will be located within the department's transport works yard on East Quay. Now the power requirement for the mechanical and electrical operation necessitate the construction of an independent substation and this will be located in the department's works yard on East Quay. The plant room and substation are housed in the combined building.

The President: Mr Lowey.

Mr Lowey: Was the CCTV a modern technology in use at Douglas Harbour when the recent flap-gate failure were in operation and, if they are doing it at arm's length, does he not think they are increasing the risks a little?

Mr Kniveton: No, that was a one-off, Mr President. Never to happen again, sir, I hope - most embarrassing!

The President: The individual watching the CCTV and in control will actually be 11 miles away from the area.

Mr Kniveton: Indeed, sir. As I say, this modern technology!

The President: Mr Waft.

Mr Waft: Could I ask, Mr President, the member about the water retention operation with regard to small boats gaining access in and out of the harbour: what would be the time limit by which they have to get in and out? How much time is allowed and where would they go if the could not get back in?

Mr Kniveton: Well, first of all, if they cannot get in, they will have to tie up in the outer wall. The rest of that question I cannot answer from here. Really it is a question of harbour control - tides, water coming in and out and so on. I truly at this stage cannot answer that from here.

Mr Waft: Would you agree with me that there would be less time available to be going in and out of the harbour because of the construction of a . . .

Mr Kniveton: That may well be so, but that has to be outweighed against the benefits of water retention.

Mr Waft: Thank you.

The President: Okay? Well, hon. members, that brings to a conclusion our committees and our business in public this morning, so we will now sit in committee. Thank you, hon. members.

The Council sat in private.