

REPORT OF PROCEEDINGS OF HOUSE OF KEYS (QUESTIONS)

Douglas, Tuesday, 30th April 2002
at 10.00 a.m.

Present:

The Speaker (the Hon J A Brown) (Castletown); Mr D M Anderson (Glenfaba); Hon A R Bell and Mr L I Singer (Ramsey); Mr R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon S C Rodan (Garff); Mr P Karran and Hon R K Corkill (Onchan); Mr G M Quayle (Middle); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Hon R P Braidwood and Mrs B J Cannell (Douglas East); Hon A F Downie and Hon J P Shimmin (Douglas West); Mr D J Gelling (Malew and Santon); Mr Q B Gill and Hon Mrs P M Crowe (Rushen); with Mr M Cornwell-Kelly, Secretary of the House.

The Chaplain took the prayers.

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**National Insurance –
Increase in UK Contributions –
Question by Mr Cannan**

Question 1. The hon. member for Michael (Mr Cannan) to ask the Chief Minister:

- (1) *Can you confirm that the increase in national insurance contributions announced in the United Kingdom budget on Wednesday, 17th April will apply to residents in the Isle of Man; and, if so*
- (2) *will you give an unequivocal assurance that the funds raised will be used exclusively for improvements to the National Health Service over and above those already planned and budgeted?*

The Speaker: I call on the hon. member for Michael, Mr Cannan.

Mr Cannan: I ask the question standing in my name.

The Speaker: The Hon. member for Onchan, Mr Corkill, the Chief Minister.

Mr Corkill: Mr Speaker, the one per cent increase in national insurance contributions announced in the United Kingdom budget will not take effect there until the beginning of April next year, and the issue of whether we will apply it within the Island is under consideration but has not yet been determined. I am not, therefore, in a position to offer an answer to the second part of the question but I can say that the health service is, of course, a priority area in our spending plans and we will be making available, with Tynwald approval, whatever funding we reasonably can do, sir.

The Speaker: Hon. member for Michael, Mr Cannan.

Mr Cannan: A supplementary, please. Is the Chief Minister's first reaction to the position of the national insurance charge in the United Kingdom and the fact that we do have a reciprocal agreement, though I do appreciate that this is not part of the terms of the reciprocal agreement, that further funding is necessary for the health service in the Isle of Man or is he fully satisfied that the health service in the Isle of Man is adequately provided for and a full service to the residents provided?

The Speaker: Chief Minister to reply.

Mr Corkill: Mr Speaker, I think health is such an important issue for any nation that we will never be satisfied with the resources that we can apply to that

area, but obviously we have to create a balance at every budget and we did that recently. Can I say, Mr Speaker, that the UK action of this one per cent increase is something of a new departure in that, for the first time in the life of the national insurance scheme, contributions will be paid by employees which will not rank for the purpose of determining benefit entitlement. The new provision imposes a one per cent rate of contribution on employees in relation to that tranche of their earnings, if any, above the upper earnings limit which is currently £585 a week. Pensions and other benefits are duly determined on the basis of contributions paid on earnings between the lower and upper earnings limits and the UK has no proposals for amending that feature of the NI scheme. The one per cent rate of contribution by employees on that part of their earnings above the upper earnings limit thus only represents, except in name, a general tax on earnings.

Mr Speaker, this issue is under consideration and I would not wish to be drawn at this time on what the outcome on it might be, but certainly, if the health service requires more funding, then government will give that a priority. Health, education and housing are the three key areas that this government is very interested in.

There is another difference, of course, between here and the United Kingdom, in that NI contributions in the United Kingdom go into general revenue and are proportioned in the way that the budget does things. They go into general revenue where, of course, here things are slightly different inasmuch as the funds from NI contributions go into an NI account, which funds a number of things including pensions and, of course, the health service itself. So, considerable resources are already applied to health, we are considering that alongside these UK changes.

The Speaker: Hon. member for Ayre, Mr Quine.

Mr Quine: Yes, would the Chief Minister agree that if this increase in NI contributions is applied to the Island it would constitute a tax, but not only a tax, an unfair tax, falling on the working man at the lower end of the wage income brackets? And secondly, could he confirm that again, if it is applied to the Island, it would extract from the Island's taxpayers a further sum in the order of some £10 million?

The Speaker: Chief Minister to reply.

Mr Corkill: Yes, the hon. member is correct with his figure of about £10 million. If the one per cent increase in the way described in the United Kingdom budget recently is applied in similar terms here, this will in fact yield an extra £10 million of collection in the Isle of Man, although £2 million of that would actually be paid by government in respect of public sector workers. Yes, it is an extra tax and I hope I said in my original explanation that this is a departure from

the basis of NI contributions as we understand them; it is effectively a tax. But can I say that it is targeted at people on higher earnings rather than lower earnings, but yes, it is a tax on those people who are in employment - that is how national insurance contributions work - but not a tax generally across the community as a tax on income. It is a tax on earnings of people who are in employment. So these things do need careful consideration and that is what we are about at the moment, Mr Speaker.

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. Would the Chief Minister not agree with me that in most cases with social security legislation we do implement the reciprocal arrangements and that there is a strong possibility that this national insurance increase may well be implemented in the Isle of Man? That being so, will he give an undertaking to work up ways in which to offset this possible increase especially given the light of the Island's new 10 per cent tax rate and the blue chip status, and will his department examine that situation so that we can retain some sort of benefits should we have to implement the NI increase?

The Speaker: Chief Minister to reply.

Mr Corkill: The hon. member has said it is likely that this one per cent increase will be applied. What I have said, Mr Speaker, is that no decision has been made whether it will or whether it will not, so I am not inferring in my answer this morning any likelihood one way or the other. We are analysing the situation carefully in relation to our own budgetary provisions for health, which is what the original question is about, which is, will this money be all spent on health as it in fact is targeted for in the United Kingdom?

Can I say again, these increases in the United Kingdom do not take place until April of next year so we have plenty of time to carefully look at this and obviously we will be listening to hon. members' views on where this extra revenue might be spent if in fact we do decide to collect this extra revenue. Therefore I say again, no decision is made at this time. The Minister for the Department of Health and Social Security is carefully looking at the situation as Treasury and the Council of Ministers will be.

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

Mr Karran: Vainstyr Loayreyder, a supplementary. Would the Chief Minister not agree that it would be an absolute scandal if we allow a situation where the people who are at the top of the pinnacle of earning power are allowed to be let off as far as these national insurance contributions is concerned? And would he also not agree that, as

previous Department of Health and Social Security members have argued for years that the upper limit should be done away with anyway and that money should be put towards trying to get the likes of the real low paid out of paying national insurance contributions, will he, with his cabinet, make a point of looking at this for an exercise in order to make sure that something positive can come for the ones who are at the bottom of our community at the present time instead of always worrying about the ones at the top?

The Speaker: Chief Minister to reply.

Mr Corkill: Well, the hon. member makes an assumption that we only worry about the ones at the top, and that is not the case. The policy of this government is quite clear: we are interested in low income people; we are interested in the needs of all the community of the Island.

The hon. member also says that the upper earnings limit has been removed, and that has not happened in the United Kingdom. What has been applied is a one per cent tax, as it were, effectively above the earnings limit of £585 a week, and this is the money which in the United Kingdom is estimated to raise £8 billion in the United Kingdom. If we apply the same level here, do the same as the United Kingdom has done, we would have £10 million going into our national insurance account, or the NI fund, as it is known, and I think we should be clear that NI fund is used for many things, and I certainly recall the debate not many years ago about whether in fact the NI fund could be used for health purposes. We had a debate about the loan charges with regard to the new hospital, which was a way of government benefiting everyone in this community, and I think we should be clear that the NI fund funds a number of things including the pension supplements, including incapacity benefit, disability benefit, jobseekers' allowance and, of course, I think 13 per cent of that income each year goes to health services anyway.

So we have to look at all that information; we have to work out where our priorities are as a community, as a government, as this House and the other place, Tynwald, will have an opportunity to express its views in due course. What I would say to hon. members is that we are working out the detail and I want to make it clear that there is no indication at this moment whether we will or will not follow the United Kingdom in this area. I think my earlier answer has said that this is a departure. It is looking as if it might not be part of the reciprocity scenario and, as the hon. member for Ayre has said, it would appear to be an extra level of tax. The point I would make about that is that it is a tax on people in employment, it is not a tax on income across the community, because obviously there are people who are not in employment who still have income and they do not pay NI contributions.

So all these issues have to be balanced in the light of our taxation strategy, in the light of the expenditure

that we wish to spend on our public services, and that will be done, Mr Speaker.

The Speaker: Hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you. Can I ask the Chief Minister, would he agree with me that by not increasing our NI contributions in line with the United Kingdom we would be making a clear political statement in confirming our move to greater independence, making our own decisions and secondly, by not increasing our NI contributions, increase our business competitiveness at the same time?

The Speaker: Chief Minister to reply.

Mr Corkill: The hon. member talks of independence, and of course that is a separate issue from taxation. We do have total autonomy with regard to our taxation systems on the Isle of Man. We choose to keep our reciprocity with the United Kingdom. I believe it served this Island well and I believe it will continue to serve the Island well in the years ahead. The issue about this particular one per cent addition that the Chancellor in the United Kingdom has announced is whether it forms part of that relationship. Yes, the Island is independent in that we have internal autonomy. I do not think we should confuse, on the one hand, the constitutional relationships that the Isle of Man enjoys with the United Kingdom and, on the other hand, the issue of taxation.

The Speaker: A final supplementary. I return to the hon. member for Michael, Mr Cannan.

Mr Cannan: Thank you. Will the Chief Minister, in giving consideration to the question before him and the matter of the increase of one per cent in the national insurance, give consideration to the fact that perhaps there are, indeed, shortcomings in the provision of national healthcare in the Island, in particular primary healthcare, and if he does not increase the national insurance contributions, will he make sure that in the forthcoming round of budgeting for next year ample provision will be made in the National Health Service in particular for primary healthcare?

The Speaker: Chief Minister to reply.

Mr Corkill: Can I say that I think the Isle of Man Government for many years now has a good track record of investing in our health services. The hon. member would like to see more done for primary health. I think there are a number of us who would concur with that. The issue of overall budgeting, of course, is addressed on an annual basis and, if there is a need for more finance to go towards that area, then

certainly I will be discussing that with my Treasury colleague, Mr Bell; we obviously have had a budget quite recently.

There is more than one way to direct funds towards our health services. The United Kingdom Chancellor has chosen a particular route for his jurisdiction but we have other options including directing finances from our general revenues, which some might argue could be fairer for all inasmuch as taxes are paid by all of those who have those incomes.

So there is a debate to be resolved here and I am listening to what hon. members are saying. It is an interesting point, one that we have to resolve and we will do that. I will say again, we have time to do that. There are a number of issues to be resolved and I think the United Kingdom itself has a number of issues to resolve under this proposal, which is why it is not being introduced until April of next year.

Government Computers – Unauthorised Use – Question by Mr Houghton

Question 2. The hon. member for Douglas North (Mr Houghton) to ask the Chief Minister:

What monitoring and enforcement measures are used by your government to control the unauthorised use of computers by staff?

The Speaker: I call on the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg leave to ask the question standing in my name, sir.

The Speaker: Hon. member for Onchan, Mr Corkill, the Chief Minister.

Mr Corkill: Thank you, Mr Speaker. Staff use of government computers is governed by formal policies dealing with e-mail and internet. Those policies do not prohibit the use of computers for personal purposes but allow use that is occasional and reasonable. What is reasonable in any particular circumstances is a matter for management to determine, as is the case in relation to all other aspects of staff performance and behaviour in the workplace. All users of e-mail and internet access facilities receive training prior to use, and this includes comprehensive briefings on acceptable usage. The policy in relation to internet access is supplemented by technical controls, commonly known as firewalls, which prevent access to certain designated sites such as pornography, gambling, hacking and chat rooms. In addition, computer traffic is automatically logged and can be accessed if necessary in pursuit of an allegation of misuse.

The Speaker: Hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. Can the hon. Chief Minister advise whether there indeed is a daily time limit for those people for their personal use of that equipment?

The Speaker: Chief Minister to reply.

Mr Corkill: Well, there certainly is, Mr Speaker, inasmuch as in the code of best practice which applies in this area of which there is a published format if the hon. member wishes to have a copy - and I can provide him with one or he may have one - we refer to 'occasional' and 'reasonable'. I think in this day and age, Mr Speaker, it is not unreasonable for members of staff to send short e-mails on a system because it does not actually incur any extra cost to the taxpayer and it is part of the way of life, just as in fact the occasional personal phone call, which is occasional and reasonable, is not untoward. So certainly, in the hon. member's question about time, I would expect access to the systems to be short and concise.

Oakhill, Braddan – Build-Up of Silt – Question by Mr Henderson

Question 3. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Transport:

As your department is the lead department in progressing the IRIS scheme, what is it intending to do in relation to –

- (1) the silt that has built up and is being pumped into the river at Oakhill Bridge at the junction of the Marine Drive and the Old Castletown Road, and which has also travelled a considerable distance downstream; and*
- (2) the ecological impacts that this must be having?*

The Speaker: I call on the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I beg leave to ask the question standing in my name.

The Speaker: Hon. member for West Douglas, Mr Shimmin, Minister for Transport.

Mr Shimmin: Thank you, Mr Speaker. I am aware that a problem arose as a result of the excavation work for the IRIS transmission main exposing the subsoil at the Oakhill railway crossing. Heavy rainfall allowed the passage of silt into the railway drainage systems and downstream. This silt is currently being

removed and taken to tip as far as is practically possible. Our aim is to have this silt removed within the next month.

I am also aware that there were some problems being experienced by a resident in the vicinity of the intersection of the Old Castletown Road and Marine Drive, where the contractor has caused some damage to entrance driveways, fences, plants and shrubs. The engineer on site will ensure that the necessary remedial work will be carried out by the contractor during his reinstatement of the highway. Once again, it is intended for this work to be completed within the next month.

In part (2) of the question, there are not expected to be any long-term ecological impacts as a result of the silt erosion. As the railway at this point is in a cutting, it receives, as a matter of course, run-off water and silt from the adjacent fields during periods of rainfall. This silt is washed out from the subsoil and, whilst in large quantities at present, will diminish over the summer months. Thank you, Mr Speaker.

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I thank the minister for his assurances on some reinstatement aspects, but is he aware that some of this water and silt is actually being pumped into the river - and I use the word 'pumped' - and is being exacerbated by the contractor, whether known or unknown, and, in relation to his answer in reply to my question in stating that the ecological impacts will not be long lasting, how does he know this and will he be accessing such expert bodies as the Manx Rivers Improvement Association and also the Fisheries Officer of the Department of Agriculture, Fisheries and Forestry to ascertain properly any impact and to ascertain any proper works required to reinstate that river to its proper ecological status?

The Speaker: Minister for Transport to reply.

Mr Shimmin: Yes, Mr Speaker. Although I am not aware of the full details of the contract I am aware that it was an extremely problematic area and that I am sure the pumping would have been necessary in view of the amount of water that was falling in that area. So that would have certainly combined to cause greater problems to the amount of silt going into the watercourse. With regard to bodies such as the Manx Rivers Improvement Association, we are in very frequent contact with that body at the moment and, although they have not raised this directly with me, I am sure that it is one that will be subject to our consultations. We do intend to have a meeting with them which is scheduled within the next few weeks.

We do, within all of the IRIS schemes and indeed all of the Department of Transport schemes, take on environmental responsibilities very seriously. If there

are any concerns we will do our best to address them, sir.

The Speaker: Hon. member for Middle, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker. Could I ask the Minister for Transport to be aware of the fact that there are many residents in the area of Port Soderick that have experienced disruption and inconvenience over a long period of time, that one or two residents in particular are experiencing incredibly difficult problems to resolve and that they have had difficulty actually getting somebody to have an on-site meeting with them to discuss the various problems that they have experienced? While I note that works will be put in place to rectify the problems that have been experienced, can I ask him to be aware and ensure that his staff will show a degree of understanding to the problems experienced by those people who have had to endure disruption for a considerable period of time, and could I further ask him to make the residents in the area informed as to what is happening and when, because they are very dissatisfied about the long-standing disruption to their lives? Thanks very much.

The Speaker: Minister for Transport to reply.

Mr Shimmin: Thank you, Mr Speaker. I am fully aware of the disruption that is caused during the progress of this £100 million scheme, which is for the benefit of everybody on the Island, and it is always regrettable for those people who are directly affected, although I have been extremely pleased with the tolerance of most people who have been affected. We regularly have on-site meetings with residents from various areas during the IRIS programme. I am concerned that the hon. member raises at this point questions concerning a lack of those meetings, because I have attended some and I know the staff have frequently attended. Therefore, if he has specifics I would welcome him making them available to me. My staff and the staff involved in all of these schemes do have considerable understanding for the concerns of the residents. We wish this scheme to be popular, supported and to be beneficial to everybody on the Island, and the amount of public relations effort that we put in should not be underestimated. Therefore, I would ask the hon. member and indeed any hon. members: if they have concerns about the carrying out of this scheme, please make them aware to me of those concerns and they will be addressed, as they are being in many other places.

The Speaker: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. Could I ask the minister to confirm that this is the same contractor that has been involved on the whole of the

Old Castletown Road from the White Hoe to Meary Veg since the inception of this particular contract?

The Speaker: Minister to reply.

Mr Shimmin: I cannot give full categorical assurance at this stage but I will find out. The contractor involved in the area concerned on this question was Farrants Construction Limited, but I will make sure the hon. member is informed as to whether they have completed the whole works.

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I thank the minister in his earlier responses in relation to his concerns for the ecological impacts of the area and that his department accepts that that is important, but can he give a commitment in response to this question that he will utilise the expert knowledge of people such as the Manx Rivers Improvement Association and also the DAFF officer in charge of fisheries so that an expert opinion can be arrived at at any ecological implications and any reinstatement works will then be in keeping with those observations made by those people?

The Speaker: Minister for Transport to reply.

Mr Shimmin: No, I will not make a commitment to that, Mr Speaker. There are a number of bodies on the Island who classify themselves as experts. He has named one group which we do take serious note of. I am unaware of the full nature of the people within that organisation. However, we are having dialogue by correspondence and we will be having a meeting shortly. Therefore, if they have things to contribute, we would like to work with them. However, it is our responsibility for the rivers. We have meetings regularly with the associated bodies from DAFF and the environmental fisheries side, Mr Ballard and Liz Stevens, therefore we do take issues seriously. We will listen to organisations; however, we have the responsibility and ultimately we will discuss with anyone but we will make the final decisions.

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

Mr Karran: Vainstyr Loayreyder, a supplementary. Would the minister clarify to this hon. House, which rivers are we on about? Are we on about the Middle River, better known as the Café River, where the pollution is taking place? If it is the Café River, can the minister assure this hon. House that expensive remedies are not taken before the issue of where the incinerator is put, as the previous time the incinerator site was disturbed, the river was killed off for several years, and will he assure this hon. House

that we will not see a duplicate of resources and taxpayers' money being spent if that is the case to remedy the issue before the other issue has been done? Would the minister also not agree to inform this hon. House and the new member for Middle that as regards the reply that was given to the former member for Middle Sheading, myself, his department has honoured that reply about disruption to my former constituents, and will he just clarify for this hon. House that he said that the IRIS project is £100 million? Could he tell us what exactly the project is worth, as I think he will find that he is slightly out with his sums?

The Speaker: Minister for Transport to reply.

Mr Shimmin: Thank you, Mr Speaker. I cannot help thinking that we are moving some distance away from part of the question, therefore my brief does not cover all of it. I would urge the hon. member to raise these issues with me after the sitting today so that I can give him a more detailed and accurate response. I am informed by my colleague that, yes, it is the Middle River. We have no intention of expending further moneys wastefully within any of the contracts on IRIS. The hon. member will be aware in a written answer to a question from the hon. member for North Douglas, Mr Henderson, it does refer to the finances of the Tynwald votes for all IRIS schemes and it can be seen there is only one which has exceeded the actual budget approved, and reasons are given and did gain Tynwald approval.

I will have to investigate the replies given to his previous constituents which, by the nature of that, must be at least six years ago, therefore I cannot be expected to have all of that with me today. However, the issue of all aspects of IRIS - yesterday I was pleased to attend the opening of the pumping stations in Port St Mary, where the chairman of the commissioners, Mr Terry Jackson, complimented the department on the working relationships, the co-operation, the partnerships. That is what my department and the predecessors to myself have always attempted to do, and I do believe that we are making extremely good progress on a very problematic scheme for the benefit of the Island. A number of these questions could be dealt with directly in specifics; if a member has a concern, please raise it with me, but I would like to give the message out that this scheme is progressing extremely successfully. We do take our issues for the affecting of residents and our ecological environmental responsibilities seriously. Work with us, we are doing well; if we can do better, we will try to.

Oakhill Bridge – Subsidence – Question by Mr Henderson

Question 4. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Transport:

What is your department intending to do about the road bridge known as Oakhill Bridge at the junction of the Marine Drive and the Old Castletown Road which is now cracked and suffering subsidence as a possible consequence of IRIS works being carried out in the near vicinity?

The Speaker: I call on the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I beg leave to ask the question standing in my name.

The Speaker: I call on the hon. member for Douglas West, Mr Shimmin, Minister for Transport.

Mr Shimmin: Thank you, Mr Speaker. The wing wall of the Oakhill Bridge moved due to unforeseen ground conditions encountered whilst excavating the trench to lay the IRIS pipeline. The existing wing wall structure was added many years ago as an extension to the arch bridge and has no foundations. The cracked wing wall will be taken down, a proper foundation laid and the wing wall reconstructed. Site investigation was carried out prior to the tender stage. However, this only provides accurate details in the immediate vicinity of the bore hole or trial pit. It is recognised that ground conditions will vary during civil engineering works and this is allowed for in the conditions of contract. Because the ground conditions were unforeseen and therefore not known at the time of tender, the engineer will make a determination on costs following a submission by the contractor of the problems encountered. It is envisaged that expenditure will be contained within the approved contract sum.

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I thank the minister for his positive response in addressing the situation at Oakhill Bridge. Will his department be taking into account the heritage aspects, road safety aspects and so on in the works that he foresees that will obviously be so necessary? And can he confirm, or deny that there will be an addition to cost - I realise he said he hopes it to be kept within budget - but considering these are additional and excessive works, what is his view on that?

The Speaker: Minister for Transport to reply.

Mr Shimmin: Certainly, Mr Speaker, during my time as Minister of Transport, road safety will be the highest priority in all aspects. The issue of the heritage reinstatement - I do believe there is enough evidence from the works carried out by my department around the Island and I would hope it would be of the same high standard.

With regard to the addition to cost, it is not anticipated that this aspect of the contract, the wing wall, will produce any further expenditure outside of the contract. However, if the whole scheme has been as problematic as it has been outlined to me, the whole scheme itself may have an overspend; if that is the case, then I will deal accordingly.

The Speaker: Hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. Can the hon. minister confirm whether he does indeed now have a policy in place to allow government liaison in order to underwrite matters such as structural damage to private properties as a result of damage caused by IRIS, rather than both parties entering into long legal battles and the inherent costs thereof, sir?

The Speaker: Minister for Transport to reply.

Mr Shimmin: Yes, Mr Speaker, I am aware of the issues that the hon. member is raising; we have discussed these matters before. It is a concern where the department is the client. We employ contractors; if that contractor then causes problems to third parties, the issue is between the third party and the contractor. That becomes an insurance or legal issue between those two parties and the client, ourselves, is not directly in that loop.

It is a concern to me that members of the Island's public are being affected at times by these contracts and I am using my best endeavours to ensure that there is a timely conclusion to those negotiations. I am advised that legally it would actually cause more problems if I were to directly involve myself in contracts between the persons carrying out the work and third parties who might be affected. I do take on board the point. In answer to his question, there is not a formal policy regarding liaison. However, there is informal dialogue going on on a regular basis with our contractors, who are aware that if they fail to respond appropriately to the needs of the residents in the area, they will be unlikely to receive any further work from the department.

Members: Hear, hear.

Litter Clearance – Question by Mr Quayle

Question 5. The hon. member for Middle (Mr Quayle) to ask the Minister for Local Government and the Environment:

With regard to the litter problem which affects our towns, villages, countryside and beaches:

(1) *will you issue clear guidelines as to who is responsible for keeping the various areas free from litter;*

(2) *can you publicise the penalties applicable to those caught depositing litter; and*

(3) *will you initiate a co-ordinated strategy to satisfactorily address this ongoing problem?*

The Speaker: The hon. member for Middle, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker. I beg leave to ask the question standing in my name.

The Speaker: Hon. member for Rushen, Mrs Crowe, Minister for Local Government and the Environment.

Mrs Crowe: Thank you, Mr Speaker. As part of the overall approach towards implementing a co-ordinated anti-litter policy, the department will be consulting with relevant government departments, local authorities and other organisations with a view to issuing clear guidelines as to who is responsible for keeping our towns, villages, countryside and beaches clear of litter. It is my view that all on the Island share in that responsibility.

With regard to the second part of the question, the penalties for litter offences are outlined in section 1 of the Litter Act 1972 whereby, if any person throws down, abandons, drops or otherwise deposits litter in, into or from any place in the open air to which the public are permitted to have access without payment, he shall be guilty of an offence and be liable on summary conviction to a fine of £2,500. On a person being convicted of an offence under section 1 of that Act, the court may make an order directing that person to remove anything in respect of which he was convicted. Failure to do so would render that person to be guilty of a further offence and liable to a summary conviction of a fine not exceeding £1,000.

The Litter Act also includes provisions for fixed penalties to be issued where a police constable or authorised officer of a local authority has witnessed a person committing a litter offence. The amount of the fixed penalty is currently £10. The department is liaising with police and local authorities with a view to making a new order which would increase that fixed penalty.

With regard to the third part of your question regarding initiating a co-ordinated strategy, I am pleased to say that, in recognising the benefits of a cleaner Island, the department is currently devising an anti-litter campaign. I feel it is very important for government as a whole to show a good example by ensuring that the areas outside of the buildings in their ownership are clean and free from litter, and we will also support the public who participate in litter-picking

exercises and, with that in mind, officers from the department have been in contact with Manx Enviro Clean and the Manx Wildlife Trust, two locally based organisations that co-ordinate regular litter-picking exercises on the Island, and it is hoped that, with our help, the profiles of such events and the number of participants can be increased.

We are also giving consideration to targeting the month of May each year to co-ordinate an Island-wide litter picking campaign. Voluntary groups have already expressed a keen interest in participating in such an event, which the department hopes to introduce next year. This will also provide the opportunity to raise the awareness in schoolchildren by conducting anti-litter competitions et cetera.

Finally, the department continues to be represented on the international front at KIMO an international environment organisation. The department recognises that marine environment is a source of much of the litter that is washed ashore on the Island, and through KIMO is seeking a reduction in the amount of items deposited at sea by keeping up international pressure and encouraging new marine litter initiatives.

I hope that the various initiatives that I have mentioned clearly demonstrate that the Department of the Environment is very concerned at litter on the Island and is determined to work with other departments to make sure that we all have a pride in Man. Everyone on the Island must be aware that beauty dies where litter lies. Thank you, Mr Speaker.

The Speaker: Hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you. Could I ask the minister, with the proliferation in the number of takeaways on the Island, particularly those open until the early hours of the morning and the opening of Kentucky Fried Chicken in the centre of Douglas, has the planning committee powers to place conditions on planning permissions to ensure that these premises have the responsibility to clean up the refuse and debris which emanates from those premises and is discarded near those premises? If they do not have the power, do you intend to seek such powers?

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

Mrs Crowe: Thank you, Mr Speaker. Responsible retailers and takeaway food providers do provide a service in cleaning the areas around their establishments. I know there is a problem when that litter blows away before it is collected, but I do believe that the responsible takeaway owners all clean the areas around their establishments.

The Speaker: Hon. member for Middle, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker. Can I thank the Minister for Local Government for such a comprehensive reply and dealing so effectively with the issues that I have brought before the House. Could I ask her to take into account that a change in culture is actually required and that we perhaps could learn a lot from our continental cousins where, when we visit the continent, it is generally spotless and in co-ordinating a strategy, perhaps she could consider a working party to involve the Department of Local Government, the Department of Transport, the Department of Education, local authorities and the police in an effort to bring about a co-ordinated strategy which would satisfactorily deal with the problem, perhaps something along the lines of the Traffic Management Committee, which works so effectively and is split into north, south, east and west? Thank you, Mr Speaker.

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

Mrs Crowe: Yes, since being made the minister in the department, I have been horrified by the amount of litter that I have seen around the Isle of Man, and I have been working with all of the departments to try and address that situation. Unfortunately it is a little too late to bring in a litter campaign for this year, but certainly next year there will be a concerted effort by all departments to make sure that the litter problem is addressed. But in the meanwhile I would say that everyone has a responsibility and, if people see litter around the Island, make sure that it is picked up and placed in the proper receptacle.

The Speaker: Hon. member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Speaker. In welcoming the new proposals put forward by the minister, could I ask if the minister is aware of the serious and ongoing problems experienced on the main roads to the tip at the Ayres largely caused by insecure loads on the vehicles travelling there, particularly the road between Ramsey and Bride, which is a continuing disgrace, frankly, because of litter being blown off these vehicles? I am aware that the officers at the tip do on occasions come to clean it up, but I wonder if the hon. minister could undertake to try and find a more permanent solution to this problem.

Secondly, would the hon. minister take time to reflect on the past success of the Cleansweep campaign, which was actually very successful for quite a long period of time. Perhaps the main bones of that scheme could be reactivated to achieve the ends that she is desiring?

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

Mrs Crowe: Yes, Mr Speaker, indeed I will be addressing the problem that has been highlighted by

the hon. Treasury minister and hopefully that problem will be resolved when the energy-from-waste facility comes on stream. However, in the interim, I will make sure that indeed those roads are regularly checked to ensure that there is no litter hanging around trees and hedgerows and on the roads. Yes indeed, the Cleansweep campaign, I think, was successful and it is from that scheme that we are basing an annual scheme that I hope will always be carried on, because I think it is a shame that the Island has been allowed to get into the condition that it is in now, and hopefully there will be a number of initiatives taking place in the very near future that maybe we can all get involved in and clean up the Island short term. Thank you.

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

Mr Karran: Vainstyr Loayreyder, would the minister inform this hon. House how many times in the last year people have been done for litter offences, both commercially and privately? Can the hon. minister inform this hon. House that until recently there had never been any prosecutions as far as litter-dropping is concerned? Is that still the case? Will the minister inform the hon. House: if local authorities take persons or companies to Court for offences under this legislation, the legal costs fall on themselves, and would she consider being prepared to allow her department to pick up the legal costs in order to get local authorities more proactive instead of reactive as far as this problem is concerned? And finally, Vainstyr Loayreyder, can the minister have a change of policy so that the proactive local authorities who try to do something about keeping the environment clean and tidy have the liability on their ratepayers for doing so? And will she look at the possibility of charging a standard rate on all local authorities which they can claim back when they prove that they used that money for the services as far as keeping the environment clean and tidy in their local authority? And would she not agree that you are penalising local authorities who are proactive as far as litter is concerned simply because the ones that do not do anything have less rate liability in their areas, and that is the core issue that needs to be addressed on the litter front as far as the environment is concerned?

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

Mrs Crowe: One of the questions that I was asked was about the number of people that had been prosecuted. That of course does not rest with my department and the Minister of Home Affairs may need to be addressed on that subject. However, when you were talking about prosecutions, I do think it is far more sensible to be working with people to ensure that this problem does not reach prosecution. We need to be identifying areas, 'grot spots' around the Island that

need attention, and we will work with people to address the situation if there is a problem.

Another part of the questions that you asked was regarding local authorities, and we will indeed be looking at those local authorities who do act responsibly and do make sure that the areas that they have charge of are kept free from litter and that their responsibilities are being carried out. So, yes indeed, we will be working with local authorities, traders, other organisations in order to address the problem that we have, but hopefully it will not result in prosecution.

The Speaker: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. Could I ask the minister if she will take extreme action, of whatever sort, against cigarette ends and chewing gum? And could I ask the minister if the aim is, at looking at bigger areas of litter, that the smaller areas could possibly be overlooked? But I think I would ask the minister to look at litter from wherever it comes and try and approach it so that litter does not converge anywhere and then people add to it.

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

Mrs Crowe: Indeed, it would be my wish to take extreme action on many occasions! Now, whether I do have the ability to do so or not I am not sure, but a case in point: yesterday, I came out of government building and someone was smoking and instead of putting their cigarette end in the receptacle that was no more than a foot away from them, they left the cigarette end burning on the parapet. I was just not quick enough to take the extreme action of finding the young lady that was responsible, I am afraid. However, it is a responsibility that we all have and the likes of chewing gum and cigarette ends - it is just disgusting not to dispose of them in a correct manner. I hope that we will be able to make that part of an awareness campaign; others find this litter that is dropped disgusting, and I think that is the way we need to approach it.

The Speaker: Hon. members, before I call on the next questioner, I would ask members to refer back to the original question and not to broaden this out. If you want a debate on litter, then that is a matter that you should put down in a different format. Hon. member for Middle, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker. In welcoming the answers that have been put to us today, I would also just ask the Minister for Local Government, could she particularly liaise with the Department of Tourism where they conduct a survey each year of the tourists visiting our Island, and it actually affects many thousands of people visiting our

shores because so many of them are complaining about the cleanliness of the Isle of Man particularly relating to dog fouling? In her efforts to co-ordinate action on the cleanliness and litter, then perhaps it would be appropriate to include that particular matter with the task force or whatever she will be contemplating. So I would hope that that could be taken into account, and finally I would commend her for talking about the Cleansweep Challenge and, in fact, Braddan Commissioners were awarded the best village shield in 1991, and . . .

The Speaker: Hon. member, (*Laughter*) publicity for the local authority in your area I do not think is the requirement of a question! Hon. Minister for Local Government and the Environment.

Mrs Crowe: I think the answers are 'yes' and 'thank you.'

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

Mr Karran: Vainstyr Loayreyder, in the reply to the question that I previously asked, would the minister not agree that the bottom line is that any proactive local authority who wants to address the litter issue is penalised? They take them to court - it costs their ratepayers. If they police the thing, if they do the work, it costs their ratepayers. Would she look for and investigate a way of helping local authorities who are proactive in order to honour the legislation that is there in the first place? And would she not agree that she might have more success, whether or not it is with the Department of Home Affairs, if she were to find a way of helping local authorities to take on their responsibilities without the liabilities of extra burden on their rates for doing so?

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

Mrs Crowe: Thank you, Mr Speaker. Yes, I do take on board what the hon. member for Onchan has said but I would point out that functions carried out by local authorities do have a cost. Responsible local authorities do apply a cost to keep their areas clean. Now, if what you are suggesting is that the whole of these functions should be carried out by central government, maybe we should look at that but, at the present time, these functions are with the local authorities and, as I have just pointed out, they do have a cost.

The Speaker: Hon. member for Douglas South, Mr Cretney.

Mr Cretney: Yes, thank you, Mr Speaker. Would the minister agree, in her consideration together with perhaps the Department of Home Affairs, that one

option in order to assist local authorities would be to provide powers for them in terms of not only litter prevention officers but also a combined rôle in terms of parking enforcement whereby it could be self-financing?

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

Mrs Crowe: Yes indeed, I would be very pleased to do that. Some authorities have splendid machines that sweep and clean the streets that have been part-funded by government and so, yes indeed, I would be very pleased to work in any way with not only all the departments of government but with the local authorities in addressing the problem that we have.

The Speaker: Hon. members, that completes questions for oral answer. Item 2 is questions for written answer, we have three questions which are for written response. They will be circulated in compliance with standing orders.

Employment Tribunal – Awards – Question by Mr Henderson for Written Answer

Question 1. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Trade and Industry:

Since the Isle of Man Employment Tribunal was set up:

- (1) how many cases has it heard;*
- (2) how many of those cases have been found in favour of the employee;*
- (3) what is the average award for a breach of the 1991 Employment Act and others relevant to the functions of the tribunal; and*
- (4) how many times has a maximum award been awarded ?*

Answer

- (1) Since the Employment Tribunal was established under the provisions of the Employment Act 1991, to date the tribunal has heard a total of 108 cases.
- (2) and (3) Although claims to the Employment Tribunal may relate to a number of jurisdictions available under Manx employment law, the following breakdown identifies, as far as is possible, the main area of jurisdiction involved in each claim:

[See KQ 154 (Table 1) for answer]

It should be noted that the above figures do not include cases that may have been withdrawn/settled part way through a hearing, nor do they reflect those cases that may have been subject to hearings for directions and other interlocutory matters, or pre-hearing assessment, and which were not progressed.

It should also be noted that for cases of unfair dismissal, the tribunal may follow a procedure in which, having determined liability (i.e. that the dismissal was unfair) the parties are able to negotiate the financial settlement with the assistance of the Industrial Relations Officer. Such settlements are not included in the figures for monetary awards above.

- (4) When the tribunal makes an award on matters such as an unlawful deduction from pay, no maximum amount is prescribed and, if satisfied, the tribunal would award the actual amount that has been deducted.

For claims in respect of unfair dismissal, there are two elements to the award that the tribunal may make.

Firstly there is a 'basic' award, which normally reflects a calculation of one week's pay for each complete year of service. In this respect the limit imposed in respect of the amount of a week's pay may apply, such amount on the Island having been increased from £250 to £385 with effect from 1st July 2001. This limit would also apply in terms of calculating awards of redundancy pay.

The basic award is intended to compensate an employee for loss of job security caused by the unfair dismissal, by awarding a sum equivalent to a statutory redundancy payment.

It would appear that the limit was relevant in six cases where a basic award was calculated, and two cases for which redundancy pay was awarded.

Secondly there is the 'compensatory' award which is intended to reflect the *actual* losses suffered by the applicant as a consequence of the unfair dismissal. It is important to note that the award is not made in any sense as a punishment for errant employers.

Broadly speaking, the matters that may be taken into account in calculating a compensatory award can be identified as follows:

- Immediate loss - the loss incurred between the effective date of termination and the date when the tribunal assesses the loss. Regard is had to the net remuneration that would have been received had the employee not been dismissed, and to other factors such as regular bonuses and fringe benefits that an employee may have been receiving.
- Future loss - the potential loss the employee will incur, again assessed by reference to the net pay figure.

- Expenses - expenses reasonably incurred in consequence of the dismissal, such as sums spent in looking for a new job.
- Loss of statutory rights - usually a nominal sum awarded to reflect the loss of protection in areas such as unfair dismissal, which will only be regained once the employee has worked for a new employer for the minimum qualifying period of one year.
- Pension loss - losses arising in respect of an employee who was a member of an occupational pension scheme. The losses arising in this area can often form a significant part of the compensatory award.

There are various circumstances in which the tribunal may reduce or even eliminate the award, including:

- where the employee has contributed to the dismissal.
- where the tribunal considers that it is 'just and equitable' to award a lesser amount than otherwise would be appropriate.
- where the employee fails to take reasonable steps to mitigate the losses, which would include consideration of efforts made to find alternative employment.

If the tribunal calculated the losses incurred and, after applying any reductions for matters such as contributory conduct, the figure was to remain above the prescribed maximum limit, then the award would be reduced accordingly. The limit on the amount of the compensatory award was increased to £30,000 from £13,000, also with effect from 1st July 2001. To date no compensatory awards have been subject to reduction in line with the prescribed limit.

**Employment Tribunal –
Reinstatement after Unfair Dismissal –
Question by Mr Henderson for Written
Answer**

Question 2. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Trade and Industry:

If an employee is successful in a claim to the Isle of Man Employment Tribunal for unfair dismissal is there scope within the relevant Acts for automatic rights to reinstatement to his or her original employment?

Answer

In the event that an individual is successful in a claim of unfair dismissal before the Employment Tribunal, then the remedy available is by way of an award of compensation, in accordance with the provisions of Section 58 of the Employment Act 1991. There is presently no provision to allow for the reinstatement of an employee by the tribunal.

The majority of claims alleging unfair dismissal are resolved through the conciliatory services provided by the Island's Industrial Regulations Officer, without ultimate recourse to the Employment Tribunal. Consideration of the reinstatement or re-engagement of the individual is provided for at this stage under the provisions of Section 76(4)(a) of the Employment Act 1991, which provides that:

- (4) For the purpose of promoting a settlement in a case falling within subsection (1)(a) where the claimant has ceased to be employed by the other party to the dispute or proceedings –
- (a) the industrial relations officer shall in particular seek to promote the reinstatement or re-engagement of the claimant by that other party, or by a successor of his or by an associated employer, on terms appearing to the industrial relations officer to be equitable;

In the United Kingdom, an Employment Tribunal may order reinstatement or re-engagement. However, these powers are very seldom used as evidence by the fact that of the 5,294 cases of unfair dismissal upheld by tribunals during 2000-2001, only fifteen were subject to such remedy.

The department is presently reviewing the issue of reinstatement/re-engagement in the context of its forthcoming Employment (Amendment) Bill.

**IRIS Scheme – Additional Costs –
Question by Mr Henderson
for Written Answer**

Question 3. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Transport:

Has the IRIS scheme incurred any additional costs, or additions to the original contract, and if so what are those costs?

Answer

The IRIS master plan has hardly varied from inception in terms of the concept and overall framework. At each stage, and for each contract of the master plan, the scheme design which was originally prepared at feasibility stage is developed and designed to ensure cognisance of current circumstances.

To date there has only been one contract that has exceeded the original budget approved by Tynwald and that was the Loch Promenade storage tank and pumping station. In respect of this contract, at the November 1999 sitting Tynwald approved further expenditure of £334,350 in respect of contractual claims for primarily unforeseen ground conditions.

I detail below the amounts voted in the various Tynwald financial motions against the actual expenditure:

[See KQ 155 (Table 2) for answer]

Table 1

Main Area of Jurisdiction	Cases Heard	Found in Favour of Applicant	Average of total Monetary Award (for those cases where this was the remedy)
Unfair dismissal	70	38	£3,461.96
Unlawful deductions from pay	18	10	£237.27
Claims for redundancy pay, including associated claims against the Manx National Insurance Fund	12	8	£802.00
Lack of written reasons for dismissal	5	1	£385.00
Lack of written statement of main terms and conditions of employment	2	1	-
Claims for payment due from N.I. Fund on insolvency of employer	1	-	-
Total	108	58	

Table 2

Contract	Tynwald Vote	Expenditure
Douglas pumping station and storage tank (South)	£7,208,800	£7,543,150
Douglas North pumping station and storage tanks	£2,615,850	£2,587,629
Transmission Douglas North to Douglas South	£1,610,650	£1,565,427
Ramsey pumping station	£2,575,000	£2,229,843
Port Erin pumping station	£1,995,000	£1,949,099
Castletown pumping station	£2,434,900	£2,397,713
North Quay transmission main	£1,392,944	£1,391,279
Union Mills to Quarterbridge Main	£1,486,000	£1,283,305
Meary Veg access road & transmission main	£1,985,000	£1,772,463