



HOUSE OF KEYS OFFICIAL REPORT

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PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 26th February 2013

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Present:

The Speaker (Hon. S C Rodan) (Garff);
The Chief Minister (Hon. A R Bell) (Ramsey);
Hon. D M Anderson (Glenfaba); Mr L I Singer (Ramsey);
Hon. W E Teare (Ayre); Mr A L Cannan (Michael); Hon. T M Crookall (Peel);
Mr P Karran, Mr Z Hall and Mr D J Quirk (Onchan);
Mr R H Quayle (Middle); Mr J R Houghton and Mr R W Henderson (Douglas North);
Hon. D C Cretney and Mrs K J Beecroft (Douglas South);
Hon. C R Robertshaw and Mrs B J Cannell (Douglas East);
Hon. J P Shimmin and Mr C G Corkish MBE (Douglas West);
Mr R A Ronan (Castletown); Hon. G D Cregeen (Malew and Santon);
Hon. J P Watterson, Mr L D Skelly and Hon. P A Gawne (Rushen);
with Mr R I S Phillips, Secretary of the House.

Business Transacted

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The House adjourned at 12.56 p.m.

House of Keys

The House met at 10.00 a.m.

[MR SPEAKER *in the Chair*]

The Speaker: Moghrey mie, good morning, Hon. Members.

Members: Good morning, Mr Speaker.

5 **The Speaker:** In the absence of the Chaplain, I shall read prayers.

PRAYERS

The Speaker of the House of Keys

Leave of absence granted

10 **The Speaker:** Hon. Members, I have given partial leave of absence today to the Chief Minister and the Treasury Minister, who have Government business off Island from late morning.

Questions for Oral Answer

15

TREASURY

Money Purchase Pensions Tax rates for those about to retire

20

1.1. The Hon. Member for Onchan (Mr Karran) to ask the Minister for the Treasury:

25 *What consideration he has given to individuals who have paid into a Money Purchase Pension and are about to retire, and in particular to the effect on such individuals of low annuity rates; and whether he will enable them to take 30% of their pension pot in cash tax free (as at present) and the remaining 70% in cash subject to a reduced rate of tax?*

30 **The Speaker:** We shall now turn to Item 1 in the Order Paper, Questions for Oral Answer. I call on the Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I ask the Question standing in my name.

35 **The Speaker:** I call on the Minister for Treasury, Mr Teare, to reply.

The Minister for the Treasury (Mr Teare): Thank you, Mr Speaker.

40 I am aware of and understand the issues faced by all those, including pensioners, affected by the current low interest environment. What the Hon. Member is asking me to consider is termed a pension bustø and is not permitted in law. Clearly, therefore I will not enable individuals to do as he suggests, as it would be illegal to do so.

Mr Speaker, current laws do allow for the rules of commutation to be applied for money purchase pensions if the value of the fund, when it is time to start to pay pension benefits to a

member, is less than £18,000. If this is the case, 30% of the fund may be taken as a tax-free lump sum and the remaining 70% may be paid out immediately, but subject to 10% tax.

45

Thank you, Mr Speaker.

The Speaker: Mr Karran, a supplementary.

50

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh Tashtee consider whether maybe the time has come for us to change the laws as far as this, allowing the fact of the ridiculously low annuity rates that they are getting, where you get over a £50,000 pension pot and you are lucky if you are getting about £1,500 or £1,800 worth of pension from that, which does not go up with inflation over the years of retirement?

55

The Speaker: Mr Teare.

60

The Minister: I would have concerns with the proposed change as it loses sight of why we have pension schemes in the first place, Mr Speaker. The sole purpose of the pension scheme is to provide its members with income in retirement. If upon retirement the pensioner withdraws all of their savings, then there no pension left to draw on. This may have a long-term impact on a number of individuals dependent on the state for support.

The Speaker: Mr Karran.

65

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh not agree, the fact is nobody is talking about all of the money, but a third of the money at the present time, which is really quite a low amount and allowing a situation where basically all we are doing is giving the insurance companies big profits by having this money on a long-term basis at a very, very low fixed term as far as these individuals are concerned?

70

Allowing for the fact that we are particularly in a difficult time, as far as anybody coming to the end of their working lives and ending up being tied up with such miserable amounts, and it only will effect basically keeping them out of Social Security anyway and does he not feel that we should not maybe doing the lot, but that 30% is not practicable at this present time?

75

The Speaker: Minister.

80

The Minister: I think that the Hon. Member needs to consider the wider implications as well. There is portability of pensions under the QROPS scheme from other jurisdictions and if it was ever viewed that the Isle of Man could be used as a tax planning centre for pension schemes, then I think that that would enable or it would mean that the portability of pensions between jurisdictions, which is an important part of our pensions offering, will be put in jeopardy.

85

HOME AFFAIRS

Drug and alcohol related convictions Number of prisoners; rehabilitation measures

90

1.2. The Hon. Member for Rushen (Mr Skelly) to ask the Minister for Home Affairs:

95

If he will advise the total number of prisoners in Jurby and how many are convicted for drug and alcohol associated crimes; and if he will further advise if they have access to drugs and alcohol in prison and what measures his Department is taking to rehabilitate those same individuals?

The Speaker: We turn to Question 2. Hon. Member for Rushen, Mr Skelly.

100

Mr Skelly: Gura mie eu, Loayreyder.
Ta mee shirrey kied yn eysht y chur ta fo my ennym.

The Speaker: I call on the Minister for Home Affairs, Mr Watterson.

105 **The Minister for Home Affairs (Mr Watterson):** Mr Speaker, as of 21st February 2013, there are 85 prisoners detained in the Jurby Prison. Of these, 34 were in custody for drug-related offences and two for known alcohol associated crimes. However, there are a large number of prisoners in custody for assaults and other violence, whose offences were probably drug or alcohol related, but the Prison would not be able to give any details as to how many of their offences are for violence and not for being drunk.

110 Prisoners do not have direct access to drugs, unless prescribed, by drugs will invariably find their way into the Prison by secreting them in body orifices. Again, alcohol is not readily available, but prisoners do make their own hooch. The Prison has detection dogs available within the Prison to combat this.

115 In relation to the measures the Department has taken to assist in the rehabilitation of prisoners, these are as follows.

The healthcare provision in the Prison provides access to the Drug and Alcohol Team clinicians. A doctor holds a weekly clinic and the Drug and Alcohol Team in-reach worker provides weekly clinics for relapse prevention and on a one-to-one basis.

120 The Prison has recently appointed a Drug and Alcohol Team nurse, who is now acting as patients' key worker whilst in Prison to ensure a smooth transition to Community Services on discharge. In addition, the Prison will soon have a 'motivate' Alcohol Advisory Service worker holding clinic specifically offering counselling.

125 The Prison-based probation officers carry out the following courses, where the needs are identified by either the professional or the Prison themselves. These will be carried out within a group or on a one-to-one basis. They are: general drug awareness programme; alcohol awareness programme; drug trafficking course; and relapse prevention programme. It is important to not only treat the alcohol and substance misuse in isolation, but to gain a greater understanding as to why the individual was misusing substances – treating the cause, rather than symptom. Work is then carried out to help the individual find a more appropriate way of dealing with these difficulties as an alternative to using alcohol and drugs. Work is then continued to be carried out by the community probation team on release.

130

The Speaker: A supplementary, Mr Skelly.

135 **Mr Skelly:** Gura mie eu, Loayreyder.

Can the Minister agree there are many crimes not directly attributed to drugs and alcohol, such as violence fuelled by drugs and alcohol, or burglary where addicts are committing a crime to feed their habit; and therefore, does he not believe that drugs and alcohol are the number one reason for crime on the Isle of Man?

140

The Speaker: Minister to reply.

The Minister: I think I alluded to much of that in my Answer, Mr Speaker. I would certainly agree that drugs and alcohol are a significant cause of crime on the Isle of Man.

145

The Speaker: Hon. Member for Douglas South, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

150 Could the Minister – I think he said there were 85 prisoners currently in Jurby at the moment – confirm how many prison officers are on duty at any time? There could be a very good reason for how these prisoners actually make their own hooch, but it seems incredible that we have only got 85 people and we are unaware of this and cannot stop it. How do they actually make this hooch that it is so undetectable?

155 **The Speaker:** Minister.

160 **The Minister:** Without giving away too many tips and tricks, (*Laughter and interjections*) I have been briefed on this and actually it is remarkably easy to make illicit alcohol in the Prison and some of it has been as high as 7½% alcohol. It can be done anywhere where you can contain liquid and hide it out of sight – everywhere from toilet cisterns and places like that. It is merely the most unpleasant business that I can think of, but there are ways of doing it and that is why we have introduced the dog. We have a specialist dog (**A Member:** Pooch!) in order to – (*Laughter and interjections*)

165 **A Member:** The hooch pooch!

The Minister: As it is colloquially known, which can detect illicit alcohol in the Prison to great effect. From memory, I think over 50 litres of illicit alcohol has been recovered since the dog was introduced in July of last year.

170

The Speaker: Mr Watterson. (**The Minister:** Yes?) I beg your pardon, Mr Skelly. (*Laughter and interjections*)

175 **Mr Skelly:** Don't worry about it! I was Mr Watterson last week, if I remember rightly. (*Laughter*)

Can I ask the Minister if he could confirm the total cost of each prisoner each year? Also, can he tell us if it is compulsory for criminals who are convicted on drug and alcohol crimes to attend any compulsory education? And also, what level of resource is dedicated to those people?

180

The Speaker: Minister to reply.

The Minister: The Criminal Justice Strategy outlined that there was an average cost per prisoner of £58,779; obviously that varies as the Prison population goes up and down. Eighty per cent of that Prison cost is fixed of course, so the savings are marginal depending on how prisoners are segregated between male, female, young offenders and other vulnerable prisoners. So there are those complications to add in.

185

In terms of compulsory education, the Prison has tried to do its best to encourage education. Of course, it is very hard to make it compulsory. It is however important to give everyone the opportunity to take part in an education programme while they are in there. My friend and colleague, Mr Quirk, is looking into this matter further on behalf of the Department.

190

In terms of the resources, I do not have a figure to hand. I think that the Prison education budget is somewhere in the region of £100,000, Mr Speaker, but I would have to advise Members on that separately, if that figure was required.

195

The Speaker: A final supplementary, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

I thank the Minister for his previous response ó not explaining how hooch is made, but explaining the problems with it ó but he did not actually answer one of my supplementaries contained in that, which was how many officers are on duty at any time in charge of these 85 people?

200

The Speaker: Mr Watterson.

205

The Minister: I am terribly sorry, but I do not have that information to hand, sir.

The Speaker: Mr Skelly.

Mr Skelly: Gura mie eu, Loayreyder.

210

The Minister told us back in November 2011 that drug and alcohol problems are set as a priority. Can I therefore ask he provides some direct measurable results to this key priority, especially in relation to any reduction in drug and alcohol prisoners being rehabilitated these last 16 months since he made that statement?

215

The Speaker: Minister.

The Minister: I am not particularly sure what the question is. I stand by the statement that drug and alcohol issues are a priority and yes, we do monitor that closely.

220

In terms of the Department, we will be coming forward with the next step in terms of key performance indicators from the Criminal Justice Strategy as to how we are going to measure that success. Perhaps that is the point that the Hon. Member makes and I am certainly happy to assist with that.

225

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh son Cooishyn Sthie not agree that one of the courses that started the alcohol courses off was a Private Member's Bill from this Hon. Member?

230 Would he also not agree that one of the problems that we have got is the fact that in 1992, 1998 and, I think, in 2003, we tried to get a proper independent penal review? Would he not agree that the issue is that this Hon. House is going to have to address the issue of financial priorities? Rehabilitation for drugs and alcohol is a very expensive exercise, allowing for the fact that we have inherited an awful lot of money being spent on other infrastructure, then this Hon. House is going to have to realise if it wants to have the progressive policy that we tried and pleaded for 235 many years ago to address, it will cost money, and it will come out of other people's budgets.

The Speaker: Minister.

240 **The Minister:** I would like to thank my colleague on the Department, Mr Karran, for that very helpful supplementary. Unfortunately, he is far better acquainted with the history of this than I am.

In terms of penal review and the sentencing issues, they are of course something that we are addressing through the Criminal Justice Strategy within the Department.

245 In terms of the budget squeeze, this is a fact of life for all of us at the moment. It is not coming out of anybody else's pocket. It is coming out of the Home Affairs budget. We will do what we can within that budget, but I think there is a general acceptance by all Members in this House that there is no new money to be doing the things that we should be doing within Departments. It is about working smarter with the money we have.

250 In terms of the prevention aspect, I would point to the excellent work of the Youth Justice Team in redirecting especially young people away from a life of crime and the drug and persistent offending issues that go with that, and would applaud them for that.

The Speaker: Hon. Member for Castletown.

255 **Mr Ronan:** Thank you, Mr Speaker.

Can the Minister advise the House how many prisoners currently serving in Jurby are either drug or alcohol dependent? a percentage?

The Speaker: Minister.

260 **The Minister:** Mr Speaker, I did ask for that information. Unfortunately it has not made it to my desk in time for Question Time today. It is something I have asked for and I will pass on to the Hon. Member when I get it.

265 **The Speaker:** Mr Skelly, a final supplementary.

Mr Skelly: Gura mie eu, Loayreyder.

270 I am sure the Minister will confirm he has got a challenging budget, but will he also agree that one of the best methods to reduce that budget would be to reduce the number of prisoners, certainly the reoffending? (A Member: Hear, hear.)

Therefore, would he not agree the most effective method is to appropriately resource the Drug and Alcohol Rehabilitation Unit?

The Speaker: Minister.

275 **The Minister:** I would agree with almost all that the Hon. Member has said. As I say, we do work closely with health professionals. We do have an input through the Department into the use, just as prevention is definitely the focus of the work that we are doing and as I say, I would like to think that that is showing results.

280 The Prison population has fallen from round about 150 at Victoria Road down to around about 100, and now down to about 85. I am hoping that that is a long-term progression and it is not some sort of blip and that the Department through all its agencies and working with partners in Health and wider are having the necessary impact in prevention and rehabilitation, sir.

285

INFRASTRUCTURE

**Planning Division powers
Enforcement notices and stop notices**

290

1.3. The Hon. Member for Onchan (Mr Quirk) to ask the Minister for Infrastructure:

295

If he will describe the powers exercised by the Planning Division of his Department with particular reference to enforcement notices and stop notices?

The Speaker: We turn to Question 3. Hon. Member for Onchan, Mr Quirk.

300

Mr Quirk: Thank you, Mr Speaker.
I beg to ask the Question standing in my name, sir.

The Speaker: I call on the Minister for Infrastructure, Mr Cretney.

305

The Minister for Infrastructure (Mr Cretney): Thank you, Mr Speaker.

310

The Department's Planning and Building Control Division seeks to deliver effective town and country planning by enabling sustainable growth, whilst protecting the built and natural environment; however, Government also recognises the importance of establishing effective control over unauthorised development. It is an offence under the Town and Country Planning Act 1999 to carry out development without the necessary permissions, something that is taken very seriously by the Department.

315

The purpose of planning enforcement is to ensure development complies with planning policy and does not result in material harm. The objective of the enforcement function is compliance and not punishment. In this respect, over the last 18 months the Department's Planning Division has refocused resources to enable a stronger approach be taken on planning enforcement. As a result, during 2012, 299 new planning enforcement cases were opened and 325 cases were closed.

320

The Department currently classifies alleged breaches into one of three categories. Type 1 is development that results in serious harm to amenities and/or policies of the Strategic Area or Local Plan and where failure to remedy may set in and an undesirable precedent for the future or the development could result in irreversible harm, e.g. to a registered building. Wherever possible, all high priority type 1 developments will be visited on the day of receiving the complaint.

325

Type 2 is development that is unlikely to receive approval without significant modification, or development that results in widespread harm to amenities.

330

Type 3 is development that only has a localised impact or development that falls outside of the above priorities.

335

Once an investigation is completed, a decision will be made on the outcome, which should be pursued if a breach is found. In the first instance, officers will seek compliance through negotiation and only resort to formal action when all other routes have been exhausted; however, this should not be seen as a shortcut or way to bypass planning by unscrupulous developers or others. The Department does and will continue to take a strong approach on planning enforcement. If there is sufficient evidence, the Department will decide whether it is appropriate to issue an enforcement notice and/or a stop notice under part 4 of the Town and Country Planning Act 1999.

340

An enforcement notice is the most commonly used power, once it has been established that the breach has occurred and it has not been possible to resolve the issue. It is served by the Coroner and states clearly the subject of the breach, the actions required and the period for compliance. There is the ability to appeal against the notice. Should the enforcement notice not be complied with, the case is likely to be referred to the courts for prosecution. A case can be referred to the court on more than one occasion, should the breach not be satisfactorily resolved.

345

In the last year, we have issued 17 enforcement notices and through the courts have successfully concluded four planning enforcement cases. A stop notice requires immediate cessation of activity. It can only be served together with or following an enforcement notice and it should only be used in exceptional circumstances.

350

The Speaker: Mr Quirk, a supplementary.

355

Mr Quirk: Thank you, Mr Speaker.

I thank the Minister for his comprehensive response, but would he not agree with me that we still have a number of retrospective applications, which are coming forward for his Department to

determine and I wondering, with the resources that we do have in the Planning Department ó and it is no criticism to them ó how can we put that message out that the Department is there to help?

350

The Speaker: Minister.

The Minister: Yes, I could not agree more with the Hon. Member. It is very important that officers make it quite clear, and we make it quite clear in this place that we are there to help; but we do not wish to see people trying to take shortcuts or do things incorrectly. Early engagement in the planning process between officers and developers is something which is warmly welcomed and that is part of the way we have refocused our resources as well. We refocus to make sure that we play our part in the economic generation of the Island and at the same time make sure that there is no abuse of the planning system. Those are our two key priorities.

360

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

Mr Singer: Thank you, Mr Speaker.

Could I ask the Minister, with regard to the categories he mentioned and that there is an immediate visit in category 1, is there a timescale for people to go and visit planning areas under category three? Is there a timescale? Because it is often said that it is almost impossible to get an enforcement officer out to these, so what does his Department do with that? Can he tell us how many enforcement officers he actually has?

365

The Speaker: Minister.

The Minister: Thank you.

I was waiting for the last point because I think that was one of the issues over the years, that there has been one planning enforcement officer for an extended period of time and when there are issues going on around the Island it can be challenging, in terms of getting the enforcement to the location that is required.

375

As I say, we have refocused resources within the office to try, under the direction of Mr Quayle, the Chairman of the Planning Committee, to make sure that this matter is treated with the seriousness that it requires.

380

In relation to how long it takes to get to the type 3, I am not sure. I guess it will be as soon as practical.

The Speaker: Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

Can I ask the Minister with reference to the number of cases which are along, does he have an indication that some of theí I am led to believe, and would he agree with me, that some of the cases are nearly five to six years old and is that acceptable in this modern day, to have a resolve to each of the parties, the ones that are applying for it and the ones that are suffering the consequences?

385

390

The Speaker: Minister.

The Minister: I do not know the actual factual response as to whether there are ones which are over five years, in terms of being in the process. I can check that out obviously and come back to Hon. Members. But if that were to be the case, that matters were still under review after five years, then that is something which I would feel is certainly longer than is appropriate.

395

400

HEALTH

Macular degeneration On-Island treatment

405

1.4. The Hon. Member for Castletown (Mr Ronan) to ask the Minister for Health:

Further to his commitment given in this House on 23rd October 2012, what progress has been made towards treating macular degeneration on-Island, and if he will make a statement?

410

The Speaker: Question 4, Hon. Member for Castletown, Mr Ronan.

Mr Ronan: Thank you, Mr Speaker.

I beg leave to ask the Question standing in my name.

415

The Speaker: Minister for Health, Mr Anderson to reply.

The Minister for Health (Mr Anderson): Thank you, Mr Speaker.

420

Since I last spoke to the House regarding the treatment of age-related macular degeneration, my staff have held extensive discussions and meetings with Aintree Hospital, which provides the service off Island at the present time. Several options are still under consideration and how to use the service may be provided on Island and how we will muster the resources needed to enable the various stages of the provision of this service.

425

The Speaker: Mr Ronan.

Mr Ronan: Thank you, Mr Speaker.

430

I recall in his contribution to the recent Budget debate the Minister spoke of the involvement of the Royal College of Ophthalmologists in this matter. Can he explain that in more detail, please, and can he also comment on the resources to which he has just referred?

The Speaker: Minister.

435

The Minister: Yes, thank you, Mr Speaker and I thank the Hon. Member for his supplementary.

440

Hon. Members will recall that the Department is also seeking advice from the Royal College of Ophthalmologists ó I have not heard that word before! ó particularly as how to best provide this service in an Island setting. Without many of the supporting structures one would find in a large ophthalmic unit, we need advice from the Royal College with regard to options that we feel are sustainable on the Island. As with other changes and developments in the provision of healthcare on the Island, we also have to make the difficult decisions, how this service may be staffed and resourced from within our existing budgets and head count.

445

Whilst I am not in a position to give any commitments at this stage, the Hon. Member may also recall that I said recently that the ARMD service hopefully will start to be rolled out later this year, but I am afraid I just cannot give a date on that one at the moment. Once we have that confirmation, however, I will be able to provideí when we will be able to provide a service on the Island, I will naturally ensure Hon. Members and colleagues are briefed immediately before that.

450

The Speaker: Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

455

Would the Minister agree with me that macular degeneration, along with other very serious eye conditions, often people are not even aware in the very early stages of it, or even before that, that it is happening and this is actually picked up during an eye examination? Therefore it is really important not to consider introducing charges for the free eye tests in the future?

The Speaker: We are widening the matter out into a new area, but Minister?

460

The Minister: Well, I just make the point, Mr Speaker, the Hon. Member is trying to make a political point at this stage, that we have to look at how to provide our services within the resources we have and we will target the most vulnerable area, where we think that people need to have their eyes tested on a regular basis.

465

The Speaker: Without widening out the subject, two more Members: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

470 Without widening the issue, but on a most important point, would he at least agree to putting both of these very serious issues, because they are linked ó intrinsically linked ó together in his consideration and within his budgeting consideration in his Department?

The Speaker: Minister.

475 **The Minister:** Mr Speaker, I have already said that age-related macular degeneration and trying to get some form of service provision on the Island is a top priority for the Department and other areas that we are looking to do with eye treatment will follow that.

The Speaker: Mr Karran.

480 **Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh son Slaynt not agree that the fact is when he brings into costings about this issue, similar to a previous Question on the Order Paper today, if we are pro-active on this subject, as far as macular degeneration is concerned, that if we do not have the interventions early on, they actually end up being a far bigger cost to the whole community, as far as the lack of taking that intervention? So would he not agree that prioritising this has to be actually a good budgetary exercise, if not just for the quality of life as far as the poor souls that end up having this disease?

The Speaker: Minister.

490 **The Minister:** I think I have already said, Mr Speaker, that we will prioritise the areas of eye health that we think need prioritising and Hon. Members have made a lot of requests to the Department to make sure that we roll out this service in the Isle of Man and the commitment I have given is that we will try to do that to an extent sometime this year, within the resources that we have. Our resources are finite.

495

The Speaker: Final supplementary, Mr Ronan.

Mr Ronan: Thank you, Mr Speaker.

500 Just touching on the back of what Mr Karran asked, would the Minister agree that, once macular generation is diagnosed, it has been identified that speed is essential to get these treated and this is why it is so important that we do get treatment in the Isle of Man to treat these poor people who have this disease? If it is left even a couple weeks after diagnosed, it could have a long-term impact on these patients, so would the Minister agree that speed is of the essence with this disease?

505

The Speaker: Minister.

510 **The Minister:** Yes, Mr Speaker, time of treatment is important. However, I believe that rolling the service out onto the Island will not actually help that actual timeframe. It will be less inconvenient for the many older people of our community to have to travel off Island on a regular basis. So I do not think it will change the timeframe, but what it will do is make it a lot more convenient for a lot of older people that travel off the Island on a regular basis.

515 **The Speaker:** Hon. Members, that brings us to the end of Questions for Oral Answer. There are three Questions for Written Answer. The replies will be distributed.

520

Questions for Written Answer

INFRASTRUCTURE

525

Planning enforcement notices Numbers issued

2.1. The Hon. Member for Onchan (Mr Quirk) to ask the Minister for Infrastructure:

530

How many planning enforcement notices were issued in each of the following financial years:

(a) 2008 to 2009;

(b) 2009 to 2010;

(c) 2010 to 2011;

(d) 2011 to 2012;

535

and how many have been issued in the current year to date?

Answer: The Government's 'Agenda for Change' identifies that Planning plays a key role in supporting Economic Development. To do so it must ensure that we provide an Island infrastructure that enables people to live, work and travel and to enjoy a good quality of life.

540

The Department's Planning and Building Control Division seeks to fulfil these objectives through effective town and country planning and by enabling sustainable growth, whilst protecting the built and natural environment. It is important to establish effective control over unauthorised development so as not to undermine these objectives. Thus it is an offence under the Town and Country Planning Act 1999 to carry out development without the necessary permissions or something that is taken very seriously by the Department.

545

The purpose of planning enforcement is to ensure that development complies with policy and does not result in material harm. The objective of the enforcement function is compliance and not punishment.

550

All Planning Enforcement Investigations are conducted by the Department in accordance with the published Planning Enforcement Policy.

The issuing of Enforcement Notices represents a small proportion of the planning enforcement activity that takes place each year. During 2012, 299 new planning enforcement cases were opened and 325 cases were closed.

555

In some instances an investigation may find that no breach has taken place or that no further action should be taken. If a breach has taken place officers will first seek compliance through negotiation and only resort to formal action when all other routes have been exhausted.

560

However this should not be seen as a short cut or way to bypass planning by unscrupulous developers and others. The Department does and will continue to take a strong approach on planning enforcement. If there is sufficient evidence, the Department will decide whether it is appropriate to take more formal action. Decisions on whether to undertake formal action are made by the Department's Officers in conjunction with the Departmental Member for Planning, taking into account advice from the Department's legal advisers when necessary. An Enforcement Notice or Stop Notice will only be served if the Department's legal advisers are satisfied that there is sufficient evidence to substantiate the breach in Court.

565

As a consequence, as the Hon. Member will be aware from his own experience as Department Member for Planning until October 2011, it was only possible to progress a limited number of enforcement cases as the figures below indicate. This was due to the restricted resources that were previously targeted on planning enforcement and the availability of appropriate evidence to substantiate the breach in Court. However, more recently the Planning Division has adapted working practices and refocused resources for planning enforcement, so that it has been in a position where it has been able to take more formal action in an increased number of cases. In the last year we have issued 17 enforcement notices and through the courts have successfully concluded four planning enforcement cases.

570

575

When interpreting the figures in Table 2.1.A, Hon. Members should note that in some cases more than one enforcement notice may have been served due to the specific circumstances of the case.

Table 2.1.A

Financial Year	Number of Enforcement Cases where Notices were served
01/04/08 . 31/03/09	19
01/04/09 . 31/03/10	7
01/04/10 . 31/03/11	8
01/04/11. 31/03/12	5
01/04/12 . 19/2/13	17

HEALTH

**Noble’s Hospital
Mortality rates**

2.2. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for Health:

580 *If he will provide the latest figures available in respect of the mortality rates in Noble’s
Hospital using the following methods –*
(a) SHMI (standardised hospital mortality index);
(b) RAMI (risk adjusted mortality index); and
 585 *(c) HSMR (hospital standardised mortality rate)?*

Answer: You may recall that the 2006 Health Care Commission Report commented that mortality rates at Noble’s were low and the current raw data on mortality at Noble’s currently indicates a mortality rate of 1.4% compared to the UK average of 1.3%, although this is relatively meaningless as it is not adjusted for risk and other factors.

590 The figures you requested are currently being calculated and revised because, at present, the Department is unable to provide truly comparable data to the UK hospital mortality rate, although the Department’s Management Information team are currently devoting considerable efforts to the issue. The measures used and quoted above all attempt to calculate the difference between the actual number of deaths and the number which it could be expected would occur for that hospital.
 595 In the UK, the calculation of the number of expected deaths uses data from a number of non-NHS sources, and these are not collected by the IoM Government. For example, postcode level deprivation data is not available from those departments that would provide such data in the UK.

Equally, in the IOM there is no formal coding of underlying cause of death carried out by the General Registry. This means that in cases where following a hospital stay, someone dies at home (either expectedly or unexpectedly), the death may not be recorded by the hospital and nor is it coded at the General Registry. The Department has tried to remedy the latter and has undertaken this work as a pilot for the last 12 months. However, the number of deaths per year is sufficiently low that no statistical reliance can be placed upon one year’s data and the Department does not have sufficient resource to carry out a retrospective analysis of data. Thus, the figures we have do
 600 not allow us to draw any conclusions at this stage.
 605

This issue is not one which a single Department can resolve, but requires an Information Needs analysis across Government. The Department is increasingly developing an information culture, and has introduced its Knowledge Management system (iHub) which will greatly assist in advancing health knowledge management but we need input and assistance from other
 610 Departments to ensure that similar information and cultures are adopted across Government. We are actively seeking that.

We are continuing to work on the issue, but given the limitations already mentioned, we must be certain that any modelling we use is verifiably accurate before we can publish such figures. Furthermore, interpretation will be made more difficult by the fact that we are fortunate to have
 615 the Hospice on site and, rightly, a considerable component of palliative and end of life care is transferred from the hospital. This will inevitably have an effect on the hospital’s apparent performance.

It will become clear within the near future whether figures can be produced based on the currently available data. However, for reasons already set out, effective interpretation of such a
 620 figure, whatever it shows, will be fraught with difficulty. Such mortality figures are one of a number of tools which may point to deficiencies. It is clear from the Francis Report into the Mid-

Staffordshire hospitals that there were other ways that problems could have been detected. The Department already has in place many of the quality monitoring systems that were missing in Stafford, particularly concerning nursing metrics, and these are reported via the iHub to senior members of the Department on a regular basis.

630

**Noble's Hospital
Number of MRSA cases**

2.3. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for Health:

635

If he will provide the number of MRSA cases in Noble's Hospital for each quarter from 2011 to date?

640

Answer: Meticillin-resistant *Staphylococcus aureus* is a healthcare associated infection (HCAI) previously referred to as hospital acquired infection.

In the United Kingdom (UK), meticillin-resistant *Staphylococcus aureus* (MRSA) blood-stream infection is used as the measurement indicator for MRSA infections. In the Isle of Man the number of MRSA cases recorded includes all infections, not only blood-stream infection.

The following raw data is broken down into two tables, illustrating the number of cases of HCAI in each quarter 2011 to the present day in both the hospital and community.

Table 2.3.A
Healthcare associated infection by number of cases . Hospital

Year	Quarter	MRSA Infection	MRSA Blood-stream Infection
2011	January . March	3	0
	April . June	4	0
	July . September	0	0
	October . December	2	1
2012	January . March	1	0
	April . June	1	0
	July . September	0	1
	October . December	2	0
2013	January . Present day	1	1

645

Table 2.3.B
Healthcare associated infection by number of cases . Community

Year	Quarter	MRSA Infection	MRSA Blood-stream Infection
2011	January . March	4	0
	April . June	3	0
	July . September	2	0
	October . December	0	1
2012	January . March	7	0
	April . June	4	1
	July . September	1	1
	October . December	6	0
2013	January . Present day	2	1

Orders of the Day

650

BILL FOR CONSIDERATION OF CLAUSES

655

Flood Risk Management Bill 2013 Clauses considered

3.1. Mr Houghton to move.

660 **The Speaker:** We turn now to Item 3 on our Order Paper, Bill for consideration of clauses, Flood Risk Management Bill, and I call on the mover, Mr Houghton.

Mr Houghton: I thank you, Mr Speaker.

As outlined in the Second Reading, the Bill replaces the existing land drainage legislation on the Island. The Bill has 96 clauses and 11 parts, as well as a schedule.

665 It would be helpful, Mr Speaker, if I sought leave of your good self to consider the clauses in 50 groups.

The Speaker: Yes, that is in order.

670

Mr Houghton: For which I am most grateful, sir.

Mr Speaker, clause 1 gives the Act its short title.

Clause 2 provides for the Act to be brought into force by Appointed Day Orders.

Therefore, Mr Speaker, I beg to move, I beg to move that clauses 1 and 2 stand part of the Bill, sir.

675

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

I beg to second, sir, and reserve my remarks.

680

The Speaker: I put the question that clauses 1 and 2 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

685 **Mr Houghton:** Mr Speaker, clauses 3 to 8 contain definitions of the various terms that are used in the Bill. I will draw the attention of Hon. Members to the definitions of, firstly, "flood" which is intended to cover all forms of flooding, irrespective of its cause or source.

Secondly, "flood risk management" abbreviated in the Bill as "FRM" describes a range of measures that can be taken to reduce the likelihood and impact of flooding. These include, very importantly, land drainage as well as the provisions of flood defences and flood warning systems.

690 Finally, "FRM works" this is a wide term and encompasses, for example, the provision of new and improved flood protection works, such as sea walls and flood storage areas.

Mr Speaker, I therefore beg to move that clauses 3, 4, 5, 6, 7 and 8 stand part of the Bill, sir.

695

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

I beg to second, sir, and reserve my remarks.

700 **The Speaker:** I put the question that clauses 3 to 8 inclusive stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Mr Houghton.

705 **Mr Houghton:** Mr Speaker, clauses 9 and 10 include the schedule to the Bill. They contain various general definitions of the terms used in the Bill, together with a provision dealing with interpretation matters.

Therefore, Mr Speaker, I beg to move that clauses 9, 10 and the schedule stand part of this Bill, sir.

710 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

715 **The Speaker:** I put the question that clauses 9 and 10 and the schedule stand part of the Bill.
Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Mr Houghton.

720 **Mr Houghton:** Mr Speaker, clause 11 imposes a duty on the Authority to exercise a general
supervision of all aspects of flood risk management on the Island. Basically, the Authority will
exercise that function via a combination of measures, including surveys to identify those areas that
are of a potential or particular risk of flooding; strategies for carrying out of appropriate flood
protection works; and the provision of flood warning and monitoring arrangements.

725 Clause 12, Mr Speaker, imposes on the Authority an obligation to take into account the likely
costs and benefits involved in carrying out any major flood protection works.
Therefore, Mr Speaker, I beg to move that clauses 11 and 12 stand part of the Bill, sir.

The Speaker: Mr Henderson.

730 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

735 **The Speaker:** I put the question that clauses 11 and 12 stand part of the Bill. Those in favour,
please say aye; against, no. The ayes have it. The ayes have it.
Clause 13.

740 **Mr Houghton:** Mr Speaker, under clause 13, the Authority will importantly be under an
obligation to consider conservation implications when exercising its functions under the Bill. This
will extend to, for example, important archaeological sites and wildlife, flora and fauna.
Mr Speaker, I beg to move that clause 13 stand part of this Bill, sir.

The Speaker: Mr Henderson.

745 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: Mr Karran.

750 **Mr Karran:** Vainstyr Loayreyder, my amendment is a simple one. The amendment, Hon.
Members, is simply to add the addition to the clause to serve the reinforcement of the decision by
the House to uphold the compliance at all times of the Island's Development Plan. I think it is very
important that we actually make sure that we do not have a woolly, confused position and whilst
this Bill has come back and has had some substantial changes from the original Bill, where the
Hon. Member for East Douglas, Mr Robertshaw led the charge in the previous House, the situation
is that I do feel that it is important that we need to make sure that the Island's development plan
has to be at the forefront of any consideration as far as this legislation is concerned.

755 Also, Vainstyr Loayreyder, what I am concerned about is the fact that we need to make sure
that we have no woolly decisions, when it comes to planning. Most criticisms we have of the
previous administration and ourselves is the fact that planning seems to be vague and made up as it
goes along. That was the whole idea of getting a strategic plan.
760 I beg to move:

Amendment to clause 13

Page 16 after line 13 insert –

765 *'(4) In performing its general duty the Authority must do everything in its power to comply
with the Island Development Plan for the time being adopted by the Department of
Infrastructure and approved by Tynwald under section 2(5) of the Town and Country Planning
Act 1999.'*

770 **The Speaker:** Mrs Beecroft.

Mrs Beecroft: I beg to second the amendment, Mr Speaker.

775 **The Speaker:** I call on the mover, Mr Houghton to reply.

Mr Houghton: Thank you, Mr Speaker.

Mr Speaker in relation to the Hon. Member's amendment, the intent is to ensure that the Authority takes into consideration the Island Development Plan. It is adequately covered in clause 68. This amendment duplicates provisions within existing legislation and is unnecessary.

780 I would therefore ask Hon. Members not to support this amendment.
I beg to move.

The Speaker: Hon. Members, in relation to clause 13, I put the amendment first. Those in favour of the amendment in the name of Mr Karran, please say aye; against, no. The ayes have it.

785

A division was called for and electronic voting resulted as follows:

FOR

Mr Karran
Mrs Beecroft

AGAINST

Mr Quirk
Mr Hall
Mr Crookall
Mr Anderson
Mr Singer
Mr Quayle
Mr Cannan
Mr Cregeen
Mr Houghton
Mr Henderson
Mrs Cannel
Mr Robertshaw
Mr Corkish
Mr Cretney
Mr Watterson
Mr Skelly
Mr Gawne
The Speaker

790 **The Speaker:** Two votes for, 18 against. The amendment therefore fails to carry.
I put clause 13: those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

795 Under clause 14, the Authority will be able by order to designate those flood risk management works or watercourses that it considers to be of major importance in the context of flood risk management. These will, of course, be comprised of the larger watercourses and seawalls that will provide protection against inundation by the sea.

800 However, before making such an order, which will in any event be subject to the annulment by Tynwald in the appropriate cases, the Authority will be required to consult with those affected, including relevant landowners.

At this juncture, I will explain that designated works or watercourses will be the sole responsibility of the Authority for flood risk management purposes. Normally, the land will remain in the ownership of the landowners concerned who will continue to be able to use it in the usual way, for example, for the grazing of animals. However, certain restrictions will apply following designation, and I will allude to these to the House shortly, Mr Speaker.

805

Therefore, Mr Speaker, I beg to move that clause 14 stand part of the Bill, sir.

The Speaker: Mr Henderson.

810 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: Hon. Member, Mrs Cannell.

815 **Mrs Cannell:** Thank you, Mr Speaker.

I wonder if the hon. mover could explain to usí I fully support the clause and fully support the Authority being given the power to bring forward a designation and for them to have a designation order. I think it is essential in areas that are prone to significant flood risk.

820 But can he advise the House, if they consult and they are going to move for a designation order, and everything is prepared and nobody objects, however, it is discovered that there is an outstanding planning consent for a development on the site, who has the greatest authority then? Is it the Authority or will it be the live planning consent?

825 **The Speaker:** Mr Karran.

Mr Karran: Vainstyr Loayreyder, we asked for assurances over this. The situation is that as far as we are aware, supporting this piece of legislation, is the fact that the planning consent has the priority as far as development is concerned.

830 One of the things that we have been concerned about with this piece of legislation is whilst this piece of legislation has had significant changes from what was originally proposed, when we were just about to give all sorts of powers to my former Water Authority, the situation is that we are assured by the legal draftsman, and some of us have been there, that they will not be able to supersede over planning law, as far as flooding is concerned. The situation is that flooding should be part of the planning procedures, so that if they do not get their act together that will be the case.

835 One of the concerns that we have been very concerned about for the last 30 years of being involved in the political structure as far as the Isle of Man is concerned, one was it is not what you know, it is who you know; and the other thing was about the ways and means act, which basically meant that people in authority could make it up as they go along. One of the things that we got assurances ó and I hope the Hon. Member will make sure that that is the case ó is the fact that they cannot blight land, unless they have gotí as far as if the planning is sorted out.

840 Hopefully, that should be the answer to the Hon. Member. It is a very valid point, and it is very good that the Hon. Member has raised the issue in here, that we must not allow other ways of blighting land outside the planning process. The whole idea of the Strategic Plan is to get planning on a more professional basis, which will mean that the Water and Sewerage Authority, with its responsibilities for flooding, will have to take its responsibility seriously, as far as this issue concerned.

845 Many will remember ó mostly from outside this House ó we had the major flood at Sulby, where we had the situation where the local authority was ignored, and the situation that under the old 1934 Act that most of this takes over from, there was nobody really that bothered as far as it was a rivers and bridges department of the Highway Board, it means that what will happen in the future, hopefully, is that they will not be able to. They will need to go through the planning process like any other authority, in order to make that this does not happen, and they have got to be proactive.

855 **The Speaker:** Mr Houghton to reply.

Mr Houghton: Thank you, Mr Speaker.

I thank the Hon. Member for Onchan with his supportive explanations to assist the Hon. Member for East Douglas with her query.

860 In relation to the Hon. Member's query, where she makes a point that if a designation order is put in place with no objections, of course, before such an order is put in place, therefore there would be the investigations, of course, and research that would be taken into account with what was actually in place before the designation order was put into place.

865 So all I can say is that whole matter would obviously have to be taken into account with planning applications or planning approvals that were in force ó of course, bearing in mind, Mr Speaker, a planning approval would be in force for only a four-year period before it would have to be reapplied for, if works have not begun.

I beg to move.

870 **The Speaker:** I put the question that clause 14 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

875 **Mr Houghton:** Mr Speaker, under clause 15, the authority will be obliged to keep proper records of all designated flood risk management works or watercourses which will be open for inspection by the public free of charge.

880 At this point, I will deal with a query that was raised on this clause some time ago, when it formed part of the 2011 Bill, with my officials, by the Hon. Member for Rushen, Mr Watterson, who had questioned whether the mapping arrangements might be better incorporated into, say, area planning plans. I would explain that the requirement to keep maps and records and have them registered with the Land Registry is specifically intended to ensure that prospective purchasers of land are made fully aware of any designated works.

885 Finally, whilst on this clause I would like to record the Authority's appreciation of the amendment that was tabled by the Hon. Member for Onchan at that time, which added the requirement for maps or records to be available for inspection at the central Tynwald reference library. I can confirm that this requirement has now been incorporated into this clause, Mr Speaker.

Therefore, I beg to move that clause 15 stand part of the Bill, sir.

890 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

895 **The Speaker:** Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

900 Can I ask the hon. mover of this particular clause whether or not the Authority has now a designation record that is in fact up to date, and whether or not they are still in the process of inspecting and considering further designations where flood risk has proven, at least over the last decade, to have been a problem and has reached areas perhaps that were outside what would be considered in the past a flood risk area; whether or not the maps complete, the records are complete, or whether or not they are still looking and searching for such a designation?

905 **The Speaker:** Mover to reply.

Mr Houghton: Thank you, Mr Speaker.

910 Very happy to confirm that such records are in place but obviously, in the case of where a planning application would be set for an area that perhaps had not been surveyed, then that survey work would be undertaken, sir.

I beg to move.

915 **The Speaker:** I put the motion that clause 15 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 16.

920 **Mr Houghton:** Mr Speaker, as Members will recall, following designation under clause 14, the Authority will take over responsibility of the works or watercourses involved for flood risk management purposes. This arrangement is comparable with the main river designation under the current land drainage legislation. In contrast, the responsibility for the more minor non-designated works or watercourses will remain with the landowners concerned; but the Authority will be empowered to intervene in cases where a serious flood risk arises.

Mr Speaker, I beg to move that clause 16 stand part of the Bill, sir.

925 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

930 **The Speaker:** Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like to ask the Caairliagh about the issue about the Lhen Trench, the issue of these designated areas that need to be and the powers of watercourses. I take it that what we have had as far as Lhen Trench would stay in place as far as

935 the flooding. That was a *major* innovation, back at the start of the last century, which was taken over by the Highway Board, and I take it that these are the sorts of areas that you will still be designating as far as for maintenance and improvement are concerned.

940 **The Speaker:** Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

Very happy to confirm that position, Mr Speaker. In fact, there could do with being some more trenches like that up in the north of the Island, which are being investigated, as I understand, sir.

945 I beg to move.

The Speaker: I put the question that clause 16 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 17.

950 **Mr Houghton:** Thank you, Mr Speaker.

Clause 17 makes it a criminal offence to wilfully damage works or watercourses that have previously been designated.

955 Clauses 18 and 19 impose appropriate restrictions that are primarily aimed at controlling certain activities that may otherwise cause or contribute to an additional risk of flooding. At the outset, I would like to reassure the House that these restrictions are necessary if we are to be in a position to properly manage flood risk in the future wherever that arises, whether that be inland or on the coast.

960 Having said that, may I please draw the attention of Hon. Members to the important safeguards that are included in the Bill. Firstly, the activities that are controlled under these clauses can of course go ahead with the Authority's consent. Secondly, the Authority's consent will not be required in cases of emergency. Thirdly, there is a right of appeal to the independent tribunal, where the Authority refuses its consent. Fourthly, these restrictions will not apply to works that are required to maintain the condition of watercourses, whether designated or not. This provision was incorporated into this Bill at the specific request of the Manx National Farmers' Union and I am grateful for their input.

970 Finally, I will deal with a query that was raised with my officials by the Hon. Member for Rushen at the time, Mr Watterson, in relation to the equivalent provisions in that 2011 Bill, namely how the 9.1 metres distance specified in clause 18 be measured. In reply, I would explain that this distance will be measured horizontally from the edge of the designated works or watercourse involved. Such designated works or watercourses will of course be clearly delineated on the various maps that the Authority will be required to maintain under clause 15 of the Bill.

Mr Speaker, therefore I beg to move that clauses 17, 18 and 19 stand part of the Bill, sir.

975 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

I beg to second, sir, and reserve my remarks.

980 **The Speaker:** I put the question that clauses 17, 18 and 19 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 20.

985 **Mr Houghton:** Mr Speaker, firstly, clause 20 deals with applications of the Authority's consent under clauses 18 and 19 which the House has just approved. When granting its consent, the Authority will be able to impose appropriate conditions in respect of which the applicant will have a right of appeal to under an independent tribunal. The Authority will not be permitted to unreasonably withhold its consent.

990 Secondly, clause 21 makes it a criminal offence to breach the conditions of a works consent that has been granted by the authority the penalties imposed by the Bill in respect of such offences have been limited to the imposition of appropriate fines. Again, this is an alteration to the Bill that has been introduced at the specific request of the Manx National Farmers' Union who have expressed concerns in relation to the 2011 Bill, which had specified imprisonment as a possible option. We have now reviewed and revised the Bill, to provide that fines will be the appropriate sanction, other than in the more serious cases involving, for example, wilfully damaging flood risk management works. I believe that this strikes the right balance in terms of proportionality, and I

would like to pay tribute to the National Farmersø Union for their most helpful input into this aspect of the Bill.

Mr Speaker, therefore, I beg to move clauses 20 and 21 stand part of the Bill, sir.

1000 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1005 **The Speaker:** Mr Karran.

Mr Karran: Vainstyr Loayreyder, could the Caairliagh just explain the definition of -unreasonable refusal of consent? What do the Authority or the legal draftspeople understand as being unreasonable, as far as the refusal of consent? I do not think it is in this Bill as much as the previous Bill, but it would be interesting if there was a definition as far as what it classed as unreasonable.

The Speaker: Mr Houghton.

1015 **Mr Houghton:** Thank you, Mr Speaker.

Mr Speaker, the word -unreasonable is exactly the same, it is universal for all Bills and it is quite clear in law as to what is actually meant. In this case, where it states the Authority will not be permitted to unreasonably withhold its consent, therefore, Mr Speaker, only a court or a chairman of a tribunal would be able to define such unreasonableness or otherwise within a point of law, sir.

1020 I beg to move.

The Speaker: I put clauses 20 and 21 separately. Clause 20: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

1025 Clause 21: those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 22.

Mr Houghton: Mr Speaker, the House will recall that when considering clauses 18 and 19, I drew attention to the fact that a works consent will not be required from the Authority in cases of emergency. Clause 22 gives legal effect to that position and will equally apply in respect of any breaches of the conditions of such a consent.

1030 Mr Speaker, I beg to move that clause 22 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1035 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: I put the question that clause 22 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

1040 Clause 23.

Mr Houghton: Mr Speaker, clauses 23 to 25 provide the authority with the legal powers firstly, to carry out appropriate flood protection works. This could be either the construction of new works for the improvement of existing ones. However, this will normally only apply to designated flood risk management works or watercourses. In contrast, the Authority's works powers in relation to non-designated work to watercourses will, as I explained earlier, be limited to circumstances where a serious flood risk arises or in order to mitigate damage caused by flooding; and secondly, if necessary, to deposit any material that it removes when carrying out works on the banks of an adjacent watercourse, which is done at present under the current land drainage legislation.

At this point, I would confirm that if required the Authority will obtain any necessary waste management licence. This would, of course, be in addition to any licence that may be required under the Minerals Act. Naturally, the Authority will be required to pay compensation to the land owners involved in such circumstances.

1055 Mr Speaker, I therefore beg to move that clauses 23, 24 and 25 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1060 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1065 **The Speaker:** I put the question that clauses 23 to 25 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 26, sir.

1070 **Mr Houghton:** Mr Speaker, clause 26 will empower the Authority to inspect and carry out surveys on land in order to decide, for example, whether or not to construct new flood risk management works on that land. Here again, the Authority will be required to pay compensation to the landowners concerned.

Mr Speaker, I beg to move that clause 26 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1075 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1080 **The Speaker:** I put the question that clause 26 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 27.

1085 **Mr Houghton:** Mr Speaker, before I introduce clause 27 to the House, I should like to formally record the Authority's thanks to the former Chief Minister, for his invaluable assistance in finalising this particular provision which has been carried forward from the 2011 Bill.

The clause will enable the Authority to deal with any emergency flooding event that may arise from time to time. The Authority will be able to draw on the advice and assistance of other relevant Government agencies, including the emergency services.

I anticipate that the required agreements between the Authority and the other bodies involved will be in place by the time that the Bill is enforced, assuming, of course, that this is enacted.

1090 Finally, I would point out that this is an entirely new provision and will ensure that, in future, our emergency services have the required legal protection when they attend to emergency flooding events.

Mr Speaker, I beg to move that clause 27 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1095 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1100 **The Speaker:** I put the question that clause 27 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 28.

1105 **Mr Houghton:** Mr Speaker, clause 28 will mean that before the Authority can exercise its various works or entry powers, it will be required to give 21 days' prior notice to its intended entry to the relevant landowners. I would explain that this will not, however, apply where entry is needed in an emergency situation, or in cases of maintenance that does not involve the use of heavy equipment.

Mr Speaker, I beg to move that clause 28 stand part of the Bill, sir.

1110 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1115 **The Speaker:** I put the question that clause 28 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 29.

1120 **Mr Houghton:** Mr Speaker, as I mentioned earlier, the Authority will be required under clause 29 to pay appropriate compensation to the landowners concerned who suffer damage as a consequence of the exercise of the Authority's various works and entry powers.

As Hon. Members will recognise, clause 29 is a fairly standard provision in legislation of this nature and as such the clause is specifically linked to the Acquisition of Land Act 1984.

1125 Mr Speaker, I beg to move that clause 29 stand part of the Bill, sir.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1130 I beg to second, sir, and reserve my remarks.

The Speaker: I put the question that clause 29 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 30 and 31.

1135 **Mr Houghton:** Thank you, Mr Speaker

Clauses 30 and 31 will enable the Authority to take appropriate enforcement action against, for example, someone who has constructed a culvert that affects the flow of a watercourse without the Authority's consent. These provisions have been extended so as to encompass the situation where the improvement of land drainage is being impeded due to the failure of another person to properly maintain the condition of a watercourse, whether designated or not.

1140 This was a specific concern of the Manx National Farmers' Union with the 2011 Bill, which the Authority has now addressed in the Bill that is of course before this House.

Finally, I would draw the attention of the House to the right of appeal to an independent tribunal that is provided for against the issue of a remedial action notice.

1145 Mr Speaker, I beg to move that clauses 30 and 31 stand part of the Bill, sir.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1150 I beg to second, sir, and reserve my remarks.

The Speaker: I put the question that clauses 30 and 31 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 32 and 33.

1155 **Mr Houghton:** Thank you, Mr Speaker.

Clauses 32 and 33 will importantly ensure that any remedial action notice that is served under the provisions that the House has just considered will bind both the current and subsequent land owners to those cases of non-compliance.

1160 Mr Speaker, I beg to move that clauses 32 and 33 stand part of the Bill, sir.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1165 I beg to second, sir, and reserve my remarks.

The Speaker: I put the question that clauses 32 and 33 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 34.

1170 **Mr Houghton:** Mr Speaker, clause 34 is very much interlinked with the provisions that the House has just considered and will enable the Authority to take appropriate action, where there is an emergency flooding event, without the necessity to have to serve a remedial action notice. The Authority will be able to recover its reasonable costs in such circumstances from the person responsible.

1175 Mr Speaker, I beg to move that clause 34 stand part of the Bill, sir.

The Speaker: Mr Henderson.

- 1180 **Mr Henderson:** I beg to second, sir, and reserve my remarks.
- The Speaker:** I put the question that clause 34 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 35 to 37.
- 1185 **Mr Houghton:** Thank you, Mr Speaker.
Clauses 35 to 37 provide that if a person fails to comply with a remedial action notice, the Authority will have two further remedies under the Bill, namely to prosecute the person concerned for committing a criminal offence or, alternatively, in addition to undertake the required works itself and to recover the costs involved from the transgressor.
- 1190 **Mr Speaker,** I beg to move that clauses 35, 36 and 37 stand part of the Bill, sir.
- The Speaker:** Mr Henderson.
- 1195 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.
- The Speaker:** I put the question that clauses 35, 36 and 37 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 38.
- 1200 **Mr Houghton:** Mr Speaker, thank you.
Clause 38 will enable the Authority to seek a warrant in those rare cases where it finds that it is being refused entry onto land in order to carry out its very important functions under this Bill, for example, in order to maintain a riverbank.
- 1205 **Mr Speaker,** I beg to move that clause 38 stand part of the Bill, sir.
- The Speaker:** Mr Henderson.
- 1210 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.
- The Speaker:** I put the question that clause 38 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 39.
- 1215 **Mr Houghton:** Mr Speaker, clause 39 empowers the Authority to acquire land for the purposes of this legislation. However, I would point out that it is envisaged that this power will be very rarely exercised in practice. This is because, in the vast majority of instances, designated flood risk management works will be constructed on land that will remain in the ownership of the landowners concerned, and as such continue to be capable of being used by them for say normal agricultural practices, albeit that the land will of course be subject to the various restrictions that we considered when the House examined clauses 18 and 19. I would just add that this very much accords with the current position in respect of main river designations under the 1934 Act.
- 1220 **Having said that,** I am advised that there may be some cases where the Authority will actually need to acquire the relevant land and hence the need for clause 39, for example, in order to construct a new flood defence pumping station.
- 1225 **Therefore,** Mr Speaker, I beg to move that clause 39 stand part of the Bill, sir.
- 1230 **The Speaker:** Mr Henderson.
- Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.
- 1235 **The Speaker:** Mr Karran.
- Mr Karran:** Vainstyr Loayreyder, this clause, in particular subsection (5)(a) and (b), appears to extend to the Authority the power to blight any party's land, be it garden, farmland or others, simply by the Authority declaring an interest. If this is so, will it give the Authority the power to prevent the development of any form of structure on this land by the landowner? Will the Hon.
- 1240

Member, the Caairliagh confirm that, by granting this clause, it will not appear under any circumstances that anything other than the management of the flood control can be used by this clause as far as that is concerned?

1245 Will he also confirm that any structure that the Authority wishes to build upon land in which it has an interest will be subject to a formal planning application as far as the issue is concerned?

I think it is important that we actually come down on what Members need to realise, that if there is a dispute, often they will look at *Hansard* to see what this Hon. House actually thought, when this piece of legislation was concerned.

1250 The reason I put this down is just simply so that if there is something that people know where we actually are standing as far as this clause is concerned.

The Speaker: Reply, sir.

Mr Houghton: Thank you, Mr Speaker.

1255 The answer to the Hon. Member is yes, to all three of his questions, in the area of the power to prevent development, the case where the Authority would go to the Planning Committee with its objections, if there were objections in that particular area. So that would be taken into account and they would not have, obviously, the power to prevent such a development, if it was cleared by the planning authority to go ahead.

1260 It would be there, in place for the management of flood risk and will only be in the interests of that in the future. Of course, as he says, any structures that would be proposed would obviously require the consent of the Planning Committee, sir.

I beg to move.

1265 **The Speaker:** I put the question that clause 39 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 40.

1270 **Mr Houghton:** Mr Speaker, clause 40 will enable the Authority to perform services or carry out flood defence works on behalf of private landowners on a rechargeable basis, for example in order to protect a small group of houses from the risk of flooding.

Mr Speaker, I beg to move that clause 40 stand part of the Bill, sir.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1275 I beg to second, sir, and reserve my remarks.

The Speaker: I put the question that clause 40 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 41.

1280 **Mr Houghton:** Mr Speaker, clause 41 will enable the Authority to adopt private flood risk management works, where the Authority considers that those works should come under its direct control. However, before agreeing to do so, the Authority will be able to require those concerned to pay to it an appropriate commuted sum to reflect the anticipated future maintenance obligations.

1285 Mr Speaker, I beg to move that clause 41 stand part of the Bill, sir.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

1290 I beg to second, sir, and reserve my remarks.

The Speaker: I put the question that clause 41 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 42.

1295 **Mr Houghton:** Mr Speaker, clause 42 is an important provision in terms of enabling the Authority, when necessary, to apply to the High Court for an injunction, for example, against a persistent offender. Let us hope that there would not be too many of those.

1300 Mr Speaker, I would also explain that a private individual will likewise be able to apply for an injunction against another person who is, for example, failing to comply with his flood risk management obligations, such as failing to properly maintain a flood protection wall. This has

been added to the clause as a consequence of the concerns that were expressed by the Manx National Farmers' Union in relation to the equivalent provision in the 2011 Bill.

1305 Mr Speaker, I beg to move that clause 42 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1310 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: I put the question that clause 42 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 43.

1315 **Mr Houghton:** Mr Speaker, clause 43 will enable the Authority to prescribe the various forms that are to be used under the Bill, for example when applying for its consent.
Therefore, Mr Speaker, I beg to move that clause 43 stand part of the Bill, sir.

1320 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1325 **The Speaker:** I put the question, clauses 43: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 44.

1330 **Mr Houghton:** Mr Speaker, clause 44 deals with the appointment of authorised persons for the purposes of carrying out the Authority's various functions under this Bill.
Mr Speaker, I beg to move that clause 44 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1335 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: I put the question, clause 44: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 45.

1340 **Mr Houghton:** Mr Speaker, clause 45 will enable the Authority to make bye-laws in order to deal with detailed matters under this Bill. At this juncture, I would like to pay tribute to the Hon. Member for Onchan, Mr Karran, for his tabled amendments in relation to the equivalent provision in the 2011 Bill, under which bye-laws will need to be approved by Tynwald and which has been incorporated into the Bill now before this House.

1345 Finally, I would just add that the power to make bye-laws reflects the current position under the 1934 Land Drainage Act.

Mr Speaker, I beg to move that clause 45 stand part of the Bill, sir.

1350 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1355 **The Speaker:** Mr Karran.

1360 **Mr Karran:** Vainstyr Loayreyder, thanking the mover of other Bill for recognising my input into this clause and other clauses to do with the Bill, my amendment is to ensure that any bye-law written by the Authority, pertaining to have the approval of a local authority which the bye-law is devised for, the adoption of the addition to this clause is to protect any local authority which may be adversely affected by the bye-law, which is not simply assumed to apply to the entire Island.

1365 I think the classic example was when I was Chairman of the Water Authority, with the Millrace. The fact is that obviously in those days, under the 1934 Act, basically the only thing we ever bothered about in Government was the issue with the Lhen Trench and a few odd things, and it was left to run itself. But the likes of the Millrace, where there was severe flooding, the local knowledge was just totally ignored, as far as the local community was concerned, and whilst I welcome that they have got to have the approval of Tynwald, it is all about getting good governance, transparency and accountability.

1370 I move the amendment where it pertains to a bye-law in a local authority, where I think the local authority should have some input into it, particularly when we hear how we are talking about local government reform and local authorities are being more on the ball, as far as this is concerned.

So I move the amendment standing in my name, to this House:

1375 *Amendment to clause 45*
Page 30 line 6 after 'may' insert ', with the consent of any local authority whose district is affected by the bye-laws,'.

1380 I am glad that they have taken on the other points, and I appreciate that and that reflects the new mood as far as the new Chief Minister is, compared to the previous horrendous five years that we had, but I still think that the local authorities need that involvement where there are bye-laws pertaining to their local authority. They should be part of the process.

1385 **The Speaker:** Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.
I beg to second the amendment.

1390 **The Speaker:** Mr Singer.

Mr Singer: Thank you.

Could I ask the mover: with whom would the Water Authority consult in the process of preparing this bye-law? Are there any consultees or do they just do it off their own bat?

1395 **The Speaker:** Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

I am speaking to the amendment because I can see the logic in it and I support the principle of what the hon. mover of the amendment has said.

1400 However, the amendment would read, in effect, that the Authority may, with the consent of any local authority whose district is affected by the bye-laws, make bye-laws providing for any matter it considers necessary or expedient.

1405 So in other words, one has to reach an agreed way of preparing the bye-laws. If a local authority does not give their consent and continues to oppose and block, then that is going to prevent the Water and Sewerage Authority from their responsibility under this particular clause.

1410 So this is the only concern that I have about the amendment, actually: that it says with the *consent* of any local authority. So therefore it is giving the local authority the power to say, 'Hang on, we don't like this bye-law that you're proposing here. We're not going to consent to that, we're not going to agree to that, so you cannot make it.' That is the thing that I am a little bit concerned about.

In primary legislation, we have to go by the word and what the word and the interpretation is of the word. 'Consent' is a consent ó you have to have a consent of the local authority, and if you do not have that consent, then you cannot make a general bye-law or have the power to make them.

1415 So I just have a little bit concern about that, but I know where the hon. mover is coming from, in his amendment.

The Speaker: Mr Quirk.

1420 **Mr Quirk:** Thank you, Mr Speaker.

The same concern I have, too, is regarding some local authorities could be reasonable but some local authorities or Borough Council could be difficult.

1425 I know in our own constituency of Onchan there, the local authority, in my opinion, has *caused* some flooding in the urban area. If this particular clause was enacted, we could have a stumbling block, so I would be against bringing the amendment to the clause there because of the difficulties. It would not give a fair playing field as the Department or the Water Authority having their own bye-laws. Representation could be made.

So I will not be supporting that.

1430 **The Speaker:** I call on the mover of the amendment to reply, Mr Karran.

1435 **Mr Karran:** I think the point is, from the Hon. Member for East Douglas, what you have got to remember is, of course, if a local authority was to block anything that was reasonable, as far as the bye-law is concerned, then they would more likely be in a position of becoming maybe liable for any flooding that came about. So I would imagine that they would be very wary, not to actually go with the Authority, because it would more likely leave them open to possible litigation, if something did happen, because of that situation.

1440 As far as the Hon. Member for Onchan is concerned, I am not particularly surprised at the input as far as the Hon. Member is concerned. I think that any responsible local authority would be very foolhardy not to take the advice as far as the Water Authority is concerned. What we have got to remember is, Vainstyr Loayreyder, the Water Authority is appointed not from a democratic basis, as a local authority is. A local authority knows that if it has severe flooding in its area, it will be held to account at the next election. The Water Authority may not find itself under the same sort of pressure.

1445 This is a simple amendment. If this House does not want it, then that is fair enough. But what we are supposed to be talking about is local government reform, trying to get local authorities more involved, taking more direct responsibility, and we can hear some in this House saying, "Get rid of them"

1450 **Mr Henderson:** Twenty-four is too many!

1455 **Mr Karran:** The fact is what we should be doing, Vainstyr Loayreyder, is trying to get more functions away from this Hon. House to local authorities, (**Two Members:** Hear, hear.) so that we can actually help ó

Mr Quirk: Tied up for years.

1460 **Mr Karran:** ó develop the sort of parliamentary assembly that we like to claim outside this Hon. House, which is not really the case.

It is up to this House what it decides to do. I think it is wrong, when we see Members attacking local authorities on a regular basis that have no voice in this Hon. House, like my colleague for Onchan, as far as our local authority is concerned, and they have no way of coming back on that sort of thing.

1465 Hon. Members need to make a simple declaration: do they think that where the bye-law affects purely a local authority's area, they should have input into that bye-law? Any local authority that would be crazy enough to actually go against the professional advice of the Water Authority, leaving themselves open to the opportunity of the problems that could come their way, would have to be absolutely crazy, as far as that is concerned.

1470 I think we will see, with other things which happen, particularly on the outskirts of Ramsey, where the local knowledge would have been far more important in the process. I just leave it up to the Hon. House whether they want to vote for this, but I do think that it is a ridiculous situation to think that they are going to leave themselves open to veto anything that the Water Authority is concerned. We are talking about local authorities, getting them more involved with the local issues, and I just think that is an aid, just like the other aid that has been incorporated into this piece of legislation. ó it is nice, for a change, to get some sort of recognition, as far as the work I do in this Hon. House.

The Speaker: Mr Houghton to reply.

1480 **Mr Houghton:** Thank you, Mr Speaker.

In relation to the substantive clause and in relation to the Hon. Member for Ramsey, Mr Singer's enquiry, with whom would the Authority consult, the Authority would consult with

relevant parties, such as the Manx National Farmersø Union, and any other relevant parties that they would see fit, under the inappropriate circumstances.

1485 In relation to the Hon. Memberø amendment and in answer to those who spoke on the amendment, I would envisage that any bye-laws would apply Island wide. It would add unnecessary bureaucracy to create a statutory obligation (**Mr Quirk:** Hear, hear.) for the Authority to obtain the consent of every local authority. In addition to the provision under clause 73, which requires Tynwald approval for those bye-laws.

1490 Therefore, Mr Speaker, I cannot support the Hon. Memberø amendment and I would ask all Hon. Members of this House to equally not support his amendment, sir.
Thank you.

1495 **The Speaker:** Hon. Members, I put the amendment to clause 45 in the name of Mr Karran. Those in favour, please say aye; against, no. The ayes have it.

A division was called for.

1500 **Mr Corkish:** I am sorry, I pressed the wrong button.

The Speaker: We will re-vote. (*Interjections*)

There was a technical difficulty with the electronic voting system.

1505 **The Speaker:** In the circumstances, we will do a called ballot. (**Mrs Cannell:** Hear, hear.) The Clerk will read out the names in time-honoured fashion ó a system we have not used for some time. I call on the Secretary of the House.

Voting resulted as follows:

1510

FOR

Mrs Beecroft
Mr Karran
Mr Ronan
The Speaker

AGAINST

Mr Cannan
Mrs Cannell
Mr Corkish
Mr Cregeen
Mr Cretney
Mr Crookall
Mr Gawne
Mr Hall
Mr Henderson
Mr Houghton
Mr Quayle
Mr Quirk
Mr Robertshaw
Mr Shimmin
Mr Singer
Mr Skelly
Mr Watterson

The Speaker: Hon. Members, the result of the ballot was: 4 Members voted for, 17 against. Therefore the amendment fails to carry.

1515 I put clause 45 as it stands: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 46 to 48, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

1520 Firstly, I would point out that part 6 of the Bill has been specifically incorporated at the request of the Manx National Farmersø Union, who wanted to see the equivalent provisions in the 1934 Land Drainage Act retained.

Secondly, I would explain that clauses 46 to 48 will enable a landowner to lay drains through the land of a neighbour. This situation could arise, for example, if the landowner needed to develop his land, but in order to do so needed to improve his drainage arrangements.

1525 In the first instance, the landowner will need to seek the agreement of his neighbour and his tenants, if any, before proceeding with the work. However, in the event of the parties failing to

reach agreement, then the landowner will have direct recourse to the independent Flood Risk Management Tribunal, who will decide on the matter.

1530 Mr Speaker, I beg to move that clauses 46, 47 and 48 stand part of the Bill, sir.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1535

The Speaker: I put the question that clauses 46 to 48 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 49 and 50.

1540

Mr Houghton: Thank you, Mr Speaker.

Clauses 49 and 50 provide a system of deeds registration in respect of drainage agreements under part 6 of the Bill. This system will ensure that such agreements are binding on successors in title to the land involved.

1545

Mr Speaker, I beg to move that clauses 49 and 50 stand part of the Bill, sir.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1550

The Speaker: I put the question that clauses 49 and 50 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 51 to 55.

1555

Mr Houghton: Thank you, Mr Speaker.

Clauses 51 to 55 provide that the landowner who carried out the drainage work or his successors in title will remain responsible for maintaining those works in the future. However, if the landowner fails to do so, then the neighbour's land through which the drains have been laid will be able to undertake the required maintenance work and to recover the costs involved from those responsible.

1560

In addition, the enabling landowner will be able to divert the drains that were originally laid through his land, if, for example, their position prevents the subsequent development of his own land, but only on condition that he provides suitable replacement drains.

1565

Therefore, Mr Speaker, I beg to move that clauses 51, 52, 53, 54 and 55 stand part of the Bill, sir.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1570

The Speaker: Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

1575

I was just going to ask the Member moving it there, that all the parties downstream would be notified of the implications and that they would fall into that category of risk assessment.
That is all I want to ensure.

The Speaker: Mr Houghton.

1580

Mr Houghton: Thank you, Mr Speaker.

In relation to the Hon. Member's question, I am not sure whether it is quite relevant to these clauses, but in the case of a flood risk management, anyone going downstream, speaking generally, then yes, there would be those appropriate people, indeed landowners, that would actually be consulted, as a measure of that.

1585

But the clause itself is dealing obviously with their successors in title on land, where one farmer is on the upper land, if you like or one landowner wishes to amend his works, and anyone

1590 succeeding that down land might wish to object to the actual imposition that may be laid upon him. Of course, that is where there would be the occasion to go to a tribunal, in those cases where they could not agree, sir.

I beg to move.

1595 **The Speaker:** I put the question that clauses 51 to 55 inclusive stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 56.

1600 **Mr Houghton:** Mr Speaker, clause 56 makes it an offence, for example, to obstruct the carrying out of approved drainage works under part 6 of the Bill.
Mr Speaker I beg to move that clause 56 stand part of the Bill.

The Speaker: Mr Henderson.

1605 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: I put the question, clause 56: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 57 to 61, Mr Houghton.

1610 **Mr Houghton:** Thank you, Mr Speaker.

Hon. Members will recall when we passed through the Bill, I drew the attention of the House to various rights of appeal to an independent tribunal. Clauses 57 to 60 set out the necessary machinery to dealing with such appeals by a newly appointed Flood Risk Management Tribunal which will operate under the Tribunals Act 2006.

1615 Clause 61 provides for further right of appeal from a decision of the Flood Risk Management Tribunal to the High Court, but only on a point of law.

Mr Speaker, I beg to move that clauses 57, 58, 59, 60 and 61 stand part of the Bill, sir.

1620 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1625 **The Speaker:** I put the question that clauses 57 to 61 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 62 to 65.

1630 **Mr Houghton:** Thank you, Mr Speaker.

Although conveniently grouped together, I will briefly deal with these clauses separately.

Clause 62 makes it a criminal offence to unlawfully obstruct the carrying out of, for example, works by the Authority under the Bill.

Clause 63 makes it an offence to wilfully interfere with apparatus installed under the Bill.

Clause 64 likewise makes it an offence to wilfully give false information to the Authority.

1635 Finally, clause 65 deals with offences that are committed by corporate bodies. As Hon. Members will recognise, this is a fairly standard provision in legislation of this nature.

Mr Speaker, I beg to move that clauses 62, 63, 64 and 65 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1640 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1645 **The Speaker:** I put the question that clauses 62 to 65 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 66 and 67.

Mr Houghton: Thank you, Mr Speaker.

1650 Clauses 66 and 67 mean that, except in cases of emergency, the Authority will require the prior consent of the statutory utilities or, in the case of harbours, the Department of Infrastructure, before carrying out any works by the Authority under the Bill that may affect the operations of such bodies. I believe that these clauses strike a fair balance between the functions of the Authority under the Bill and the operations of our various utilities.

Therefore, Mr Speaker, I beg to move that clauses 66 and 67 stand part of the Bill, sir.

1655 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1660 **The Speaker:** Clauses 66 and 67: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 68.

1665 **Mr Houghton:** Thank you, Mr Speaker.

In clause 68 of the Bill, which is an entirely new provision in the context of flood protection, it will ensure that in future the risk of flooding is fully taken into account when applications for planning permission are being determined. The effect of this clause is that flood risk management will become a material consideration for the purposes of the town and country planning legislation.

1670 I now turn to two queries that were raised with my officials by the Hon. Member for Rushen, Mr Watterson in relation to the equivalent provision in the 2011 Bill. Firstly, I confirm that, in the Authority's view, the requirements to take into consideration flooding implication from a proposed development is indeed best set out in primary legislation, as opposed to merely relying on, for example, strategic plans.

1675 Secondly, I am advised that the granting of planning permission does not amount to some form of guarantee against flooding, if the development goes ahead, and the properties are in fact flooded.

Therefore, Mr Speaker, I beg to move that clause 68 stand part of the Bill, sir.

1680 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1685 **The Speaker:** Hon. Member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker.

I wish to move the amendment to clause 68, as printed on the Order Paper:

1690 *Amendment to clause 68*
Page 39, for lines 10 to 12 substitute –

1695 *'(3) If the proposed development includes the construction or erection of a building in an area of flood risk the Department must not determine the application unless it has given the Authority 21 days' notice to advise whether or not the flood risk is significant.*

(4) If, within the notice period mentioned in subsection (3), the Authority advises the Department that the flood risk is significant, despite section 10 of the Planning Act, the Department must refuse the application.

(5) In this section "building" does not include –

1700 *(a) any building used for agricultural or horticultural purposes other than a dwelling house;*

(b) any building used primarily for storage or refuge;

(c) any lighthouse or lifeboat station; or

(d) any other category of building that may be prescribed. '

1705 Hon. Members will recall that at the Second Reading of the Bill, both the Hon. Member for East Douglas, Mrs Cannell and I commented on the wording in clause 68(3), which said that:

‘If that Department considers the flood risk is significant, it may refuse planning permission or grant the planning approval subject to conditions under section 10 of the planning Act.’

1710 The word we picked up on was "may". As worded, what does this mean? It means that having received the comments and recommendations of the Water Authority, the Department of Infrastructure, which is the planning authority, will consider them before making a decision, but need not necessarily accept them.

1715 My contention is that the experts here are the Water Authority. They have the engineers who are deeply involved with drawing up the flood area maps and are the people we rely on to know the risks, and what to do now and in the future, taking into account the projections of further flood risk, much due to the changes in the climate. The planning authority are not the experts in this case, whatever consultations take place between them and the Water Authority, and in this Bill, the latter's comments need not be followed, and are only treated as recommendations.

1720 Hon. Members are well aware of the problems of the last few years, where dwellings built in recognised flood risk areas have resulted in severe damage to property and heartache for families who bought properties in good faith. In my constituency, we have new houses built in flood risk areas. With climate changes, risk of flooding is becoming more likely, and when that occurs, the owner of property in that area will not only suffer damage, perhaps irreparable, to their property, but because of the potential risk identified in the flood risk maps, could encounter potential property value drops, insurance problems, and in fact, selling the property might become impossible. So I believe that we have to ensure that we protect the potential purchasers before a new property is even built.

1730 I am sure we will be told that the planning authority always consult the Water Authority and take their views into account, whether it is recommending the plans are refused or that suitable flood attenuation can be put in place without moving the potential flooding problem to another area. That is good as far as it goes; but not good enough. The Water Authority do have a very important place in the planning regime.

Whilst I somehow feel that they consider they should not be the final arbiter, this is where I disagree.

1735 Let me repeat: they are the experts. That is why they are consulted. They have not axe to grind. They are not susceptible to pressure from developers but they have a major responsibility in getting it right.

1740 This amendment does not stop any consultation taking place between the Planning Division and the Water Authority; it reinforces under number (3) in the amendment, that consultation must take place, that the Water Authority are advised of the application, and that they have to reply within 21 days as to whether or not the risk is significant, and/or any recommendations as to attenuation procedures that need to be incorporated into the plan. So I hope Members support this clear direction definition as to the necessary procedure.

1745 Subsection (4) here is where I feel necessary clarification is needed. If the Water Authority in their expert view consider that the risk is significant enough to deserve refusal that no attenuation improvements will negate high flooding risk and advise so, the planning authority have no other recourse but to refuse the application. Purchasers or developers of properties in the area deserve that protection.

1750 If I may briefly refer to subsection (5) in the amendment, this provides for exceptions, which I trust Hon. Members will agree with. The decision to construct these specified buildings is a risk that will be fully accepted by the builder, who will have full knowledge of the potential flood problems, having gone through the normal planning procedure, where required. Subsection (5)(d) has been inserted to ensure there is a flexibility in the future for circumstances that are not envisaged at this time.

1755 Finally, I would like to emphasise that this amendment refers to new build. It does not apply to extensions or material alterations to established properties, which would go through the normal planning procedures, and if granted would be at the applicant's own risk, having available the comments of the Water Authority.

Therefore, Mr Speaker, I beg to move the amendment to clause 68 as printed.

1760 **The Speaker:** Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

1765 I am more than happy to actually second the amendment. In fact, Mr Singer and I have worked and had meetings at the Attorney General's department, to try and draft an appropriate set of words which hopefully would embrace any concerns that might arise as a consequence of the amendment.

1770 I think the important part of the amendment is that there are exceptions to the rule, and those are: any building used for agricultural or horticultural purposes other than a dwelling house; any building used primarily for storage for refuge; any lighthouse or lifeboat station; or any other category of building that may be prescribed. So that is looking at the future.

The main concern is, as the hon. mover has said, that in the wording of the original clause in the Bill I will just read it, for clarification. It applies to:

the Department of Infrastructure when it is considering an application for planning approval

1775 They, the Department, have to have regard to the Water and Sewerage Authority's published flood risk management plans and strategies and have regard to and:

the extent to which the proposed development creates an additional flood risk.

1780 If that Department is that is, the Department of Infrastructure is

considers the flood risk insignificant, it may refuse

is equally, in law, it may not refuse is

if planning permission or grant the planning approval subject to conditions under section 10 of the planning Act.

1785 Now, the presumption, whether it is favourably judged or not, is in favour of development. That is the presumption within planning: the presumption is always in favour of development and it is subject to what is being proposed in a planning application.

If Hon. Members look at the explanatory memorandum in respect of clause 68, it says:

This clause imposes a requirement on the Department of Infrastructure, when it considers applications for planning permission, to consider (inter alia) the extent to which the development may create a significant risk of flooding.

1790

It is interesting that in the explanatory memorandum, the word significant is used, but in the Bill before us, following significant it says it may refuse

If so, it will be open to the Department to either refuse [] or to impose appropriate conditions, for example, requiring the developer to construct suitable flood protection works before the project can proceed.

1795 Again, the emphasis is in favour of the development.

What we support is the professionals in this matter. As the hon. mover, Mr Singer, has said, the Water and Sewerage Authority are the professionals when it comes to flood risk issues and drainage issues. They are the professionals.

1800 We heard earlier on, on another clause Mr Speaker, planning permission has priority over designation of a flood risk area. Again if Hon. Members refuse the amendment, you will be underpinning that.

1805 The hon. mover of the Bill said, on an earlier clause, if a planning application was in, an inspection would be carried out to consider a designation of flood risk. In other words, if a planning application comes in, the Water Authority would consider whether or not there was going to be significant risk to that. If they considered it was, it would be significantly risky to build there, because of the flood problems. They have no power, other than to try and influence the planning authority. They do not have party status in planning applications. They are put in a subservient position, if this clause stays intact, and that is the problem that I have.

1810 The Hon. Member for Onchan said on an earlier clause, going against the professional advice of the Authority would be madness. I would suggest it would, if Hon. Members do not support this amendment, which clearly places the final say, in a flood risk area, of whether or not a new development can take place. I think we owe it to the Authority to actually extend that power in this particular instance, for new build.

1815 I am happy to second.

The Speaker: Mover to reply, Mr Houghton. There has been no comment.

Mr Houghton: I do apologise, Mr Speaker.

1820 After enormous amount of consultation by the Hon. Member for Ramsey, Mr Singer ó I do thank him for his consultation prior to this being moved on the floor today ó I simply cannot support the Hon. Member's amendment.

1825 Whilst I appreciate his good intentions, I am concerned that some elements of the amendments are either unnecessary or ambiguous and have the potential to add time and complexity to the planning process. I believe that the intent can be addressed more appropriately through secondary legislation, policy or procedure. This can be achieved if the Authority and the Planning Division of the Department of Infrastructure continue to work together to address the relationship between flooding issues and the planning process.

1830 To address the detail of the amendment, in relation to part (3), the Authority has already consulted on planning applications, albeit on a non-statutory basis, and therefore is fully engaged in the planning process. In parts (3) and (5), the amendment refers to buildings, rather than development as defined in the Town and Country Planning Act. The proposed list of buildings under part (5) would therefore create confusion, with much time spent on arguing over the use and the status of such buildings.

1835 The amendment in relation to part (4) is somewhat self-defeating, as an initial planning refusal would not prevent an applicant from going through the appeal process, whereby the refusal could potentially be overturned.

Therefore, Mr Speaker, I would ask Hon. Members not to support the amendment.
I beg to move.

1840 **The Speaker:** Hon. Members, I put the amendment first. Those in favour, please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

FOR

Mrs Cannell
Mr Singer

AGAINST

Mr Anderson
Mrs Beecroft
Mr Cannan
Mr Corkish
Mr Cregeen
Mr Cretney
Mr Crookall
Mr Gawne
Mr Hall
Mr Henderson
Mr Houghton
Mr Karran
Mr Quayle
Mr Quirk
Mr Robertshaw
Mr Shimmin
Mr Skelly
Mr Watterson
The Speaker

1845

The Speaker: With 2 votes for, 19 against, the amendment therefore fails to carry.

I put clause 68 as it stands: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 69.

1850

Mr Houghton: Thank you, Mr Speaker.

Clause 69 means that when the Department of Economic Development or its lessees exercise their functions under the Minerals Act, they will be required to consider whether to do so could create an additional risk of flooding. If so, they will be under a duty to consult with the Authority before proceeding.

1855

Mr Speaker, I beg to move that clause 69 stand part of this Bill, sir.

The Speaker: Mr Henderson.

1860

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

I beg to second, sir, and reserve my remarks.

1865 **The Speaker:** I put the question, clause 69: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 70.

1870 **Mr Houghton:** Mr Speaker, clause 70 is largely a technical provision that has the effect of abolishing, in relation to designated flood risk management works or watercourses, any private flood-related obligations that may still exist under the current land drainage legislation, for example, an obligation to maintain a particular flood wall.
So therefore, Mr Speaker, I beg to move that clause 70 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1875 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1880 **The Speaker:** Clause 70: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clauses 71 and 72.

1885 **Mr Houghton:** Mr Speaker, as Hon. Members will understand, clauses 71 and 72 deal with certain technical matters relating to the penalties that are imposed in respect of the various offences that are created by the Bill.
Mr Speaker, I beg to move that clauses 71 and 72 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1890 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1895 **The Speaker:** I put the question, clauses 71 and 72: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 73.

1900 **Mr Houghton:** Mr Speaker, clause 73 deals with the making of subordinate legislation under the Bill. Ordinarily, orders made by the Authority, for example designated orders, will be subject to annulment by Tynwald. However, bye-laws that are made by the Authority will need to actually be approved by Tynwald before they can come into force.
Mr Speaker I beg to move that clause 73 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1905 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1910 **The Speaker:** Clause 73: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 74 to 78.

1915 **Mr Houghton:** Mr Speaker, clauses 74 to 78 contain important transitional and saving provisions. These provisions will ensure a smooth transfer from the current land drainage legislation to the proposed new Flood Risk Management Act, without any undue red tape.
Mr Speaker, I beg to move that clauses 74, 75, 76, 77 and 78 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1920 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: I put the motion that clauses 74 to 78 inclusive stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 79.

1925 **Mr Houghton:** Mr Speaker, the House will recall that when we considered part 7 of the Bill, which was clauses 57 to 61, I drew the attention of Hon. Members to the appeal rules that will apply under the Tribunals Act.

Clause 79 provides that as an interim measure, pending the introduction of such rules, the draft model rules will be used for the determination of any appeals under the Bill.

1930 Mr Speaker, I beg to move that clause 79 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1935 **Mr Henderson:** I beg to second, sir, and reserve my remarks.

The Speaker: I put the question that clause 79 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 80 to 82.

1940 **Mr Houghton:** Mr Speaker, clauses 80 to 82 repeal the current land drainage legislation and amend two associated Acts.

Mr Speaker, I beg to move that clauses 80, 81 and 82 stand part of the Bill, sir.

1945 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1950 **The Speaker:** I put the question that clauses 80 to 82 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 83.

1955 **Mr Houghton:** Mr Speaker, as Hon. Members will see, clause 83 amends the Rating and Valuation Act 1953. This will mean that the Authority will, in appropriate cases, be able to obtain details of land ownership, for example, where it needs to enter onto land in order to carry out ground investigations before deciding whether or not to carry out flood risk management works on that land.

Mr Speaker, I beg to move that clause 83 stand part of the Bill, sir.

1960 **The Speaker:** Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1965 **The Speaker:** I put the question, clause 83: those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clauses 84 to 88.

1970 **Mr Houghton:** Mr Speaker, clauses 84 to 88 make some technical amendments to associated legislation.

Therefore, Mr Speaker, I beg to move clauses 84, 85, 86, 87 and 88 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1975 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

1980 **The Speaker:** I put the question, clauses 84 to 88: those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 89.

1985 **Mr Houghton:** Mr Speaker, clause 89 amends the Wildlife Act 1990, the effect of which is that except in emergency situations, the Authority will require the agreement of the Department of Environment, Food and Agriculture before the Authority can exercise its various functions under the Bill, in circumstances that may have implications for wildlife, including wild birds and plants.

1990 At this juncture, I would add that this amendment is in addition to the general conservation duties that are imposed on the Authority by virtue of clause 13 of the Bill. Here again, I would just make the comment that I believe that this provision represents a very fair balance between the need to protect our environment and at the same time ensure that, as far as possible, the risk of flooding is appropriately managed.

Mr Speaker, I beg to move that clause 89 stand part of the Bill, sir.

The Speaker: Mr Henderson.

1995 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

2000 **The Speaker:** I put the question that clause 89 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clauses 90 to 91.

Mr Houghton: Mr Speaker, clauses 90 and 91 make some technical amendments to associated legislation.

2005 Therefore, Mr Speaker, I beg to move that clauses 90 and 91 stand part of the Bill, sir.

The Speaker: Mr Henderson.

2010 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: I put the question, clauses 90 and 91: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 92.

2015 **Mr Houghton:** Mr Speaker, clause 92 has the effect of amending the Tree Preservation Act 1993, so that, except in cases of emergency, the Authority will require prior authorisation of the Department of Environment, Food and Agriculture, where the Authority needs to cut down a protected tree, for example a tree that is obstructing the flow of a designated watercourse.

2020 Mr Speaker, I beg to move that clause 92 stand part of the Bill, sir.

The Speaker: Mr Henderson.

2025 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: I put the question, clause 92: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 93.

2030 **Mr Houghton:** Clause 93 amends the Sewage Act 1999 in two substantive respects: firstly, to enable the Sewerage Authority to refuse its consent to the making of a connection to the public sewerage system, where it considers that the capacity of that system is inadequate and, as a consequence, an additional risk of flooding would be created.

2035 However, the Authority will not be permitted to refuse consent where the connection with the public sewerage system is necessary in order to allow a development to go ahead, where that development has been granted planning permission by the Department of Infrastructure.

2040 At this juncture, I would like to formally record the Authority's thanks to the Hon. Member for Onchan, Mr Quirk, whose tabled amendment in relation to the equivalent provision in the 2011 Bill has been incorporated into what is now clause 93.

Secondly, this clause creates an enabling power for the Authority at an appropriate stage in the future to introduce sewerage charges. However, I would emphasise that before such charges can

be introduced, the Authority will need to make an order which will require the formal approval of Tynwald.

2045 Mr Speaker I beg to move that clause 93 stand part of the Bill, sir.

The Speaker: Mr Henderson.

2050 **Mr Henderson:** Thank you, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: Mr Karran.

2055 **Mr Karran:** I am very pleased to hear from the mover of the Bill that it will not be able to, through a back door, stop development that has legitimate planning. We need to make sure that what we are concerned about is a one-stop procedure as far as planning is concerned, so that we have a clear understanding of how development works.

2060 As far as I am concerned, I am happy about that. I think the situation is that the idea of a sewerage charge, let us be honest about it, this has been on the agenda for a long time. Fortunately, the safeguards are now in place, that it will have to come to Tynwald, as far as that is concerned. Unfortunately, to be fair to the Council of Ministers, and the situation of political cowardice in the past, we should have addressed the issue of the rate re-valuation, which at the present time is an absurdity, in that it is based on perceived rental values of 1971. It is completely out of date, as far as that is concerned, so that we end up with the absurdity where people in the likes of Douglas and Onchan, if we do not support this proposal, would end up proportionally paying more for a service which actually costs less for the people in the urban areas over the rural areas.

2070 So as far as the charge is concerned, I think that we have no choice but to support the principle of a level charge throughout the Island, allowing for the fact that previous administrations and this administration have not addressed the ridiculous situation where you have an identical property, in size, design, location, that can have the absurdity of having a 40% or 50% discount because they are in some other part of the Island, where the value of the actual property is more likely two or three times the actual purchase value of an identical property in a less salubrious area of the Island.

2075 So as far as I am concerned, I think we have got the safeguards as far as the charge is concerned. Tynwald will have to agree that charge, as far as that issue is concerned, so I think we all know what we are actually voting for today. It is a shame that we cannot actually get the rate re-valuation, so we would not need this absurdity, as far as the charge is concerned.

The Speaker: Mover to reply, Mr Houghton.

2080 **Mr Houghton:** Thank you, Mr Speaker.
I would like to thank the Hon. Member for his supportive comments.
I beg to move.

2085 **The Speaker:** I put the question that clause 93 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

FOR	AGAINST
Mr Anderson	None
Mrs Beecroft	
Mr Cannan	
Mr Corkish	
Mr Cregeen	
Mr Cretney	
Mr Crookall	
Mr Gawne	
Mr Hall	
Mr Henderson	
Mr Houghton	
Mr Karran	
Mr Quayle	
Mr Quirk	
Mr Robertshaw	

Mr Shimmin
Mr Singer
Mr Skelly
Mr Watterson
The Speaker

The Speaker: Clause 93: 20 votes for, none against, the clause therefore carries. Clauses 94, 95 and 96.

2090 **Mr Houghton:** Thank you, Mr Speaker.
Clauses 94 and 95 again make some very minor amendments to associated legislation. And finally, clause 96 deals with certain technical matters.

2095 Mr Speaker, before I move this, I would like to take this opportunity of thanking the association's main employee who has been involved in this, who is Neil Caine, the Strategic and Technical Services Manager, for some real hard work over quite some considerable period of time, and a considerable period of time before my time, for which I take no thanks for this. It is all for the work of the previous Chairman and the Authority, including its Chief Executive, Mr Winstanley, for real hard work in putting this together, of which I am very pleased to commend those officers of the Authority and their Chairman. (**Mr Crookall:** Hear, hear.)

2100 Mr Speaker, I beg to move the clauses 94, 95 and 96 stand part of this Bill, sir.

The Speaker: Mr Henderson.

2105 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

2110 **The Speaker:** I put the question that clauses 94 to 96 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it. That brings us to the end of the Bill for consideration of clauses. I congratulate the mover on the way this was conducted.

LEAVE TO INTRODUCE

2115 **A Bill to amend the development plan procedure**
Leave to introduce granted

4.1. The Hon. Member for Rushen (Mr Gawne) to move:

2120 *That leave be given to introduce a Bill to amend the development plan procedure in the Town and Country Planning Act 1999; and for connected purposes.*

2125 **The Speaker:** We turn to Item 4, leave to introduce. I call the Hon. Member for Rushen, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Members will be pleased, I hope, to note that I believe that much of my case was made in Tynwald Court last week, so I will not go into a huge amount of depth. I hope to be briefer and much more to the point.

2130 Section 2 of the Town and Country Planning Act 1999 requires the Department of Infrastructure to prepare the Island Development Plan. The Island Development Plan is in two parts: a Strategic Plan which was approved in July 2007; and one or more Area Plans. My view is that the process that is set out in the Town and Country Planning Act 1999 needs to be made simpler, more transparent and more democratic.

2135 If I just explain the way in which we arrived at our Southern Area Plan, back in July 2008 an Issues and Options document was put out and responses requested. In March 2009, public consultation events took place in the south. In October 2009, the Draft Southern Area Plan was published. Then in December 2009/January 2010, submissions on the Draft Southern Area Plan were requested and submitted.

2140 By January 2010, the public consultation event then took place in Castletown, and then a whole 12 months went by before January 2011, a Modified Draft Plan was published.

2145 Then in April 2011, Department responses to objections on the Modified Draft Plan were published. In June 2011, this was the proposed date for a public inquiry to take place on the Modified Draft Plan. However, the inspector was taken unwell, so the actual Public Inquiry began in October 2011 into the Draft Southern Area Plan with modifications, by this stage ó not to be confused with the Modified Draft Plan or the Issues and Options Draft Southern Area Plan that had been produced earlier.

2150 The Public Inquiry formally drew to a close in January 2012; February to May 2012, publication and consideration of the Planning Inspector's report; June 2012, a Modifications Document was then published. This is not to be confused with the Modified Draft Plan or the Draft Plan with Modifications, but no this is a further document, the Modifications Document which was published.

2155 And then finally, in December 2012, the Plan was adopted by the Department of Infrastructure and actually more finally, it was approved by Tynwald last week.

2160 Now, bearing in mind that every single time one of these things was published, documents almost as thick as this ó which was the final final Area Plan, not a modified plan or a plan with modifications or the modifications on the modified plan or any of that sort of thing! Every time, at every stage of this elaborate process, a document this thick was published and very little really of substance changed. But in certain areas and on certain issues, quite significant issues had been slipped into the different versions.

2165 People could be forgiven ó sat at home, no particular interest or knowledge on legislative or political processes ó for assuming that if they had taken an interest at one or other stages of this Plan, they had a pretty good idea as to what was going to happen; but that clearly has not been the case, certainly in my experience and in the experience of the people who live in Rushen, and also in Castletown.

2170 So I do think that the process needs to be simpler. I do not believe that the current process is penetrable by the general public. It is just about possible for elected Members of the House of Keys to follow the process, but I would say only just about possible. It requires an incredible amount of research and reading on the part of Members, and it also requires an in-depth knowledge of how legislation works and how political processes work, to be able to understand where we are going with this. Yet the outcome can affect quite dramatically people's lives.

2175 I do think that we need to have a simpler process, a more transparent process and a more democratic process. It is not just on the point of the little old lady sat in a small cottage whose whole outlook is going to be blighted; the Commissioners of a particular area who feel they have not been listened to; the MHKs of a particular area who have not been listened to. That is one side of it, but also from the developer's side, from the landowner's side, they feel totally confused and demoralised by the process as well, because they are not entirely clear! One minute something is in the Plan, then it is out of the Plan, then it is back in again at a later stage. It is not a straightforward process. To my mind, there is at least one stage too many in this process and we do need to find a way in which this can be made simpler, more transparent and more democratic.

2180 Members will recall that I mentioned my concerns in Tynwald last week about Strategic Reserve Site No. 3. I will just read a little bit, a little extract from an e-mail that I received from Michael Gallagher, back in November last year, in relation to this particular site:

2185 -The site was being promoted by the developer, not the Department. It was not submitted at the initial call for sites stage and as such was not included in the Modified Draft Plan which was published in January 2011, as it was submitted to the Department too late to be considered at that stage.ø

That is the Modified Draft Plan, not the Draft Plan with Modifications or the modified modifications to the Draft Plan with Modifications. This is the Modified Draft Plan published in 2011.

2190 -The Department had a policy and strategy meeting in April 2011 and was made aware that the site had been suggested for inclusion in the Plan as the developer had submitted an objection to the Modified Draft Plan! ø

ó not the Draft Plan with Modifications, but the Modified Draft Plan ó

-í stating that the site should be included. The Department agreed that the site should be assessed to determine if it was suitable for development! ø

Later on in this e-mail, Michael Gallagher suggested:

if the Department felt that this proposal had been considered and is found to have some merit. The site was discussed in front of an independent inspector at the Public Inquiry by request of the developer. In his recommendations, the inspector suggests that the site should be included within the Plan but at a higher density of housing than that outlined by the developer and with a brief that would secure the community uses identified in the proposed development brief suggested by the Department.

2195

This is an inspector deciding that this particular site should be considerably more intensively developed than anyone had actually asked for, at the very, very last stage of the elaborate process that I have identified. So at no stage, really, did the public have the opportunity to influence an inspector's decision on this particular point, because this was the very last stage of the whole process. The people directly affected by this had assumed that there was going to be no development on this site, because that was how it first appeared in the very first version of the Plan that had been published.

2200

So to my mind, that is one of several examples that I could come up with where the system is too complex. It is allowing for second, third and fourth bites of the cherry from developers and landowners and likewise from people who are objecting. It makes the process complex. It makes it really difficult to understand.

2205

Added to which, I can add my experience as Minister. I had I think it was one day to consider the Modified Draft Plan before it could be published, which I felt was wholly inappropriate as Minister. However, the process was such that if we did not get this out by this time, then such and such would be delayed, so we needed to rush this and we needed to rush that. Politically, I felt very much thwarted by the process that we have set for ourselves. That was while I was Minister, and certainly I feel as though I have been thwarted subsequent to leaving the Department.

2210

I feel that staff in the Planning Department were effectively being tasked with trying to pin jelly to a wall. It was so complex and so elaborate that it was all but impossible for them to do their jobs properly. Then subsequently, when we got to the final final stage, where there was still the opportunity for the Department to influence the Plan — this was after the final inspector's report and all the final enquiries — effectively the political Members of the Department were being advised on a —safety first— approach, which basically meant that the democratic will in Rushen was thwarted.

2215

So I do feel that we need to have a simpler system. I have had a brief chance to talk to the Minister about this leave to introduce and certainly my understanding is that the Department also believes that changes are required to the Town and Country Planning Act 1999. So in essence, my proposal here is that we need to modify the Act to allow for a simpler process, a more transparent process and a more democratic process.

2220

I beg to move.

2225

The Speaker: I call Mr Watterson.

Mr Watterson: I beg to second and reserve my remarks, sir.

2230

The Speaker: Mr Quirk, Hon. Member for Onchan.

Mr Quirk: Thank you, Mr Speaker.

I rise just really to comment about the procedures we already have within the system. They have been tried and tested. They have been developed over a number of years. I do not have the biggest downer on the Department regarding its procedures. They had a development plan that comes in bits and segments are there. The full story is laid out. The documentation is there. There is an obligation if local authorities want to engage to set aside some of their own funds to employ professional people to do the work, so I do not think as far as the public are concerned, or the people who represent the local authority interest, they are under a disadvantage.

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Not particularly concerned about the developers or the landowners as such, because they will have in their minds — and there will be a load of them at the minute waiting to find out when the Strategic Plan is going to be rekindled, before we can get to the major one which is going to be the east, when all the potential development land will be — Never mind the west; the east will be the ones which will create growth for our economy, stimulate the development which will be needed in certain areas, and I can envisage, the way these Area Plans are so slowing up at the minute, regarding getting it to discussion or even getting it on an agenda to move along, for us to have some debate on, it is going to be a long way into the future — probably into another House, which will be very disappointing. I am sure it is not the will of this particular House to slow it down — or

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2250 the current Minister, never mind the current Planning Chairman, who I hope will speak up for the Department.

After leaving the Department, myself as the former Planning Chairman all the issues and the documentation were there. All the checks and balances were going on through, as far as I was concerned ó even saying to individual Members to declare your interests. If you have got a role, 2255 declare your interests, step out, (**A Member:** Hear, hear.) and then you can do all the work freely.

I cannot accept, the Member for Rushen who is moving this, that you cannot have a full say at the beginning. You *can* have a full say at the beginning. All you have got to do is, like many Members have done previously in this particular House: jump the other side of the fence and make your views known. I would always say, do not try to I am not saying influence the situation or 2260 move the situation along for any other benefits. I can see, the way it is developing out on this particular one, it is becoming a one-issue subject on this, on a piece of land, which is in a trust, I believe. I do not know any details about the trust, whether the owners of that land have an opportunity to sell the land on, bring some development forward. It currently has a designation, I believe, for open space, so recreation probably could take place if whoever owned the land moved 2265 it forward, got support and put a planning application together and it was tested and supported by the local authorities for that particular area. So ó

The Speaker: Hon. Member, just bring us back to the actual motion, which is seeking leave to introduce, not the ó 2270

Mr Quirk: Mr Speaker, there is not much meat in the ó

The Speaker: Yes, resume you seat one moment, sir.

I make the point that what we are discussing is a leave to introduce. The detail will come later. 2275 It is the principles of giving the Member permission to go ahead. Who knows what will be in the Bill when it comes back? I just make that point.

Mr Quirk: Sorry, I will just wrap it up, then, Mr Speaker, really.

Because of the detail that is not there, I am reluctantly unhappy to support the Member's leave 2280 to introduce.

The Speaker: Hon. Member for Michael.

Mr Cannan: Thank you, Madam ó 2285

Members: Ooh! (*Laughter and interjections*)

A Member: Don't let the wig fool you!

2290 **The Speaker:** Carry on, Member ó the name has been taken (*Laughter and interjections*)

Mr Cannan: I am, Mr Speaker, inclined to support the Member for Rushen on this. I think the length of time it has taken to bring this particular Area Plan to fruition is of concern, and I think 2295 that would be of concern if we are going to move ahead on an orderly basis around the Island, with the east, north and then the west. If the same length of time were to take place, I think it would be at least 12 years before we saw anything coming for the west and for areas like Kirk Michael and I think that that is too long.

So if there is the opportunity to have this process both simplified and to make it slightly speedier, then I am inclined to support the Member for Rushen on this, but I must add that I would 2300 think he needs to think carefully that he is doing this with the best intentions, rather than to bring forward something that allows him an avenue to correct specifically one perhaps perceived injustice.

So on that basis, I will support it. Thank you, Mr Speaker.

2305 **The Speaker:** Hon. Member for Douglas South, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

I am very happy to support this. I look forward to the details coming later. But the reason I am happy to support it is because it is a complicated process. It is very complicated for me trying to 2310 get my head round it as a new Member, never mind members of the public. Whilst at the end of

2315 the day, I was satisfied that from a legal perspective, everything had been done correctly in the Southern Area Plan, I felt very disturbed that I felt it was not democratic. That is why I voted against it, not because of any particular piece of land or a particular person, but because the whole thing felt undemocratic, to me. People were not being listened to and they did not realise the process.

It does need to be made simpler and definitely more democratic.

Mr Watterson: Hear, hear.

2320 **The Speaker:** Hon. Member for Middle.

Mr Quayle: Thank you, Mr Speaker.

2325 I suppose I welcome any improvements to the planning system as long as they are improvements, Mr Speaker. We will never get a utopia in this world and certainly not in planning. (**Mr Henderson:** Never!) As I have said earlier, it is a very emotive topic, and it will attract lots and lots of comments.

2330 I think, having been the Minister with responsibility for planning during the process, (*Laughter*) (**Mr Gawne:** Really?) I am surprised that the hon. mover did not make any changes during his tenure; but I can see that in every Act that we have, there will be improvements that can be made. My only concern is that he does not come forward with a nimbyisms charter. I think intelligent changes may be addressed, some of those issues, without doing away with the fact that we use an independent inspector who held umpteen planning meetings throughout the south of the Island to address the members of the public, listen to the members of the public, and obviously did not agree with some elements of the public and on other elements, he did agree. I think that planning will always be that you either agree with a decision or you disagree and I think as long as an independent inspector ó and I do think it is important that we do have an independent inspector, that he does have the final say or we would never get anything built on this Island and we would just stagnate.

2340 So I will give my support to see what the Hon. Member comes up with, but I would urge him not to come up with something that ends up being a nibyisms charter, in which case I would not be able to support it in the future.

The Speaker: Hon. Member, Mr Cretney.

2345 **Mr Cretney:** Yes, pretty much on the same grounds, really, Mr Speaker: we have the legislation which has been followed to the letter in relation to this matter, in relation to the Southern Area Plan. It is a complicated procedure ó I think we all acknowledge that ó but to say that it is undemocratic is not correct. (**Mr Quirk:** Hear, hear.) There are opportunities for public involvement. Now, if after independent adjudication, you are not happy with the result, that is a different matter.

2350 However, having said that ó and if I can clarify, I do not think I completely agree with the Hon. Member when he was saying what the Department's position was on this ó the Department is content for an investigation, to see if there is a simpler way and a way in which more input can be acknowledged from the political class, if you like. I think that is what the principal concern is from the Hon. Member ó perhaps he can clarify that when he is responding. We are content for that work to take place and for that investigation to be followed. Indeed, I believe the Council of Ministers is content for that to happen.

2360 Can I just ask the Hon. Member, though, this is a different resolution from the one that appeared on the agenda only a couple weeks ago: is this the only one that the Hon. Member is now seeking to pursue? If it is, it does have my support for an enquiry, to see if we can improve the situation.

The Speaker: Hon. Member for Douglas East, Mrs Cannell.

2365 **Mrs Cannell:** Thank you, Mr Speaker.

2370 I do not think we should be running away with ourselves, Hon. Members. This is a procedure where a Member can come to the House and say, "Please give me permission to put together a Green Bill, a draft Bill for your consideration." It is very unusual for the House to refuse a Member of his or her right to seek leave to introduce a new Bill to the House. So that is all we are being asked to consider.

It is quite clear that the hon. mover is moving to introduce a Bill to amend the actual procedure that is covered in the Town and Country Planning Act 1999 with respect to development plans. So, I wish him well, because it is a complicated Act and I have gone through it on many occasions.

2375 Clearly, when he comes back ó if he comes back and he is not put off ó when he comes back with the Green Bill, we then have the chance to consider whether or not what it contains in principle is amenable to us and we also have the choice, if it proceeds, when it gets to clauses to modify it or to seek amendments to clauses. Of course, I am sure the hon. mover will have greater public interest at heart.

2380 I am happy to support him.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.

2385 It is quite obvious the Hon. Members for Rushen have a serious concern with a tiny piece of the Southern Area Plan which had driven this here today and like the remarks that the Hon. Member for Rushen, the Minister, Mr Gawne has been making with regard to that.

2390 But I too have served on the Planning Committee as Chairman for quite a few years, and I have to say, if there is one thing that is true in planning, and if there is one certainty in life, it does not matter what system you have in place, how transparent it is, you will always make the wrong decision in the Planning Section. There is no doubt about that. (**Mr Watterson:** Always.) Somebody will always be not happy with the decision that you make.

2395 The other thing I would like to point out, Vainstyr Loayreyder, is that I have been through quite a few of these reviews that the Hon. Member is talking about, and I have seen the effect that it has on the very small Planning Section that serves the Isle of Man. I have also seen the damage that it can do to that Section, the negative impact it will have on morale and the impact it will have on their already overflowing desks, because of the workload and the fact that is a *very* small Section and, in my view, understaffed Sectioní or one of the most understaffed Sections of any Government Department. I have seen what the Mount Murray review did to it, and I have seen what the Hon. Member for Rushen herself, Mrs Crowe, who made a call for a complete head to toe review at the time. So I am just putting, Members, in a word of caution here, what it is that we are agreeing to launch into the branch here, with regard to examining this.

2400 I would also say, Vainstyr Loayreyder, that the system is the way it is, because this is the way the public over the years have wanted it to be in the first place: the calls for transparency, the calls for the different stages to be set up, the calls for the public consultation, the different segments of that, and so on. This system has evolved because of the external pressure of the way the majority of the public, anyway, would wish to see how this system operates. That is what we have got now.

2405 I have got no problem with it, personally. I am very grateful that the system ó and this is not a pro-system Government speech, if you like, Vainstyr Loayreyder ó I am just saying the fact of the matter is I am quite grateful for the way the system is, because of the way I have been able to operate, certainly in the east of the Island, where there have been concerns, and the fact that I am regularly contacted, if there are going to be planning issues, and the way the flow of information backwards and forwards and the input that I have been able to have, I have got no problem with it. In fact, I can speak from the opposite angle to Mr Gawne and say that we should be quite proud, in some ways, of what we have got here, compared with some other jurisdictions. So there is another slant on things, Hon. Members.

2415 The other thing that is bothering me is we are talking about somebody's field here, somebody's land. Have we actually got any input from the people that own the actual piece of property that we are talking about? I have not heard any detailed explanation from themselves, how they feel about their land or whatever, or themselves probably, being trawled through all the public domain, backwards and forwards. So we could do with hearing a little bit on how they feel. I respect that the Hon. Member is maybe a bit upset about this, but I am not sure what it is we are trying to do here, and launch *another* review on top of the staff in the Planning Section, Vainstyr Loayreyder.

Thank you.

2425 **The Speaker:** The Hon. Member for Douglas West, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker.

2430 I will be supporting the leave to introduce. I am absolutely delighted, as a former Minister with responsibility for planning, to see those Members who have, or have previously, held the post of Chair of the Planning Committee being so vocal in support of the staff. The staff get an enormous amount of criticism and that is not what this today is about, (**Several Members:** Hear, hear.) but it

is heartwarming to actually see that those who work with this small group of people do recognise the talent and the efforts that they put in. We as legislators put in the rules and the officers, particularly in the Planning Section, because of legalistic nature that it can become, have to abide by those rules.

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My reason predominantly is looking at the motion in front of us today, which says it is:

to amend the development plan procedure in the Town and Country Planning Act 1999; and for connected purposes.

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I think we lose sight of the catalyst for this motion, if we look too closely at what happened last week, it is so imminent and so recent. The fact is that, when I was Minister and we introduced and started the Southern Area Plan, it was expected to take two years. (A Member: Hear, hear.) It has taken well over four years, and that damages the economy of the Isle of Man and uncertainty for everybody, not least the landowners. Therefore, this is not a criticism of the planning officers; they do need our support and strengthening in numbers. However, I think even they would benefit from us as the people who make the rules, providing them with rules which are clearer, easier, and maybe more suitable for what we need going forward.

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So I hope that the Member moving this takes that on board. I recognise, even if the rest of the House does not, this is not about a specific one area. That was the catalyst. This gives us a chance to do it better. Therefore I will support it.

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A Member: Hear, hear.

The Speaker: Hon. Member for Castletown.

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Mr Ronan: Thank you, Mr Speaker.

Firstly, I would agree with Mr Shimmin and Mrs Cannell: this is simply about permission for consideration of this. Certainly I would welcome it, as someone who is on the Department and has gone through the process and also before, in my time as a commissioner.

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This, to me, I would hope is about simplification of the planning. There is no denying at the moment, the process is very complicated. I think I would agree with Mr Quayle: I do not really think Utopia is an option here. I think if that was the case, I think we could all pack up and go home. But I look forward to seeing the detail from Mr Gawne.

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I hope that, going forward, it will help the planning process. There is no denying that we cannot afford the time regarding the Eastern Area Plan, the Western Area Plan or the Northern Plan. It is obviously going to take far too long. It would be a generation before the northern one would be done. We cannot afford that as Mr Shimmin has just said, it would be too damaging to our economy. So I would hope that the proposals brought forward by Mr Gawne would be helpful in that area as well.

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But just to finish on, to me this is not just about one piece of land which is Ballakilley. It is far more important than that; it goes far deeper than that. So I would hope that Members today would think that ó and this is from someone who sat on the Department and worked through the process, with the Minister and the Member responsible for planning. It is far deeper than that and we have got to simplify the planning process.

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Just touching on what Mr Shimmin said regarding the officers: they do get a punch. I have been guilty of that. We do not want that; we want the officers to have the freedom to work and to make the planning process work.

So I will certainly be supporting this, Mr Speaker.

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The Speaker: Mr Karran.

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Mr Karran: I think the point is that obviously, as a person who believes in democracy, the Hon. Member should get his leave to introduce. I think Mrs Cannell is right that, at one time, it was virtually a right ó it was accepted, no matter what my good friend for South Douglas, Mr Cretney says, but as we have seen the Council of Ministers' strength growing, it has become more of a questionable position, as far as the opportunity, and I think we must have some continuity as far as wherever it comes from, unless it does some damage, or it is an affront to civil rights or whatever, then that is only when we should not support leave to introduce.

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I think it is a bit unfair on the Hon. Member for Onchan, Mr Quirk: the fact is this really is the catalyst from the Ballakilley situation. It is a shame that we did not take the opportunities than some others tried to protect not just that piece of the green lung, but the piece of green lung at Douglas Head. The block vote destroyed that opportunity.

2495 I think it is important that we do recognise ó and there are not many times where I would say, take the lead from Malew and Santon! ó but he did go about it the right way, he got what he wanted in the plan by doing it the right way, over the fact that unfortunately, others did not. The fact is, the question is: is that procedure right? I think that there is good room for supporting the Hon. Member for Rushen to have a look and come back. This is not about regulation and a review; what the Hon. Member is asking for is the opportunity to bring in primary legislation. I do think it is rather disturbing when senior Members talk about a review; it is not about a review. It is about changing primary legislation.

2500 So I think we should be support this.

2505 I think Mr Quayle is right about the issue he says, that we will not get Utopia and the importance of an independent inspector. I think the one thing we can say, with the last couple of Ministers' response, as far as planning is concerned, is that that independence is there and we do not have the nonsense that we had before, when we had Ministers telling us with great pride that if independent inspector did not give us the decision we wanted, we just did not reappoint the independent inspector, and half the Members if this Hon. House then did not understand what an abomination that is.

2510 I have no problem with supporting the leave to introduce. I just hope that we will start seeing a much more mature situation that we are seeing in the last couple of years as far as what is important, that this is supposed to be an independent parliamentary assembly and it is supposed to have their functions, as far as that is concerned, over any executive allegiances.

2515 So I do hope that people will support this. I wait to see what the Hon. Member comes back with, as far as his proposal is concerned, and I hope that we will see that everybody supporting the principle of the Hon. Member, who is a Minister, getting the leave that he should get on the basis of a good parliamentary practice of this House should start to go with, which has unfortunately been deteriorating over a number of years.

2520 **The Speaker:** I call on the mover, Mr Gawne to reply and respond to the debate. I simply note that there are seven Hon. Members who either are or have been Chairman of the Planning Committee present in the House this morning. It is quite interesting.

Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

2525 I am as yet to reach the dizzy heights of Chairman of the Planning Committee, but maybe one day ó

A Member: But it is of interest! (*Laughter and interjections*)

2530 **Mr Gawne:** I thank my hon. colleague for Rushen, Mr Watterson, for seconding.

2535 Mr Quirk, Hon. Member for Onchan, *seemed* to be speaking in favour, and then he said *reluctantly unhappy*, not to support. So I am not entirely sure where we stand on that particular one. (*Interjection*) Basically, what the Hon. Member did point out is that we have an extraordinarily long process which needs to be moved along. I entirely agree with him, and that is the reason I am here today. He was the first of a number of ó a string ó of Hon. Members who seemed to be suggesting that this was about one site, which is not. The site that I referred to was not Ballakilley at all; it was a Strategic Reserve Site in Colby. I never mentioned Ballakilley at all in my remarks. However, there is a bit of confusion there, and I will hopefully clarify that.

2540 Absolutely right that you must declare your interests. I did request of my officers in the Department and asked, *How can I can make representations in relation to this because clearly there is an interest from a constituency basis?* I was told that because this whole thing was being done in my name when I was Infrastructure Minister, I could not step aside from the process; it would be seen to be inappropriate for me to do so, because developers or whoever would sue the Department or whatever, despite me stepping aside from it. So I had to stay wholly neutral. I could not appear at any of the Inquiries. That was the advice I was given. That is why I was unable, the week after the election, to turn up to the Inquiry.

2545 The Member for Onchan, as Chairman of Planning: I did, as he will recall, have to have a quiet word with him in relation to his relationship with a prominent developer on the Isle of Man. I am not sure whether he did ever declare that interest.

2550 I am delighted that Mr ó (*Interjections*)

Mr Quirk: Point of order, Mr Speaker.

The Member is making an allegation that I had a relationship with somebody.

2555 **Two Members:** Hear, hear. (*Interjections*)

The Speaker: Noted, Mr Quirk.

Mr Henderson: Retract the comment.

2560 **The Speaker:** Mr Gawne, you have the floor.

Mr Gawne: Gura mie eu, Loayreyder.

I am just reporting a fact that a meeting took place. I explained to the Hon. Member that he needed to decide whether he was going to do that or not.

2565 I thank Mr Cannan for his support and yes, this is about the best of intentions. This is not about nimbyism. It is absolutely for the best interests of the people of the Isle of Man. We have had our chance and blown it in the south. I do not want that to happen in the rest of the Isle of Man and I am trying to do the responsible thing.

2570 The Hon. Member for Douglas South, Mrs Beecroft said we need to make the system simpler and I agree.

Mr Quayle, Hon. Member for Middle welcomes any improvements, but we will never get Utopia in planning. He was the first of three Members who combined the words "Utopia" and "planning" in one sentence. I never, ever thought I would live to hear those two words uttered in the same sentence. It is absolutely definitely not my intention to introduce some form of nimby's charter. I would intend to work very closely with the Chairman of Planning and, indeed, the Minister and his team.

2575 Why did I not change things while I was Minister? Quite simply, I did not have time as Minister. I had 18 months and whereas there was one Bill I was able to get through, I was unable to get any planning legislation through in that relatively short period of time, because, as the Hon. Member knows, the processes involved are overly elaborate. When it comes to any opportunity to change planning legislation, it is enormously difficult, and you have to follow certain processes.

2580 Again, Mr Cretney, Hon. Member for Douglas South: apologies if I had not entirely represented our conversation correctly, but I am a politician, so I hopefully will be forgiven for that.

2585 This is the only resolution I intend to bring in relation to planning. I have absolutely no intention to move the other resolution that I had originally put down. I modified that resolution, based on the comments that I had received and I felt this was a more appropriate version.

I am talking about a more democratic system. In this contribution, anyway, I have not said that the system is not democratic; I just want a more democratic system.

2590 Mrs Cannell: I thank her for her support. Again, this is about the great public interest, not about nimby's charters. It is not about the south of the Island, because quite frankly, the south is not going to get another chance at an Area Plan for quite some years now. So this is purely about the greater public interest and the interest of the people of the Island.

2595 Again, the Hon. Member for Douglas North, Mr Henderson, mentioned that this is all about a tiny piece of the Plan. Again, I did not actually mention Ballakillee at all in my introductory remarks. This is not about Ballakillee; this is about speeding up the process, making the process simpler and easier for people to understand, so that they can make representations, they can know what those representations are, they can know when they are being considered and hopefully come out the other side with a greater clarity as to understanding the process.

2600 As Minister, I did actually expand the planning policy side of the Department, particularly in this area, so I do fully understand the concerns the Hon. Member has. I believe that the previous system that we had, where I think we only had two part-time officers and maybe one other working on policy, was untenable, which is probably why it has taken us so long to get to where we need to be, but certainly been a contributory factor.

2605 Certainly, I have got the utmost respect for all the officers concerned, I would certainly want to work with them to make their lives easier, rather than conduct intrusive reviews and make it difficult for them. So I absolutely fully support the Member for Douglas North's comments.

2610 Again, I thank the Hon. Member for Douglas West, Mr Shimmin, for his comments. This is not a criticism of officers. It is about a process. The process took from July 2008, when the Issues and Options document was originally published to February 2013. That is a long time. It is too long. We need to get these things through more quickly.

I do not claim to be a genius when it comes to working up legislation. Eighteen months as Minister and a further 12 months or so as Acting Minister when required has given me plenty of

2615 opportunity to understand that this is not easy and planning inevitably, whatever you try and do, you are going to upset somebody along the way. So I do understand that point.

I thank Mr Ronan for his support as well. This is about simplification. He was the second Member that used *‘planning’* and *‘Utopia’* in the same sentence *‘ó well done! ó as indeed, was Mr Karran, Hon. Member for Onchan. But again, this is not about Ballakilley; this is not why I am bringing this. I am bringing this because as Minister, I felt frustrated, whilst I was Infrastructure Minister, by the process. I felt that it was overly complex. I felt that we were too narrowly defined in terms of what process we had to follow and that process was not necessarily delivering what the people needed, what we needed for the future of the Island.*

I think that is probably all I need to say, really. (**Several Members:** Hear, hear.) I beg to move.

2625 **Mr Quirk:** Point of order, Mr Speaker.

The Speaker: Point of order.

2630 **Mr Quirk:** I wish to ask the Hon. Member who has just resumed his seat to withdraw the allegation that he made in this Chamber and I give the Hon. Member an opportunity.

2635 **The Speaker:** Standing Orders provide that objection to words used may be raised by the Hon. Member and that can either take its course by reference to the *Keys’ Standards Committee* but naturally, I give the Hon. Member, Mr Gawne, an opportunity to withdraw any words objected to.

Mr Gawne: *Gura mie eu, Loayreyder.*

2640 I am not entirely sure what allegation I am supposed to have made. I pointed out that I didí in relation to issues talking about conflicts of interest, I had a conversation with the Hon. Member for Onchan, to request that, if he had a conflict of interest in relation to a relationship with a developer, he needed to make that clear. I am not sure in what way that is offensive to point out that we had that discussion.

2645 **The Speaker:** Thank you. I am not entertaining any debate on this matter. The Member was given an opportunity to retract the words objected to. He has not done so. The matter stands at that point. It rests there. Thank you.

Now, I put therefore the question on the Order Paper, that leave be given to the Hon. Member, Mr Gawne, to introduce a Bill as set out in Item 4. Those in favour, please say aye; against, no.

2650 *A division was called for and voting resulted as follows:*

FOR

Mr Anderson
Mrs Beecroft
Mr Cannan
Mrs Cannell
Mr Corkish
Mr Cregeen
Mr Cretney
Mr Crookall
Mr Gawne
Mr Hall
Mr Henderson
Mr Houghton
Mr Karran
Mr Quayle
Mr Robertshaw
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
Mr Watterson
The Speaker

AGAINST

Mr Quirk

The Speaker: With 21 votes for, 1 vote against, the motion therefore carries. Hon. Members, that concludes the business of the House today.

2655

**Leave of absence granted
to the Speaker for next sitting**

The Speaker: Hon. Members, I would be most grateful if you would grant leave of absence to myself for next Tuesday's sitting. As Tynwald representative on the British-Irish Parliamentary Assembly, there is the plenary meeting taking place in Donegal.

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Is that agreed? (**Members:** Agreed.) Thank you very much.

The House will now stand adjourned until the next sitting, to take place on 5th March in this Chamber, the Deputy Speaker, Mr Corkish presiding.

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Several Members: Hooray!

The House adjourned at 12.56 p.m.