

**REPORT OF PROCEEDINGS OF
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 9th February 1999
at 10.30 a.m.**

Present:

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

The Lord Bishop took the prayers.

Election of an Acting President

The Clerk: Hon. members, we have apologies this morning from Mr President. Under standing order 11, therefore, Council has now to elect an Acting President to take the chair.

Mr Delaney: I nominate the Bishop.

The Clerk: Is that seconded?

Mr Lowey: Yes, I will second.

The Clerk: Are there any other nominations? I then declare the Lord Bishop elected and invite him to take the chair for this sitting of the Council.

The Lord Bishop: Well, thank you very much; this could be a very short session.

Nursing/Residential Homes – Residents’ Sale of Own Homes – Question by Mr Lowey

The Acting President: On our agenda paper, hon. members, we have questions to be answered and I call upon Mr Lowey to ask the first question.

Mr Lowey: Thank you, Mr Acting President. I beg leave to ask the Minister for Health and Social Security:

- (a) *How many individuals have been required to sell their homes on taking up residence in nursing homes/residential homes under the supervision of your department in the last three years;*
- (b) *what is your department’s current policy regarding this subject; and*
- (c) *do you intend to review your policy in the light of the Royal Commission set up in the United Kingdom and about to report?*

The Acting President: Reply, minister, please.

Mrs Christian: Yes, Mr Acting President. In reply to part (a) of the question there is no requirement imposed by the department or indeed by a service provider other than the department for individuals entering long-term care to sell their homes. The requirement imposed upon the individual is to pay the service provider the long-term care fees which are due. For some individuals there is a choice of funding methods, and the release of income by the sale of the home may be the preferred option. For those with a choice of funding methods the retention of a home may be the preferred option. Even home-owners with low incomes

may have an option of letting the home and paying care fees with the rental income. I fully accept that some will decide to place their homes on the market; now, if that is the case they can claim supplementary benefit if they are entitled to it during that sale period, but that is a decision for the people concerned and it is not a requirement of the department, and I am afraid we do not have the data sought by the hon. member.

In reply to part (b) the department's policy in relation to funding of long-term care costs is to administer the present benefit system as efficiently and effectively as we can and to submit to subsequent sittings of Tynwald amending legislation to implement the Tynwald resolution of 20th May 1998. If I may remind hon. members, that resolution invited the department to progress legislation for three purposes: (1) to amend the rules relating to capital resources for the purposes of supplementary benefit, to make it easier for a person entering long-term care to choose not to sell the family home; (2) to clarify the rules within supplementary benefit relating to deprivation of assets and (3) to provide that the value of a home is disregarded on the owner entering long-term care when a carer is in the home. The department intends that legislation to disregard the home when a carer remains in it is to be submitted to next month's sitting of the Court. However, the progression of the two other issues relating to capital resources and deprivation rules will be dependent on provision within the budget a week today. If the necessary financial provision is authorised, then it would be the department's wish to submit the necessary legislation by July at the latest.

In reply to part (c) the department will further review the department's policy when the Royal Commission on long-term care funding in the United Kingdom has reported.

Mr Lowey: I thank the minister for her reply, Mr Acting President. A supplementary, if I may?

The Acting President: Yes.

Mr Lowey: The minister in her reply said it was the preferred option to sell the property. Preferred by whom? Would she not agree that in many instances families do feel pressurised by her officers that they have to sell the properties? And could I ask, if these proposed amendments which were passed by Tynwald last year are to be implemented - and I do not want to go into the budget - is it not unfair for people who are at this moment in time seeking to go into care, and for their families, to be subjected to what I would call existing regulations if they are about to be changed? I am sorry if I have put that rather complicatedly, but I am sure the minister knows what I am referring to.

Mrs Christian: First of all can I say that certainly anyone approaching the department for advice should be at least told to seek advice as to how they might approach funding their long-term care. It is not for the department to tell them what they have to do. As I have tried to illustrate in my answer, if they are receiving long-term care they are under an obligation to pay for it unless perhaps they are entitled to supplementary benefit, which assists in the payment for their care. It is certainly the case that sometimes people will sell their homes. They may decide themselves that that is the only way in which they can acquire the capital to pay for their care. They may have examined the option of renting it or any other option which any financial adviser could point out to them. I think I need to emphasise that it is not the department which is forcing them to sell their homes, but they do have an obligation, when they are in receipt of care from a service provider, to pay for that care. The second part of the

question was, if we are changing the rules, which will allow a greater amount of supplementary benefit to be paid due to the change in the capital rules, whether or not that should be retrospective, I would suggest that that is a matter for Tynwald to determine and it is not normal when rules are changed to make such changes retrospective.

Mr Delaney: Mr Acting President, in the initial answer the minister referred to a Royal Commission across the water who are looking at this. Am I right, and is the Council right, in thinking that in the area of whether or not the primary residence is a matter for policy from us rather from anything that comes out of Westminster?

Mrs Christian: Mr Acting President, indeed, whatever the Royal Commission in the United Kingdom recommend, it has no impact at all on us unless we choose to consider it. Whatever the Royal Commission recommends in the United Kingdom will, even in the United Kingdom, be then subject to political consideration to see whether or not in the United Kingdom their recommendations are accepted and can be funded. I merely say, as has been indicated by a number of members, that it will be interesting to consider what the Royal Commission recommends after its in-depth study of long-term care of the elderly.

Mr Delaney: Well, therefore, can I ask, Mr Acting President, in the answer and in the subsequent answer given here now, rather than being interested in what comes out of the Royal Commission which is across the water, wouldn't it be better for the government to draw up a policy for our people, for our circumstances and for our welfare? Although it might be interesting it is irrelevant to the Manx people if we can make the rules to suit our own nature and our own problems on the Island.

Mrs Christian: Indeed, Mr Acting President, that is in fact what we have done. Proposals were put to Tynwald last year, at which time the hon. member will recall there was a debate on this issue, and Tynwald has determined what it wants to do for its own people, and the department is in the process of implementing those regulations subject to the budget providing the necessary resource.

Mr Delaney: Thank you, Mr Acting President.

Mr Waft: Mr Acting President, could I ask the minister, following the Royal Commission and the public debate on the proposals of the Royal Commission, is it not true that any decision made by the politicians in the UK with regard to this item does not come under a reciprocal arrangement?

Mrs Christian: No, Mr Acting President, they do not come under reciprocal arrangements because they are funded by supplementary benefit, which is a revenue fund and not a national insurance funded support, and to that extent it is entirely a matter for Tynwald to determine what element of support it will give.

Mr Waft: Could I just ask, Mr Acting President, you will obviously be monitoring the Royal Commission's results and the political impetus in the UK, but you will still be able to decide from the department's point of view as to the way forward with this item?

Mrs Christian: Yes, that is correct.

Mr Waft: Thank you, Mr Acting President.

Mr Lowey: Could I ask one final supplementary? Would the minister not agree that the wishes of Tynwald Court regarding carers living at home, which were quite clearly expressed in the debate which the minister has already referred to. . .? Even now - and I will give an illustration to the minister privately later - carers are being asked to fund money and to raise that sort of money will have to sell the family home, which does seem to go against the spirit and the wishes of Tynwald, albeit that with a bit of luck next week or next month Tynwald may very well decide to change it, but at this moment in time her officers are pursuing the old policy even at this eleventh hour, and is that unfair on individuals?

Mrs Christian: Mr Acting President, the officers have no option but to comply with the law as it stands. They are not free to interpret the law in any way which suits them. They have to comply with the rules as they stand. Now, insofar as the change is concerned, there will be parameters which define what a carer is, and to that extent Tynwald will have its opportunity to agree, hopefully from March when we submit this legislation, that carers, as defined in the legislation which will come forward, will be allowed to stay in the family home.

Mr Lowey: I thank the minister for her reply, sir.

Incinerator – Compulsory Purchase of Land – Construction Dates – Question by Mr Lowey

The Acting President: We move on to question 2 and I ask the hon. Mr Lowey to ask the question in his name.

Mr Lowey: I beg leave to ask a member of the Council of Ministers:

- (a) *What stage has been reached on the compulsory purchase of the land for the proposed incinerator at Richmond Hill; and*
- (b) *when does the department expect to*
 - (i) *complete the purchase and*
 - (ii) *start and*
 - (iii) *finish**the construction of the incinerator?*

The Acting President: I ask the hon. Minister for Education to represent the Council of Ministers in reply.

Dr Mann: Mr Acting President, I am answering this question on behalf of the Department of Local Government and the Environment which obtained the approval of Tynwald in November 1997 to the compulsory acquisition of a parcel of land roughly four acres in size for the purposes of siting the all-Island integrated incinerator facility. I am informed by the department that it decided not to put the compulsory acquisition procedures in train in advance of the site being shown to be suitable for the purpose intended and the land being zoned for that purpose. As hon. members will recall, the Braddan (Middle Farm) Planning Scheme Order 1998 was approved by Tynwald at its October 1998 sitting and came into effect on 1st January 1999. Now that the Braddan scheme is in operation the department proposes shortly to give notice to all persons interested or having power to sell or convey or release the land in question, this notice being called 'A Notice to Treat' under the acquisition of land 1984. That, Mr Acting President, is the up-to-date position as I understand it.

Turning to part (b) of the question, I am advised it is not possible to give a precise date in regard to the completion of the purchase of this land, but the department understands the process to be a fairly short one. As regards the physical construction of the energy-from-waste facility the project programme anticipates a start date in June 2000 with an anticipated completion date of September 2002.

Mr Lowey: I thank the hon. member for his reply, sir.

Mr Waft: Mr Acting President, I do not know whether the minister might know, but I just wondered whether it has yet been decided what percentage of the capital and revenue costs will be rate-borne and what will derive from general Treasury?

Dr Mann: I am afraid I am unable to answer that supplementary.

Cancer – Assessment of Irish Research – Question by Mr Waft

The Acting President: In that case we happily pass on to question 3 and I ask Mr Waft to ask the question.

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

What action has been taken by your department to assess the relevance to the Island of the research paid for by the Irish Government in connection with the case against it in the Dublin High Court by four residents of Dundalk?

The Acting President: The hon. minister to reply.

Mrs Christian: Yes, Mr Acting President, I confirm that the department's chief administrative medical officer has had discussions with the Welsh Cancer Registry regarding the research. It is understood that the Welsh office is investigating the claims arising from the research and will be placing its findings before the prestigious Committee on Medical Aspects of Radiation and the Environment, and we await their report with interest.

Mr Waft: A supplementary, Mr Acting President. Considering our nearness to the Sellafield plant, has your department ever considered financing independent research into the possible effects of discharges from that plant in the Isle of Man?

Mrs Christian: The answer to that, Mr Acting President, is no, the department has not considered commissioning such research. I think mainly DoLGE are involved in evaluating the statistical information in relation to the Island, but I will raise the matter with our administrative medical officer, though I suspect in terms of the Island's cancer figures it would be difficult on the basis of the numbers here statistically to establish any links.

Mr Waft: A supplementary, Mr Acting President. The cancer deaths are monitored by the Merseyside and district committee which involves themselves with that issue. Could the minister perhaps get me some figures from that committee in Liverpool and district to give some indication as to the Isle of Man situation?

Mrs Christian: Yes, indeed, the department has in recent times improved its liaison with the Merseyside Cancer Registry and is now in a position to get more detailed information from that registry for our own analysis.

Mr Waft: If I could just ask one last supplementary, Mr Acting President? Have there been any actual health checks with regard to this issue, with special reference to cancers on the Isle of Man? Have there been any health checks of the residents on the Isle of Man?

Mrs Christian: I am not quite sure what the hon. member means by health checks. We have not done a screening of the whole population, if that is what you mean.

Mr Waft: No, through you, Mr Acting President, it is just the actual monitoring of the mortality rates on the Isle of Man particularly with regard to cancer deaths and the monitoring of Isle of Man residents with special reference to the fact that we are so near Sellafield.

Mrs Christian: As I indicated in my earlier answer, the public health department has recently improved its liaison with the Merseyside Cancer Registry and is obtaining such statistics as it needs now, I understand, from that registry for our own purposes to analyse the prevalence of cancers in the Island.

Mr Lowey: Can I ask a supplementary? It is too serious a problem to heighten it up to scare people, I accept that, but the best way to allay suspicions and fears, I think the minister would agree, is to be as open as we possibly can with the figures that are available. If the Department of Health has not got these figures, isn't it rather a worry? Sellafield has been there a long time. These fears are well-known, and have been reported many times, and is it just now that we are getting these figures through better liaison with Liverpool? Surely these things should have been in place and a graph to monitor any trends at all should have been in place before now?

Mrs Christian: I think it has certainly been the department's wish to get such figures. One has to remember that not all the statistics would go, for example, from our hospitals to the registry. Some are from United Kingdom hospitals to the registry, and the department has had considerable difficulty in the past with the Merseyside register in getting the information we sought from them. However, we now believe that the difficulties have been ironed out and we will be getting the information we require from them.

Mr Lowey: I am satisfied with that reply, sir.

Mr Crowe: Mr Acting President, could I ask the minister, is there continuous liaison with the authorities in Ireland to get statistical information that they might have that would relate to Sellafield and the incidence of deaths through the possible effects of radiation?

Mrs Christian: I am not aware that in the past we have had such information. We have a recently appointed chief administrative medical officer, and his approach is to discuss these matters with neighbours, and I understand I think he is in discussion with Ireland as well as with people in England and Wales, and I am sure we will monitor the situation by comparison with neighbours.

Mr Crowe: Thank you.

The Acting President: Thank you. That concludes the questions, hon. members.

National Lottery Bill – Third Reading Approved

The Acting President: We move to the next item on the agenda, which is the third reading of the National Lottery Bill, and I ask the hon. Mr Radcliffe to lead us in that.

Mr Radcliffe: Thank you, Mr Acting President. Before I formally move the third reading of the Bill I could just say that one or two queries were raised at the second reading and clauses stage and I would just give hon. members the answers to the questions and queries raised.

One particular question raised, Mr Acting President, was in regard to persons wishing to bet on winning lottery numbers with their bookmakers. I can confirm, as I said I think last week, that it is illegal in the UK for bookmakers to accept bets on the results of the UK National Lottery and, by adopting the legislation here to permit the sale of National Lottery Tickets on the Isle of Man, we have to accept that it would no longer be possible for bookmakers on the Isle of Man to accept these bets - that is, bets on the United Kingdom National Lottery numbers. However, in response to a question which the hon. member, Mr Delaney, who is not with us at the moment, particularly posed at the second reading stage, I can confirm that it is possible for punters to bet on the winning numbers in the Irish lottery if they so desire. How on earth they will find out what the winning numbers are I do not know, but they can bet on that if they so wish.

The hon. member, Mr Kniveton, did raise the question of age limits for purchasing tickets, and I can confirm that it is illegal to sell to young persons under the age of 16 lottery tickets. If a seller is prosecuted, the regulator, OFLOT, can remove the person's right to sell tickets, so there is a fair amount of loss there for a person who sells under-age.

They were the main queries raised, Mr Acting President, and I hope I have satisfied the hon. members with the answers to their queries. The National Lottery Bill of 1998 will enable the Treasury to pursue the promotion and sale of United Kingdom National Lottery tickets in the Isle of Man. Through the Customs and Excise Agreement the Treasury will receive the 12 per cent tax which is levied and which all goes off the Island at the moment. We know for a fact that many, many people purchase tickets and all the 12 pences which we could have all stay on the other side. So we will be enabled to get the tax which is levied, and the Treasury will then in turn pay to the Public Lottery Trust part or all of the tax raised. There will, in due course, be an order made which will require Tynwald approval, and that will set out what percentage of the tax will be paid to the trustees, and it could be as much as 100 per cent paid to the trustees; it depends on what comes back or what we think will come back.

I think it would not be unfair, Mr Acting President, to pause here to pay tribute to the lottery trustees for the way in which they have handled their affairs over the years and have earned the grateful thanks of many organisations, and not only organisations but individuals, for the help that they have given them on this Island. They have done a tremendous amount of good work and, as I say, I pay tribute to that. This Bill, which will enable the United Kingdom National Lottery tickets to be sold in the Island and the resultant tax raised to be given to the lottery trust, will enable them to continue with their good work that they have done up to now. It is fair to say that the public in general support the aims of this Bill and I would therefore beg to move that the National Lottery Bill be now read a third time and do pass.

Mr Kniveton: I beg to second. At the same time sir, I would say I do quite welcome this Bill, mainly because it will mean that tickets will be sold on the Island rather than the money going off the Island. I think it is quite irregular, really - there is nothing illegal - that local people should look for friends and relatives across to buy them tickets. It is the inconvenience of it. In the end, if people want to do it you cannot stop them doing it. I think my attitude to this is if you

cannot beat them then join them, so in so doing I do support the Bill. I am sure there will be, as the hon. mover has said, charities and organisations who will now get some benefit back, benefit which they have not been getting of recent years, and I look forward to that for their sakes, also because government, through Treasury, are going to benefit through this Bill if enacted.

I am cautious, in my thoughts that the low income families may be more vulnerable to the promise of a 'windfall', shall we call it. For that reason I am perhaps glad that scratch cards are not included at this stage in this Bill and I do not really want to see them included; that is why I believe that the young people in particular will be rather vulnerable or become addicted to these sort of things, and that is what we hear about on the mainland.

As far as the bookmakers are concerned, I do understand them, but, as the expression goes again, when one door closes another invariably opens, and I believe they have to look for that door. I know personally I went through that, as Mr Lowey well knows when he was in tourism, through the coach industry, but the coach industry has survived. Certainly the big operator has survived and I believe he is doing reasonably well. It can be done; you have to look for ways and means of getting round these things. So, Mr Acting President, I supported the Bill and, as I say, I have seconded the motion.

Mr Crowe: Mr Acting President. I am supportive of this Bill. Can I just ask if it requires a change in the UK to their legislation before anything can happen in the Isle of Man or to the rules of Camelot to allow sales of UK lottery tickets to be carried out in the Isle of Man?

Mrs Christian: Can I, just comment, Mr Acting President? I think that the right step has been taken, given that it is believed that quite a lot of money flows out of the Island to the UK National Lottery, and of course that has impacted on local charities; we are aware of that. My own suspicion is that when lottery tickets for the UK National Lottery become available in the Isle of Man, even more money will flow to this lottery and away from our own local charities, and to that extent I think it will be very important that we give proper recognition to that outflow when we deal with the allocation to the Public Lottery Trust. I think that where they have had an allocation in the past it may well be that they will need even more resources to redistribute to local charities when the UK tickets become saleable here.

The Acting President: Reply, Mr Radcliffe, please.

Mr Radcliffe: Thank you, Mr Acting President. I welcome the support which is in the House for the Bill and if I can just say to the hon. member Mr Kniveton, we have to acknowledge what is going on. A tremendous amount of money we feel is going off the Island. I perhaps am one of the few who have relatives across who do not put money on the National Lottery, because I think that any moneys of that sort should remain on the Island rather than going off. It is Manx cussedness, I suppose, which has perhaps cost me a tenner or two, I do not know; I may have had a lucky streak at one time or not.

The scratch card question - as I said at the second reading stage, there is no intention to introduce them at this moment anyway and I think there would be a certain amount of opposition on the Island were they to be attempted to be introduced anyway. They are the ones for which I think people can be persuaded to part with their money more readily than the actual lottery tickets themselves - instant prizes and so on.

The hon. member Mrs Christian reflected on the possibility of local sales of I suppose what would call ordinary Tombola tickets falling, but I think we have to be realistic. We cannot tell people which direction to put their money in if they wish to spend it, and we just have to live with that one and hope that the lottery trust eventually, if called on, will be able to help those charities if they suffer too badly.

The hon. member Mr Crowe asked about change in the United Kingdom legislation; well, as I understand it, sir, the Director General of OFLOT agreed in principle that the licence under which Camelot operates the United Kingdom lottery could be amended to allow sales in the Island if local legislation was passed. Well, that is what we are doing here today and, as I understand it, in the talks that we have had with OFLOT and Camelot the necessary amendment, if there is such an amendment required, can be done very quickly on the other side and sales of tickets will commence fairly shortly on the Island. We were talking at one time about Easter being the possible date for commencement. In the light of a little bit of delay to this Bill it may be a little later than that, but certainly this summer it is hoped to have those tickets on sale on the Island.

Mr Acting President, I beg to move the Bill be read a third time and do pass.

The Acting President: Thank you. That concludes the third reading, hon. members. Will those in favour of the Bill say aye; those against, no. The ayes have it. The ayes have it.

Hon. members, that concludes our public business for this morning. The Council will now meet in private to conduct its other business.

The Council sat in private .