

**REPORT OF PROCEEDINGS OF  
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 23rd February 1999  
at 10.30 a.m.**

Present:

The President (the Hon Sir Charles Kerruish OBE LLD (hc) CP), the Lord Bishop (the Rt Rev Noël Debroy Jones), the Attorney-General (Mr W J H Corlett), 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.*

**Apologies for Absence**

**The President:** Hon. members, we have apologies for absence from the hon. Mrs Christian who is indisposed.

**Procedural**

**The President:** Now, turning to the agenda paper and the first question in the name of the hon. Mr Waft, I understand the minister has arranged that that question be answered by written answer and is that an acceptable practice to the hon. member? Thank you.

**Services for Adults with Mental Health Problems – Praxis –  
Question by Mr Waft for Written Answer**

**Question**

The hon. member Mr Waft to ask the Minister for Health and Social Security:

- (a) *What role do you envisage Praxis undertakings in the Isle of Man; and*
- (b) *what will be the cost of employing that agency to undertake that role?*

**Answer**

(1) My department has recently undertaken a comprehensive evidence-based review of services for adults with mental health problems. As part of this process research was undertaken on the needs of a group of service users on the Island. It was evident from the review that an important component of an effective service was appropriate support for service users to maintain effective community living. Service users are more likely to maintain good mental health if they have appropriate accommodation with support and meaningful daytime activity. At present this element of service provision is not available on the Island to a large number of service users.

It is these that Praxis are being asked to develop on our behalf. Praxis are the largest mental health charity operating in Northern Ireland. They have a proven track record in providing such services and their experience will be of great value to the Island in providing services that will complement our existing provision and proposed developments.

(2) My department has made financial provision for the implementation of the mental health strategy. The element included for contracting Praxis will be in the region of £215,000 for each of three years of a staged service development contract.

### **Millennium – Arts Council Projects – Question by Mr Lowey**

**The President:** So we turn to the second question, hon. members, and I call upon the hon. Mr Waft.

**Mr Waft:** Mr President, I beg to ask the Chairman of the Arts Council, Mr Lowey:

*What projects will the Arts Council be funding to celebrate the millennium?*

**The President:** The Chairman of the Arts Council, Mr Lowey, to reply.

**Mr Lowey:** Thank you, Mr President. I would like to thank the hon. member for his question. The Arts Council has been addressing the millennium for nearly two years and our objectives are threefold: to leave something lasting; to encourage support and organise celebrity events, including music, dancing and drama; and to further the cause of bringing art in all its forms to the public.

If I can revert to number one, leaving something lasting, a major new sculpture from the international sculptor Michael Sandle, who incidentally was raised on the Island, has been commissioned. This is well in keeping with the Council's ongoing policy of increasing visible art on the Island.

If I come to music, following the success of the all-Island theatre production of *A Midsummer Night's Dream* in 1997, the Arts Council are planning a spectacular all-Island opera production of Bizet's *Carmen*. This will involve singers of all ages from all over the Island, with an adult chorus of over a hundred and a children's chorus of over 50, plus the character parts by local singers, as well as bringing in professional singers for the leads. Also it will involve bands and it is hoped to see this production in the Villa Marina Royal Hall, effectively converting the Royal Hall into a bullring, and I think that is most apt. This will take place in July of the year 2000. This is a major community event and work on it is already under way.

Drama - negotiations are well under way to bring the Royal Shakespeare Company to the Island in the year 2000.

We also have plans to bring John Williams, the celebrated world-famous guitarist in concert, as well as other world-class musicians. They will include orchestras, bands and soloists. The Arts Council have also commissioned a major new work from composer David Ellis, and for those in brass band circles they will know just how famous that gentleman is, and this music is for the Island's brass bands.

The list I have read out is a taster for what is to come. Hon. members will note that we have not been given any specific extra money for the millennium, so we are extending and embellishing our ongoing work of the Arts Council.

Another difficulty - and they are only difficulties, I hasten to add - is of course the millennium will be spread over two financial years and while we can prepare in this financial year, we have no guarantee of funding in the next financial year, but I am certain, with last week's budget, that will be overcome.

What I can safely predict is that the millennium will be celebrated with style, and the objectives of bringing arts to the community will be the driving force.

**The President:** A supplementary, hon. member?

**Mr Waft:** Thank you, Mr President. As member of Tourism would you be making sure that all the facilities that are available through the Arts Council will be advertised within the tourist brochure and seen?

**Mr Lowey:** Certainly, I can give that undertaking.

**Mr Crowe:** A supplementary. It is a very ambitious programme and I was delighted to hear all of this. Do you encourage sponsorship for some of the events? I know you said you had limited funding, because there may be companies who would be prepared to assist. So I presume you have considered that?

**Mr Lowey:** Can I say that I do not think there is any event that will take place that is not actually sponsored as well as the Arts Council. Can I say, for example, that for the major sculpture, which is very expensive, which will cost in excess of £40,000, we hope to have a major part of that in private sponsorship. A lot of the musical events are certainly sponsored by Manx Airlines, the banking fraternity, the finance houses and, if I may say so, a lot of industrial firms generously sponsor a variety, whether it is dance, the plays, music. Sponsorship is very much in the forefront of our minds, augmenting what we have got. So, yes, that is already in hand and that will continue through the millennium.

**The Lord Bishop:** May I just ask the hon. member where the sculpture is to be sited?

**Mr Lowey:** The site has not quite yet been fixed but it will be in Douglas I am told and a variety of sites has been suggested, everything from the Villa Marina Arcade, which is due to be refurbished, to the new sports centre in Pulrose, but the site has not been finalised yet. That is in the capable hands of Sir David Wilson who is the chairman of the visual arts sub-committee.

**The Lord Bishop:** Thank you.

### **Planning Applications – Question by Mr Lowey**

**The President:** Question (3), the hon. member Mr Lowey.

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

(1) *In each of the last five years -*

- (a) *how many planning applications were (i) submitted and (ii) approved;*
- (b) *what was the total amount of fees received in respect of planning applications;*
- (c) *what was the deficiency, if any, in respect of the planning administration;*
- (d) *how many staff were employed to deal with planning matters; and*

(2) *how do fees for planning applications in respect of estates or other major developments compare with those in respect of smaller projects?*

**The President:** The hon. Dr Mann.

**Dr Mann:** Thank you, Mr President. In answer to part (1) of the question, the number of planning applications received in each of the five years was: year ending March 1995, 1,832, of which 1,629 were approved; year ending March 1996, 1,852, of which 1,601 were approved; in the year ending March 1997, 1,965, of which 1,669 were approved; year ending March 1998, 2,285, of which 2,020 were approved; year ending March 1999 to date there are 1,995, of which 1,504 have been approved. They estimate that the total will be in the region of 2,300 for the whole of the year.

The total amount of fees received in respect of planning applications was: in 1995, £154,422; 1996, £168,218; March 1997, £150,169; year ending March 1998, £204,194; and the estimate for this year, ending March 1999, will be £175,000.

The total deficiency for the planning division was: in 1995, £332,782; year ending March 1996, £260,293; March 1997, £295,719; 1998, £262,355; and the estimate for this year ending March 1999, £268,900.

The total staff of the planning division, excluding two staff wholly employed in mapping and excluding staff dealing with building control who were transferred to the division in October 1998, were: 1995, 15; 1996, 16; 1997, 15; 1998, 15; 1999, 17. Not all the posts were filled for the whole period.

Part (2) of the question. The fees for planning applications are laid out in the schedule of the Town and Country Planning (Fees for Application) Order 1998 which was approved by Tynwald on 14th July 1998. The fees for the layout on the estate, that is, the roads, plots and sewers, is £210. In addition a detailed application is required for each dwelling, with a fee of £110 per dwelling. The fee of £110 per dwelling applies regardless of the total size of the development.

The fees for smaller projects or residential properties range from free for the installation of replacement windows and satellite dishes up to £100 for substantial extension.

The fee for a new industrial or office building is up to £2,600, depending upon the amount of floor space created. Fees of up to £5,300 are charged in respect of applications for the winning, working or storage of minerals.

**The President:** A supplementary, sir?

**Mr Lowey:** Yes, Mr President. Would the hon. minister agree that the deficiency, which has been pretty constant at in excess of a quarter of a million pounds, could be addressed by increasing the fees to those who develop estates? It seems amazing to me that an individual house can be £110 and yet for an estate, in principle, it is only £210. There does not seem to be any comparison there.

**Dr Mann:** Certainly I will draw the attention of the minister to that observation.

**Mr Lowey:** I thank the hon. minister for his detailed reply. I appreciate it.

### **Road Widening Scheme – Question by Mr Lowey**

**The President:** Question (4), the hon. Mr Lowey.

**Mr Lowey:** I beg leave to ask a member of the Department of Transport, Mr Kniveton.

(a) *Why is the Cooil Road being widened to such an extent;*

(b) *what is the budgeted cost of the scheme; and*

(c) *why has the scheme been given priority over a scheme for Vicarage Road?*

**The President:** The hon. Mr Kniveton to reply.

**Mr Kniveton:** Thank you, Mr President. Why is the Cooil Road being widened to such an extent? The Department of Transport, of which I am a member but with no particular responsibility for highways, has identified the importance of the Douglas inner and outer link roads. These links go from Douglas harbour to Cronk y Mona and via Castletown Road, Kewaigue Road island, Cooil Road, Vicarage Road, Braddan School Road and Johnny Watterson's Lane. They were first promoted as part of the Douglas traffic study undertaken by the traffic consultants for the department, JMP, in 1990. It is within this background that Cooil Road is required to be to a standard commensurate with its importance to the Douglas traffic study.

The section over which the present roadworks are being carried out was deficient because of its width and lack of pedestrian facilities. The improvements involve widening the carriageway to 7.3 metres, grass verges on the south side and new hedge banks, together with pedestrian footway on the north side. I can assure hon. members that the finished scheme will provide a carriageway and pedestrian footway compatible with the existing Cooil Road.

What is the budget cost of the scheme? The estimate for the completed works is £617,000 which will be met out of the department's revenue budget.

Finally, why has the scheme been given priority over a scheme for Vicarage Road? The department has to identify areas where improvement schemes are required and prioritise both in Douglas and Island-wide.

Now, as part of the prioritising of schemes, the essential factor has to be the availability of land and a willingness on any landowner's behalf to negotiate for land release. Cooil Road had willing landowners, Vicarage Road has had many, many problems which have still to be overcome prior to the progression of a planning application. However, the department is committed to improving Vicarage Road as part of the Douglas outer link and provision currently exists within government's five-year capital programme. Thank you, Mr President.

**Mr Lowey:** Mr President, while accepting the hon. member's reply, obviously, would he confirm, would he not agree, that the Cooil Road is a straight road, it has never had pedestrian footpaths alongside it, there are no housing estates in that particular area, it goes up to an industrial estate, have there been any accidents on that particular road, and would he not agree that the Vicarage Road, for all its attendant difficulties, should have been a priority? There are accidents waiting to happen on that particular road which were never envisaged on the Cooil Road, and as for the state of the road, may I say that the Cooil Road was actually part of the whole route for the breakwater scheme and therefore it was of a quality and standard to take very heavy lorries with very heavy loads and it seems to me that the making up and widening of that road is a luxury.

**The President:** Reply, if you find the question. *(Laughter)*

**Mr Lowey:** It is there if you look hard enough, Mr President.

**Mr Kniveton:** There was one question in the middle actually. *(Laughter)* Have there been any accidents on that road? To my knowledge, I do not think there have been. But I believe that the hon. member has missed the point. We are talking about the inner and outer link roads of the future. Particularly, in this question we are talking about the outer link road which is to carry wide and heavy loads. That is why the Cooil Road is being built up to that standard now. It will be even the road to the north of the Island because it is going to finish up over Johnny Watterson's Lane in the end, as well as the south and the west.

Again, the point about Vicarage Road - we are tied. We cannot at this moment go forward with a scheme until we settle our land purchases, and I want to assure the hon. member that it is uppermost in our minds. We are very keen to progress it and we will as soon as we can. Thank you, sir.

**Mr Crowe:** Mr President, could I ask the member for Transport as to how long these negotiations on widening the road have been taking place, especially as you now deem it to be an urgent matter?

**Mr Kniveton:** Mr President, I know they have been going on for a number of years. What particular action we are going to take eventually is not for me to announce today, but I am sure my department is aware of the urgency and very shortly we will be taking some more dramatic action in this respect.

**Mr Radcliffe:** It is much more of a direct question I have, Mr President. In view of the difficulties which the member has explained about obtaining land to do the necessary works in Vicarage Road, has the department not thought about using the compulsory purchase powers which are available?

**Mr Kniveton:** I understand we have done so, Mr Radcliffe, we are considering it, but I think it would be wrong of me to announce any decision in that respect today. We have even considered using the present hedgerow on the right-hand side going up as an island through the middle of the road, with the attention then being diverted onto another landowner's piece of land to make another roadway down the other side, in other words a dual carriageway. There is a tremendous amount of work going into it. It cannot be done as quickly as we would all like it to be done.

**Mr Lowey:** Another 10 years.

### **Statistics Bill – First Reading Approved**

**The President:** Right, we turn now, hon. members, to item 2 on the agenda paper and I call upon the hon. Mr Radcliffe to take the first reading of the Statistics Bill.

**Mr Radcliffe:** Thank you, Mr President. The Statistics Bill has three main purposes and the first of these purposes is to bring the legislation under which the Treasury carries out the decennial test up to date because the Revenue Returns Act dates from 1894. It is 105 years old, that particular one.

The second major purpose of the Bill is to give the Treasury new powers to make co-operation by employers in the earnings survey compulsory.

The third purpose of the Bill is to give the Treasury new powers to collect other statistics subject to an order which would be approved by Tynwald, and this has been included as it was

thought unwise to introduce primary legislation with a restriction on the possible types of information to be sought. But I would say that there are no plans by Treasury to use these additional powers at present or in the near future, but it is purely a precautionary measure to have this particular purpose in the Bill.

I beg to move, sir, that the Statistics Bill be read a first time.

**Dr Mann:** I beg to second, Mr President.

**Mr Delaney:** I only have one query which I have already spoken to my colleague about. I said I was going to raise it. It is under clause 4 of this Bill and all of this has come in since the Data Protection Act and all the controversy that brought in, but in Mr Lowey's and myself's responsibilities for tourism and in other areas I have come across, well, I call it a ridiculous situation, and I am wondering, although the member is not responsible for that officer, whether or not it would be possible to get the message up through this Bill and Treasury upstairs to the Chief Minister's Office where I understand the responsibility lies. Recently, after trying to modernise the whole of that department of government into getting to the customers who show an interest by responding to questionnaires et cetera and advertisements, we then find in certain respects we cannot use that information to promote the product and yet, like you, Mr President, and everybody else here, I get unsolicited mail every day of the week, and where that information comes from, it must be on a base somewhere or from a telephone book or somewhere else or even some sort of local guide to who lives where. Yet in a government department - and I understand this happens in other government departments - we cannot use the information which we have already paid for in advertisements et cetera to pass on to our selling point which is travel agents et cetera, we are not allowed to do it, and I wonder under this clause, and I know it is a bit tricky to do, if we can get some answers, because this information makes it an offence to pass it on, and I understand why and we all understand why, but it does get to some stupidity where it has gone too far and when it is blocking the actions of government to improve the lot of the Manx people in our case and I have been thinking about moving amendments to that Bill and bringing a new Bill in to try and get some sense out of it because it is not working for our benefit at the moment.

**Mr Crowe:** Mr President, I was interested in Mr Radcliffe's remark this morning because schedule I gives very wide powers to seek information or obtain information, and I was interested to hear that principally this new Bill is to give greater accuracy on the decennial test and new powers for the earnings survey.

I think we have to be careful on the third power which is a wide power to ask for almost anything that a company is doing, and we have to balance the legitimate needs for statistical purposes and over-egging the cake, I would say, by widening the net unnecessarily, because, again, in this Bill there is no right of refusal on any grounds. Even if a company was worried about commercial confidence, there is absolutely no right of refusal and there appears to be no appeal. So perhaps the member could consider these points.

**Mr Waft:** I think this problem of the Data Protection Act is used widely when we are concerned about the actual targeting of individuals or firms. That is not possible under the Date Protection Act. However, it is only possible if they are taken to court for a breach of regulations and then they can be named. But it is a difficulty a lot of us come up with when we are trying to get some information, and it is the same with the Consumer Affairs when they are

trying to investigate exactly what is happening in whatever industry. They are limited because of the Data Protection Act, not only the Data Protection Act, but the confidentiality aspect of commercial firms, and we have to try and find out what the exact situation is with regard to the consumer.

My keenness in this Statistics Bill in hoping it will progress quite quickly is the fact that for the earnings survey in the past, and the recent December one has revealed, although the response from the public sector was virtually complete, the response rate from the private sector was only 48 per cent. So that is a significant reason for getting this Statistics Bill on the road. It is only when we get the full picture of what the employment situation is that we will be able to find out exactly where the problems lie in the wage rates on the Isle of Man. If we do not know that information, then it is very difficult to form a conclusion. In my view it will be much better once this Statistics Bill is in place.

But I take the reasoning behind the problem that the last hon. member spoke with regard to data protection and it may have to be looked at, perhaps in the future. Thank you, Mr President.

**Mr Lowey:** Mr President, I welcome the Bill but if I can just comment on my hon. friend's reasoned statistics, the statisticians will tell you that if they got 48 per cent of a sample, that is very high when they are dealing with statistics. So why suddenly we have to wait until we have a hundred per cent before we can move seems to me a very weak argument indeed and statistically speaking can be disproved quite clearly. Most statistics are based on only samples, very small samples, and yet we acted in that realm. However, that is for another time.

But I would agree that you are quite right to point out that it was the private sector who have been actually offered what I would call the option to reply and over half of them have chosen not to do so, which does make difficulties for government. But this has been recognised for a very, very long time. Over five years ago another report to Tynwald on low pay actually pointed it out, that there was the same problem, and yet five years later we have got the Bill, hardly moving at breakneck speed, and still the private sector have refused to co-operate with government. So I do not think we are over-egging the cake.

But I do look at the schedule to the Bill and there are five items on it. Perhaps the mover of the Bill could tell us, could the government add to the schedules and would any additions to the schedules have to have the approval of Tynwald or could the Treasury add to the schedule without recourse to public debate? Because I think that is fair. If they are going to add to them in the future, or subtract, then I think it should be with the approval of Tynwald, and if it is not in I think it should be.

**Mr Kniveton:** Mr President, following on from Mr Waft's comments on the earnings survey, it has been alleged that employers, as a matter of convenience, have been putting figures into that survey to suit themselves, whether they up the figures or down the figures. Now, I see that within the Bill there is a penalty for wrong information.

Now, the hon. member Mr Radcliffe may like to hold this one over for another time, but I would like to ask him what check will the government department have on those people who put wrong information in, compared with the correct information, say, on a person's income tax return? There again he may not be a taxable person, so there is no information going in. But

how does one prove that the information put into an earnings survey is correct? I know there is a penalty for wrong information, but you have got to prove it is wrong or prove it is right. Perhaps Mr Radcliffe might like to hold that one over for another time.

**Mr Waft:** Just on a point of clarification, Mr President, I did not say that anyone was putting wrong information in.

**Mr Kniveton:** I know you were not.

**Mr Waft:** What I was saying was there are 48 per cent not putting anything in at all.

**Mr Kniveton:** I accept that.

**Mr Crowe:** Just on the earnings survey, I think the problem is it has been skewed because the higher earners have been submitting their returns and the lower earners have not been submitted, so it has been distorting the earnings survey because of not necessarily the under-returning of statistics but the skewing towards the high bracket, and this has led to discord as to the meaningfulness of the survey, and I think that is the problem there has been.

**The President:** The hon. Mr Radcliffe to reply.

**Mr Radcliffe:** Thank you, Mr President. I thank members for their interest in this Bill, and some of the points raised I can answer and one or two others I can not. I shall endeavour to sort it out at a future date.

If I take the hon. member Mr Kniveton's remarks first, the penalties and who or whatever can check if the information given is wrong, the one thing I can tell him is that that check will not take place through income tax records because tax records are confidential to the tax office and no-one, bar that particular section, has access to the information on tax returns. But I will endeavour to find the answer for the hon. member for the next meeting.

The hon. member Mr Delaney has raised the question of data protection, and I will make some enquiries as to whether it may or may not be able to be done on that particular front.

The hon. member Mr Crowe raised the powers which the Treasury would seek and which are in schedule 1. He mentioned any further powers which Treasury may seek to have, but there is in one of the clauses in the Bill that any new matter introduced is subject to Tynwald approval, and that is quite specific.

He also mentioned that the survey as it stands at the moment, with the poor response from some sectors of the employers, is askew, and that certainly has been recognised for long enough anyway. The good employers certainly submit returns. The poorer employers, if I can call them that, who are not paying quite so much, do not submit returns, so therefore the whole thing is misleading, to say the least, anyway and as soon as an earnings survey's results are given to the media and the public in general there is a huge racket. It would appear that only about two people are earning the figures that are mentioned in the survey and about 10,000 that are not. So at least with this particular Bill we will have a proper return of the 48 or 50 per cent that we are getting at the moment from the better employers.

The hon. member Mr Waft mentioned that particular point, the lack of confidence that there is with the result of the earnings survey. When this particular Bill is law the figures will be more precise and much more meaningful and will be accepted, I think, much more readily by those who at the moment are stern critics of the survey.

The hon. Mr Lowey made the point about a sample should be sufficient for our statisticians, but it is not sufficient at all. What we are getting at the moment really is a sort of a sample of 50 per cent or so, and certainly it is not sufficient for our purposes anyway.

Waiting five years for the Bill - I doubt it has been that long but it has certainly been in the pipeline a little while, but again, as with most Bills that Treasury handles anyway, there is a certain amount of dialogue between Treasury and those who are going to have to submit these returns. It is fair to say that not everyone is happy but we are pressing ahead now anyway and hope to get the thing on the statute book before too long.

Mr President, as I say, one or two I have been able to answer. I will seek answers to the specifics for the next reading stage of this Bill and I would beg to move that the Statistics Bill be read a first time.

**The President:** I will put the resolution, hon. members, that the Statistics Bill be now read a first time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Do you wish to go further today, sir, or not?

**Mr Radcliffe:** Well, not really, sir, because I have undertaken to find one or two answers for hon. members and although the Bill has been a little while hatching, there is not that much rush in the dispatch of it.

**The President:** Well, hon. members, that concludes the business set out on the agenda paper. The Council will now sit in private.

*The Council sat in private.*