

**REPORT OF PROCEEDINGS OF
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 8th February 2000
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 QC), Hon C M Christian, Messrs E A Crowe, D F K Delaney J R Kniveton, E G Lowey, Dr 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.

Contract of Employment Legislation – Policing – Question by Mr Lowey

The President: Hon. members, I call upon the hon. Mr Lowey to ask the question standing in his name at item 1 on the agenda paper.

Mr Lowey: Thank you, Mr President. My apologies for my late arrival. I beg leave to ask a member of the Council of Ministers:

- (a) *How many officers are employed full time/part time in policing contract of employment legislation;*
- (b) *how many inspection visits were made to employers' premises over the past two years; and*
- (c) *how many prosecutions have been instituted, if any?*

The President: The hon. Mrs Christian to reply.

Mrs Christian: Mr President, my understanding is that the Department of Trade and Industry employs two full-time officers to conduct visits to employers' premises to ensure compliance with all aspects of employment legislation, and that includes the legislation relating to written statements of terms and conditions of employment.

During the two-year period to December 1999 over 600 visits were carried out. Of these, 211 involved investigations related specifically to contract of employment matters.

With regard to the final part of the question, I am advised that no prosecutions have been taken out. Where deficiencies are identified, the process allows for the employer to be advised of the required action to be taken and an opportunity is then provided for the situation to be corrected within a reasonable period of time. In all cases this approach has led to compliance with the provisions of the legislation.

Mr Lowey: Would the minister confirm that there are over 5,000 employers on the Island and are two officers adequate to actually deal with these legal requirements under the law, which is to check that contracts of employment are in place? Is the hon. minister satisfied that the resources put towards this end are adequate?

Mrs Christian: Mr President, the Department of Trade and Industry believes from the evidence of visits which are carried out that there is no major problem in terms of employers willingly disregarding this aspect of the law. Occasionally they find that there are minor

deviations or omissions and they have, under the law, a period to put right and that is generally done. If the department felt that there was a major issue they would certainly give consideration to directing additional resources to this area.

Mr Lowey: Mr President, could I ask a further supplementary? On the figures that the minister has given to the Council this morning, 600 visits, over 200 have needed to be followed through. That is a ratio of a third, and yet the department does not think that there is a problem?

Mrs Christian: Mr President, perhaps the hon. member is misinterpreting those numbers. The suggestion that 211 had to be followed through is not correct. Two hundred and eleven were specifically involved in checking all contracts of employment and statements. It does not imply that there was something wrong in all of those situations.

Housing – Publicly Owned Houses Untenanted – Question by Mr Lowey

The President: Question 2, the hon. Mr Lowey.

Mr Lowey: I beg leave to ask a member of the Department of Local Government and the Environment:

- (a) How many public's owned houses were untenanted at 31st January 2000; and*
- (b) how long is the changeover period of tenancy?*

The President: The hon. Mr Crowe to reply.

Mr Crowe: Thank you, Mr President. Following the receipt of the questions from the hon. member, information has been sought from the functioning housing authorities.

In answer to part (a) I can say that at 31st January 2000 there were a total of 69 untenanted public sector housing units out of a total stock of 5,292 housing units. In percentage terms this equated to 1.3 per cent of the housing stock.

As regards part (b) of the question, it is difficult to produce a meaningful average figure for the changeover period of tenancy because of such matters as the varying amounts of remedial work required prior to re-letting and time lost if tenants leave without notice, which distorts the figures. From the information supplied by the housing authorities, an average of approximately three weeks has been given as an appropriate approximation for the changeover period. From the date a property is offered, however, the applicant has seven days in which to accept the tenancy and has a maximum period of four days in which to move into the property prior to the commencement of rent being charged.

Shops Bill – Third Reading Approved

The President: Hon. members, we move on, then, to the next item of business which is item 2 on the order paper and I call upon the hon. Mr Waft to take the third reading of the Shops Bill.

Mr Waft: Thank you, Mr President. In moving this third reading of the Shops Bill I should firstly like to remind hon. members that the principal objects of the Bill are to repeal the existing regulation of shop opening hours on Sundays under the Shops Act 1985, to prohibit the opening of shops on Christmas Day, to introduce new employment protection provisions for shop workers in respect of work on Sundays and Christmas Day and to continue to

regulate the hours which shop workers may be required to work under their contracts of employment.

Although some amendments were successfully moved at the clauses stage in another place, the Bill remains largely as originally presented to hon. members in the green Bill, but for the sake of clarity I shall outline the amendments and the effect they have on the Bill.

Clause 1, dealing with the interpretation, was amended so that the definition of Sunday, which already included Christmas Day, also now includes Good Friday.

Clauses 2 and 3 deal with the prohibition of shop-opening on Christmas Day and the enforcement of that prohibition by the Office of Fair Trading and remain unchanged.

The main elements of the Bill are contained in clauses 4 to 22 and are considered with providing adequate protection for employees who may not wish to work on Sundays.

Clause 4 defines the meaning of a 'protected worker'. This is someone who will be employed prior to the commencement of the Bill when it is brought into operation and whose contract of employment does not require him to work on Sundays or only on Sundays. Provision has been made for those protected workers who may wish to work on Sundays to opt in, and at clause 5 an amendment was successfully moved in another place which requires an employer who wishes a protected worker to work on Sundays to issue an opting-in request; then, not less than seven or more than 21 days after receiving the request the employee may give the employer an opting-in notice. Both the request and the notice must be in the form prescribed by order made by the Department of Trade and Industry, and failure to meet the requirements of this amended clause render the opting-in notice void.

Clauses 6 and 7 deal with a situation where a shop worker who is not employed solely to work on Sundays may opt out of Sunday working by giving his employer a written notice signed and dated by him stating that he objects to Sunday working. Following the issue of the opting-out notice, the employee was required to work as previously for a further three months, but following the amendment moved in another place, this period of notice has been reduced to one month.

Clauses 9, 10 and 11 deal with the employee's rights such as not to be dismissed for refusing Sunday work, redundancy, the exclusion of a qualifying period and upper age limit on the Employment Act 1991, and the right not to suffer detriment for refusing Sunday work. Clause 13 places a duty on the employer to give an explanatory statement in a prescribed form explaining how an employee can opt out of Sunday working. If the employer fails to provide the statement within two months, then the employee now only has to give 14 days' notice before ceasing Sunday working, following the amendment successfully moved by my hon. colleague Mr Crowe.

The other successful amendment to clause 13, which was moved again by Mr Crowe, revised the explanatory statement to make it clear to employees that they could opt out of working on Christmas Day and Good Friday as well as Sundays.

Clauses 14 to 21 were successfully moved without amendment. These take into account the effects of the rights granted to shop workers, and their contracts of employment. It should be remembered that this legislation is almost unique in allowing an employee to unilaterally alter their contract of employment. These clauses have to take account of those changes,

particularly in relation to contracts of guaranteed hours or remuneration, and where disputes arise an employee has the right to make a complaint to the Employment Tribunal. Importantly, the rights granted under the Bill cannot be excluded by any provision in any agreement. In clause 20 a correction to the drafting error was made to state 'the tribunal' rather than 'the industrial tribunal'.

Clause 23, dealing with the shop workers' hours, is merely a statement of the provisions currently contained in section 1 of the Shops Act 1985.

Clauses 24 to 27 are supplementary, dealing with offences by bodies corporate, an amendment to the Employment Act 1991, the repeal of the Shops Act 1985, the short title of the Act and provisions for the bringing of the Act into operation by the appointed day order laid by the Department of Industry.

Clause 25 was amended in the other place and requires the Department of Trade and Industry to provide information in a particular way to employees about their rights under the Employment Act, Redundancy Payments Act and this Bill. Comment was made at the clauses stage about the omission of a definition for the term 'tribunal', which appears throughout the Bill, but I am reliably informed that this is unnecessary as clause 1(2) provides for the interpretation of the Bill, as it does under section 88 of the Employment Act 1991.

Hon. members, I believe the Bill meets the objectives I mentioned earlier and provides an adequate balance between the needs of a modern-day retail industry and the rights of shop workers, and I commend it to you as a worthwhile and workable piece of legislation.

I beg to move that the Shops Bill 1999 be read a third time and do pass. Thank you, Mr President.

Mr Kniveton: Mr President, I beg to second that and, in so doing, I have to say I have had no problem accepting this Bill and I am also quite happy to accept it in its amended form.

I believe we can divide the Bill into three headings: firstly, the shop hours, and I believe it is correct that a level playing field is being created. All can open for the same hours. But we must remember no shop has to open at all on a Sunday; they have the choice. Closing all shops on Christmas Day, I believe, is quite correct. Secondly, staff - shop workers, as they are named - I believe that enough has been said, certainly by Mr Waft this morning; he has made absolutely clear. Enough has been said of regulation of hours on Sundays. I am quite confident that shopkeepers will find, despite the concerns of members, ample staff from persons working or wanting to earn extra wages, not only from existing staff but from students, senior citizens and/or persons even having two employments.

Finally, I must refer, of course, to the sabbath. Yes, I feel it is a pity that these changes might have some effect on Sundays, but I believe - I am a realist - we have to move with present-day requirements and I believe it is what the vast majority of people want in this day. People can still go to church from 7 p.m. on a Saturday until 7 p.m. or so on a Sunday, and in the end I think it boils down, if there are arguments between the church and those who do not go to church, I do not think churchgoers, who are in a very small minority situation, should really determine what the vast majority of people should do on a Sunday.

As I said, I second the third reading.

The Lord Bishop: Mr President, could I just, in response to that, say it is a very unhealthy argument to say the majority of people therefore makes it right. I would remind the hon. speaker that the majority of people wanted Barabbas rather than Jesus, but that did not make it right. But I am grateful to the hon. mover of the Bill for delaying it for a week and allowing me the opportunity to speak to today's third reading.

A dramatic headline in last week's *Examiner* caught my eye when I came back from York. It said, 'Bon-Ton Emporium, open for business since 1934, is to close.' The following text went on to say that John and Annette Abraham have bowed to the inevitable as a result of changing shopping habits. I have no doubt, once this proposed legislation kicks in, we shall witness the demise of other small retailers who will not be able to afford to compete with the big players and will also bow to the inevitable.

It is also ironic that in this millennium year, the year in which we highlight the 2,000 years since Christ's birth, the Manx Government will go down in history for introducing legislation which torpedoed one of the main gifts which he gave to humankind. I realise that statements made here this morning at this reading will make no difference to the passing of the Bill, but I must enunciate the concern and surprise of many citizens who are convinced that the majority of their politicians are ignoring the considerable elements of discrimination which this Bill contains. I have a sympathy for those who will make a firm stand against working in shops on a Sunday. In competition with others who have no such scruples they will hardly be likely to get the job, or, if they do, they stand to have their hours and their pay cut considerably.

I also fail to see the logic in some of the arguments put forward in here this morning. On one hand we are told that people must have the right to choose what they do with their Sundays; well, that is all right. On the other hand we are persuaded that families will have more opportunities to do things together. But surely, if more shops are open and more people choose to work or find that they have to for various reasons, more family members will be involved - they are bound to be - and therefore less able to enjoy a family day out because they will be working.

There are many factors involved in preserving the essence of Sunday - biblical, economic, social and even medical - and I believe that we shall live to regret not exploring these more deeply than we have in our attempts to improve the 1985 Shops Act.

Most Christian denominations will view the sea change in the nature of the Island's Sunday with great sadness. It would be remiss of me if I did not conclude my remarks at this stage of the Bill without making some specific Christian reference. Now, everyone respects the work and lifestyle of the Salvation Army, and I say that because you might accuse me of being churchy at this point. If ever a group of people showed a down-to-earth, no-nonsense approach to religion it is them.

I can do no better than to quote from their official policy statement on Sunday observance: 'The Salvation Army is aware that in any highly-organised society some forms of labour will be essential, but considers that commercialised sport, political meetings and unrestricted trading secularise the day intended for renewal and refreshment. Believing that the well-being of society depends on the strengthening and stability of family life, the Salvation Army wishes to see Sunday as a day on which every opportunity is given for family members to be together. The day should therefore be kept free from all unnecessary work. It is

recognised that legislation in itself in a secularised society cannot safeguard the Lord's Day, but the Salvation Army believes that the legalising of unrestricted retail trading on Sundays will have adverse social, cultural, economic and psychological effects, and it supports the efforts of groups opposed to this. Those whose beliefs or consciences will not permit them to work on what they see as the Lord's Day will be particularly harmed by the removal of all restrictions. Where Sunday work is permitted there should be legal safeguards against unreasonable discrimination in recruitment or deployment of staff. Whatever changes may be made in the secular regulations relating to Sunday, Salvationists will continue to use the day for worship and the proclamation of the gospel and will exert every influence possible, especially in their own families, to make and keep Sunday a holy day. They will demonstrate by their own use of Sunday that it is recognisably a different day in which the worship of God has priority.'

It is because I see the sound common sense in these comments and because I continue to believe that the Bill is confusing and discriminatory that I shall not be supporting it this morning.

Mr Lowey: Mr President, I said at the start that I would be supporting the Bill in its overall objectives and I am still going to support the Bill. I do not share the seconder's panacea that this will cure all the ills and it will be the level playing field that he presumes it will be. I think it is bowing to an inevitability but I do not think it is the panacea.

The great thing that worries me - and I draw attention again to what I drew in my first question to the hon. minister this morning - is about the policing of the legislation. Now, I look in it and I see that the Office of Fair Trading is going to police it. Well, if we get as much policing of this legislation as we have of the contract of employment legislation, so much for policing! I think it will be words, not action, and therefore, while I do not challenge the intent of the movers of the legislation, I think in practice it will be a different kettle of fish which then strengthens the arguments that have been put forward by my Lord Bishop. Having said that, I am concerned about the policing. I will be keeping a watching brief, as you can imagine, of this legislation as it is introduced. However, just on balance it keeps my support.

The President: Does any other hon. member wish to speak? If not, I call upon the hon. member to reply.

Mr Waft: Thank you, Mr President. I thank the hon. member Mr Kniveton for seconding the third reading and noting that he makes comment of the fact that no shops have to open on Sundays, and it does open up further opportunities for those who wish to work on Sundays. I thank the hon. member.

I thank the hon. Lord Bishop for his comments referring to the changing shopping habits and the small traders being affected by this legislation. This legislation does perhaps help the small trader and this was part of the other requirements of some of the small traders to be on equal terms with their larger partners.

With regard to the element of discrimination, the discrimination does tend actually towards helping the shop worker in the situation and his ability to opt out or opt in, and it is entirely down to the shop worker.

With regard to the hours and pay cut considerably, any manager of any establishment would try to equal out the workload for his employees and nobody needs to feel that he is

disenfranchised by not working on Sunday. If he does not feel he needs to work on a Sunday and requires not to work on a Sunday one cannot expect legislation to comply with the payments rendered as a consequence. I would hope that managers would consider the employee's situation in all situations.

With regard to the needs of the family, I respect his thought on the matter. He refers to the Salvation Army and their ethics with regard to Sundays.

With regard to the hon. Mr Lowey, I thank him for his qualified support. He is concerned about the policing and the Office of Fair Trading and is not overly convinced that it will be policed adequately. I would just say to the hon. member it will be much easier for the Office of Fair Trading to police this legislation than the legislation previously existing. Thank you, Mr President.

The President: Hon. members, I will put the resolution that the Shops Bill be now read a third time and do pass. Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Lowey, Waft, Dr Mann, Messrs Kniveton, Radcliffe, Mrs Christian, Messrs Delaney and Crowe - 8

Against: The Lord Bishop - 1

The President: Eight votes in favour, hon. members, 1 vote against; I declare the resolution carried.

Public Health (Amendment) Bill – Third Reading Approved

The President: Item 3. I call on the hon. Mr Crowe to take the third reading of the Public Health (Amendment) Bill.

Mr Crowe: Mr President, the Public Health (Amendment) Bill concerns two principal issues and two issues of lesser importance. The principal issues concern the area of waste management, collection, disposal and duty of care, and secondly, the control of ruinous, dilapidated, neglected or unfinished buildings where there is a detriment to the amenity, and also provisions regarding unsightly gardens and open space. The other two issues relate to the creation of an express power for the Department of Transport to run a knacker's yard and, secondly, updating of the designation of certain officials: the director of public health instead of community physician and environmental health officers instead of environmental health inspectors.

At the second reading and clauses stage, hon. members raised the following issues which I should like to respond to. Mr Lowey referred to the Department of Local Government being the operator and also the regulator of waste disposal sites. I would like to draw members' attention to the Isle of Man Government's 1999 Policy Review from which I quote: 'To prepare for the creation of a separate waste management board with effect from 1st April 2002 to be responsible for operational matters, thus freeing the department to exercise its independent regulatory role and to implement legislation to provide for a duty of care under the Public Health (Amendment) Bill and a code of practice in relation to the management of waste, having regard to measures contained in the UK environmental protection legislation, the

department's environmental health division will be responsible for progressing the necessary secondary legislation.'

Mr Waft raised the issue of forward planning by local authorities and the need to build into the budgeting process the level of any charges. I would confirm that an extensive consultation process has taken place with all local authorities. This consultation has been very thorough and has highlighted the issue of charging.

Mrs Christian raised the question of remote properties and the situation if a local authority refused to collect waste from those properties. I would advise members that the new Bill represents no change in policy. There already exist on the Island places where refuse collection vehicles of local authorities cannot gain access by virtue of the limitations imposed by their vehicle size. What happens then is that local arrangements are put in place for householders to put their waste at the end of the lane or road or at a specific collection point. This clause represents no change in policy; it just gives a statutory base to continue with the practice currently undertaken.

Dr Mann in clause 6 made reference to charges and the overall authority of Tynwald. The extent of any charge proposed would be a matter for the department in the first instance, and then of course for Treasury consent and ultimately for approval by Tynwald Court. I would like to affirm the charging for the disposal of waste in this Bill is a permissive power.

Mr Waft also asked about the appointed day or days. This Bill does require some secondary legislation and this is currently being drafted. Subject to this, the Act is likely to come into force within the next few months.

Mr President, I beg to move the third reading of the Public Health (Amendment) Bill.

Mr Delaney: I beg to second, Mr President.

Mr Lowey: Mr President, can I just concentrate my final thoughts on this particular Bill on the answer given by the hon. mover when he says extensive consultation has taken place with the local authorities. Could the hon. mover inform the Council, has any local authority in the Isle of Man given any hint of approval to the department's stance on this matter, and can he tell me, is the department listening to the local authorities and, more importantly, is the department prepared to act on the recommendations or the outcome of that consultation? It is all right to say you have had extensive consultation, but when you consult and at the end of the day then just go your own way, which you had started out doing, what was the point of the consultation? I am afraid that the answer that I am getting from local authorities is that they do not like what the local government board are proposing, and therefore to reply that consultation has taken place seems to me to be like saying 'Well, we're listening to you but after listening to you we're going to ignore you and do what we want anyway.' So it is a pointless exercise. Would that be a fair summarising of the consultation so far?

Mr Waft: Mr President, with regard to the Onchan area I think the member might be able to correct me but the department, in consulting with that authority - assurances were given that only a part of the disposal costs will be passed on in the way of charges to local authorities after consultation and that the introduction of such charges will be phased in over a three or four-year period. Would you like to comment on that? And also, as I mentioned previously, with regard to the appointed day order, when the investigations have taken place, when will

the charges actually start to hit the local authorities? At what stage? Will it be after the incinerator has been built or during the building? Exactly when is the crunch going to come for local authorities to start budgeting and will it be phased over a three or four-year period? Thank you, Mr President.

The President: Reply, hon. member.

Mr Crowe: I am not sure whether I need a crystal ball! (*Laughter and interjection*) I thank hon. members, and thank the hon. Mr Lowey for his comments on this point. I think what we have here is an all-Island problem of waste disposal and we do need the co-operation of everybody in the Island including local authorities to solve this problem. We all produce waste, we all know there is a cost involved, we know it is not a nice subject that we have to be involved in, but I think the question that Mr Lowey raised, was there any hint at approval by local authorities, is the department listening to the local authorities and the local authorities do not like what they hear - I think we have to have a collective agreement by the department and the local authorities to move this problem forward, to move the issue of incineration forward, of all the measures that the department wish to take in recycling, reusing, setting up amenity sites, setting up recycling sites, setting up composting schemes; all of these initiatives are going to move forward and I think the question of charging is one that will focus the minds of local authorities on other initiatives such as reusing waste and recycling and composting, and all these things will cut down on the input into the proposed incinerator.

I thank Mr Waft as well for his point, that he has obviously had specific discussions with the Onchan local authority and again, as I mentioned earlier when I spoke about the charging, the whole thing is a question for Tynwald. The legislation states that the department may introduce charges, a similar approach to that adopted in the recent Sewerage Act. Whether any charges are levied and what those charges may be is a matter for Tynwald to decide. So all I can say is I do not have the details of when these were charged. I am happy to circulate members with a proposal when this is likely to come because this might help local authorities in their forward planning.

So with those remarks, Mr President, I beg to move the third reading.

The President: Hon. members, I will now put the resolution that the Public Health (Amendment) Bill be now read a third time and do pass. Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: The Lord Bishop, Mr Waft, Dr Mann, Messrs Kniveton, Radcliffe, Mrs Christian, Messrs Delaney and Crowe - 8

Against: Mr Lowey - 1

The President: Hon. members, 8 votes have been cast in favour of the resolution, 1 vote against; I declare the resolution carried.

Acquisition of Land (Amendment) Bill 1999 – Third Reading Approved

The President: We now turn to item 4 on the order paper, which is the Acquisition of Land (Amendment) Bill, and I call upon the hon. Mr Radcliffe to take the third reading.

Mr Radcliffe: Thank you, Mr President. The object of this Bill is to make amendments to the law as it stands relating to compulsory acquisition of land. It has had a fair airing in this hon. Court last week and there was little criticism, I do not think, of the content of the Bill. It alters the rules relating to the assessment of compensation for compulsory purchase; an extra payment of 10 per cent of the value of the land is to be made on account of the acquisition being compulsory. There are various systems of home loss payments incorporated within this Bill and of course a total extinguishing basis for a business tenant aged 60 or over.

Compulsory purchase has never, ever been popular but there are times when the land is required for public purposes and this can only happen under the terms of this Bill after it has been passed by Tynwald with a fair price being agreed and certain powers there to protect the interests of the landowner. It is a power which is rarely used and I do not think it will be used any more often because this Bill will come into being, even though the terms of it are a little more generous than currently is the case. In effect, this Bill will make the use of compulsory powers more palatable by enhancing the rights of owners and, as I said in the early clauses of the Bill, the occupiers of land will now be entitled to compensation.

Little more to be said, sir, and I beg to move that the Acquisition of Land (Amendment) Bill 1999 be now read a third time and do pass.

Mr Delaney: I beg to second, Mr President, but, unlike the mover, I believe this Bill will become more active than the need for compulsory purchase in the past. It is a basic necessity that the government and local authorities and others who are in the welfare of the public require land, and if nobody can see that - maybe I am the only man who has got eyesight in the Isle of Man - the fact of it is that we are going to need land for the housing and the welfare of our own people, and at the price that land is now fetching and will fetch, unless there is a real down and we all hope that will not happen in the economy, the government is going to have to acquire land. I am convinced of that, and the idea that it is only going to be green fields that we are going to be acquiring is crazy, because do we accept that we just move every person eventually out of the central built-up areas and put them in green fields, or do we accept the real sensible attitude that we have got to keep the people in our own towns? And where brown areas are identifiable in the town, that is the place we are going to have to put people unless we just abandon the towns of this Island like they have done in Britain to the people who will circulate those areas after dark and that has been the biggest mistake they ever made in planning terms. If you look at Liverpool and other major cities and smaller towns you will see that there has been a mistake of the highest order, and I believe this Bill will be needed more often than the law we had previously, just for that matter. We will have to do it, and the price that land is fetching - I am sorry, the one thing about this Bill that does upset me a little bit is that 10 per cent - will it be enough to be able to acquire this sort of land at the prices and the way it is rising? I think that is the difficulty for us in the future but I do believe that the Bill will be used more often.

Mr Lowey: Mr President, I think the mover of the Bill has got the general support of the Council on this particular Bill. I too was only going to concentrate on the last paragraph of the explanatory memorandum, where it says it is expected the Bill can be implemented with existing manpower provisions, but of course it is not the manpower provisions that will actually be the cost of this Bill; the provisions will be when it actually comes to buy land. Now, the ordinary price of land is very high and we are going to pay 10 per cent more to get over it; it

says in this, 'It is possible that the Bill will increase public expenditure above the 1984 Act'. Well, that is understandable, as the member for Council has just said, and ministers have said that they are in favour of going for more compulsory purchases in the near future. All I am asking the mover of the Bill is, if compulsory powers are to be used more frequently, where does the money come from? And, under the 1984 Act as enacted, where does that money come from? So there must be a pool of money there somewhere for the compensation to be paid out of. Again, I think if we are passing legislation it should be apparent from which pocket it is going to come out of, and I would just be interested as someone who should know these things but really has not a clue; it comes from the Treasury, I know, eventually, but is it a sum of money that is available for compulsory purchase annually voted by Tynwald or is it just out of general revenues if and when they are accrued? If the mover could answer me that query I would be grateful.

Mrs Christian: Mr President, I think the Bill goes some way to improving the situation for the person who is subject to compulsory purchase. I think that we need to be a little cautious of giving the impression that somehow, because this legislation is coming in, there is going to be an increase in the number of compulsory transactions. I think we have to be cognisant of the rights of the individuals still and make the point that these sorts of powers are not to be used willy-nilly.

The one concern I do have about this is that there may be somehow a feeling developing that this is the way to bash ahead and individual rights and so on can be put to one side. Now, I think we all accept that there are occasions where that is necessary and obviously it would be for Tynwald to determine that.

The one area that perhaps I have some reservations and, some concerns about but I recognise that in some circumstances it is necessary is in the new section inserted in the Government Property Trustees Act in clause 9 which gives Tynwald a very wide power to acquire land in exceptional circumstances and by reason of its exceptional nature. I think that whilst I have certainly voiced my support in respect of that measure at a previous reading of the Bill I think, if this atmosphere seems to be developing that this is going to be used frequently, I would have concerns about that clause because I hope that this Tynwald or any other Tynwald is not going to be carried away by the powers that this gives them. It is very hard to define what 'exceptional nature' or 'exceptional circumstances' are, but I hope that Tynwald, whenever it comes to use that particular power, will weigh it up very, very heavily against the rights of individuals.

The President: Reply, sir?

Mr Radcliffe: Thank you very much, Mr President. I am grateful to hon. members for their comments and I think the comment that compulsory purchase will be invoked more frequently when this Bill becomes law - I would be very disappointed if that was the case. The hon. member, Mr Delaney, is convinced in his own mind that there will be a lot more compulsory acquisitions. There are safeguards in the Bill, of course, where, if a landowner is aggrieved he can appear at the bar of Tynwald, as I said, in the second reading stage and in the clauses stage; safeguards are there. Tynwald, in my experience, has always been very fair when it comes to hearing individuals at the Bar; they do get a very good hearing. The case is well aired and I would be disappointed, as my hon. friend in the right says, if departments were to bash ahead and override the individual's rights; I would be very disappointed if that was the

case. Tynwald approval, as I say, is required anyway and, if there is a doubt zone in hon. members' minds in Tynwald, they will not readily go with the resolution for compulsory purchase.

I acknowledge again - and I go back to the hon. member Mr Delaney - that brown land is required for development and is indeed being purchased now for development in a certain area of this town. It is a longer-term investment for government, but all the purchases up to now have been by agreement and there has been no question raised regarding compulsory purchase and there has not been up to now, to the best of my knowledge anyway, any one person who has said, 'No, I won't sell my land; I'm going to hold the whole development up'. Everyone approached has been quite amenable to the sale of land and the compulsory purchase is certainly nowhere there, not even in the background I would suggest.

The hon. member Mr Lowey talks about the cost of the Bill. There will be, one has to acknowledge, the extra 10 per cent that has been offered anyway, which is going to lead to a certain rise in cost. Where does the money come from? Well, departments have estimates which they submit, there is a land bank vote within government, as the hon. member well knows. If need be, that money can be used but certainly it comes from general revenue. It is not separated out as at this time, apart from the land bank vote which is -

Mr Lowey: It is just the land bank vote then?

Mr Radcliffe: Yes, but the department, if they know that they are going to be purchasing land or seeking to purchase land, will put that in their estimates probably as a capital venture.

Little more to be said, I think. As I say, the Bill will certainly enhance certain individuals' rights when it comes to compulsory purchase and I beg to move, sir, that it be read a third time and do pass.

The President: Hon. members, I will put the resolution that the Acquisition of Land (Amendment) Bill be now read a third time and do pass. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Now, hon. members, there being no further legislation forward for our consideration, that concludes our business for this day and Council will now adjourn to Tynwald on 15th February. Thank you, hon. members.

The Council adjourned.