

**REPORT OF PROCEEDINGS OF  
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 9th May 2000  
at 10.30 a.m.**

Present:

The President (the Hon N Q Cringle); the Attorney-General (Mr W J H Corlett Q C), 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 Chaplain of the House of Keys took the prayers.*

**Apologies for Absence**

**The President:** This morning, hon. members, we have apologies from the Lord Bishop who I understand is conducting the Archbishop of York around the Island or meeting him this morning anyway.

**President of Tynwald – Welcome**

**The President:** We turn then to our order paper and question 1 is for the hon. member for Mr Lowey. Hon. member.

**Mr Lowey:** Thank you, Mr President. Before I do that, sir, could I on behalf of all members of the Council and the officers of the Council congratulate you very warmly on your first day in the chair presiding over the Legislative Council. (**Members:** Hear, hear.) We are delighted to see you and I know that you will conduct the affairs of this Council with your usual skill and diplomacy.

**The President:** Thank you, Mr Lowey.

**Minimum Wage – Introduction of Legislation – Question by Mr Lowey**

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

- (a) *How many organisations and individuals have been consulted in the past three months in regard to legislation to introduce a minimum wage; and*
- (b) *when will this legislation be introduced into the branches?*

**The President:** And Mrs Christian.

**Mrs Christian:** Thank you, Mr President. Can I assure the hon. member that the chairman of the MEA has not been made chief executive of the authority.

**Mr Waft:** You have the wrong question.

**Mrs Christian:** Oh, sorry.

**Mr Delaney:** That one must be worrying you!

**Mrs Christian:** I do apologise, Mr President. I had them in the wrong order. Right. So we are back now to the minimum wage.

The position is that at the February 1999 sitting of Tynwald an amended motion was carried receiving the report of the Select Committee on a Statutory Minimum Wage by

referring it to the Council of Ministers with a view to proposals being brought forward not later than the October sitting of Tynwald. In response to that motion the Department of Trade and Industry issued a consultative document to interested parties and prepared a report explaining the outcome of the consultation exercise and recommending that legislation based on the findings of that document should be added to the legislative programme. The recommendation was approved with an amendment stipulating that a Statutory Minimum Wage Bill should be introduced in the Keys no later than the 23rd May 2000 sitting.

Since February the department has been working with the learned Attorney's chambers to draft such a Bill and this has recently been approved by the Council of Ministers for introduction to the branches.

**Mr Lowey:** Could the minister, Mr President, confirm that members of the legislative will have sight of the proposed Bill before it is introduced into the House of Keys?

She has not given a definitive date, although she did mention 22nd May -

**The President:** The 23rd.

**Mr Lowey:** The 23rd May. Would the hon. minister concur that that is a fortnight off and that it does seem rather late in the day for members to be getting sight of the proposed Bill, and will it include a definitive wage or will it just be an enabling Bill?

**Mrs Christian:** Mr President, the position is that the consultation took place last year. There has been no further consultation since February. It would not be usual, apart from the green Bill form, to circulate the draft to hon. members at this stage and I should think that it will only be coming to hon. members in the form in which it is going to appear before the branches.

The Bill will require regulations and in those regulations the minimum wage will be stipulated. The Bill in its present form does not stipulate what the minimum wage will be.

**Mr Delaney:** A supplementary with your permission, Mr President. Could I ask that when the legislation is on the move the regulations and the content of those regulations, particularly the minimum wage, would be given or notified to members of Tynwald so that we would have a long time to discuss or consult on this very important matter?

**Mrs Christian:** Mr President, I am quite sure that the Department of Trade and Industry will give members due time to consider the regulations which would have to be approved by Tynwald in any case.

**Mr Lowey:** I thank the hon. minister for her reply.

#### **Rockmount, Poortown – DoT Proposals – Question by Mr Lowey**

**The President:** May we turn then to item 2 on the order paper. Again it is the question of the hon. member Mr Lowey.

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

- (a) *What are your department's proposals for the property Rockmount, Poortown, near Peel; and*

*(b) how much has security and maintenance of the property cost since it was acquired by your department?*

**Mrs Christian:** Thank you, Mr President. I will endeavour to get the right answer this time.

**The President:** This time, in this particular case, I think I am going to ask Mr Kniveton to respond.

**Mrs Christian:** I will have to refer to the DTI who have numbered my questions.

**Mr Kniveton:** Thank you, Mr President. The estate consists of just about 36 acres including Rockmount House and associated outbuildings and a small large cottage.

The property was purchased by the Department of Transport in 1998 in order to secure a viable and strategically important natural resource which has the ability to provide the Island with the quality road stone which could meet the Island's needs for a period of nigh on 30 years.

Now, since the department purchased the property the agricultural land has been let under short-term grazing agreements and the small large property has also been let. In addition, short-term use of the main house has been made by film producers as a set and also by the police for training purposes.

The department is presenting formulating a strategic master plan for the short-term, medium-term and long-term use of the land within the department's ownership in the area including the property, Rockmount. Now, until the strategic master plan has been finalised and approved by the department the department will not be in a position to determine the long-term future of Rockmount. At present the department's policy with regard to Rockmount is to mothball the property.

In answer to part (b) of the question, the department has spent a total of £32,593 on the Rockmount estate since it was purchased. Of this figure £8,741 related to the maintenance, repair and security of the main house at Rockmount.

**Mr Lowey:** Mr President, a supplementary. I am rather astounded at the reply that the acting minister has just given. Would he not agree that the expenditure of over £300,000 of public money to secure this property for strategic purposes and in the climate of house shortages that we have at the moment in the Isle of Man, to have spent £30,000 mothballing this to prevent people from living in it and to use it as a film set and for police training is the best that the department can come up with, and to then say we are working after 12 months on a strategic plan is nothing short of a public scandal?

**The President:** I think, hon. member, the figure Mr Kniveton quoted was £32,000 not £300,000 but I may be mistaken. Mr Kniveton.

**Mr Kniveton:** The £32,000 includes the expenditure. That was the expenditure.

**Mr Lowey:** That is what they have spent on the property, sir.

**The President:** Right.

**Mr Lowey:** Over £300,000 is what they spent purchasing it.

**The President:** Mr Kniveton, do you wish to reply?

**Mr Kniveton:** Yes, Mr President. I believe that all of us including my hon. colleague can very easily miss the true reason for the purchase of Rockmount by the Department of Transport. It was not to acquire a very nice-looking and very large mansion house, which incidentally requires a considerable amount of money spending on refurbishment. It was to acquire the 36 acres of land to provide the Island with the quality road stone to meet our needs for the next 30 years. I believe one day that future generations will applaud this government, through the DoT, for purchasing this valuable asset and my calculator tells me that £650,000 for 36 acres over 30 years is £601 per acre per year, with a final use for the land at the end of the time. Now, I believe that that cannot be bad at all.

But I will go, if I may to the point that Mr Lowey mentioned about the house being mothballed. Until we have made our own enquiries within the department as to how we are going to go about getting this rock removed and until we get our prospecting licence from the Department of Trade and Industry, and I think that is very, very important, we cannot formulate our future policy.

**The President:** I will allow Mr Lowey to continue with this.

**Mr Lowey:** Mr President, would the member of the department not agree they have already done a short-term deal for the land, and I have no doubts that the strategic purchase of this property is right, but I am appalled that the department has sat and spent £30,000 mothballing houses, and remember, this house was lived in by one of the leading advocates on the Isle of Man. If it was good enough for him to live in, it would be good enough for people who are seeking accommodation, and we have a crisis on it. This is where joined-up government surely is coming astray, and I did underestimate the purchase price. The member has just informed us that it was over £600,000. That makes it even worse that that sort of investment could have had a return, if not for individuals, then it could have gone out to the corporate sector as a business enterprise for weekend courses, and for police training and for a film set - I again repeat my last remark that this is nothing short of a public scandal and the department ought to pull its finger out.

**The President:** I am being very lenient.

**Mr Lowey:** I know, sir. I know you are.

**The President:** I think we are supposed to be staying with a supplementary question, so I will turn to Mr Radcliffe.

**Mr Radcliffe:** Yes, thank you, Mr President. The property which the department bought, Rockmount, was, as the hon. member agreed, in a state of disrepair, severe disrepair, unlettable in fact, and could he inform this Council as to the probable estimated cost of a conversion to bring it up to acceptable living standards? I wonder whether he would have that figure on hand or not.

**Mr Kniveton:** Mr President, yes, I confirm exactly what my hon. colleague Mr Radcliffe has said: there is a considerable amount of money to be spent on that property. I visited the property on Sunday afternoon, aware that this question was coming now. When I stood on the main road and looked up I admired the property and thought, 'What a great property - we'd all love to live here' -

**Mr Radcliffe:** Hear, hear. Yes.

**Mr Kniveton:** - but as I got nearer the house I realised the condition, the condition of windows. I looked through the windows and I saw the state of the kitchens. I understand that dampness is coming right throughout the house. A considerable amount of money is required to put that house in order. Now, until we have a strategic plan for Rockmount and the estate the Department of Transport is not prepared to progress with spending a considerable amount of money on Rockmount House until we have that plan, sir.

**Mr Delaney:** Mr President, two supplementaries if I may, please. One is to do with the leasing out of the land. Could you confirm that the land is all the acreage that is in our ownership and if the farmer, I take it, who is leasing that land has agreed and is not subject to, in the future at the land claims court, the situation of an extension of that time for the use of that acreage?

My second supplementary is will the hon. member of the department please make sure that other departments are engaged in debate on the use of this land for the future, bearing in mind the tourist department has an overall plan for the usage of certain lands within the Island for the betterment of the environment of the Island?

**Mr Kniveton:** Mr President, now I can confirm that it is a short-term lease of all acreage. There is a guaranteed income from the lodge as well as the acreage, totalling nearly £8,000. I know that is not a large sum of money but there are no ties. It is a short-term lease which expires at the end of the lease. There can be no final claim.

Now, as far as Mr Delaney, my hon. colleague, is concerned, my department would at this stage welcome any advances, any suggestions over the property until such time as we have made our final decision upon not only Rockmount House but the whole area.

**Mr Delaney:** Thank you.

**The President:** Mr Lowey, a final supplementary then.

**Mr Lowey:** Yes, indeed.

**The President:** A supplementary this time rather than a debate, Mr Lowey.

**Mr Lowey:** It will be specific, Mr President. How long will this strategic plan that the member of the department keeps referring to take, bearing in mind that we have had this in our ownership now for over 12 months? And he spoke in his opening question about a small large cottage - quite a contradiction in terms; I presume that is the lodge - and that is let on a short-term lease and I can see no reason why the house could not have been let, as is, on a short-term lease.

**Mr Kniveton:** That part of terminology - how long until we make our plans?

**Mr Lowey:** Yes.

**Mr Kniveton:** Yes. Well, much depends at this moment on the Department of Trade and Industry granting us or finalising the prospecting licence for the area and until that is given to us, then we are not getting on with our final plans.

**The President:** Okay.

**Welcome to Home Office Visitors**

**The President:** Well, hon. members, before we turn to question 3 on the order paper I am aware that in fact sitting in our public gallery we have Mrs Catto who is known to myself and has visited the Island on many an occasion from the Home Office and relations have been fairly good, I would suggest, during your term of office, but I understand that Mr Evans, is it, who sits alongside you will be your successor. Is that true? So can I equally say on behalf of the Members of the Legislative Council welcome you to the Island and I hope that you will enjoy the good weather which is always on the Isle of Man and enjoy an equally good relationship with the government and with the parliament of the Isle of Man.

### **MEA – Appointment of Chairman – Question by Mr Lowey**

**The President:** We turn then to item 3 on our order paper and again the question is on the order paper in the name of Mr Lowey.

**Mr Lowey:** Thank you, Mr President. I beg leave to ask a member of the Council of Ministers:

*Has the Chairman of the Manx Electricity Authority been made chief executive of the authority and, if so, is the appointment permanent, and was the position advertised and, if not, why not?*

**The President:** And this time we ask the Minister for Health and Social Security, Mrs Christian.

**Mrs Christian:** Thank you, Mr President. As I mentioned before, the Chairman of the MEA has not been made the chief executive of the authority.

When the former chief executive decided to retire the board invited one of the members of the board, Mr Mike Proffitt, to step in as acting chief executive until a permanent appointment was made. I have been advised that the board has very recently indicated to the Department of Trade and Industry that because of the excellent work already undertaken by Mr Proffitt it is intended to continue with that situation and to offer Mr Proffitt a contract so that he will continue in that role for an extended period. If such an agreement is reached Mr Proffitt will resign as a member of the authority.

**Mr Lowey:** Mr President, it seems amazing. Would the minister confirm that the position was not advertised, was in-house, and is that a healthy or satisfactory state of affairs and does the government condone such actions?

**Mrs Christian:** Mr President, the matter of appointments within the MEA is a matter for the board of the MEA. They clearly considered that at this time it was not appropriate to advertise and they are satisfied with the qualification and the skills which Mr Proffitt has demonstrated. As to the view of government on this matter, it has not yet come before government as such. As I mentioned in my answer, it is only in the last day, I believe, that the Department of Trade and Industry has been made aware of the proposals of the board of the MEA to appoint Mr Proffitt for a longer period.

**Mr Lowey:** Would the minister be surprised to hear that the staff knew that Mr Proffitt had, hence the question, the staff were in touch with me weeks ago, and yet you are saying the department who are supposed to be in charge of this utility did not know until yesterday?

But again could I repeat my original supplementary to the minister. Is the government satisfied that in-house promotions of this nature concerning financial rewards should be done behind closed doors without advertising and is that right and proper?

**Mrs Christian:** Mr President, I feel I have already answered that question by saying that first of all government as a body has not yet been informed of this decision. The DTI have been informed very recently that this is the proposal of the MEA. I feel quite sure that the Council of Ministers will make note of this when we meet this week. However, it is a matter under the Act for the board to make their own determination as to who is appointed to any of their staff positions and if the government has a view that this is inappropriate I am quite sure they will express that view. However, the MEA Board has indicated they have been very satisfied with the performance of Mr Proffitt thus far and consider that he is an appropriate candidate to continue with this work.

**Mr Delaney:** Mr President, would the minister agree with me that probably this would be the perfect quango where we have a situation where a department which is owned by the taxpayers and administered, supposed to be, by the Department of Industry whose minister keeps informing us he has no say and does not seem to know what is happening with his own department, can formulate their own policies, their own salaries et cetera and are seen to be willy-nilly against and nobody is overseeing them. Would the minister agree with me it is probably the perfect quango?

**Mr Christian:** Mr President, to say that there is no-one overseeing them I think is inaccurate. The Department of Trade and Industry does have a function to perform in relation to the MEA. If the hon. member is dissatisfied with the structures under which -

**Mr Delaney:** That is my second question.

**Mrs Christian:** - the MEA acts it is clearly within his remit to make a proposal to change the relevant legislation. I do not believe at this stage that the DTI which oversees the MEA has a view that this is necessary, but I cannot confirm that I am speaking for the minister, but that is my impression.

**Mr Delaney:** Mr President, that is my second supplementary. May I ask, before these decisions are made and salaries fixed, isn't it time, and would the member agree with me, to go back to Tynwald and either reaffirm or not the policy decision that was taken to allow this body to be freewheeling itself rather than under the control of Tynwald and its members and particularly the minister?

**Mrs Christian:** Mr President, the policy which the hon. member refers to is embodied in statute -

**Mr Delaney:** Let's change the statute.

**Mrs Christian:** - and if that statute is, in the view of the hon. member, wrong he has the power to introduce an amendment if he has the concurrence of the legislative chambers. I will convey his view to the minister of the DTI for his information, sir.

**Mr Lowey:** Could I ask one final supplementary, Mr President, from me?

**The President:** Mr Lowey.

**Mr Lowey:** It is not the individual, whether he is capable or not, and I am absolutely convinced he is an admirable man and very capable. It is the principle of in-house selection. If he is so good and the directors believe that he is the man for the job, then he should have applied publicly to a public notice and it would have been seen to be open. This way it leaves a nasty taste and I do not like it and I hope the Council of Ministers do not like it and comments accordingly.

**Mrs Christian:** I note the hon. member's comment, Mr President.

**Dr Mann:** Mr President, surely the minister would agree that one way of resolving this issue would be, before his appointment is confirmed, that there should be a public advertisement and an opportunity for other people to apply for the post before his position is confirmed?

**The President:** A very similar question to which you have replied but Mrs Christian.

**Mrs Christian:** Yes, Mr President. I think that the hon. member has proposed an avenue which could be pursued. However, if Mr Proffitt was subsequently still appointed I do not think that would satisfy the public in general because there are two views on that. Some people might say it would satisfy and others would say it was an empty exercise given that they have already expressed a view that this is the person they want to do the job. However, I am not here to defend the actions of the MEA board and certainly the avenue of advertising the job is still open presuming that the contract has not yet been signed.

**Mr Delaney:** One more supplementary. Bearing in mind in the knowledge of hindsight and we now know that the members of the staff seem to know and I certainly did, is it not possible this efficient board that we have running it would have put out a press release informing us all, including the members of parliament and certainly the minister, that this decision had been taken?

**Mrs Christian:** Mr President, whether or not the staff's information was hearsay or accurate I am not in a position to say. All I can tell you is that the formal indication from the MEA came, I think, only yesterday to the Department of Trade and Industry and whether there was any speculation before that amongst staff is possibly the case, but whether or not there is any confirmation and if government have been the last to be advised I am quite sure the DTI will take a dim view of that.

**The President:** Okay.

### **Standing Orders Committee of the Legislative Council – Member Elected**

**The President:** Well, we turn then, hon. members, to item 2 on your order paper, the Standing Orders Committee of the Legislative Council, and on this particular one I call for nominations.

**Mr Lowey:** Could I propose Mr President for the Standing Orders Committee.

**Dr Mann:** I second that.

**The President:** Any further nomination? In that case I assume that I have to declare Mr President elected to the post. *(Laughter)* Okay.

## **A Bill re the Election of the Presiding Officer of the Council – Leave to Introduce Granted**

**The President:** And that takes us then to item 3 on the order paper, leave to introduce, and I call on Dr Mann.

**Dr Mann:** Thank you, Mr President. First of all I want to make it perfectly clear that this has nothing to do with any personal position that you hold or that I hold.

**The President:** I thought that the first day in the seat they were trying to get rid of me.

**Mr Delaney:** Will you get redundancy? *(Laughter)*

**Dr Mann:** Taking note of that situation I would like to seek leave to introduce a Bill to re-establish the election of the presiding officer of this Council from within the membership of the Council. Now, I did refer briefly to this at a previous sitting of the Council. I was approaching it from one aspect. I know in another place a member of that other place has already sought leave to introduce a similar Bill. That has come from a slightly different aspect and I will just briefly deal with both aspects.

The one that immediately came to my attention was the fact that hanging on the wall of this room are the photographs of two previous Presidents of this Council that were elected from within the membership of this Council. That was seen at the time, and you and I were both present at that time, that it was a considerable step forward in constitutional progress in as much as before that time the Governor had always presided over this Council, which had been perfectly correct because this Council was the King's Council in the past. When the Governor ceased to be President of this Council, then constitutional progress was made. Unfortunately of course the choice of the title of the presiding officer was that of 'President' and when inevitably constitutional progress moved the next step forward and when the Governor was no longer the President of Tynwald we then had the situation where there were potentially two presidents and although I was, as you were, on a sabbatical at that time, one could see the motivation for changing the situation enabling the President of Tynwald to in fact be the President of this Council. I think in hindsight that was wrong and that is my personal reason for wishing to introduce this Bill.

There are other reasons, technical constitutional reasons that particularly motivate, I think, the leave of introduction of a similar Bill in another place, that is, the relationship between the President of Tynwald and the presiding officer of this Council in Tynwald itself, particularly when you have a situation of casting votes where, although the situation would be extremely unusual and very rare, it is possible for the President of Tynwald who is also President of this Council to have a casting vote within this branch, within Tynwald, and at the same time have the ultimate casting vote in Tynwald itself as a whole and there are obvious situations where there could very definitely be a conflict.

There is also once again a very rare but possible situation where a constitutional Bill coming through from another place and obstructed by this Council for the statutory period and then it comes forward and the Council cannot object. The same situation of casting votes could well occur in Tynwald itself because the President of Tynwald has to actually consent to the compulsory acceptance of that legislation.

So there are technical reasons, unusual and rare, but they exist and there are the more emotional, as you might say, reasons for trying to achieve this from within the Council.

I accept right at the very beginning that the one thing that is not going to be accepted by anybody is the term 'President of the Legislative Council'; we will have to find some alternative title. It is not a challenge to your authority, it is not a challenge in any way. It is an acceptance of potential difficulty and I am seeking from my point of view leave to introduce. If the two Bills coincide, I see no possible reason why we should not ourselves put forward a Bill. If there is going to be a change from within this Council, then the legislation that alters it should come from this Council and I see no particular objection to such a Bill starting in this Council. I beg to move.

**Mr Lowey:** I beg to second because I believe the right of an individual to promote a Bill in this Council is one of the rare privileges that we do possess and should be freely exercised on the grounds, not of the subject matter, but on the principle of allowing a member to introduce a Bill.

I do not believe it can do any harm on the subject matter to have another Bill in existence because if we totally agree with the Bill comes through from another place and the proposals that they make, then there is no harm done it could wither, but I do believe that ultimately, if there is to be a change in the Council, then I think it would not be a bad thing for us to actually be introducing it, so I second the resolution.

**Mrs Christian:** Mr President, at this point we are just talking about leave to introduce and I accept the point that the hon. member Mr Lowey has made.

The hon. mover has us, well certainly me, at a slight disadvantage in that I am not aware of the Bill which is before the other place. I do not know whether I have just missed something

**Dr Mann:** Well, there isn't any; it doesn't exist at the moment. It is only leave to introduce.

**Mrs Christian:** Ah, so it is a race from the starting blocks because I would like some clarification perhaps as to if there is a Bill of this nature before the other place, I presume that we are not in a position under standing orders to be discussing the same issue in here.

**Dr Mann:** The Bill is not before the other place.

**Mrs Christian:** It is not, right. I am ambivalent and will be interested in hearing the arguments when the Bill comes forward because, whilst the hon. member has indicated that it certainly was a major constitutional move to change from having a governor presiding to a member of this Council presiding, the parallel, I do not think, is the same between having a President who is a member of Tynwald presiding and a member of this body.

The issue of names is easily addressed and I think the issue of casting votes can also be addressed if that is a problem when we are sitting in Tynwald. However, I do not wish at this stage to get into the full debate because there may be arguments which we would want to propound in favour of such a change, although I think we are a very small body and to take one person out of that debating chamber is perhaps more significant in here than it would be in another place.

But having expressed a number of points in response to the hon. member I will not oppose the leave to introduce the motion.

**Mr Delaney:** Mr President, the situation is that there is perceived, if not and I am sure not, conflict where you are sitting as part of one of the branches and then whoever is in your position then sits in Tynwald as the supervising and the controlling officer and I believe that position should be totally impartial, and I have further ambitions for this Island. I will probably never live to see them. When we first talked about a President, as I reminded members of this Council, I was against the name because I believed that presidency would come into Tynwald, as it has done, sir, and I believe that the time will come, a long time in the future maybe it will happen, where the President of Tynwald will actually be the President of this Island, that is my long-term hope, and I think that this small move that has been recommended, only for leave to introduce, is well worth the debate that will take place in both branches when it occurs and I certainly will be supporting it. It is time these things were discussed. They are within our control, other things are not, but this is in all our control, and I believe the high office of President of Tynwald should be seen to be the high office, independent of any political influence, perceived or not, in that position and I believe it would do us an awful lot of credit to see it happen in this new millennium. I believe its time is overdue, it should be done and I will be supporting reasonable recommendations for the creation of our own chairman from within this body and leave whoever holds your position as President of Tynwald independent completely of any political influence.

**Mr Kniveton:** Mr President, I will be very brief on this, there have been a lot of words said already, but I will follow on from my hon. colleague Mrs Christian. I was open-minded, I still remain open-minded on the subject, but I will support the motion because I feel it is right and proper that we should support what could very well be a very sensible motion, a very sensible subject and I believe that the member has the right to proceed and introduce. Yes, sir, I will support it.

**Mr Radcliffe:** Mr President, I, like every other member here, I think, support the resolution as it is before us because none of us has any wish or any desire to impinge on any member's right to introduce a Bill on whatever subject he may choose. We may not at the end of it agree with the content the mover has set out in terms of some of his thoughts as to what the proposed content may be and we may or may not agree that, but I do support the resolution, but I would warn the hon. member that it is with a very open mind and wait with interest to see what the Bill does contain when it turns up.

**Mr Waft:** Mr President, I am very conscious of the conflict perhaps if we did go along this route of introducing a chairman of the Council from within the Council. We have all got jobs within the government in some shape or form, whether it is the Department of Tourism or planning or transport or anything else. Everybody cannot be like Caesar's wife and be seen not to have an interest in any shape or form within that chair which you occupy, sir.

I have no problem with the leave to introduce, I can just see the problems perhaps with continuing with it, and I hope when the Bill does come along care is taken with the way the wording is gone through.

On a personal point, I think, regarding the perceived conflict or the grey areas over casting votes that members seem to have a worry about for your position in the future,

anybody that has the position of President within the overall parliamentary concept of the Isle of Man has the knowledge and the diplomatic ability to recognise the problems before they arise and declare that he can vacate that position and pass it over to someone who is impartial. It has been stated by the mover that the possibility is a very rare occurrence that would happen and to actually change things to such a radical degree as is proposed seems to me more fraught with problems than it actually resolves, but, however, I will agree with the leave to introduce.

**The President:** Dr Mann, do you wish to make any comment?

**Dr Mann:** Yes, I thank members for their expression of view and general support for leave to introduce. I realise the limitations that will be imposed on future support but I thank the members for their contribution.

**The President:** I would just make it plain, hon. members, that my understanding is that there is absolutely no conflict between what is on our order paper and the motion on the order paper here and anything which has taken place in another branch at this time. There is absolutely no conflict and I am content at that. So I take it that we are in support of leave to introduce. Agreed?

**Members:** Agreed.

### **Agriculture (Miscellaneous Provisions) Bill – Third Reading Approved**

**The President:** In that case we turn to item 4 on the order paper, the Agriculture (Miscellaneous Provisions) Bill, and it is down for third reading and I call on the hon. member Mr Crowe.

**Mr Crowe:** Thank you, Mr President. As advised at the earlier readings, the Bill will be legislation regarding to agricultural holdings, wildlife, sea-fisheries and agriculture.

The Agricultural Holdings Act 1969 is amended by the insertion of a new section which will allow for a tenancy of bare agricultural land for a term of between one and five years to be agreed and this is subject to certain conditions, including agreement by the proposed tenant, secondly the landlord and tenant jointly advising the department, and thirdly, the department confirming the arrangement.

The Wildlife Act 1990 is amended so that occupiers of land will require a licence from the Department of Agriculture before killing or taking birds in areas of special protection.

The Bill also covers amendments to simplify the existing legislation regarding the charging of fees, which will still require Tynwald approval.

Amendments to the Agricultural Marketing Act 1934 will give powers of entry to ensure compliance with import restrictions under the 1934 Act, and the powers to make bye-laws under section 2 of the Sea-Fisheries Act 1971 is amended. These relate to the carriage of undersized fish on board vessels under the possession and sale of undersized sea fish in the Isle of Man.

Mr President, I beg to move the third reading.

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

**The President:** Does any hon. member wish to speak? Mr Kniveton.

**Mr Kniveton:** Thank you, Mr President. This Bill has had rather a quiet passage, I believe, both through this Council and another place, primarily because I believe it all makes good sense.

Now, without going into it clause by clause, I am sure there are those who will agree with me that the Bill is long overdue, certainly for people in the agricultural industry, and most importantly, I understand there have been many enquiries to the department from young people who are particularly interested in clause 1, hoping that it will be a means by which more land will be available to them on this mid-term basis as it is called.

I do of course fully support the Bill in its entirety.

**Mr Lowey:** Mr President, the Bill is a bit of a mishmash: it has gone from sea to land to pinfolds to history. But I agree with the hon. member who has spoken, Mr Kniveton. I hope and I am certain the intent is to assist as an interim measure. I doubt very much whether five years, with the cost of investment in farming today, will be a long enough return, but it must be an advance on what we have got. It is either all or nothing. This is at least assisting.

I am very pleased from the mover to hear that they did consult with the Isle of Man Farmers Union and that it meets their requirements, if you like, or it has got their support, and on the fishing I think it is spelling out in detail what the bye-laws mean, where there were grey areas it is spelt out, and to that extent I think that this is a useful piece of legislation.

I shall be supporting the Bill and wish it well because, although I have reservations whether it will be the key, at least I am not knocking it or damning it with faint praise. I hope it works. I still have a few reservations that it might, but, however, it is a valiant attempt and I support it.

**The President:** Mr Crowe, do you wish to pass any comment?

**Mr Crowe:** Thank you, Mr President. I thank Mr Radcliffe for seconding the third reading and I thank the hon. members for speaking on this.

As Mr Kniveton rightly says, it is a means of making more land available to young farmers, and Mr Lowey again confirms this, the intention is to help young farmers and, although we have talked at other readings of the stages about whether five years is long enough, I think it has been selected after consultation. There can be a rolling five-year renewal of leases but in a subsequent period it might be that there might be amending legislation to increase the five to a greater period. So I believe the intentions are clear and I just hope that it does help young farmers to get a foothold into farming. Thank you, Mr President.

**The President:** The motion then, hon. members, is that printed at item 4 on your order paper, that the Agriculture (Miscellaneous Provisions) Bill be read for a third time and do pass. Are we agreed, hon. members?

**Members:** Agreed.

**The President:** Thank you.

**Body-Piercing of Minors Bill – Second Reading Approved – Clauses Considered –  
Third Reading Approved**

**The President:** We turn then to item 5 on your order paper which is the Body-Piercing of Minors Bill, down for second reading, and I call on Mr Delaney.

**Mr Delaney:** Thank you, Mr President. This very small Bill, which gathered all the support in the other place, has one amendment which I will describe when we get to it.

But the reasons are obvious for this Bill. It is this legislation actually being pursued very quickly by other jurisdictions, including the adjacent islands and other islands in the region. It is felt, rightly so, that the damage that can be caused and the cost to the taxpayer through the National Health Service having to amend where certain body-piercing has taken place and the infections that can occur is right and proper that we should do something to control, not to control adults who wish to have their body pierced for beautification or any other reason, but to make sure that minors are known to their parents to have their permission given by them for such actions to have taken place.

I beg to move the second reading, Mr President.

**Mr Waft:** I beg to second, Mr President.

**Mr Radcliffe:** Mr President, I think this is a Bill which is a very, very desirable one. Young people are very, particularly in the age group of the early teens, apt to follow a fashion fad and they will all leap onto the bandwagon, if we could call it that, and I would say as a parent it must be a tremendous shock for a parent to have a teenager come home with rings attached to eyebrows, nose, ears and other places where you cannot see, I think it must be a tremendous shock, and there does come a time when, as the hon. mover has said, complications have set in because of the way these things have been attached to their body and there is a potential cost there of course in looking after the victim, and the hon. member on my right has just showed me a picture here which would frighten the life out of anybody. I would not even tattoo an animal with rings like that, much less a person.

**Mr Delaney:** You would not be allowed to, hon. member.

**Mr Radcliffe:** Probably not. So, Mr President, in order to protect young teenagers from themselves, I strongly support this Bill.

**Mr Lowey:** Mr President, I support the Bill. I tend to agree with my hon. friend Mr Radcliffe when he says, 'I don't know how they get through metal detectors at airports.' They must find life very difficult.

But can I just ask the mover one query? That is in clause 1 where it says, 'Subject to subsections (2) and (3), a person shall not pierce any part of the body of a person under the age of 18' and you have got there, unless that person is married. I wonder why we have suddenly put that proviso in because we do not allow people for drug use or anything else, but under 18 we say, 'If you are married, you can do it.' Why was that deemed necessary to be put in? I am speaking as an old bachelor now but there you are.

**The President:** Mr Delaney, would you like to wrap up?

**Mr Delaney:** Yes, well the answer to that one is one I asked a query on which is that they are then the parent. We are talking about minors and it seems to me illogical that if somebody has children and is married and is under the age they should not have the say in their

children's welfare. That is as I understand the answer I was given in relation to that one. I mean, it is modern times.

**The President:** Now, hon. members, the motion then before the body is in fact the Body-Piercing of Minors Bill be read for a second time. Those in favour? Against? Agreed. Then, I understand, hon. members, we will move on to the committee stage of the Bill and I will call on the hon. member Mr Delaney to take clause 1.

**Mr Delaney:** The clauses stage. Thank you. Clause 1, Mr President, sub-clause (1) inserts a new section 23A in part III of the Local Government (Miscellaneous Provisions) Act 1984 which deals with tattooing and body-piercing. This clause makes it an offence to perform body-piercing on a person under the age of 18. Sub-clauses (2) and (3) describe exceptions and these allow the procedures to be undertaken on a minor if written parental permission has been given, the parents themselves have obtained the age of 18, the person under the age of 18 is married, as a married person/parent then the law has no legal rights over their child, which is the answer in more clarification to Mr Lowey's question. There is an exception for treatment by a registered medical practitioner or a person working under their control.

Sub-clause (4) defines a medical product and also the word 'parent' as I have described a few moments ago.

Clause 1(2) inserts a section 24 of the aforementioned Local Government (Miscellaneous Provisions) Act, a change in the maximum penalty which is increased from £1,000 to £2,500 to bring it more up to date in today's inflammatory situation and values. Line 15 then defines a defence for a person charged with an offence to prove that at the time of the offence he reasonably believed that the person on whom the tattooing or body-piercing was performed was not under the age of 18, and that is subject to the amendment that we will be talking about.

At the second reading the hon. mover of this Bill in another place was asked what was the offence committed by a person who forged a parental signature? The legal draftsman - and this is one of the questions one of the hon. members has asked me - informed that particular mover of this Bill that such an act would be procuring the commission of the offence and that person would be guilty of the offence.

Mr President, I beg to move clause 1 of the Bill.

**Mr Crowe:** I beg to second and reserve my remarks.

**The President:** Mr Crowe seconds. Mrs Christian.

**Mrs Christian:** Mr President, whilst supporting the principle of the Bill and recognising that there is probably an education job to do in respect of advising parents what the risks are in these particular processes, and I think the hon. mover did indicate last time that the people who carry out body-piercing as well as tattooists have to be licensed in some form or other, I wonder if the hon. mover could just indicate who will be monitoring or policing this particular provision. I can quite see that a parent might take action if their child had either forged a document or had some procedure carried out without parental consent, but who would be monitoring it in the case of parents who have not given consent but really do not care or in respect of, as I mentioned before, perhaps a forged signature of a child whose parent does not follow it up? Will there be any proactive monitoring of the legislation?

**The President:** Does any other member wish to speak? Mr Waft.

**Mr Waft:** Mr President, just a side issue. We are always thinking about the same thing, about nose-piercing or eyebrow-piercing. I just wonder about the situation for pierced ears for earrings when some parents pierce their children's ears without their consent from a very early age because that is a tradition in the family. I just wonder if there is any comment on that.

**Mr Crowe:** Mr President, I think really it is a specific target that the Bill covers, that it is the, shall we say, schoolchildren under 18 who may by dint of peer pressure find that they are encouraged to have ear-piercing which subsequently their parents would object to, and I think it is giving this check to the actual person doing the body-piercing that they know that there is primary legislation where a parent can make a complaint and a criminal act has been committed. So I think it is, shall we say, an important piece of legislation but it is a subtle way of ensuring that, shall we say, a vulnerable age group may be protected from doing something which they feel is vogue at the time but it is something they might live to regret in later life, having part of their body pierced. I think it is specific to an age group and I am sure it would work and I am happy to support it.

**Mr Radcliffe:** Mr President, could I comment briefly on the question that has been raised about ear-piercing. As I understand it, an ear is the same as a duck's foot. You can put a small hole in a duck's foot and in a short time it will heal over and you would never know that there had been one there and I think the same thing applies to the human ear. If you put a hole in the ear, unless a sleeper is kept in to keep it open, the thing will just close itself up again. So I do not think there is quite the same danger there perhaps as there is with piercing in other parts of the body where the healing process may not be quite so good. I do not see ear-piercing as one of the real drawbacks to the whole question of body-piercing. I think it is more other parts of the body that we get worried about.

**Mr Lowey:** I would just like to develop on that, Mr President. Or is it because we have become used to ear-piercing? Is it fashion that we just assume that it is all right? I mean, one of the most horrifying things that I have seen in recent weeks is there is a young fella in the village who had his tongue pierced and he stuck his tongue out at me and he was a 17-year-old lad and there he had his stud.

**Mr Delaney:** Do you get many people sticking their tongue out?

**Mr Lowey:** I do regularly. Not many 17-year-olds, but he stuck his tongue out and his mother said, 'Have a look at that', and I just was horrified and it was not just a small thing, it was huge, and I just could not believe that anybody would want to do that.

I appreciate the individual's right to tattoo and cultures do tattoo and it is the norm in their societies, but here we are in this society and I believe we have a duty to protect juniors and minors. Once they get over 18 and they want to do these things, then I think they have a right to do these things, it is not for us to say, 'You should' or 'You shouldn't', but I do think we do have a duty to protect minors.

I think the Bill is well intentioned, I think it is well constructed and I will be supporting it.

**Mrs Christian:** Mr President, I would like to just come back on the ear-piercing issue. I think it is more generally accepted in society but there are a lot of people who still would not wish their children to have their ears pierced under the age of 18. Apart from the fact that the

same medical risks may be there, the fact that commonly ears are pierced I do not think should mean that that is exempt in some way - well, it is not exempt - but should be regarded as any less significant as piercing of other body parts, and the hon. member Mr Waft has raised an interesting question, I think, in respect of parents who might carry out ear-piercing themselves on their own children. The Bill clearly does not appear to cover them. I presume the only thing that can happen there is that a child might protest -

**Mr Delaney:** That is right.

**Mrs Christian:** - at some point that their parents have assaulted them.

**Mr Delaney:** It is a legal assault.

**Mr Lowey:** An ear-piercer may have a family; it is homework.

**Mrs Christian:** Yes, but they would have necessarily the licence to carry this out. I wonder if the mover could just clarify whether tattooing has the same sort of controls for under-18-year-olds.

**The President:** Right. Mr Delaney.

**Mr Delaney:** Well, first an answer to Mrs Christian, this is actually annexed to the section in the Local Government (Miscellaneous Provisions) Act in relation to the controlling of tattooing and the monitoring of the places where this is carried out, so we are working on a similar pattern.

The one that has been raised - I will just follow on from Mrs Christian's good answer there in relation to the physical piercing of the ears - there is one question which I and maybe the Attorney-General would like to comment on which is in modern times of course a child, if it did complain, could complain and the police may very well be brought in for assault. I would just say that slapping a child now is seen to be a case of assault and I would like the Attorney-General to comment. Could you possibly comment on that, Mr Attorney, please?

**The Attorney-General:** Well, Mr President, under section 23A(2)(a) there is a defence if the parent consents in writing to the body-piercing, so I assume, although this has not been mooted elsewhere, that it could not really be argued that a parent would be guilty of an offence because after all if a parent can consent in writing to someone else doing the body-piercing, I do not think it would be feasible for the parent to be exposed to prosecution if he or she did the body-piercing him or herself.

**Mrs Christian:** Are they licensed to do it?

**The Attorney-General:** One can see some sort of self-certification whereby the parent certifies that there is consent to the body-piercing. But it is a point which has not, I have to say, been specifically contemplated by the Bill, but I do not think that it is a major defect for that. As I say, I would doubt very much indeed whether a prosecution could be raised against a parent in the circumstances raised by the hon. member Mrs Christian.

**The President:** I return to Mr Delaney.

**Mr Delaney:** Mr Radcliffe next about the duck's feet. Why would anybody want to put a hole in a duck's foot? To slow him down when he is swimming, I suppose; the water would go

through the hole. I cannot answer that. I learn something every day and I have learnt today that a duck's foot heals. I am delighted.

**Mr Radcliffe:** It is to identify old ducks from new ducks.

**Mr Delaney:** Is it? Well, the age does not worry me when I am eating them! I cannot answer that one, but he is obviously correct that they do obviously heal up if the sleeper is not put in them, and that is the situation there.

The other question raised here, the serious question, and I thank Mr Crowe for his support for the Bill, is that what we are trying to do here is not impinge on people. We all go back to the days, or most of us do, when we all stared if we saw a picture of the tribes in Africa with a bone through their nose. This was the common idea and we always said, 'That must be painful', but we all know now maybe for a short time but it does not hurt them continuously. Certainly in New Guinea I witnessed the big lips with the bands on, but maybe that is an idea for politicians for the future. I do not think that is the problem. It is making sure that the parent, in this case, has given consent, and I have notification from the Department of Local Government they are already working on the form which is to be used if this Bill is successful going through.

I did mention the fact that the amendment needs to be carried with this that was placed in another place and that is in clause 1, page 1, line 8, after 'in writing' insert 'in the prescribed form' and page 2, line 10, at the end insert ' "prescribed form" means a form prescribed by regulations made by the Department. (5) Regulations made for the purpose of subsection (4) shall not have effect unless they are approved by Tynwald.' That was the amendment agreed by the mover and the other place and I hope members accept that amendment in this particular Bill as well.

I want to assure members that the international back-stabbing championships that goes on in Tynwald will not be affected by this Bill, the body-piercing Bill, and I thank members for their support.

I think this is a worthwhile small Bill because it will give some consolation to parents, knowing that if their child comes back and something goes wrong with the body-piercing or it has not been done properly in a proper establishment, they will have some redress of grievance. Thank you, Mr President.

**The President:** Now, hon. members, my understanding is that the amendment made in another place, when it comes here, stands part of the Bill or is considered as being a part.

**Mr Delaney:** Yes, but I wanted to remind members about it, Mr President.

**The President:** Thank you, and so the motion is that clause 1 stand part of the Bill. Those in favour, against? They ayes have it. Then we move on to clause 2.

**Mr Delaney:** Clause 2 is self-explanatory. It is the short time, Mr President. I beg to move.

**Mrs Christian:** I wish to second, Mr President.

**The President:** Thank you. Are we content with clause 2, hon. members?

**Members:** Agreed.

**Mr Delaney:** Mr President, may I impose on your good offices and members and ask for the third reading to be taken now so that members can rush out and get their tongues pierced?

**Mr Lowey:** I would support the suspension of standing orders. This Bill has in both branches seemed to have picked up a mood and a flow of what I would call popular support out there and I think there is no reason at all why this should not be on the statute as quickly as possible and as we have dealt with the two clauses I can see no reason at all why we should not suspend standing orders and take the third reading this morning.

**The President:** Hon. members, then the motion is that in fact we suspend standing order 22(2) to allow the third reading to be taken. Are we agreed, hon. members? Those in favour?

**Members:** Agreed.

**The President:** In that case, again, I call on the hon. member Mr Delaney.

**Mr Delaney:** Thank you, Mr President, and I thank members. I formally move the third reading of the body-piercing Bill in front of hon. members now and hope that the Bill will quickly get Royal Assent and it will be there for people to take the benefit of. Hopefully it will not be needed, but I am hoping that it will give some consolation to the parents. Mr President, I beg to move the third reading.

**Mr Waft:** I beg to second, Mr President.

**The President:** Mr Waft seconds. Mr Crowe.

**Mr Crowe:** Yes, thank you, Mr President. Just to say, in supporting the third reading, that presumably once Royal Assent is given it will come into effect straightaway and I think the people who carry out the body-piercing or tattooing or acupuncture or whatever it is will have to have reasonable notice that this is coming in so that they are fully aware of the penalties that are outlined under the Act. That was all, Mr President.

**Dr Mann:** Mr President, I understand that this legislation is legislation that only exists in the Isle of Man as distinct from other jurisdictions. What is the position if one of our family members, in a fit of peak, goes off the Island and has body-piercing elsewhere?

**Mr Kniveton:** Mr President, I can follow on from Dr Mann and my colleague. During Easter I had a week in Tenerife -

**Dr Mann:** A week?

**Mr Kniveton:** Yes, just a week - where I saw for myself young people visiting body-piercing shops, and that was what they were. There were a number advertising their services. They were having cheap body-piercing. It was only a few hundred pesetas, which is a few pounds, to have parts of their body bedecked in rings or whatever. There was no control, no age limit, no mention of health risks and no consideration of their own body mutilation. I believe that society has a duty to protect minors from disease which they may later regret and of course which may be irreversible. I do support the Bill thoroughly.

**Mr Lowey:** Mr Kniveton has said everything that I was going to say, Mr President. I will not repeat it.

**Mr Waft:** I just wondered, through you, Mr President, with regard to a teenager coming home and saying, 'I want my body pierced A B C D' or whatever and the parent says, 'Yes, fine', and off they go, what sort of qualifications will that tattooist or body-piercer or self-appointed person have to be able to do that? Where does the registration come in? What sort of criteria are there for that person to be able to carry out that business or practice?

**The President:** Mr Delaney.

**Mr Delaney:** First of all this covers a number of the questions that have been raised about the actual functions of how they get this done and how we do it. The Department of Local Government - they will have to register with them and I would like to say through this little Bill how the co-operation has been from all the people, the medical people, all the different parts of society, including the bona fide people involved in the genuine wish to carry out this trade under proper supervision. That has been very evident through the moving of this Bill and I suppose it is easier on an island, we can say that, but they will have to carry out this through registration with the department under the Act I mentioned before.

Mr Kniveton's point, I think, is the horror story of this and this is the need for this. I too have seen the back alley, because that is all they are, back alley people carrying this out abroad in the temperatures there and what amazes me is why there is not more infection with these places which are much warmer than the Isle of Man and that is a breeding ground for diseases, particularly where the body has been actually punctured and subject to these sorts of attacks by the germs. But what somebody does to answer the specific question in relation to if you go off the Island, we make our law where we can for all our people but if they leave our jurisdiction and it is carried out in some other jurisdiction, it is on their head. We cannot legislate for the whole world, unfortunately in some cases, but that situation or the problem will carry on, I have no doubt.

But this is at the moment, I believe, a fashion and like all fashions it will come and go, I hope, and the situation is, I believe, some other new fashion, and God knows what that will be in the future, but I believe this will come and go, as lots of things have come and gone in fashion in our lifetimes. One other question was raised. Was it you, Mr Lowey, that raised it?

**Mr Waft:** I think, Mr President, I asked what qualifications did the actual tattooist have to undergo before becoming registered, is there a course?

**Mr Delaney:** Well, this is where you cannot, the qualifications, but in actual fact this is covered or will be covered by the Department of Local Government in their regulations of ascertaining all this. It seems strange but I could set up tomorrow as a tattooist. There do not seem to be any qualifications at all, or a body-piercer, and I should be an expert at holes in the head, but the situation is that the way I carry out performing that duty seems to be the thing we can control. Some of them are great artists, they tell me, but I regret very much that I have one tattoo which I was more or less forced to have done in case I was blown to pieces - my army number is tattooed on my right arm in case they ever found my arm, not that anybody would want to find my arm, I suppose - but these situations are with us in time, in fashion, and they come and go and I hope that this small Bill will help to protect our people while we cannot protect them all. Mr President, I beg to move the third reading.

**The President:** Hon. members, the motion is that the Body-Piercing of Minors Bill 2000 be read for a third time. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Now, hon. members, I understand that concludes our public part of our order paper for this morning so we will now sit in private. Thank you, hon. members.

*The Council sat in private.*