



**LEGISLATIVE COUNCIL  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH**

**PROCEEDINGS  
DAALTYN  
(HANSARD)**

**Douglas, Tuesday, 26th October 2004**

**Present:****The President of Tynwald (The Hon. N Q Cringle)**

The Lord Bishop of Sodor and Man (The Rt. Rev. Graeme Knowles), The Attorney General (Mr W J H Corlett QC),  
 Mrs. C M Christian, Mrs. P M Crowe, Mr D F K Delaney,  
 Mr D J Gelling CBE, Mr J R Kniveton, Mr E G Lowey, Mr L I Singer and Mr G H Waft,  
 with Mrs M Cullen, Clerk of the Council.

**Business transacted**

	<i>Page</i>
<b>Tribute to Mr Edward Clifford Irving CBE</b> .....	3
<b>Congratulations to the President's mother on her 100th birthday</b> .....	3
<b>1. Questions for Oral Answer</b>	
1 & 2. Scrutiny of Chief Secretary's and Chief Executives' reports, minutes and interviews – Written Answers circulated and rejected – Constitutional issues raised .....	4
3. 'Excluded' pupils' education and duration of exclusion – Question not answered – Constitutional issues further discussed...	5
<b>Orders of the Day</b>	
<b>2. Housing (Multi-Occupation) Bill</b>	
First Reading approved..... <input type="checkbox"/>	5
<b>3. Tynwald Standards and Members' Interests Committee</b>	
Mr Gelling elected..... <input type="checkbox"/>	6
Written Answers to Oral Questions – Recalled and not to be recorded in <i>Hansard</i> .....	6
<b>4. Proceedings in the Council of Ministers</b>	
Summary of Proceedings in the Council of Ministers (June and July/August 2004) considered in private .....	7

*The Council sat in private at 10.54 a.m.*

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# THE LEGISLATIVE COUNCIL DEBATES OFFICIAL REPORT

IN THE PARLIAMENTARY SESSION 2004-05

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Tuesday, 26th October

Volume 122

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## Legislative Council

*The Council met at 10.30 a.m.*

[MR PRESIDENT *in the Chair*]

### PRAYERS

*The Lord Bishop*

### TRIBUTE TO MR EDWARD CLIFFORD IRVING CBE

**The President:** Now, Hon. Members, at the beginning of August, this year, we were all saddened to learn of the death of our former colleague, Clifford Irving.

Clifford Irving was a gentleman who first stood for election to the House of Keys in 1955. Clifford was never content, as a Member of the House of Keys, just to fight for one constituency and ended up fighting all corners, as it were, in Douglas.

The House of Keys elected him to the Legislative Council, to this assembly, in 1987, where he served from 1987 to 1995.

Clifford was totally at home during his years as Chairman of the Isle of Man Tourist Board. Certainly, I was fortunate enough to become a member of the Tourist Board, when I was first elected to the Keys in 1974, and Clifford was then Chairman.

The welcome I received, and the fun which was held, at times, around that table, and, more particularly, when acting as hosts for the benefit of the tourist trade of the Isle of Man, was incredible.

He stood high in Manx political life, and chaired our Executive Council – the forerunner of the Council of Ministers – from 1977 to 1981.

He had a particular interest in European affairs, and we all listened with great interest when he talked to us on all European matters, whether it be on primary legislation or, more importantly, in latter years, on the secondary legislation, which comes out of Europe.

His Committee work was incredible. If you turn to the Tynwald Companion, you will see that the number of Committees to which he was appointed exceeds most Members. He was a popular Member of Tynwald Court.

Today, Hon. Members, we still remember his wife, Norah, and the family, and Hon. Members, I just ask you to stand with me for one moment, while we recall the life of Clifford Irving.

*Members stood in silence.*

**The President:** Thank you, Hon. Members.

### CONGRATULATIONS TO THE PRESIDENT'S MOTHER ON HER 100TH BIRTHDAY

**Mr Lowey:** Mr President, could I just break all Standing Orders –

**The President:** Yes, sir.

**Mr Lowey:** – that must be in the book? I know I speak on behalf of every single Member of this Council here today, and past Members who are still with us.

If you would, sir, convey to your mother, on this very special day of her 100th birthday, our warmest congratulations (**Members:** Hear, hear.) and may the sun shine on her for many more moons – there is an ‘Irishism’, and I think it should be right!

**Members:** Hear, hear.

**The President:** Well, Hon. Members, thank you very much for that, and I will certainly convey that along.

## Questions for Oral Answer

### CHIEF MINISTER

#### Scrutiny of Chief Secretary's and Chief Executives' reports, minutes and interviews Written Answers circulated and rejected Constitutional issues raised

1.1 & 1.2. The Hon Member (Mr Lowey) to ask the Chief Minister:

1.1 a. Who reviews the annual performance of the Chief Secretary;

b. is this annual report and those of the Chief Executives of Departments available for scrutiny, and if not, why not; and

c. is it appropriate for the Chief Secretary to sit on all interview panels for Chief Executives?

1.2 a. How many meetings have been held of the Chief Executives in the past 12 months;

b. how many minutes of these meetings have been circulated to you or the Council of Ministers; and

c. in view of the increasing political input of this grouping, do you not agree that you at least should be kept fully informed by their minutes being copied to you and the Council of Ministers?

**The President:** We revert to our Order Paper, and the first Item we have on the Order Paper is 'Questions for Oral Answer', and I call on the Hon. Member, Mr Lowey.

**Mr Lowey:** Thank you, Mr President. I beg leave to ask the Question standing in my name.

**The President:** Now, Hon. Members, my understanding is that the Question is on the Order Paper to be asked of the Chief Minister. I have had no indication from the Chief Minister who he is asking to respond to that Question.

So, in that –

**The Clerk:** These have just arrived.

**The President:** We do have – just given to us, apparently – just arrived, a Written Answer.

*The Written Answers were circulated.*

**The President:** Mr Lowey.

**Mr Lowey:** Mr President, may I say that I am not prepared, at this stage, to accept a Written Answer. If I had wanted a Written Answer, I would have ticked the appropriate box on the paper that actually indicates whether we should have a Written Answer or an Oral Answer.

Mr President, just to put you and Members of Council in the picture: I received, when I returned home last night, a letter from the Chief Minister's Office dated 22nd October, which was last Friday, and I would, with your permission, sir, like to read it out:

'Dear Mr Lowey,

'I write with regard to the Questions you have placed on Legislative Council for answer by the Minister for Education and me.

I am sorry to be contacting you so late as I had hoped to speak to you personally this week but I was unfortunately unable to do so. There is no one in Legislative Council from Council of Ministers whom I can delegate to answer these Questions orally and, therefore, I would like to know whether you prefer to receive a Written Answer or to defer the Questions to the next Tynwald, when they can be answered orally by the relevant Minister and me.

'I am content to take either of these options and will be guided by your preference.'

As I say, Mr President, I only arrived home last night, having been on Department business, and, obviously, I have not been able to relay any answers because, at half past nine, I was, as you know, sir, with yourself in the Standing Orders Committee of the Legislative Council.

I raise this letter, sir, because, under the constitution, we, as parliamentarians, sitting in a bicameral legislature, hold the executive to account. We hold it to account in the form of questioning their actions and what they are about.

The Chief Minister chose not to have any representative Minister in here. The Chief Minister and the Council of Ministers decided who would be on which Department, and if they are not in Education – no-one here in this Council is from the Department of Education – that is a matter for them.

It is not a matter which they stumbled into, blindly. I took the opportunity, in our informal conversations with the Chief Minister earlier in the year, prior to the rearrangement of this Government, his administration, and told him of my concerns, if that should happen.

It has happened: they have chosen to make it happen, and I find it totally unacceptable.

I have to say to the Chief Minister, through you, sir, that it is unacceptable for the Chief Minister to rewrite or reinterpret the constitution, and I find it unacceptable, as a parliamentarian, then to be told, 'Well, you are getting a Written Answer, whether you like it or not.' I do not think that is acceptable, either.

Mr President, it is unfortunate: the lateness of the hour, and my absence from the Island last week. However, can I say I am not prepared to accept a Written Answer, and I am prepared to put these down on the Order Paper for the next sitting of this Legislative Council.

But, in the meantime, I do think there is a constitutional matter here that should, and must, be addressed immediately. There is only one person who can actually address that, and that is the Chief Minister, and I believe that he should exactly be... You, as our presiding officer, should, at least, have a conversation with him to find out how he proposes to answer legitimate Questions in this Chamber. It is not for me, at this time, to suggest solutions, but there are solutions, and he should be asked when and if he is prepared to keep to the rules that are already there.

**The President:** Now, Hon. Members – thank you, Mr Lowey – I think, in light of the observations made by Mr Lowey, I will certainly take the matter up on Council's behalf, in relation to the Questions 1 and 2.

You have had now circulated the Written Answers.

## EDUCATION

**'Excluded' pupils' education and duration of exclusion**  
**Question not answered**  
**Constitutional issues further discussed**

1.3. The Hon Member (Mr Lowey) to ask the Minister for Education:

- a. How many children are 'excluded' from full-time education in Junior/Senior schools;*  
*b. how much education is made available to those excluded pupils; and*  
*c. are records kept as to the eventual length of time these exclusions are in force and of the expenditure of monies provided for these children's education?*

**The President:** I had no correspondence at all from the Minister for Education, and we will deal with that in a similar manner, Hon. Members, and I will –

**Mr Gelling:** Mr President, could I, before you move on –

**The President:** Yes.

**Mr Gelling:** – ask: is there not a way in which someone can be requested to come to the House? So, therefore, is it not possible that we should ask the Chief Minister, if he is not already answering Questions in the Keys, to come to this Chamber to actually answer those Questions? Or is that not within our Standing Orders?

**The President:** It is not within Council Standing Orders. It is within Keys and Tynwald Standing Orders –

**Mr Delaney:** Maybe it should be within Standing Orders, then.

**The President:** Yes, but taking that apart, Hon. Members, if the scenario, as outlined by Mr Lowey is in front of us: the Chief Minister was aware that the Questions would be there. Certainly, as far as the Office is concerned, the indication given to them was it was for him to decide who would respond to the Questions, and, until this morning, we have had no further information.

So, we will deal, Hon. Members –

**Mr Singer:** Can I just ask, Mr President – ?

**The President:** Mr Singer.

**Mr Singer:** The Chief Minister was aware of the Questions, obviously, a week ago. I am rather disappointed that, knowing that this was going to happen, he did not take it upon himself to come and speak to you. I do not think you should be going to speak to him; I think he was aware of it and should have come to speak to you. That would have been the courtesy.

**The President:** Well, we can go down the road. I think there are two things, really: there is the nicety of the position which we find ourselves in at the present time; there is also, in fact, the angle which Mr Lowey has taken, which is pointing out that there is a constitutional issue which, possibly, should be looked at.

## Orders of the Day

**Housing (Multi-Occupation) Bill**  
**First Reading approved**

2. Mrs Crowe to move:

*that the Housing (Multi-Occupation) Bill be now read a first time.*

**The President:** We turn, then, to Item 2 on our Order Paper, which is the Housing (Multi-Occupation) Bill. Now, it is for First Reading, and it is in the hands of the Hon. Member, Mrs Crowe.

**Mrs Crowe:** Thank you, Mr President.

I am pleased to be able to promote this piece of legislation on behalf of the Department of Local Government and the Environment.

The main purpose of this Bill is to regulate and control the provision of multi-occupancy dwellings. 'Multi-occupancy dwelling' means any dwelling occupied by persons who do not form a single household.

These properties may be referred to as 'houses in multiple occupation', and they can be differentiated from guest houses, which provide tourist accommodation and are not a person's main place of residence.

The Department is of the view that there is an established demand for this type of accommodation, which fills a need in the housing market, but, at present, there is no way of regulating its standards.

This Bill is intended to address the Department's concerns relating to the occupation of this type of accommodation, and, once enacted, the proposed legislation will enable houses in multiple occupation to be legalised, whilst also allowing the appropriate controls, regulations, codes of practice et cetera to be introduced and be enforced.

Similar legislation – the Housing (Amendment) Act 1990 – already exists to enable the Department to make similar provisions covering the Regulations which are in place regarding flats.

Mr President, I beg to move.

**Mr Delaney:** Mr President.

**The President:** Mr Delaney, are you seconding?

**Mr Delaney:** I have great pleasure in seconding, but, in so doing, and welcoming this Bill here, I want to notify the Council that they have already in front of them...

I will be moving amendments to this Bill, and any Member of the Council who wishes to have more information – I may give it at the time, Members – but, please, I would be very happy if they would speak to me of why I think amendments to this very good Bill are needed.

That is enough to say, but I do welcome the Bill, Mr President.

I beg to second.

**The President:** The motion, then, Hon. Members, is that

the Housing (Multi-Occupancy) Bill be read for a first time. Are you agreed, Hon. Members?

**Members:** Agreed.

### TYNWALD STANDARDS AND MEMBERS' INTERESTS COMMITTEE

#### Mr Gelling elected

3. Election of one Member in the place of Mr Kniveton. (The other members of the Committee are Mr Speaker (Chairman), Mr Anderson, Mr Cannan, Mr Gill and Mr Waft.)

**The President:** We turn, then, Hon. Members, to the Tynwald Standards and Members' Interests Committee.

I notice on our Order Paper that it is down for the election of one Member in place of Mr Kniveton. The other members of the committee are Mr Speaker, Mr Anderson, Mr Cannan, Mr Gill and Mr Waft, but it is up to Council to elect one Member from Council to sit on this Tynwald Standards and Members' Interests Committee.

Nominations, please.

**Mrs Christian:** Mr President, I propose the Lord Bishop.

**Mrs Crowe:** I second the Lord Bishop.

**Mr Gelling:** I propose Mrs Crowe.

**Mr Lowey:** I second Mrs Crowe.

**Mr Waft:** I propose Mr Gelling

**Mrs Crowe:** I second Mr Gelling.

**The President:** I think you seconded the Lord Bishop, Mrs Crowe.

**Mrs Crowe:** Oh, I did. I am so sorry, yes, I did.

**Mr Delaney:** I will second Mr Gelling. Great pleasure in doing that.

**The President:** Right, Hon. Members. It would appear as if we need a ballot.

Right, Hon. Members, you are voting to elect one Member to serve on the Tynwald Standards and Members' Interests Committee and the three candidates are the Lord Bishop, Mrs Crowe and Mr Gelling.

Perhaps, Mr Attorney, I could ask you to be the accounting officer? (*Laughter*)

*A first ballot took place.*

**The President:** Hon. Members, we will be dropping off the Lord Bishop and voting again, because we did not quite make it.

So, it will be between Mrs Crowe and Mr Gelling. Following a procedure, Hon. Members: the Bishop had 2,

Mrs Crowe had 4 and Mr Gelling had 3.

**Mr Singer:** Can you live with the disappointment?

**The Lord Bishop:** I know – I do have a therapist, so it is alright – (*Laughter*) I can go this afternoon. He is good with dealing with tears.

If you are not careful, I shall put a cross by your name.

*A second ballot took place.*

**The President:** Collect the papers back in, and this time I think we will come to the conclusion.

(*Interjection by Mr Singer*) I have a note here, and when the election is finished I will put that to you, because I think we will need to...

Hon. Members, Mr Gelling is elected to the Tynwald Standards and Members' Interests Committee.

**Mr Singer and the Lord Bishop:** Congratulations!

**Mr Gelling:** Thank you. (*Laughter and interjections*)

**Mr Lowey:** Unbridled enthusiasm!

### Written Answers to Oral Questions Recalled and not to be recorded in *Hansard*

**The President:** Right. Hon. Members, having elected the Member to replace Mr Kniveton in that particular Committee, I have to ask a question in relation to the Answers which have been circulated now to Members in written form from the Chief Minister.

Mr Lowey indicated that he wanted the Questions asking again at another sitting. Now, Hon. Member, I am afraid I will have to leave it again to you. Do we want these Written Answers in their current form printed in *Hansard*, or do we wish them to be recalled?

**Mr Lowey:** Well, if they are put in *Hansard* and recorded, then I am debarred from asking these Questions and, quite candidly, I believe that there are many queries and supplementaries which I need to pursue. It is for that reason I said, at the very start, I was not prepared to accept a Written Answer, sir.

**Mr Singer:** But you can put them down in Tynwald.

**Mr Lowey:** But I would, with this Council's permission, ask them not to be recorded, so that I can put them down again, and perhaps –

**The President:** Hon. Members, I raised that because I realised Mr Lowey did say that he wished the Questions to be carried forward.

So, if we will hand back in the written responses, Hon. Members, I will leave that in Mr Lowey's hands.

*The Written Answers were re-collected.*

**PROCEEDINGS IN THE COUNCIL OF MINISTERS**

drawn to a conclusion our formal part of the Order Paper.  
The Committee Council will now sit in private.

**Summary of Proceedings in the Council of Ministers  
(June and July/August 2004) considered in private**

**The President:** In that case, Hon. Members, we have

*The Council sat in private at 10.54 a.m.*