OIL IN MANX NAVIGABLE WATERS BILL—REPORT OF COMMITTEE—ACCEPTED

The Governor: Now Item No. 1, Oil in Manx Navigable Waters Bill. I call upon the Attorney-General for the Report of Committee.

The Attorney-General: Your Excellency. It is rather a lengthy report, and what in fact happened—if I could just telescope it a bit—was that originally the Local Government Board conceived a Bill and thought that it did not make sufficient provision, strong enough provision, to force people, or indeed to make local provision, to force people who have discharged oil to clean up our beaches.

The Governor: Now at this point I suggest we will save a lot of time if we agree to put this in the record, this report.

The Attorney-General: Very good, sir.

The Governor: Take it as read and put it in the record. Is that agreed?
as a cooling fluid used on machine tools. This has been accepted apparently in England—I do not know who by and that is why I am asking now, Your Excellency, the Board of Trade or who it is—that this discharge if discharged at a controlled rate, I think it is one part of ten million or something like that. I do not know the parts, but there is a concentration of ten parts per million. Now is there any provision in this Bill for that or does this Bill prohibit such a discharge?

The Attorney-General: Well, it is all in—

Mr. Radcliffe: No, it is not. It does not mention it. It keeps on with “ships and ship oil”—well and good. But if it does refer to such a discharge from the factory in the Isle of Man, well then I think some provision should be made that the proper regulations can be brought into effect, and such a discharge can be permitted and controlled. Because actually it takes place, it takes place in England and is actually controlled. Now we have total prohibition. I am only reading it now rather than later. Because we have factories that do use these oils as coolers, etc., and they are at present discharging them under control.

Mr Nivison: Your Excellency, surely on page 5 of the report it says, “Where any nuisance has been caused by the discharge of oil or mixture containing oil from a place on land or from any apparatus used for transferring oil from a place on land or from any apparatus used for transferring oil from or to any vessel,...” but it goes first from “a place on land.”

The Attorney-General: Your Excellency, if I may interrupt, sir, that is a clause which is not being adopted.

Mr. Nicholls: But this oil that Mr. Radcliffe is referring to, sir, is very different from the oil which is discharged from tankers, etc. The oil used as a lubricant or as a cutting compound really on machine tools is really more of a detergent than an oil. It is a mixture of oil, certain oils and other matters which make it almost a solution. The oil is miscible but does not actually dissolve, but it is very different in nature from the oil which we are getting out of this report.

Mr. McFee: It would be best controlled by the Local Government Board Acts, too.

Mr. Radcliffe: Well, I am just, with due respect to the hon. member, Mr. Nicholls, sir, and I am just wondering if this has been thought of, and does this put difficulties there? I am only asking it because I have not prepared an amendment because I do not know whether it is necessary. I notice what the hon. member, Mr. Nivison, has said, but I do know that reading it right through it is on oil as Mr. Nicholls mentioned. And in land installations—in other words, there is a boat in the harbour discharging oil into the oil container on land, that is the same oil, then it goes into this container and then leaks back into the harbour. That is what this is all dealing with. But what about this industrial...? It has been raised with me on behalf of industrialists who do use it and I am asking—

The Governor: Well now, I am suggesting then that if we accept this report, between now and October you get together with all the relevant authorities and when we tackle this Bill we will give it a first reading in October and the Committee stage in November, you will then be ready to move any amendment necessary.

Mr. Radcliffe: Could I hear a simple answer from the Attorney-General that if this is not applying to such discharges—
The Governor: He has given that answer.

The Attorney-General: If the discharge is from a place on land and goes into Manx navigable waters, then it is an offence under this.

Mr. Radcliffe: Well, that would frighten and it has got to be controlled because it is permitted elsewhere.

Mr. Bolton: I think under the provisions, sir, really that what Mr. Radcliffe, the hon. member, is talking about is not really this Bill at all. This Bill is oil in Manx Navigable Waters. Now what he is discussing is the possibility of oil being anywhere discharged either on to land or into a stream.

The Governor: What I really want the Council to decide is whether they accept this report, or not, because we are not dealing with the Bill but with this report.

Mr. Radcliffe: Yes, sir, well I am raising it, why—because this Bill... The report says we can deal with the Bill as it is. What I am wanting to know is if the Bill, as it does make provision for these people, and Mr. Bolton has got the wrong idea.

The Governor: Yes, well, what I say is between now and October you should be able to speak privately with the Attorney to find out whether it does or not. Is it agreed?

It was agreed.

REPORT
OIL IN MANX NAVIGABLE WATERS BILL.

Your Excellency and hon. members—

On the 7th day of June, 1966 we were appointed a committee of the Legislative Council to consider difficulties which had arisen in respect of clause 3 of the Bill.

The need for the Bill had been brought to notice by what was then thought to be the imminent installation of an oil refinery at the Point of Ayre. The oil refinery has become considerably less imminent but the transfers of oil and the leakage and discharge of oil from vessels off the coasts of the Island and the increasingly frequent pollution of neighbouring coasts render the Bill a most desirable addition to the Manx Statutes. The Bill is based on the "domestic" sections of the 1955 Act of Parliament the international aspects of which have already been applied to the Isle of Man at our request by an Order in Council.

Before the Bill was drafted representations were made to the Attorney-General by the Isle of Man Local Government Board to the effect that that Board did not consider that the remedies given by section 3 of the 1955 Act (clause 3 of the Bill as printed) were adequate. Accordingly the Attorney-General drafted a new clause 3 and it was the new clause 3 which was incorporated in the Bill which went forward to the Home Office and the Board of Trade for observations. The new clause 3 reads as follows—

3. (1) A person guilty of an offence under section one of this Act shall, on conviction on indictment, or on summary conviction, be liable to a fine not exceeding one thousand pounds and the court may, in every case where any pollution has occurred, or damage has been caused, which is attributable to the offence, order the offender to do all or any of the following things, that is to say—

(a) where any person has incurred, or will incur, any expenses in removing such pollution or making good such damage, to pay in addition to any fine a reasonable sum as compensation for such expenses;

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(b) to remove or make good any such pollution or damage within such time as may be specified in the order;

(c) to take such steps, including the execution of works, within such time as may be specified in the order, as in the opinion of the court is necessary to prevent or reduce the likelihood of the re-occurrence of similar pollution or damage.

(2) Where a fine has been imposed in respect of an offence under section one of this Act and it appears to the court that any person has incurred, or will incur, any of the expenses mentioned in paragraph (a) of that subsection, but the court does not see fit to make an order under that paragraph, the court may order the whole or part of the fine to be paid to that person for or towards defraying those expenses.

The Home Office and the Board of Trade made a number of criticisms to the new clause. They explained that when their own Bill was in Committee of the House of Commons a much similar clause was sought to be introduced into it but was successfully resisted. They made the following points on the new clause—

(1) 3(1)(a) enables a Magistrates' Court to award an unlimited sum as compensation;

(2) 3(1)(b) are equivalent to mandatory injunctions which Criminal Courts have neither the machinery nor expertise to enforce;

(3) the award of damages depends solely on the fact of a conviction and resultant damage which is entirely different from the normal reason for the reward of damages, i.e. deliberate or negligent breach of a duty owed by the defendant to the plaintiff;

(4) the possibility of a double persecution in both criminal and civil courts;

(5) the possible proliferation of defendants;

(6) the fact that the burden of proof is much higher in a criminal court than in a civil court which might prejudice a plaintiff;

(7) for technical reasons the great difficulty in proving a claim.

The Attorney-General saw the force of all these observations and consequently removed the new clause 3 and substituted the original clause as it appears in the print of the Bill.

When the Bill came before Legislative Council complaints were made as to the alleged inadequacy of clause 3 as printed and accordingly the Attorney-General in conjunction with Deemster Kneale drafted two new clauses to be numbered 4 and 5 to be inserted immediately after clause 3. These new clauses are set out below—

4. (1) Where any oil or mixture containing oil is discharged in the manner described in section one of this Act into waters to which that section applies, the harbour authority or owner of the harbour or foreshore which is or is likely to be affected by the deposit of such substance may take all reasonably practicable steps to prevent remove, eliminate or destroy the same, either before or after it pollutes such harbour or such foreshores, and to make good any damage caused thereby.

(2) Any expenses reasonably incurred by any person under sub-section (1) of this section shall, subject as hereinafter
provided, be recoverable by him as a civil debt in the Common Law Division, Summary Jurisdiction, from the owner or master of the vessel or the occupier of the place on land or the owners of the works or apparatus from which, as the case may be, it is proved that the discharge occurred.

Provided also that where, under subsection (2) of section 10 of this Act, a court has ordered the whole or any part of a fine to be paid to a person, and that person makes a claim under this subsection, the amount of the fine so ordered to be paid to him shall be taken into account by the Common Law division as being in satisfaction or part satisfaction of the expenses he has reasonably incurred.

(3) In this Act the word "owner" in relation to any apparatus includes a hirer thereof.

(1) Where any nuisance has been caused by the discharge of oil or mixture containing oil from a place on land or from any apparatus used for transferring oil from or to any vessel (whether to or from a place on land or to or from another vessel) the appropriate authority may by notice addressed to one or both of the persons hereinafter mentioned in this subsection require the occupier of the place on land, or the owner of the apparatus, as the case may be, within such reasonable time, not being less than seven days from the date of service of the notice, as specified in the notice, to take such steps, including the execution of works, as the authority deems practicable for abating or preventing the recurrence of the nuisance and, subject as hereinafter in this section provided, every person to whom such notice is addressed shall comply with the terms thereof.

(2) In this section the expression "the appropriate authority" means—

(a) in the case of the nuisance existing in any of the waters to which section one of this Act applies, or on any foreshore, or on any property vested in the Isle of Man Harbour Board, the said Board;

(b) in the case of the nuisance existing in any place other than one mentioned in paragraph (a) of this subsection, the Isle of Man Local Government Board;

(3) Any person who fails to comply with any of the requirements of a notice given to him under this section shall be liable on summary conviction to a fine not exceeding five hundred pounds with a further fine not exceeding one hundred pounds for each day during which such failure to comply continues after conviction therefor.

(4) Any notice under this section may be signed by the secretary of the appropriate authority and shall be deemed to have been sufficiently served if addressed to the person to whom it is to be given and either served on him personally, or by leaving it for him at his last known place of residence or business in the Isle of Man, or by sending it to him there by registered post or recorded delivery, or by fixing the same in a conspicuous position on the place on land or on the apparatus, as the case may be.

(5) (a) Any person aggrieved by any requirement of a notice served upon him under this section may, within seven days of such service, appeal to a court of summary jurisdiction and, pending the determination of the appeal, the effect of the notice shall be suspended.

(b) Every appeal shall be commenced by the appellant lodging with the clerk of the court a petition addressed to
The court stating the general grounds of appeal and signed by him or his advocate on his behalf and brought with notice to the secretary of the appropriate authority.

(c) The court shall hear the appeal as soon as practicable and may allow or dismiss the appeal or may reverse or vary any requirement of the notice against which it is brought and the decision of the court shall be final.

The Attorney-General submitted these clauses to the Home Office and the Board of Trade but once again very considerable difficulties became apparent. The main criticisms to clause 4 are the possible multiplicity of civil defendants, the unlimited extent of liability and the absence of any defence such as an act of God, etc. In the case of clause 5 the criticisms are that the liability is absolute, provides no possibility of a defence and that the decision is not that of a court of law but of a local authority (though there is an appeal to a Summary Court). A general criticism is the fact that the law in operation would be out of accord with the law in adjacent territories which would inevitably give rise to confusion in maritime quarters and awkward repercussions outside the Island. The liabilities imposed by the clause are not in line with the fundamental concepts of the operation of the law of civil liability.

Accordingly some minor amendments were made to the new draft clauses 4 and 5 which the Attorney-General did not consider would meet the difficulties but which were nevertheless submitted to the Home Office. At this stage the Torrey Canyon affair intervened and the whole matter was left in abeyance whilst the implications of the situation were analysed. The Home Office pointed out to the Attorney-General that the minor amendments to the two draft clauses did not cure the main criticisms to the whole principle of the clauses.

For some years now, since the Torrey Canyon affair, the whole question of pollution by oil at sea has been under active consideration at international leve. and we agreed that it would be most unwise for the Isle of Man to create a novel law on its own entirely altering the accepted principles of civil liability when at any time an international convention may result from the present deliberations.

We also take the view that since international conventions take many years to come into general operation it would be wrong for the Isle of Man to continue without any protection or remedies until an international decision is reached. We accordingly recommend that Council should accept clause 3 as printed and provide the Isle of Man with the same protection as is enjoyed by the United Kingdom pending the outcome of the convention.

We would add that the Home Office and the Board of Trade fully recognise the competence of the Isle of Man to enact the legislation which we sought to do, but that in their opinion it would be unwise both from our own and the international points of view for the Island to enact legislation in a form differing from that of the United Kingdom, pending the outcome of the present international discussions as to the terms for an international convention. We have seen the relevant correspondence and accept the advice given.

Mr. Nicholls was unable to attend our deliberations and accordingly has not signed this report, but he has been consulted and concurs in our conclusions.

Since this Report was drafted it has reach our notice that the International Convention of Civil Liability for Oil Pollution Damage was signed in Brussels (by 19 states) in November last.
The Convention is stated to provide a considerable improvement in the legal position of a claimant in the event of marine oil pollution damage.

Despite this late change in the position we adhere to our recommendation that we should forthwith continue with our own Bill as drafted. The passing of this Bill will afford the Island some protection immediately and when the United Kingdom Bill is published we may, if we see fit, produce parallel legislation to provide claimants with stronger civil remedies.

This 19th day of May, 1970.

G. E. MOORE.
DAVID D. LAY.
C. C. McFEE.

LICENSING (No. 3) BILL—FIRST READING APPROVED

The Governor: Now item number 2. The Licensing (No. 3) Bill. Mr. Nicholls.

Mr. Nicholls: Yes, sir, this is a very short Bill, a Bill of only one clause actually, which seeks to cover what was really a provision in the original Act. The original Act provided that catering establishments which provided full-board catering for 50 or more guests, staying guests, would have this extra licensing hour for the convenience of their guests. But it was not realised at the time that it did inflict a penalty on very large establishments, and of course, the obvious one was the Douglas Holiday Centre, which I think it takes 800 or 900 guests or more than that, rather about 1,000 guests and yes they are not able to avail themselves of this additional hour. And the Bill is really introduced to cover such establishments such as the Douglas Holiday Camp and the Howstrake Holiday Camp, or any future very large establishments.

Mr. McFEE: In what way does it exclude them?

Mr. Nivison: I would perhaps answer that and support this. The Tourist Board have to vet applicants and it is for the larger establishments who can accommodate some 50 or more guests who put on some form of entertainment; and this is the operative word. If they put on some form of entertainment, they can get additional licensing facilities for an additional hour. We have been in the Tourist Board—

Mr. Corkhill: For an additional hour?

Mr. Nivison: An additional hour in the summer months. We have been somewhat concerned about the lack of entertainment, Your Excellency, in the Isle of Man, bearing in mind that many of our theatres and the like have closed down. But there are certain hotels who put on entertainment for the guests. There are only a few of these, and so far only one or two have actually been granted this particular facility. When the Act was put through, it was pointed out to the Tourist Board that a place like the Holiday Camp which does provide entertainment, not particularly for their guests, but for people outside in addition, and this is the operative part. It is for the people outside. The guests within, they can drink all night if they wish in hotels provided they are staying. But these are people from without. And it was thought that the Holiday Camp should qualify provided they satisfied the other things associated with the Bill, the same as the Fort Anne, the Castle Mona, the Majestic Hotel or places of this kind. And it is merely putting the Holiday Centre in the same category as those places and it does not automatically give them a licence. They would then have to satisfy the Tourist Board that they were in fact putting on entertainment which does include variety entertainment, singers, bands and things of this kind.

Mr. Bolton: They are excluded because they do not necessarily give full-
board and full-board was a condition in the previous Bill. And so really the only difference is that . . .

Mr. Corkhill: Your Excellency, the worst thing I have to say about it is that I think it breaks down uniformity. Take for instance ordinary hotels, they close at 11 o'clock, I take it. Now this can open for a further hour and it is possible that people can leave hotels and get into such places.

The Attorney-General: But that is existing law. That is the present law.

Mr. Corkhill: Which is the present law?

The Attorney-General: What you have just remarked about.

Mr. Corkhill: I think we can well extend it to the extent that it does affect . . .

Mr. Nivison: This principle is now at stake, Your Excellency, at the moment. It is a case of doing what is right for one is right for another, and that the Holiday Centre because of their particular type of catering was debarred. I am not a particular supporter of the Holiday Centre, but I do say, sir, that they have attempted to put on entertainment for outsiders. It is not the entertainment that many of us would like. They put wrestling on from time to time; they put concerts on from time to time, of various kinds. It was thought that they should come into the same category, as I say, of the Castle Mona or the Fort Anne, and places like this.

Mr. Corkhill: I noticed, Your Excellency, that darts, for instance, is a great . . . What I wanted to say was, do they get extra hours?

Mr. Nivison: No sir, no sir.

The Governor: Now, the Lord Bishop.

The Lord Bishop: I was just going to say sir, do not think I am against this thing, but to me the phrase in the Explanatory Memorandum "larger holiday establishments which do not provide full board" is not entirely clear in this context. I expect it is to those who know more about it, but does it mean do not provide full-board go anybody, or do not provide full-board to the people who are now going to have these extra drinking facilities? Could someone define that phrase.

The Governor: Mr. Nicholls, can you?

Mr. Nicholls: I do not quite understand the Lord Bishop's point, sir. You see, the Douglas Holiday Centre, one that provides the living accommodation and recreational facilities, and so on, they do not feed their guests.

The Lord Bishop: Not at all?

The Attorney-General: There is a restaurant——

Deemster Moore: In which they can have all meals if they want. Normally they take a chalet and they do their own cooking in their own chalet, and they can buy the wholesale food from the camp stores there, but they are not automatically, like being entertained at the camp, provided by the camp authorities with their food.

Mr. Nicholls: The same as the Castle Mona or the Fort Anne would.

The Governor: Do you wish to reply?

Mr. McFee: I wish to make one or two comments, sir. I feel that camps are entirely different to hotels because camps can cover many, many acres of ground; the entertainment section and bars are entirely separate from the accommodation. The accommodation is tourist furnished accommodation for family and young people accommodation, and as such I think this is entirely different to the purposes of the original intention of providing this extra facility to the genuine well-run establishment where everything is
under the one roof. I think that this would be a very dangerous step to broaden this scope of this Bill and extend it for this purpose. I am certainly voting against this Bill, sir, because I think it is another step towards the broadening of the whole licensing attitude that is taking place in the Island. A camp is entirely different to an hotel which has the proprietor on the premises, he is under the same roof and he can control effectively. The others—well, you can have acres and acres of land and about hundreds and hundreds of chalets that are entirely separate and independent one from another, and as such there is a tremendous difference between the two types of accommodation. I certainly think this would be a very dangerous thing. Camps originally in the Isle of Man were very, very strictly controlled, and some of the most successful years of camping in the Isle of Man was when there was no licensing at all and when they were strictly controlled in the old days, when there was control such as was effected by the proprietors, such as Cunninghams and such like, where they never thought of licensing and in fact where there was any thought of licence or the consequences of licensing they would be thrown out neck and crop.

Mr. Bolton: Your Excellency, I would not like to encourage the hon. member to make another speech but I would just like to know what the difference is between the Majestic Hotel with acres and acres of land round it and the Douglas Holiday Centre with acres and acres of land round it. The argument is against licensing altogether and whilst I might share his views to some extent, if we are doing it for one we must do it for them all. And that is the only view that I am taking.

Mr. Nicholls: Yes, I think, sir, with respect to Mr. McFee, it is quite wrong to bring up the question of what happened in the early days of the late Mr. Joseph Cunningham's effort and com-
find themselves in a position where some of the larger hotels can get this extra hour for doing what the Holiday Centre has been doing in the past and the poor old Holiday Centre is excluded from the benefit because of the requirement in the existing Act that they must provide full board. Now the Douglas Holiday Centre does not provide full board.

Mr. McFee: Carrots always attract donkeys!

The Attorney-General: Yes. And it is a carrot that you can never resist. (Laughter).

Mr. Nicholls: I beg to move the Bill.

The Governor: Is it agreed that we give it a first reading?

It was agreed.

The Governor: Thank you.

Mr. Bolton: How long are we going to be getting it through, sir?

The Governor: Well it all depends on how much progress we make this morning and this afternoon.

Mr. Bolton: I take it the hon. member will take the readings now?

The Governor: Well I would oppose putting that until we have got further down the agenda somewhat.

Mr. Nicholls: Well the reason I did not take it at the last sitting of the Council was because I could not get it through in time for this season.

The Governor: It all depends on the filibustering that we have this morning.

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CHURCH (SYNODICAL GOVERNMENT MEASURE) BILL, 1970—FIRST READING APPROVED

The Governor: Item number 3. Mr. Radcliffe.

Mr. Radcliffe: I do not know about filibustering, Your Excellency. This appears if you read it, very complicated. We have two Bills, item number 3 and number 4. One is related to the other. But we are taking the first one, the Church (Synodical Government Measure) Bill, 1970. Very simply, Your Excellency—

The Governor: Well is the Explanatory Memorandum comprehensive?

Mr. Radcliffe: That and the report of the Ecclesiastical Committee of Tynwald which reported to Tynwald, take the two together and they are very fully explanatory. And this morning I did not propose to go into detail, but I was in the first instance saying this was the actual purpose of this change. You can say it is a matter of simplified administration, streamlining, if you like, but more than that it does also give the laity greater say in the Government control of the Church and its functions. And if you want me to stop there I can stop. When I say streamlined, looking at the report, just this particular sentence. at present the Government of the Church is embodied in two systems. Well, it is not really two systems, systems is perhaps a wrong word, but two procedures. Convocation can meet, they can discuss changes in Church measures. Having agreed, they can then take those for confirmation to the Assembly. This is only a part, I am not going into absolute detail. In future the Convocations as such would disappear; it will be one body. The Convocations of Canterbury and York will meet with the Bishops, or at least the Bishops and members of the Convocations in the General Synod. I am trying to be brief. The Synod will perform the functions of what was known as Church Assembly and also of the Convocations, except that the Convocations do retain unto themselves certain duties. As a matter of fact this has nothing to do with doctrine; it is the administration of the Church. So very briefly, Your Excellency, I beg to move the first reading of the Church (Synodical Government Measure) Bill which reconstitutes the Church Assembly as a
General Synod of the Church of England and vests in it wider powers and re-names, as far as we are concerned, the Diocesan Conference, re-names it the Diocesan Synod. For the most part the functions will be the same in the Isle of Man. We accept the greater portion of the English measure. The portions that are not accepted primarily deal with the constitution of our diocesan Synod in its election to membership, etc., and in particular another difference is the Deanery Synod. In England the Deanery Synods are going to take a part and have a far more effective voice in elections than they have in the past. We are not applying that to the Isle of Man because with a small place, and whilst in England they have endeavoured and do by their measure of 1969 reduce the representation on the General Synod, we in the Isle of Man considered that our — what has been known as a Diocesan Conference — is not too big and we are going to propose we retain the same membership. In fact there is a measure for a slight increase in certain cases. So the basic differences as far as the Isle of Man is concerned, are very few indeed. I beg to move the first reading.

The Lord Bishop: There are just two things I wanted to say very briefly, Your Excellency. One was that the general purport of these two Bills is to bring the Isle of Man and its Church into line with the Synodical Government which has now come into being in all the rest of the Church of England with suitable adaptations for our Isle of Man size. That really is in a nutshell what this thing is doing. It is bringing us into line with the rest of the Church but adapting it to the small size of this diocese. The other thing — I would like to draw attention to the amendment, one of the amendments made in the Keys, so that we can all be thinking about this and I hope, take a different view from the Keys.

Deemster Moore: This is in the next one.

The Lord Bishop: Are we not talking about both at once?

The Governor: No, the Synodical Government first.

The Lord Bishop: Oh, I am sorry. Oh, well, when I come — so they really are tied up?

The Governor: Yes.

Mr. McFee: It does not make any difference between the Laity and the Deanery representation. It is just purely administrative.

Mr. Nivison: One body is going to replace these two bodies.

Mr. McFee: So that it is not so democratic.

The Governor: A single chamber of government.

Mr. McFee: But the laity will still be there.

Mr. Nivison: Oh, yes.

The Lord Bishop: Well, actually the laity will now be associated directly with the bishop and clergy on all final decisions and on all matters, not only administrative and financial ones. In the past they have only been fully empowered with the bishops and clergy where there has been masses of money or administration. But now they will come in with the bishops and clergy at the top level when you are discussing doctrine or liturgy or re-union, every aspect of Church life.

Deemster Moore: The Church England is modernising its procedure by following the excellent example of the Methodist Church really.

The Governor: Is the first dutifully seconded?

Mr. Nivison: Oh, yes, I second that, sir.

Sir Ralph Stevenson: But I think it is quite clear from the Report of the Legislative Committee, in paragraph 16...
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it says exactly what it does, brings the administration of Anglican affairs up to date in the Island.

The Governor: First reading agreed?
It was agreed.

CHURCH (MISCELLANEOUS PROVISIONS) BILL—FIRST READING APPROVED

The Governor: Now item 4. The Church (Miscellaneous Provisions) Bill.

Mr. Radcliffe: The Church (Miscellaneous Provisions) Bill, Your Excellency, the Explanatory Memorandum says it constitutes the Sodor and Man Diocesan Synod and dissolves the Sodor and Man Diocesan Conference. "The Bill requires the Diocesan Synod to discharge the same functions as the Diocesan Synods of the English Dioceses are required to discharge under the provisions of the Synodical Government Measure Act." In the first Bill we have just dealt with, we accept most of the Synodical Government Measure of England, which was passed by the National Assembly of the Church of England. This Miscellaneous Provisions Bill briefly deals with the construction of the Diocesan Synod resulting from the acceptance of the first Bill. We are closely related, and I have already explained that in England they have been cutting down membership: in the Isle of Man we have decided not to cut down, but actually to increase a bit, so in answer to the hon. member Mr. McFee, there has been no loss of representation whatsoever in the Isle of Man by this measure. In England they have given more representation, more weight to the Deanery Synod and the Deanery will elect their representatives to go to the General Synod. And if there is 40 churches in the Deanery, there will not be 40 representatives going into the General Synod. There may be only 10 -- the Lord Bishop could explain that. Par. In other words, there will be no direct representation of certain churches. It would be their Deanery who will represent them. In the Isle of Man we have not introduced that. That is one of the basic differences. The Parochial Church Councils will elect their representatives to the Diocesan Synod as they have done in the past. And the Deanery Synod in the Isle of Man will be more a discussion group. The best example of that recently is that we are changing the assessment for quota purposes. It is financial, it is only finance, and the Diocesan Board will finance it and will be sending representatives to the Deanery Synod to explain what it is they have in mind. But we have had no loss of representation as Mr. McFee had feared. I beg to move the First Reading of the Church (Miscellaneous Provisions) Bill.

The Governor: Will somebody second?

Mr. Nivison: I will second, Your Excellency.

The Governor: Now if the Lord Bishop has any point to make about Chapellries, is it?

The Lord Bishop: No, about Church legislation, sir. If on this Church (Miscellaneous Provisions) Bill we could turn to page 9, part IV, Church Legislation, clauses 15 to 20, those clauses set out in a concise form the method by which church legislation is at the moment dealt with, and suggests it be continued in that pattern. Now, clause 20 has been deleted by the House of Keys, and clause 20 permits the church to withdraw a Bill from Tynwald, from the Legislature, from either House at any time before the third reading. The Keys have deleted that clause. I would hope that we would not agree in due course to this deletion. I am mentioning it now so that the matter can be talked about by ourselves and by members of the House of Keys as we meet them.
Because I would hope that there would be no difficulty at this point. The provision in clause 20 simply takes up a provision which we always had. In the Church Assembly Act of 1925 of Tynwald, the words relevant are "At any time before the third reading of any such Bill the Legislative Committee may, of its own motion, or by direction of the Diocesan Conference, withdraw any measures from further consideration by the Insular Legislature." We have always had this power for the last 45 years. It has, I believe, never been exercised at all by the church, but if I can explain the point simply, it would be possible during the passing of legislation, while it is going through its various readings in either branch, it would be possible for that legislation to become totally unacceptable to the church. And I do not think, really, the church is in that sort of relationship to the Government. And so we have always had the power to withdraw at any time before the third reading. This power is incorporated in the new measure in virtually the same form, and I would hope that we could still retain that power. I am prepared to answer questions if I am not very clear.

The Attorney-General: Is there similar provision in any Act of Parliament?

The Lord Bishop: Yes, I believe there is. I have several letters from Deemster Johnson about this; I believe this is so.

Mr. Radcliffe: One of the further points, Your Excellency, of course, well it is just an elaboration really, is that the procedure as set out as to where any Bill relating to the Church is examined by the Diocesan Legislative Committee, it is examined by the Legislative Ecclesiastical Committee, and all are agreed or are not agreed, but they are discussed at length. The Lord Bishop said an amendment would dodge all the procedures which are set out in the Bill, and the amendment could be just as important as the Bill, if not more important.

Mr. Nivison: May I ask, is it not the intention of this Bill to abolish the Legislative Committee of the Diocesan Conference and replace it by the Ecclesiastical Committee of Tynwald?

The Lord Bishop: No. There will still be the same—

Mr. Nivison: Oh, there will be?

The Lord Bishop: One on our side, and one on the other.

Mr. Nivison: Oh, I see, yes. So it is measures that have been introduced by the Ecclesiastical Committee of Tynwald that the Church would retain the right to withdraw the third reading, rather than anything that was introduced by the Legislative Committee of the Diocesan Conference, or the new Synod?

The Lord Bishop: Well, I think no measure, Your Excellency, would arrive unless it had passed through two sieves. One was our Legislative Committee, and the other would be the Tynwald Ecclesiastical Committee, and when it had passed through both those sieves and been passed by our Diocesan Conference in the first place, only at that point would it be presented to Tynwald with the sort of Memorandum which we had about these measures, and would then proceed through the normal readings. But the principles would have been agreed by Church and State.

Mr. Nivison: What I am trying to arrive at, Your Excellency, is at what period would you claim the right to withdraw, and who would claim that right? You see, the new Synod would be a democratic body and this could hardly arise, could it, because it would be their measures that would be presented.

The Governor: I think that the Lord Bishop's point was that the measure is presented and in its second reading...
here in this Council we put in the Bill extraneous stuff which is quite unacceptable.

Mr. Nivison: The Church have the right to——

Mr. McFee: Well, could I come in here, sir. I am supporting the Keys on this because I think in general the control of the presentation or the withdrawal of any Bill should be the right of a member, no matter what branch he is in, and that the mover and seconder must have the authority of the particular branch before he is allowed even to withdraw the motion. Otherwise it has got to continue on the agenda. Now if that is right for every other section of the community, why should the Synod have a special ruling over any branch of Tynwald in respect of this matter, because surely the person who is in charge or responsible for the Bill would be in constant consultation with the Church and with those who have sponsored it, and would immediately ask for the withdrawal but they would certainly be subjected to the authority of the particular Branch. This is what happens in Tynwald. It happens in all other legislation and I feel that the Church has got to conform with what is general and with what is accepted. Tynwald is the Government of the country and so long as the Church is subject to the Government of the country and is a State Church, then it has got to conform to the unpleasant side of it as well as those things that may be of advantage and I think that the Keys are right. The Branches ought to have the right to control their own business.

Mr. Radcliffe: Your Excellency, I am afraid——

The Governor: Well, do not let us...the point of raising it at this stage as the Lord Bishop said was that we could discuss it between now and the second reading and not have a whole debate. But I have one question and that is in a Private Bill coming before us, if we change it out of recognition, can its sponsors withdraw it?

The Attorney-General: Under the earlier procedure, sir.

The Governor: I cannot think that it would be changed, but supposing it were changed. This is very much a question of a Private Bill of the Church. It is nearer a Private Bill than a Public Bill.

Mr. McFee: If it is a Private Bill, sir, it will be moved by a private member, and every private member of any branch has a right either to withdraw by permission of the branch, or he can recommend to the branch that it reject the Bill on the subsequent reading or the reading in which it is taking place and this is what happens.

Mr. Radcliffe: Your Excellency, I will take note of what you have said. But just one point——

The Governor: And you might find out what happens in England.

Mr. Radcliffe: Oh, yes. The hon. member, Mr. McFee, is speaking about ordinary Bills. The whole way through there is legislative provision for dealing with Church Bills in a different way to ordinary Bills. It is already in our law. There is no other committee, permanent committee of Tynwald set up to deal with Bills introduced by private members or anything of that nature. Under the Church Bills we have got an Ecclesiastical Committee set up with a purpose in view. It is dealt with in a different way to any other Bill, therefore you cannot consider applying the drill exactly to this Bill as to any other Bill.

Mr. McFee: All the more in which it can be related to the mover of the Bill.

The Governor: Is it agreed we give this a first reading?

It was agreed.
The Governor: Thank you.

The Attorney-General: I wonder if the Lord Bishop could tell me, sir, what is the—

The Governor: Well, later. Thank you.

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MERCHANT SHIPPING BILL—FIRST READING—APPROVED

The Governor: Item 5. The Merchant Shipping Bill. The Attorney-General

The Attorney-General: Yes, Your Excellency. This Merchant Shipping Bill merely transfers back to the Board of Trade the powers that it used to exercise in the past, but which some years ago were transferred to the Ministry of Transport. We did, in fact, do a Bill transferring to the Board of Trade the Ministry’s powers in respect of wreck and salvage; that was two or three years ago, we did that and it has now been pointed out to us that we have omitted to do the transfer in respect of the Merchant Shipping Acts, and the Board of Trade is in some doubt as to who is supposed to do what. It is a perfectly simple straightforward Bill, sir, and I beg to move the first reading.

Mr. Nivison: I second that.

The Governor: Is that agreed?

It was agreed.

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DANGEROUS DRUGS BILL—FIRST READING—APPROVED

The Governor: Item No. 6. Dangerous Drugs Bill. The Attorney-General.

The Attorney-General: Yes, Your Excellency. The Dangerous Drugs Act of 1966 empowers you, sir, to make regulations controlling the production and sale of drugs to which the Act applies. Now the present Bill enlarges your regulation-making powers to give notification of persons who are drug addicts, and to prohibit medical practitioners from providing drugs to addicts except under licence. In the case of a contravention of the regulations a medical practitioner may be prohibited from providing patients with certain specified drugs. Provisions are included to enable the medical practitioner in respect of where a prohibition has been made to appear. The Bill for that enables His Excellency to make regulations for the safe custody, etc., of drugs and increases the powers of search to detect contravention within the provisions of this Bill and also the provisions of existing enactments relating to dangerous drugs. I beg to move the first reading. Your Excellency.

Mr. McFee: I will second it at this stage, sir, but I want to suggest that when we come to the question of regulations, sir, or perhaps at a second stage of reading, that the Attorney might consider an amendment whereby delegation of a G.P.’s powers could be subject to any drug addict being treated in the Isle of Man at one or two specific clinics, so that they cannot go all round the Isle of Man to every G.P. and be treated and receive drugs. Whereas if they were subject to the control of the visit to a clinic, and the clinic could be at the hospital, then one hospital in a small Island like this could deal with the situation. I think it would be in the interests of the Manx community and our visiting community if this could take place. It could happen, perhaps, either by delegation through regulations, or it may be necessary for an amendment.

The Attorney-General: It may be necessary for the complete re-casting of the Bill.

Mr. McFee: It would be.

The Attorney-General: I should think so. It sounds a very good idea to me, but whether it is feasible or not, I do not know.
Mr. McFee: It could be feasible because I have enquired of Consultants and they consider that it would be a very wise thing really that it could be controlled at one centre in this Island.

Sir Ralph Stevenson: Could that not be done by regulation?

The Attorney-General: No, I could not tell you at this stage. I mean, I have not gone deeply into this particular Bill.

The Governor: Well, now, on the first reading. Is that agreed?

It was agreed.

The Lord Bishop: Will this question be looked into before the second reading?

The Attorney-General: Yes.

The Governor: Number 7. We must wait until we have seen the Keys this afternoon.

TOURIST PREMISES (COMPENSATION FOR TENANTS' IMPROVEMENTS) BILL—SECOND AND THIRD READINGS—APPROVED

The Governor: Number 8. Tourist Premises (Compensation Tenants' Improvements) Bill. The learned Attorney-General.

The Attorney-General: Yes, Your Excellency. I went quite fully into the generalities of the Bill at the first reading and would like, sir, just formally to move the second reading and then go into committee to consider the clauses. I beg to move the second reading, Your Excellency.

Mr. Nivison: I second.

The Governor: Is that agreed?

It was agreed.

The Governor: Now, in committee. Clause 1.

The Attorney-General: Now, clause 1. Your Excellency, provides for compensation to be payable to tenants in respect of improvements made by the tenants to the premises with the written consent of the landlord. By sub-clause (2) of clause 1, Your Excellency, the landlord may make his consent either unconditionally or upon written agreed terms. I beg to move clause 1 stand part of the Bill.

Mr. Nicholls: I beg to second.

The Governor: Agreed?

It was agreed.

The Governor: Two.

The Attorney-General: Clause 2 relates to places where the landlord refuses his consent or imposes terms which the tenant finds unacceptable. In such case the tenant may apply to the Common Law Division, Summary Jurisdiction of the High Court. By sub-clause (2) the court may grant approval either unconditionally or upon terms or may withhold its approval. Where the court does grant approval, then by sub-clause (3) the landlord may by notice opt to carry out the improvements himself. By sub-clause (4) where the landlord serves no notice that he is going to carry out the improvement himself or having served the notice, fails to carry out the improvement within a reasonable time, the tenant may proceed forthwith. I beg to move clause 2 stand part of the Bill.

Mr. Bolton: Could I ask, sir, I have got a note here and I am not quite sure where it is from, but I put it in myself, but it does not appear to be an amendment that has already been made. The note I have is at the end of sub-clause (2) to add, "in giving consideration to an application, the court shall have regard to the unexpired term of any lease."
The Attorney-General: They are bound to.

Mr. Bolton: Well, are they bound to if their attention is not called to by the section? This is the point. "The court may approve the carrying out of the improvement either unconditionally or upon such terms whether as to the reduction of the compensation which would be payable if the court approved unconditionally or as to other matters, as appear to the court to be just or may withhold its approval." Now, it does not specifically mention any particular matter, and it is usual I think in many cases if a matter is of sufficient importance, to make a condition that that must be considered. I believe that if a lease has been going for a very considerable time and it perhaps is approaching its end, there are say three or four years of a 20-year lease, let us say, that some note should be taken of the unexpired term of the lease.

The Attorney-General: Well, it would be automatically. The whole thing would come into consideration.

Mr. Radcliffe: Well, I support Mr. Bolton, the hon. member. Mr. Bolton—

The Attorney-General: Well I oppose it. I do not believe in writing these things in when there is no need to.

Mr. Radcliffe: Yes, but the landlord may have some really advanced ideas of what he is going to do when he gets the hotel back.

The Governor: But he is... can tell the Court.

The Lord Bishop: He would say so, would not he?

The Governor: He would say so. He would not refuse to be represented, surely.

Mr. Radcliffe: The court might say if there are only five years left to run that the present tenant should have the benefit of some alterations and direct they should be done.

The Attorney-General: The court would do justice.

Mr. Bolton: Page 6. "Improvements" means structural alterations or additions and demolitions by reason of such alterations or additions." It could be possible that the lease has run for a certain period and then these demolitions, alterations, additions are proposed. and I felt that it was desirable that the attention of the court should be directed particularly to that matter.

The Attorney-General: The attention of the court will be drawn to all matters which have any relevance at all.

Mr. Radcliffe: Sir, with no disrespect to the courts, but they abide by what is—

The Governor: It is.

Mr. Radcliffe: No—

The Governor: Do not say it is not, because it is.

Mr. Radcliffe: His Honour Deemster Kneale told us once that we abide by what the book says, the court does. They do not listen to the debate. It used to be, and they do not any more. We have just had experience—

The Attorney-General: No, it is a policy—(interruption).

Mr. Radcliffe: I am not criticising, it is a policy that has been accepted here and elsewhere. (Interruption.)

The Governor: They do listen to what the lawyers say in court.

Mr. Radcliffe: Oh yes. But they do not read the intent of what Mr. Bolton has just said. We have just had a recent example of where a matter went to the courts which I think is a matter of opinion. where the court has acted according to the book which was not according to what was said in Tynwald or the intention of Tynwald, and where there is actually a conflict. We follow the English legislation and there was a conflict. I am not going to go into detail.

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Tourist Premises (Compensation for Tenants' Improvements) Bill—Second and Third Readings—Approved.
but we have had knowledge, if you want me to go into details I will, if there is not a sound made I will be quite happy, but the court dealt with the matter in a certain way and Tynwald when it passed the particular legislation meant it to be dealt with in another way. But what they intended was not in the Bill, and the courts upheld what was in the Bill, and if Mr. Bolton moves an amendment that this matter shall be borne in mind, well why in the world say no when it will be borne in mind?

Mr. Bolton: I think, sir, that what I would like to say is that I intended to move this amendment, but the learned Attorney-General suggests that there is no need to put these things into Bills because the Court would look at everything. And yet, over and over again in my experience of putting these Bills through we have read "and the court shall have regard to so-and-so and so-and-so and so-and-so." Special matters which the court should have regard to. Now there is no reason at all why this one should not be in along with all the others that have come into legislation.

The Attorney-General: Hon. members, there should be such legislation—

The Governor: Will you move your amendment, then?

Mr. Bolton: Yes, sir. I move the amendment, sir, but I do want to say this, that—

The Governor: The amendment being what?

Mr. Bolton: The amendment being that we add at the end of sub-clause (2) "in giving consideration to an application the court shall have regard to the unexpired term of any lease."

Mr. Corkhill: I beg to second that, Your Excellency.

The Governor: Does any member wish to speak on that amendment?

The Attorney-General: Well, I am totally opposed to it, sir. It is entirely unnecessary, it is untidy as it happens, but we need not bother about that, and there just is not any point in it at all.

The Governor: Does any other member wish to speak on it?

Mr. Corkhill: Your Excellency, in support of the amendment I think that some consideration should be given to the owner, because it can be detrimental from the other angle. It can take the interest of the owner completely away.

Deemster Moore: Your Excellency, may I just say that I think the amendment is helpful.

Mr. Nivison: All you are doing is spelling out what—

The Attorney-General: Then the court can say to itself or people can argue, that is what we have got to consider, never mind whether the landlord is 90 or the tenants are drunk, or something like that.

Mr. Nivison: This does put the emphasis on one particular item.

Mr. Bolton: It has been done before.

Mr. Nivison: Unless we spell all the other things out... does not it tend to distort the main purpose?

The Attorney-General: Yes, I think so.

Sir Ralph Stevenson: It does seem to me to single out one particular matter to the disadvantage of other particular matters.

Mr. Bolton: Put "inter alia" in.

The Attorney-General: It does not even say, having given regard to the length of term that is still to run, what conclusion he is to draw from it.

Mr. Bolton: No, I agree that he must have regard to it in his judgment. I believe that it is essential that these things should be stated in order that the courts know one of the points, at any rate.

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Tourist Premises (Compensation for Tenants' Improvements) Bill—Second and Third Readings—Approved.
The Governor: I shall now put the amendment. The amendment to paragraph 2 as Mr. Bolton has read out. Those in favour of the amendment, please say aye, those against please say no.

A division was called for and voting resulted as follows:—

For: Deemster Moore and Messrs. Corkhill, Radcliffe, Bolton and Nicholls — 5.

Against: The Lord Bishop, the Attorney General, Sir Ralph Stevenson and Messrs. McFee and Nivison — 5.

The Governor: The amendment fails to carry. Now the clause 2 then. Is that agreed?

It was agreed.

The Attorney-General: Now clause 3. Your Excellency, sets out the measure of compensation to which a tenant will be entitled for the various improvements which he may make. The measure is set out in the schedule and it will be seen that the compensation diminishes over the years according to the type of improvement made. The structural alterations and central heating, etc., it takes 20 years to wipe out the value of the improvement, whereas the lift and kitchen equipment it takes only 10 years. These figures, sir, were supplied by the Local Government Board and were obtained by them from their counterparts in the United Kingdom. By sub-clause (2) it is made clear that the landlord and tenant may, if they so desire, agree in writing on a different structure of compensation. I beg to move clause 3 stand part of the Bill.

The Governor: Is that agreed?

It was agreed.

The Governor: Four.

The Attorney-General: Now clause 4, sir, deals with a case where a landlord is, in fact, a trustee, and provides that he shall not personally be liable for the payment of any compensation, but that the premises may be charged if the compensation is not paid within one month.

The Governor: Is that agreed?

It was agreed.

The Governor: Five.

The Attorney-General: Now clause 5, sir, provides that if the landlord fails to discharge his liability within one month, the tenant may apply to the court for an Order charging the premises with the payment of the amount due. Much the same as is done over the making-up of unadopted roads; if a frontager cannot afford to pay, well, his property is charged with the amount. I beg to move clause 5 stand part of the Bill.

The Governor: Is that agreed?

It was agreed.

The Governor: Six.

The Attorney-General: Clause 6, sir, deals with a case where a landlord is, in fact, a trustee, and provides that he shall not personally be liable for the payment of any compensation, but that the premises may be charged if the compensation is not paid within one month.

The Governor: Is that agreed?

It was agreed.

The Governor: Seven.

The Attorney-General: Clause 7, sir, deals with the completion of any improvement. Sub-clause (1) provides that "a tenant shall not be entitled to compensation unless he shall have complied with any conditions which may have been imposed by the Court or by agreement with a landlord," and by sub-clause (2) "a tenant is entitled to require a landlord to give him a certificate that an improvement has been duly executed." I beg to move clause 7 stand part of the Bill.

The Governor: Is that agreed?

Tourist Premises (Compensation for Tenants' Improvements) Bill—Second and Third Readings—Approved.
It was agreed.

The Governor: Eight.

The Attorney-General: Clause 8, sir, empowers the landlord to enter on the premises and execute improvements which he has undertaken to carry out and to make inspections for the purposes of this Act. I beg to move clause 8 stand part of the Bill.

The Governor: Is that agreed?

It was agreed.

The Governor: Nine.

The Attorney-General: Now this clause 9, sir, deals with cases where the landlord owes the tenant compensation, but the tenant owes the landlord rent, or some other payment under his tenancy agreement. In such cases the landlord is entitled to set off the tenant's debt against his own. I beg to move clause 9 stand part of the Bill.

The Governor: Is that agreed?

It was agreed.

The Governor: Ten.

The Attorney-General: Now under clause 10 where a landlord has himself carried out the improvements under the Act, he may apply to the Court for an increase in the rent. I beg to move clause 10 stand part of the Bill.

Mr. Nivison: Is there any provision for the interest rates that sometimes is contained. " At an interest rate not exceeding . . . "

The Attorney-General: An interest rate?

Mr. Nivison: He is able to charge an increased rent.

The Attorney-General: Oh, I see, yes.

Mr. Nivison: What I am . . . in relation to the improvements that have been carried out — supposing a landlord carries out improvements to the extent of £1,000 on the place and he puts on an increased rent of £250?

The Attorney-General: He does not do it. He may go to the court and say, look. Your Honour. I have spent £1,000 on this and the rent I am getting——

Mr. Nivison: He is liable to put £100 on the rent — 10 per cent.

The Attorney-General: Yes.

Deemster Moore: Your Excellency, I am not sure that I can support clause 10 (1) at all. I think it would have been better if the clause had been drafted in such a manner as to provide that " in default of agreement between the landlord and the tenant as to establish the rent, then there should be an application to the Court. " This is the second Bill which I have seen within the last year of this type of thing where it almost insists you have got to go to the Court. Well it should not be so. The first thing should be if they have agreed that the alterations should be carried out, they ought also to be able to agree without the aid of the Court as to what additional rent should be paid and it is not in default of agreement that an application to the Court should be made.

The Attorney-General: I entirely agree with His Honour.

The Governor: Well in line 3 after " by him " perhaps you could put " in default of agreement ".

Deemster Moore: Between the landlord and the tenant.

The Attorney-General: " The landlord may, in default of agreement between the landlord and the tenant . . . "

The Lord Bishop: To my simple mind, the thing that the Deemster is objecting to is not here. It says " may apply", it does not say " shall apply " . I assume the words " may apply " means may if there is a——

The Attorney-General: No, but if he has entered into an agreement with the tenant he can still say. I was an ass to do that.

Tourist Premises (Compensation for Tenants’ Improvements) Bill—Second and Third Readings—Approved.
Deemster Moore: Well, may I move that amendment?

The Attorney-General: Yes. I accept it.

Mr. McFee: The only point I would raise, Your Excellency, is — I think that the court should be limited really to the extent of the maximum amount of extra interest charged.

Mr. Bolton: How do you know how much it is going to be?

Mr. McFee: Well, say for instance the normal rate is 7 per cent. today——

Mr. Bolton: There is not any normal rate!

Mr. McFee: There is a normal rate.

Mr. Bolton: There never was a normal rate.

The Attorney-General: But this is not interest, this is rent.

Mr. McFee: Rent. Yes. Well you have got the same arising in one of the other Improvement Acts.

Mr. Nicholls: The Prices and Incomes Board.

Mr. McFee: There is a ratio of say perhaps 2 per cent. allowed because of the outstanding moneys and depreciation over the years which would be reasonable. But to make it ad lib——

Mr. Bolton: The court will look after that the same as it will look after the length of the lease that you voted against.

Mr. McFee: Oh, as long as I am quite happy that the court have this power, I do not mind.

The Governor: Now, just let us recapitulate the amendment, which is "The landlord may . . ."

Deemster Moore: "In default of agreement between the landlord and the tenant apply to the Court."

The Governor: Is that agreed?

It was agreed.

The Governor: Eleven: I have one question here before you proceed, and that is, why do we suddenly drop our Deemsters and talk about Judges in the High Court?

The Attorney-General: Because, sir. I think I am right in saying this, that is the expression used in the Judicature Acts. I think that is so, sir. That is just a rule-making power, sir.

The Governor: So the Term Judge in the High Court shows it is not going to be breast law——

Deemster Moore: Well, sir, actually "Deemster" is more appropriate because I do not think the Judge of Appeal whose duties are strictly limited and is a Judge of the High Court would be a Judge of the High Court for the purposes of this section. But I am pretty certain that the Attorney-General is quite right when he says that in the Judicature Act, at which time there was not a Judge of Appeal, the Judge of the High Court at that time included the Governor, and it would be the correct word to use. "Deemster" is probably more appropriate in these days.

The Governor: Is that one agreed?

It was agreed.

The Governor: Twelve.

The Attorney-General: This clause, sir, clause 12 is quite distinct from the rest of the Bill. It arises out of an averment that many leases of boarding-houses and similar establishments contain options to the tenant to purchase, but leave the manner in which the purchase price is to be ascertained unspecificed, thus greatly diminishing the value of the option. I may give my tenant an option to purchase and he decides to exercise it, and I ask him some ridiculous price which puts it completely out of his reach. Now this clause remedies this by providing that the purchase price under such an option contained in a lease entered into after the Bill be-
comes law shall be the value of the property at the time of the exercise of the option, to be ascertained by an agreed valuer or in default of an agreement, by arbitration.

Mr. McFee: But why not the public value at the time on the public market?

The Attorney-General: How do you know what it is?

Mr. McFee: Well you put it to auction.

Mr. Nivison: You cannot do that.

The Attorney-General: What is the good of that? He might be out-bid.

Mr. McFee: Well, say for instance, I come along and say I will give you £X for this house, and he goes along to his landlord or whoever is there, and says, well I have been offered this money. And he says, this is ridiculous, I will go to the High Court and have it cut down.

Mr. Nicholls: But then the value of it—

Mr. McFee: But the value is what you are offered.

Mr. Nivison: We are referring to an option to purchase which—

Mr. McFee: I know, the option, yes, but there is no fixed price.

Mr. Nivison: Oh yes, on an option. An option to purchase for £10,000.

Deemster Moore: No, the point which this Bill deals with, there is not £10,000 mentioned. It is common enough and it is a very serious defect in the law. If I am granting a tenancy of a house to the hon. member, Mr. Nivison, and I say in the lease if at any time during the lease you shall have the option to purchase that house at £10,000, that is firm and certain. But if I say in the lease, I grant you an option to purchase the house—full stop—that is really of no value. Because you might write and say to me, I would like to exercise my option and I know the house is worth £10,000, and I do not want you to exercise the option, and I say, yes, well the option that applies to you is £25,000. Now that is what this is meant to remedy. If the option is being given in terms of merely saying, you shall have an option to purchase, then if no price is mentioned in the document the purchaser when he applies to exercise his option will have the right under this clause to have the property valued—the landlord and the purchaser together will have it valued—and the basis will be as if it is an arbitration and it will be the value of the premises as ascertained by arbitration at the time when the option is exercised, which seems to me to be reasonable.

Mr Radcliffe: And only when no amount has been put in.

Deemster Moore: When no amount has been put in. That is the end of it.

Mr Radcliffe: That is the end of it.

Mr. Bolton: The position really boils down to this, that the man who took the lease in the first case should have known very well that his option was of no value, and now we are trying to protect him.

The Attorney-General: That is right.

Mr. Bolton: It looks to me, sir, as though we are everlastingly running round trying to be nursemaids to all kinds of people who should know or should find out, and this to my mind, sir, is becoming rather ridiculous in a lot of our legislation. People should at some point be expected to look after themselves, or to get the proper advice when they are doing a transaction. Instead of this, we are all the time—let us make sure that this fellow who has made a fool of himself does not—

Mr Nicholls: Of course it might be—

The Governor: Yes, but there again, many of these provisions are most useful. I mean, we have just been using one what you might call "nursery rule" that if you do not send in your income tax return you will be prosecuted.

Tourist Premises (Compensation for Tenants' Improvements) Bill—Second and Third Readings—Approved.
Mr. Bolton: It is a very different matter from a man taking a lease and he has got an option, which everyone knows and the landlord knows is quite valueless. Instead of that he is able now to go along and say, ah, under the Tourist Premises (Compensation for Tenants' Improvement) Bill, Act, 1970, or whatever it is, I can get this house. I can fool my landlord, he does not know about this. This is the kind of thing we are doing all the time, and I have got a rooted objection to this kind of protection—(interruption).

Mr. McFee: Your Excellency, I know a case at the present time where a country farmer, country farming innocently, decent chap, owns a little farm, and he entered into an option with one of these chaps; he did not know he belonged to a Development Company, and the option stands. Through ill-health he has got to sell that farm now. This option took place a year or two ago. He has got to sell the farm, and a man comes along and says, I will give you £X for that farm, but unfortunately I gave an option quite unconsciously to a friend of mine. Well that friend represents a big development company with no price, but there is no date either, that is the unfortunate part.

Mr. Corkhill: It is not worth anything.

Mr. McFee: Well, according to the advice given by the legal profession he is in a corner and he cannot get out of it.

The Lord Bishop: Your Excellency, as far as I can see in answer to the hon. member, Mr. Bolton, all we are trying to do is to clarify the existing situation. Well this is my simple mind to it which I think is right, that there always has been this possibility of having an option to purchase. We are now saving the people who have this option from being rooked by someone charging something quite unreasonable.

Deemster Moore: I am afraid Your Lordship should not say that because it is quite wrong, it is quite wrong. It is not a question of being rooked. If a person is given an option to purchase, and if they take such an option without ascertaining the precise terms they have only themselves to blame. There is no question of being rooked, no question at all, and what the hon. member Mr. Bolton says is perfectly right, it is protecting the "mugs".

Mr. Nivison: Was not your example a question of rooking, Deemster?

Deemster Moore: No, I was taking it from his own example.

The Governor: If a tenant agrees to a lease with just a simple option to purchase on the advice of his lawyer—

The Attorney-General: He would not, sir.

The Governor: No, I said if he does, has he any case against his lawyers?

The Attorney-General: He might have.

The Governor: Because I think quite a lot of so-called "mugs" merely sign a very intricate document trusting their legal advisers.

The Attorney-General: Yes.

Mr. Bolton: I think in 9,999 cases out of 10,000 they would be perfectly safe in signing it, and perhaps even a greater proportion than that. But over and over again I have run across this particular item, and I have said to people, you say you have got an option promising the house. They talk about an option—I have got the first opportunity to buy, and what they mean really is this, that I can turn it down as well. I can say, "No, I am sorry, I do not want it." This is, as the Deemster said, protecting the "mugs"; and I am afraid that we go on doing it over and over and over again to the detriment of many perfectly honest people.

Tourist Premises (Compensation for Tenants' Improvements) Bill—Second and Third Readings—Approved.
Mr. Nivison: They should arrive at a fair price for both parties though, should not they?

Mr. Bolton: But then the point is this. That if you get an option, there is no shadow of doubt that if anybody said to me, I will give you an option to buy that property the first question I would say is yes, how much?

Mr. Radcliffe: Obviously.

Mr. Bolton: Obviously. But there are a number of people who just walk off and say, good, I have got an option.

Mr. Radcliffe: Ridiculous.

Mr. Bolton: Well, that is just ridiculous. Now you are going to protect those people.

The Attorney-General: It is the duty of Government to protect. Look at the hire purchase. They have been getting away with murder on the hire purchase all these firms. Now they have got to disclose what the true situation is. I mean, in all these matters—what about share-pushing? You are protecting the "mugs".

Mr. Bolton: There are very different matters, sir, between share-pushing and actual criminal activity and this would be normal business which is being done and people should learn how to do their business properly and protect themselves.

The Governor: I take it you will oppose the next Bill?

Mr. Bolton: Which is the next one?

The Governor: Trade Descriptions.

Mr. Bolton: No. I am not particularly worried about that one, but I would be on price control.

The Governor: Well, clause 12. Those in favour please say aye, and those against say no.

A division was called for and voting resulted as follows:—

For: Deenster Moore, The Lord Bishop, the Attorney-General, Sir Ralph Stevenson and Messrs. Radcliffe, Nicholls, McFee and Nivison — 8.

Against: Messrs. Corkhill and Bolton — 2.

The Governor: The clause passes. Thirteen.

The Attorney-General: Yes. That relates to interpretation, Your Excellency, and it should be noted that the definition of "tourist premises" has been amended.

The Governor: Is that agreed?

It was agreed.

The Governor: Fourteen.

The Attorney-General: That is the citation and commencement and the date of the Act should of course be changed to 1970, from 1969. The schedule we have already dealt with. Your Excellency, I move that the Council do now resume.

The Governor: Is that agreed?

It was agreed.

The Governor: Now do you want to try to cast your arm?

The Attorney-General: Well, I think it best to get it out of the way. Your Excellency.

The Governor: While we are concentrating on this.

The Attorney-General: Yes, well I presume to move the suspension of Standing Orders, Your Excellency, to enable the Bill to be read a third time.

Mr. Radcliffe: I second.

The Governor: Is that agreed?

It was agreed.

The Attorney-General: I beg to move the third reading, sir, of the Bill and that the Bill do pass.

It was agreed.

Tourist Premises (Compensation for Tenants' Improvements) Bill—Second and Third Readings—Approved.
CONSUMER PROTECTION (TRADE DESCRIPTIONS) BILL—SECOND AND THIRD READINGS—APPROVED


The Attorney-General: Yes, Your Excellency. As I told Council on the first reading, sir, the Bill replaces the existing general law of Criminal Misdescription which is contained in the Merchandise Marks Acts, and contains far more searching stipulations than do those Acts. Generally, sir, the Bill strikes at three main abuses, the misdescription of goods, false indication as to price, and false statement as to services, administration and facilities. I think the best way of dealing with the Bill, sir, is to go straight into the clauses, and accordingly I move the second reading.

The Governor: Agreed?

It was agreed.

The Governor: Clause 1.

The Attorney-General: We will go into committee, Your Excellency. Clause 1, prohibits false trade descriptions in relation to goods, and makes anybody who does give false trade descriptions guilty of an offence. The penalty for offences for which no special penalty is specified is contained in clause 18 of the Bill. It amounts to, on summary conviction, a fine not exceeding £400 and on conviction on information, that is before the Court of General Gaol Delivery, to a fine of an unlimited amount, or to imprisonment for a term not exceeding two years, or both. I beg to move, sir, that clause 1 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Clause 2.

The Attorney-General: Clause 2, defines what is meant by a false trade description. You will see in paragraph (j) that sub-clause (4) sets out certain exceptions which relate to special descriptions which are permitted under certain agricultural and horticultural Acts. Everybody knows what they mean, at least everybody who deals in these matters knows what they mean, but they might possibly come, fall, within a false trade description unless they were exempted. And sub-clause (5) makes similar exemptions in the case of the Food and Drugs Acts of Tynwald and of Parliament. I beg to move clause 2 stand part of the Bill, Your Excellency.

The Governor: Agreed?

The Lord Bishop: Under 2(j). Your Excellency, "other history", as a matter of information does that include turning the speedometer of a car back thousands of miles?

The Attorney-General: I do not know. Yes, it would include ... "other history" would include that unless it is specifically mentioned ... No, it is not included.

The Governor: Does it come under (e) "Physical Characteristics"?

The Attorney-General: Oh, I should not think so, no, sir. But it does; it covers certainly covers the turning back of speedometers, and I do not know whether it catches the man who sold a car as only having one owner and it turned out it was a hire-and-drive car and indeed only had had one owner!

The Governor: Is clause 2 agreed?

It was agreed.

The Governor: Three.

The Attorney-General: Clause 3, defines what is meant by a false trade description. It will be seen that it includes misleading trade descriptions. I beg to move, sir, that clause 3 stand part of the Bill.

It was agreed.

The Governor: Four.
The Attorney-General: Clause 4 sets out the manner in which a person is to be deemed to have applied a trade description to goods. It includes not only the fixing of a label on the goods, but deals with cases of the proximity of goods to other goods which have a description attached and to oral statements, etc. For example, a man could have on a can of creamed rice or something, he could have a false trade description—

Mr. McFee: Or grade 1 coal.

The Attorney-General: And standing all around it he could have a dozen identical tins of this creamed rice which had not got a label on it. but then he would plead, "Ah, but then I did not sell him that one. I sold him this." Well, he would not get away with that. I beg to move, sir, that clause 4 stand part of the Bill.

It was agreed.

The Governor: Five.

The Attorney-General: Clause 5, Your Excellency, relates to advertisements applying trade descriptions to goods, and is to be taken as referring to goods of any class whether they are or not in existence at the time the advertisement is published. I beg to move that clause 5 stand part of the Bill.

It was agreed.

The Governor: Six.

The Attorney-General: Clause 6 is the usual provision for legislation of this nature where persons exposing goods for supply or having goods in their possession for supply or sale are deemed to supply them. I beg to move clause 6 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Seven.

The Attorney-General: Now clause 7 enables His Excellency in certain circumstances to make Orders relating to expressions used in relation to goods as being legal although they would otherwise be in contravention of the Act. His Excellency must be satisfied that to make such Orders would be in the interests of persons to whom the goods are supplied or that it would be in the interests of exporters, and not contrary to the interest of persons in the Isle of Man to whom the goods are supplied. This clause relates to expressions which have been used in relation to certain goods for a great many years and the discontinuance of which would tend to confuse. It might, for example, possibly apply to a gilt-edged security which turned out not to have any gilt on its edges. I beg to move, sir, that clause 7 stand part of the Bill.

Mr. McFee: I will be looking sideways, sir.

The Governor: Could you give us an example which is rather more realistic.

Sir Ralph Stevenson: Beecham's Pills. worth a guinea a box!

The Attorney-General: Well, that might well be so.

The Governor: Well, it all depends whether it is a guinea, whose guinea it is.

The Attorney-General: There are certain things, sir, particularly I think deemed general to other countries.

The Governor: Five pounds, sort of thing.

The Attorney-General: I do not think this is so much the "Bath bun" of it, sir. Perhaps it is. Yes, this does include the bath bun, sir, but it also includes I think—

Mr. Nicholls: Manx kipper.

The Attorney-General: You might trade with an African country. They want a particular thing. It always had
a yellow label or it always had a chap with a top-hat on and they have always called it the finest curry powder or the finest English curry powder or something like that, but that is the only thing they would buy and if you change the label they will not have it.

Mr. Nivison: It will not be deceptive in any way. I wonder what would be the Manx rock . . . we have talked of this before you see.

The Attorney-General: That comes in later.

Mr. Nivison: Oh. it does?

The Attorney-General: Yes.

The Lord Bishop: Seven (a) means what it says, does it? That it would be in the interests of the people, both to whom they supplied as well as to those who are exporting?

The Attorney-General: Yes.

Mr. Radcliffe: It does not say to those who are sold.

The Lord Bishop: Oh, no, it does not does it? No, that is what is worrying me. Setting up a sort of licensed deception scheme for the things for export.

The Attorney-General: Well, this of course, is precisely the same as the United Kingdom legislation and I would be very chary in trying to make any alteration to it whatsoever unless we really did know what we were doing.

Sir Ralph Stevenson: I think it is safe enough.

Mr. Nivison: Yes.

Mr. Radcliffe: I support that. I am trying to think—I was just thinking of Heinz 57 varieties—that expression is known all over the world. Heinz no longer has 57 varieties, they may have 157—but the expression—-

The Attorney-General: The expression reversed.

Mr. Radcliffe: Pardon.

The Attorney-General: That is in reverse.

Mr. Radcliffe: The expression "Heinz 57 varieties" is known everywhere. It is world-wide but to say they have got 57 varieties would be, strictly speaking, incorrect now.

The Attorney-General: Like the best car in the world.

Mr. Radcliffe: Yes. I mean I am just arguing that.

The Governor: Can we accept?

It was agreed.

The Governor: Clause 8.

The Attorney-General: Clause 8, sir, enables you to make similar provision by Order with regard to the marking of certain goods. That is really coming back to my yellow label. The man with the top-hat on it, and I beg to move, sir, that clause 8 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Clause 9.

The Attorney-General: Now similar provision is made by clause 9 with regard to the contents of advertisements in relation to certain goods and if you look at clause 9. Your Excellency may impose requirements as to the inclusion of certain information in advertisements of particular goods, so that the public will not be misled or will be warned. You might, I suppose, insist that on every packet of cigarettes there be put a notice saying "cigarette smoking is highly dangerous.", I beg to move, sir, that clause 9 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Attorney-General: Clause 10, sir, relates back to clauses 8 and 9 and provides that except in certain circum-
stances Orders made under those two clauses, shall not be confined to goods manufactured or produced in any one country. In other words you will not, sir, be able to conduct a private vendetta against the Republic of Eire or some other country. I beg to move clause 10 stand part of the Bill.

The Lord Bishop: Could I just ask a question? Has His Excellency already got a department in being with all the necessary officials to do all this?

The Attorney-General: There will be very little to be done, sir. Very little to be done. I have got a... I was going to bring it along today because I looked it up, but I have got a text-book on this. Trades Description Act of the United Kingdom, only just published and there does not seem to be more than three or four Orders made. I think a lot of this is more guarding against possibilities when some fearful difficulty might arise.

The Governor: Clause 11.

The Attorney-General: Yes, sir. This clause and the following four clauses they relate to misstatements rather than trade descriptions. Clause 11 itself relates to false or misleading indications as to the price of goods and covers statements made with regard to prices in relation to supposed recommended prices or prices at which goods have been previously offered. In respect of the latter point the goods must, in fact, have been offered at a higher price at some time during the preceding six months for a continuous period of not less than 28 days. I beg to move, sir, clause 11 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Twelve.

The Attorney-General: Clause 12, sir.

The Governor: Thirteen.

The Attorney-General: Clause 13, sir. is really a wider—

The Governor: Are we all agreed?

It was agreed.

The Governor: Fourteen.

The Attorney-General: Clause 14 relates to false or misleading statements as to services. Under this clause it would, for example, be an offence to state that a 24-hour service was supplied if this was, in fact, not the case. I beg to move, sir, that clause 14 stand part of the Bill.

The Governor: Agreed?

Mr. McFee: The royal brew, too... sir.

The Attorney-General: Clause 13 is really a wider edition of clause 12 and would make it an offence to state or to suggest that any goods or services were supplied to—for example, Government House, unless these were, in fact, the goods. I beg to move, sir, clause 13 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Fourteen.

The Attorney-General: Now this relates to false or misleading statements as to services. Under this clause it would, for example, be an offence to state that a 24-hour service was supplied if this was, in fact, not the case. I beg to move, sir, that clause 14 stand part of the Bill.

Mr. Bolton: It is rather a strange one is not it surely? Is it not possible to fall down on that—a guarantee that when a 24-hour service and, through sickness or otherwise, it does not operate—

Consumer Protection (Trade Descriptions) Bill—Second and Third Readings—Approved.
The Governor: But if it is organised for 24-hour service and then if it becomes impossible to — that is an Act of God surely?

The Attorney-General: Yes, of course, it is. You might get a chap who is a taxi-driver—he has only one taxi and he is the only driver of it and he may advertise a 24-hour service, being fully determined to get up at all hours of the day or night and—

The Governor: Have a mechanical defect.

The Attorney-General: And then he had a mechanical defect. Yes. Clause 15, sir, enables Your Excellency by Order to assign definitive meanings to descriptions of services in much the same manner as he may do under clauses 7 and 8 in relation to goods. It is always difficult to think of examples of these things—but I really cannot think of an example on that.

Mr. McFee: Well, there was one time there was a Prince George's Brew and it was the biggest brew that was ever made in the Isle of Man and lasted for five years—would that come under that—

The Attorney-General: No, that is not a service.

Mr. McFee: What is it then?

The Attorney-General: No, a service is where you supply—well indeed an estate agent is a service, a legal office is a service, anything of that nature. Transport undertaking is a service, the supply of gas is a service.

Mr. Radcliffe: Twenty-four-hour service means day and night. That is what it means.

The Attorney-General: I beg to move clause 15 stand part of the Bill, sir.

The Governor: Agreed?

It was agreed.

The Attorney-General: Now clause 16. Your Excellency, applies to cases—

The Governor: Now we have had an amendment to that—

The Attorney-General: Applies to cases where a false trade description is applied to goods outside the Isle of Man, being an indication of the place of manufacture, etc., of the goods, such goods may not be imported into the Isle of Man. An amendment has been made to this clause by the addition of two new sub-clauses which are intended to cover such cases as Isle of Man rock—manufactured in Blackpool. Whether it is necessary that or not, I do not know. The Board of Trade could not say whether in their opinion it was. All they could say was that such a case had never come to their notice, but it is I think a wise precaution and will stop any nonsense. I beg to move clause 16.

The Governor: This covers the Parker fountain pens which are sold at Las Palmas and Mayfair.

The Attorney-General: Yes.

The Governor: They are replicas.

Mr. Nicholls: Let us hope they are.

The Attorney-General: Clause 17, sir, prohibits the importation of goods bearing infringing trade marks in cases where the owner of the trade marks gives notice to Custom and Excise in the required form. He does, you will see, it is really inserting a new section into an Act of Parliament which extends to the Isle of Man and if the proprietor of a trade mark gives notice to the Commissioners that he is the proprietor of it, that the goods are expected to arrive in the Isle of Man, that the use within the Island of the trade mark would infringe the trade mark owners exclusive right to the use of it, then the Commissioners will prohibit the entry into the Isle of Man of a trade mark.

Deemster Moore: Can we do this?

The Attorney-General: Yes.

Deemster Moore: We can put a section into an English Act?
The Attorney-General: Yes, if its application to the Isle of Man were accepted. I beg to move clause 17 stand part of the Bill, sir.

The Governor: Agreed?

It was agreed.

Mr. Nivison: Actually, Your Excellency, we did agree to 16 as amended.

The Attorney-General: Oh yes, it is as it has come to us, you see. Clause 16, sir. This is the clause dealing with offences. Provides that a person guilty of an offence for which no other penalty is specified shall be liable on summary conviction to a fine not exceeding £400 and on conviction on information to a fine of an unlimited amount or imprisonment for a term not exceeding two years or both.

Deemster Moore: Summary offence then there is no power of imprisonment?

The Attorney-General: No.

Deemster Moore: Fine only.

The Attorney-General: Fine only. If you want to think it merits imprisonment you would have to go over the information. I beg to move clause 18 stand part of the Bill, sir.

The Governor: Agreed?

It was agreed.

The Attorney-General: Now clause 19 makes the time limit for bringing a prosecution three years from the commission of the offence or one year after its discovery, whichever is the earlier and sub-clause (2) modifies the normal six months restrictions in Courts of Summary Jurisdiction but this modification is not to apply when the offence is committed by oral means. Now then in a Court of Summary Jurisdiction there is a six months limitation. If I commit an offence which is a summary offence I have got to be brought to book within six months otherwise it is out of time. Now here they are saying in sub-

clause one, they are saying this has not got to hang over a man's head for ever so you have got to bring your prosecution within three years from the commission of the offence or within one year from when you discover the offence has been committed. So, if it goes back for three years then you are in the clear but if the police, let us say, discover that an offence has been committed they must take the prosecution within one year. I beg to move, sir, that clause 19 stand part of the Bill.

Mr. Nivison: Your Excellency, I wonder why they have given so long as three years. It does seem hard that if a person, perhaps unwittingly has been doing something and then, three years later it has been discovered that he can be prosecuted and he might have gone out of that kind of business by this time. It is a three year period.

The Governor: Normally it would be six years would not it?

The Attorney-General: That is for the recovery of a civil debt, sir.

The Governor: But each criminal offence has got—

The Attorney-General: No, sir—generally for a criminal offence there is absolutely no limitation of time at all.

Deemster Moore: Only the prosecution in the Courts of Summary Jurisdiction which is a limited time.

The Attorney-General: Yes.

Deemster Moore: Now, am I right then, in this particular clause dealing with sub-clauses (1) and (2). If the matter is to be dealt with by a prosecution at any time after one year it would have to go to general gaol?

The Attorney-General: No, I do not think so.

Deemster Moore: You cannot take it under sub-clause (2) in the Court of Summary Jurisdiction. Is that intended and why is it one year in sub-section (1), 12 months in sub-section (2)?
Mr. Radcliffe: I noticed what His Honour is speaking of. Your Excellency, and I take it that the Summary Jurisdiction will be for a smaller offence, some minor matter, and the maximum penalty is a £400 fine when you take it with summary conviction and these smaller matters have got to be taken within 12 months but the more serious matter which would be taken by indictment could be taken within three years.

The Governor: The difference between one year and 12 months is that it has the expression of three years and then one year in (1) and 12 months in (2). I think that is logical.

Mr. Radcliffe: One year is for the smaller stuff and three years for the bigger stuff.

The Attorney-General: I move that clause 19 stand part of the Bill.

The Governor: Is that agreed?

It was agreed.

The Governor: Twenty.

The Attorney-General: Clause 20, sir, is the usual provision in relation of offences by corporations.

It was agreed.

The Governor: Twenty-one.

The Attorney-General: Twenty-one, sir, is designed to enable a person to be prosecuted if he in the Isle of Man acts as an accessory to an offence committed abroad. This can only be invoked if the false trade description concerned is an indication that the goods were manufactured in the Isle of Man, or if it consists of or comprises an expression to which a meaning is assigned by an order made by the Governor under clause 7(b). It is to stop the chap really organising a crime in the Isle of Man but the crime being for the offence being actually committed by somebody outside the Isle of Man. I beg to move, sir, that clause 21 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Twenty-two.

The Attorney-General: Now clause 22, sir, provides where any Act constitutes both an offence under this Bill and an offence under the Food and Drugs Act for evidence on behalf of the prosecution concerned any sample procured for analysis shall not be admissible in proceedings under this Act unless the sample has been taken in accordance with the requirements of the Food and Drugs Act. Now then under the Food and Drugs Act there were special provisions which say how a sample is to be taken—one of the things is that it has got to be divided into three and one has got to be produced in court and one has to be analysed and the third given to the chap from whom the sample has been taken, and so on. Now this says that if an offence under this Act would also amount to an offence under the Food and Drugs Act, any sample that you have taken must be taken in accordance with the provisions of the Food and Drugs Act, and by subsection (2) the Governor is empowered to make Orders stipulating how the samples are to be taken in respect of certain specified goods. I beg to move, sir, that clause 22 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Attorney-General: Clause 23, sir, provides that where an offence is committed by a person due to the act or default of some other person that other person might be prosecuted for him and convicted of the offence as though he had, himself committed it. If that other person assures, let us say, a supplier of goods, assured a shopkeeper that they are of the very highest quality or the chocolates contained a real liqueur and that kind of thing, the shopkeeper has got to take somebody's word for something sometime; and if he can point to the other fellow and the other fellow can be...
charged. I beg to move, sir, that clause 23 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Twenty-four.

The Attorney-General: Now 24 is really which I have just been talking about — provides a defence for persons charged, if they can prove that the commission of the offence was due to a mistake or to reliance on information supplied or to the act or default of other persons or due to some accident and all reasonable precautions were taken and due diligence exercised by the person charged. Sub-clause (2) provides that such offence may not be relied on without leave of the Court unless the prosecutor has been given seven clear days' notice identifying or assisting in the identification of the true offender. A defence is also provided by sub-clause (3) if the person charged proves that he did not and could not know that a false trade description was applied to the goods in question. I beg to move that clause 24 stand part of the Bill.

The Governor: Agreed?

It was agreed.

Sir Ralph Stevenson: Does this cover oral assurances.

The Attorney-General: Oh yes.

Mr. Nivison: On this question, how far along the line do we go? You can take a retail shop — now the offence may well have been committed by the employee who sold on behalf of the employer, retail trader. The retail trader in turn may not have known that this false description — may have taken it in all faith — from the wholesaler and it may be the manufacturer in turn that may be the true offender.

The Attorney-General: Oh, there could be a chain, I think.

Mr. Nivison: It could be the manufacturer but would it be an offence for a retailer who sells the goods with the knowledge that —

The Attorney-General: If he knew there was a false trade description attached to them.

Mr. Nivison: So you not only catch the retailer, you catch the — perhaps the wholesaler and the manufacturer and perhaps them all.

The Attorney-General: Oh yes, whichever of them knew.

Mr. Nivison: Yes, it could go right down the line.

The Attorney-General: Yes.

Mr. Nivison: Even the employee if they had the knowledge.

The Attorney-General: If they had the knowledge yes.

Mr. Nivison: This would relieve an employee or a retail trader, who had been deceived by somebody else.

The Attorney-General: Exactly.

Mr. Nivison: This would relieve an employee or a retail trader, who had been deceived by somebody else.

The Attorney-General: Exactly.

The Lord Bishop: Is it really the case that an employee would be . . . it is seriously meant? Because he is under authority in what he is doing, is not he?

The Attorney-General: He is under what, sir?

The Lord Bishop: He is under authority in what he is doing.

The Attorney-General: Yes, and I thought that principle had been very clearly quashed long ago. It does not matter if it is unlawful just because your employer told you to do it, you cannot plead higher authority.

The Lord Bishop: Well, of course it is high-powered concentration.

The Attorney-General: You cannot murder millions of Jews just because you are told to. Clause 25, Your Excellency, provides a defence for a person to prove that the publication of an offending advertisement was done innocently. In the ordinary course of busi-
ness and he had no reason to suspect that the publication would be an offence. I beg to move clause 25 stand part of the Bill.

It was agreed.

The Governor: Twenty-six.

The Attorney-General: Twenty-six, sir, provides for the enforcement of the Act by the Inspector or Inspectors of Weights and Measures who will report to the Governor when the Governor so requires. It is not envisaged that there will be an army of people going around, the complaints will come into them. I beg to move, sir, that clause 26 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Attorney-General: Clause 27, sir, authorises inspectors to make such purchases of goods as are expedient for test purposes. I move clause 27 stand part of the Bill.

The Governor: Agreed?

It was agreed.

Mr. Bolton: When did we appoint the inspectors?


Mr. Bolton: Where is this referred to?

The Governor: Section 39.

The Attorney-General: Inspector means Inspector of Weights and Measures. Clause 28, sir, consists of the usual powers of entry for inspectors and enables them to seize and obtain business books, goods, etc., which may be required as evidence and, if necessary, to break open containers or vending machines. Sub-clause (3) empowers Justices of the Peace to issue search warrants, and sub-clause (5) prohibits the disclosure of information obtained under this section unless the disclosure is made in or for the performance of duties under the Act. That is the usual kind of power which is given and the usual restrictions of the disclosure of information. I beg to move clause 28 stand part of the Bill.

The Governor: Under sub-clause (6) a fellow is guilty of an offence if he pretends that he is Mr. Kermeen, but what is the punishment?

The Attorney-General: There is a standard provision, sir, it is clause 18. I think, the punishment clause. Yes, clause 18. That is £400.

The Governor: I see, yes.

It was agreed.

The Attorney-General: Twenty-nine, sir, that is again what one might term the usual provisions clause relating to the obstruction of inspectors, making false statements, etc. I beg to move clause 29 stand part of the Bill.

The Governor: Thirty.

The Attorney-General: Now 30 requires that where goods have been seized or purchased under the Bill and are submitted to testing then the person from whom they have been seized or purchased must be informed of the result of the test and be given an opportunity to carry out his own tests. By subsection (2) proceedings for offences under the Bill other than those which consist of disclosing information, or obstruction or false statement may not be instituted by an inspector unless the Attorney-General has been notified, and either a period of 28 days has elapsed since the giving of the notice or the Attorney-General has given a certificate that notice has been given to him. I am not quite sure of the point of that clause because there does not appear to be any power by the Attorney-General to prohibit a prosecution. You see, quite often it says no prosecutions will be taken under this Act except by or with the consent of the Attorney-General which is to stop them—persecution as opposed to prosecution in case. I mean some offices are not worth prosecuting unless they are done deliberately whereas if they are done deliberately it is very important they should be prosecuted and they bring in a sort of fear that the Attorney-General will stop that—will stop ridiculous prosecutions.

Consumer Protection (Trade Descriptions) Bill—Second and Third Readings—Approved.
Mr. Nivison: This is reasonable it allows the person to carry out the tests the same as the prosecutor would do.

The Governor: If we may go back to item 1. I see that on page 3 of your report half-way down, item 4, you talk about the possibility of a double persecution.

The Attorney-General: Yes. That is the unacceptable, sir. That is not in the Bill as we are going to pass it. That was the objections to certain clauses that we proposed to—

The Governor: But you meant persecution.

The Attorney-General: It meant persecution. You see in— for a Civil offence you take proceedings. For a criminal offence you prosecute, and the expression which the Home Office in fact have used here is persecution to cover both.

The Governor: Fair enough.


The Governor: Clause 30 agreed?

It was agreed.

The Attorney-General: Clause 31 empowers Your Excellency to make regulations for the giving of evidence on specified matters by certificate. But such certificates shall not be received in evidence unless the party against whom it is to be given has been served with a copy at least seven days before the hearing, or if that party has, not less than three days before the hearing, served a notice on the other party requiring the attendance of the person issuing the certificate. This I can well see is meant...you see offences in relation to certain goods, information must come from the manufacturer who might be in Birmingham and all that kind of thing, and this will provide for the acceptance of certificates, but if the defendant...but the defendant must be served a copy of the statement that is going to be made, or the certificate that is going to be given in evidence, at least seven days before the date of hearing and he may object to it, in which case the witness will have to be brought to Court. It is merely an attempt to cut out a lot of unnecessary toing and froing all over the place by the witnesses. I beg to move, sir, clause 31 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Thirty-two.

The Attorney-General: Thirty-two, sir, relates to goods intended, first of all for despatch to a destination outside the United Kingdom and any designated country within the meaning of section 21(5)(b) of the Weights and Measures Act, 1963 of Parliament, or for use of stores for ships or aircraft whose eventual destination is outside the United Kingdom, or for use of Her Majesty's Forces or visiting Forces. Designated country, in fact, comes down only to the Channel Islands as far as we are concerned and will only apply if the Board of Trade makes an order that the Channel Islands shall be designated. Such an Order has not been made as yet. Now in relation to such goods an indication as to quantity, size or gauge shall not be considered to be a trade description. His Excellency is also empowered by order in relation to any goods to which this clause applies to make similar provisions with regard to other trades' descriptions. These are matters when it comes to ships' stores and to armaments, and they are excluded. I beg to move, sir, that clause 32 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Attorney-General: Thirty-three, sir, provides where inspectors seize goods and the owners suffer loss by the seizure thereof then unless the owner is convicted of an offence in relation to those goods the Treasurer shall pay in compensation the amount whereof is deemed payable and determined by arbitration. I beg to move clause 33 stand part of the Bill.

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The Governor: Agreed?
It was agreed.
The Governor: Thirty-four.

The Attorney-General: Thirty-four, that deals with trade marks which contain trade descriptions. The fact that the description is incorporated in a trade mark does not prevent it from being a false trade description, unless it could have been lawfully applied to the goods if this Act had not been passed, as this Bill, that on the day the Bill comes into operation as an Act the trade mark is registered under the Trade Marks Act or is in use to indicate a connection in the course of trade between such goods and the proprietor of the trade marks and also certain other requirements. I beg to move clause 34 stand part of the Bill.

The Governor: Agreed?
It was agreed.
The Governor: Thirty-five.

The Attorney-General: Now clause 35, sir, is a saving for civil rights and provides a contract in relation to goods shall not be void by reason only of contravention of this Act. I beg to move, sir, clause 35 stand part of the Bill.

The Governor: Agreed?
It was agreed.
The Governor: Thirty-six.

The Attorney-General: Now clause 36, defines how the country of origin of goods is to be ascertained and enables the Governor to make orders to clarify how this is to be ascertained. You can see that generally speaking it is where the last major treatment, or substantial treatment took place. I move that clause 36 stand part of the Bill.

The Governor: Agreed?
It was agreed.
The Governor: Thirty-seven.

The Attorney-General: Thirty-seven, covers market research experiments conducted for the purpose of ascertaining the opinion of persons as to any goods, etc. If participants to whom goods are supplied are informed of the experiment and are not called to pay for the goods then the Act will not be infringed by the experiment. I beg to move clause 37 stand part of the Bill.

The Governor: Agreed?
It was agreed.
The Governor: Thirty-eight.

The Attorney-General: Now 38, sir, relates to Orders under the Act which will require the approval of Tynwald, and in certain cases requires His Excellency to consult with organisations substantially affected, and also requires notice of your intention to make an Order to be published and not so to make an Order until 28 days after publication. There is an amendment, sir, in sub-clause (3). I do not know whether hon. members have got it in—sub-clause (3) on line 30 of page 22—where the number 16 has been inserted after the number 15, that you will remember was because of the amendment made by the addition of two new sub-clauses.

It was agreed.
The Attorney-General: Now clause 40 provides that the enactments mentioned in Schedule 1—

Deemster Moore: Have we done 39?
The Attorney-General: I am sorry. Thirty-nine, which covers interpretation. I move that clause 39 stand part of the Bill, sir.

It was agreed.
The Governor: Forty.
The Attorney-General: New 40, sir, provides that the enactments mentioned in Schedule 1 shall be amended as specified therein and that the enactments specified in Schedule 2 shall be repealed to the extent specified therein. There is a mistake, sir, in sub-clause (2). At the end of line 30, the word “third” should read “second”. Line 30, page 33.

The Governor: Yes. That does not mean it has to go back to the Keys, does it?
The Attorney-General: No. Clause 41, sir, continues in force for a period of
three — of three years. Orders in Council applying to the Isle of Man and made under section 2 of the Merchandise Marks Act, 1926, or any Order made by Your Excellency under section 4 of the Merchandise Marks Act, 1929. These Orders require the origin of certain imported goods to be marked on them. The clause also continues for the same period the power of persons authorised by the Governor, inspectors under the Adulteration Act, to enter premises and make purchases for the purpose of enforcing such Orders. They want to keep these Orders alive despite the existence of this Act. These Orders need to be kept alive for a further period of three years. I beg to move, sir, that clause 41 stand part of the Bill.

It was agreed.

The Attorney-General: Now clause 42, sir, is the short title and commencement and provides that the Bill shall not come into force as an Act of Tynwald until three months after the announcement of the Royal Assent. This is to enable people, sir, to put their houses in order.

Mr. Nivison: To get rid of the—

The Attorney-General: To get rid of it, yes. Sell it off cheap, I am afraid.

It was agreed.

The Attorney-General: Schedule 1, sir, contains consequential amendments to the Agricultural Produce (Grading and Marking) Act, 1931 and the Road Traffic Act, 1967. The amendments arise out of the provisions of the Bill and that in paragraph 1 of the Schedule relates to imported eggs. In paragraph 2 the Road Traffic Act is amended so as to provide that marking applied to motor vehicles parts to indicate conformity of the title proved by any country shall be deemed to be "trade descriptions" for the purposes of this Bill and paragraph 2, subparagraph (2) substitutes a reference to this Bill for a reference to the Merchandise Marks Act, 1898, which is repealed by the Second Schedule. I move that Schedule 1 stand part of the Bill. Your Excellency.

The Governor: Agreed?

It was agreed.

The Attorney-General: Schedule 2 repeals those provisions of the Merchandise Marks Act which are rendered obsolete by this Bill. I move that Schedule 2 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Attorney-General: I move the Council will now resume. Your Excellency.

The Governor: Now if you want to take the third reading?

The Attorney-General: I would like to get rid of it but I will not press the point too strongly. If anybody feels—

The Governor: Well, we have got it on our plates and there is a certain urgency to get it signed.

The Attorney-General: I beg to move the suspension of Standing Orders, sir, to enable the third reading to be taken.

The Governor: Agreed?

It was agreed.

The Attorney-General: I beg to move, Your Excellency, the third reading of The Consumer Protection (Trade Descriptions) Bill, 1970, and that the Bill be passed.

The Governor: Agreed?

It was agreed.

The Governor: Now we shall sign this on 7th July. It will not be ready in time — which is the one we amended slightly — Tourist Premises, that will have to go back to the Keys.

The Attorney-General: I think so, sir.

The Governor: I wonder if there is any chance of getting it to them this afternoon. They are meeting next Tuesday, are they?

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The Attorney-General: It was an amendment to the shops—

The Governor: Put in—not really. It was Mr. Bolton's amendment.

The Attorney-General: No, it was the Deemster's amendment, sir. On page four, in clause ten.

Sir Ralph Stevenson: The altered agreement.

The Attorney-General: Yes. It would have to go back to them. It might be possible.

The Governor: Well we might try to. Now the Family Provision Bill, second reading.

The Attorney-General: I wonder, Your Excellency, if it would be convenient if I might be given a rest for a while. My voice is not so good and I have got a cold.

The Governor: Well, while the Bishop is with us, because he might not be with us for the first part of this afternoon's meeting. Perhaps we could take the Shop Hours Bill—Mr Bolton's Bill.

SHOP HOURS BILL—
CONSIDERATION OF CLAUSES

Mr. Bolton: I think we were dealing with clause 8 and I have been looking at it again since the discussion. I have been looking at the debate and I believe it could well stay in and it would cover any resolutions under section 14 of the 1953 Act and would probably prevent any defences purely on legalistic grounds. The idea of section 8, of course, was to add the word "resolution." Now the Act itself, 16, if any person contravenes or fails to comply with any of the provisions of the Act or any of the provisions of any Order or regulation made under this Act, he shall be guilty, etc., etc. This merely proposed to put in the word "resolution" so that it would read any of the provisions of any resolution, any Order or Regulations made under this Act and it is possible under the existing legislation, section 14 of the 1953, for an alteration of the standard closing hours in the summer time to be made by resolution of Tynwald. Really I cannot see that it does much good, but it cannot do much harm to accept this clause and leave the word resolution there, so that I would suggest, sir, that despite the fact that there was a discussion at the last meeting that this was considered I would move that clause 8 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Now, while we are in Committee, I think the Lord Bishop wishes to go back to clause 4, do not you?

The Lord Bishop: I would, with your permission, like to go back to clause 6 subsection (2) (m) I think where my point arises.

The Governor: Oh, that is it, the "m".

The Lord Bishop: Yes—may I refer to that again and I am not entirely sure of the text of the principal Act, so I stand subject to correction on that but if, in fact, 2 (m) opens the way to barbersing or hairdressing services being open on Sundays where they are not now. Then I understand by close questioning of my own hairdresser that there is, in fact, no demand except from possibly one hairdresser and the source of information is in that manner and I must emphasise that but I have repeated this request for information on more than one occasion. Now if, in fact, there is no general demand from the hairdressing industry to open their premises on Sunday, I see no reason why we should allow them to be open because what will happen is that one man who wants it, or two would open and then all the others would feel they had to and all those families would be disrupted and all those employees.
would have a certain pressure brought on them to work on Sundays where they do not now. So I would have thought that, unless there is a real demand from the industry for any real public need and I cannot see it for the Sunday opening of these establishments, that we should not alter the present law, as we agreed last time, though rather hurriedly.

The Attorney-General: I wonder if Your Excellency would accept the Lord Bishop's suggestion I am neither for nor against it and delete subsection (2) of clause 6, whether we will then have to do something about clause 4.

The Governor: Well that is attending to somebody in his own residence, it is very different from opening a shop.

The Attorney-General: I know, sir, but I wonder if the wording of the clause is hinged on the inclusion of clause 6, I just do not know.

Mr. Bolton: You see, the point there, sir, with clause 4, is that we are omitting the proviso to clause 5 which said "provided that nothing in this section shall be construed as preventing a barber or hairdresser from attending a customer in the customer's residence or the holding of an auction sale of private effects in a private dwelling house so that there was nothing preventing the barber or hairdresser attending a customer in his own house."

The Governor: We would have to leave the proviso in.

Mr. Bolton: You would have to leave the proviso in so that if you delete 2 (m) you have also got to delete 4, otherwise he could not go out. Personally I do not see much difference between him clipping your hair or shaving your whiskers in your own house or shaving in his own shop.

Mr. McFee: Certain ill people have to be visited.

Mr. Bolton: Certain well people too.

The Governor: Yes, but they can decline to go to a person's residence.

Mr. Bolton: Oh, yes.

The Governor: With greater ease.

Mr. Bolton: I must say, sir, that I have no idea why this special emphasis was placed on barbering and hairdressing services. It is in the Bill and as the Bill stood I did not seem to me to be unreasonable. In answer to the Lord Bishop as to the effect of this little (m) in clause 6—it adds the barber and the hairdressing services to the list of those that are completely exempt from the operation of this particular statute.

The Lord Bishop: I was right in my assumption.

Mr. Bolton: If you delete 6 (2) then you leave it subject and there you would have to delete clause 4.

The Attorney-General: I wonder, Your Excellency, I had an understanding it was the ladies' hairdressers who were desirous of being open on Sundays, whether this be right or wrong or whether it be a good thing or a bad thing I do not know but that was my understanding.

Mr. Bolton: But we have already passed this.

Deemster Moore: What are we doing now?

The Governor: Well before the committee stage is ended as a result of information with which the Lord Bishop had acquired and I may say I confirmed it, rather, we felt Council might have another look at it because you might say, we have been misinformed, that there was a demand, there is, but there isn't. We think Council is entitled to all the information available.

Deemster Moore: Your Excellency, surely the Keys Committee went into this with some care before they made this proposal. Presumably they made wider enquiries, with great respect, sir, than the Lord Bishop and yourself.

The Governor: Well they tend to say it was advertised and nobody objected.
Mr. McFee: If they had taken notice of the memorandum probably we would not have the Bill.

Mr. Nivison: This presumption which the learned Deemster refers to is not exactly correct because there was very little interest shown to the committee — hardly any interest at all. In fact the only interest was a protest more or less by the union concerned on the working. The majority of people did not take any notice at all, they had very little evidence. I think as a guide, the Lord Bishop was asking questions regarding barbering and so forth and it does seem that this is in the Bill. It does seem, if I might humbly suggest, Your Excellency, that there is only one way to make absolutely and abundantly clear as to what should happen for the future, that would be to leave it in the Bill and to vote entirely against the whole of the Bill. This is what would appear to be.

Mr. Bolton: I wonder, sir, just exactly what action should be taken with one barber saying there is only one other barber who says he is interested, I am not. I sometimes hear these stories myself which may or may not be exactly correct. But is it altogether a matter for the barber, the idea of this suggestion that has been made, and after all it has been made by the House of Keys, if the barbers should not be subject to special conditions whether they stay exempt from the Bill altogether; which is somewhat different from the action they have taken in regard to other traders. They simply said take the barbers out altogether. Now they have not done that with anybody else or with canned meat or canned vegetables.

Mr. McFee: Do you support the third reading or are you against it?

Mr. Bolton: I feel that along with His Honour the First Deemster that the Keys have given this pretty careful thought and I think that they are as likely to object to advantage being taken of any situation as strongly as we are.

The Lord Bishop: We have already amended the Bill very considerably have we not?

Mr. Bolton: Not so much amended it as cut parts out.

Mr. Radcliffe: There is nothing left.

Mr. Bolton: Oh there is a lot left.

The Lord Bishop: We have cut out 3 and 5 I believe, in toto, so we have not been very courteous to the Keys if that is the right word to use.

The Governor: Well I think we might say that the intention has been raised and that Mr. Nivison has given the advice. So let us now take clause 9.

Mr. Bolton: Clause 9, sir, defines standard closing hours. Now the hours according to the statute were—Monday, Tuesday and Wednesday, 6 o’clock: Thursday, 1 o’clock: Friday, 7 o’clock: Saturday, 8 o’clock. Under this proposal they will be Monday, Tuesday, Wednesday, Thursday, 6 o’clock, Friday 8 o’clock and Saturday 9 o’clock. Now that is the full extent of that clause. I beg to move, sir.

Sir Ralph Stevenson: I second.

The Governor: Agreed?

Mr. Radcliffe: No, I am not too happy over it.

Mr. Bolton: Why.

Mr. Radcliffe: I am opposing it, Your Excellency. I don’t see why they should go to 8 o’clock and 9 o’clock on a Saturday. I am against most of this Bill.

The Governor: Well now those in favour of clause 9 please say aye. Those against say no. I think the ayes have it. They were noisier.

Mr. Nicholls: Sir Ralph has got a good voice.

The Governor: Clause 10.

Mr. Bolton: Clause 10, sir, repeals.
The Attorney-General: Clause 10, sir, if I might interrupt, has to go out now.

Mr. Bolton: Yes, it repeals 13 of 1953, which is now unnecessary in view of the powers given to Tynwald so that we have not given the powers to Tynwald and consequently the 1953 Act should remain as it is.

The Governor: Ten comes out. does it?

Mr. Bolton: Ten comes out with consequential amendments. Eleven merely states that the principal Act means the Shop Hours Act of 1953 as amended.

The Governor: Now that is straightforward. Agreed.

It was agreed.

The Governor: Twelve.

Mr. Bolton: Twelve is the duration and revivication clause. I beg to move clause 12, sir.

The Governor: Well we will have to put 1970 will we?

Mr. Nivison: I would like to raise a question on the sub-section (3) of clause 12 which relates to a kind of period of the tenure of the Bill. It says unless Tynwald by resolution shall otherwise declare this Act shall expire on the expiration of one year from the date of its commencement and so forth. Now I raise this because we have had similar things happening before where we were given the impression that something was happening for one year and years have gone by and these things have still been in operation, and I raise the question of such things as the licence or the order under which say the Lido might operate. The Kursaal. When this was passed in the Tynwald Court many of us thought that this was for a one-year only basis and it is still operating and we—

Mr. Nicholls: Subject to the Gaming Board giving approval. Your Excellency.

Mr. Nivison: Oh, well many of us did think in the Legislature and I looked up some of the debates, that this was for a year on the exercise. Now I am raising this because this looks to be a year on the exercise and I think this year on the exercise is quite a dangerous thing because we do find that if we give something approval for a year we do find that it has a happy knack of continuing.

Mr. Bolton: Make a note in your diary and mention it, that is all.

Mr. Nivison: Ah no! This is firm and this is my warning, if you have things like this in a Bill do not pass any Bill that has such wording in because you will find yourself, you will have it for ever.

The Lord Bishop: This one, sir, is a little better from Mr. Nivison's point of view because this thing will lapse after one year unless they say it is to go on.

The Attorney-General: Well it will do unless positive action to the contrary is taken to Tynwald.

Mr. Nivison: Now, how easy it is by resolution of Tynwald to extend something at the end of a heavy session and I would hope that if we do pass this Bill, and I would like to move in case this Bill should pass, that all the words that are contained in the unless part should be deleted and the words—"this Act shall expire on the expiration of one year from the date of its commencement." I would like the deletion of these words unless Tynwald by resolution shall otherwise declare. It would be easy enough if we thought this was a success to introduce a similar Bill in the year's time.

Mr. Bolton: Some members of the Legislature would never think it had been a success, and in any case you will have the battle all over again and eventually we will not know where we are.

The Attorney-General: Taking out sea-food or putting in ripe cherries or something if you are going to re-enact it.
Mr. Nivison: Well all I would say. Your Excellency, that those people who are supporting this Bill on the assumption that it is for one year—make your minds up and if you pass it to-day you pass it for good.

Mr. Radcliffe: I do not think anybody is supporting the Bill are they?

The Governor: Well, clause 12 as amended, is put in 1970.

The Governor: Agreed?

It was agreed.

The Attorney-General: There is a point, here, sir. I am not quite sure of the position. In sub-clause (3) there is reference to section 9 of the Interpretation Act, 1949. Now by the time this becomes law, and if indeed it does become law, we will have the Interpretation Act, 1970.

The Governor: Well, we can have a third reading amendment if you will bring this up in the meantime.

The Attorney-General: Right, sir.

The Governor: The Council will now sit in private.

**REPRESENTATION OF THE PEOPLE (FRANCHISE) BILL — CONSIDERATION OF CLAUSES AND THIRD READING APPROVED.**

The Governor: Item 7. Representation of the People (Franchise) Bill. Mr. Nivison.

Mr. Nivison: Yes. In the light of what we have heard and the clarification we have received from the other place, Your Excellency, I would like to propose that we adopt the amended Bill as drafted by the learned Attorney on the— Yes. I move it en bloc, because the only difference between was the splitting up of that one particular clause which did clarify the position as far as local authority electors were concerned; in other words that they be . . . The House of Keys and the Education Authority having already been taken care of under other Acts. So I move it en bloc. There is only one principle involved in it.

Deemster Moore: I do think you should just say in public while it is being recorded what the Keys, what we discussed at the conference.

Mr. Nivison: Yes.

Deemster Moore: Because there is no record, you see.

Mr. Nivison: Oh, yes. That is having discussed with the deputation from the Keys there appeared, Your Excellency, to be some misunderstanding as to what the Keys' intention was. We have now learned from the Keys that their intention was to allow the voting in all elections to be done at 18 years, but this Bill as re-drafted by the Attorney-General and as seen by the House of Keys, they agree that the candidates for local authority elections should still have to reach the age of 21. And I move that.

The Governor: The thing is to substitute the re-draft, paragraphs 1 to 5 instead of 1 to 2.

Mr. Nivison: That is it. Yes. "2" being sorted out into——

The Governor: And we retain 3 and 4?

Deemster Moore: Can we put it on the record again—sir? I hope I am not putting it in correctly — for House of Keys elections. Board of Education elections and for local authority elections the age to be a voter is 18. But the age to be a candidate——

Mr. Nivison: Is 21 in all cases.

Deemster Moore: In all three cases would be 21.

The Governor: And we will be keeping in step with England.

Deemster Moore: I was going to say, that, we are told, is the same as in England but is no good reason for us to do the same. That will create in effect two classes of voters, those who have the full right to vote and be can—
candidates, and those who have the right to vote but not to be candidates, which seems to me to be quite wrong, and I am not the slightest bit concerned about what England does. I should like to move an appropriate amendment so that a person if they are entitled to vote at 18 may also be a candidate in all three places at 18. I beg to move.

Mr. McFee: I am going to second that, sir, for this reason. In these days young people are criticised as being very irresponsible and unless we are going to give them responsibility they are going to remain irresponsible. I think that the time has come that if you or if the country says you can vote at 18, then particularly in local authority and Education Authority elections, which are considered training grounds. This has been a common expression that local government is a training ground for those who have the ability and the acumen for greater service or service in the Government at a later stage, that they should be given the opportunity. I know a lot of young people who are anxious to do something and to work for the neighbourhood in which they live. In fact when you find them on regatta committees and other agricultural organisations and the numerous organisations that exist, you will find that among them are young people who are anxious to work, and yet elderly people still retain their position and do not give an opportunity to the young people. I think this here, this amendment, will give an opportunity to the country to say that these young people now can be given responsibilities and responsibility in Government, whether it is local or otherwise. I am going to support the amendment.

The Governor: That would be to amend clauses 3 and 4 of the suggested draft and putting "18" for "21".

The Attorney-General: No, sir, there is no need to put that in at all because at the moment the qualification is purely that they must be on the Electoral Roll, Voters' Lists, or whatever it may be.

The Governor: Well shall we put——

The Attorney-General: And they will go on at the age of 18.

The Governor: So delete then——

The Attorney-General: Sir, you would delete those, but you would, sir, have to put in another clause or two clauses amending the Representation of the People Act, 1951, sections 53 to 54, substituting for the words "of full age" some such words as "has attained the age of 18 years" so as to bring Keys candidates and elected members of the Board of Education candidates into the 18-year sphere as well.

Mr. Nivison: Your Excellency——

The Attorney-General: It would need five minutes' drafting.

Mr. Nivison: I would hope in view of the time factor, and bearing in mind that there is to be an election for representatives for the House of Keys, and time will go over very quickly, and if we are to introduce an amendment of this kind and then have it submitted to the other place and then come back to us, it is pushing it a little bit for the preparation of lists and a whole host of things. I would hope that I too would join with members who support this principle that if a man or woman is entitled to vote they may equally be entitled to become a candidate. Not that many would. Because very few become candidates now at the age of 21; I have not known any. I would hope that they would allow the Bill to go through as agreed by the House of Keys in order that we might make a bit of progress in this direction. Although on thought if do agree that if we do pass this it has got to go back to the House in any case, because they passed this——

The Attorney-General: I will allay hon. member's fears there because it has got to go back to the House, and as long as it becomes law, preferably before the 1st January next, but in any event be-
fore the 12th May next, it will be as quickly as ever will be.

Mr. Bolton: I am afraid, sir, that when the matter was considered earlier I was engaged with the House of Keys on the Budget and was not present at the Council meetings, and I do want to express my view that I am against the Bill entirely. I am not prepared to enter into any argument as to whether they should vote and not sit, or whether they should sit and not vote. I believe that in any case, despite what everybody says about maturing earlier these days, a boy of 18 is no more mature today than he was when I was 18. Of that I am certain.

Mr. Nicholls: Not as much!

Mr. Bolton: And probably may be less responsible in many, many ways. I believe that this move to reduce this age, that these recent arguments about development and maturity at an earlier age are just in my view complete rubbish. I believe that the age of 21 should be retained and I can see no merit whatsoever in reducing it. I may say that on the question of the amendment to reduce the age of candidature to 18, I should certainly oppose that. It should be retained and I can see no merit

The Governor: Unfortunately the Lord Bishop will not be here until later this afternoon because I know he wanted to speak in favour of the reduction, and the fact that I am putting his views shows that I also favour any amendment of the learned Deemster. My experience is that at 18 people can be quite sensible, and I am a great believer in the old proverb, "There is no fool like an old fool!" (Laughter.)

Mr. Nivison: There is no need to look at him at the same time, sir.

Mr. Radcliffe: I did not feel it would be necessary to speak on this at all this afternoon, but after what the hon. member, Mr. Bolton, has said, it opens the whole thing up. Because to say the things that he says is extraordinary in my opinion. You have got 18-year-olds taking on responsibilities in all sorts of things, particularly the Army, Military Service—

Mr. Bolton: Anyone there who did.

Mr. Radcliffe: And they have made a mess of it too? Now please do not interrupt. They marry in England. Whether we like it or not they have accepted the fact that boys and girls are maturing older, they are marrying younger. I mean maturing younger, they are marrying younger, they are entering into activities younger; there is no getting away from the fact that the modern freedom, if you like, or thinking, tendency, trainings, they are maturing younger than they used to do. For us to sit here and say and condemn young people who when they are pushed to it, the past have shown that they are not irresponsible—it is adversity that proves people's worth and that has been proved over and over again, I am not preaching. I am not very good at it. But Mr. Bolton has said things that have sort of shocked me in that young people as he condemned them—

Mr. Bolton: I am condemning nobody.

Mr. Radcliffe: You were, you said "irresponsible." I forget the word you said.

Mr. Bolton: I have spoken to a lot of them and they express the views that I have expressed.

Mr. Radcliffe: You really did shock me. I hope to goodness that the hon. Deemster's amendment, I am quite easy on that matter. I would support Mr. Nivison's point of view that let us get this through. If we are going to start amending and further discuss one it will be heaven knows when we will get it through. The other branch can deal with matters expeditiously as it did this morning with a couple of Bills, one, two, three business, and if we can get this through this session, I think it will be to everybody's advantage so that they

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know where they are in this respect. If subsequently anybody wants to move an amendment that candidates may be 18, let them do so. But as Mr Nivison again, has said, there have been very few candidates at 21 for any of these jobs. Mr McFee has a point about helping. I regret that in the sports' committees and one thing and another you have a devil's job to get the young people to pull their weight at times. We have a pretty good bunch round Andreas. I am sorry, but I could not sit without saying something. I could not sit down under Mr. Baton's condemnation of the young where we have got them in the Isle of Man and elsewhere, and they can pull their weight when the occasion is there and they are called upon to do it.

Mr. Nicholls: Your Excellency, I do not think it is correct to describe Mr. Bolton's views as a condemnation of the young. In contrast to that from the expressions we have heard today, there seemed to be an impression amongst most members that the young people of 18 today are infinitely better than they were when I was 18. Well I refute that entirely. The young people of today are not one bit better than they were. To talk about them developing younger, they have been given a lot more liberty to allow them to develop than we were when I was 18 years of age. But I think it is quite wrong to suggest or to hold the view that the young people of today are any better than they were in our young days. New reference has been made to military service. Well I do not think that is a good argument at all. It is true that young people of 18 can be compelled to serve in Her Majesty's Armed Forces, but their life there is very different to their life in ordinary life. In the Army, everything is regulated for them, they have not even got to think for themselves, they are ruled from start to finish, they have to obey rigid regulations, so that it is not a fair comparison to say that because they are liable to serve in the Forces at

the age of 18 that they are fit to take a full man's part in everyday life. Now, if a young man, a youth, goes to serve an apprenticeship to a trade, say engineering as I did, he still has to serve until he is 21 years of age. He is not considered to be a journeyman, a competent craftsman, until he is 21 years of age. But we are suggesting now that he should be competent to take a full part in the vitally important matter of running our community, our Island and our laws. I do not agree with that at all. Although I may be called an old fuddy-duddy I agree with Mr. Bolton that this proposal to reduce the age to 18, even in the matter of voting, is wrong. I therefore will vote against the Bill.

Sir Ralph Stevenson: I support the suggested re-draft by the Attorney-General, Your Excellency. I think it is a good idea. Children of 18 should have three years in which to study politics before they propose to become candidates themselves. The fact that you are allowed to vote does not mean that you are going to make a good candidate, or that you ought to be a candidate. I do not mind having two classes of voter. I would seriously think that we should get this Bill through, as Mr. Nivison who moved the Bill, suggests by accepting this re-draft and sending it back to the Keys.

The Governor: Does any other member wish to speak?

Deemster Moore: May I say a short word in reply to the amendment, sir? Twenty-one is of age, an artificial fixing in a person's life just the same as 18 is and for that reason, if for no other, I think it creates a most peculiar anomaly if you are saying that persons are fit to do this, that, and the other at 18, and the Lord Bishop and a Commission at the present time are engaged in drafting, completing the drafting of a Bill which is going to give 18-year-olds very much further rights as individuals in the community. I think it is too illogical to

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say that you may enter into contracts, you may vote, but you are not fit to be a candidate. I think that is illogical. That is the only reason I am bringing this forward.

Mr. Corkhill: Your Excellency, is the First Deemster replying now? I did hear you say that you are waiting for the Lord Bishop.

The Governor: Oh no, we are not going to wait for him. He will not be here, and that is why I put his view.

Mr. Corkhill: I was hoping to say something.

The Governor: Well you say something.

Mr. Corkhill: I do not want to break in now.

The Governor: Oh no, as you know in the Council we all speak several times and in fact, before you speak I would point out that when Mr. Nicholls was 18 no woman at all had a vote, and that shows how we have progressed in the way of democracy.

Deemster Moore: In the Isle of Man, sir, we have. Women property owners have had the vote for a hundred years in the Isle of Man.

The Governor: But there was no adult suffrage.

Deemster Moore: Oh no, no.

The Governor: Universal adult suffrage which has now been adopted by every civilised country——

Mr. McPee: Was led by the Isle of Man.

The Governor: Was led by the Isle of Man. Good.

Mr. Corkhill: Your Excellency, perhaps we could come this way in this. I rather feel that there is not a lot of harm giving 18-year-olds the vote as far as education and the various things, but I am dead against them being eligible for candidature for the House of Keys. I am right against it, because I feel, Your Excellency, there is one thing in this world that you cannot buy — and that is experience. They do not put a man captain of his ship the minute he joins his ship. He has to gain experience, I still think that it would be very wrong for us to open this to our young people at the age of 18, becoming eligible as members of the Legislature.

Mr. Nivison: Your Excellency, in view——

The Governor: Being a candidate and getting elected are two different things.

Mr. Corkhill: Oh, yes!

Mr. Nivison: The public have a say in it. But I would say, Your Excellency, that in view of what has been said this afternoon and in view of what was said by the deputation from the other place congratulations as to our wisdom in amending it in this way. I believe we may lose all if we do not go and accept this re-draft. I share the views of those who state that as the age of majority is going to be altered to 18, and it is altered in the United Kingdom, and as the age for voting has been altered I share the view that equally they could be eligible to be a candidate. So is a person of 99. But nobody would dream of nominating, but they would be eligible. I would hope, nevertheless, that rather than try to get at this stage that we do accept the re-draft of the Bill as re-drafted by the learned Attorney, which would in fact give the vote to all at 18, but would in respect of the candidates only allow candidates at the age of 21. I fear that if we go for the lot we may lose the lot. I fear that that is so. I am absolutely sure about that.

The Governor: And after all, if we do take the suggested re-draft and the Keys wish to amend it they will still have the chance to do so, won’t they?

Deemster Moore: That is why I thought they had better read it and then they can cross it out if they do not like it. If it did carry here, that is the only way in which they could
Mr. McFée: I wonder do they consider it in public?

Deemster Moore: No, I think they said their committee had considered it. They did not say the Keys had considered it.

The Governor: I understood that the majority favoured the re-draft.

Mr. Nivison: Yes, they did indicate. I think, that—

Mr. McFée: I would certainly like to know was it discussed in public or private.

The Attorney-General: By the Keys?

Mr. McFée: Yes, by the Keys.

The Attorney-General: Well I can definitely give you the answer to that. It has been discussed in private by the committee.

Mr. McFée: Well I think that is entirely wrong. Your Excellency, that we should be led by a deputation of the Keys, a minority—

The Governor: You are now going off the deep-end on hearsay and inference only. Before you condemn the House of Keys you should be sure of your facts.

Mr. Nivison: But we must know that they did pass this other Bill. They have passed this other one.

Mr. Radcliffe: It is only one small point we have met them over.

Mr. McFée: The Attorney-General, who is our legal adviser, has advised in Council — that you can take it from me, sir — that it was in private by a committee.

The Governor: Yes, but that was not a question of law. That was a question of fact he was so informed. He would be the first to agree with me that he has no more right to claim infallibility than you have.

Mr. McFée: Well I am showing you, sir, that anticipating another Bill how I appreciate his advice on occasions.

Mr. Nivison: But this is the normal procedure as far as the House is concerned. Whereas the Council invariably treat themselves as the whole committee, in the Keys they appoint committees to deal as far as deputations with us is concerned.

Mr. McFée: Oh, they report back.

Mr. Nivison: I think really that it is quite probable that some discussion has taken place in the Keys in order to ask this committee to come and visit us. Surely they must do this on their own.

The Governor: The committee from the Keys was quite clear that they wanted this?

Mr. Nivison: It was clear.

Mr. Radcliffe: And then the committee was elected by the Keys. They must have discussed it.

Mr. Nivison: You see, this is an ad hoc committee.

Deemster Moore: Is it not the procedure that the committee appointed by the Keys to meet the Council represents a majority view?

Mr. McFée: No, not necessarily, sir.

Deemster Moore: I think so, I think so. But what I am most concerned about is that I do not know, I am still not sure that I know this, whether the committee of the Keys who came up here or the Keys as a whole body, have considered the question of this candidature age. That is what I am concerned about. Unless we put it in the Bill and send it down to them, that is the only way we can be sure that the whole of the House of Keys consider that point. If they do not like it, reject it. This is the way I was looking at it.

The Attorney-General: Your Excellency, it is perfectly plain to me that the House of Keys never even contemplated that by altering the age of entitlement to vote at 18, that they are altering the age at which a person might stand for the House of Keys, the Board of Education or any local authority. I have made

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enquiries, I am satisfied they never even thought of it. It is patent on the face of the Bill they passed.

The Governor: The question is, did they talk about it this morning in public or private?

The Attorney-General: Well I have already expressed my views on that, sir. I have said they did not talk about it in public into any degree at all, and the committee of the House of Keys met at about either two or two-fifteen this afternoon to discuss the thing.

Mr. Nivison: Mr. Callister conveyed a message to us.

The Attorney-General: That is . . .

Mr. Nivison: From somebody.

The Attorney-General: No.

Mr. Nivison: Was it from themselves?

The Attorney-General: I was from Mr. Callister. (Laughter).

Mr. McFee: It is unconstitutional, sir.

Mr. Radcliffe: Mr. Kerruish speaking on behalf of the Keys that he sent to meet us, and Mr. Kerruish made it very clear and distinct as to what their message was.

Mr. Nivison: Can I have one thing clarified, Your Excellency. Is the learned Deemster absolutely certain that this position would be the same as the United Kingdom?

The Attorney-General: Yes.

Mr. Nivison: Is it, sir?

The Attorney-General: In the United Kingdom you can vote for Parliament, you can vote for a local authority at the age of 18. To be a candidate for either, you must have attained the age of 21 years.

Mr. Nivison: In order to make progress, sir, I as the member in charge of the Bill would propose clause by clause on this paper.

The Governor: Well as we go through the Paper, then it will be up to the learned Deemster to propose an amendment.

Mr. Nivison: Yes sir.

The Governor: Well is it agreed that we take the re-draft as the basis of our committee stage?

It was agreed.

Mr. McFee: I am against even discussing it unless I know from the Secretary or Clerk of the House that it was discussed in public, sir. I am registering my protest. He is in the building and available to give us—

The Attorney-General: The hon. member is trying to go behind the procedure that has existed for over a hundred years.

The Governor: The hon. member is as usual trying to have the best of all possible worlds.

Mr. Bolton: May I suggest, sir, that he is trying to deal with the business of the House of Keys that they are entitled to do for themselves. We have got to do our own business which is to deal with this Bill.

The Governor: Now, the suggested re-draft.

Mr. Nivison: I move clause 1, that is the Entitlement to Vote at Age 18. "The age at which a person shall be entitled to vote at any election to which this Act applies shall as at the commencement of this Act be 18 years." I move that stand part of the Bill.

Mr. Radcliffe: I second.

It was agreed (Mr. Bolton registered dissent).

The Governor: Two.

Mr. Nivison: I move now that in sub-section (1) of section 1, sub-section (1) of section 2, and sub-section (1) of section 3 of the Representation of the People (Registration of Electors) Act, 1961, which relates to entitlement to vote at elections, the words "are of full age" are hereby repealed, and there be

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substituted the words "having attained the age of 18 years." This will in effect—

Sir Ralph Stevenson: We have already had one.

Mr. Nivison: We have not passed the Bill as they have in England, but the full age is 18, and until such time as we have the Act of the United Kingdom . . . We have not got such an Act, but we have got to put it down as 18.

Mr. Radcliffe: I second.

The Governor: Agreed?

It was agreed.

The Governor: Three:

Deemster Moore: Now an amendment at this stage. I beg to move that an amendment is inserted to be numbered clause 3, which the learned Attorney has been good enough to nearly complete.

The Attorney-General: Well, what you want to do is to delete clauses 2 and 3—

The Governor: Not 2 and 3 surely?

Mr. Nivison: 3 and 4.

The Attorney-General: "2" is a giving—

The Governor: The vote.

Mr. Radcliffe: This is the Registration of the People Act?

Sir Ralph Stevenson: Been carried out long ago.

Mr. Radcliffe: The marginal note refers the Registration of Electors Act and presumably this is put high in the lists.

The Attorney-General: Just let me finish this amendment.

Mr. Nivison: You want sub-section (1) of section 1.

The Governor: Well in the meantime I think you could be moving clause 3 which is the one the learned Deemster wants to amend.

Deemster Moore: Well, it isn't, sir. You see, section 53 of the 1951 Represenation of the People Act is the section at present which specifies the age at which you can be a candidate for the House of Keys, and the words there used are "is of full age." For the reasons which the hon. member, Mr. Nivison, has mentioned, full age being still in the Isle of Man 21, that would need amending to "of 18 years." That is what the learned Attorney has proceeded to draft out here, and in my view, quite correctly. That is what I want to move. May I move it.

The Governor: It is perfectly all right.

Deemster Moore: Your Excellency—"If any person shall be capable of standing as a candidate for and being elected as a member of the House of Keys, who is a British subject and is of full age other than . . . " and so on. Now then instead of the words "and is of full age" this is the amendment. In sub-section (1) of section 53 of the Representation of the People Act, 1951, which relates to the qualification of members of the House of Keys, the words "and is of full age" are hereby repealed and there shall be substituted therefor the words "and has attained the age of 18 years."

Mr. Nivison: That is a new clause?

Deemster Moore: A new clause, and the same provision will come in with regard to members of the Board of Education which is a sub-section and is section 54 of the same Act the principle is exactly the same, with the same alteration.

Mr. Nivison: Yes. Now this will not replace my clause 2?

Deemster Moore: No, no. Insert a new clause 3.

The Governor: New clause 3.

Mr. Nicholls: Does not this mean, sir, that we would be going back on our previous decision that a person shall not be a candidate until they have reached the age of 21?

Deemster Moore: We have not reached such a decision.
Mr. Nivison: No, we have not reached that yet.

Mr. Nicholls: That was the point of view, I remember. A person can be a candidate at 18.

Deemster Moore: That is right.

Mr. Bolton: What I would like to ask is this. This one says "At the end of sub-section (2) of section 13 of the Douglas Municipal Corporation..." 

Deemster Moore: We are not up to that yet.

Mr. Bolton: No, no. Oh, you are coming to that again?

The Governor: In clause 4.

Deemster Moore: This is dealing with purely the House of Keys, the Representation of the People Act which deals with House of Keys elections and Board of Education elections. We have made the age of 18 by passing clause 2 of the amended draft. Now my amendment is to make them have the right to be candidates at the same age, that is 18. That is what I move. If they vote on that this settles the issue once and for all. I mean, if you pass it then with its consequential amendments; if you turn it down I do not suppose Mr. McFee and I will bother with the other ones.

Mr. Nivison: Well, I would like that to be put now, sir, without any further ado.

Sir Ralph Stevenson: Put number...? Mr. Nivison: No, this is a new clause.

The Governor: Those in favour of an additional new clause 3, as read by the learned Deemster, please say aye. Those against say no.

A division was called for and voting resulted as follows:—

For— Deemster Moore and Messrs. McFee and Nivison—3.


The Governor: Well it fails. So now we take clause 3 of the re-draft.

Mr. Nivison: Now clause 3. This deals with candidates. No, it deals with prospective candidates for the Douglas Corporation. At the end of sub-section (2) of section 13 of the Douglas Municipal Corporation Act, 1895, which relates to the qualification of a Councillor of the Borough of Douglas, there shall be added the words "and must be of not less than 21 years of age." And I move that stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Four.

Mr. Nivison: And 4. At the end of paragraph 4 of the Second Schedule of the Local Government (Registration of Voters and Election by Ballot) Act, 1904, which relates to the qualification of a member of the local authority, that is other local authorities other than Douglas, there shall be added the words "and must be of not less age than 21." So it puts Douglas Corporation and local authorities including the Onchan Commissioners and these kind of people, all in the same status.

The Governor: Agreed?

It was agreed.

The Governor: Five.

Mr. Nivison: This is just what the Act applies to, House of Keys...

Deemster Moore: There is a word "in" to be inserted.

Mr. Nivison: Oh, "in any local authority." That is in (b), 5 (b) "in any local authority or as a Councillor." I move that stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Now new clause 6 which was 3 in printed version.

Mr. Nivison: Yes. That is the Short Title and Commencement. "The Act is to be cited as the Representation of the People (Franchise) Act, 1970, and shall
be construed as one with the Representation of the People Acts of 1951-1970. I move that stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Now if you would like to take the wishes of the Council they might allow you to take the third reading.

Mr. Nivison: I would hope that you would agree the suspension of Standing Orders in order that we might dispose of this Bill and in order that the Keys may have another look at it, and well, I hope you will allow us to take the third reading.

It was agreed.

The Governor: We have a majority; I think we have got a big enough majority.

Mr. Nivison: I now move the third reading of the Representation of the People (Franchise) Bill, 1970, and that the Bill do pass.

The Governor: Agreed?

It was agreed.

FAMILY PROVISIONS BILL—SECOND AND THIRD READING APPROVED

The Governor: Has your voice recovered sufficiently, learned Attorney?

The Attorney-General: Yes, I think so sir.

The Governor: You can tackle the Family Provisions Bill? It is not frightfully urgent. If you would rather we went on to others?

The Attorney-General: Oh, no, I am sure we can take this, I think.


The Attorney-General: This is the Second Reading. Well I will just formally move the Second Reading, Your Excellency, if I may.

The Governor: Agreed?

It was agreed.

The Governor: Good.

The Attorney-General: I move that Council resolve into committee, sir.

It was agreed.

The Governor: Clause 1.

The Attorney-General: Clause 1, sir, repeals sub-section (3) of Section 1 of our Inheritance (Family Provision) Act, 1959. This sub-section relates to periodical payments ordered by the Court be paid out of a deceased's estate to dependants of his who are inadequately provided for under his will or the law relating to intestacy. This limited the payments in any year to an amount not exceeding the income. Now the effect of the repeal is that where it is thought desirable by the Court they can order payments in any year which will in fact exceed the annual income. And I mean, the Court will naturally weigh the position up very, very carefully. This clause, sir, also provides by sub-section (2) that maintenance may be paid in such way as the Court thinks fit. I beg to move, sir, that Clause 1 stand part of the Bill.

Deemster Moore: I beg to second.

The Governor: Agreed?

It was agreed.

The Governor: Two.

The Attorney-General: Now this provides, sir, that maintenance out of a deceased's estate for spouse or child or for a former spouse who has been divorced, may be made wholly or partly in a lump sum; in other words, they give them so much a week, so much a month or so much a year — give the girl £10,000 to be shut of her! (Laughter). I move, sir, that clause 2 stand part of the Bill.

Deemster Moore: Your Excellency, this clause deals with cases of any size of the estate. At the present time under the
present Act it is only in cases where the estate is £5,000 or under that a lump sum can be provided for the wife who has not been provided for. And this enables the Court to deal with it in any case regardless of the size of the estate. In my view it is a very desirable improvement, but I certainly commend it to the Council. I think I said last time there is an error in the print here. Section 28 of the Judicature (Matrimonial Causes) Act should be section 38 on Page 1.

The Attorney-General: Ah yes, that is quite right.

Deemster Moore: It should be 38.

The Attorney-General: It is all right in the clause of the Bill, but in the Explanatory Memorandum, three lines from the bottom, "28" should read "38." It was agreed.

Mr. Bolton: I would only like to commend the Attorney-General's optimism, sir. — (Laughter),

The Governor: Clause 3.

The Attorney-General: This clause, sir, clause 3 amends the Inheritance (Family Provision) Act, 1959, the Maintenance Agreements Act, 1964 and the Judicature (Matrimonial Causes) Act, 1965, so as to make the period during which applications for maintenance made under those Acts becomes uniform at six months after representation of the estate has been obtained. At the moment I am afraid I cannot tell you offhand what the periods are but they are all different. One of them is six months, another is perhaps three, and another perhaps nine. This levels them all up. I mean, one period must be right and this decides that the six-month period is right.

Deemster Moore: Can I second this first? I second on this clause. It does more than the Attorney has said really because one must remember that these periods are so the person may get on with the winding-up of the estate. In other words, if a widow is going to complain that she is not properly provided for under the Will, then under the present law, she has to apply to the Court within six months. Now it is quite true that the clause does say that in respect of all these types of applications, not merely under the Inheritance (Family Provisions) Act, in all these cases the uniform period of six months is provided, but the important thing is that it also by the clause provides that the Court may if there is justification, extend the period of six months. But it has got to have the permission of the Court to make an application after six months from the relevant date, I support the clause, sir.

Mr. McFee: Can I ask, Your Excellency, where a Will is made and where the deceased person's Will leaves certain estate and because of certain reasons if the estate cannot be resolved, are there many estates at the moment unresolved? Deceased persons? For instance, say a person was left £20 a week for life, and you do not know whether the estate is going to find that, and therefore you cannot wind up and give other beneficiaries.—Could you explain that one?

Deemster Moore: If I may answer that, sir. In general the law is that the executors have a year in which to wind up the estate. That is supposed to be a reasonable time for them to pay the debts and other liabilities and see what there is. Now suppose that during that period they find for certain that there is not going to be enough to pay somebody £30 per week, then of course they will in about a year's time be able to tell the person concerned that the estate just has not got that amount of money and then the benefit would have to be reduced to £15, or something like that. I do not come across many cases in which any real difficulty of that type arises. These types of case under this section,
are cases where for one reason or another or for no good reason—a husband has not provided for his wife adequately and those are the cases that create difficulty and obviously when a claim is made by a widow saying that I have not been left enough, there is an inevitable delay while the Court considers the matter and the Estate cannot be wound up until the Court has made an order under the Inheritance (Family Provision) Act.

Mr. McFee: Could you cut others out?

Deemster Moore: Yes, it does. It holds them back. It can cut them out. Under the clauses we have just passed, the lump sum could be such as to exhaust quite a big part of the estate and that would obviously affect the question of the children.

Mr. Corkhill: That would be cut down accordingly.

Mr. McFee: They would be cut right out.

Deemster Moore: They would be cut out if it exhausted the whole of the estate. They would be cut down, in most cases as you say, accordingly.

Mr. Bolton: Would the Attorney-General tell us what the reason is for this type of drafting?

The Attorney-General: Explaining to people why we are doing it.

Mr. Bolton: You very rarely do that?

The Attorney-General: No, no. quite often one does it. When I say quite often, it is probably a couple of Bills a year. You will get a thing which says that from and after the commencement of this Act, such and such a thing shall be permitted — something that has been prohibited before—they say, it will be permitted, and accordingly, in section 15 and so on, the words will be deleted or something of that sort. The opening words are merely for making clear what you are setting about and this is making it clear that with a view to extending and making it uniform.

The Governor: Clause 3 agreed?

It was agreed.

The Governor: Four.

The Attorney-General: Four, sir, inserts new sections in the Inheritance (Family Provision) Act 1959 and the Judicature (Matrimonial Causes) Act of 1965 empowering the Court on an application for maintenance to make an Interim Order for support of spouse or child, pending the making of some final order. I beg to move, sir, that Clause 4 stand part of the Bill.

Deemster Moore: I second, sir.

The Governor: We will now take Schedule 1.

The Attorney-General: Well Schedule 1, sir, is simply the new clause which you will see by sub-section (2), is very slightly varied in respect of the Judicature (Matrimonial Causes) Act 1965. I move that Schedule 1 stand part of the Bill.

The Governor: Agreed?

It was agreed.

The Governor: Five.

The Attorney-General: Five, sir, makes amendments for the same two Acts, to ensure that the expression “son” and “daughter” and “dependant”, cover children adopted in the United Kingdom, the Isle of Man and the Channel Islands. I beg to move, sir, that Clause 5 stand part of the Bill.

Deemster Moore: I beg to second this. It is a most important clause. A conference was held a few years ago at which it was agreed that various parts
of the United Kingdom — the Channel Islands and the Isle of Man would recognise the adoptions of each other. This is consequent upon that most important conference.

The Governor: Agreed?
It was agreed.
Mr. Nivison: An illegitimate son.
Deemster Moore: Adopted. Adopted children, Recognising the adoption orders of each part.
Mr. Nivison: There are provisions somewhere else for recognising —

The Governor: Agreed?
It was agreed.

Mr. Nivison: There are provisions somewhere else for recognising —

The Attorney-General: There are provisions which at the moment, wallowing in the slough of the vast floor.

Mr. Nivison: That is simply.
The Attorney-General: You will be given your chance at it.

The Governor: Agreed?
It was agreed.
The Governor: Six.

The Attorney-General: Six is simply the repeals, the repeals clause and schedule 2 is simply the details of the repeals, so I move, sir, clause 6 and schedule 2 stand part of the Bill.

The Governor: Agreed?
It was agreed.
The Governor: Seven.

The Attorney-General: Seven, sir, the short title and the date of coming into operation. I beg to move.

The Governor: The only question I have on that is you have "Short title, etc." and in every other one we have "short title and commencement." It seems rather slipshod to put "etcetera" if I may say so.

The Governor: The only question I have on that is you have "Short title, etc." and in every other one we have "short title and commencement." It seems rather slipshod to put "etcetera" if I may say so.

The Attorney-General: Well one does it occasionally, sir.
The Governor: Could you quote another?
The Attorney-General: I cannot quote one off-hand, sir.

The Governor: it is a very minor thing which need not go to the Keys, but we ought to put "and commencement." It is slipshod.

The Attorney-General: I can quote, sir, the Marine etc., Broadcasting Offences Bill.

The Governor: That never reached the Statute Book.
The Attorney-General: It did, sir, in the United Kingdom and the —
The Governor: You object to putting "and commencement" do you?
The Attorney-General: No, not at all, sir. I will guarantee those were the words used in the Act of Westminster.
The Governor: Agreed?
It was agreed.
The Governor: Now would you like — as this is possibly our last meeting this session.
The Attorney-General: Could I just mention schedule 3, Your Excellency.
The Governor: Well I thought we had done those.
The Attorney-General: No sir, we have not done Schedule 3 sir. Schedule 3 is simply the re-print of the Inheritance (Family Provision) Act 1959, as amended by this Act. Occasionally this procedure is adopted — it has been adopted in this one. I beg to move, sir, that Schedule 3, stand part of the Bill.

The Governor: Agreed?
It was agreed.
The Governor: The Council now resume, sir.
The Attorney-General: I beg to move the suspension of Standing Orders in order to take the third reading of the Family Provision Bill.

The Governor: Agreed?
It was agreed.

Family Provisions Bill—Second and Third Readings Approved.
The Attorney-General: I beg to move Your Excellency, the third reading of the Family Provision Bill 1970, and that the Bill do pass.

It was agreed.

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ISLE OF MAN
CONSTITUTION BILL—
SECOND READING—REJECTED

The Governor: Now number 12. The Isle of Man Constitution Bill. Mr. McFee, for the second reading.

Mr. McFee: Your Excellency, I move the Isle of Man Constitutional Bill to the Assembly and the Bill provides that the Attorney-General whilst remaining a member of Tynwald and the Council and retaining his right to speak therein shall be deprived of his right to vote in either of those bodies. Since then of course we have seen a comment in one of the newspapers "The Courier." I think the heading was — "The Writing is on the Wall — How far can we go regarding Constitutional Reform." Well I do not consider the "Courier" the mouthpiece of the Isle of Man and also to set themselves up as a genuine Gallup Poll such as is recognised in its genuineness in the United Kingdom for the "Courier" I think is rather stretching the case. There are 40 odd thousand people at least who can read in the Isle of Man and I just wonder what the circulation of "The Courier" and how many of them would be of that opinion. However, and how many even were asked to give an opinion. Sometimes there are very nasty words written on walls so I will leave it at that. With regard to the question of Mandate, this Bill is a Reform Bill and it has been suggested by some that we have no Mandate, but I think that when you consider Committees and Commissions and also that the matter, from time to time, has been raised at election forums and on public platforms I think that there is Mandate enough for the Council and Keys together to go forward with this kind of recommendation. You will have noticed when you have read the Bill that the words are exactly, without one deviation, I think, the same and I consider that by design and not by accident similar to the 1969 Constitution Bill — this particular clause. The design naturally, as far as I can see is, that the Keys are determined and may exercise their right to challenge if necessary the Council on this matter by a third introduction of the clause. Now during the debate on the first reading, Mr. Nicholls I think, said it was a question of masculating the Council.

Mr. Nicholls: I was only quoting — that was Mr. Callister’s words.

Mr. McFee: Well one is glad you take notice of Mr. Callister at times but after the first reading I read the Keys debate and I am satisfied that this really is not an attempt to dispense with a two Chamber Government at all. I think that an expression even this afternoon has shown the Keys themselves recognise the necessity for the Second Chamber and I do not think that because this particular Bill has been introduced that it is for the purpose of annihilating the other Chamber and making it a one-Chamber Government and neither will it deprive the Attorney-General of giving his legal advice to the Council or to anyone else who requires it. I am quite satisfied there are a number of persons, members that do really require it and not only in this Chamber either. When Constitutional conflicts have arisen the Attorney-General — being a Crown appointment — must, I would assume, speak on behalf of Her Majesty’s Government in the Isle of Man but, seeing the problem through the eyes of the Home Office or Whitehall, rather than through the eyes of the appointed and elected representation of the Manx people and it is in that sense, perhaps, he is in the rather unfortunate position.
in being a member who has voting strength as well as the power of speech in either of the Branches. In my opinion we should appoint our own Attorney-General and that I would consider then that he would have a right to vote if appointed to Tynwald.

The Chamber that needs guidance — whether it is the Keys or whether it is the Council, when Government Bills are introduced in the other Chamber. It would be a jolly good idea, again and I refer to what has happened this afternoon — it would never have happened had the Attorney-General been advising the House of Keys when this matter was debated. I think that the whole question probably — I do not like ad hoc constitutional amendments, I would feel it would have been much better had the Keys and the Council come to an agreement a year or two ago when we appointed a committee to meet them on this matter or get them together to remould or amend the constitution and see its development.

However, the Keys did not see it wise at that time to agree to this. They might today, I do not know, but I do not like this ad hoc method, but, in the circumstances, when there is no alternative, I move that this second reading be passed by the Council.

The Governor: Did I hear you evoke that when a new Attorney-General is appointed then you will change this Bill back to give him a vote because you said, if you could elect, or if you could have a say in appointing the Attorney-General, as far as I remember the Working Party achieved just that, so I am not clear — this is merely against the present holder?

Mr. McFee: No, not at all, sir. I am not talking of a personality. I—

The Governor: But you said that if you had a say in the appointment — this was exactly what the Working Party got for you.

Mr. Bolton: It has got mixed up somehow.

Mr. McFee: Your Excellency, what I meant was we appoint instead of the Home Office appoint.

Mr. Corkhill: Your Excellency, I thought that Sir Ralph—

The Governor: But this is exactly what the Working Party is doing.

Mr. McFee: It hasn’t gone that far, has it?

Mr. Bolton: This is a stratagem; would not make a hair’s difference if we did.

Mr. Nivison: This is not in the Bill anyway.

Mr. McFee: I was just letting you know my own opinions.

Mr. Bolton: How is the “Ramsey Courier” in the place?

Mr. McFee: No, but you could influence the simple minds of individuals by anything—

Mr. Nivison: Don’t think the Bill would get—

The Governor: Has anybody seconded the Bill?

The Attorney-General: That is the quickest way out.

The Governor: Well it dies.

Mr. McFee: What a terrible death.

Mr. Nicholls: I feel very sorry for the mover of the Bill. He is doing something which he doesn’t believe in himself.

The Governor: Well, that is that.

Mr. McFee: I would point out, Your Excellency, on a very important matter such as this on which the Press has made a great deal of comment and brought a lot of pressure to bear on the reading public that I am very sorry, to say the least, they are not represented here at a public meeting.
LICENSING BILL — SECOND AND THIRD READINGS APPROVED.

The Governor: Now then the Licensing Bill. Incidentally has the learned Attorney considered whether it is possible to put all these three into one?

The Attorney-General: I do not see how you can do it, sir, unless you take each of the three Bills up to its final stage.

The Governor: But in committee we could.

Deemster Moore: I do not think you can, sir. You see every member has the right to sign the Bills that they approve of in Tynwald and it may very well be that I might approve of Bill No. 1 and No. 3, but not of No. 2. Mr. McFee might agree with No. 2 and not No. 1. I think there is a difficulty. I do not think we can avoid it, awkward though it may seem.

Mr. Nicholls: That is my objective at the moment, sir. There are three Bills of which I have taken charge of two and I am against the other one.

The Governor: Well, will you take yours first then?

Mr. Nicholls: Yes, sir. I must say that I found myself rather confused, having three licensing Bills on the one agenda. I am inclined to get mixed up one with the other but this one is a very simple Bill, Your Excellency. It simply proposes to grant an increase of one hour, one hour's opening for public houses on Fridays and Saturdays during the winter period. As hon. members know the licensing hours extend to the whale week during the summer period but this is asking for the same hours on a Friday and Saturday during the winter as is at present in the summer. Now, sir, my view is that the pattern of adult people's life has changed very considerably in recent years. People are tending to extend their period of entertainment later and later in the evening. We have evidence of that here on the Island already and on Friday and Saturday of course they take the view, well we do not need to go to bed quite so early tonight as we have not got to get up so early in the morning.

Mr. McFee: the over-18s or the under-18s?

Mr. Nicholls: A very high percentage of working people today have a five-day week so they can have a lie-in on Saturday morning in addition to Sunday morning, so that those are some of the feelings that people have about wishing to extend their entertainment hours later in the evening at the week-ends. Now we have, I noticed reading the Hansard of the debate in another place they seem to make very heavy weather of it and of course it degenerated, I would put it, into a general debate on the use of drink. Well I do not think that should enter into it at all. It is simply a matter of giving a little more liberty to people who like to go to the local and spend their Friday and Saturday evenings in particular, it is generally known that the other nights, week nights, are very quiet in public houses. Friday and Saturday are the two evenings in the week in which people do look forward to enjoying themselves in the company of others. Not so much for consuming an enormous amount of drink, as seems to be represented by the anti-drink faction, but to enjoy the social aspect of it, meeting their friends and so on. So I do not intend to say much on this, Your Excellency. I simply move the second reading and move that the Bill be read a second time.

The Governor: Any seconder?

Sir Ralph Stevenson: I will second that, Sir.

Mr. Nivison: Could I ask, Your Excellency, if this would bring a 45-minute extra on Friday and Saturday, would this bring the public house into line with the club Friday and Saturday?

The Attorney-General: I think so, yes.

Licensing Bill—Second and Third Readings—Approved.
Mr. Nivison: In view of that I am going to support this Bill because I would hope that we would have some measure that would tend to regularise these uniform hours. If traffic traffic between pub and club or club and pub is causing more trouble than anything else I know. Even if it means extending—I, personally, would prefer. I am not a drinker myself, but I would prefer it to be a regular time of them all—the pub and the club.

Mr. Bolton: There is not any compulsion to leave a public house if you are not drinking, is there? I mean. you could stay until 11 provided you are not drinking.

Mr. Nicholls: The last quarter-of-an-hour is what is commonly known as drinking up time, "no orders after ten."

The Attorney-General: It is a case of if the proprietor wants you to go, you have got to go, There is no need to ask him.

Mr. Bolton: If they were enjoying the company so much if they did not want the drink, as Mr. Nicholls said, they could stay.

Mr. Nicholls: As far as I am concerned he can.

Mr. Bolton: So really there is not much need for the extra licensing hours.

Mr. McFee: I think the same argument was used when the last amendment of hours was made—it said oh we must have an extra quarter-of-an-hour. Now they want the extra hours and that is the way it goes on until the whole lot.

Mr. Corkhill: I like Mr. Nivison’s idea—uniformity in all places. That is what suits me.

Mr. McFee: It is making a mockery of the licensing altogether.

The Governor: Is that agreed? The second reading?

Mr. McFee: I am against.

The Governor: How many against?

The Attorney-General: Two.

The Governor: Three. Well then the second reading is carried. Now in committee, clause 1.

Mr. Nicholls: Now this is the meat of the whole Bill. Your Excellency, that during the winter periods the hours will be from, from what we proposed, inclusive between 12 o’clock noon and 10 o’clock in the evening and on Fridays and Saturdays between 12 o’clock noon and 45 minutes past 10 o’clock in the evening. Quarter to 11 and the idea has always been of course — last August quarter to 11 and the other quarter-of-an-hour for drinking up and emptying your glasses. I beg to move clause one stand part of the Bill.

The Governor: Will anybody second?

Sir Ralph Stevenson: I second.

The Governor: Agreed?

It was agreed.

The Governor: Citation next, sir.

Mr. Nicholls: I beg to move that, sir.

The Governor: Agreed?

It was agreed.

The Governor: Now we resume.

Mr. Nicholls: I would like to get this one off the agenda, sir.

The Governor: I want to clear what we can today, agreed?

It was agreed.

Mr. Nicholls: It is a very short one. I beg to move that Council resume, s.i., to take the third reading of the Licensing Bill, 1971, and that the Bill do pass.

The Governor: Agreed? There are only two opposing this time.

Mr. McFee: May I record my vote, sir?

The Governor: Yes, certainly.
The Governor: Now while we have got Mr. Nicholls in the hot seat I suggest we take Licensing Bill (No. 3).

Mr. Nicholls: For the third reading, sir.

The Governor: Second reading.

Mr. Nicholls: Oh, second reading.

The Governor: About the bringing in the Holiday Camp.

Mr. Nicholls: Yes. I move the second reading of the Licensing Bill (No. 3), sir.

The Governor: Agreed?

It was agreed.

The Governor: In committee. Clause 1 which is the operative one.

Mr. Nicholls: I beg to move clause 1, sir. As you say, it is the operative clause for during the period covered by the application those premises provide (1) accommodation for not less than 200 resident guests, or (2) full board for not less than 50 resident guests.

Mr. McFee: I still think this one is very dangerous indeed. More dangerous than the others that we have passed and as such I will certainly record my vote against.

The Governor: Otherwise agreed?

It was agreed.

The Governor: Good. Clause 2.

Mr. Nicholls: Clause 2, sir, is the short title and commencement and I beg to move that.

The Governor: Agreed?

It was agreed.

Mr. Nicholls: Could I ask for a continuation, sir?

The Governor: Yes.

Mr. Nicholls: I beg to move that the Council will resume and I ask for the suspension of Standing Orders in order to take the third reading.

The Governor: Agreed?

It was agreed.

The Governor: Will you formally move—

Mr. Nicholls: I formally move the third reading of the Licensing (No. 3) Bill 1970 and that the Bill be passed.

The Governor: Agreed?

Mr. McFee: I will record my vote, sir.

The Governor: Yes, certainly.

Mr. Corkhill: I would like to do the same, sir.

The Governor: Good. You record yours in favour.

Mr. Corkhill: Against, sir.

The Governor: Against.

Mr. Corkhill: Yes, I did not—unfortunately I did not vote. I am right against it. It does not make any difference.

The Governor: Well you balance out by—

Mr. Corkhill: Yes. I understand that. Your Excellency.

It was agreed.

The Governor: Right. Now item 14. Licensing (No. 2) Bill, the Attorney-General.

The Attorney-General: Yes. Your Excellency. We are on the second reading, are we not? As I explained before, sir, before this is to enable registered clubs to be open on Sundays during the winter for the same hours as they permitted to be open on Sundays during the summer. They are, in fact, only entitled to be open on Sundays during the summer if Tynwald passes a resolution saying let us have the registered clubs open on Sunday. Now Tynwald

Licensing (No. 3) Bill—Second and Third Readings—Approved. —Licensing (No. 2) Bill—Second Reading—Rejected.
did pass such a resolution on the 22nd November, 1961. It is still in force and consequently those registered clubs who wish to be open on Sundays during the summer have been able to be open between the hours 12 noon and 1.30 p.m. and 8 p.m. and 10 p.m., but there was nothing to enable registered clubs to be open on Sundays during the winter and which, I would have thought, was the time when they, I would have thought that clubs would require to be open on Sundays during the winter rather than Sundays during the summer. That is by the way and this Bill which is the second bite of the cherry has come forward. It has passed the Keys before; it was rejected from this Council. It has now passed the Keys again and comes forward to the Council once more and it does is to provide that if a registered club is permitted to be open during a Sunday in any summer, then it may be permitted to be opened in the following winter on precisely the same hours. I beg to move, Your Excellency, the second reading of the Licensing (No. 2) Bill.

The Governor: Will somebody second?

Mr. Radcliffe: I will second.

The Attorney-General: I move the Council resolve into committee, Your Excellency.

Mr. Nivison: There are some who feel, Your Excellency—the comparison between summer hours. Clubs were given permission to open on Sunday, following upon a resolution of Tynwald, but it must be borne in mind that the hotel is open on a Sunday. Now in the winter time, if we pass this Bill, the clubs will have the exclusive opening apart from the Casino, of opening on Sunday, and although some may not wish to open those that do open will have a bonanza and they will eventually attract the clientele, the customers, from the normal pub. I am not speaking on behalf of the normal club, but I do know the pattern has been in certain towns in England where they have been a little bit against issuing too many public house licences. They somehow found it difficult to restrict the number of club licences and clubs grew up like mushrooms, and they took over where public houses normally should have operated. It is thought that the control in the club is not as stringent. It is thought, I am saying, I do not know, but it is thought as to what it is in the public house. I, myself, would say that if the people of the Isle of Man want these facilities on a Sunday let them have them in the pub, and as soon as it is given to them in the pub I will vote for the club, but I will not vote for the club whilst the pubs have to remain. I am not advocating that pubs should be open on Sunday, but I think that whilst the pubs have to close, I think the clubs also should close.

Mr. Bolton: I think, too, sir, that the argument Mr. Nivison used earlier that we should extend the three-quarters of an hour to the pubs because the clubs had it. Now as soon as we give this to the clubs then the pubs will want it. I mean this is a gradual thing that has been going on for a long time. Take a little, get a little more, take a little, he has got it and eventually the whole thing is wide open. I am entirely opposed to this proposal.

The Lord Bishop: It is this piecemeal legislation that I have been worried about a great deal in the whole licensing question.

The Governor: As I explained at an earlier meeting we are hoping that the learned Attorney will introduce a consolidated Bill. I know that he is relying on his learned colleagues to a certain extent. He cannot advance on a single man front.

The Attorney-General: Yes I did not think it was going to be a consolidated Bill, sir, with great respect. I thought

Licensing (No. 2) Bill—Second Reading—Rejected.
we were going to make recommendations as to what should be done to iron out difficulties that exist in the licensing legislation.

The Governor: Well, I hoped we would have one Bill showing exactly what it is the moment—

Mr. Nicholls: I think the trouble is sir, that these are. I think, all three of them are private members Bills, are they?

The Attorney-General: Yes.

Mr. Nicholls: So there is nothing to stop private members at every meeting of the House of Keys bringing forward a Licensing Bill of some kind so that it would be almost impossible to keep a consolidated Bill up to date.

Mr. Rael3line: Consolidated could start afresh.

The Governor: Well, I think if we had a consolidated one in front of us then it should avoid the necessity for all these little piecemeal bites of the cherry going on.

Mr. McFee: We had a consolidated Bill only a few years ago. It was then that I think the late Bert Stephens had it.

Deemster Moore: I thought the effect of that Bill, Your Excellency, was to make the hours in public houses and clubs the same at all times and I would have bet that was the effect of that, but the Attorney-General told us in the last Bill we were considering that that is not so.

The Attorney-General: I am not absolutely certain of the exact details of this. But the permitted hours, and one laughs heartily at that expression. the compulsory hours of public houses are laid down in the Statute. What one might term the permitted hours in clubs are very much a day, not earlier than some time in the morning or not later than sometime in the afternoon or the evening, but split up as the club rules provide. For example, and which are, I understand approved by the Licensing Bench. One club might be, let us say, eight hours that it is permitted to be open. One club might be opened from 12 noon to two and then from six until 11 and another club, because of the peculiarity of the clientele or something, might be open from one until two and four in the afternoon till some later time.

Deemster Moore: Is this done by resolution or by Act?

The Attorney-General: It is done by Statute.

Mr. Nicholls: As far as the Bills before us are concerned, Your Excellency, I am opposed to it. I understand that at least two of the old-established clubs in the Island have no wish to open a Sunday. The desire is confined really to a few clubs — two or three clubs which are of fairly recent date but I do think that in the winter time particularly anyone who cannot spend his Sunday at home with his family is a pretty poor specimen that he must go out and spend a period during the midday and the whole of the evening in a club when he has all six nights in the week to patronise the public house, well I think it is a very poor business.

The Attorney-General: Your Excellency, I was not quite right in the information I gave — it was half-right — I gave to the Council just now. The permitted hours on the premises of a registered club on weekdays shall be, during the summer, between 10.30 a.m. and 11 p.m. During the winter — this is all weekdays of course, during the winter, such hours not exceeding 10 hours between 10.30 a.m. and 11 p.m. as the rules of the club, with the approval of the registration authorities — which is the Licensing Court — prescribe and those are varied also on certain special — on Christmas Day, Good Friday and things like that, there is a variation and then on Sundays, the permitted hours are such as may be authorised under a

Licensing (No. 2) Bill—Second Reading—Rejected.
different Act — the 1960 Act which is, well I have told you what that is.

Deemster Moore: Could you give us it again?

The Attorney-General: Yes. Registered clubs to be closed on Sundays for the sale or supply and consumption of intoxicating liquor, except for consumption on the premises only between 12 noon and 1.30 in the afternoon and 3 p.m. to 10 p.m. in the evening. It only applies on Sundays in the summer.

Deemster Moore: That is the same as pubs. Exactly the same as pubs.

The Governor: Well now. Do you wish to reply?

The Attorney-General: I only wish to say in reply that I think the hon member, Mr. Nivison, has perhaps a false impression of clubs. He is looking I think, sir, at clubs in the United Kingdom which are in no sense clubs at all. Really they are not the kind of clubs that we have here and I think that to say the control in the clubs here is below the standard of control in a public house. I would not myself have thought that was right but I cannot speak with any authority on that. I do not know what goes on in the Beach and that kind of thing, but as I say—

Mr. Nivison: You would have some idea of the clubs though.

The Attorney-General: I know what goes on in the Ellen Vannin Club. I know what goes on in the Automobile Club—

Mr. Nivison: But they do not wish to open at all.

The Attorney-General: They do not wish to open at all. No, because I suspect, because of staff difficulties and that kind of thing.

The Governor: Well, now, I will put the question of a second reading. Those in favour please say aye. Those against say no.

A division was called for and voting resulted as follows:

For—Messrs. Radcliffe, the Attorney-General and Sir Ralph Stevenson—3.

Against—Messrs. Corkhill, Bolton, Nicholls, McFee, Nivison, the First Deemster and the Lord Bishop—7.

The Governor: So that is an unhappy death and therefore the Licensing (No. 3) Bill becomes (No. 2) when it comes for signature.

BEER (REPAYMENT OF DUTY) BILL—SECOND AND THIRD READINGS APPROVED

The Governor: While on the subject of drink I call on the learned Attorney to take the Beer (Repayment of Duty) Bill.

The Attorney-General: Your Excellency, as I explained on the first reading this Bill was introduced — it was introduced on the suggestion of Customs and Excise. It was pointed out that our 1933 Act was deficient in that it dealt only with Manx brewed beer to the exclusion of imported beer and also failed to provide for beer that had been spoiled as opposed to beer which had been totally destroyed, or, it also has failed to provide for beer which was destroyed on the premises of the brewer. I beg, Your Excellency, to move the second reading of the Beer (Repayment of Duty) Bill.

The Governor: Agreed?

It was agreed.

The Attorney-General: I move the Council resolve into Committee, Your Excellency.


The Attorney-General: Yes. Your Excellency, I move clause 1. By subclause (1) it provides where any imported or Manx brewed beer, upon which duty has been paid, and which has been destroyed or rendered unfit for sale, whilst on the premises of the brewer or the importer, Custom and Excise may refund the duty.

Beer (Repayment of Duty) Bill—Second and Third Readings—Approved.
The Governor: Agreed?
It was agreed.

The Attorney-General: By sub-clause (2), sir, duty may be refunded where beer has been removed from the premises of the brewer or importer but has been returned to him as spoiled or unfit. Refunds in this case are subject to regulations made by His Excellency obviously because that does lend itself to a possibility of a fiddle.

The Governor: Agreed?
It was agreed.

The Governor: Clause 2.

The Attorney-General: Clause 2, sir, is the interpretation clause. There is no mystery in any of the definitions therein contained. I move clause 2 stand part of the Bill.

The Governor: Agreed?
It was agreed.

The Governor: Clause 3.

The Attorney-General: Clause 3, sir, is the repeal of the existing legislation of 1933. I move that it stand part of the Bill.

The Governor: Agreed?
It was agreed.

The Governor: Clause 4.

The Attorney-General: Clause 4, sir, is the short title and nerve centre and you see that in fact it is backdated to the 1st January, 1969. To deal with more than one incident I believe where duty has not been able to be refunded, but in all conscience should be refunded.

Mr. Corkhill: There is no question of it being adulterated, Your Excellency. It may have been sent back.

It was agreed.

The Attorney-General: I move that the Council do now resume, Your Excellency.

The Governor: Agreed?
It was agreed.

The Attorney-General: I would ask for the suspension of Standing Orders, to enable the third reading to be taken.

The Governor: Agreed?
It was agreed.

The Attorney-General: I beg to move, Your Excellency, the third reading of the Beer (Repayment of Duty) Bill, 1970 and that the Bill do pass.

The Governor: Agreed?

Mr. Nivison: On the question of the retrospective part of the legislation we do accept the learned Attorney's word for it that there is a very good reason for it, but we hope that this will not be a practice, retrospective, because it can be a dangerous weapon used.

The Attorney-General: Oh, yes, I entirely agree. I would like you please to accept my assurances on this that the initiative for the Bill and the initiative for the retrospective effect came from the Customs and Excise.

Mr. Bolton: There was a case in which they were rather anxious and felt it was only just that a refund should be made and they found themselves entirely unable to make the refund and came forward with the suggestion we should come into line in this way.

It was agreed.

Representation of the People (Members of Tynwald and Local Authorities) Bill—Second Reading—Rejected.
in not having the undivided attention of their own Councillors. I cannot believe that if there were — as the Onchan Commissioners maintain — such overwhelming opposition to this Bill among the majority of people of this Island, I think that the large majority of people who voted for it in the Keys would not have cast their votes accordingly. I would not like to think that the letter of the Onchan Commissioners had been ignored by this Council. I am sure they consider that the value of the services which they have received from members of the Legislature as Councillors are outstanding and outweigh everything else. They have, I believe, had a communication from Ramsey Commissioners agreeing to it. But I do not know of any other local authorities. Certainly the Douglas Corporation have said, I know there are certain doubts there. Anyway, Your Excellency, I would like to move the second reading of the Bill.

Mr. Bolton: I would like to second this, Your Excellency. I may say that I have always been of opinion that members should not serve on local authorities and in Tynwald. I believe that it is right that there should be quite unbiased in their decisions in Tynwald. In view of the fact that so many decisions that they have to make, do override and affect to a great extent local authority matters. This has been debated on a number of occasions. I know that the representatives of the Douglas Corporation who do not like the idea of being deprived of one or the other of their offices and went to the Town Hall and got no support at all for their point of view. I understand that the Municipal Association decided that they had no comments to make and was it Port St. Mary Commissioners too, there were several, at any rate, who had no comment whatever to make. There is no doubt that apart altogether from the desirability of this move, I believe that it is desirable in any case. I believe that

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the inconvenience which is caused in Legislature—and in many cases that the loss of the services of some of the people who must be of the greatest value to the community through service in local authorities at the same time as they serve in Tynwald, is something that is a great loss to the community. The people who have served on local authorities are undoubtedly the most suitable people to serve on the Local Government Board, taking account of their knowledge of local government affairs. But they cannot do so at the present time. The Government of the Island loses as a result. I can say this. Naturally at this stage I cannot prove it, but I can say that the late Mr. Spencer Kelly in conversation with me shortly before he died, said that he had left the Ramsey Town Commissioners for some time and had completely changed his mind on the matter. He was satisfied now that it was undesirable that a member should be, at the same time, a member of a local authority and a member of Tynwald. I do believe, sir, that the community is better served. There have been numerous occasions in Tynwald Court over quite a number of years where decisions of Tynwald have to some extent been influenced by members of local authorities who wish to put the point of view of their own local authority. There can be no doubt that having taken part in discussions, having taken part in reaching decisions, perhaps in the Douglas Town Hall, and those decisions require the acceptance by Tynwald; they will come to Tynwald determined to endeavour to get these through. Now this is in fact putting a Trojan Horse in Tynwald, and there is no doubt that if this were a private concern rather than a local authority, then that person would be debarred from taking part. But this is what has been happening. My greatest concern is that we should be able to make full use of 35 members of Tynwald Court. Now if we cannot make full use of 35 members of Tynwald Court—and some of the ablest members may well be the members that we require for the Local Government Board, then we are the losers. I may point out that out of the Selection Committee which consists of nine members, there was complete unanimity in support of this principle at their meeting, and when the Bill went to the House of Keys, it again gained a majority support in the House of Keys, which was something entirely new in this particular matter. I beg to second, sir.

Sir Ralph Stevenson: Seventeen.

Mr. Bolton: Seventeen votes for it out of total of 24 members.

Mr. Nicholls: Your Excellency, I think, sir, that it is necessary to go back to the beginning. Now this Bill was actually initiated really in the Selection Committee, as Mr. Bolton has pointed out. The difficulty arose over the impossibility almost of sorting out the various members for the different Boards. By the time we had eliminated the Local Government Board, Assessment Board, and then had to spread out the members amongst the other Boards, it was becoming increasingly difficult. The position could arise—at the present time we have seven members of local authorities between the two branches. But there is no reason why after next October, a year next October, we could have 17. So where are we going then?

Mr. Radcliffe: You could have none, too.

Mr. Nicholls: You could have none, but you could have 17 or any number. That would be far more difficult still. I think it more likely that you would have more, rather than have none. Because men who have served in local authorities are more inclined to aspire to membership of the Legislature than those who have never been in local authorities.

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Mr. Radcliffe: Like Ramsey at this last election—

Mr. Nicholls: I am sorry for the interruptions, sir. But as I say, the first question was this question of the difficulty of sorting out the various members in respect of Boards. And again, looking back, since I became a member of the Legislature, there have been so many additional Boards and Commissions appointed, such as Airports Boards, Civil Defence, Civil Service Commission, Manx Electric, Exco was created, Gaming Board, Health Board, Social Services and so on, the Finance Board. Compared with the number of Boards and Commissions that existed when I was first elected in 1946. the position is infinitely more difficult today. Now as far as this question which has sort of crept in, the question of losing valuable members of local authorities, I could not agree more with the feelings that have been expressed about the possibility of losing men, shall I say, like Mr. Nivison from local authority and who has been a tower of strength to his own district, and Mr. Creer, another member of the Onchan Commissioners, and many others. I was a member of the Onchan Commissioners when I was first elected to the House of Keys. I still had one year to go after I was elected to the Keys, and I must say that having had a year in the dual role, I was very glad to, well cease to seek re-election to the Commissioners. I found it was too much. So on this question of the burden of members, it is a matter of their own seeking of course, and on the question of losing valuable members, well, we have to lose them some day sooner or later and it is a truism that no one in the world cannot be done without. So that although it may seem harsh, I do not think it is a good argument I think that this is a timely Bill, sir, and I think that in the end it will very soon be seen that it is a very good move.

Deemster Moore: Your Excellency, I was going to say not only as Mr. Bolton has already said that the Bill was passed by the Keys by a majority, but was passed by a very large majority, I have taken the trouble of reading the debate in the Keys, and it fortifies the views which I had already come to, that this Bill ought to pass and become operative law. Now, Your Excellency, Sir Ralph has given the real reasons for this Bill and — he and — Mr. Nicholls, with which I entirely agree. But there is one further final point that one has to bear in mind. There is a statutory duty on Tynwald to supervise the local authorities; that is a statutory duty. It is a statutory duty on all the members of Tynwald to take part in that supervision by their conduct of affairs in Tynwald. That being so I find it quite impossible to accept that in these days that the ever-increasing impact of government on local authorities work, that there is any alternative but for this Bill to be passed, and I think we would be very wrong to take a differing view from that of the House of Keys, where their majority is still large.

Mr. Radcliffe: Well, I am sorry, Your Excellency, but at the first reading I spoke against it and I reserved my right to vote against the second reading and I certainly intend to. We have had a very large number of good reasons put forward. They can justify anything of course. Some able speakers have spoken on the matter. But I am thinking of commonsense, the right of the voter, the people themselves, let alone the candidate, but particularly the people themselves. Somebody has mentioned the late Spencer Kelly and somebody mentioned Ramsey. I think it is a very good example. Ramsey was represented in the Keys for many years by a man who knew what he was saying. In no way was he slack regards his work in the Keys; he was a glutton for work. And he was also a glutton for work on his local authorities. He
presented both for many years. We
had another member for Ramsey who
was a member of the Commissioners
when he was elected to the Keys. He
saw fit to resign from the local auth-
ority. He did do so. We then had a
vacancy and we have another election,
and it was three or four, whatever it was
the Commissioners put up. The people
of Ramsey showed very clearly and
definitely they did not want any one
of those Commissioners in their local
Ramsey, and they put in — I do not
know whether it was two candidates or
one, but they elected one who most
positively was not a member of the
Commissioners.

Mr. Nicholls: A widely experienced
man, nevertheless.

Mr. Radcliffe: Not in local politics in
any way, shape or form. He was a
schoolteacher. A schoolteacher's experi-
ence is sometimes limited, but very
exceedingly limited, and he is some-
times very behind the outlook of a man
in industry or a taxi-driver. So they
are not experienced. In many cases
they are definitely not. The scholasti-
cally minded people are usually fre-
cently not quite as good at it as others.
The point is that the people of Ramsey
had their choice and they made their
choice. This is suggesting that the right
of people to choose whom they wish to
represent them is being limited. And
who is it being limited by? Of course,
the people presently in the House. They
are at present representatives. We are
speaking not for today but for the future.
This business that we could have 17 —
I cannot accept that at all. The people
would not elect them. We have got more
faith in the people, the electors.

Mr. Nicholls: You never know what
the people would do!

Mr. Radcliffe: I know quite a bit. As
to the terrible double burden on mem-
bers, that is being exaggerated. If mem-
ers are unable to perform their duties,
to start with they should not be elected,
and they should not stand. If they do
stand and they are elected it is the
people who elected them that suffer.
The local authorities come to Tynwald
for aid. They have been coming to Tyn-
wald for aid for many years, and we
never heard or had even examples
of specific bias. Everybody, unfortu-
nately, in this Legislature can be
accused of being biased because we are
such a small Island and we have got
our neighbours, our relatives, our
friends and at the back of it all our
small community. If any one member is
subject to bias—we are so insular, so
local, such a small community. The hon.
member, Mr. Nicholls, said it was
initiated in the Selection Committee.
Well that may be. It does not matter
where it was initiated, it has been
passed. But in view of things that are
happening without any mandates, I sug-
gest this Chamber should look very
carefully at this, and let there be a
mandate in more than one instance
of constitutional reform — so-called
reform — that is going on in the Isle of
Man. They speak about maintaining our
traditions, and the people who talk
loudest and longest about traditions are
the people who are doing most to
destroy them. We had an example this
morning. One Bill that was put before
us, and others. We are moving forward,
some people think we are just moving
for the sake of moving. I think this
branch should carefully steady things
down, try to steady things down, and
in this particular case — certainly this
year, there is an election next year —
let there be some mandates for this
"no votes, no electors, voters speaking
but no votes" and all this nonsense.
Your Excellency, I do hope that the
Council will think seriously about pass-
ing this Bill this year. If it comes before
us again, let it come. But there is an
election next year. Let the people speak
as to what they want. Oh yes, one last
point. I have been advised, whether it
was incorrectly or not, that all except
Port St. Mary and Castletown — the

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local authorities — are against and
have now declared themselves as being
against this Bill.

Mr. Bolton: The Douglas Corporation
has not.

The Lord Bishop: Your Excellency, I
would like to follow by expressing my
agreement with all that the last speaker
has said. In my experience, watching
the activities of Tynwald since I have
come back, I have not noticed that
members of local authorities are more
influenced by local considerations than
others. As Mr. Radcliffe said, everyone
in this Island inevitably has got local
links of one kind or another. I am not
saying that anybody is dishonourable
in this matter, but I am saying that we
are all tied to local things, and members
of local authorities are not so far as
I can see, more influenced than others
are. I would have thought that we
would lose a great deal of valuable
membership from Tynwald by losing
people who have had this double con-
temporary experience. I believe that
people should be left to make their
minds up for themselves. If a man finds
that he has too much to do then he
ought to make the choice as to whether
he stays in Tynwald or stays in a local
authority it should not be forced upon
him by legislation. I hope we shall
reject this Bill.

Mr. McFee: Your Excellency, I have
noticed in Tynwald, particularly the
financial votes and policy, development
policy is concerned regarding local
authorities and large sums of money
are involved, there is always that ques-
tion which is outspoken sometimes
"Which hat are you wearing now?" This
is one of the very great problems that
exists. You invariably find that the
person who belongs to Onchan or to
Douglas or wherever that development
is to take place to which the financial
grant is to be given that they are wear-
ing the Council or the local authority
hat. Now the second point that I feel
is this. That a precedent has already
been established, it already exists, that
you cannot be a member of the Local
Government Board and be a member
—you cannot be a member of the
Assessment Board and be a member of
a local authority, and you cannot be a
member of the Finance Board. . . .
That is true, is it not?

Mr. Bolton: Oh, I do not know.

Mr. McFee: It would not be wise any-
way, would it? We are not starting
something new and no mandate is
necessary. Where a precedent has been
established we do not require a mand-
ate, no matter how much Mr. Rad-
cliffe will say that a mandate is re-
quired. Now when I was doing Local
Government work and visited local
authorities in England, I checked up
there on what was the financial assis-
tance given to local government, and I
found that even many years ago at that
time Central Government were subsi-
dising Local Government by 52 per
cent, and they considered that this
would increase year by year one per
cent. per year. That is some years ago.
So that it means that increasingly, in-
creasingly Central Government must be
asked for and demand ing from local
authorities this added, added assistance
all the time. Therefore I think that if
you can be independent and more ob-
jective and not subjective in your deci-
sions, you are a much better Govern-
ment. There is a clash of interests.
there is no doubt about that. Just now
there will come up the question of
water amalgamation. Which way will
certain people go? They are already
pledged one way or the other at local
authority level. The question of the
amalgamation of electricity supply —
that will be another. There is also the
question of boundaries’ revisions that
occur ad hoc. I hope the day will
speedily come when we will resolve this
question in which we were 50/50 not so
long ago on the question of four or five
regional local authorities by which local
government can be handed back and
make them more effective and carry out

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local government work, which is now being carried out by Central Government. Then the position might be different. Then there is also another note I might add. Empty seats. Constantly even in Tynwald we see empty seats. The empty seats occur sometimes because of local government interfering with Central Government, and particularly so is it the reverse way. We find that there was a debate some years ago in the Town Council where members of the House of Keys and Tynwald were condemned by the mover of the resolution because of the empty seats that were constantly being created—and not only that out even committee meetings being entirely dispensed with altogether because of the duties that certain members had to attend to from the demands of Central Government. So it must have its difficulties, and I believe that these difficulties could be removed. Now there is one other difficulty which has not been mentioned, and that is this. I find more and more in the Isle of Man, maybe because we are insular or local, but the difficulty of the Manx politician to delegate. He cannot even delegate to his own office, to his administration oftentimes a lot of detail that should be done. There is something in our Manx make-up that we want to do the lot! This is putting an added burden on ourselves as politicians whereas in England you have one minister who delegates entirely to his ministry. He is just the mouthpiece or the spokesman in Parliament. But not so in the Isle of Man. He is not only the mouthpiece and the spokesman, but he wants to do the job and all. Because of that I feel that I am supporting the resolution. As for the Ochan letter which was circulated some time ago, there were eight persons mentioned on it out of 27 parishes. I think, and four towns. So I do not think that bears any relationship to the—

Mr. Radcliffe: There have been more recent figures available.

The Governor: Now, in the interests of accuracy, I must point out that for nearly four years I have not missed a single day of Tynwald and there have been very, very rare occasions on which a member has been absent because of his duties in local government. In fact, I would say, frequently I have seen members absent because they say they have arranged some Board business. But not local government. But I think that it is quite unfair to those members of Tynwald who do belong to local authorities to say that they have not been present, because they have. And the other question, When Sir Ralph answers the debate, I would like to put it, are there any other countries in the world that have this ban? I think it would be very interesting because we might be unique again! (Laughter.)

Mr. Nicholls: They probably have not got the Board system.

Mr. Corkhill: Your Excellency, I have given quite a bit of thought to this, and I would like to say, Your Excellency, that I came to the conclusion that this is a local matter—it is a local matter where you nominate people for your local Commissioners, it is a local matter in a shewing at least where you nominate members for the House of Keys. I think I would be inclined to leave it there without any alteration. I am against the resolution.

Mr. Nivison: Your Excellency, on the question of the mover, Sir Ralph Stevenson, firstly saying that this was a double burden for the people that were in both. The Bill is, I am sure, not designed to support or protect the individual that happens to be a member. Sir Ralph did give the impression that it was a little bit inclined to help the person concerned who might be getting something imposed upon him. Nothing could be further from the truth. The truth about it is that certain people in the initial stages, and the late Mr. Spencer Kelly was mentioned.
he was an ardent member of the Ramsey Commissioners until such times as a change came, and then he changed his attitude towards the membership of local authorities.

Mr. Bolton: He went on the L.G.B., you see.

Mr. Nivison: Well, it know, but—(interruption). Yes, indeed, he was a member of the Selection Committee and so forth, and he asked, he certainly asked to be put on. But there was a big change that came over, and he was . . .

He did come, I know, I would say this if my friend Spencer was here, he became antagonistic, very antagonistic towards the local authority. Now I do say too that some of the members who have spoken in favour of this particular legislation, not all of course, it is with some other motive that the sympathy or the respect or the consideration of the additional burdens that might be placed upon the members who do have to have the dual membership. I am sure it is only consideration for them. The serving of two masters has been mentioned here and in other places, and your loyalties. Is one to imagine that because you have been a member, as I have say for Onchan for 23 years, and this right is taken away from me and from the people of Onchan, that I would be any less loyal to my people in Onchan because the legislation . . .? It would tend to sharpen it up.

Mr. Bolton: Make you loyal to Onchan, but what about your duty in here?

Mr. Nivison: I would say, Your Excellency, there has been no evidence whatsoever produced during the debates of any incident where a member of a local authority has done things in the local authority, in the Legislature, that he would not have otherwise done had he not been a member of an authority.

Mr. Bolton: You do not know that.

Mr. Nivison: We do not know. I do repeat, there has been no evidence of it. There has been no evidence produced by any members that there has been any incidents whereby Councillor So-and-So or Commissioner So-and-So had not been a member of that local authority, he would have acted in a different way. You must remember that those people, the parish pump does work vigorously, even by members even although they do not sit on the local authority because they feel very close, they feel very close to their electors. But we are not condemning them, we must not condemn these people. We know my friends, Mr. McFee—nobody has been more vigorous in putting forward the claims for the south of the Island than Mr. McFee. Nobody can be more vigorous.

Mr. McFee: That is for the Island though.

Mr. Nivison: I am not speaking of the Island, I am speaking of how many times have we heard—what about the south? What about the south, must have this in the south. We are not condemning you for this.

Mr. McFee: That is not just a parish, that is a sheading.

Mr. Nivison: But you do not hear the member.

Mr. McFee: You are speaking about Onchan. You have not mentioned Middle yet. (Laughter).

Mr. Nivison: I am speaking as a member of the Onchan Commissioners, I represent the people of the Isle of Man.

Mr. McFee: Represent for Middle.

Mr. Nivison: That is not true, sir. I must correct my friend. When you are elected to the House of Keys you are elected by the people of Middle to represent the people of the Isle of Man. You do not represent a sheading, and this was borne out in a court case in South Bristol. I think it was, that was brought up. When the constituents of South
Bristol complained that their Member was not representing them, and he took it and it was ruled that they represented the people of the United Kingdom and not particularly the people who had sent them there.

Mr.; McFee: Yes, but you did not allow me that when I mentioned about the south, did you?

Mr. Nivison: Your Excellency, I am merely saying that because a member is forced off his local authority by legislation, does not make him any less vigorous to support the particular district from where he comes. We have had no evidence to show that there has been a difference of interest or wearing two hats or one hat. Their main object is to serve the people and invariably they do. I could quote you some very excellent examples of his dealing with Mr. Moore, we knew in Port Erin and Port St. Mary, Mr Alderman Teare, Mr Bertie Stephens and a whole host of people, the late Mr. T. C. Cowin, very excellent members of local authorities, and very excellent members of the Legislature. We did not find that it did clash. Now on the question of who did respond to the Onechan letter. It is true to say that since that time, in fact, this letter was ill-timed, it was a bit late, had it have gone out before the vote was taken in the Keys, it may well have influenced the Keys to vote differently to what they did. The only two that replied to say that they favoured the Bill were Castletown and Port St. Mary. There were no others that replied to say that they favoured the Bill. But there were since those names that were given to us at the last occasion, there were many others including Ramsey, Peel, Port Erin and many others, that did come, all the parishes, practically all the parishes. We cannot ignore this. To do it by legislation is a little unfair. It is hoped that the matter might be left. You do not restrict yourselves. The Selection Committee could well nominate any of these members of the local authority to the Local Government Board or to the Assessment Board. And it then would be for that member to say, because I have been nominated for that particular post and been elected by Tynwald, I am obliged to resign and lay down my seat. That can be done now.

Mr. Nicholls: But it is not in the statutory—

Mr. Nivison: Yes, it can be done now.

Mr. Nicholls: It can be done but it is not of lately.

Mr. Radcliffe: When he takes his seat.

Mr. Nivison: You see, at the moment, there could be members.

Mr. Bolton: They must get off the local authority, that is the point.

Mr. Nivison: I do believe that if they were nominated by the Selection Committee it would give the opportunity to the members then to say, well I have been nominated, I will be obliged to resign from my local authority. I would say this, that I believe that the Council is fairly evenly divided. There may appear to be certain people who are not committed. Some are committed by virtue of their membership of the Selection Committee, and there are three of those. There are others that have spoken in this respect. I would hope that those who have not committed themselves in this respect might leave things as they are, bearing in mind that as His Excellency has stated, we are not aware that it is laid down by statute in any other place; we know that in England, Ireland, Scotland and Wales it is permitted for Member of a local authority to be a member of the Government of the United Kingdom. We also know too that this membership of the House of Keys or the Legislative Council is at least supposed to be a part-time occupation. At least supposed to be — I repeat that. Many members are actively engaged in many business activities. I would hope — and I warn this — that the movers of this kind of legislation may well yet
come along for a second bite, and say that the members are conflicting with certain of their business activities. I would remind you that in the United Kingdom where members are directors of companies and they do become members of the Cabinet, they have to resign. They have to resign. Now this is a fact. We know that once they go out of office they very quickly grab up these directorships again. Now we have kept free from this, because we believe that they can work together. If it is right in industry, in companies, and so forth, how much more so should it not be right in those people who, although it is burdensome, although it is difficult, are willing and I think able to carry on the two particular things. When the time comes that they are unable their people; are the right people to tell them, the people who elect them. They will soon turn them out if they are not satisfied with them. Do not let us do it by this arbitrary fashion. We went to war to avoid this arbitrary right of the citizen: we call ourselves as belonging to the free nations. Surely in this we should let the people decide this and let the people themselves select if they want. If they do not want, let them reject them. I would hope that at this eleventh hour that even some of those who may have been committed may still change their minds and vote against this.

The Governor: Do you wish to reply?

Mr. Nicholls: Could I, just before Sir Ralph replies, could I mention one particular reference which has been made to other countries, the procedure in other countries. But the fact is overlooked that we are a very small legislature. We have only 34 members; out of the 34 quite a number are eliminated automatically and the rest have to carry out this Board system which does not exist at least in many countries; does not exist in England, for example. In the House of Commons they have 630 members. If they had a Board system in England it would be comparatively easy to sort out the method, but here we have a very, very small number, we have this Board system to carry out, it may be eased if the Bill which is shortly coming before us is carried, but nevertheless the same Bill has been turned down once, by the way, but we have this Board system which does not exist, so far as I know, anywhere else. Why even in Jersey they have, I think it is, 70-odd members of the legislature.

Sir Ralph Stevenson: I would like to thank those members of the Council who supported this Bill, which I think is necessary; Mr. Bolton, Mr. Nicholls, the First Deemster and Mr. McFee. I would like to take with Mr. Radcliffe's question or rather claim that there should be a mandate for this so that Tynwald can act in this way. I do not agree. I think that there should be, the various local authorities, who wrote this letter—did they have a mandate from their raters to write it? It is not a very important point.

Mr. Radcliffe: I know what Ayre would say.

Sir Ralph Stevenson: I agree. It is not a very important point. It is a fact that they did not have a mandate.

Mr. Nivison: You do not need a mandate to maintain the status quo. We are not altering it you see.

Sir Ralph Stevenson: The Lord Bishop. I do not think we will lose anything by making the candidate himself choose which kind of service that he will give to the people. I maintain that he cannot do the two jobs well. If he tries to do them he will do one less well, or both of them less well than he could do one of them. Mr. McFee spoke of empty seats in the Legislature.

The Governor: I contradicted that and I mean it. I think that is a most unjust slight on various members.

Mr. McFee: I put more accent on the empty seats in the Council which was the subject of a debate some years ago.

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Sir Ralph Stevenson: In the Town Hall, sir, there is a strong feeling that empty seats are really an insult to the electors, the ratepayers. That they elect people to do—to defend their interests and they do not take the trouble to come and they work in Tynwald instead.

Mr. Radcliffe: Well they do not elect them next time.

Sir Ralph Stevenson: Well that may be—that is an exaggerated thing but still, I am all in favour of one thing the Bishop said, that the experience of local authority work is of enormous value in the Legislature. There is no reason why they should overlap—why they should do it at the same time as the Legislative work. I think. Mr. Nicholls, I do not know in fact whether any other country in the world has this particular Act on their statute books, but I do think that, I do know, as far as I know, no other Government has this extraordinary Board system that we have and so large a proportion of the members of our Parliament are actually members of the Government. They are working administrative, doing ministry work. They cannot do both that and defend the interests of the ratepayers and the taxpayers at the same time. It is so often that those two interests are diametrically opposed and a man who is representing the ratepayer is in a very difficult position indeed. Therefore, Your Excellency, I think that the Bill is one which is necessary and although a little has been made of the difficulties of the

Selection Committee, I do not put that very high. I do know that one member of the Selection Committee who had to resign from the Assessment Board in order to join the Corporation—that was very wrong, he should not have been allowed to do so, but he was. I do not think that, therefore, Your Excellency, I would like to formally move the second reading of the Bill.

The Governor: Will somebody second?

Mr. Nicholls: I will second.

The Governor: Those in favour of the second reading please say "aye". And those against say "no."

A division was called for and voting resulted as follows: —

For: The First Deemster, Messrs. Bolton, Nicholls, McFee and Sir Ralph Stevenson —5.

Against: Messrs. Corkhill, Radcliffe, Nivison, the Attorney-General and the Lord Bishop—2.

The Governor: Five-all, so it fails to get a majority.

Deemster Moore: Unless Your Excellency votes.

The Governor: I do not need to.

Deemster Moore: But you can, sir.

Sir Ralph Stevenson: I deeply regret.

The Governor: The Council will now adjourn.

Representation of the People (Members of Tynwald and Local Authorities) Bill Second Reading—Rejected.