

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 2nd March 1999
at 10.00 a.m.**

Present:

The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Hon R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Hon H Hannan (Peel); Mr W A Gilbey (Glenfaba); Mr S C Rodan (Garff); Messrs P Karran and G T Cannell (Onchan); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Messrs J P Shimmin and A F Downie (Douglas West); Hon J A Brown (Castletown); Mrs P M Crowe (Rushen); with Prof T StJ N Bates, Secretary of the House.

The Chaplain took the prayers.

Apologies for Absence

The Speaker: Now, hon. members, the Chief Minister; the hon. member for Rushen, Sir Miles Walker; the Treasury minister, the hon. member for Onchan, Mr Corkill; and the Minister for Trade and Industry, the hon. member Mr North are all absent on government business this morning, and the hon. member for Douglas West, Mr Shimmin, has been delayed and will be joining us very shortly.

Local Plans – Zoning – Question by Mr Karran

The Speaker: We turn then to our order paper, hon. members and I call upon the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Minister for Local Government and the Environment:

Does your planning department have the authority to disregard zoning on local plans and grant planning permission for a different use?

The Speaker: I call upon the Minister for Local Government and the Environment, the hon. member for Ayre, Mr Quine.

Mr Quine: Thank you, Mr Speaker. In determining a planning application regard must be had to the land use zoning on the appropriate local plan or development plan, but not only to this land use zoning. Regard must also be had to other material considerations, many but not all of which are prescribed in the development plan order approved by Tynwald in 1982. It follows that the land use zoning may not always prevail other considerations may lead to a permission or a refusal which is not in accordance with the zoning. These are matters of judgement for the decision-maker.

Mr Karran: Vainstyr Loayreyder, can the minister inform this hon. House when, in planning terms, a change in an area reflects in the need for a public inquiry?

Can the minister also tell this hon. House does the criterion change for bigger developments than smaller developments as far as whether the local plan and zoning are

disregarded, and could he inform this hon. House what was the criterion as far as the change to the Nunnery and to the land at Mount Murray?

Mr Quine: I trust the hon. member is aware that if we are talking of a change to the zoning the normal vehicle for that of course is through the local plan process which allows for due input from all interested parties, and we have had very recently of course two or three of those exercises before another place, so I think hon. members are aware of that procedure.

I certainly would not wish to comment on any matter concerning the Nunnery at this stage because it is my understanding that there are certain planning matters being dealt with concerning the Nunnery.

So far as Mount Murray is concerned, although this is not mentioned specifically in the question, it would have been helpful, I think, to have had that information specified. To the best of my recollection we are talking about a large development which included a hotel and the golf course, recreation facilities and housing and I think the housing element was for 150 dwellings and that goes back to 1991, and I am sure that that planning approval or at least the planning approval in principle, would have taken into account the development in its totality.

The approvals for the dwellings - I understand there are certain conditions attached to the use of the dwellings which to the best of my recollection embrace use by residents and also embrace use by tourists.

Mr Karran: Vainstyr Loayreyder, will the minister inform this hon. House does he intend to have an inquiry over the issue of the rezoning at the Mount Murray into how a situation has arisen where millions, if not tens of millions, have been added to this development by some sort of mistake over the zoning, and can the hon. minister inform this hon. House, will we see the same flexibility as far as zoning is concerned for the ordinary working man in the street as for large developments by multimillionaires? There seems to be a complete and utter inconsistency in the planning at the present time.

The Speaker: Hon. member, I do not think, as the hon. minister pointed out, Mount Murray is referred to within the question itself. Nevertheless, minister, if you wish to reply in relation to the larger and smaller development you may.

Mr Quine: I think taking the last point first, sir, I think any inference that there is a difference in the application of the planning laws in respect to applicants as to whether they are millionaires or otherwise is wholly unfounded. We have an extensive planning procedure which involves three separate elements and if we cannot assess and arrive at an unbiased conclusion having followed those procedures, then I do not think we ever shall. So I reject out of hand any suggestion that the planning procedures are influenced by whom the applicant may be.

Mr Karran: Vainstyr Loayreyder, could the minister inform this hon. House, if a young Manx farmer was wanting to build on agricultural land which was zoned as agricultural land, would he get the same flexibility for these multimillion developments as far as that is concerned?

Could the hon. minister inform this hon. House will he have an inquiry into the issue of how Mount Murray ended up with permanent houses there? I believe it is important.

Multimillion pounds worth of value been added there and I think the people of the Isle of Man need to know what has happened.

Mr Quine: The hon. member is trying to compare chalk with cheese and I am afraid that is not a comparison that can be usefully drawn. The position in respect of agricultural workers' premises is specifically spelt out in a directive or circular, whichever term we care to use, and those provisions apply and they are superimposed upon any zoning which may exist, so I do not think I can comment further than that. The position to me is perfectly clear and that is that the zoning is there and on top of the zoning there are further requirements in respect of agricultural person's dwellings, and the substance of that directive is to make concessions for agricultural workers. It picks them out and allows them a concession, it does not inhibit them. They would otherwise be, no doubt, out of the running for these applications in their entirety.

So far as his request for an inquiry into Mount Murray is concerned, if the hon. member would care to provide to me or to this House evidence that there is a basis for an inquiry, I will be very happy to consider it. All we have at the moment is the hon. member standing up and wildly casting aspersions and assertions, and that is not the basis upon which I would give a commitment here or anywhere else to institute a formal inquiry. (**Mr Cannan:** Hear, hear.) We need evidence that there has been some form of malpractice, and there is absolutely none. He has tendered absolutely none whatsoever. The application I have spelt out has been dealt with by a proper planning procedure and I cannot at this stage see what basis the hon. member has to suggest that there are grounds for an inquiry.

The Speaker: We have widened the question quite appreciably, but nevertheless one final supplementary, the hon. member for Onchan.

Mr Karran: Vainstyr Loayreyder, as a former MHK for the area where the development is, could the hon. member explain what is the difference between holiday development and permanent residential development and the difference as far as the value is concerned?

Could the hon. member just assure this hon. House that when he talks about chalk and cheese he is not talking about those who have money and those who do not have money who are treated differently as far as the planning procedure is concerned in this country.

The Speaker: It is a matter of opinion, hon. member, but nevertheless, minister, do you wish to reply?

A Member: No.

Mr Quine: Simply to say, sir, that as far as usage being attached to premises, such as tourism use, that of course is perfectly feasible and it is provided for under the legislation. Whether or not those sorts of hard-and-fast usages are in planning terms a viable proposition is another matter. I think hon. members are well aware of difficulties we have with a number of properties which are in the ownership of government because of conditions such as that, hard-and-fast conditions, being attached to them and I think the move more recently, certainly in terms of local plan designations, is to have greater flexibility, and the demands from the floor of another place have been for local plans to provide greater flexibility.

Food Products – Genetically Modified Material – Guidance – Question by Mr Henderson

The Speaker: Item 2, hon. members, and I call upon the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I beg leave to ask the Chairman of the Isle of Man Office of Fair Trading:

- (1) *Is your office able to offer guidance on which food products, or ingredients in such products, are likely to contain genetically modified material; and*
- (2) *if so, will the guidance be published?*

The Speaker: I call upon the Chairman of the Isle of Man Office of Fair Trading, the hon. member for Rushen, Mrs Crowe, to reply.

Mrs Crowe: Thank you, Mr Speaker. The Isle of Man Office of Fair Trading is able to offer guidance on a wide range of topics, from cowboy builders to debt counselling and general safety, but where another government department has primary responsibility for a particular topic we believe that it is only right and proper that that department should take the lead.

The Department of Local Government and the Environment has primary responsibility for ensuring that food is fit for human consumption and for regulating the labelling of food, and this question should have been directed accordingly. However, the Office of Fair Trading has co-operated with the department on several initiatives, several initiatives concerning food quality and labelling and we would be pleased to do so on this occasion.

Mr Henderson: Mr Speaker, far being for my question being misdirected I am fairly confident that it is correctly directed.

The Speaker: It is properly directed, sir.

Mr Henderson: Thank you, Mr Speaker. I welcome the Chairman of the Office of Fair Trading's assurances that they would be happy to look into this problem, as I believe it is a public issue, but would she also recognise that there have been risks or possible risks highlighted by medical specialists and that these need to be taken on board as a very serious matter?

Mrs Crowe: Mr Speaker, it is not the responsibility of the Office of Fair Trading to ensure that food is fit for human consumption or to regulate the labelling of food. (**A Member:** Hear, hear.) That is the responsibility of the environmental officers section of the Department of Local Government and the Environment and it is not within my remit to do so.

Mr Brown: Hear, hear.

The Speaker: Hon. members, I accept entirely what the hon. member has just said in response to the question, nevertheless the question says, 'Is your office able to offer guidance?' That is the specific point of the question. The hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, could the hon. chairman inform this hon. House, is she aware that there is a working party looking into genetically modified foods, by the Department of Agriculture and Fisheries, and does she feel that her department should be giving representation on any working party looking at the issue?

Mrs Crowe: Mr Speaker, yes, indeed, we are very often invited to sit on working parties of either the food labelling or, in the case of the Department of Agriculture and Fisheries, with meat products. We are very often invited to sit and join with them, and I am fully aware that

there is a discussion at the moment about genetically modified foods. However, I must point out that the lead department who would give me the advice and would give the Office of Fair Trading advice and would publish any literature on that subject is the Department of Local Government and the Environment.

Mr Henderson: Mr Speaker, I take cognisance of what the Chairman of the Office of Fair Trading has said, but I still feel that this subject is in the public interest and it is her office's duty to provide information for the good of the general public, and in special reference would she accept that genetically modified foods can form up to 60 per cent of processed products at the minute and there is a real uncertainty and that she should be helping in whatever way possible to allay public fears?

The Speaker: The hon. member has replied to your question, but nevertheless, the hon. member, if you wish?

Mrs Crowe: Mr Speaker, the expertise for dealing with matters relating to food rests with the Department of Local Government and the Environment. They have environmental health officers that are there to give the advice needed. We would most certainly be pleased to help in any way by having publications available at the Office of Fair Trading and to publish guidance, but I do not have the expertise, neither does anyone at the Office of Fair Trading. We would take advice from the department responsible. Thank you, Mr Speaker.

Mr Singer: Mr Speaker, could I ask the hon. chairman? With the considerable publicity machine that your department has could you not encourage the local manufacturers to label their products, where possible, as GM-free, and local shops to indicate these products prominently with shelf edges, window notices and any other publicity material suitable, so that our customers on the Island can try to ensure that the products they are buying are the products that they want?

The Speaker: Hon. member, I think we will get the same reply. The hon. member for Rushen.

Mr Brown: Say it again.

Mrs Crowe: No, we deal on a day-to-day basis with the retailers on the Isle of Man who are pleased to co-operate with the Office of Fair Trading for all that we administer, but we do not administer food labelling, and the labelling of those foods would have to be directed by the environmental health officers.

I cannot make it more clear than I have that the Office of Fair Trading does not have the remit for genetically engineered foods or genetically modified foods, but the Department of Local Government and the Environment does.

Genetically Modified Products – Sale by Local Retailers – Question by Mr Henderson

The Speaker: Item 3, hon. members, and again I call upon the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I beg leave to ask the Chairman of the Isle of Man Office of Fair Trading:

Will your office be seeking assurances from local retailers that they will not sell a product which is genetically modified, or contains genetically modified ingredients, and which does not clearly declare this information on its packaging?

The Speaker: Again I call upon the Chairman of the Isle of Man Office of Fair Trading, the hon. member, Mrs Crowe to reply.

Mrs Crowe: Mr Speaker, I think this has been really fully answered by the last two questions. I really cannot dictate to retailers on the Island what they stock and what they do not stock. Once again I must say to you that the officers within the Department of Local Government and the Environment are the people that would regulate those products. Thank you, Mr Speaker.

Mr Henderson: Mr Speaker, I appreciate what the Chairman of the Office of Fair Trading is saying and that this is a complicated and intricate subject, but nevertheless following on from research and so forth from whatever papers may or may not be published in the very near future, will the Chairman of the Office of Fair Trading give this hon. House and the public of the Isle of Man an assurance, on the back of all the forthcoming information that I am sure we will get, that she will be able to seek some sort of assurances from local retailers in the future that will enable our public to have some sort of informed choice?

Mrs Crowe: No, Mr Speaker, I will not be able to do that. Once again I must tell you that that will be the job of the environmental health officers at the Department of Local Government and the Environment who deal with matters regarding food and that is the point: any matters regarding food are dealt with by those officers. Thank you.

The Speaker: The hon. member for Douglas North.

Mr Henderson: Thank you, Mr Speaker.

The Speaker: Can we try to avoid going over the same ground?

Mr Henderson: Yes, Mr Speaker, but unfortunately it may reflect a supplementary I had for question (2), but I will try your patience, sir, with it anyhow. Given the hon. Chairman of the Office of Fair Trading's answers, and I appreciate that there is some overlap, would she consider joint working, then, with the department in the future to cover this concern?

The Speaker: I think the hon. member has replied to that too, but nevertheless.

Mrs Crowe: I have, Mr Speaker, but we may as well gain as much publicity as we can. The Office of Fair Trading will work with the environmental health officers as we have done in the past and as we have done in the light of recent events with royalty in the adjacent isle. For our consumers on the Island the decision was made as a joint working initiative that they were allowed to buy beef on the bone if they so wished to. Thank you, Mr Speaker.

The Speaker: Thank you, hon. members. Item 4 and item 5 on our order paper are both for written response and in fact I understand that they have been circulated to hon. members and are on your desks this morning.

Tree Felling at Port e Vullen, Maughold – Question by Mr Rodan for Written Answer

Question 4

The hon. member for Garff, Mr Rodan, to ask the Minister for Agriculture, Fisheries and Forestry:

In respect of the removal of two prominent spruce trees on 20th February at Port e Vullen, Maughold -

- (a) when was the tree-felling permit issued;*
- (b) what prior consultation took place with neighbouring residents and the local authority; and*
- (c) what assessment was made of the trees' value as to local amenity and landscape?*

Answer

Taking each part of the question in turn:

- (a) The felling licence for both trees was issued to the owner of the property on 18th January 1999 (for pine, not spruce as suggested). One of the trees was also the subject of a licence dated 18th November 1994 but was heavily pruned subsequent to this date, not felled;
- (b) no prior consultation with neighbouring residents or the local authority took place on this occasion. The department has undertaken such consultations, including elected members, when it considers the circumstances of the particular case warrant it. In this case no such consultations took place for the following reasons:
 - One tree was reported as having been partially uprooted in recent gales and was leaning. Two separate site inspections confirmed this to be the case, with the ground lifting around the tree during windy conditions. Given the proximity of this tree to the adjacent property, and the imminent likelihood of structural damage the decision to fell the tree was a straightforward health and safety one which could not be delayed; and
 - the second tree was growing alongside and through power cables. Heavy pruning in the past had severely disfigured the tree which had also been topped prior to 1994. The tree was thus a very poor specimen and was judged to be of little amenity value. Removal was justified given the requirement for frequent heavy pruning to alleviate interference with power cables; and
- (c) In the case of the first tree, its value as an amenity tree was overruled by important health and safety consideration. As stated above, the second tree was considered in 1994 and 1999 to be a very poor specimen with no opportunity to develop into a well-shaped tree in the future.

In the circumstances it is perhaps unfortunate that the principles of good neighbourliness of the property owner did not extend to advising the adjacent property owners of the action being taken and the reasons for it.

Traffic Management Proposals – Speeding – Question by Mr Rodan for Written Answer

Question 5

The hon. member for Garff, Mr Rodan, to ask the Minister for Transport:

What are your traffic management proposals to reduce the speeding of vehicles through -

- (a) Baldrine;*
- (b) Laxey; and*
- (c) Glen Mona;*

and when will they be implemented?

Answer

In answer to part (a), there is presently a 30 mph speed limit in effect. My department is not aware of any ongoing problem in Baldrine and therefore we have no proposals at present to implement any new traffic management proposals.

In answer to part (b), there is presently a 30 mph and 20 mph speed limit in effect within Laxey.

In recent years the department has undertaken highway improvements to Captain's Hill, limited traffic calming measures on Minorca Hill and improvements to the coach parks near to the fire station and opposite Brown's Cafe.

The department has also been in discussions with the Department of Education regarding improving the access for pedestrians to Laxey School. The Department of Education is to improve the footpath leading from the football field to the school.

My department is also presently undertaking a joint survey with Laxey Commissioners regarding the use of Minorca Hill by vehicular traffic. A copy of the questionnaire has been sent to all residents of Laxey and it will also be available for anyone else who may wish to put forward their views. The questionnaire can be obtained from the department by telephoning 686606. The views of the emergency services will also be sought.

In answer to part (c), there is presently a 30 mph speed limit in effect. However, my department is at present involved in a consultation study exercise for Glen Mona.

The proposals are at the initial stage and officers from my department are to meet and discuss the proposals with Maughold Commissioners at a meeting on 3rd March 1999.

The proposals involve work being undertaken by not only my department but other agencies also. Therefore their input will need to be taken on board if we are to be successful.

If agreement can be reached, we envisage the works being progressed during the summer of 1999.

Generally we programme our works based on priority, need and availability of funds and therefore any works required to be undertaken in relation to the three areas quoted will have to comply with these factors. If the hon. member has some specific concerns, then my department will, as usual, be only too pleased to meet and discuss the issues with him.

Finally, it must be remembered that whatever traffic management measures my department implements, especially with regard to speed restrictions, unless the proposals and management controls are continually and effectively enforced by the Isle of Man Constabulary, then the measures implemented are usually ineffective.

Public Records Bill – Second Reading Approved

The Speaker: We turn, therefore, to item 6 on your order paper which is the Public Records Bill for second reading and the Public Records Bill, hon. members, is down in the name and printed in the name of Mr Corkill, who, as you are aware, is absent this morning. His fellow Treasury member, the hon. member for Glenfaba, will be taking this matter. I therefore call upon the hon. member for Glenfaba, Mr Gilbey.

Mr Gilbey: Thank you, Mr Speaker. As you intimated, I am taking this Bill on behalf of the Treasury minister rather than let the House have no Bill to consider today particularly at your request.

I shall be going into the Bill in some considerable detail because it is a unique Bill of its type and in particular I want to show what a vast amount of public consultation has taken place before we have arrived at this stage. I will therefore start with the consultation and after consideration it was decided to go out to consultation for the first draft of this Bill because this area of legislation was new to the Island and it was apparent that many people held misconceptions about it. In particular some believed that all the records in the public record office were immediately and automatically open to public inspection, a belief arising from familiarity with information being placed 'on the public record'.

It was also known that the Manx Museum opposed the government's decision to base a public record office in the General Registry. It therefore seemed more constructive to present specific proposals for record holders, future record users and any others to test their concerns and interests.

Copies of the draft Bill and its accompanying consultation document were sent to all bodies covered by the definition of 'public records' in schedule 1, to bodies and organisations representing possible future users of the records and to any individuals known to have expressed an interest. In fact over a hundred copies were circulated in this way, with requests for additional copies taking the total distributed to nearly 200. In addition a notice was published in the local press and an interview with the public records officer was broadcast on Manx Radio's 'Mandate' programme. This resulted in only a few further requests for copies of the draft.

In reply to this consultation 39 replies were received varying from detailed written comment to verbal requests for clarification on certain points or general statements of support. The public records officer herself visited two utilities, the Post Office and the Water Authority, and two local authorities, those of Douglas and Port Erin, to discuss the matter further at their request.

All those responding received a reply giving guidance where the matter raised was already covered by the Bill, inviting further comment where the matter was of some substance, or acknowledging their response and promising further information where available, as appropriate.

Much more detailed consultation followed with the Manx Museum through a vast series of meetings - the list of them is quite amazing - and with the Financial Supervision Commission by correspondence.

As it was proposed to include the papers of the Lieutenant-Governor the learned Attorney-General also consulted with the Home Office. *Everyone*, I stress, Mr Speaker, who responded to the consultation documents has received details of the amendments made with comments relating to their particular concerns where relevant.

As a result of taking a draft Bill to consultation a number of amendments were required to meet the points that had been raised. Overall the response was favourable, however, and the amendments that were made were largely matters of detail. The exception to the favourable response was the Manx Museum which is dealt with separately, but regarding other consultees a very considerable number of amendments were made to meet their points.

Now, regarding the Manx Museum and National Trust, amendments were made to the consultation draft as a result of the meetings with the Museum, and as I mentioned, there is two pages listing the number of meetings and the correspondence that took place, but as a result of this a change to the wording in clause 1 applying to clauses 3 to 4 to the public records in the Museum was made. The phrase 'deemed to be part of the Record Office' is no longer used, as the Museum objected to it, and we are assured that in the meetings the phrasing, not the principle, was alleged to be the cause of difficulty. The effect, therefore, is still to ensure the same provisions, including those for public access, apply to all public records regardless of where they are, and this surely must be right. These are the public records of the government and the legislature. They do not belong to any one particular part of it or to any one particular board or other organisation.

Clause 2 relating to the prescription by the Treasury of fees for copies and other services of officers no longer applies to public records in the Museum, at the Museum's request. Further provision is made for the transfer of records to the Museum or other repositories and also for the transfer of records back to the Record Office from them, both by mutual agreement, and this is covered by clause 1(7). This allows for the rationalisation of holdings and was particularly requested by the Museum.

Provision is made for the Museum or any repository holding public records under the Chief Registrar's direction to appeal to the Council of Ministers about any directions relating to public access to the records they hold, and this is set out in clause 4(6), and this was the draftman's solution to some of the Museum's concerns about the public access requirements of the legislation.

Furthermore the Chief Registrar cannot make a direction under clause 4(1) as to the Museum's opening hours, and this is as a result of clause 4(9). This addresses the same issue. The Museum's opening hours are subject to Tynwald approval under their legislation, and this appeared a sufficient safeguard for this aspect of public access.

Records filed, held or deposited in the General Registry and then transferred to another repository or the Museum rather than to the Record Office are now covered by the Chief Registrar's directions on public access and by appeal to the Council of Ministers about this, as are other public records.

This lacuna in the first draft was discovered as a result of considering the position of the records in the Museum. The Museum was in agreement in the meetings with the principle that all public records should be treated in the same way and that the protection of the legislation

must be extended to these records. This is surely reasonable in respect of public records which are the records of the government. We are not speaking here of private records at all.

In schedule 1, paragraphs 4(2) and 6 the wording has been altered, but the meaning is the same and it is that records held by museums and libraries which are part of bodies covered by the schedule only become public records if they originated from bodies themselves covered by the schedule. Thus, for example, the papers of private persons or organisations deposited in the Museum library do not become public records even though the Manx Museum itself is included in the schedule, but the Highway Board, for example, records that they hold, do.

Some matters of concern to the Museum were raised at the meetings but could not be incorporated into the legislation or may not be included in quite the way that the Museum desired. They were that the public records office has power to hold records which are not public records; see clause 1(3)(e) and 1(3)(i). While the public record office has no intention whatever of collecting private records - they have in fact a big enough job with public records - and the collection of private records is a function which the Museum fulfils in the Island, there are a number of circumstances where non-public records may be held, albeit temporarily: where records are wrongly classified as public records and passed to the public records officer, where records are borrowed for exhibition purposes or on the premises for conservation or treatment or by arrangement, for example. It would be absurd not to give the public record office the power to hold records in these circumstances and if they were not given the power it could be said that they were ultra vires in doing so, even for a very short time.

The details of the arrangements for the exercise of the Chief Registrar's responsibility for access to public records in the Museum are not explicit in the legislation. The draftsman did not consider this an appropriate matter for legislation. But surely two sensible bodies can agree this, or if they cannot, the Council of Ministers can give directions.

There are some other amendments to legislation, including the Museum Act 1959. The Museum was unhappy throughout the consultations with any proposal to amend existing legislation. However, they agreed in the meetings to the principles underlying the Bill and, as in the case of many Bills, the draftsman was unable to implement these principles without making amendments to some other Bills. We all know that when new Bills come in it is indeed usual rather than unusual for there to be the necessity of consequential amendments in other Bills.

The Manx Museum Act is amended to ensure that in future all public records in departments et cetera have to be subject to clause 3 of this legislation and public records cannot be transferred to the Museum absolutely. It seems to me absolutely right that in the case of government and legislative records they should be under the control of one body and not split between other bodies' control, although other bodies may hold them.

Records already transferred to the Museum under the Registration of Deeds Act 1961 are deemed to have been transferred as under clause 6(1) and clause 6(6). This is necessary to ensure that they become public records. These particular classes of General Registry records only become public records on transfer to the Record Office under section 6(1). The Museum were in strong agreement in the meetings with the inclusion of these records in the

definition of public records and, as I have said before, it must be right that all public records come under one control.

The director of the Museum's response to the second draft Bill raised issues which had not been discussed since the earlier meetings with the Museum's representatives and on which the records officer understood there had been full agreement. It appears that the Museum now opposes the Chief Registrar's control on government's behalf over the selection of public records for preservation. However, one must have one body dealing with this. These are government records. It is to my mind right that a department of government should deal with them and be responsible under the ultimate control of the Council of Ministers.

They also apparently oppose statutory public access to these public records which are held in the Museum. It is a fundamental of having a system of public records that the public should be able to have access to them in a way which does not damage them. Indeed there would be no point in spending the considerable amounts of money involved if the public were never allowed to see the records, and they apparently object to the Chief Registrar's responsibility on government's behalf for such access. As I have intimated before, it is logical that one chain of command and one organisation should be responsible for all government's records.

I now turn to an overview of the Bill. The Bill makes statutory provision for the preservation of those records of Manx public bodies which should be permanently retained and for the facilitation and control of access to them. In outline, it seeks to achieve this by defining 'public records', establishing a public record office under the General Registry and ultimately of course under the Council of Ministers, establishing the Chief Registrar's duties and powers relating to records in the public record office, establishing a duty on public record holders to safeguard their records and ensure selection for permanent supervision.

I regret to tell you, Mr Speaker, that as you and hon. members may be aware, in the past records now which could be of enormous public interest have actually been tipped down disused mine shafts, and the purpose of the Public Records Bill is to stop that kind of thing happening in the future.

Then the purpose is to require the transfer of the records selected for permanent preservation to the public record office 25 years after their creation at the latest, and I stress this is at the latest. It is expected that as the system gets going many of them will be transferred before. Then the opening of the records in the public record office to the public 30 years after their creation, unless doing so would breach confidentiality. This is to enable the public to share in these records which, after all, are the records of their government and their legislature. Finally, giving the Council of Ministers responsibility for resolving differences which may arise between other record holders and the Chief Registrar, and, with Tynwald approval, power to modify certain rules, as well as responsibility for access to confidential records.

I will finally touch on the underlying principles of the legislation. This legislation sets out both to meet international practice in public records management and archival retention and to make special provision in the Manx context. Essential general provisions are the establishment of responsibility for such records under an arm of executive government, the Chief Registrar, with involvement at the highest ministerial level, the Council of Ministers; the provision for the management of public records throughout their life under the guidance of the

archive body which is of course the Chief Registrar; the establishment of a duty of care for public records before their transfer to the archive body to ensure that departments cannot pitch them down any more mine shafts before the public records officer has had a chance to assess their value; the establishment of a right of public access to preserved records at a certain date and consequent protection of confidential personal information; a wide definition of public records and one covering records from their creation, so once they are created they cannot be destroyed at an early stage; and, as I have stressed, the application of the legislation to all public records wherever they are held. This is surely essential. We cannot have some that are not covered and therefore might not be protected by this Bill.

Now, the special arrangements and provisions relating to the Manx situation which are rightly included in the Bill are as follows: the retention by the Manx Museum of the public records they already hold with the provision for the transfer of them to the public record office by mutual agreement. I stress by mutual agreement. No unilateral power is given to the public record office to remove them from the Museum. A power to transfer public records to the Manx Museum and other bodies in the future; the absence of control by the Chief Registrar of storage conditions et cetera for public records in the Manx Museum. I would stress that all bodies in the adjacent isles holding public records are subject to conditions laid down by the public record office there and they are inspected regularly and the records can be withdrawn. So this is a unique arrangement to meet the requests of the Manx Museum. It is yet another example of the way that those behind this Bill have fallen over backwards to meet the reasonable requests of the Museum. The absence of any duty of care by the Manx Museum for public records there, corresponding to the Chief Registrar's duty in clause 1(2) to records in the public record office. The power of the Manx Museum to set its own fees relating to public records. And then we have the inclusion of parliamentary and local authority records which are not actually included in the adjacent isles but are included in some other countries. Finally, the inclusion of records filed in the general registry, including any such as deeds already transferred to the Manx Museum. Thus this Bill brings us in line with general international practice regarding the preservation of records while at the same time taking account of special Manx interests and situations.

I would say I strongly support this Bill and I hope members of this hon. House will because it is nothing less than tragic to think of unique records in the past being thrown down mine shafts, burnt or disposed of in other ways when they would have provided an invaluable source of information and knowledge to our own and future generations. I therefore beg to move that this Bill be given its second reading.

Mr Brown: I beg to second and reserve my remarks.

The Speaker: Thank you, hon. member. Does any other hon. member wish to speak to the Bill? The hon. member for Douglas West, Mr Downie.

Mr Downie: In rising to my feet, hon. members, I think those of us who have followed the hon. member who is moving this Bill on behalf of the Treasury minister, Mr Corkill, Mr Gilbey, have realised that it is quite a complex and in some areas a complicated issue, and this is not the first Bill of this type which this hon. member has taken. In fact he was also the person who guided through this House the Data Protection Act.

Mr Gilbey: No.

Mr Downie: Were you not?

Mr Gilbey: No.

Mr Downie: Right.

Mr Gilbey: I opposed it strongly.

Mr Downie: Sorry, right, I apologise then.

Mr Brown: Mrs Christian.

Mr Downie: Mrs Christian. At the time there were certain aspects which arose with the Data Protection Act that were mentioned by the hon. member who is moving this Bill today and which we are seeing now have actually come to light where we have got a silly situation where we cannot even hold a bonny baby competition in the Isle of Man for fear of breaching the Data Protection Act and in fact this applies to all sorts of other things where people are hurt or injured in accidents or there is a problem that arises and the police have to withhold names and addresses even when people are keen to help and are concerned on a family sort of basis.

Now, I have got no problem in supporting this Bill but in its present form I personally think there are too many grey areas in it. As the members know, I represent your views and wishes in Manx National Heritage, I am the Keys appointed member, and as the mover indicated, there has been lots of dialogue about various aspects of this particular Bill and I think he also indicated that there were still some areas and I will just read to you what he said. Mr Gilbey admitted that some matters raised by Manx National Heritage would not be incorporated in the Bill.

Now, also I need to flag up that a lot of people who use the Museum on a day-to-day basis and require access to archives and other things over there are not happy with what is in the Bill, and quite a number of academics who use the services have contacted me and there are some areas I have got concerns about as well, about parliamentary issues that I am not happy with.

Basically, I will just give you a résumé of what happens within the Museum and how their involvement comes into play.

The Museum library holds the archives of the Isle of Man. That means manuscripts, plans, photographs, maps, film and printed books. The national archive covers all aspects of Manx history, land and property law, government trade, language and people and is renowned within the Island and internationally as a place to visit to explore our precious heritage. Every year almost 8,000 people visit the library to further their research and many come from overseas, especially the United States of America. About 50 per cent of the total holding of the library's archives would be public records as defined in this new Bill. These are records created during the process of administration of government boards and other public bodies. They date from the 17th century to the present time and are a fundamental source for the work of the national museum service and its Island-wide presentation. All the above records are held in trust by the Museum trustees, and the sequence of the historic record is being added to daily by Manx people who want to see their archival history as part of the national museum service to the public.

Manx National Heritage, as we all know, is statutorily obliged to provide this level of public access, storage and conservation facilities to the highest international standard. The trustees have a proud record of protecting a whole series of public records. Those in other hands, as the member moving the Bill has told us, were often destroyed, thrown down mine shafts, burnt, all sorts of items which just cannot be replaced, and in its own right MNH continues to act as guardians of this historic record, and the important historical sequence of documents will for the first time be split, at great inconvenience to the Manx public and visiting researchers, and that is what the concern is, that this Bill will actually tend to split part of the archive.

The Public Records Bill 1999 seeks to amend the Museum's legislation and therefore reduce dramatically the function of the trustees in the collection and preservation of public records. In effect the staff of the Manx National Heritage library would have to tell people who wanted to donate documents which form part of a continuing historic record that the national library could no longer accept them and they would have to pass them on to a warehouse in an industrial estate.

The trustees' concerns are on record through meetings with and letters to the Chief Registrar, the legislative draftsman and the Chief Financial Officer.

Manx National Heritage trustees have proposed a solution to these difficulties which probably would allow the Bill to proceed in total with perhaps one or two minor additions.

I wish to give notice that I have prepared an amendment which basically removes a section of wording and pieces add to it as follows: 'This Act shall not prejudice the operation of the Manx Museum and National Trust Act 1959 as amended.'

Now, without this sort of amendment there can be no guarantee that any extra-important public records will be sent to the national library, thus denying the Manx public access to records which complement those they already examine. But hearing the mover, I am becoming more and more convinced that although I support the Bill and I think we need to push it along, it might be much more advantageous for us to just call a halt for a couple of weeks and move it on to a committee for some further investigation.

Now, we all know the Museum library has a pleasant reading room. The public record office at Spring Valley has no real public area and I suspect that the registry are proposing to have records delivered to them for the public to see. This would place the records in danger of loss or damage and would be a relatively costly operation to run and I assume this is where the 2¹/₂ additional members of staff will be required for the registry.

As far as I am concerned, hon. members, without any form of amendment to this Bill - and there are a few areas - we are in grave danger of throwing the baby out with the bath water and betraying the trust of those who have already given the national archive documents which they had assumed would form the basis of a permanent and continuing historic record.

The other point I would also make in the Bill is that there is provision for the future deposition of public records of historic importance in the Manx Museum but only at the Chief Registrar's discretion and it relies on negotiation and discussion between the Chief Registrar and the Manx Museum for those records to be transferred. There is no implicit right for Manx

National Heritage to continue public record collection and any public records transferred from the Chief Registrar's office would be deemed as a loan.

Now, I would also pose a question. I do not for one minute question the ability of a Chief Registrar but I would have to ask what qualifications does a Chief Registrar hold with regard to historic and archival detail? It is a very, very complex issue and it is one that has to be dealt with by very, very specialist people.

I am also concerned that the draft Bill gives authority to the Chief Registrar to give directions as to the provision of facilities for public access. I feel this is too intrusive and it would mean that we could not ensure the continuing high standard of public access without the discretion for the Chief Registrar, and, with respect, I do not think we should be sending people up to a tin shed up in the business park to look at archives.

I would urge members to give some very serious thought to this Bill. I am not suggesting that there are areas that cannot be satisfactorily resolved. I think they can. I would just like to hear what other members have got to say on this particular issue and look forward to hearing what the hon. member who is moving has got to say when he is summing up. Thank you, Mr Speaker.

Mr Karran: I welcome this Bill. It is long overdue as far as I am concerned. I think it is an absolute disgrace that large amounts of useful information are lying in several mine shafts around the Island. I think it is an absolute disgrace.

I think regarding the previous speaker that if we were in Star Wars, it is The Empire Strikes Back as far as the Museum is concerned, and that is what we have heard as far as this debate today is concerned, and I think their record is not the great record that one could pin up and say how fantastic it is. The fact is there is an awful problem for many researchers under the present arrangements with Manx National Heritage to get the records that they require in order to do their study and investigation. So trying to rewrite history that somehow it is all right how it is at the present time is quite wrong as far as I am concerned.

The issue that has to be addressed is it is not perfect that we have to have them up in an industrial estate, but it is a matter of priorities and resources, Vainstyr Loayreyder. So I think it is wrong to attack the new public records officer. I am sorry that the previous officer who has now retired did not manage to get through the empires, the vested interests.

There are a number of issues I am concerned about in the Bill. In clause 2 it talks about there will be fees prescribed. I just would like to know will there be any public input into the fees that will be prescribed? I think there should be. If there is not, if we are talking about having public records then public records, should be open publicly to everybody, not those who will have the amount of money to be able to afford whatever the fees will be because there will be a danger if it is to be left to the Treasury.

The other issue that I find quite amusing in this House, and I know we have changed it since my last fracas with the establishment over the fact that the Council of Ministers' minutes were seen by some faceless bureaucrat in the adjacent island before the elected representatives of the House of Keys were seeing them and I do believe that that issue has been changed, but I do find it rather concerning about this time period which is by grace and favour. The issue is in my opinion there should be a very limited amount of stuff that should

have a time period on. I do feel that unless there are real reasons, then there should be no time period as much as 25 years in my opinion. I think it should be a lot less. That information will be available, especially when it comes to government things, through the British Home Office. If it is good enough for them to have that information, in my opinion, then it is good enough for the people of the Isle of Man in this country who are paying the legislators' wages to be able to have that information. I do worry about that and I do believe that when it comes to the clauses stage I want to see it put on more than a grace-and-favour basis.

I appreciate the previous speaker talking about the implications of when we were talking about the Bill to do with the computer records and there are situations that have arisen, and he is right to admit that, but I think it will be more scare tactics over this particular piece of legislation.

I think this House should welcome this Bill. I think the only problem I have with this Bill is the fact I think the Treasury needs to point out how much money will be involved if we are going to sincerely support the objects of this Bill. I think the hon. mover should inform us at the clauses stage how much money has been put into the resources of the public records archives in the Museum so that we have a clearer picture as far as the financial implications are concerned because I think it is wrong to try and rewrite history and the fact is that unfortunately the archives that are under the National Trust are still the poor relation there and I believe that, passing this Bill, they will still remain the poor relation here, and I would like to know what the cost implications are as far as how much money is going to be given by the mover of the Bill, and I think it is important that it is absolutely ridiculous that we have this time period and the fact is that often the information is known to the adjacent island before the people of Man will be able to get that information.

The final point that I would like to ask is to do with clause 3. Who will make the time period as far as what information will be made available and who will have the power to change that period as far as public records are concerned? I think we need to know that.

Mr Shimmin: Mr Speaker, I welcome this Bill or a Bill of this style and for my shame, prior to entering this chamber, I assumed that this was already available and therefore that shows my naivety. I believe it is long overdue and it is right and proper that something of this style does get moved by the House.

However, I have a number of concerns I would like to raise with the mover of the Bill today. The first one, following up from the previous speaker, is the time period and the ability to change the time period for disclosure of information. I for some time have been attempting to find out the grounds on which the census information available at the Museum is banned from disclosure for 100 years, and after some investigation by a member of staff from the Museum it is now with the Attorney-General as to who would actually control the decision to change from 100 years to a lesser period such as in Southern Ireland. So I would like to know where the control over the time periods would be.

But there are a number of other issues. I have no involvement with the Manx Museum or the Chief Registrar's office and I am not aware of any power struggle that may have existed in the past, but it does appear from what Mr Downie has already raised that there are going to be problems at the clauses stage if some of these problems are not addressed.

The negotiations that have gone on obviously have not been to the satisfaction of the Manx Museum and it therefore implies that a body of people who gain great support within this House normally are going to be at odds with the government moving this Bill. So I believe that some of those issues need to be revisited.

The main fundamental problem I have is on clause 4(4) where it refers to sub-clauses (3) and (4) and it is to do with parliamentary records. Schedule 1, paragraph 2: parliamentary records, records of Tynwald, Council and Keys and any committee thereof shall be public records. That is fine. However, I would like the mover to explain if it is true that under clause 4(4) that would be making available at the behest of the Council of Ministers rather than, as might seem more appropriate, the presiding officers. That is with regard to whether information should be disclosed or should not, who should have the ultimate control, and on parliamentary issues I would hope that that would not be left to the Council of Ministers.

A Member: Hear, hear.

A Member: Whoever they are.

Mr Shimmin: Whoever they may be at that time.

I am interested by Mr Karran's comments on no time period, as that might mean we would all have access to the minutes of his departmental meetings sooner rather than later, which would be interesting reading.

A Member: Hear, hear.

Mr Cannan: It would.

Mr Shimmin: However, at this stage I am a little bit concerned that if this is to be the final draft there are some areas which I feel would be in danger of being amended, and amendments on the floor of this House are often not the best way forward. Therefore I would like some clarification from the mover of the Bill. Thank you, Mr Speaker.

Mr Rodan: Mr Speaker, I would wish to welcome this legislation because it is a significant issue we are talking about in terms of principles of democratic accountability and open government and in terms of modern Manx history, by which I mean that the public, and whether that be journalists or modern politicians or those with a lively interest in public affairs, cannot begin to gain a real insight into the government and politics of the Isle of Man in the 20th century without access to the private records of the executive. But I have a number of points I would wish to have clarified.

First of all, why 30 years? We just seem to be copying the United Kingdom which is, I would suggest, hardly the best example of open government in the world (**A Member:** Hear, hear.) and which surely has big secrets to keep under wraps. There are other far more enlightened models to be found round the world, and the hon. mover has told us about the consultation that took place over this Bill. Perhaps he could enlighten us as to what consultation took place or what examination of other jurisdictions took place when determining that public access should not be until 30 years had elapsed.

The other matter I would like an assurance on is that the legislation, once in effect, will grant immediate access to previously secret records that are more than 30 years old. It is clear from the Bill that the prescribed period of 30 years begins with 1st January in the year

following that which the records were created. So I can take it we can expect that this legislation will begin, for example, with the Executive Council minutes of 1969 and everything prior to 1969. I take it we are not going to be waiting 30 years for the release of material prior to 1969.

I ask this because in an article of February 18th in the newspaper with the headline 'Government Papers to be Released under New 30-Year Rule' it did say that documents which are not already public when the office is set up will be released after 30 years or on the direction of the Council of Ministers. So the reading of the legislation there conveys the impression that it is only after a further 30 years have elapsed that the records will be made public. So I would like an assurance on that point.

Could I draw the mover's attention to schedule 1 and in particular paragraph 3, central government records. Sub-paragraph (4) makes reference to the office of the Lieutenant-Governor and states that records of the office of the Lieutenant-Governor which were in his custody immediately before the commencement of the Act or created after the commencement of the Act shall not be public records unless the Lieutenant-Governor otherwise directs in the case of particular records. Now, I would like some clarification on this one because it is the office of the Lieutenant-Governor that has been central to executive government in the Isle of Man certainly until relatively recent times and the Governor was of course the executive, was the government of the Isle of Man, and much of the interest in government records to be made available under the 30-year rule will naturally fall into the period up to 1969 when the Lieutenant-Governor was very firmly in control of this Island and very firmly in control of Isle of Man-United Kingdom relations. I think the records of the then Governor's office at that period and through the '70s will be of particular interest, and I am quite concerned as to the discretion that apparently is being afforded the Lieutenant-Governor not to make available records from that period.

Now, I do hope this is not - and perhaps the hon. mover can again enlighten us as to the consultation with Government House and the Lieutenant-Governor's office that took place - an attempt to restrict material that might be potentially embarrassing or potentially politically embarrassing. If it is, if that discretion has been given to the Lieutenant-Governor and indeed to his successors in Executive Council and Council of Ministers terms I think that would be a matter of some concern.

Like the hon. member for Douglas West, Mr Shimmin, clause 3 and the matter of parliamentary records - clause 3 of course deals with the selection and the preservation of public records, and sub-clause (12) of course substituted reference to the Council of Ministers by the office of the Speaker and the President of Tynwald to govern parliamentary records, and as the hon. member for Douglas West pointed out, clause 4 governs the access to public records and seems to place in the Council of Ministers the determination of the circumstances under which parliamentary records can be made available, and sub-clause (6) seems to imply in fact an appeal mechanism on the part of the Council of Ministers whereby any question as to the reasonableness of any direction under sub-clause (5), that is a direction given by the Chief Minister, shall be referred to and determined by the Council of Ministers. It is not entirely appropriate, I suggest, that the Council of Ministers conducts this appeal role in relation to parliamentary records.

Apart from those few points which I hope the hon. mover will be able to clarify I would certainly welcome this Bill. Whether he can answer this specific point or not I am not terribly sure but it is really in relation to which government records and documents that are currently unavailable for public inspection on the grounds of confidentiality are likely to still remain, despite the 30-year rule, under a permanent preservation notice or permanent secrecy. What sort of records are we talking about? Because if the thrust of the Bill is to make available to the public everything that can be made available it should be welcomed, but I still have this lingering doubt that there will be records suppressed which are more than 30 years old because it could be politically embarrassing to release them.

The Speaker: The hon. member for Onchan, Mr Karran.

Mr Cannell: Yes, thank you -

The Speaker: Mr Cannell, sorry.

Mr Cannell: Yes. I hope there is a distinction, Mr Speaker. Many of the points which I was intending to make have been made and I shall try to eliminate them from my address for obvious reasons, but I think the perception of this which concerns members is the prospect of an empire being built here. A previous speaker has spoken of the Data Protection Act and all that that entails. I sympathise with that, as I have said on many previous occasions, that I think the legislation on that remains far too sweeping. It caught up many examples of things which were not intended to be embraced in it and I remain to say that it is an undesirable public quango (**Mr Houghton:** Hear, hear.) that we have records which were never intended to form part of a Data Protection Act being included in that, (**Mr Houghton:** Hear, hear.) lawful though that process may be.

Mr Houghton: That is right.

Mr Cannell: So suspicion from my point of view remains that we are on the prospect of establishing something very similar where just about everything will be caught up under the great name of a Public Records Bill, because in my view the aim of a Public Records Bill is to make better accessibility to government documents than we have at the moment rather than an inferior process which we have, and I notice in some of the schedules that many of the items which are included in the schedules as being parliamentary records in fact already are, for instance, *Hansard*.

So there is a suspicion on that even though, as I have mentioned and as most previous speakers have said, as a principle they welcome the idea of having a Public Records office but what concerns me is where the decision comes along as to what should be protected. That, in my view, will be the key question and whose decision it will be as to what will be protected and what rights of appeal there will be available to the public where they have hit a brick wall on the standard officer who will be in charge of it, then submit it perhaps to a subcommittee of the Council of Ministers, then on to the Council of Ministers themselves whose very business itself, as has been previously spoken of, may well be the subject of the documentation referred to.

So what is required to be available is an assurance that there will be a totally independent right of appeal on all of the documentation which will be provided, otherwise the accusation will obviously be that the retention of documents at the behest of the Council of

Ministers may well be thought to be because they have something to hide themselves. That is not to say they have, but nevertheless the perception is there.

The access to records, as has just been mentioned by the hon. member for Garff, at a 30-year period appears to be trailing just on a convenience basis, and my recollection of the 30-year period was that it would admirably fit the documentation from the Second World War. Prior to that the public records were available considerably earlier, but even now we are still hearing of certain extremely sensitive information concerning activities of the Home Office in the Second World War which is still being withheld. That may be an extreme case. I cannot see that the dealings of the Isle of Man and the Home Office in 1969 are quite so sensitive.

But where we talk about other jurisdictions and other countries I am quite astounded by the access which the public has as number 1 and the journalists have as number 2, in the United States, for example (**Mrs Crowe:** Yes.) where even in current court cases they are actually allowed to view the evidence, they are given every possible facility to aid them, and the public in America have a truly marvellous access to everything that goes on. In recent times of course it might have been said there was far too much access and there was too much availability of a certain item concerning their president.

But I think we should use this opportunity to show that we have nothing to hide in the Isle of Man, that there will be the statutory opportunity for legitimate secrets where they might concern something extremely sensitive such as war matters or something which would be extremely sensitive for the volatility of the finance sector, but I do not see why we should wait 30 years for records to be produced, 25 years either. In my view the majority of the records which the government deals with could easily be released after a period of five years when the chances are that most of the people concerned would be still in public office and could therefore be faced up to what they had actually done at the time. What is wrong with that? Everybody must be accountable. The 30 years is built in probably, besides the war, on the basis that the people concerned have therefore retired from public office and would not be answerable for actually the decisions which were taken at the time.

The records, we have heard, are being dumped down the mines. In actual fact the majority of the stuff which was put down the mines probably deserved such a fate because what we have got to be sure of here is not that every single line of every departmental meeting's minutes is going to be scrutinised and put into a public record office. You would not need just a tin building up at Spring Valley, you would need the entire Wrights Pit East to contain it all, because it is going to be absolutely awful to consider what is and what is not keepable. What you have got is someone with discretion to decide, and along my travels I have come across minutes of committees which you eagerly looked forward to reading. I have even seen minutes of Executive Council inside of the prohibition period in some of the positions I have held. I have done that under the government's secrets Act and of course none of it has been disclosed, but as everybody knows who has also probably seen them, 95 per cent of them are not of any consequence or significance whatever. They were important at the time perhaps, but when you see them and you go through them and you think, 'This'll be good', in fact they are little of the kind and you can discard most of them down the famous mine shafts, if any availability is still there for that.

So it is not going to be a case of, as I have heard with the TT museum, that someone has got a spark plug from a 1923 bike and it must be a main exhibit. What you are going to

have to be is selective and have on record something that the public actually wants to see. Now, that may be open to interpretation. What might interest some people might not interest others, and I accept that, but it is going to have to be selective, otherwise it will be totally overwhelming. It will be a nightmare to keep everything on, even though I envisage now with modern electronic methods it is not going to be a load of paper anyway. It might be paper to start with but it should certainly be transferred to the new technological method of storing documents on CD-roms, which appear to be the vogue at the moment, and I am sure there are more technological developments which will even supersede those to come. So we are not going to have great hangars of paper up there. Surely the important things can be transferred to electronic methods and then retrieved from computers, not that I am any expert at that, as most will know.

Another difficulty I foresee in this legislation is going to be what has already been alluded to which is a fight between the Museum and the public record office as to who should have what and to whom. It is unbelievable, what could happen there, because it is interpretation and the documents which are already up there are going to be, naturally, self-protected by the Museum who see some of their authority being removed. I do not think they need to, but that will be, again, the public perception of that one.

Also the accessibility to the documents - is it going to be accessible at the evenings and at the weekends? I have heard reference to the Museum hours and I have heard reference to the public records, but in fact many of the facilities which the Manx Government undertake - and I include myself now as a member of the government - many of the facilities which are supposedly available to the public are not available at the times when the public most want to actually have them available. It is still a 9.00 to 5.00 culture in providing a public service, and that no longer is good enough, as many of the banks are about to find out, where they are going to have to make themselves available throughout the time to suit the interests of the public when and where they wish to access their services. That is a separate subject to this. Probably we are straying a bit and apologies for that, Mr Speaker.

But on clause 8 on page 8 of the Public Records Bill finally - this is my final point - we see here that at sub-clause (2) - 'Where records created at different dates are for administrative purposes' et cetera - this will be judged when the latest of them was created. This is extremely worrying because all you have to do is have a file and you add one page to it and say, 'That's the latest one', and all the preceding file all stacks up then as being created as the latest one of the file and automatically backs up for 30 years. So if you do not want someone to see something you just put it all together, put one page in in 1999 and say, 'Sorry, boys, you've had it until 2029', even though the preceding document could well have become available. That is an old one, that one.

So, yes, the principle, but a few reservations.

Mr Singer: Mr Speaker, I also agree that the principle of a Public Records Bill is important in order to accurately record history and ensure that that history is in the public domain, but I have listened carefully to the debate and particularly the comments of the two members for Douglas West and the hon. member for Garff and it does appear that there are gaps in this legislation, and I suppose the question is, is the Bill deficient? Because it does appear that there are areas which are not clearly defined.

I would like to refer to item 5 in the explanatory memorandum where it says that the additional expenditure will be £134,500 and there will be 2.5 additional staff. The question I would ask first of all is has Personnel agreed this 2.5 additional staff and are these extra staff demands a priority when compared to the needs of several government departments which are under pressure with increasing responsibilities and have not received any extra personnel for the coming year? Should Treasury insist that the Bill be implemented and administered within the present staff establishment? In view of Personnel's tight restrictions on manpower increases I would welcome the hon. mover's comments and justification of these extra increases and demands on the taxpayer.

It might be advantageous for us to have the Bill at this time, but is it a matter of absolute urgency, as from a practical point of view I find it difficult to support the legislation with its demands at this time, especially when I compare it to the urgency of extra personnel required by other departments. Thank you.

Mrs Hannan: Eaghtyrane, I see this as a pretty straightforward piece of legislation. It is making available to the public public documents that have not been available previously and therefore I think this should be welcomed. The Bill should be welcomed by us all.

We have all heard stories and they are not mythical, they are fact, that public documents were thrown down mine shafts, not only public documents, but also equipment, office equipment, all sorts of material just thrown down mine shafts. That is completely lost in our history, and what this legislation is saying is that these particular documents should be preserved, they should be stored and they should be made available. Now, you are not going to get every note, every minuscule piece of every piece of paper being saved. I do not think that is what it is about. It is about public records being saved and made available.

A number of us sat on a select committee looking at freedom of information. It was a select committee set up under Tynwald and during the discussion by that select committee freedom of information was discussed and it was accepted during that select committee that we should operate to as much as our ability open government, that material should be made available to the public after so many years. I think we said 30 years, so I think that is where the 30 years has come from when we are looking at how far back it should be kept secret. So the 30 years was addressed by that select committee looking at today's material being opened up and accessed by people who wanted access to that information. I do not think the ability to access documentation within government is used as much as I thought that it would be following on from that select committee.

But a number of areas have been raised by this legislation and there is a prescribed period and it relates to the Council of Ministers about the Council of Ministers and departmental and statutory boards' documentation which can be made available. It also relates to the Speaker in the case of records of the Keys and any committee of the Keys and the administrative and departmental records of the Secretary of the Keys and any other officer of the Keys, and it also relates to documentation which is under the control of the President of Tynwald, and therefore I think these sorts of areas are covered. We have to start making this information available.

Now, whether that information is stored in somewhere like the Museum or in a tin hut, or however it was described, up Spring Valley trading estate surely is immaterial as long as it can

be accessed by the public and it is kept under a controlled situation. I do not think that we should necessarily worry whether it is there or whether it is there as long as it is made public.

Now, the issue of the Museum is to my mind a red herring. It is something that has been on the cards for the last 15 years ever since this documentation was first mentioned. They have not understood what this particular legislation is about. The documents which they hold which are documents which relate to individuals and have been given to the Museum or they have bought or whatever will remain under the control of the Museum. This relates to public documents, which is a different thing altogether, and I think there should be that dividing line between the two, and if I want to give certain documents to the Museum and I say I do not wish them to be made public until 30 years have passed, then that, I think, is up to me and I would expect the Museum as a statutory body to respect that, because that happens in a number of cases: people take records, they interview people but they would not want some of the personal details of those interviews to be made as public as maybe part of their using for research. This happens in relation to place names when George Broderick has been dealing with people and collecting information and that is then respected by both parties, by the person collecting that information and then when that information is deposited with the Museum it is under a protected code. So the Museum actually operates that at the moment. therefore I cannot understand anybody thinking that this information should not be made available to the public after a particular time, and I would hate to see us getting into further arguments about who should be doing what.

It is not taking anybody's power away from them: they have not had this power in the first place. What we are doing is creating this body which looks after, keeps public documents available for the public after 30 years and therefore I think it is only right that departments, statutory boards, boards of Tynwald, the Finance Board, the Civil Service Commission, local authorities, the Manx Museum, the Manx Heritage Foundation, the constabulary, apart from criminal records, are made available in the future for the public, and also Council of Ministers' papers. I see absolutely no problem with that at all.

I think if this particular piece of legislation fulfils the needs of the data protection legislation, which has been raised, if this gives that sort of protection that the data protection legislation brought in, then I for one will welcome it. The data protection legislation was brought in to protect ordinary people, and I think we, people in here, consider we are MHKs and can protect ourselves, at least we think we can, but ordinary people cannot be protected unless there is such a thing as data protection. You have only got to look at how the Internet and everything to do with computers have developed over the last years. I know the Internet cannot be controlled to the same extent, but ordinary people's lives should be protected, and we all know what happened before that: there was all sorts of information which was held by lending houses and people to do with credit, people's credit was being questioned, and they had no right of correcting that at all because they could not get to the information that was being held. They now can. These are all the things that were brought in under that data protection legislation that we seem to denigrate the whole of the time because we want to know who had a crash last night up on the mountain. That is part of the data protection. It was given to protect those sorts of people until they said themselves that that information could be released, and I think that is only right and only fair, that there should be this protection for ordinary people. It has been abused in the past and I think we should protect this sort of

legislation which we have brought in to protect ordinary people, the person in the street that cannot protect themselves or would find it very difficult to and very arduous and very expensive to protect their good name, and I think data protection does that, and instead of denigrating every time anybody gets on their feet to talk about people and people's rights, instead of doing that we should be proud that we brought in this legislation and were able to put it in place.

I welcome the Public Records Bill, I think it is a major step forward, and I do not think the red herrings that have been thrown up by the Museum, when there has been consultation about this piece of legislation, should not be put in the way to obstruct what is a major step forward.

A Member: Hear, hear.

Mr Cannan: Mr Speaker, I promise not to be repetitive. I welcome this Bill and I just want to reinforce one aspect of it. As I say, it is in the public interest that we should have this Bill. But there are basically two parts to public records, as we will see from schedule 1, parliamentary records and central government records, and while it is right and proper that the Speaker and the President shall be responsible for the parliamentary records, and the Chief Minister and the Council of Ministers for the central government records, I believe it is important, and it may be necessary for an amendment at the clauses stage, that access to the parliamentary records shall be controlled by the parliamentary officers, that is, the President and the Speaker, and not by the Chief Minister and the Council of Ministers, who shall be responsible for the central government records.

This is just the one point I want to make. For the rest, it is very right and proper that there should be now a proper record of government and administration of this Island, both in respect of parliamentary and central government matters.

The Speaker: Hon. members, can I call upon the hon. member for Glenfaba then to reply to the debate.

Mr Gilbey: Mr Speaker, I think it will be a very long reply because so many hon. members have raised various important questions regarding it, all of which can be answered.

The hon. member for West Douglas, Mr Downie, says it is a very complex Bill. Indeed I agree with him and that is why I took so long in explaining it in my opening remarks, but I think he is rather mistaken, with respect, to compare it with the absurdities of the Data Protection Act. As Mr Quine said in an earlier item this morning, some things are like chalk and cheese and as far as I am concerned the Data Protection Act and this Bill are exactly the same: like chalk and cheese. I cannot see any relevance or connection between them at all and I strongly opposed parts of the Data Protection Act and still do, while I personally strongly support this Bill.

Then he raised matters brought up by Manx National Heritage, saying they had not been met. Now, I admit some of them have not been met. He says Manx National Heritage are not happy and some of their visitors or researchers are not happy. I do not myself have any proof that their visitors or researchers are not, though I said that they themselves were not content with some of the points.

Now, the fact is that Manx National Heritage mainly has private records and there is no intention whatever under this Bill to alter their possession or control of those private records, and, Mr Speaker, if all of us in this hon. House want to give our personal records to Manx National Heritage, that is who they will be given to and that is who will control them. However, they do have some public records from the past and it seems only logical that all public records should come under one controlling body, but it is not proposed that these public records should be moved forcibly from Manx National Heritage, not at all. It is quite clear that there is no question of moving any of them that are there now unless Manx National Heritage agrees.

Now, he then said that Manx National Heritage thinks that all public records should be with them. Now, this is the crux of the matter. They do not think there should be a public record office at all, they think it should all come under them as part of an expansion of their empire, and frankly that is what this argument is about and we do not need a committee of this hon. House to decide that, it is a quite simple matter for hon. members to make up at the clauses stage: do they want to transfer all this to Manx National Heritage or do they not? I say they should not because these are not private records given to Manx National Heritage, these are the records of the government and the legislature and therefore it is perfectly proper that a division of a department of government should be responsible for them.

I must point out the position could have been totally different if Manx National Heritage had agreed to suggestions in the past that they should come under a department of government directly or become a proper board of government, but they have always turned this down, so they cannot have it both ways. (**Mrs Hannan:** Hear, hear.) They are not part of government and do not want to be, apparently, and therefore it is quite illogical that they should be totally responsible for government's records. (**Mrs Hannan:** Hear, hear.)

Later on, at the end, I shall bore you with the vast number of meetings and things that have been held. (**Members:** No.) No, I think it is right because Mr Downie's argument is that there has not been consultation and the committee will sort this out. When you hear you will have a different view.

Now, Mr Downie then criticises the public record office building. Now, I do not know if he has been round it, but I have. I was taken round it yesterday by the public records officer and the Chief Registrar, and it is a modern building, it is air conditioned, it is scrupulously clean. They admit it is not absolutely perfect, but it is very satisfactory for the purpose. There are facilities for people to see the records if they want to, and I would stress that the registrar wants more people to call to see them. She is a bit disappointed that not so many have been up to now -

Mr Brown: Oh, we will go and see her.

Mr Gilbey: - and in the future there is no doubt as it grows there will be suggestions of a bigger, better registry.

Then we are asked What qualifications does the Chief Registrar, Mr Curtis, who is sitting there, have to run this? Now, I have not actually asked him, but I suspect he may not have any more than Mr Downie or I do, but that is not the point. The point is that the operation is run by a highly qualified records officer who has a diploma in archival administration, as does her number two, and this is just the same as the archivists in the Museum have. Furthermore, she

herself worked, I believe, for eight years in the Museum. So I think we have very qualified people doing the actual work, although, as in many cases in government, the senior officers do not have the same detailed knowledge. For example, the Chief Financial Officer would not claim to be an expert in the customs and excise and every other division that comes under him.

Now, we then turn to Mr Karran, the hon. member for Onchan, who I would like to thank for his support. In fact there is no doubt that the fees have to be approved by Tynwald. That means, hon. members, by all of you.

Now, he does not like the time limit and certain other members do not like the time limits. However, they are in line with usual international periods, but we do need protection in certain cases to keep things private for longer. If hon. members think of the FSC, I can assure them that there are minutes of that body which are very private in relation to financial institutions and individuals here. Some of those individuals and I hope all the institutions will still be in this Island in 30 years' time, and it would be totally against their interest and that of our economy for private matters regarding them and their relationship with the FSC to be made available.

Mr Karran then touches on the cost. Well, the costs are set out in the beginning of the Bill, but of course there is an extra point, that the operation is already in progress because that is why we have the records officer and assistant sitting here and why we have the building that has been referred to, and I will ask her to provide me with the total cost so far of the whole operation both in capital and revenue terms so that I can report these to hon. members at the clauses stage.

Now, the hon. member for West Douglas, Mr Shimmin, says who can extend the periods? The periods can be extended by the Council of Ministers, but I think we should stress that the periods are the maximum. As the Record Office gets going I am sure many records will be transferred to it within a few years of being created and therefore will be well under the 25 years for moving the things there, 30 years for making them public.

Now, as I have said before, there are some which, on the basis of confidentiality of people, businesses, the economy et cetera, the Council of Ministers may not think appropriate to be made public before.

The ultimate control of extending this lies, as I have said, with the Council of Ministers, who are, after all, responsible to this hon. House and another place and who can be questioned by us in either of those places, and can be subject to resolutions.

Again Mr Shimmin said that Manx National Heritage are not happy, and, as I have said, the reason for that is they really want to be in complete control. That is the nub of the matter.

The hon. member for Garff again says, 'Why 30 years?', and I have explained this is the usual international norm, but I can assure him in many cases it will be less, very much less, but you will have to wait for the organisation to get up and going. In some cases, as I have said, it may be longer for very justifiable reasons. He then says, 'What are the international consultations?' Well, at the beginning of my briefing report on the second reading I think I mentioned that the records officer had looked at precedents in the UK and elsewhere.

Now, would we get access immediately to records over 30 years? Some, that may be the case, but others, that may not be the case, because this is covered by clause 9(3) in which it

makes it clear there may be a further delay of up to seven years while things are got in order. You cannot expect everything immediately.

The hon. member for Garff then referred to this question of the Governor's records. Well, although I know he dislikes it and many of us may dislike it, the fact is the Governor is ultimately appointed by the UK Home Office, Government, Crown and not by us and therefore the Attorney-General consulted with the Home Office about this. Now, I have not got the exact details of this, but again I will get the records officer to provide me with details for the second reading so I can advise you, but frankly it does not surprise me because, as the Lieutenant-Governor himself really comes under the adjacent isles, as we all know, his records are their records and I presume that his records will be available under Home Office files. However, we can record and make available our department's and board's correspondence with him, which will undoubtedly reveal a lot of the information. What we are talking about are his files, not the files of people who have been in communication with him.

Then the hon. member for Garff asked which government records are likely to remain under permanent non-disclosure. Well, frankly, I cannot tell him, I think you would be very clever to tell him, because unless you know the whole contents of what is in that warehouse - and it is a pretty big one, it is about five times the size of this hon. House - you would not know what is there. This is a matter for the archivist reporting to the Chief Registrar and then them referring, when appropriate, to the Council of Ministers.

Now, the hon. member for Onchan, Mr Cannell, is worried about the growth of an empire, and I share his general concern about this. As I have said, I also share his concerns and those of other hon. members about the Data Protection Act, which I repeat I opposed, but this is a totally different matter. We have to be quite clear. Do we want to continue tipping valuable records down mine shafts and burning them and destroying them or do we want to preserve those that matter? And unfortunately, like everything we want to do, if we want to do it, it needs staff to do it, it needs buildings in which to do it, it needs other expenses. I am afraid it is unavoidable.

He then said, 'Who will make the decisions as to what to keep?' Well, it will mainly be, obviously, the trained experts who we have appointed to run this division, that is, the records officer and her staff. They will then refer in cases of doubt and matters of principle to the Chief Registrar who, in appropriate circumstances as set out in this Bill, will refer to the Council of Ministers.

Now, as I understand it, there is no public right of appeal, and this, frankly, does not surprise me because how do the public, without everything being made public, know what is there and know what there is to appeal about?

With respect, I think it is very easy to ask for everything to be available, but I would urge hon. members to think of cases that I am sure most of them can where this could cause grave embarrassment to individuals, who certainly in many cases are going to be alive for well after 30 years.

My personal view is that in view of the training and expertise of the public records officer and her assistant their leanings will be to keep all records that could be valuable and make them available as soon as possible. After all this is their *raison d'être*, so I think that we will

have a staff who will want (1) to make sure nothing valuable is thrown away and will want for number (2) to ensure that people can see these records as soon as possible.

The hon. member Mr Cannell then mentioned a fight between the Museum and the public record office. I would like to say to him, as he will hear shortly, that I believe the Bill has been drafted after vast consultation with Manx National Heritage with a view to avoiding such an unfortunate fight.

Regarding the point of the public record office being open outside working hours, I am sure that if there was a demand for this it would be arranged, just as other parts of the public sector, where there is a demand, are open outside fixed business hours.

He was also afraid of files being added to just to extend the 30 years. Well, of course there are all kinds of ways of cheating in everything, but I really think it is rather unfair to our officers and politicians, who are ultimately responsible for the officers, to suggest this kind of behaviour.

The hon. member for Ramsey said that there were areas of uncertainty. Well, you cannot make a Bill like this totally inflexible. You have got to have a position where someone has the flexibility to decide various things on their merits, and it seems to me you cannot have a more suitable body, considering (1) that these are government records mainly and (2) that they are responsible to this hon. House and to Tynwald, than the Council of Ministers.

Now, regarding the extra staff, two extra staff are needed to increase public access, the very thing that has been asked for, and to speed up the process. The Treasury has agreed. To my knowledge the Personnel subcommittee are meeting later this month and it will be up to them in the light of Council of Ministers and Tynwald policies to decide whether these extra staff are available or not. Of course the operation is working at the moment with the staff who are here with us today, but it would be speeded up if the extra staff were provided. But as with all matters, it is a question of priorities and, with the greatest respect, it does not affect the need for this Bill to be passed because in fact it is this Bill that gives the legal powers for what is being done at the moment.

The hon. member Mrs Hannan I would like to thank for her support and for explaining many of the points that have been raised. I only hope that she and I both have said the same.

As she says, the issue of the Museum is a red herring. Manx National Heritage will keep control of all non-public sector documents. The public record office will be responsible for public records, although some of these will still be held by Manx National Heritage.

Now, she referred to the consultation with the Museum, and I think I must, just quickly, let hon. members be aware of the vast amount of consultation that has taken place.

In December 1997 Manx National Heritage's response to the draft stated the trustees policy' that the public record office should deal with current records and the Museum with historic records - so they, as I said, wanted to take over responsibility for historic records - and contended that records management was not included and asked for a specialist committee. The Chief Registrar offered to meet them and there followed numerous constructive meetings with both the Bill as drafted and going through Manx National Heritage concerns. On 13th January 1997 there was a meeting, on 28th a meeting, on 30th March a meeting. On 25th March MNH presented their detailed consideration of the draft Bill. The next day there was a

further meeting and the Manx National Heritage document was discussed line by line. Manx National Heritage agreed to work on it further, as they then had a better understanding of the draft Bill. On 1st April the public record officer circulated details of any likely amendments resulting from other consultation. On 20th May Manx National Heritage proposed amendments. On 25th May the General Registry's clause by clause response was sent out. On 28th May there was a meeting and the two documents were discussed in detail. On 6th June the public record office circulated a summary of progress to date indicating unresolved issues. On 11th June there was a further meeting and agreement was reached on the need for an overall responsibility for public records to rest with the Chief Registrar on behalf of the government. The difficulty lay in the practical organisation of this in relation to the Museum records. It was agreed that the General Registry would submit instructions for a new draft Bill, asking for the draftsman's guidance on the few unresolved issues, the instructions also to be circulated to Manx National Heritage. On 2nd July 1997 new instructions were sent to the draftsman with a copy to Manx National Heritage. On 7th July the draftsman's comments were received. On 13th Manx National Heritage were informed of the draftsman's comments. On 15th Manx National Heritage acknowledged receiving draft instructions, commenting that the trustees had confirmed 'the discussions that we have had'. On 10th August the detailed response of Manx National Heritage was received. The remaining disagreements at that stage were identified as the public record office's ability to hold non-public records, and as I have explained, the reason for that is purely in case any came into their hands temporarily; the wording used in clause 1 to include public records in the Museum in the provisions of clauses 3 to 7; the inclusion of the Museum in clause 2 relating to fees; the difficulties of day-to-day working, and the Chief Registrar's control over public access and the lack of an advisory council. The General Registry then replied on 12th August, seeking some further clarification. There was a further reply from the General Registry on 26th August. There was a further meeting on 16th September, a revised draft Bill was produced on 21st September and then on 1st October a letter from Manx National Heritage rejecting much of the draft Bill and including the comment, 'The Bill should specifically prescribe Manx National Heritage as the body which selects any public records for permanent historic preservation following an agreed period of administration by the public record office', thus ignoring all agreement reached on the fundamental principles of the Bill and raising issues not discussed when Manx National Heritage representatives met the draftsman. A new meeting with the draftsman and the General Registry was requested. Manx National Heritage however then had an independent meeting with the draftsman. On 21st October the General Registry's detailed reply concluded that after 10 months of negotiating in good faith and numerous amendments to suit Manx National Heritage the draft was to be passed to Treasury for the next stage of its consideration. Finally, in all this sad saga, on 26th November the response from Manx National Heritage rejected any control by the Chief Registrar over departments et cetera passing records to the Museum and any control by the Chief Registrar over access to public records in the Museum.

The truth of all this is perfectly clear: the Manx National Heritage think that they should be in control of the whole of this. In fact they would like to see the whole of the Record Office transferred to them. That is the long and short of it. I believe this is wrong for the reasons I have set out and frankly it does not need a committee to decide on this fundamental matter, it is up to members of this House, but I think the arguments are totally overwhelming, particularly

as Manx National Heritage is not a department of government, that government's records and legislative records, subject to the latter's oversight by the presiding officers, should be the responsibility of a section of government and indeed, with no protest from anyone that I know of in the legislature, this is what has been set up and is actually operating, I think, very successfully at the moment. The fact is that Manx National Heritage not only want this stopped but obviously want it reversed, and I would hope that hon. members would give this Bill the second reading which I believe it deserves.

Messrs Brown and Cannell: Hear, hear.

The Speaker: Hon. members, the motion is that the Public Records Bill be read a second time. Will those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Cannan, Quine, Rodan, Mrs Crowe, Messrs Brown, Henderson, Cretney, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Cannell and the Speaker - 16

Against: None

The Speaker: Hon. members, the motion passes with 16 votes being recorded in favour, none being recorded against. I call upon the hon. member for Douglas West, Mr Downie.

Mr Downie: Thank you, Mr Speaker. I rise under standing order 156 with the purpose of having this Bill, which has now received its second reading, referred to a committee of three.

We have heard in the debate today that there are a considerable number of areas which members have concern about, and could I put on record straightaway that there is no fight between Manx National Heritage and the public records service. There is not. I would totally refute that allegation, and can I remind hon. members that Manx National Heritage do represent the people of this Island and in fact the trustee board is made up of a representation of practically every major local authority and people from all sorts of walks of life who have a heritage-orientated or a historical or an academic-orientated background and they are the people who are concerned about the contents of the Public Records Bill.

Finally, I would just like to say that as far as the trustees of Manx National Heritage are concerned, they would be happy if the Bill were only altered in a very minor way just to insert an amendment to that which was placed in the Manx Heritage Foundation Act, section 9, and the Manx Heritage Foundation Act of 1982, ensuring that nothing in the Act or nothing in this Public Records Bill prejudices the operation of the Manx Museum and National Trust Act and nothing in this Bill which sets out to alter existing legislation in the Manx Museum and National Trust Act is altered in any way. I think they would be happy with that, but as there are other avenues that are being progressed today, the 30-year rule and so on, I feel that this item is one which is worthy of further investigation by this House and I formally move: that it be referred to a committee of three to report as and when practical:

That the Bill be referred to a select committee of three members to consider and report.

Mr Singer: Mr Speaker, I beg to second and reserve my remarks.

Mrs Hannan: By the comments made by the mover sending it to a committee, he says that if we accept what is dictated to us by the Manx National Heritage they will then be happy, and I would have thought that this could be brought up at the clauses stage reading of this legislation with no necessity to send it to a committee.

I like the analogy made by the member in relation to the Manx Heritage Foundation and the Manx Museum and National Trust because the Manx Heritage Foundation was set up as a body, a statutory body, by legislation - that is the reason why it is statutory - but it was set up to do something and obviously the Museum were as touchy at that time as they are over this legislation, but it did not prevent the Manx Museum taking a name which almost reflected the name of the statutory body which is the Manx Heritage Foundation. They then called themselves Manx National Heritage and it was at that time that I think the members and the secretary to the Manx Heritage Foundation raised this with the Manx Museum and said to them, 'There could be a conflict here: you've got the Manx National Heritage and the Manx Heritage Foundation which is set up by statute,' and set up by the statute is the Manx Museum and National Trust under their Acts, but they chose to use this trading name of 'Manx National Heritage' which does conflict with this other body, and then they come here saying that they do not like this and 'If you change this, we are quite happy with it then.'

There has to be a decision in the end, even if a select committee is set up, Vainstyr Loayreyder, there has got to be a decision at the end, no matter who looks at it, and some way along the line legislation has got to work or it will not work and I believe that the legislation set up dividing one responsibility as opposed to public record and the public record office having a responsibility for that is the right way to do it and therefore I think a select committee is over the top, especially after the mover has told us about all the negotiations that have tried to come to a satisfactory conclusion and again it is back to the Manx Museum and National Trust: they want to do their own thing.

I am sorry, but sometimes legislation and the wish of the House should prevail and I believe in this case there is nothing that has been said this morning, except from the member for Douglas West who is a member of the Trustees of the Manx Museum and National Trust, and a number of other comments that have been made following on from his comments so that I really think that his wish to send it to a committee in this instance should not be supported.

Mrs Cannell: Mr Speaker, I believe I have to rise to my feet following the comments that have been submitted to us, our honourable ears this morning by the previous speaker.

Mr Cretney: They are not all honourable ears.

Mrs Cannell: Mr Speaker, I do see merit in the members supporting a select committee to actually look at this. It has become abundantly clear throughout the consideration of this Bill that there are certain issues concerning Manx National Heritage, the body charged with looking after the Island's treasures, the Island's heritage and the promotion thereof, that certain of their concerns and observations have not been taken on board. Indeed the mover of the Bill has indicated that to the hon. House this morning.

I think the thing to remember here for all hon. members is that Manx National Heritage is charged with the responsibility of our treasures. Now, where that should start and where that should end remains to be seen, but nevertheless I see merit in at least pursuing a course

whereby their existing powers in relation to the keeping of archives et cetera is protected and is safeguarded.

I have to say that when listening to the previous speaker who made comment about when Manx National Heritage saw fit to change their name there was conflict, I can honestly say to members here today there was no such conflict at that stage and that indeed that is a red herring.

I further have to say that perhaps I do have an interest in this matter -

Members: Yes.

A Member: You do.

Mrs Cannell: Yes, I do. I do have an interest. I have had very close working relations for a very long time with Manx National Heritage and indeed was also fully aware of what was going on in relation to the change of name, the change of logo, the change of image, the change of heart in wanting to project the assets and heritage of the Isle of Man well into the 21st century for all sorts of very, very good reasons.

I said in another place regarding another debate that I believe Manx National Heritage are a very, very highly regarded and respected and important body. As such, if they have genuine concerns, and I believe that they do have genuine concerns in relation to the provisions of this Bill, then I feel that we owe it to that body to listen to those concerns. Indeed the only way of doing that now at this stage is to support the appointment of a select committee to look at those concerns, listen to those concerns and report back to the House. Only then can we feel assured that the Bill we are being asked to support here today and throughout its subsequent readings will be the best Bill and the right Bill, taking on board all concerns.

Today, if it is railroaded through and the call for a little bit more scrutiny is refused by hon. members here today, then what we will be doing is giving a nod and a wink and letting possibly an inferior Bill that does not reflect all of the concerns go through, and I feel that would be a travesty of justice here today. I am quite happy to support the select committee and I do hope that other hon. members will do the same.

Mr Duggan: Hear, hear.

Mr Shimmin: Mr Speaker, it might sound odd but I have no interest in Manx National Heritage. I am not a trustee, nor have I previously been a trustee, nor has any member of my family, to my knowledge, worked for the Manx National Heritage.

It seems that we are polarising views on an issue which is to my understanding a side issue. I asked a number of questions of the mover. I was not satisfied with the full response but I do appreciate his efforts and he had much to answer to. I will support the moving of this to a select committee.

But let us not get personal about it. There has been enough mutterings again, backbiting, chiding away at each other. We are democratic here. We will make a choice, we will make a decision, but we do not need to insult each other, as has happened again this morning. Therefore it does not have to become personal. I might support this move to a select committee without agreeing with everything that my hon. friend Mr Downie has stated.

We seem in this House at times, just because you vote with a particular person or group, that you agree with everything that that person or group has said in the debate. There are many reasons for making a decision. Make your own and then stick to it. Thank you.

The Speaker: Can I call upon the hon. member for Glenfaba, Mr Gilbey, then.

Mr Gilbey: Could I just make a few remarks, Mr Speaker, about this. The hon. member for West Douglas, Mr Downie, wants to refer this to a committee of three. I honestly do not think there is need for a committee. There are no other objectors who have been named apart from Manx National Heritage. I have explained the enormous consultation that took place, how 200 letters and more went out, how there were 30-plus replies.

Now, Manx National Heritage say they would agree if there was a simple amendment just to alter their existing Act, but this is honestly impossible because for this Bill to make sense as it is written you have got to have some resulting small amendments in other Acts, it is not just theirs, and the legislative draftsman has fallen over backwards. I am sorry that I bored hon. members reading out this vast list of meetings et cetera, but the fact is that both parties were trying to come to an accommodation, and the legislative draftsman, poor man, was the ham in the middle of the sandwich and he has tried to produce something that provides a fair balance between the conflicting views and therefore I think to alter this Bill in any way would be quite wrong.

An equal thing that would be wrong, I think, in this very important issue which affects our records for many years to come is to have a committee just of three rather than five.

Then the hon. member said they could take as long as necessary. Now, we need a Bill to go through this House. We have no other Bills at the moment.

Mr Downie: That is bad management.

Mr Gilbey: Surely we do not want to refer the only Bill we have got to a committee. Surely we have got time to debate the very simple, fundamental matter of policy which is, who should be responsible for these records? If hon. members think that it should not be the public records section and they want it to be the Museum, this is a simple thing to say. If they want it to be the Department of Education and that is the will of this House, it is simple enough to say it. You do not need a committee to work out the whole thing.

I would like to thank Mrs Hannan for her support.

Regarding the points made by the hon. member for East Douglas, Mrs Cannell, many of the Manx National Heritage concerns have been met, many of them, and she then said Manx National Heritage are charged regarding our treasures. Now, this is true for certain of our treasures, the private ones, and they do a wonderful job. But then surely, having been charged with dealing with our public sector ones, all these records would not have gone down mine shafts. They have not been responsible for these at all and I do not see any reason why they should be. It is surely perfectly logical to have one body responsible for public records and the Museum, as it is, responsible for private records, but keeping in its physical possession on behalf of the public body the public records it now has, and I cannot emphasise enough that Peter Curtis has not got a lorry waiting to rush down to the Museum when this Act is passed to grab all these records that they have got and take them away. There is no question of that. It

is only a question of overall responsibility, and two mature organisations ought to be able to work together.

Mr Brown: Mr Speaker, I did not say anything on the second reading because I am quite content with this legislation. I think it is a very important step forward. It is some measure that many of us have been trying to promote for a number of years and quite honestly the difficulty the Island has had in the past has been purely the cost of setting it up and operating the system.

I see quite a distinctive difference between the job of the Museum and the job of the public records office and I believe that we should not get those mixed up.

However, I think it is clear from the debate we have had this morning there are a number of concerns that have been raised by members which for some reason or other they feel unable to deal with here on the floor of the House. There are questions that maybe they want to ask certain people. I think it is unfortunate that it has focused on MNH because in fact a number of the issues that were raised by members were not about MNH, they were about other issues, and I think it is unfortunate that that seems to be the one that has been focused on.

Manx National Heritage are like any other organisation, they are going to put their view, and that is their right so to do. What they do not have of course is direct access into this hon. House.

The hon. member for West Douglas, Mr Downie, has moved an amendment for it to go to a committee of three and he has left it wide open. I do not care whether there is one Bill before the House or 20 Bills before the House. If it is the view of the House that it should be sent to a committee, then so be it. What matters is that the legislation is right and that what we are setting up the House is satisfied is correct as far as we can determine based on the information before us.

I believe the hon. mover of the Bill has gone to great lengths to explain the situation and in fact has given a lot of information as to what is what, but I have to say I still feel there is a feeling within the House that members are unhappy with the way that the Bill is going forward, and therefore, just to try and help matters, I think that what we should do, and I would move an amendment, that it be referred to a committee of five members and that the committee report back to a sitting of the House by 30th March 1999, because I do believe we need to get on with this. The questions that have been raised do not require us to leave it open-ended for months, to lose another legislative session. They are a number of what I would say small points that need clarification, and the report will give an opportunity for the House then to have further information, in no way going against what I think the hon. mover of the Bill has gone to great lengths to explain and in fact I would say has provided an explanation and responses of considerable detail to members, but there still seems to be this view that there is a concern. So therefore I beg to move the amendment standing in my name which is written out here:

For 'three' substitute 'five' and at the end add 'no later than the 30th March 1999 sitting'.

Mr Rodan: Mr Speaker, like other members, I was not entirely happy with the Bill as drafted and I believed it lent itself to amendment and I still believe that. On the points that I

raised the hon. mover responded to them to my partial satisfaction. There remain two or three areas, though, which I believe lend themselves to amendment of the Bill and I am quite happy to argue the case for that on the floor of the House. (**Members:** Hear, hear.)

I have to say to my hon. friend for Douglas West I do not believe he made a case actually for a committee. I am quite satisfied that the specific point about Manx National Heritage has actually been addressed and if the point of a select committee is to focus on that, well, members are entitled to their view and they will make up their minds.

As for the other concerns, though, I am quite happy to propose amendments and to argue them on their merits on the floor of the House. (**Members:** Hear, hear.) I do not believe it actually needs a committee.

Mr Cannan: Mr Speaker, in the main debate several issues were raised and members need to look at them. Now, we have had since the move by the member for West Douglas, Mr Downie, that this goes to a committee. It seems sensible because what we have got is for members here to take responsibility for the Bill. It is no use the mover saying 'Well, because we haven't got any legislation, hurry up with this, boys, it will give us something to do.' That is not the basis of legislation. (**Mr Cannell:** Hear, hear.) As we have heard before time and again in this House over the years, once legislation is enacted it is very difficult to change it. Enacted legislation is there and goes down the ages and it is very, very important, Mr Speaker, as you yourself will recall speaking on many previous occasions, that we get it right the first time, (**Members:** Hear, hear.) and we do not want to be rushed into this. I believe that the members of this House must be satisfied not only with this Bill but all Bills they handle -

A Member: That is right.

Mr Cannan: - that they are doing the correct thing and the right thing and I believe that we should support the move by the member for West Douglas and it should not be time-restricted.

Mrs Crowe: Put off the decision.

Mr Cannan: That again is negative. If we appoint three responsible members they will act, I am sure, responsibly and bring their report to this House before the end of this session (*Interjection*) but they will not drag it on for the sake of dragging it on, but let us get it right. Let a committee examine it because up to now we have just had what the mover wants. Let us have a committee of this House, members appointed by this House to a committee, and come back and report, and if we do not like their report we can do what we did with the minimum wage report: bin it.

Mrs Crowe: Yes. Two years' worth. (*Mr Cretney interjecting*)

Mr Cannan: But at least get a report and let us have it and let us debate it on that basis and not have it time-restricted.

Mr Karran: Vainstyr Loayreyder, I think if we are talking about hurrying up, boys, the situation as the hon. member for Michael quoted - this has been going around in circles for 15 years.

I think it is important to recognise the issue that there should be public accountability and I think people outside this hon. House will be saying that once again we are using stalling tactics -

Mrs Crowe: Absolutely. Quite right.

Mr Karran: - in order that we will be trying to cover up what went as far as the decision-making, and I have to be honest, at times I wonder how they come to the decisions. Admittedly we might have to wait 30 years to find out and we will still, more than likely, be none the wiser when we do find out. But I do feel that the public outside are wanting this Bill and certain members are wanting this Bill to go ahead.

I do feel that the hon. member for Castletown's amendment as far as putting a time limit on is worthy of consideration. I think it will concentrate the minds. I do feel myself there is an element of the empire striking back as far as this legislation is concerned. I will second the amendment by the hon. member for Castletown because I do think that we do need somebody to concentrate the minds and come and find out why there is a reason why we should not debate this issue.

I would be the first one on my feet today if you were going to suspend standing orders to do the clauses today. I do not want to see legislation rushed through. But I feel that there has to be, and I think it is, a reasonable compromise, and if the committee on 30th March comes up and says there are legitimate reasons why they cannot report, then that is fair enough, but I am concerned today that there might be a legitimate argument coming from the hon. member for West Douglas, and I think it would be wrong not to allow the compromise position of the hon. member for Castletown, as I know that I have written several years ago about the state of the records that are held within the Museum at the present time and the total lack of effective money.

But I feel that we should allow the proposal by the hon. member for Castletown and I think the points the hon. member for West Douglas, Mr Shimmin, brought up are very valid as far as his input before is concerned.

The Speaker: The hon. member for Glenfaba, speaking to the amendment.

Mr Gilbey: Very quickly, Mr Speaker, could I say that this Bill was brought forward very quickly to fill a gap in the legislative programme. If it had been slower I have no doubt the Treasury would have had a seminar, as they do for most Bills, that members could have asked questions at and satisfy themselves. I am sorry if I have not managed to answer all the questions fully but when you get so many listed it is difficult to get them all down and to have the answers for all of them.

But I would suggest instead of a committee of any kind that if the vote was against a committee I would undertake that on Wednesday or Thursday the officers and I would have a session on this that all members, not just a committee of five, every single member could come to, they could ask their questions, they could make their points and they could then decide over the weekend whether they wanted to move amendments or not and they could move such amendments as they thought appropriate next week. I am sure this would be a far more expeditious and effective way of doing it because, remember, a committee, whether it is three or five, is only those people. Everyone else cannot hear exactly what is said -

Mrs Crowe: That is true.

Mr Gilbey: - but if we had a seminar on it you could bombard the officers with questions and then you could decide whether you wanted to move amendments or not, and I would promise that if there is not a committee I would arrange such a meeting, and I hope that hon. members will vote against a committee of any kind, which I am sure is not necessary.

The Speaker: Hon. members, I have absolutely nothing against seminars on Bills or anything else but I would remind this hon. House that the parliamentary debate on the floor of the House is the important bit.

Messrs Cretney and Cannan: Hear, hear.

Several Members: Vote.

The Speaker: The hon. member for West Douglas to reply to the debate then.

Mr Downie: Yes, I would like to thank all those who spoke in favour of referring this item to a committee of three. I totally disagree with my hon. colleague for Castletown, Mr Brown. He intimated that he had waited years for this. I do not see what difference a few more weeks will make after him waiting for years.

I am disappointed that the Treasury rushed this Bill forward, brought it forward very quickly indeed, as Mr Gilbey said, to fill a gap. I think if we push along with these things it is a recipe for disaster and we will get caught out.

Mr Karran, who seconded Mr Brown's amendment, said there were some sort of stalling tactics. Well, I think that is totally erroneous. I am disappointed in a man who acquires more privileges and support from this House on distant issues. I think it is a bit rich coming from him to suggest that we were employing stalling tactics. (**Mr Cannan:** Hear, hear.)

I am disappointed with the hon. member for Peel, but what else could I expect when she was the only member in here who voted against the heritage centre in Peel and seems to have an aversion for everything that Manx National Heritage try to do?

Mr Speaker, I beg to move the standing orders and that this matter is referred to a committee of three.

The Speaker: Hon. members, can I just make it plain that in fact the Bill came to my office in the normal manner from the Treasury. What I did request was that, if it was practical, Mr Gilbey take the Bill this morning when we knew that the Treasury minister was going to be absent off the Island on government business. That is the only speeding up of the measure which took place.

Now, hon. members, we have the hon. member for Castletown, Mr Brown.

Mr Brown: Yes, thank you, Mr Speaker. Can I just say that I believe the amendment I put forward is to try and concentrate the minds on this issue, not to speed anything through, because as the hon. member for Onchan has rightly said, if the committee of members that we appoint who are doing a job for the House feel that there is a need to extend past that date, then I am sure, as happens regularly, they will report to the House to say they need further time. I believe the issues, whilst important, are relatively easy to deal with, but that certainly is a matter for the committee.

To be quite honest, I do not mind, if members wish there to be a committee, which way they vote on either amendment. That is a matter for the individual members. But, clearly, to allow a Bill just to drift for the sake of it is not in this House's best interest and furthermore is not in the best interests of what we are trying to establish here, which is of course setting up a public record office.

This is an important matter for the Isle of Man and when I say 'for years', that is not making light of anybody, it is not criticising anybody. Circumstances have meant this has taken some time. We have a lot of people who are wise after the fact, some of them in this House.

I beg to move that my amendment should be supported.

The Speaker: Right, hon. members, we then have the motion proposed by the hon. member for Douglas West, Mr Downie, that the Bill be sent to a committee of three members for consideration and report. To that we have the amendment moved by the hon. member for Castletown that for 'three' we substitute 'five' and at the end we add 'no later than 30th March 1999 sitting'. Are all members clear? So the amendment will read: 'the Bill be sent to a committee of five members for consideration and report no later than the 30th March 1999 sitting.'

Putting the amendment first, will those in favour of the amendment please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Rodan, Brown, Cretney, Mrs Hannan, Messrs Karran and Cannell - 6

Against: Messrs Gilbey, Cannan, Quine, Mrs Crowe, Messrs Houghton, Henderson, Duggan, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Singer, Bell and the Speaker - 14

The Speaker: Hon. members, the amendment fails to carry with 14 votes cast against, 6 votes being cast for.

I will put the motion then as moved by the hon. member for Douglas West, Mr Downie, that the Bill be sent to a committee of three members for consideration and report. Will those in favour please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Cannan, Quine, Houghton, Henderson, Mrs Cannell, Messrs Shimmin, Downie, Singer, Karran and Cannell - 10

Against: Messrs Gilbey, Rodan, Mrs Crowe, Messrs Brown, Cretney, Duggan, Braidwood, Mrs Hannan, Bell and the Speaker - 10

The Speaker: The motion fails in the House, hon. members, with 9 votes cast for but 11 being cast against.

Hon. members, that means that we have drawn to a conclusion our order paper for this morning and the House will now stand adjourned until 9th March at 10 a.m. Hon. members, if you would, one moment, please, for the hon. member for Glenfaba.

Mr Gilbey: I promised, Mr Speaker, to you and the House that if there was not a committee I would arrange a meeting at which the officers could be questioned. Would the most convenient time be, say, tomorrow afternoon?

The Speaker: Hon. member, I will leave that entirely up to you, sir. The House will continue with its business in the normal pattern. If you wish to arrange a seminar, that is entirely up to you. Thank you, hon. members.

The House adjourned at 12.43 p.m.