

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 9th 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); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Messrs J P Shimmin (Douglas West); Hon J A Brown (Castletown); Hon D J Gelling (Malew and Santon); Sir Miles Walker CBE LLD (hc), and Mrs P M Crowe (Rushen); with Prof T StJ N Bates, Secretary of the House.

The Chaplain took the prayers.

Tribute to the Late Bob Clarke

The Speaker: Hon. members, it is with some sadness this morning that I report to the House the death of our messenger Mr Bob Clarke. Bob served this House for 21 years and his presence in the foyer, where he greeted many of our visitors in his own inimitable fashion, will in fact be sadly missed. Our sympathy this morning must lie with his wife Gladys and his family. Hon. members, I would ask you to stand for a few moments in remembrance of our messenger Mr Bob Clarke.

The House stood in silence.

The Speaker: Thank you, hon. members.

Commonwealth Day Message from HM the Queen

The Speaker: Hon. members, item 1 on your order paper is the Commonwealth Day message from Her Majesty the Queen, Head of the Commonwealth.

A Message for Commonwealth Day 1999

Music is the theme for Commonwealth Day this year. Throughout our fifty four countries, people will be celebrating and making music in as many ways as that, or more. Of course people of different generations and cultures tap their feet to quite different beats. But for all of us, young and old, music is an essential part of life: for parties and entertainment; for ceremonies and celebrations.

For music knows no differences of language, no national boundaries. And because it has become such an important part of our cultural lives, it is a universal message of communicating with each other. The variety of music illustrates our diversity; its common tones and harmonies bring us together. Just like the Commonwealth.

In 1999 we celebrate the 50th anniversary of the modern Commonwealth. Fifty years ago, in 1949, India became the first republic with its own head of state to be a member of the Commonwealth. That paved the way to membership for many other countries, especially from Asia and Africa, all sharing links of history, a belief in democracy, and a will to work together.

Today the Commonwealth includes over a quarter of the world's population, spanning differences in race, creed and language, but sharing the same aspirations towards a better future.

This November the leaders of the Commonwealth states will gather in South Africa for the Commonwealth Heads of Government meeting. I look forward to joining them there as they discuss the challenges of the new Millennium, as well as celebrating the Commonwealth's achievements in its life to far.

Let us then, in this anniversary year, look both backwards as well as forwards as we mark Commonwealth Day. While we continue to enjoy our favourite music, either by making it or listening to it, let us also celebrate the vigour and creativity that the next generation will bring to their music making. That is just one of the bonds that all the young people of the Commonwealth will share together on this special day.

ELIZABETH R
8th March 1999

European Single Currency – IOM Participation in UK National Changeover Plan – Question by Mr Cannan

The Speaker: Hon. members, we turn then to item 2 on our order paper and I call upon the hon. member for Michael, Mr Cannan.

Mr Cannan: Mr Speaker, I ask the Chief Minister:

Will the Isle of Man participate in the UK Government's national changeover plan for the European single currency?

The Speaker: I call upon the Chief Minister to reply.

Mr Gelling: Mr Speaker, I have made very clear my view that the Isle of Man should keep its currency in line with that of the UK so that we will retain sterling as long as the United Kingdom does and we will move to the euro if and when the UK does on the same timetable. It follows that we will adopt arrangements which will be our own but which will parallel the United Kingdom Government's national changeover plan. It will be vital for the Island's businesses that we do so and, although there will be transitional difficulties for consumers if there is a move to the euro, those difficulties will be less than the difficulties of continuing in the longer term with a currency that is different from that of the United Kingdom, sir.

Mr Cannan: Mr Speaker, I thank the Chief Minister for his clarity of answer. Will the Chief Minister be aware the United Kingdom is to hold a referendum on whether to join the European monetary union, so will you, as you have just said, in parallel run a national changeover plan? Will you allow the Manx people to have a referendum with identical questions and held simultaneously with the referendum in the United Kingdom on whether to join the European monetary union?

Mr Gelling: The answer, Mr Speaker, is that I do not believe that that will be necessary. I believe that when the time comes that Tynwald will make that decision.

Mr Cannan: Why should the Manx people, the people of the Isle of Man, be denied the right to give an opinion on whether to continue with sterling or join the euro when those of the United Kingdom will have the right to do so in a referendum?

Mr Gelling: Mr Speaker, as I said in the original reply to the hon. member's question, it is the fact that we are linked to the currency of the United Kingdom and therefore whatever that link will be will be linked with their currency at that time so that, if and when they move to the euro, for practical reasons, as I have already explained, it would be, as I have stated in a question previously, absurd for us to try and link with another currency when we trade so much with the United Kingdom. So therefore it would be sensible, I would suggest, for all the reasons that I will not go into today, that we should in fact remain linked with the United Kingdom currency of the day.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister not agree that it would be a waste of taxpayers' money to go down such a process, as the UK Government would take no heed of any representation made by this government or by its people as far as making the decision over this issue?

Mr Gelling: Mr Speaker, the decision that has to be made in the UK is that the sterling will disappear from the United Kingdom. I think the decision we have to make in the Isle of Man is what is in the best practical terms the best situation for the Isle of Man, and in the Isle of Man, if we had a separate or a different linking to a currency, the transaction costs, even through the clearing banks, the whole practical situation would be so difficult - I would suggest that the hon. member from Onchan is quite correct - we would go into a very, very costly exercise and I do not think really we would learn anything from it, sir.

The Speaker: A final supplementary, the hon. member for Michael, Mr Cannan.

Mr Cannan: Why is the Chief Minister denying the Manx people the democratic right to make a decision for themselves which the people of the United Kingdom are able to make? Do you not trust the Manx people to make a decision for themselves, sir, in this matter?

Mr Gelling: Mr Speaker, we are elected by the Island's people to make decisions and give leadership to the people of this Island, and that is what I am suggesting - that, for all the practical reasons which I am quite sure will be understood by the people of the Isle of Man, to run a parallel system with the United Kingdom, even with the television that we will obviously be watching, it will be very, very much simpler for them to adopt what the United Kingdom will be running as a currency and, as I have already said, Tynwald will make the decision at the end of the day, sir.

Independence of the Isle of Man – Purpose of Seminar – Question by Mr Cannan

The Speaker: We go on to item 3, hon. members, and again I call upon the hon. member for Michael, Mr Cannan.

Mr Cannan: I ask the Chief Minister:

Can you confirm the purpose of the recent seminar on independence was to evaluate the benefits and implications of -

- (a) maintaining and protecting the present constitutional arrangements with the United Kingdom and the European Union;*
- (b) independence from the United Kingdom but remaining within the European Union;*
- (c) independence from the United Kingdom outside the European Union; and*

if so, what were your conclusions?

The Speaker: Again I call upon the Chief Minister to reply.

Mr Gelling: Mr Speaker, I am rather surprised at what I would describe as the wholly inaccurate description of the purpose of our recent seminar as it is set down in the question from the hon. member for Michael and by the evident attempt on his part to raise the profile of this issue which was contrary to the consensus which was actually reached at the end of the seminar, when it was clear that members had no wish to see a prominent public debate on independence at this particular time. It is almost as though the hon. member was not actually with us at the seminar.

In introducing the seminar, I said that the Constitutional and External Relations Committee had been looking for some time at some of the issues that would arise in the Island if it were to contemplate independence. I said in particular, and I quote, 'It is an opportunity to brief members on the issues which have been identified as requiring consideration if we are to go into independence more thoroughly, and is an opportunity for members to advise on their views on what we have found out so far and, more especially, whether we should continue the work and, if so, on what we should concentrate.' It was made very plain that we were at a preliminary stage and that we were not in a position - and I repeat, *not in a position* - to evaluate any final options. Neither I nor any other member, I would suggest, would wish to venture into a conclusion on the options which the hon. member for Michael has identified or would accept that they are the only options available. What I would suggest now is required, following the seminar, is for the Constitutional and External Relations Committee to sit down and evaluate the seminar and decide what further inquiries should be undertaken. That, I can assure you, will happen, but there will be no conclusions reached at this stage on what is the best long-term option for the Island, nor would I propose to make any further statement on the work of the committee, which would be premature and simply raise the profile of an issue which has already received more prominence in the external media than I would have wished, Mr Speaker.

Mr Cannan: Having listened to the Chief Minister's reply, am I to understand that the Chief Minister is wishing to restrict the right of members of this House, Mr Speaker, to raise issues that he may not wish to be raised?

Mr Gelling: No, sir.

Needle Exchange Scheme – Introduction – Question by Mr Braidwood

The Speaker: Item 4, hon. members, and I call upon the hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

What response has your department received from the Manx Chemists' Association to its proposal to introduce a needle exchange in Island pharmacies?

The Speaker: I call upon a member for Health and Social Security, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I am pleased to be able to advise the hon. member that, in the response from the Manx Chemists' Association on this issue, they have been totally supportive.

Mr Braidwood: Mr Speaker, I thank the member for his brief answer and I am pleased that the scheme is going to be implemented which will prevent the spread of infectious diseases by using clean needles and preventing needles being abandoned, but is the member satisfied that nine pharmacies out of 25 participating in this scheme will be a sufficient distribution throughout the Island, particularly when there are only two situated in Douglas and none in Onchan?

Mr Karran: Vainstyr Loayreyder, I am quite pleased with the response from the chemists, because when one originally raised the issue of a needle exchange scheme, many in this hon. House said there was no need for it, it did not exist, so I am quite happy with the association's response. There are actually, hopefully, going to be three in Douglas that will be part of the scheme and I feel that it is important that not all of them are in it, because there are implications as far as injections and all sorts of things that staff have to take in order to be protected against some of the diseases that are about.

Mr Braidwood: Mr Speaker, can the member confirm the method of exchange? Will it be one needle exchanged for one needle? Also, would the pharmacies participating in the exchange also accept the sharp boxes from diabetics?

Mr Karran: It will be on an exchange basis. The situation will be, of course they will be put into sharp boxes. Obviously the important issue is to make sure that no-one that works in these chemists can pick up some of the more prevalent diseases such as hepatitis B from this service. I think that the department needs to be recognised for having the ability to try and get something done about this problem before there are a lot of people with serious health conditions in this Island.

Mr Singer: Mr Speaker, whilst the hon. member says that he believes that it will be an exchange basis, what arrangements has your department actually made to ensure that the scheme is indeed an exchange of used needles for new and not just handing out needles into the community, and have arrangements been finalised for the collection of the used needles from the pharmacies and which department is accepting that responsibility of collection?

Mr Karran: Vainstyr Loayreyder, the situation will be quite simple: we will have virtually no real control over the chemists as the hon. member is a chemist himself. At the end of the day there will have to be a certain amount of goodwill between the department and this profession, so, as far as that is concerned, that will hopefully be up to the integrity of the participating chemists that are in this scheme. As far as the other issue is concerned, there is a problem as far as getting rid of waste but I would imagine it will be treated on the same basis as it is at the present time.

Mr Singer: Is the hon. member aware that at the moment no waste is being collected by the Department of Local Government from chemists, the return medicines are not being collected, and therefore is he sure that a department is in fact going to be responsible for collecting the needles or are they going to end up being left in the pharmacy?

Mr Karran: Vainstyr Loayreyder, as the hon. member has more likely had more to do with this, being a chemist, than myself in the detailed negotiations, I think the hon. member will more likely be aware of the situation, but the fact is that at the moment I believe that they have to take them and the needles are incinerated at the present time at Noble's Hospital.

The Speaker: The hon. member for Douglas East, Mr Braidwood. A final supplementary, I think, hon. members.

Mr Braidwood: Thank you, Mr Speaker. On my previous question, the member did not answer the question on the diabetics. Can the sharp boxes from diabetics be returned to the pharmacy instead of the diabetics having to take them to the incinerator at the hospital?

Mr Karran: Vainstyr Loayreyder, that is a totally different scheme. Obviously the needles for the diabetics are not part of this scheme, so really that is a separate issue. If there is a concern over diabetics and needles, then that is something the individual would be better taking up with me at Crookall House at a later date, and I think it would be wrong to get the two different needle users mixed up together. I think it would be quite wrong. One has to do it to maintain life. The other has become a victim to having to do it.

Apologies for Absence

The Speaker: Hon. members, before turning to item 5 on our order paper, I would inform the House that in fact the Minister for the Department of Agriculture, Fisheries and Forestry, the hon. member Mrs Hannan, will be returning to the Island shortly and will join us later this morning, and I have given the hon. member Mr Downie permission for absence as he is off the Island on government business and the hon. member for Douglas South, Mr Duggan, is unwell this morning.

Wildlife Officer – Appointment – Question by Mr Henderson

The Speaker: We turn then to item 5 on the order paper and I call upon the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. I beg leave to ask the member for Agriculture, Fisheries and Forestry:

- (a) *When do you expect to make an appointment to the recently vacated post of wildlife officer in your department; and*
- (b) *do you intend to readvertise the post?*

The Speaker: In the absence of the minister, I call upon the member for Agriculture, Fisheries and Forestry, the hon. member Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. In response to both parts of the hon. member's question, I can advise that the post has being advertised in the local press on 11th and 15th February and in the *New Scientist* on 17th February 1999. I believe that we have received 43 applications for this post and the usual selection process of short-listing and interview is being gone through and I understand it is anticipated that interviews are scheduled for 8th April 1999.

Mr Henderson: Mr Speaker, I thank the hon. member for the department for his comprehensive reply there but, further to that, as the vacancy represents a 50 per cent loss of

the team with responsibility for providing advice on the implementation of the Manx Wildlife Act, what is the impact on the timetable of the implementation of this Act now likely to be, sir?

Mr Shimmin: Mr Speaker, indeed there is a senior wildlife conservation officer who is in post. She, currently, is working alone. Inevitably, when any member of a government team leaves there will be a period of time before that post can be replaced and it does delay things. We currently are working through the phase 2 habitat survey in order to extend the cover to government land, and this is something which we hope to complete by the end of this summer once the new post is in place. Other areas will be affected but we are moving as quickly as we can to replace the actual officer who has left.

Mr Henderson: Mr Speaker, again I must thank the hon. member for his further informative answer there and anticipation of a supplementary, but my final supplementary, sir: given the vacancy situation, has the department recontacted the original Isle of Man applicants who were ruled out for some strange reason but had the right qualifications, expertise and experience for this post? Have they been recontacted for this job?

Mr Shimmin: No, sir, we have not identified any individual that we have chosen for this post. We have done the normal procedure, which is to advertise the post, and anybody who applied previously is fully entitled to apply for this post that has now arisen. Over the recent months we have reidentified the needs for this post and there are certain changes so it would not be appropriate to merely apply the same criterion as was for the post as first advertised. We do hope that the person who responds and is successful in the application will continue with the greatly improved working relationships which the department now has with various environmental organisations on the Isle of Man, and we hope to build on the strength that we have made over the last 12 months.

Hospitals – Physiotherapy Treatment – Waiting List – Question by Mr Singer

The Speaker: We turn then to item 6 on the order paper, hon. members, and I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

What is the waiting time for patients for physiotherapy treatment from referral to first appointment at -

- (a) Noble's Hospital; and*
- (b) Ramsey Cottage Hospital?*

The Speaker: I call upon the member for Health and Social Security, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I assume that the hon. member is referring to out-patients' physiotherapy appointments, of which there are approximately 20,000 in the course of a year at Noble's Hospital. I can confirm there is presently a waiting time of approximately five weeks from receipt of the referral to the first appointment. The waiting time for appointments at Ramsey is less than one week. Unfortunately there has been a vacant post at Noble's Hospital and this has been the main factor in the development of a waiting list. However, I am pleased to be able to advise hon. members the post is expected to be filled in

the very near future and we anticipate that the waiting time will be eradicated within the next three to four weeks.

Mr Singer: May I thank the hon. member for his reply, and I hope that this waiting list will be reduced as it is very important.

Health Service – Rehabilitation Treatment for Stroke Victims – Question by Mr Singer

The Speaker: Item 7, hon. members, and again I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

What rehabilitation treatment is offered under the National Health Service to stroke victims?

The Speaker: Again I call upon the hon. member for Onchan, Mr Karran, to reply.

Mr Karran: Vainstyr Loayreyder, the treatment and support for stroke patients is provided through a combination of hospital and community services. The principal rehabilitation treatment unit for the south, east and west of the Island is based at Newlands, and in Ramsey Cottage Hospital for the north. Dedicated services are provided by physiotherapists, occupational therapists, speech therapists, dietitians, working with the medical and nursing staff in teams in the community providing a general follow-up either at out-patient clinics at Noble's or Ramsey Cottage Hospital, or directly to the patients in their own homes or in the day hospital. In addition I am pleased to be able to advise the hon. member that recent discussions have taken place with the Stroke Association, who are a charitable organisation interested in developing higher levels of family support and support for stroke patients following their discharge from hospital. My department is keen to work with the voluntary sector in this way and we are currently looking at ways of how we might progress this with some financial support.

Mr Singer: Mr Speaker, I thank the hon. member for his reply. In view of the comment that in the UK cancer care is a lottery depending on where you live, would you agree that this comment could be applied to stroke care and can your department ensure that this Island will be at the forefront of stroke treatment with an established stroke unit which will ensure the presence of a dedicated specialist, guaranteed CT scan availability within 24 hours and early speech and occupational therapy, and physiotherapy where suitable, before the patient is discharged from hospital and is sent to day care or a geriatric unit?

Mr Karran: Vainstyr Loayreyder, I am unaware that it is a lottery as to where you are located as far as stroke patients are concerned in the Island. I hope that is not the case. I will be very happy to discuss the issue with the hon. member at Crookall House where he could make representations on that case. It is interesting to note that I have recently demanded a working party be set up because I believe that it is of paramount concern that once an individual has had a stroke, there needs to be intensive activity to help that individual in the short term to maximise their success rate to getting as much of their faculties back as possible. So I think that I actually come from the same side as the hon. member, but I am concerned that he says that it is a lottery and I do hope that he will make representations to me, either in the House or afterwards, in order that we can iron out where these shortcomings

are, because it is important, because it is far better for these individuals to be sorted out than have them as long-term disabled people in the community.

Mr Singer: May I thank the hon. member for his reply and I will be very pleased to have further decisions with him as I think possibly we are on the same wavelength on this particular item anyway. As a further supplementary could I ask him, does your department organise stroke review clinics to assess patients so as to reduce the incidence of secondary strokes or is this left purely to the family doctor to sort out?

Mr Karran: Vainstyr Loayreyder, I would imagine that would be left to the medical practitioner as far as that is concerned. If the patient is then referred back to his local GP, then obviously it would be up to the GP to make sure that they try and prevent a recurrence of the stroke, but I am very interested in this principle. I think it is important to realise that recent medical evidence has shown that it is not the first couple of days, it is the first couple of hours that are vital after a stroke has happened to an individual, and I have actually asked for a working party to be set up, because I would like to see the Island as a flag ship, not just on stroke issues as far as our patients are concerned, but a health service that we can be proud of on all the other issues as well.

Procedural

The Speaker: Hon. members, once again our allotted time has elapsed for questions. I call upon the hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I beg to move:

That standing order 43(2) be suspended to enable the remaining questions tabled for oral answer at this sitting to be put.

Mr Cretney: I beg to second, sir.

The Speaker: Hon. members, are we agreed?

Members: Agreed.

The Speaker: In that case we will move on with the remaining three questions.

Hospitals – Surgical Operations on Children – Question by Mr Braidwood

The Speaker: Item 8 on our order paper, the hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

Has there been any reduction in the number of surgical operations performed on children in the last three months compared to the equivalent quarter in the previous three years?

The Speaker: Again I call upon the member for Health and Social Security, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I can advise the hon. member that during the three months' period to 28th February 1999, a total of 115 children underwent surgical procedures at Noble's Hospital, a reduction of 28 compared to the corresponding period in the previous

year. Unfortunately I have to say that in the time available it is not possible to obtain competitive data for the two previous years.

Mr Braidwood: Mr Speaker, I thank the member for the DHSS for his answer, but can he confirm that this 20 per cent reduction is because of lack of nursing staff which has resulted in bed closures in the children's ward?

Mr Karran: Vainstyr Loayreyder, obviously if any child was in need of emergency treatment then they would get priority. These are issues that are not regarded as emergencies but these are issues that have to be done on a basis of when it is possible and practical to do so. I would hate it to go out from this hon. House that we have a situation where sick children who are desperate for operations are being refused them. That is not the case and I do think that some of the members need to stop alarming individuals in such ways because there is nothing more emotive than when it is dealing with your own kids. I personally would like to say that the issue of staff shortages is a factor, but anybody who has an urgent intervention needed through Noble's Hospital with a child is seen as quickly as they would be seen under any other circumstances.

Mr Braidwood: Mr Speaker, would the member give an assurance that staffing will be sought for the children's ward to alleviate any fears which might be put out into the public domain as his department did with the SCBU clinic?

Mr Karran: Vainstyr Loayreyder, my department is well aware of the issues as far as nurse recruitment is concerned. We have recently made a very generous pay award for the individuals concerned. We have done a number of other issues so hopefully we will find we are being very proactive in order to attract nursing staff to the Manx National Health Service, and I am sure the hon. member has to recognise that there are problems as far as the health services in the adjacent island and we are having to compete with them as far as these staff are concerned.

Mrs Cannell: Mr Speaker, can the hon. member for the department advise as to why he is unable this morning to give us details in relation to the previous three years in terms of statistical information on the level of operations undertaken on children?

Mr Karran: Vainstyr Loayreyder, children and adults are put in together as far as the information is concerned. So it does take some considerable time in order to break up who has had surgery that are children and who has as an adult. So that is why we have the difficulty.

Mr Henderson: Mr Speaker, I was wondering if the member for the department could give us an assurance then in tackling the issue of the Island's sick children, that when they are sent across, if needs be, to the larger hospitals, we will not arrive at the unsavoury situation whereby they are discharged from that hospital rather than in the Isle of Man, leaving the parents and children distressed.

Mr Karran: Vainstyr Loayreyder, I am not sure of the individual case that the hon. member is aware of but I am not sure whether it is cases where sometimes the health services on the Island are victims of their own success. One has fought long and hard to make sure that there are certain operations or medical intervention was done under the national health

service in this country that would not be done in the adjacent island, and so sometimes we can be actually victims of our own success when we talk about things such as fertility treatment.

Mr Cretney: Mr Speaker, could I ask the member, would he consider proposing in the future that the figures for children and the figures for adults could be separated on a statistical basis so that it may enable better delivery and better responses to be available to him and to his department?

Mr Karran: Vainstyr Loayreyder, I have got the previous two years' figures but I have not got the other figures. At the end of the day you have got one of the most hard-working departments of government, and one of the problems I have got is they have to get on with the day-to-day running. As you can see, we have so many questions to my department that maybe I should take an easier job and become the Chief Minister (*Laughter*) or the Treasury minister, hon. members, as I would more likely not have to be standing up here trying to answer questions with a department that will not have the back-up and support in numbers that other departments that have more problems will have.

Residential and Nursing Home Care – Recommendations of the UK Royal Commission on Care for the Elderly – Question by Mr Braidwood

The Speaker: Item 9, hon. members. Again I call upon the hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I beg leave to ask the member for Health and Social Security:

Will your departmental inquiry into the long-term support for those requiring residential and nursing home care take full account of the recommendations of the UK Royal Commission on Long-Term Care for the Elderly?

The Speaker: On this occasion I call upon the member for Health and Social Security, the hon. member for Onchan, Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. The department's inquiry into the long-term support of those requiring residential and nursing home care has in fact been completed and, as referred to by the Minister for Health and Social Security in another place as recently as February 9th 1999, resulted in Tynwald, by a resolution of 20th May 1998, approving my department progressing legislation for three purposes as follows: firstly, to amend the rules relating to capital resources for the purposes of supplementary benefit to make it easier for a person entering long-term care to choose not to sell the family home; secondly, to clarify the rules within supplementary benefit relating to deprivation of assets; and, thirdly, to provide that the value of a home is disregarded on the owner entering long-term care when a carer remains in that home. Legislation to disregard the home when a carer remains in it is to be submitted to this month's sitting of Tynwald. That legislation will implement the other changes, also will be forthcoming to Tynwald we anticipate no later than July this year.

With regard to publication of the report of the Royal Commission on Long-Term Care for the Elderly, entitled 'With Respect to Old Age,' it is much too early for the department to have developed any preferred policy for the Island in relation to it as it was only published a week yesterday and, as hon. members will see, it is an extremely weighty tome - 300 pages.

However, I do look forward to studying it in detail and to discussing it with my political colleagues and the staff within the department.

Mr Braidwood: Mr Speaker, I thank the member for the DHSS for his comprehensive answer and I am glad that he has confirmed that the amending legislation to the benefit system, to implement the Tynwald resolution of 20th May concerning the funding of long-term care for those requiring residential and nursing care will be introduced next month and subsequently in the next couple of months.

The Speaker: Are you asking a question, sir?

Mr Braidwood: I am, sir, if you will just give me time, sir. Would the member agree that the DHSS will have to take regard of the UK policy because, although means-tested benefits are not part of the reciprocal agreement with the UK on social security, there is sufficient migration between the two countries and it would be very difficult for the Isle of Man to act in isolation?

Mr Cannell: Mr Speaker, as I have already mentioned, we shall be reading the comprehensive report thoroughly from front to back and, if necessary, due regard will be taken, but I cannot give an undertaking that there will be an automatic transfer of the main recommendations of the United Kingdom Royal Commission. We will examine its needs with reference to the Isle of Man as we do on any other reciprocal policy.

Electricity – Cost Reduction for Domestic Consumers – Question by Mr Cannell

The Speaker: Item 10, hon. members, and I call upon the hon. member for Onchan, Mr Cannell.

Mr Cannell: Yes, thank you, Mr Speaker. I beg leave to ask the Minister for Trade and Industry:

Does the Manx Electricity Authority intend to reduce the cost of electricity to domestic consumers?

The Speaker: I call upon the Minister for Trade and Industry, the hon. member Mr North.

Mr North: Thank you, Mr Speaker. The MEA has recently published its revised tariffs, which will come into effect on April 1st next. The increase in the domestic tariff has been limited to just under 1.5 per cent, which is well under the current rate of inflation and also of that projected for the coming year. In real terms, therefore, the authority is actually reducing the cost of electricity.

Mr Cannell: Mr Speaker, may I ask a supplementary, please? Would the hon. member agree that since 31st August 1997 the charge has been 8.70 pence per unit with a 0.80 penny per unit fuel charge, making 9.50 pence per unit despite the fluctuations of the price of oil per barrel, ranging from \$20 to \$21 a barrel around the same time, dropping to \$10 and even now still only at \$13 a barrel? Despite that, an increase is proposed.

Mr North: Mr Speaker, the cost of oil is only one element of the cost of electricity, and from the annual report of the MEA of the average price charged of 9.52 pence, the fuel cost is 2.43 pence, and that element - there are a number of factors which impact on the overall picture. These include the types of black oil purchased for generating purposes, and those used by the MEA are both refined products of crude oil. Other factors include the cost of

shipping, refining, local transport costs and taxes and the purchasing strategy adopted by the authority. These recognise the need for a relatively high level of certainty and continuity in cost levels which still have the potential to benefit to some extent if the price levels falls significantly, which it has done over the past few years. The prudent approach adopted by the authority is considered to be in the best interests of the consumer as oil prices are also subject to many market forces such as seasonal demand and the sterling/dollar relationship and world political and economic events.

Mr Karran: Vainstyr Loayreyder, when prices go up on oil prices, then the argument is that the price of electricity in this country has to go up, but when prices on oil go down it is not an important factor. Can the hon. minister inform this House what makes the criteria so different when it suits and when it does not suit?

Mr North: Mr Speaker, if we go back to when oil was over \$30-odd a barrel, yes, I can understand the hon. member and the reason why the surcharge was put in, but if you actually look over the last five years at the average price charged per kilowatt hour sold by the MEA, it has varied from 8.9p in 1994 up to 9.52p last year and 9.49p in 1997.

Mr Henderson: Mr Speaker, the hon. minister has mentioned the drop in the oil price and various elements. Could he not confirm, though, that the drop in the oil price is the main element and will be the main contributing factor that we should be examining here? Could he confirm that, please?

Mr North: No, Mr Speaker, it is not the main element. As I have just said previously, the average price per kilowatt hour sold in 1998 was 9.52p. The cost of fuel of that was 2.43p. It is not the major cost.

Mr Cannell: Mr Speaker, a final supplementary, if I may, please? Could the hon. minister confirm that Manx Electricity Authority executive officers have recently had a pay rise and could he compare that in percentage terms with those which have been awarded to distribution workers of the MEA?

Members: Hear, hear.

Other Members: Ooh!

The Speaker: Hon. member, I really do not think that that is relevant to the question on the order paper, but if the minister wishes to reply. . .

Mr North: Mr Speaker, I have no knowledge or do not get involved in what is an autonomous board in wage increases and have no intentions of doing so.

Mr Cannan: Will the minister inform this House whether the chairman, the board and the chief executive has his full confidence and his full support in the management of electricity supplies to the Isle of Man?

Mr North: Mr Speaker, I can give a categoric answer to that one to all members, that the chairman and the board of the MEA, in my opinion, are performing a superb duty at the moment, quite superb, and I think that some of those people who are leading businessmen on the Island certainly will begin to question some of the public haranguing politically from members of this House.

Some Members: Hear, hear.

Mr Braidwood: Mr Speaker, has the minister got a breakdown of the costs of the . . . If it is 9.45 pence a kilowatt hour - I am not sure what he meant - and oil was only 2.43 pence, how is the other break up of 7.02p made up?

Mr North: I have not got all the figures but, for instance, depreciation on equipment takes up, I think it is, 1.74p and, by all means, if you want those detailed costings, visit the MEA; their annual report gives a lot of information and that breakdown is available. The wages and salaries will take up a large amount of that.

The Speaker: Hon. members, item 11 on our order paper is down for written answer and I understand it has been circulated to hon. members on your desks.

Meningococcal Disease – Cases Reported – Question by Mrs Cannell for Written Answer

Question 11

The hon. member for Douglas East, Mrs Cannell, to ask the member for Health and Social Security:

How many cases of meningococcal disease were reported in the Isle of Man during: 1994; 1995; 1996; 1997; 1998 to date?

Answer

Year	Suspected Meningococcal Disease	Suspected Meningitis (Unspecified Organism)	Laboratory Confirmation Of Meningococcal Disease
1994	1	0	0
1995	4	0	3
1996	6*	2	5*
1997	5	1	3
1998	1	1	1
1999	1	0	1

* Figures include one case of confirmed meningococcal disease for a visitor to the Island.

NOTE

For the purposes of this answer, it is assumed that a report of meningococcal disease is equivalent to a notification to the Office of the Director of Public Health, either by a clinician or by the laboratory upon isolation of pathogenic organism.

Whilst many notifications stipulate the suspected pathogenic organism involved in the case, this is not always the case. For the purposes of this reply those notifications which clearly suspect disease other than meningococcal disease have been excluded. However, a small number of cases where the notification simply states 'Meningitis', and specifies the disease no further, have been included in the column headed 'Suspected Meningitis (Unspecified Organism)'.

Public Records Bill – Clauses Considered

The Speaker: That takes us to item 12 on the order paper, which is the Public Records Bill. Now, hon. members, as you are aware, last week when dealing with the Public Records Bill, although it is down on the order paper as being in the charge of Mr Corkill, with Mr Corkill's absence last week at second reading it was handled by the hon. member for Glenfaba, Mr Gilbey. It is proposed that we should continue with that principle and that Mr Gilbey will be in charge of the Public Records Bill through its subsequent deliberations within this House. Therefore I call upon the hon. member Mr Gilbey to take clause 1.

Mr Gilbey: Mr Speaker, thank you very much. Before we come to clause 1, there are one or two points that I should answer that were raised during the second reading, but even before that I should like to thank those hon. members who were kind enough to come along to the presentation or discussion regarding the Bill Friday last at 2.30. I think we had a very useful and productive discussion regarding it.

Now, in answering the questions that were raised that I was not able to fully answer before, if there are any that I leave out, I hope members will raise them during the course of the various clauses, but I think the first thing that was asked was generally how do other countries administer their public records? This has been looked at very carefully in the past by our staff, and countries with public records administered as part of central government include: the UK, in England and Wales under the Lord Chancellor, in Scotland under the Secretary of State, and in Northern Ireland under the Secretary of State; Denmark, under the Ministry of Culture; France, Finland, Germany, Greece, Iceland, Ireland, under the Minister of Arts and Culture; Luxembourg, the Minister of Culture; Malta, the Minister of Education; the Netherlands, Norway, Poland, and then there is a whole list more of an equal number of miscellaneous countries. Of course, because all the world does something it does not mean that we necessarily should, but I was asked this question and that is the answer.

The next question was the expenditure to date. Now, the Public Records Office was set up early in 1995 and the public records officer was employed, in fact, from 1992 and the following figures actually exclude salaries and some staff training costs but include all other bills in respect of rent, rates and fuel, down to stamps and pensions, and these costs excluding, as I have said, the salaries - the expenditure in 1994-95 to set up the building and to run it to 31st March 1995 was £88,000, the expenditure in 1995-96 was £53,500, and this included a DoLGE rent contribution of £16,000 as the General Registry estimate was based on 1992 space requirements, not those that turned out to be needed in 1995. Furthermore, some of this covered the rent for 1996-97. The expenditure for 1996-97 was £61,000, which also included £16,000 from DoLGE, which covered some of the 1997-98 rent. The expenditure in 1997-98 was £68,000 and expenditure in 1998-99, £87,500.

Regarding manpower, there are three staff. The post of public records officer has, as I have said, existed since January 1992 and this is a departmental post for a professional archivist at the equivalent of HEO level; two temporary administrative assistants were employed from October 1995 to May 1996; a records assistant on SG 2 was appointed in June 1996; an assistant public records officer was appointed in August 1996 - this is a departmental post for a professional archivist at the equivalent of EO.

Now, I was then asked about future expenditure, i.e. that mentioned in the summary at the front of the Bill. This was difficult for the officers to estimate as there are a number of options open for the future. The current premises were always a short-term solution to an urgent problem. They have been brought up to a reasonable standard as cheaply as possible. The future cost provision depends on whether replacement premises are rented, already belong to government or are purpose-built. The figures provided are based on renting premises as this could be estimated most accurately. Provision is made for the estimated archival records, which will require storage by 2015 plus a public reading room, staff work rooms and ancillary storage - in all, 12,500 square feet, and the costs include shelving, furniture, security, environmental controls et cetera, and the total cost there is £156,000. That is the capital cost. The storage of more recent records of departments, a power but not a duty under the Bill, is also allowed for in the same building as the archives or to be done separately in a store of lower standard; the total area required is 4,000 square feet and the total cost of that, for the more recent records, is estimated as £75,000, and that with the £156,000, which I have mentioned, brings the total capital cost to £231,000, which is the figure mentioned on the front page of the Bill. There are, of course, a number of variables as I have intimated. The annual revenue expenditure given is in addition to the current annual expenditure and again it is shown in the front of the Bill, and the additional manpower given provides for a professional conservator, an additional 1.5 records assistants, non-professional staff, to ensure that both the public service and the service to government departments can be expanded. This extra staffing should provide a public opening one evening a week, which is common practice in record offices in the UK and meets the requirements of working people who cannot go in working hours.

Now, I should just again reiterate the bodies that were consulted as this Bill was drawn up, and they are the Scottish Record Office, the Public Record Office at Kew, the National Archives at Dublin, the Association of Commonwealth Archivists and Records Managers and the office's staff have visited the Scottish Records Office and the records offices in Jersey and Guernsey. The public records officer also represented the Isle of Man at international conferences, et cetera.

Mr Speaker, turning now to the clauses of the Bill, I should remind hon. members that the Manx Museum has for many years taken into its custody records of public bodies together with older documents filed in the General Registry and its predecessor offices. However, I must stress that no official repository for public records existed corresponding to the public records office in the UK, and in 1990 the Council of Ministers decided to establish a public records office as part of the General Registry. It was subsequently decided to proceed with legislation which had first been drafted in 1982, to place the record office on a statutory basis and to make provision for the transfer of public records to it and for their preservation and availability. The scheme of the Bill is to provide for the public records office to be run as part of the General Registry under the administrative control of the Chief Registrar. However, the Council of Ministers who have overall responsibility for all the internal operations of government, are given responsibility to resolve any differences over public records which may arise between the Chief Registrar and the departments of government whose records they are. The Council are also given the power, subject to Tynwald approval, to modify certain rules in the Bill.

The Bill deals with two main aspects of records management, selection and preservation, and public access, and it imposes on all public bodies holding public records a duty to co-operate with the public records officer in selecting records for preservation and to hand them over to the public records officer, usually when they are 25 years old. Such records will normally be available for inspection by the public when they are 30 years old, with exceptions for records containing confidential information. However - and I must stress this - the Bill does not give the public records office a monopoly of public records. The public records currently in the Manx Museum will stay there unless the museum agree to their transfer elsewhere but will, very rightly in my view, be subject to the same rules as to public access as all the other records held by the public records office and the Chief Registrar can arrange in appropriate cases for records to be selected for preservation to be transferred to the Manx Museum or another approved repository such as Douglas Corporation instead of to the public records office, again subject to the Bill's rules on public access. And I am sure hon. members will agree that it is vital that the same rules regarding the preservation of and access to public records should apply wherever these records are held in the public interest.

Now, what are public records? The Bill contains in schedule 1 a wide definition of public records, the term used in the Bill to mean the documents and other records which are subject to its requirements as to preservation. Basically they are all records of bodies and establishments in the public sector. I should stress that not all public records are to be preserved, only those selected for preservation in accordance with the Bill.

Moving to the individual clauses, and I start of course with clause 1, this clause establishes the public record office on a statutory footing and provides for its management. As I have explained, fortunately it has been operating already for several years on a non-statutory basis and as a result I am certain that many valuable records which would otherwise have been destroyed have been preserved for posterity. As I have said, it also provides for other repositories e.g. the Manx Museum, to operate as record offices subject to certain of the controls laid down by the Bill.

Sub-clause (1) requires the Chief Registrar to continue to operate a record office as part of the General Registry.

Sub-clause (2) lays down the Chief Registrar's primary duty with regard to the Record Office, and I quote: 'To take all practical steps for the preservation of records under his charge.' It should be noted that the functions will in practice be exercised by the public records officer, who will have the status of an assistant Chief Registrar and thus the power to exercise functions on behalf of the Chief Registrar on his behalf.

Sub-clause (3) gives the Chief Registrar general power to do anything, and I quote, 'necessary or expedient for maintaining the utility of the Record Office' and sets out a number of specific powers for that purpose: (a) to catalogue and index the records; (b) to produce publicity material' and I do not think I need read them all out because they are clearly set out in the sub-clause.

Sub-clause (4) requires the Civil Service Commission, who are responsible, as we know, for the staffing of the General Registry, and the Chief Registrar to ensure that public record office staff include properly qualified archivists and other specialists and I have already pointed out how this requirement has been met in respect of the staff appointed so far.

Sub-clause (5) provides that for the purposes of clauses 3 to 7, i.e. in relation to the selection and preservation of records, public access et cetera but not for the purposes of management, the Manx Museum and any record office designated under sub-clause (6) below is treated in the same way as the public records office, and the same rules will apply to it as apply to the public records, office and this is obviously essential to have uniformity regarding the preservation of and access to public records.

Sub-clause (6) enables the Chief Registrar to designate some other record office or repository within the Isle of Man as a suitable place for the deposit of public records or the class of public records subject to conditions if appropriate.

Sub-clause (7) enables the Chief Registrar and the management of any other record office by agreement - and I stress again, *by agreement* - to transfer public records between them. Mr Speaker, I beg to move that clause 1 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 1 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2, hon. member for Glenfaba, Mr Gilbey.

Mr Gilbey: Mr Speaker, we now move to clause 2, which provides for fees for copies of records and other services to be provided by the Record Office to be fixed by the Treasury.

Sub-clause (1) enables the Treasury to make orders prescribing the fees payable, the copies of records kept in the Record Office and other services provided by the Record Office. An order may provide for an omission of fees, e.g. a nil fee might be payable for copies supplied for educational purposes or to a government department. Any such order will require Tynwald approval.

Sub-clause (2) provides that the fees payable to the Record Office will go into the general revenue, and I should stress again that this clause does not apply to the Manx Museum or another approved registry as I have already referred to that point under clause 1(6) previously. Mr Speaker, I beg to move that clause 2 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 2 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We turn, then, sir, to clause 3.

Mr Gilbey: Mr Speaker, we now move to clause 3 and its sub-clauses. This clause lays down the rules which will apply to any person or body holding any public records, requiring those which ought to be kept as archives to be properly selected and transferred to the public records office generally after 25 years.

Sub-clause (1) imposes a duty on everyone responsible for public records as defined in schedule 1, which definition I have explained, which are not in the Record Office already to make proper arrangements with the Chief Registrar for selecting those which ought to be preserved and, until they have been selected, keeping them all in a reasonable condition.

Sub-clause (2) makes the Chief Registrar responsible for the management of the selection process and in particular for deciding where records to be preserved shall go.

Sub-clause (3) gives the Chief Registrar and the Record Office staff the right for the purpose of the exercise of the Chief Registrar's functions to inspect any public records even if they are confidential or privileged or subject to a statutory restriction against disclosure.

Sub-clause (4) lays down the general rule that records are to be transferred to the Record Office and not later than the prescribed period, usually 25 years. This is subject to modification or exceptions. For example, records can be transferred to the Manx Museum or another approved repository instead of to the Record Office if the Chief Registrar agrees. Then, where a file covers a period of time, it is treated as being created when the last record in it was created. The prescribed period applies to the transfer of records, not public access to them, which latter is covered under clause 4.

Sub-clause (5) enables records to be retained by the responsible department after the 25-year period is up provided there is good reason for them to be retained and the Council of Ministers agrees.

Sub-clause (6) enables the Chief Registrar to suspend the transfer of any particular records temporarily in the interests of proper management of the Record Office.

Sub-clause (7) states what is to happen to records which have been through the selection process but which have been rejected for permanent preservation. They can be retained temporarily in the Record Office but otherwise they are to be destroyed or otherwise disposed of.

Sub-clause (8) gives the Chief Registrar power to provide a store for public records which are awaiting this selection process or which have been rejected but are temporarily retained under sub-clause (7)(a).

Sub-clause (9) gives the Council of Ministers the power to decide in the case of dispute who is responsible for making arrangements under sub-clause (1) above for selecting the records to be preserved out of any category of public records.

Sub-clause (10) requires the Chief Registrar to return temporarily any records which have been transferred to the Record Office but are required again by the department or, of course, board which transferred them or its successor. They may impose conditions as to their return and on how they are to be looked after and any disagreement between him and the department or board concerned is to be determined by the Council of Ministers.

Sub-clause (11) defines the prescribed period for the purpose of transfer to the Record Office as normally 25 years subject to the power of the Council of Ministers either generally or as regards particular classes of records that specify a different period, and any such order will require Tynwald approval.

Finally sub-clause (12) makes special provision for the records of Tynwald or the branches. The functions of the Council of Ministers in these cases are as drafted to be exercised by the President or the Speaker and my hon. colleague the Treasury minister has an amendment which clarifies and improves the wording in respect of this. Mr Speaker, I beg to move that clause 3 stand part of the Bill.

The Speaker: And schedule 1, sir.

Mr Gilbey: And schedule 1.

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

Mr Corkill: Mr Speaker, in recognising certain concerns from hon. members at the second reading and also since the second reading of this Bill, members of the Treasury have produced an amendment which was drafted by the Attorney-General's Chambers in my name for today, and I believe it ensures that the parliamentary functions in respect of records of the legislature are well and truly protected and recognised as separate from the executive as a result of this proposed amendment. My amendment introduces a new schedule 1A. Members will note that paragraph 1 of the new schedule permits Tynwald, the Council and the Keys to appoint a committee of the House in order to exercise these functions. This, I believe, adds some breadth to the Bill and these functions could perhaps be undertaken by one of the existing standing committees. That would be a decision for the House and this committee aspect would be optional under the terms of this amendment. So if the Keys, for example, wish to leave the Speaker of the day responsible it would also retain that option.

I commend the amendment to the House with the intent that this new schedule embodies nearly all members' concerns and that it ensures that there is a thread of consistency in matters relating to the legislature that it runs through the Bill.

I do apologise for only being in a position this morning to circulate the amendment. It is an amalgam of a number of issues raised by hon. members and is the product of numerous faxes and discussions in the corridors over the last few days, but I do believe that my amendment gives this hon. House a certain flexibility in determining the way of release of the records of the legislature. I do understand that the hon. member for Garff, Mr Rodan, has an amendment which in some way seeks also to ensure this prerogative of the legislature, which I am supportive of. I believe this amendment goes slightly further in giving the House that flexibility. The essence of the amendment is in paragraph 2 of the new schedule, and I can just quote from that; it says in paragraph 2, 'Where a committee of Tynwald, the Council or the Keys has been appointed under paragraph 1, references in sections 3 and 4 to the Council of Ministers shall, in relation to records of that body, be construed as references to that committee.' Mr Speaker, I beg to move the amendment:

Page 4, line 36; for section 3(12) substitute -

“(12) Schedule [1A] shall have effect with respect

to the exercise of functions under this section and section 4 in relation to records referred to in paragraph 2 of Schedule 1.”

NEW SCHEDULE

After Schedule 1 insert -

SCHEDULE [1A]

FUNCTIONS IN RELATION TO RECORDS OF LEGISLATURE

Committee of legislative body

1. *Tynwald, the Council or the Keys may appoint a committee to exercise functions under sections 3 and 4 in relation to the records of Tynwald, the Council or the Keys, as the case may be.*

Exercise of functions in relation to records

2. *Where a committee of Tynwald, the Council or the Keys has been appointed under paragraph 1, references in sections 3 and 4 to the Council of Ministers shall, in relation to records of that body, be construed as references to that committee.*

Orders made by committees

3. *Where an instrument purports to be an order made for the purposes of the definition of "prescribed period" in section 3(11) or 4(10) by a committee appointed under paragraph 2, it shall be presumed, until the contrary is proved, that the committee was duly appointed and that at the material time the signatories of the instrument were members of the committee.*

Interpretation

4. *For the purposes of this Schedule -*

- (a) references to records of Tynwald shall be construed as including references to records of any committee of Tynwald and of a joint committee of the Council and the Keys, and administrative and departmental records of the Clerk of Tynwald and any other officer of Tynwald;*
- (b) references to records of the Council shall be construed as including references to records of any committee of the Council, and administrative and departmental records of the Clerk of the Council and any other officer of the Council;*
- (c) references to records of the Keys shall be construed as including references to records of any committee of the Keys, and administrative and departmental records of the Secretary of the Keys and any other officer of the Keys.*

Sir Miles Walker: I am pleased to second, Mr Speaker.

Mr Shimmin: Mr Speaker, I would firstly warmly support this Bill and I would hope that the mover of the Bill will consider that the efforts that have been made in the last week have been friendly efforts to try and improve the Bill as was originally drafted. I attended the meeting on Friday and was able to have my concerns satisfied in a number of areas, but it is the differentiation between the parliamentary role and the governmental role which caused me concern then and is the reason for the amendments moved in my name today. At this stage I wish to move an amendment to clause 3 which in some ways follows the vein that the former speaker, the Treasury minister, and his amendment aims to clarify.

The Bill as originally drafted gave the authority for the Speaker and the President to select and preserve records. However, this was not complete. The acknowledgement that the original draft of the Bill was not complete is evidenced by the need now by the original mover to move an amendment.

My amendment to clause 3 has two purposes: the first is to include the Speaker and Counsel to the Speaker in the list of specified officers of the House whose administrative and departmental records the Speaker of the day will be responsible for selecting and preserving rather than the Council of Ministers.

The second purpose is to take account of the fact that parliamentary records scheduled as public records for the purpose of this legislation in schedule 1 includes the records of a joint

committee of this House and the Legislative Council. These joint committees include the Tynwald Management Committee, the Declaration of Members' Interests and of course the Joint Committee on Emoluments of Certain Public Servants. The records of these committees may be of some historical significance but, as presently drafted, the clause will provide that the President of Tynwald would ultimately determine the records of joint committees which should be selected and preserved as public records. However, in recognition that these joint committees are joint committees of both branches it would seem more appropriate that the Speaker and the President of Tynwald should determine this matter jointly if a decision of the presiding officers should become necessary.

The mechanism which is being afforded in the alternative amendment requires the setting up of a committee. I believe the Bill as originally drafted gave the authority on parliamentary issues to the right persons, being the Speaker and the President. My amendment to clause 3 would clarify and make that appropriate.

Taking your guidance, Mr Speaker, would it now be appropriate if I also referred to an amendment in my name which affects schedule 1 as we have taken it at this stage?

The Speaker: Yes, sir.

Mr Shimmin: Thank you, Mr Speaker. The amendment on the second sheet circulated in my name is an amendment to schedule 1 which affects paragraph 2(2) and paragraph 7. In paragraph 2(2) my amendment is consequential on the amendment just circulated in clause 3. The amendment in paragraph 7 provides that the Council of Ministers may alter the definition of what records are to be treated as public records. The power of the Council of Ministers to do so is only limited in paragraph 7 by the categories of records of the office of the Lieutenant-Governor. It seems appropriate to me that before altering which parliamentary records are to be treated as public records the Council of Ministers should at least have the concurrence of the relevant presiding officer, and this is what the amendment seeks to do. I at this point would offer my grateful thanks to the Counsel to the Speaker for assistance in drafting these, and I do believe that this is the best way forward to separate the parliamentary and the governmental role from this very important Bill. I beg to move, sir:

Page 5, lines 3 - 5;

after "records of" insert "the Speaker,";

for "Secretary of the Keys" substitute "Secretary of the House of Keys, Counsel to the Speaker";

after "officer of the Keys" add -

"(b) the President of Tynwald and the Speaker, in the case of records of a joint committee of the Council and the Keys";

for "(b)" substitute "(c)".

In Schedule 1, paragraph 2(2) -

after "records of" insert "the President of Tynwald, the Speaker,";

for "Secretary of the Keys" substitute "Secretary of the House of Keys, Counsel to the Speaker".

In Schedule 1, paragraph 7 -

For "Without" substitute "Subject to sub-paragraph (3) and without";

At the end add -

"(3) An order under paragraph (1) shall not be made in respect of records of the Keys, committees or officers of the Keys except with the concurrence of the Speaker; in respect of the records of a joint committee of the Council and the Keys except with the concurrence of the President of Tynwald and the Speaker; and in respect of other parliamentary records except with the concurrence of the President of Tynwald."

Mr Rodan: Mr Speaker, may I first seek a point of clarification from you? Has schedule 1 been moved and is this the appropriate part of the debate to make comment on schedule 1, sir?

The Speaker: Yes, sir. Schedule 1 has been moved.

Mr Rodan: Thank you, Mr Speaker.

The Speaker: Are you seconding Mr Shimmin?

Mr Rodan: Yes, Mr Speaker, I am happy to second the amendment in the name of the hon. member for Douglas West, Mr Shimmin. The difference between this amendment and that of the hon. member for Onchan, Mr Corkill, simply relates to the setting up of a committee of the Council or the Keys or of Tynwald as the appropriate body to determine the functions as to selection of records for access and the access to those records. In the case of the amendment in the name of Mr Shimmin it relates to presiding officers making that determination. It will be a matter for this House as to which they consider the most appropriate. For my part, I am quite happy to leave it to the presiding officers of the legislature to make the necessary determination and see no real need for the setting up of a committee of members to do so. However, the House will make its opinion and I really have no axe to grind one way or another, but I do think it is important that the option of the presiding officers be put before the House, which is why I am supporting and seconding Mr Shimmin. Should the hon. member Mr Corkill's amendment succeed I will be quite happy to withdraw my own amendment to clause 4, because the intent is well embraced in Mr Corkill's amendment.

I would like some clarification from the hon. mover on paragraph 3 of schedule 1. Paragraph 3(4) relates to the records in the custody of the Lieutenant-Governor immediately before the commencement of the Act and created after the commencement of the Act and specifies that it be the Lieutenant-Governor's direction in the case of any particular record or description of records as to whether they are embraced as public records. Presumably these records refer to matters between the Home Office and the Lieutenant-Governor and not records between the Lieutenant-Governor and other departments of government, which are presumably classed as for release as public records.

My question in relation to that is, how does paragraph 7 of schedule 1, which relates to the alteration of definition, impact on paragraph 3(4)? Paragraph 7 appears to exclude from

any determination by the Council of Ministers those records in the custody of the Lieutenant-Governor when questions as to whether they should be treated as public records or described as public records. It would appear that the Lieutenant-Governor does have unfettered discretion to determine which records should be accessed and which should be classed as public records in relation to records that are in his custody. My question is: given what paragraph 7 has to say, that the Council of Ministers, unlike other classes of records, are excluded from the Lieutenant-Governor's records, what protocols or guidelines are in place as to the Lieutenant-Governor making a direction for the release of records? It does seem to me he does have absolute discretion. I referred to this at the second reading and indicated I was not particularly happy at this unfettered discretion. There may well be good reason for it, but I think it is for the hon. mover to give some further explanation as to why this provision should be in the schedule at all and as to why the records and the custody of the Lieutenant-Governor should not be treated as public records of the Government of the Isle of Man. Thank you, Mr Speaker.

The Speaker: Now, hon. members, before continuing with the debate on clause 3, as a matter of procedure we have the two amendments now which have been moved, that in the name of Mr Corkill and that in the name of Mr Shimmin. For your information it is my intention to take Mr Shimmin's amendment to the vote first and I will take Mr Shimmin's in two parts, the part dealing with, on the first item of your paper which has been circulated to you, page 5, lines 3 to 5. That effectively is dealing with sub-clause (12) of clause 3 and I will take separate to the amendment to the schedule. I do so because Mr Corkill's amendment in effect will remove sub-clause (12) and replace it. So are you quite plain on that, hon. members? We will take Mr Shimmin's amendment in its two parts and then Mr Corkill's amendment, and I would point out that I consider there to be a typographical omission in (iii) of Mr Corkill's amendment where it says 'Where an instrument purports be' and I think there should be a 'to' in there. Does any other . . .? The hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I wish to move an amendment:

That clause 3 and subsequent clauses of the Bill be referred to a committee of three members to consider and report.

Last week at the second reading of the Bill I supported the amendment proposed by the hon. member for Douglas West, Mr Downie, because I felt that the Public Records Bill did not acknowledge the role of Manx National Heritage as the keeper and protector of Manx history. I also felt that more detailed discussion should take place within a committee to define the roles of government and Manx National Heritage in respect of public documents. I would like initially to comment on the remarks by the hon. member Mr Gilbey last week who, when moving the second reading, said the following about MNH - and I think I have his remarks accurately written here and as quoted in the press, if that is not two different things. He said of the row with MNH: 'They do not think there should be a public records office at all. They think it should come under them as a continuation of their empire.' These comments could not be further from the actual views of Manx National Heritage, whose comments over many years have supported the setting up of a public records office. Therefore Mr Gilbey was wrong with promoting such assertions. There is also a vast difference between empire building and creating the skill of successful entity. There is no clash here between MNH and Treasury. MNH support the proposal for the establishment of a public records office, and they have no

desire to interfere in the process of government administration records being transferred to an office which is set up to deal with such modern records, but I would ask hon. members to recognise that there is a considerable difference between the roles of a public records office for modern documents and the role of the national historic archive. It would be a considerable length of time before documents in the public records office would need to be considered for permanent preservation in the national archive at the Manx Museum, but I do consider that there should be an established position whereby the preservation of these records can be ensured in the official historic archive. It is anticipated that less than 5 per cent of what the public records office would ever hold would be required to be added to the separate national historic archive, but this 5 per cent, however, is the most precious for posterity and the Bill gives no assurance that the national museum of the Isle of Man would be able to continue to add this crucial 5 per cent of the historic record which is available to specialists and generalist researchers from all over the world. There should be a continuing right - and I do say continuing right - of the national historic archives to add to the extremely important historic record of the Manx nation for the perusal and study of future generations.

I stated the words 'continuing right' because of the precedent contained within the 1982 Manx Heritage Foundation Act where, following similar disquiet in Tynwald, the following section 9 was inserted and it said: 'This Act shall not prejudice the operation of the Manx Museum and National Trust Act 1959 and the Foundation shall not exercise functions which are invested in the Manx Museum and National Trust by that Act or any other enactment.'

This is not a case of MNH versus Treasury, nor a setting for personality clashes, which often do seem to have an undesirable effect in debates and which were referred to last week by the hon. member for Douglas West, Mr Shimmin. I am aware of correspondence between the Chief Secretary and the Director of the Manx Museum as far back as 1990 when the Director of MNH wrote, and I quote: 'There is an obvious sensible differentiation between current records of public interest for legal and other purposes and the historic national archive which has been built up over many years.' The Chief Secretary replied: 'The distinction between current and historic records may serve as a basis for planning the function of the proposed public records office.' The views of MNH have not changed since 1990 and the case is equally as strong now as it was nine years ago.

The danger of the Bill as presented is that MNH cannot in its own right continue to act as guardians of historic records and the important historical sequence of documents will, for the first time, be split. I believe that further discussions should take place to protect the long-established and, I think, desirable future role of the nation's archive and which would avoid potential conflict of interest with the Manx Museum's role in preserving the nation's history for posterity. These discussions would not take the ownership of the documents away from government nor seek to usurp the power of the Council of Ministers to direct where those documents should be stored, but Manx National Heritage could have the right to hold those records they felt were relevant without in-fighting between whoever was in charge of departments or the public records office at any particular time in the future.

It is important that the position of MNH is not misunderstood. MNH fully support the establishment of a public records office for modern records but MNH do wish to be recognised as the nation's historic archivists. This Bill does not indicate that the documents which are clearly of permanent historic interest should form a continuing part of the national historic

archive, and I would contend that there could be confusion, complexity and inconvenience for the public who wish to trace the history of the Manx nation. There is to 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, not forgetting that the museum library has an extremely pleasant reading room, whilst as yet there is no indication of the facilities that will be available to the public at the public records office at Spring Valley.

Therefore I would finally reiterate that this clause 3 is not in the interest of obtaining the best possible advantage to the nation by both continuing the role of the national archive and respecting the importance of more modern records through the development of the new public records office. I therefore am moving that clause 3 and subsequent clauses of the Bill be referred to a committee of three members to consider and report as the remaining clauses are also affected by clause 3. I hope members will see this as a positive move to solve a potential source of friction which would be no good to government, Manx National Heritage or the Manx nation. Thank you.

Mrs Cannell: Mr Speaker, I am very happy to second the move proposed by the hon. member for Ramsey and reserve my remarks.

The Speaker: Hon. members, for purposes of clarity now, we have a debate on whether or not clause 3 should go to a committee. The hon. member for Onchan, Mr Corkill.

Mr Corkill: Mr Speaker, I do not know how long we can put off issues by using the democratic process.

Mr Cannan: What do you want, a dictatorial process?

Mr Corkill: I certainly will not be supporting the issue to go to a committee because I do believe it is a delaying tactic by the hon. mover of such a motion. I think hon. members are aware of Manx National Heritage's views on the issue and it is time to make a decision. It may be that not everybody will be happy. I think that point was made quite clear when this Bill entered the arena. These discussions have been ongoing. It got to a certain point of agreement, but this was not now acceptable to the Trustees of Manx National Heritage. That is a point of view that I respect but others have different points of view, and I believe this hon. House today can make the decision as to which way forward they support. I think it is a pity that the division is there, because I believe this Bill is a very important Bill for the future. I think it is entirely logical in its approach and we are, I fully appreciate, all after the same end to a situation which is to create a system which will benefit generations into the future, and it is the decision of this House, which I believe can be taken today, that can set that future for those generations, and I feel as though this is a rear-guard action that the hon. member is fighting, the hon. member for Ramsey, Mr Singer, and that the ultimate idea behind it is to delay the Bill, and I do not think that is really necessary. If I thought some fruitful developments could come from a committee then I would support that, but I do not believe that any new issues would arise. I think the issues are in front of this House.

The Speaker: Hon. members, the motion before the House is that clause 3 and subsequent clauses be referred to a committee of three members. Will those in favour please say aye; against, no. The noes have it. The noes have it.

Two Members: Divide.

The Speaker: Too late for the division. In that case, hon. members, we continue with our debate on clause 3 and the amendments. Does any other member wish to speak? In that case, hon. members, we deal with the amendment, as I indicated, in the name of Mr Shimmin and I propose first to deal with the amendment on the second page. It is actually headed 'Clause 8 and schedule 1'. Do you wish to reply to the amendment, sir?

Mr Shimmin: Very briefly, Mr Speaker, I would only say that as on your guidance, and I believe correctly, you have split my amendments in two to be taken separately, the first part referring to clause 3 as the second and, Mr Rodan has stated, mirrors in a number of intentions that moved by the hon. Mr Corkill. However, the one we are going to vote upon first is a more fundamental one and can be taken as separate and it gives the authority rather than the Council of Ministers to actually have the concurrence of the Speaker. So I would ask you to support in particular the second part if you feel you cannot agree with the earlier amendment.

The Speaker: With the same right to the hon. member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker. I have got nothing to add to the content of the amendment in my name.

The Speaker: Does the hon. member for Glenfaba wish to reply to the debate?

Mr Gilbey: Yes, please, Mr Speaker. Regarding the hon. Treasury minister's amendment, as has been said, this was put in after a great deal of consideration to cover the very good principles made by the hon. member for West Douglas, Mr Shimmin, and the hon. member for Garff, Mr Rodan. The whole idea was to cover the very good points of principle that they have made, and I honestly think, if you look at it, you will see the drafting of it is much more concise altogether rather than being spread out all through the Bill. It is much clearer what is intended and how it should operate. The hon. member Mr Shimmin says the idea is to differentiate between parliamentary records and others, and that is exactly what the hon. Treasury minister's amendment does in very clear language.

Regarding the point of adding the words 'counsel for the Speaker' which are not in the Treasury minister's amendment, that is covered because a Counsel to the Speaker is obviously an officer of the Keys so he is automatically covered and there is no need to mention this title twice. Regarding joint committees, they are again clearly covered by the hon. Treasury minister's amendment. It says this quite clearly in it.

The next point is that the hon. member for Garff, Mr Rodan, wanted a clarification on the records in the custody of the Lieutenant-Governor, and he referred to paragraph 7 and how did that affect paragraph 3. Well, of course paragraph 7 sets out the position which the hon. member referred to himself, that an order under it, which is an order by the Council of Ministers to extend the definitions, cannot apply to anything falling within paragraph 3(3) or (4), (a) or (b). That is perfectly clear and (4)(a) or (b) are records in the custody of the Lieutenant Governor immediately before the commencement of this Act or created after the commencement of this Act. Clause 3(3) is records relating to the Royal Family, which obviously of a very special and particular category.

When he asks about guidelines, well, the guidelines are those in respect of the Royal Family and all the others, and I should stress that when we talk about the Governor's records

we are not talking about those that were in the wedding cake next door to us; those are already in government possession, and we have probably got them in the records office already. We are talking about any that may be in Government House and it seems to me the best way to deal with these is to talk to the Lieutenant-Governor, and the Treasury have undertaken that they will do this with a view to getting him to release to the public records office as many as possible.

I hope that hon. members will agree to this clause standing part of the Bill with schedule, 1 and I hope to it they will add the Treasury minister's amendment because I am absolutely certain that it covers the points made by the hon. member for West Douglas and the hon. member for Garff in principle but sets it out in a neater and easier way to follow than the amendments by the hon. member for West Douglas.

The Speaker: Hon. members, taking then Mr Shimmin's amendment first, on the second of his two circulated papers, in schedule 1, paragraph 2(2) after 'records' insert 'the President of Tynwald, the Speaker.' Taking the amendment to schedule 1 in the name of Mr Shimmin first, will those in favour please say aye; against, no. The noes have it. The noes have it.

Then taking the first part of Mr Shimmin's amendment, amendment to clause 3, page 5, lines 3 to 5, 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 Cannan, Rodan, Henderson, Mrs Cannell, Messrs Shimmin, Singer and the Speaker - 7

Against: Messrs Gilbey, Quine, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Cretney, Braidwood, Mrs Hannan, Messrs Bell, Karran, Corkill, Cannell and Gelling - 14

The Speaker: Hon. members, the amendment fails, with 14 votes cast against and 7 votes cast for. We then turn to the amendment as moved by Mr Corkill and circulated to you on his sheet of paper. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 3, then, hon. members, as amended. 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, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Henderson, Cretney, Braidwood, Mrs Cannell, Mr Shimmin, Mrs Hannan, Messrs Singer, Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 21

Against: None

The Speaker: I think, hon. members, we have unanimity with 21 votes being cast for, so clause 3 and the schedule then stand part of the Bill. We turn then to clause 4. I call upon the hon. member for Glenfaba.

Mr Gilbey: Mr Speaker, clause 4 provides for public access to public records more than 30 years old in the public records office.

Sub-clause (1) imposes a general duty on the Chief Registrar to arrange for public records in the Record Office to be available for inspection and copying by the public. This is

subject to restrictions below, i.e. the 30-year rule in sub-clause (2) and any other statutory restriction.

Sub-clause (2) provides that inspection is not available where the prescribed period, usually 30 years, has not elapsed since the record was created except where they are open to inspection before this Bill comes into force or before they were transferred or where they were transferred from the General Registry under clause 6(1).

Sub-clause (3) requires the appropriate person to notify the Chief Registrar if any records within sub-clause (2) contain confidential information, i.e. medical records. In that case, sub-clause (4) will apply, which provides that where the Chief Registrar receives a notification under sub-clause (3) he is not to allow public access even after the prescribed period, except on conditions or after a further period laid down by the Council of Ministers.

Sub-clause (5) enables the Chief Registrar to give reasonable directions requiring or restricting access to public records kept in the Manx Museum or a designated office, to ensure that the same rules apply to them as to those in the public records office.

Sub-clause (6) enables the Manx Museum or Record Office objecting to a direction under sub-clause (5), on the grounds that it is unreasonable, to appeal to the Council of Ministers.

Sub-clause (7) makes a general saving for fragile records, enabling the Chief Registrar to restrict access to prevent damage to them but requiring him to provide access to copies if possible.

Sub-clause (8) enables the Chief Registrar to allow access within the 30-year period or any other prescribed period with the permission of an appropriate official.

Sub-clause (9) provides that public access is not to be allowed where there is a statutory restriction against disclosure. Also there is a saving for the power of the Manx Museum to fix its own opening hours subject to Tynwald approval.

Sub-clause (10) defines the appropriate person referred to in sub-clause (3). He is the person responsible by whom the records were transferred under clause 3 or, in the case of records not transferred under clause 3, the person who transferred them, or if he no longer exists, the Chief Secretary. It also defines the prescribed period during which records are not available for inspection. It is usually 30 years from the end of the year when the records were created, but the Council of Ministers may, by order, alter the period either generally or in respect of any particular classes of records, and I stress that such an order will require Tynwald approval. I beg to move that clause 4 stand part of the Bill.

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

The Speaker: Hon. member for Garff, do you wish to move your amendment, sir?

Mr Rodan: Mr Speaker, I am happy to withdraw my amendment in view of the decision on clause 3.

The Speaker: The hon. member for Douglas West, Mr Shimmin?

Mr Shimmin: Likewise, Mr Speaker.

Mrs Cannell: Mr Speaker, could I just ask the mover for some clarification in relation to this particular clause, more particularly, sub-clauses (7) and (8) on page 6, where it indicates

that the Chief Registrar shall, if possible, make copies of certain records available for inspection by the public? Is my reading of this correct in that as well as the registrar who may or who shall if possible, but equally he shall not if he deems that appropriate as well? I would have thought that if certain documents were of an age or of a condition where, if they were handled by members of the public, it would render them useless, then it would become a natural alternative to have copied them anyway so that they were available for the public during the course of any kind of study or research work, but I am a little unsure that the Chief Registrar 'shall, if possible, make copies' perhaps leaves it a little bit open where we might have a situation where the Chief Registrar shall not make copies available for the public. So I would like some clarification on that, whether or not a member of the public can expect a copy of a particular document to be made, and is it reasonable for that person to be refused such a copy under this particular section?

Equally, in sub-clause 8 with regard to the special authority that needs to be obtained and given by an officer of a department or other body, being an officer appearing to the Chief Registrar as qualified to give such authority, how will that impinge on the public having access to such records? Will they have to obtain special permission or is this just in relation to those records which would not normally become available for the public to study? I think I am making the point here that on numerous occasions I have had cause to go into the registry to undertake some research work in relation to a matter sometimes before this House, and on the odd occasion I have been in and I have been asked to leave because the registrar has had to conduct a wedding and I have been told that I can only return two, two-and-a-half hours later to finish my study and my research, and so, that being the present case, I am little concerned that on top of that a member such as myself or indeed any other hon. member within this House may have to gain special authority before going in to see particular records for research purposes and so, although the bones of the Bill are good in that they make access to the public records which we have not had before, I am a little concerned that it may be a little too restrictive. Thank you.

The Speaker: I call upon the hon. member for Glenfaba to reply.

Mr Gilbey: Well, Mr Speaker, regarding sub-clause (7), the hon. member for East Douglas says if possible why shouldn't he have to do it, why doesn't it say he shall do it? Well, I can think of very good reasons. For example, he might not actually have it at the time. It might have been lent to the museum or another body for display; it might be under repair. I suppose there is a case even that it could be so fragile that it cannot even be copied, and therefore I think it is perfectly reasonable, as it is written, myself, and I think we have got to remember in all of this, as I tried to point out several times, the whole *raison d'être* of the public records officer is to make records available to people. There you have an officer whose whole job, whose whole interest is to make these things available. After all, there is no point in keeping all these records shut away as if they were in a sort of Scrooge's house if no one is going to see them. The public records officer and his staff want people to come, want people to look at them.

Regarding the question of the hon. member being turned out of the wedding room, frankly that does not seem to me to be part of what we are discussing. The records there are still in a section of government, have not gone to the public records office. When records do go to the public records office they are and will be available for inspection. As I have seen

myself, there is a room at the present temporary situation where they can be viewed and, as I said earlier this morning, the intention is, when there is a move to a new public records office there will be even better facilities for people to see them, including the fact that they will be available one evening a week at least so working people can visit them in the evening.

The further point was regarding sub-clause (8). I do not think there is anything difficult in that. I think it is saying that if an officer of a department or another body agrees to a record being made available or wants that record to be available, notwithstanding that the 30-year period has not been reached . . . , so I see it as a positive sub-clause and not as anything that will impede inspection of the records. But I do keep stressing that I am certain the whole raison d'être is not only to keep these records but to enable people to see them, and there will be very few relating to individuals and their private affairs that are not available. So I beg to move that clause 4 stand part of the Bill.

The Speaker: Hon. members, the motion is that clause 4 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 5, sir.

Mr Gilbey: Mr Speaker, clause 5 is a rather simpler and shorter clause which provides for the evidential value in legal proceedings of public records and certified copies of them. I beg to move that clause 5 stand part of the Bill.

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

The Speaker: Hon. members, the motion is that clause 5 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 6, sir.

Mr Gilbey: Clause 6, Mr Speaker, gives power to transfer records to the Record Office from any other division of the General Registry. I beg to move that clause 6 stand part of the Bill.

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

The Speaker: The motion is, hon. members, that clause 6 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 7, sir.

Mr Gilbey: Clause 7, Mr Speaker, gives the Chief Registrar power to destroy or dispose of records in the Record Office if they are duplicated or there is some special reason why they should not be kept. This does not apply to company records, to which special provisions apply. Mr Speaker, I beg to move that clause 7 stand part of the Bill.

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

Mrs Cannell: Mr Speaker, again I would seek some assurance and clarification from the hon. mover in relation to clause 7(1)(b). But of course at first it says: 'If, as respects any public records in the Record Office, it appears to the Chief Registrar' that - and I am looking particularly at (b) - 'there is some other special reason why they' - the records - 'should not be permanently preserved,'. Could I ask him for examples of something which would fall. . . or what type of record would fall under not requiring to be permanently preserved? And in reaching such a decision, is there any regard for the Chief Registrar to, say, consult Manx National Heritage in respect of the particular item? Or, if it is in relation to a private matter or family matter, is there any presumption on the registrar to seek or to publish the fact that they

are about to be destroyed as opposed to preserved? I would like some reassurance from the hon. mover in relation to this.

The Speaker: The hon. member to reply. Mr Gilbey.

Mr Gilbey: Well, Mr Speaker, it should rarely be necessary to destroy records previously selected for preservation, but provision must be made for this because if there was no provision, it could not be done if anyone wanted to do it without new primary legislation, which would be a very complicated way of doing it. It is the requirement for the approval of the department concerned which is a safeguard, and if the records are already in the museum, the museum's approval would also be required under this clause. I cannot specifically now think of reasons for doing this but, as in so many things, if you restrict yourself to putting down reasons, you may never come to the reason which is actually the one that prompts you to want to do something. I am, again, totally convinced myself that the records officer who would be in charge of this to start with is the last person who is going to throw out records if they are of any value. You must remember the present records officer who is sitting at the bar of this hon. House has spent eight years in the Manx Museum; she is a trained archivist. I think we must have faith in our staff that they are not going to throw out things. Furthermore, if it came to anyone's notice that things were being thrown out, then this can always be raised because we must remember that all this is, quite rightly, under the overall control of the Council of Ministers who are responsible to the legislature. Mr Speaker, I beg to move that clause 7 stand part of the Bill.

Mrs Cannell: Mr Speaker, a point of order. I did ask the hon. mover, given the wording within this particular clause relates to other special reason, if he could explain what that reason might be.

The Speaker: The hon. member has replied and the hon. member can reply in such manner as he wishes.

Hon. members, the motion is that clause 7 stand part of the Bill. 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, North, Sir Miles Walker, Mrs Crowe, Messrs Houghton, Henderson, Cretney, Braidwood, Shimmin, Mrs Hannan, Messrs Singer, Bell, Corkill, Cannell, Gelling and the Speaker - 19

Against: Mrs Cannell - 1

The Speaker: Hon. members, the clause 7 passes with 19 votes cast for, 1 vote being cast against.

Hon. members, perhaps now we could take the remaining two clauses and the outstanding schedules 2 and 3. So that would be clause 8, clause 9 and the two schedules. Hon. member for Glenfaba.

Mr Gilbey: Yes, Mr Speaker. Before doing so, I am sorry if the hon. member was not satisfied with my answer. I did say I actually did not know of any reason myself but I tried to give the reasons why I thought it was appropriate to have this in the Bill. But turning now, as you say, to clause 8, this defines terms used in the Bill.

And turning to clause 9, this contains supplementary and transitional provisions.

Sub-clause (1) gives the Bill its title.

Sub-clause (2) provides for the Bill to come into force on an appointed day or days to be decided by the Council of Ministers.

Sub-clause (3) enables an appointed day order to give the Chief Registrar power to phase in public access to specify classes of records. This is to make sure that things are ready for people when they come to see the records.

Sub-clause (4) requires Tynwald approval to any order under the Bill except an appointed day order under (2).

Sub-clause (5) makes consequential amendments that are set out in schedule 2.

Sub-clause (6) repeals the enactments specified in schedule 3 which provide for the transfer of deeds, probates and dissolved company records to the Manx Museum and are superseded by clause 6 (1), which we have already agreed.

Mr Speaker, I beg to move that clauses 8 and 9 and schedules 2 and 3 stand part of the Bill.

Mr Corkill: Mr Speaker, I wish to second.

Mr Rodan: Mr Speaker, at the second reading stage one hon. member - I think it may have been the hon. member for Onchan, Mr Cannell - did raise in relation to clause 8(2) the fact that where records created at different dates are for administrative purposes kept together in one file, all the records in that file shall be treated for the purposes of the Act as having been created when the latest of them was created. I wonder if the hon. mover could give further comment on this, because it does seem to me that one could have a permanent ongoing file that would in fact, in practice, never be classed as a public record from the fact that it was continually being added to and, if this is the case and there are such files that will never be released, it seems highly undesirable. Again, what sort of protocols or guidance would be in place? This may well have been covered at the seminar which was held and which I do regret I was unable to attend and I had sent my apologies. Nonetheless, even if it was covered then, it is important for the parliamentary record that the intent of the mover is made clear.

The Speaker: The hon. member for Glenfaba to reply.

Mr Gilbey: It is a very good point, Mr Speaker, that the hon. member has raised and it is one that was brought up by the hon. member for Onchan, Mr Cannell, who kindly came to the seminar or discussion and I think was satisfied by it, by what was explained. Basically it is that these records are going to be, to start with for the first 25 years, in departments or boards of government. Now, frankly I cannot think of many civil servants who want to keep adding to files and keeping them just for the sake of it. Year after year, most of them are keen to get rid of their files, and I am sure in many cases files will be transferred to the public records office well before the lapse of 25 years. Now, it is suggested that some nefarious persons, either politicians or civil servants, might have the idea, 'Well, we want to keep this secret, so we will keep adding to it every year.' Now, frankly I do not think the people we have in the Civil Service or, I hope, people sitting in the legislature behave like this. And again I am most

indebted to the hon. Secretary to the House for pointing out that the Chief Registrar is in any case responsible for guiding, co-ordinating and supervising all action taken under section 3, which is the 'Selection and preservation of public records', and in particular for determining the place of deposit of any records to be permanently preserved. So he will be seeing what departments are doing. So I honestly do not think this is a danger, but again fortunately this Bill and everything in it except for the parliamentary records comes under the control of the Council of Ministers, and I am sure that if anyone had reason to believe that such an unfortunate practice was going on, if it was raised with the Council of Ministers, they would have it looked into. Although before that, I am quite sure that the Chief Registrar and the public records office would examine any complaint that such a thing was happening.

So I honestly do not think it is likely and I think there is another thing that may help to ensure this will not happen: the sub-clause 3(2), to which the learned Secretary has drawn my attention, actually has a wider ambit in that, in this day of electronic records, the public records office will be discussing with departments how they keep their records, with a view to ensuring that electronic records that are of importance to the future are themselves preserved. So I personally am confident that this suggested abuse will not arise. Mr Speaker, I would like to thank the House for approving the Bill and their support in getting it through, and I beg to move that the two final clauses, numbers 8 and 9, stand part of the Bill.

The Speaker: Hon. members, the motion is that clauses 8 and 9 and schedules 2 and 3 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, that concludes our deliberation of the clauses stage of the Public Records Bill and in fact draws to conclusion our order paper for this morning. The House will now stand adjourned till Tuesday next, 16th March, at 10.30 a.m. in Tynwald Court. Thank you, hon. members.