

**REPORT OF PROCEEDINGS OF
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 23rd November 1999
at 10.30 a.m.**

Present:

The President (the Hon Sir Charles Kerruish OBE LLD (hc) CP), the Lord Bishop (the Rt Rev Noël Debroy Jones), the Attorney-General (Mr W J H Corlett QC), Hon C M Christian, Messrs E A Crowe, D F K Delaney, E G Lowey, Dr E J Mann, Messrs J N Radcliffe and G H Waft, with Mr T A Bawden, Clerk of the Council.

The Lord Bishop took the prayers.

Apologies for Absence

The President: Hon. members, we have apologies for absence from the hon. Mr Kniveton, who is making good progress and hopes to be with us at the next sitting.

Fibre Optic Cable – Installation – Question by Mr Waft

The President: Now, turning to our agenda paper, I call upon the hon. Mr Waft, at item 1, to ask the question standing in his name.

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

What action has been taken, or is to be taken, by government to ensure that installation of a fibre optic cable between the Island and the United Kingdom will lead to the lessor encouraging a competitive environment to the benefit of the people of the Island?

The President: The hon. member of the Council of Ministers, Mrs Christian, to reply.

Mrs Christian: Mr President, the fibre optic cable referred to by the hon. member is to be laid as part of the project, the installation of the electricity interconnector between the United Kingdom and the Island. I am advised that it has been agreed with the Manx Cable Company, which is undertaking the project, that the fibre optic cable will be leased to government. It will then be for government to determine who will have access to the cable and the use to which it is to be put.

Mr Waft: A supplementary, Mr President. Would the minister agree with me that the information superhighway must be available to all within a realistic time frame and, more importantly, within their income, and competition is the best way to achieve this?

Mrs Christian: I would agree with the hon. member that those are all admirable aims and objectives.

Mr Waft: And the Council of Ministers may take those comments on board, I take it?

Mrs Christian: Yes, Mr President, the Council does recognise the strategic importance of the fibre optic cable given the way technology is moving and the requirement for the Island to be up to date in this area in allowing commerce and other developments to go forward, and obviously are anxious to make sure that that is controlled by government so that there is a level playing field and indeed to get it operational as soon as is practicable.

Mr Waft: Thank you, Mr President.

Douglas Head Bill – First Reading Approved

The President: Hon. members, we move on then to item 2, and that is the Douglas Head Bill which is for first reading, and I call upon the hon. Mr Delaney.

Mr Delaney: Mr President, I beg leave to move the first reading of the Douglas Head Bill 1999.

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

The President: Does any hon. member wish to speak to the first reading? The hon. Mr Lowey.

Mr Lowey: Could I ask, Mr President, is the Douglas Head Bill related in any way to the question that was raised by my hon. friend, Mr Waft, this morning regarding cables? Is this to give leeway for a cable to be laid and therefore its importance is even more heightened?

Mr Delaney: Initially it was, of course, but then subsequent meetings between different parties came to the agreement that it was to be laid anyhow over land which might encroach on the map which had been produced for members, but now it is more that the intention of the Bill is to clarify many of the things which seem to be outstanding because of that time factor and the mists of time, and this is to make it clear exactly what the position is in relation to lands round the Douglas Head area.

The President: Hon. members, I will put the resolution that the Douglas Head Bill be now read a first time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Companies (Transfer of Functions) Bill – First Reading Approved

The President: Item 3, the hon. Mr Radcliffe to take the first reading of the Companies (Transfer of Functions) Bill.

Mr Radcliffe: Thank you, Mr President. This Bill comes about as the result of a decision of the Council of Ministers, who proposed that responsibility for the companies registry should be transferred to the Financial Supervision Commission as soon as is practicable. The Bill encompasses centralising all matters relating to the regulation of companies to go to the Financial Supervision Commission. It is hoped that such a move will lead to a more effective system of developing, monitoring and enforcing company law in the Isle of Man and certainly a system and process of supervising corporate service providers. This is, of course, extremely important in a jurisdiction like ours where one of our major activities is corporate administration.

The effect of the Bill is to transfer to the commission the functions of the Chief Registrar with regard to companies, business names, limited partnerships, building societies and credit unions. As a result of this transfer of functions certain other functions currently carried out by the Treasury, the Clerk of the Rolls and the deemsters which relate to the supervision of companies are all to be transferred to the Financial Supervision Commission in order that as far as possible the administration and enforcement of the transferred functions will be controlled by the commission.

I think it is important to state in regard to this Bill that there are no new functions suggested by the Bill, merely a transfer of existing functions, and the aim of all this is to try to improve the effectiveness with which we administer our company laws.

I beg to move, sir, that the Companies (Transfer of Functions) Bill be read a first time.

Mr Crowe: I beg to second, Mr President. Can I just ask: as a lot of the functions are going to be moved from the Chief Registrar to the Financial Supervision Commission how will the role of the Chief Registrar in the future shape out? What effect will this have on the Chief Registrar's role and her future responsibilities?

Mr Lowey: Following on from that remark and much more importantly, how is the FSC going to do all these new roles? Whenever I have been to the FSC I am always told how busy they are, how overworked and stretched they are with the resources they have got, and here we are putting a very large amount of our corporate business into the hands of the FSC. Now, which designated official in the FSC is going to become the new registrar? Is the manpower being transferred from the registry to the FSC? In other words, the practicalities. It is all right making the announcements that you are going to regulate them and we all know that they need to be regulated and we all know that it is a sensitive area of our growing business and yet I do not see any effort being made to reassure the investing public as to how their interests are going to be better improved by the FSC taking this on.

Dr Mann: Mr President, I have a similar comment. How does just transferring the functions without any alteration, as you say, but just transferring the functions from one part of government to another - how are we going to say that that improves their function? Is it that the Financial Supervision Commission has more legal powers than the present Government Office structure? Does that mean that, once it is transferred, nobody can take a legal action against the FSC or what it does subsequently?

Mr Delaney: Mine is just a small query. It is more or less to do with something I was researching recently. The Limited Liability Companies Bill - it is an old hat, if you want, and it has been juggled about a number of times, but one of the concerns I expressed many times when I was a member of the other place, Mr President, was, you are register limited liability companies, they come and they seem to go leaving debts and disaster to a lot of ordinary people, and one of the things I was trying to get at in this Bill, which I tell is not suitable for this Bill, is the fact that in relation to the directors of companies who are off the Island there is no check which seems to be done, or maybe the mover can tell me, on whether they actually exist or not as to whether that person is a real person. Who polices these companies to make sure that these people exist and have some responsibility for the actions of the company?

The President: Reply, hon. member?

Mr Radcliffe: Thank you, Mr President. If I can take the comments in order, in answer to the hon. member Mr Crowe the Chief Registrar will still have many other responsibilities. I think the companies and other functions of a like order, a part of the workload of the Chief Registrar - certainly the Chief Registrar will not be sitting back and doing nothing when this transfer takes place; there are plenty of other duties which will keep her fully employed in the registry.

The hon. Mr Lowey was wondering about how the Financial Supervision Commission will deal with the extra and additional work, but the fact is that staff are being transferred and have been transferred from the General Registry to the Financial Supervision Commission. So the expertise will travel across from one department to another. There will be no deterioration of expertise in dealing with companies. The staff who have dealt with them in the past will still be dealing with them in the future. It is a transfer from General Registry to Financial Supervision Commission of staff.

The hon. Dr Mann was much on the same tack, I think. The Financial Supervision Commission will now have control of all aspects of company law under the one roof, and this is a result, of course, of the review which took place a year-and-a-half, two years ago. It is better to have everything under the one roof so that it is easier managed, there is not duplication of effort and neither is there any loss of information from one department, if you like to call it that, to another.

As far as legal remedies go, those will still all be there. As I said, there is nothing new or nothing left out in this Bill, which is not already currently in law anyway. The hon. member Mr Delaney - 'companies come and go' - the checks do exist as to whether people are suitable, that they are there when their names are on the company register and all the legal remedies that are available to us are used to ensure that people are fit and proper and actually there to deal with companies.

Mr Delaney: Who does that, Mr President?

Mr Radcliffe: Well, when the transfer of functions takes place or which is taking place, that will make it a lot easier with the various tentacles that the Financial Supervision Commission has in various parts of the world.

Mr Delaney: A lot of it is transfer of functions -

The President: Hon. member, you are posing questions in respect of the Bill at the first reading, you understand. Have you concluded your . . . ?

Mr Radcliffe: I have indeed, sir. I beg to move the Bill be read a first time.

The President: Hon. members, the resolution is that the Companies (Transfer of Functions) Bill of 1999 be now read a first time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Villa Marina Bill – First Reading Approved

The President: We turn next to item 4, the Villa Marina Bill, and I call upon the hon. Mr Crowe to take the first reading.

Mr Crowe: Thank you, Mr President. This Bill is to vest the Villa Marina complex in the Isle of Man Government in accordance with the resolution of Tynwald dated 18th of May 1999. The land affected is described in the Bill and shown on a map which has been deposited in the General Registry.

Clause 1 vests the Villa Marina, defined in schedule 1, in the Department of Tourism and Leisure. It also provides for the transfer of staff in accordance with schedule 2.

Clause 2 requires Tynwald approval to any disposal of the Villa Marina and precludes any change of use while it belongs to the Department of Tourism and Leisure. In addition, no permanent building should be erected on any part of the Villa Marina without the approval of Tynwald.

Clause 3 provides for the payment to Douglas Corporation of compensation for the acquisition of the Villa Marina.

Clause 4 transfers licences in respect of the Villa Marina, and Clause 5 is supplemental.

Mr President, I beg to move the first reading of the Villa Marina Bill 1999.

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

The President: Does any hon. member wish to speak to this reading? If not, I will put the resolution that the Villa Marina Bill be now read a first time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Constitution Bill – Second Reading Approved – Clauses Considered

The President: We turn next, hon. members, to item 5 on the agenda, the Constitution Bill, and I call upon the hon. Mr Lowey to take the second reading.

Mr Lowey: Thank you, Mr President. Hon. members, in moving the second reading of the Constitution Bill 1999 it would be remiss of me if I did not comment on the media's and others' interpretation of the context and effect and timing this proposed Bill will have.

It has been interpreted wrongly that this legislation will delay a reform of this House. It probably will not; the reverse is true. It was introduced deliberately to circumvent discussion, it is alleged, on the subject of direct elections to this House. Again, that was not true. We started our discussion on these matters in March 1998. We have accepted the principle of direct elections, so why should we debate a resolution that both houses of parliament have agreed with? This Bill produces a framework for this to be implemented in a practical and effective way and, I repeat, speedily. It should also be pointed out that the other House has already debated this issue within the past month twice, once in accepting a report of their own standing committee and also at Question Time two weeks later, so the subject has been very well aired. This Bill gives a form and substance to its main recommendations of that select committee - as it so happens, albeit via another route, but the result is exactly the same.

Now, I would as a democrat be suspicious of a government-sponsored Constitution Bill. This Council as an integral part of the parliamentary process is better suited to initiate and put flesh onto the bones of proposals that are designed to redesign the parliamentary machine. Parliaments are there to hold the government and executive to account, and some members in another place and the media, it would appear, place greater credence on talking about issues; this House firmly believes in making things happen, in effect to do, and if we are guilty of that I am quite happy to plead guilty. Our desire is to see these very important issues progress quickly, and again I spelt out last week at the first reading why we should do that, and amongst those was that because of the elections to the Council next February fast approaching we wanted to have these issues expedited and put to the fore. Hon. members will recall the October Tynwald being told that the legislative programme for this parliamentary session was already crammed and it was impossible to bring forward a Redundancy Bill

before next June. So much for the delay that is alleged that this Council has inflicted on proceedings!

Now, I venture to suggest that this Bill addresses the areas of concern in a focused way and is an effective, pragmatic approach and is worthy of support on merit, not condemned just because it flows from this Council. The constitution is important and it is a bit like your own personal health: you do not miss it until you have lost it. This Island is envied and admired by most of the outside world and it is vital that we retain that external perception. If it is not the most important marketing tool the Island has, it features in the top two or three. Law-making, sound governance, is a prerequisite for a stable successful economy.

Now, I would invite your indulgence and the House's indulgence, because it is rare if not unique for me personally to react to anonymous comment and even more rare and unique when it is the media. However, one has to respond when two of our national newspapers, in particular the editorial column, purport to report this House, its actions, its motives, its membership with such ill-informed, totally inaccurate and fatuous comment and dresses it up as informed journalism, as was reported in the *Manx Independent* of last Friday and continued this morning in the *Isle of Man Examiner*. This House and I can deal with opposing points of view; it is our trade. What makes the editorial of the *Manx Independent* of Friday the 19th worthy of my response is its total lack of basic political acumen, banal headline-seeking and lack of elementary political research.

Firstly, the Legislative Council is portrayed as political novices, non-representative, almost illegitimate politically because we are not directly elected. Well, I would remind the press and others in the media that we operate a system that has been approved by both branches of parliament. That is the system that has evolved and we operate it as effectively as we can. I could illustrate our input into that evolutionary process and the contribution of consecutive Legislative Councils in the legislative programme and in Tynwald Court and elsewhere, besides which every member of this Court has faced the electorate, with the exception of the learned Attorney and my Lord Bishop who are here in historical roles and one in a working mode, professionally that is - that is the Attorney-General - but everyone else has been a senior member before the electorate many times and has been at the top of the electoral process on too numerous occasions for me to recall, and if I can be personal, when I last faced the electorate in 1981 I received over 3,800 votes. That has never been approached by any existing member of the Keys or anybody else for the last 40 years, so I believe my legitimacy and the legitimacy of the members of this House stands examination.

The Legislative Council was charged in the editorial that we only came into this process a fortnight ago or just after the House of Keys had introduced their standing order report. I would remind the media that this Council actually first took up this position of looking at the constitution on 31st March 1998. So much for a fortnight's consideration! Far from being, again, alleged Machiavellian and delaying legislation, our Bill will enable the Keys to enact at first hand, not to talk about the principle but to actually deal with the subject before them. The alternative, of course - and this is where the papers are palpably at fault - would be that we must wait until the end of the parliamentary session to see if we can fit it in after June. The House of Keys rises at the end of June so we would not get it for over nearly 18 months. Our Bill if it is passed at clauses stage and second reading and third reading, will be before them in a month. There are the practical realities of our actions.

The Bill, as I said, will give the Keys the earliest opportunity to take part in this debate. Obviously the editorial writer did not even bother to read the Legislative Council's agenda, because that was printed last Wednesday; it was alleged in the article that the members of the Keys and the press only knew of it at 10 o'clock on the morning of Tuesday of last Tynwald. Of course, our agenda was published on Wednesday, as is the usual practice and timing, and so therefore was not a secret until 10 o'clock on Tuesday Tynwald.

Now, when they set themselves up as arbiters of standing orders of Tynwald I am a little concerned and, as a matter of fact, the standing orders are there for the conduct of the Court and are based on precedent and practice. I suppose the editorial writer has availed him or herself of a copy of standing orders. I could easily have circumscribed debate on various grounds, one being that we can only quote from documents that have actually been distributed to all members of Tynwald. Obviously the report of the House of Keys has not been circulated to all members.

As I said - I do not want to be churlish or put unwarranted innuendo - I have to defend the President of Tynwald's role when his decision to act the way he acted is sniped at from outside. Far from Mr President playing a Machiavellian role, the President undertook his duty seriously and he does so with authority, skill and maturity, and he is second to none in the Commonwealth or whatever democratic parliamentary practice is the order of the day. The editorial writer's interpretation of our standing orders - and I am a member of the Standing Orders Committee of Tynwald - does not provide the pat answer as suggested in its third from last paragraph, that somehow a matter can be brought back next month and be debated.

Perhaps the giveaway to the true meaning of the article is its belief that no-one other than the elected House could or should introduce reform to the Manx constitution. That, I think, is palpably at variance with the existing constitution and does not bear elementary examination. To carry the headline motive to its nth degree and to its end, I would say - and taking the schoolboy acting as school kids motive - could I give a schoolmaster's report? 'The student could do better. Homework, obviously lacking. Facts not researched. The alternatives on offer not researched', but life must go on, even political life, and I believe that this Council, in producing the Constitution Bill, has served the political scene well and this Bill, when it is received in another place, will at least focus minds on the matters that are before us and, if their main aim is to make this a popularly elected democratic chamber, then they have the very vehicle to do it and do it speedily. Going their route we would still be talking about it running up to the next general election in 2001. I call that progress not to be decried or denied.

Mr President, I beg to move the second reading of the Constitution Bill 1999.

Mrs Christian: I beg to second, Mr President. I think, in considering the second reading, the hon. member has expressed his disquiet about the way in which the actions of the Council have been portrayed, and I would endorse and agree with him that it is unfortunate, it is sad, that the actions of the Council have been portrayed in the way that they have. Clearly the view of the people is that they would like to see this chamber directly elected. The whole of the membership of Tynwald, it would appear, is in agreement with that principle. It is difficult to understand, then, why we as a part of that parliamentary assembly for some reason or other are not recognised as having any authority in the matter, particularly when it directly affects this chamber, and for some reason or other any proposals we may seek to put forward have a veil of unacceptability cast across them.

In progressing this particular measure through the Council I know it has had serious consideration. It has been considered in terms of how best we might provide for direct election with a view to continuing stability within the structure of Tynwald in the Island, it has been considered in the light of seeking not to have too much disruption of existing constituency boundaries and it seeks also, I think, to recognise the traditional roles which have been played by the Attorney-General and the Lord Bishop on the Council. It presents the parliamentary body with an opportunity of bringing about what it is believed the electorate want with the least side-effects. Now, it may be, when we have considered it and it moves to another place that they may see changes which they would wish to bring about in terms of its detail. That, of course, is their prerogative. What I do believe is that it has as much right to move down to another chamber as alternative proposals, given that the consideration in another place was fairly evenly divided between the membership in that place.

But perhaps we should not this morning be focusing on what may happen to it in another place but present it to Council and to the people as a legitimate thought-out mechanism for providing for an elected second chamber in Tynwald whose powers and authorities are not changed, except that the people who sit here will have the backing of the electorate, and I think that that is a sensible first move. We frequently find, when you seek to make constitutional change, that unless you do it in small steps at a time you create so much uncertainty in other areas that it is very difficult to come to any conclusion. I would suggest that in supporting this second reading of this particular Bill we are taking a sensible first step. This is an evolutionary process and as such I would certainly support the second reading of this Bill as a balanced and sensible first step, Mr President.

Mr Delaney: Mr President, having got back from some government business away on Sunday, I always, as all hon. members, I would imagine, do, look at the local press to find out what has been happening in our patch, and I was hurt, even though in that article that appeared, because of the misinterpretation of what the actuality is.

I am on record for over 26 years as being supportive in toto of an elected Legislative Council. I am probably in the minority who can say that, and I am aware that the head of the newspaper, when a cub reporter himself, interviewed me at my first election on why I was taking the stance I have now stated, and I have taken a quarter of a century to get to this position and I welcome what has been happening, but what annoys me is the confusion between what your responsibility is in your position as the chair and President of this Council and your position after so long in politics as President of Tynwald, and no understanding from people who have been journalists sitting in these benches for years seems to exist. There is a complete difference between your position, sir, there next door and your position here, and I am going to ask the hon. member, did anybody interview him about this Bill? I would ask him to answer whether or not anybody from Manx Radio asked him the question that I thought was the important thing: will this speed up the process of trying to bring about democratic, constitutional change in the format we have at the moment with two chambers and then the Tynwald Chamber, to the floor of either chamber, to get the Bill passed? That is the sort of question we wanted, not an attack on us as being incompetents, because we are not incompetent; we may be amateurs to some extent in other fields, but after 25 years of getting my backside kicked by all sorts of people during my political life I would have thought that the people who report to the public what is going on would have spent a lot of time finding out

what this major, historic change as it is to the constitution of the Isle of Man involved and meant.

The next thing I want to talk about is the tongue-in-cheek comments about senators. I have no wish to be called a senator. I have no wish to be called anything other than a representative of the public, but what I cannot understand is the reluctance of some of our media to accept that the Isle of Man has to have a standing in the world. We have to find a word for that, for the members of this department or this section of Tynwald, and we cannot call ourselves any longer Councillors or Members of the Legislative Council because outside these shores they just do not know what that means, and this debate went on to find a suitable name.

But one thing in this Bill I am sure of: if the members of the Keys wish, when we have given them the opportunity, to change anything in here under the system, it might only be that the title comes back to us in the finish, but at least we have put the Bill to them for them to take steps to do something about it, and that has been given no credit at all from the media. They would rather wait and wait for something to happen, and I welcome, after a quarter of a century of hoping this would happen, this happening and, whether the Keys want to change it, that is up to them, but if they do we have given the vehicle in which to change it, because the Bill is now under way in this chamber.

Mr President, I think you, sir, and the members of this Council have been unfairly treated. I have never complained about any media. I have written back to the media to complain about their standing on positions that I have held which are opposite to theirs, but I have never complained about the way they have treated the members of both the Keys and this chamber, but on this occasion I am doing it because Mr Lionel Callin is a very experienced politician in local politics and he should have made sure that at least a fair balance was put out in relation to this matter, because it is so important for the Manx people, for years to come after we have all gone, that this has to be got right, and I wish to know from the mover if he was asked by the local press - and we only have one really local newspaper now, one group - to explain the implications of this Bill and the reason it was being done. Thank you, Mr President.

Mr Waft: I think, Mr President, what we are really discussing today, in the early part of the debate anyway, is the editorial balance of the media. I would defend the journalist's right to do his job to the best of his ability (**Mr Delaney:** Hear, hear.) but it is when it gets to the editorial area that either cuts are put in or the balance is weighed one way or the other, so I think we must bear that in mind when do make comments.

Going back to the Bill, my main concern is the way we are dividing up the Island, perhaps. If you could bear with me for a few moments, we have got two members in the Douglas area, getting down to the practicalities of it, who are going to have to canvass 16,935 voters, which is nearly 17,000 people; one member in East Mann will have to canvass 9,599; two members in the north will have to canvass 10,335 voters; one member in West Mann will have to canvass 6,610 voters; and in the south two members would have to have canvassed 10,644 voters; and we all know that we will have to canvass an eighth of the Island's voters as opposed to the Keys' 24th. There are already difficulties with the size of the Keys boundaries and the Boundaries Commission has had difficulties in the past trying to sort them out, and their recommendations have been rejected after all their efforts. The Island residents are used to seeing candidates personally on their doorsteps even if only at election time. This Bill

makes it less likely to happen in the future because of the practical difficulties we are including in this legislation.

Could I respectfully request perhaps as one possible alternative, for instance in the Douglas area, the constituency be divided into two, with one member for South and East Douglas with 8,274 voters and North and West with 8,661 voters, which might make a considerable difference to the canvassing of 17,000 voters. It is only practical difficulties that I see. We are expecting eight candidates to canvass 54,123 voters and we need to make this Bill as practical as possible. That is my comment. Thank you, Mr President.

The President: The hon. member to reply.

Mr Lowey: Thank you, Mr President. First of all can I thank members for their contributions and share the opening words from Mrs Christian about the sadness of the thing. I think the constitution is far too important to be arguing how many angels you can get on the end of a pin. None of us are angels and that is not what I was trying to imply. I think there has been a genuine effort by this Council to address in a practical way the constitution and to put into practice what I perceive, and I am sure Mrs Christian in her comments has perceived, is the urge for a directly elected House, and in doing that we wanted to do it quickly for the practical reasons that I have already outlined. I welcome her comments and the clear and concise way in which she put her case. I would not disagree with a syllable of it, and it is a practical, sensible, first move, and I said that when I sought leave to introduce the Bill.

Mr Delaney talks about misrepresentation, and I agree with him. What annoys me is when we are misrepresented, and let me directly answer him: no, the press did not get in touch with me at all last week and Manx Radio got in touch with me the week before when I sought leave to introduce the Bill. I actually went on to explain in the very first item, because I knew the 'Senator' title would be used and my good friend in one of the columns in the paper says 'The Manx people will not wear it, yessir.' Well, I know they will not wear it, but it is not really for ternal use: Dominic Delaney, the hon. member of the Council would still be known as Dominic Delaney to the man in the street; it will not be 'Senator Dominic', but it is for external perception. I spelt that out on the radio; I made it very clear what it was about, and why it was introduced. Again, that is a matter for the Keys. If they do not wish the title to be changed and they do not wish to carry that forward, that is a matter for them. I agree with them absolutely that the House of Keys in another place will have the perfect right to scrutinise this Bill and to introduce their flavour to it, but it will be before them. It is a working document and it will achieve what they said they want and the people require, and so therefore it is going to be before them within a month, not 18 months. So that is the practical reality. No, no member of the press wanted to interview me on the matter.

Mr Waft - I agree with him: a perfect right for the press to knock and disagree with us. As I said in my second reading speech, that is our trade, to deal with differing points of view. We are at it every day of the week and we are at it every public session of this hon. Council. It is known as objecting to the objections, but it is the misrepresentation and the repetition of those misrepresentations even when it it pointed out to them that I dislike.

As for his comment on the boundaries, as the hon. member will know when we were discussing this, we went through not just one, two, three or four options but a myriad of options: an all-Island voting pattern as opposed to individual seats, but I have no objection to

what he says about the Douglas one being a bit large and I think it could lend itself to an amendment. I am not hard and fast. I am presenting this Bill as a package, as a framework. I am a realist; I know it will be amended somewhere along the line, so I have no objection to that if they want an all-Island one, but we know what the difficulties that that would bring. We will have eight candidates for an all-Island election. I can perceive the very objection the hon. member raised about people liking to know who their candidate is and a personal visit. Having canvassed Rushen, which was one of the biggest constituencies - not the largest, the second largest numerically, maybe arguably the biggest in land mass - four times, I can assure him that they do like to see. I can remember canvassing in Grenaby and being told I was the first candidate they had seen since the late Richard Kneen in the 1920s (*Mr Delaney interjecting*), so I was welcomed. So I understand the people do like to see. I have no objection if the member or anybody else in another place would like to move an amendment to the size. I personally think the carve up of the constituencies gives us regional balance and gets the numbers right and, while the constituencies may not be perfect - what we have said with Mrs Christian when she moved - we are trying to minimise the amount of disruption. If you use the existing constituencies, we do not have boundary changes, where I believe an awful lot of problems will arise if they try to go for 32 single-seat constituencies in another place, but so be it. I am saying this Bill, on balance, is the first practical step and I would commend it to the House in that light. I beg to move the second reading, Mr President, of the Bill.

The President: Hon. members, I will now put the resolution that the Constitution Bill be now read a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Turning to the clauses, sir, clause 1.

Mr Lowey: Thank you, Mr President. Clause 1 names those who will make up the newly named Legislative Council. Sub-clause (1)(a) and (b) renames the Legislative Council to 'Senate' or 'yn Shennad' in Manx.

Sub-clause (2)(a)(b) and (c) spells out the members who would make up the Senate. We propose the retention of the Lord Bishop's seat on historical grounds, but not solely on historical grounds: we believe the Bishops over the years have added to the value of our debates and the body politic of past Tynwalds and Legislative Councils. Their deliberations on many issues are detached from what I would call political motives and address our minds to social and spiritual things and I believe it would be a sad day if the Bishop was to be removed. It would be a loss if we were to lose the wise, sound counsel of successive Bishops. Her Majesty's Attorney is also retained as present. That is done on practical grounds. He is a professional legal adviser and his advice has been immeasurable.

Sub-clause (3) re-emphasises Her Majesty's Attorney-General's non-political role.

Mr President, much merriment and fun-poking greeted the news of renaming the Legislative Council as a Senate but, as I have spelt out, externally we are perceived as a quaint relic of past imperial outposts. Members of the Legislative Council are retained in only a couple of state parliaments in Australia and in India and are strongly equated with the past colonial administrations. I think we are trying to put off that image and I believe that clause 1, in renaming us, would do just that. I beg to move clause 1 stand part of the Bill.

Mr Radcliffe: I beg to second, Mr President.

Mrs Christian: Mr President, I support clause 1. I think too it is significant that this Bill gives some recognition to a Manx name of this chamber and I think that is to be welcomed. There are some people who rather denigrate any efforts to bring any element of the Manx language back into current usage in the Island, but I think it is to be welcomed, particularly as the hon. member has indicated that the wording which is currently used for this chamber has no particular connection with the Isle of Man; it is wording which is used in other places, and we have said that we do need a word which is recognised outside the Isle of Man, but this legislation does at least recognise that 'Senate' can be recognised in our own language as well as in the English language and I think that that as a small change as a part of our statutory law is one to be welcomed.

The Lord Bishop: Since we have been discussing this over some time, as my hon. friend has said, since 1998, I have asked quite a lot of people about the position of the Bishop and the cynics seem to me to be very much outnumbered by those who see a positive response. Some will say, 'Well, it is only because you are a baron or remnants of the barony or something', which is perhaps traditionally right, but one never sits here in a baron-like position, and I think that the people I have spoken to - and I have not done it with a blinkered view - see it much more as a represented voice of a Christian representation of the people of the Island, not just a Church representation either, because Church again narrows it in some people's minds and there is a wider Christian view across the denominations which I believe is a very important element in what is, after all, a Christian Council, and until we lose that element I think we would do well to say there is a place for that here. So I just wanted to widen the scope here. It is not just the Bishop as a sort of representative of the Church; I believe it is a Christian voice for the people of the Isle of Man who percentage-wise are in the majority over the cynics.

I am also interested that the largest democracy in the world, i.e. the United States, has the words 'Senate' and 'senator' and it does not seem to upset them, so I think it is a sound word and I like the fact that we produced it in Manx. Because I am not well versed in Manx I would like to know what a 'Senator' in Manx is; if 'Senate' is 'Shennad' what is a 'Senator'? Perhaps my learned friend can tell me.

Dr Mann: I think, Mr President, we are bound to have this rather cynical approach to the title and it only takes me back to the time when we were negotiating to introduce the ministerial government. At that point enormous fun was made of the fact that suddenly we were going to have ministers and this was one of the main objections, I suppose, to trying to introduce the ministerial system of government. Luckily the branches and Tynwald of that time did not take notice of the cynical approach and, as a result, we now have a ministerial structure that is recognised both inside and outside the Island as being a major step forward. I look at this in a similar way. I can see no difficulty in accepting this situation. It certainly clarifies our position externally and, let us make no bones about it, it is the external appearance of this government and the structure of Tynwald itself that is looked at from outside very critically, and to use a title that is well established and well known is very important if we are going to make further progress externally.

Mr Delaney: Mr President, I want to follow the line of what has just been said. The fact of it is that when this Bill is eventually on the statute book I am sure I may be around but I will not be in here, so I will never be a senator, so I have no axe to grind whatever it is called. But the

fact of it is that even in your position in Tynwald I was opposed to the move to make the chairman of this branch the President, because I argued that they would need that position if they had any ambition at all to have a President of Tynwald, and I was not looked at favourably then but it has come about, because you have to have ambition for your own community and for your own standing in the world and, as the hon. member has said, 'Senate' is accepted everywhere and the idea of 'Shennad' being used here was to work with what is happening at the moment: more and more people are trying to get hold of the tradition of the Isle of Man, the Manxness of the Isle of Man, and that is why we put that in - a constructive move to help us to have an identity of our own in the world as well as having something that is recognisable in the world. So that title, as far as I am concerned, is quite appropriate.

I do not believe that even the greatest cynic can blame the Isle of Man for trying to stand up for itself. If they want to be a parish-pump sort of politician and they want to be represented by people who are not given any standing at all in the world, particularly as we move into this vastness of Europe and what is moving there, they have got to give us grounds to have an identity that people will recognise. When they are talking to other people in the world they will know that they are talking to somebody who has some little authority and 'Senator' is recognised as that. In the Bill this is the one thing that I hope the House of Keys will not alter. I believe it is a step in the right direction, I believe it gives the Isle of Man and the Manx people some stability and some character of which they can be proud in the future, and I honestly believe that it is the one thing in the Bill besides the main principle of being elected by the public that stands out, and I think that members, when it gets to the other place, should think hard, if they are thinking hard, of deleting that and leave the cynics be, let the comics out there who want to get a bit of humour at our behest get on with it, but let us think of the future of the Isle of Man, and I believe that is one part that is worthy of holding in this Bill.

Mr Waft: Mr President, I think the introduction of 'yn Shennad' in Manx for 'the Senate' certainly introduces the Manx language into another Bill and it recognises the renaissance is taking place with regard to the Manx language on the Island. I think it should be more closely followed with other Bills and where we can help with the Manx Language Society in making the Manx language more commonplace we should do so, and that should reverberate round all the departments of government. They should help in any way they can to help this renaissance along. Thank you, Mr President.

Mr Crowe: Mr President, I would just like to support clause 1. A lot of comments that I was going to make have been said already, but I would like to reaffirm my support for the composition of the Legislative Council as now stands, with the 11 members. It works, it works well, and I think it should remain as drafted in the Bill.

The President: Reply, hon. member.

Mr Lowey: Thank you, Mr President. Can I again thank the hon. members for their constructive assistance in moving this. Can I just say that I did try. I knew this would be the one that would excite; it had to be the first clause, so it is quite clear that it is the first thing that people will say, 'Oh, they are changing their name, the first thing they are doing, and giving themselves a grand title.' Well, as I tried to illustrate by a little story which I used on the radio, I remember being made a minister for the first time and the first letter coming through the letter box, and it had on 'To the Honourable. . .' You remember we used to get ribbed about that and I can always remember my late mother, when she brought the first letter in, plonked it on the

table and said, 'Eddie, I have news for you: in this house honourables lay the fire, just like they have always done.' So again nobody gets above their station in the Isle of Man; you do not get it at home, you do not get it in the community where we move, mix and freely mix every day of our working lives, and so therefore I have no doubt at all that it is for perceived external use and for descriptive purposes. I think it is practical. I think, as we move into the next millennium, cast off the colonial past and have confidence in ourselves. Dr Mann spelt out clearly the problems we had with the title of ministers; that is gone, been confined to the dustbins as now everyday use.

The Lord Bishop mentioned the Christian presence that he and his predecessors have brought to this Court. I would agree with that. Again, the cynics - I too have asked about the Lord Bishop's presence. I have been amazed just how little anti-clericalism, if I can use that term, there is in the people that I meet, and I said 'Well, would you get rid of him?' 'No, he is doing no harm and he is often there with a good - (*Laughter*) He keeps you in rick'. That was the word that was used to me on Saturday - 'he keeps me in rick.' Well, I think I need to be kept in rick now and then! But I do say he did actually mention that in the USA they have a senate and they have managed with it, but they have had a senate in Jersey for a long time and have managed with senators without getting themselves tied up. Again, Mr Delaney's point about standing in the community and we ought to be moving forward and casting off our past, and he is right to point out he has been at this game over two decades and he has always been consistent in that.

Mr Waft mentioned the Manx language. . . Oh, the Bishop mentioned, is there a name for a 'Senator'? Yes there is. Have you got your pen handy? My Manx is dreadful! 'Shennadey' and it is pronounced 'Shennadare'. So, there you have it, it is already there, so we will have to get used to it. (*Interjection*) Mr President, I beg to move clause 1 stand part of the Bill.

The President: Hon. members, I will put the resolution that clause 1 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2, sir.

Mr Lowey: Clause 2 and schedule 1, Mr President, deal with the constituencies.

Sub-clause (1) divides the Island into five constituencies as specified in column 1 of schedule 1.

Sub-clause (2) spells out that each of those constituencies will comprise the existing House of Keys constituencies as spelt out in column 3.

Sub-clause (3) spells out that the enlarged register is made up of the amalgamation of the existing House of Keys constituencies.

Sub-clause (4) is self-explanatory, in that it says, 'In this section "Keys constituency" means a constituency for the purposes of elections of members of the Keys.' I think it is self-explanatory. Mr President, I beg to move clause 2 and schedule 1 stand part of the Bill.

Mrs Christian: I beg to second, Mr President. I think this is an area obviously which could be considered by x number of individuals and to which you would get x different answers, but I do believe that in giving this matter consideration Council have looked at other models, for example the Jersey model, where the island elects its senators on an all-Island basis; however, I think it is reasonable that we have come up with a format which gives a

measure of regional representation. What I think does have to be recognised is that the nature of these constituencies and the nature of election to them I think will be somewhat different from the nature of the elections for the House of Keys constituencies and the sheadings in the sense that it has been recognised in the past that the size of constituencies has allowed people to canvass on a personal basis and visit almost every individual part. Now, if we are going for bigger divisions as we are here, I think it has to be recognised that that has to have an influence and an impact on the way these elections are conducted. It may not be physically possible within a reasonable timescale for any candidate in these constituencies to visit in the same way as you have done for the Keys, so that is something that perhaps has to be conveyed to the electorate and candidates will have to work out their own ways of communicating with the constituencies in this way.

It also means that there will be a balance of representation across the Island. Now, whether or not there is a balance currently might be argued, and perhaps when elections have taken place in another place to move members to the Legislative Council they may or may not have had an eye on the geographical spread. I think this makes it clear that there is a geographical dimension to the structure of the Legislative Council, or it is proposed that we have a geographical representation, and I think that maintains a balance of representation across the Island in the Council and, as has been said earlier, the structure based on existing structures for House of Keys elections means that we are not creating any disruption to constituency boundaries in seeking to move this process forward. It recognises existing boundaries and presumably would continue to do so should those boundaries change, provided the numbers of constituencies remained the same. So I think, Mr President, the proposals here give a reasonable balance across the Island in terms of the division of it for representation in this chamber.

Mr Crowe: Mr President, just on constituencies, when we were looking at the provisions of this section I had put forward an alternative suggestion and, having listened to Mr Waft earlier and other members this morning talking with us, with your permission, sir, can I move an amendment to this if I present this to you now?

The President: Thank you. Now, hon. member, we have in our possession your proposals. Would you care to elaborate on them?

Mr Crowe: Thank you, Mr President. If I can just, again, take hon. members to schedule 1 as printed in the document, if we were to use the basis there for the constituencies we would have four in Douglas; basing it on eight members of the House of Keys would give us two members of the Legislative Council for East Mann. We would have four members of the House of Keys and one member of the Legislative Council and for North Mann we would have four members of the House of Keys, one member of the Legislative Council and for West Mann we would have three members of the House of Keys and one member of the Legislative Council and for South Mann we would have five members of the House of Keys and two members of the Legislative Council.

Now, looking at it mathematically and to give what I believe would be probably a better division, for each of these proposals that I have made in the amendment you would have six members of the House of Keys constituencies giving two members of the Legislative Council, so in fact taking Douglas you would have six members of the House of Keys for two members of the Legislative Council, East you would have two for Douglas North, three for Onchan, one

for Garff, again six members of the House of Keys for two members of the Legislative Council, and for North and West you would have Ramsey with two, Ayre one, Michael one, Peel, one, Glenfaba one against six members of the House of Keys and two members of the Legislative Council and for Central and South you would have Middle with one, Rushen with three, Castletown one, Malew and Santon one; again, your six members of the House of Keys constituencies would give you two members of the Legislative Council, so my purpose in moving this resolution is to try and get a mathematical and more equal balance than as provided in schedule 1. So I would like to move this amendment formally, Mr President.

The President: Now, would you pause at that stage, sir? We have, of course, this amendment coming before us, could, if you like to express it that way, and I would draw your attention to clause 2(1): 'For the purposes of an election of elected members of the Senate, the Island shall be divided into the 5 constituencies. . .' Your proposal runs contrary to that and I think, to be valid, would require an amendment to that particular clause as well. So would you care to consider, with the agreement of Council, perhaps, that you amend your proposal in that way? The learned Clerk will certainly be available to help you in respect of this.

Mr Delaney: Mr President, that would be changed from '5' in that (1) to '4' - that is the suggestion?

The President: Yes, it would be essential if this is to become valid.

Mr Delaney: Yes.

Mr Crowe: Mr President, would you want me to withdraw that and take this at the third reading stage then, sir?

The President: I think that would be desirable. If the hon. member would allow hon. members the opportunity, with the notification at this moment that your amendment is coming in this form but amended to fit in with the provisions of clause 2, that would be most helpful and, with that notice given, I am sure the Council would be happy to accept that notice.

Now, moving on, then, to the debate on clause 2, are there any further points, hon. members, that you wish to raise? If not, a reply, hon. member?

Mr Lowey: Thank you, Mr President. As I said at the second reading, I think the attempt in doing it this way was, for the drawing-up of the constituencies, to minimise the amount of disruption. It is an imperfect one, as was pointed out; the Douglas constituencies could be split into two single seats and it would be on a rough balance, and it is giving it, hon. members, as I have said before, a regional flavour. I have no comment to make, really, on the new proposal, whether that will actually -

The President: It is not before us, sir.

Mr Lowey: It is not before us, no, sir, but I would draw your attention to the existing schedule 1. Each of the areas has a capital town, not that you would tell many people in Malew and Santon that Castletown is our natural centre, but being fair there is a major town, Castletown in South Mann, Peel in West Mann, Ramsey in North Mann, Onchan in East Mann and then Douglas, of course, has got the wider sense. So again I think we have attempted, in drawing up what we have proposed in this Bill, a regional natural conglomerate and whether the proposed new amendment might differ from that remains to be seen, but I am not averse to discussing the amendment. But, coming back, I think our aim in introducing the

constituencies as we have is practical. They will not disrupt existing constituencies; it divides the Island into regional and, as we have said again at the second reading, this is a first step. I am sure there will be other interpretations wanting to be put on it. I am quite happy for that to take place, but I believe this is as good a shot as we are likely to get and I beg to move clause 2 and schedule 1 stand part of the Bill.

The President: Hon. members, I will put the resolution that clause 2 along with schedule 1 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 3, sir.

Mr Lowey: Thank you, Mr President. Clause 3 and schedule 2 deal with the term of office of elected members. Put simply, it will mean that members of the new Senate will be elected by the people of Mann to serve a five-year term starting in the year 2004. Casual vacancies will be filled in the usual way, as at present with the House of Keys election.

Sub-clauses (1), (2) and (3) and schedule 2 spell the mechanics of how it would work. Schedule 2 deals with Modification of the Representation of the Peoples Act 1995 replacing 'Senate' for the 'Keys', the timing of elections and dealing with the logistics of the extended boundaries of the new constituencies. Mr President, I beg to move that clause 3 and schedule 2 stand part of the Bill.

Mrs Christian: I beg to second and reserve my remarks.

The President: I will put the resolution, hon. members, that clause 3 along with schedule 2 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 4, sir.

Mr Lowey: Thank you, Mr President. Clause 4 and schedules 3 and 4 deal with transitional provisions, amendments and repeals. The sub-clause is the logistical way to create continuity as a make-up of the time between the first direct elections and the end of the appointed term of the four members of this Council who go out of office in February 2003.

Sub-clause (3) is self-explanatory: you do not have duplication, you do not have a political vacuum. You go out of office the day the first person is elected to that office.

Sub-clause (4) replaces 'Senate' for 'Legislative Council' and 'Council' and sub-clause (5) and schedule 3 amend enactments as specified in schedule 3, all relating to the renaming of the Council to Senate.

Sub-clause (6) repeals enactments as specified in schedule 4, as set out in column 3 of that schedule. Mr President, I beg to move clause 4 and schedules 3 and 4 stand part of the Bill.

Mrs Christian: I beg to second, Mr President, and reserve my remarks.

The President: I will put the resolution, hon. members, that clause 4 along with schedules 3 and 4 do 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 Lowey: Clause 5, Mr President, is the short title and commencement dates, and I beg to move that clause 5 stand part of the Bill.

Mr Radcliffe: I beg to second, sir.

The President: Does any hon. member wish to speak to the clause? If not, I will put the resolution that clause 5 do stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Bill read a second time.

**Remuneration of Tynwald Members – Report of Commission –
Council Adjourned to Sit in Committee**

Mr Lowey: Could I move that the House go into committee, Mr President?

The President: First of all I must accept the hon. member for Ayre to move the resolution at item 6.

Mr Radcliffe: I beg to move the resolution standing at item 6 on the agenda, sir:

That the Report of the Commission on the Remuneration of Members of Tynwald, dated June 1999, be received.

Mr Lowey: Could I move a proposition that this Council go into committee, Mr President?

The President: We have had this before the House first of all. Is there a seconder?

Dr Mann: I second it.

The President: Thank you. I will put the resolution that the Report on the Commission on the Remuneration of Members be received at this stage subject to any further resolution from the floor of the Court. Would you accept that, hon. member?

Mr Radcliffe: Yes, Mr President.

The President: Now, hon. members, we have this resolution before us. The hon. member, Mr Lowey. Proceed, sir.

Mr Lowey: I accept that the report be received, Mr President. I think that when we have discussed matters like this report in the past we have always discussed them in the past in committee. I see no reason why we should differ from that today, sir. It is as simple as that. All the time that I have sat in the Council these reports have always been discussed by us in private, in committee, and I therefore move:

That the Council do adjourn to sit in committee in private to consider this matter.

The President: Is there a seconder?

Dr Mann: I beg to second.

The President: It is proposed and seconded this report be considered in private. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Council will now sit in private.

The Council sat in private.