

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 9th May 2000
at 10.00 a.m.**

Present:

The Speaker (Hon J D Q Cannan) (Michael); Mr L I Singer and Hon A R Bell (Ramsey); Mr R E Quine OBE (Ayre); Mrs H Hannan (Peel); Hon W A Gilbey (Glenfaba); Hon 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 and Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Mr 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.

Apologies for Absence

The Speaker: Hon. members, I have apologies this morning from the Minister for Agriculture, the hon. Alex Downie. He is away in Edinburgh meeting the Minister for Rural Affairs and the Minister for Scottish Fishing.

Welcome to Distinguished Visitors

The Speaker: I would like to take this opportunity to welcome our two distinguished visitors in the gallery, Mrs Catto and Mr Evans. For many years now Mrs Catto has been responsible for Isle of Man affairs in the Home Office. She is due for retirement fairly soon and her successor is Mr Evans and I am sure on behalf of you all I wish Mr Evans, a good, positive and firm relationship between ourselves and the United Kingdom Government.

Telecommunications – Tendering for Licences – Question by Mr Karran

The Speaker: Turning now, hon. members, to the question paper, I call upon the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Chief Minister:

What steps has your government taken towards preparing the arrangements for tendering for the next telecommunications licence or licences for the Island?

The Speaker: The Chief Minister to reply.

Mr Gelling: Mr Speaker, the existing telecommunications licence granted to Manx Telecom Limited does not expire until the end of December 2006. However, the Council of Ministers has authorised the Communications Commission to open negotiations with Manx Telecom on what arrangements should be put in place once that licence expires or possibly in advance of that date by mutual agreement. It is therefore too early to say whether and in respect of which services a tendering process may be operated.

Mr Karran: Vainstyr Loayreyder, would the Chief Minister not agree with the fact that the companies in the United Kingdom have spent billions getting licences for the new technology and we have given ours away with the licence to the present operator? What assurances will we have that the consumers in the Island will see the benefit being passed on to them with not having to spend large amounts of money for such licences?

Mr Gelling: Well, Mr Speaker, when the licence was awarded to Manx Telecom, obviously things have changed quite dramatically since and therefore negotiations have taken place already with Manx Telecom where they have been able to get this facility free of charge, as the hon. questioner has stated. However, I would suggest to hon. members that that should

make the Isle of Man much more competitive and indeed the consumers should have a much more reasonable service than their counterparts in the United Kingdom, because I would suggest that the £22.4 billion which has been paid for the licence which has gone into the Treasury coffers in the UK will therefore have to be paid by someone, and I would suggest that it will be passed on to the consumer. So I would again suggest to hon. members that this should put us in the Isle of Man in a good position to be leading the e-commerce that we so readily want in order to be in the forefront as an offshore jurisdiction in the e-commerce world.

Mr Singer: Mr Speaker, may I first of all congratulate you on upholding the long tradition of the Speaker of this House by wearing your full regalia. (**Members:** Hear, hear.) If I could ask the Chief Minister, when tendering for the present licence, Manx Telecom stated that they would be offering a public flotation. Is the Chief Minister aware why this has not occurred, and will this failure be taken into account when awarding a new licence in the future? And will the government ensure that the next licence is awarded to a company that is prepared to compete within the market and not place local companies at a disadvantage by the imposition of high charges, as we have heard in recent days?

Mr Gelling: Mr Speaker, the situation with regard to the flotation, as the hon. member has suggested: again I would suggest to hon. members, this is a two-edged sword because if you think that one through, if there had been a flotation, once the shares are out on the market Manx Telecom would very soon not be controlled within the Isle of Man; it could have been controlled by anybody, virtually, throughout the world. So that is something that certainly has been discussed with Manx Telecom. In fact, questions have been answered in this House on that very subject in the past. I would say again - I am not a spokesman for Manx Telecom - basically, from the licence that was issued, Manx Telecom have kept pace which was promised within that licence with modern technology, the Isle of Man has been in the forefront of communications and again I would like to suggest that many of the new innovations actually start in the Isle of Man and are then copied elsewhere. So I would not be in any way damning Manx Telecom as to the way in which they have operated their licence.

Mr Quine: Mr Speaker, given that the current licence does not expire until 2006, will the Chief Minister initiate action now to amend the Fair Trading Act or other appropriate legislation to take power to enforce tariff changes and price reductions? All this about licences is all very well in 2006; we want action now to control excessive prices.

Mr Gelling: Again, the hon. member for Ayre is suggesting excessive charges. Now, he does not give me detail as to what those charges are, and I would suggest again that perhaps this is something that is not within the basic question that has been asked. We are in negotiation with Manx Telecom already. The Communications Commission have been given that authority from the Council of Ministers. It started in 1998 and again in 1999 to discuss with Manx Telecom not only the position with regard to up-to-date and hopefully in advance of the e-commerce world that we have out there, but obviously the costs and the consumer charges are one of those areas which are being discussed.

Mr Karran: Vainstyr Loayreyder, will your government speed up giving consumers the ability to choose as far as telecommunications is concerned? Surely your government can put pressure on them in order to allow so that we can have some competition?

Mr Gelling: Obviously, Mr Speaker, with the licence coming up in just over six years' time it is advantageous for Manx Telecom, I would suggest, to be discussing with the government what is going to happen once that licence expires. I would again suggest that they are in an excellent position to know what the Island requires and to be helpful in actually, hopefully, coming to agreements prior to the expiring of that licence to make sure that the Isle of Man is in the forefront of the technology, and I think they are showing this. I am sure hon. members have had invitations - I have certainly seen an advertisement that there are seminars coming up on the 18th and 19th covering all these points of where the Island is and where we hope to be in the future years to come. So I would suggest that Manx Telecom are actually

going ahead in advance of the United Kingdom and I would again suggest that many of the new ideas are actually floated here in the Isle of Man first and then, once it has been proven, it is then brought in in the United Kingdom. So we are always in advance of the technology that is available.

Manx Electricity Authority – Appointment of Chief Executive – Question by Mr Houghton

The Speaker: Question number 2, the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg to ask the Minister for Trade and Industry:

- (1) *When do you intend to appoint a new chief executive for the Manx Electricity Authority; and*
- (2) *what technical qualifications will the successful candidate be required to hold?*

The Speaker: The Minister for Trade and Industry to reply.

Mr North: Thank you, Mr Speaker. First I should clarify that the appointment of all members of staff, including the chief executive of the MEA, is a matter for the authority itself and not the Department of Trade and Industry. As the hon. member is no doubt aware, when the former chief executive decided to retire, the board invited one of the members, Mr Mike Proffitt, to step in as acting chief executive until a permanent appointment was made. I have been advised by the board within the last few days, and only since this question was notified to me, that due to the excellent work already undertaken by Mr Mike Proffitt, it is intended to continue with the current situation and to offer Mr Proffitt a contract so that he can continue in the role for an extended period. The question of qualifications is a matter for determination by the board and, as the Electricity Act itself is silent on this matter, I do know that the board consider it to be absolutely essential to appoint the right person to lead this major local business through some very major projects over the next few years.

Mr Houghton: Mr Speaker, may I ask the hon. minister, though, have any additional promotions been made subsequent to the confirmation of Mr Proffitt which has indeed paved the way to an increase of the membership of the MEA board, whether ex officio or otherwise?

Mr North: Mr Speaker, if I could explain to hon. members, I think the answer is no to that question, but what will happen is, if the acting chief executive takes a contract then he will stand down from the board of the MEA; he will no longer be a member of the board and under the Electricity Act, I think from memory, it has to have five members so that will leave only three then because the previous chief executive was a member of the board and under the Act we have to have a financial position on the board, so we will need to appoint, through Tynwald, another member of that board who has financial acumen plus another member to replace the previous chief executive.

Mr Shimmin: Mr Speaker, would the minister comment on whether recent initiatives taken by the MEA, such as the cheaper nighttime industrial tariff, would indicate a more enlightened approach to customers and prices under the acting chief executive and the current board of the MEA?

Mr North: Mr Speaker, that is very interesting. I certainly would agree with the hon. member and thank him for pointing out this excellent example of the way in which the board is now operating. I believe that the acting chief executive is doing an excellent job and that his business acumen and experience has proved to be of immense value. I know, for instance, that he has put proposals to the board for a targeted reduction in the price of electricity over the next three years, funded by improvements in efficiency which, if achieved, will bring major benefits to every business and domestic customer on the Island, and that targeted reduction has been given to me. An assurance from the board of the MEA will be they are aiming at a 25 per cent reduction in the tariff price of electricity on the Isle of Man in real terms in the next

three years. If that is achieved I think that will be a major achievement by the board and the chief executive of the MEA.

Mr Houghton: May I ask the hon. minister, though, is he indeed satisfied, notwithstanding the appointment by the MEA board of Mr Proffitt, that this appointment is made without any influence of the Minister for the Department of Trade and Industry?

Mr North: I can quite concur with the hon. member for North Douglas. It is done without any influence from the Minister for the DTI. In fact I think the hon. member, from the question down here, knew about this intention before I did.

Mr Houghton: Mr Speaker, the hon. minister has not answered the question. Is he satisfied with that arrangement? Is he indeed satisfied?

Mr North: Certainly, Mr Speaker, I am totally satisfied with this arrangement.

Construction Industry – Number of Apprentices – Question by Mr Karran

The Speaker: Question number 3, the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I beg to ask the Minister for Trade and Industry:

- (1) *How many apprentices are there in the construction industry; and*
- (2) *what policies does your department have to increase their number?*

The Speaker: The Minister for Trade and Industry to reply.

Mr North: Mr Speaker, there are currently 155 construction trade apprentices training under agreements with the training services division of the department. When I answered another question on this subject last year the comparable total was 135.

The department's training services division maintains an active recruitment initiative by attending all careers events, inviting schools to the training centre, offering work experience and visiting the Island's five secondary schools to inform year 11 pupils of the training and employment opportunities that are available to them. We have an active promotion policy on all apprenticeships, including open nights, attendance at the Tynwald Day Fair and the Royal Show, use of display boards in all the secondary schools and the ongoing placing of press articles, advertisements and literature. Members may be aware that only last week we took advantage of a 90-minute session on Manx Radio to promote the training services which we provide. This concentrated particularly on apprenticeship training and the promotion of future events and included an invitation for interested people to attend the open nights at the training centre on Tuesday, 23rd May for those interested in engineering and at the college on 25th May for those wishing to know about training in the construction trades.

I can assure the hon. member that we are fully committed to the training of an appropriate level of apprentices and that we will continue to work with the Isle of Man College to seek to encourage young people to enter into formal training with a view to their becoming skilled craftsmen.

Housing – First-Time Buyers' Houses – Question by Mr Karran

The Speaker: Question number 4, the hon. member for Onchan, Mr Karran:

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

- (1) *How many people have applied for inclusion on the list of potential purchasers of government subsidised first-time buyers' housing units; and*
- (2) *as demand will far exceed supply, what procedure and criteria will be used to select the successful applicants?*

The Speaker: The Minister for Local Government to reply.

Mr Gilbey: Mr Speaker, in answering the hon. members' question I assume that he is referring specifically to the proposed development at the Springfield/Harcroft site in Douglas.

As regards the first part of the question, to date the department has received 234 expressions of interest in respect of the 55 first-time buyers' units proposed for this site.

Turning to the second part of the question, whilst these 234 expressions of interest may not all turn into formal applications, nevertheless it has been recognised that there is likely to be an oversubscription of applications for this development.

To select the successful applicants the department has identified two stages: firstly, the successful applicants will have to satisfy the department that they qualify under the terms and conditions of the House Purchase Assistance Scheme 1999; to pass the second stage the applicants will be measured against a points system. I would stress that the details of this have yet to be finalised, but generally it is envisaged that it will cover such items as whether or not they are Manx-born, the length of time they have lived in the Douglas-Onchan-Braddan area, the level of their income, whether or not it is a single or joint application, whether there are any children and, last but not least, whether or not they currently occupy a public sector housing unit. If the hon. member or other hon. members have suggestions for the criteria to be used, I should be very glad if they would advise the department of their ideas, which will be carefully considered.

Mr Karran: Vainstyr Loayreyder, would the minister not agree that he should have supported my motion in January as far as this housing crisis is concerned? These numbers just highlight the fact that we have not got sufficient. Could the hon. minister inform this hon. House who will actually come down to doing the allocations, what assurances will we have that it will not end up in any sort of political situation, a matter of who you know instead of what you know, and what assurances will he give when one is going to get a house out of four applications maximum out of this lot? What is he going to do? It needs to be tighter than it is at the present time.

Mr Gilbey: Mr Speaker, frankly I do not think the resolution in another place in the spring or autumn has any relevance to this question, but I would say I certainly do not agree with his point regarding it.

Regarding who will allocate the houses, it will be done by the estates and housing division of the Department of Local Government and the Environment, who are well practised in allocating other properties, particularly rented properties from the department's own housing estate, and I have no doubt at all that they will do it with complete fairness and impartiality.

Mr Karran: Vainstyr Loayreyder, can the hon. minister inform this hon. House who politically will be responsible as far as the allocation of these houses is concerned? What sort of safeguards will there be to make sure they will not be without fear or favour, and would the minister not agree that the people outside would support my stance that you are not providing enough first-time buyers' houses, which you could have done if you had supported my motion in Tynwald in January of this year?

Mr Gilbey: First of all, supporting resolutions unfortunately does not bring houses out of the ground or get them built, so I am afraid I do not think supporting his resolution would have done what he thinks it would have done.

Regarding who will be politically responsible, I thought he would be aware that the hon. member for Ayre, Mr Quine, is the political member in charge of the housing estates department of the department, and I have little doubt that he will be politically in charge of this and do it with the same fairness that the Department of Local Government rented accommodation is allocated now.

Mr Henderson: Mr Speaker, would the hon. minister not agree with me that a practical solution to meet this demand-and-supply issue in the first instance would be to adopt an empty

house policy which would see the fastest possible turn-around for local authority houses and his own local government houses?

Mr Gilbey: As I have told the hon. member, I think it was only yesterday, Mr Speaker, I totally agree with him that long voids in any public sector housing are totally unacceptable and every effort must be made to prevent them, but of course this does not directly impinge on first-time buyers because we are talking of public sector rented accommodation, but I would go further and say I believe it is totally immoral and financially absurd for any house in the Isle of Man to be empty at the present time.

Mr Karran: Vainstyr Loayreyder, can the minister inform this House with this development, what is the number of houses per acre in this development, and have we maximised the units to try and ease this crisis at the present time?

Mr Gilbey: Mr Speaker, I am afraid I cannot say the exact number of houses per acre but I think I know what the hon. member is getting at: he is suggesting that there could have been a greater density, to which I would reply in two ways. Firstly, I think it is environmentally correct that, as planned, there should be a green area between the main road and the houses, both from the point of view of people travelling along the road, to give a more countrified appearance but, more importantly, from the point of view of those in the houses. If they are young people, perhaps with babies, they do not want to have traffic roaring near them the whole time. The other thing is, we aim for very high standards for all public sector housing and first-time buyers' housing, and just because it is first-time buyers' housing I think it would be quite wrong, and I should have thought that the hon. member himself would have agreed that the last thing is we want to crowd them in like hens in battery cages.

Members: Hear, hear.

The Speaker: I do not want this to become a debate. A final supplementary - the hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, does then the minister think it is environmentally healthy to put the rest who have not got a house in tents, maybe at Sulby Claddagh when they can stay down there in summertime? (*Interjections*)

The Speaker: Hon. member, keep to the question, please. Hon. members, that question was not relevant to the debate.

Mr Cretney: It is relevant.

The Speaker: I draw Question Time to a close.

Nursing Staff – Steps to Find Accommodation – Question by Mr Henderson for Written Answer

The Speaker: Question 5 is for written answer and it has been circulated.

Question 5

The hon. member for Douglas North (Mr Henderson) to ask the member for the Department of Health and Social Security:

In view of the existing housing shortage, what action is your department taking to assist nursing staff recruited from outside the Island to find suitable accommodation?

Answer

Mr Speaker, my department is very conscious of the difficulties facing nursing staff moving to the Island, and other workers for the health service, in finding suitable accommodation.

In order to assist, action has been taken in a number of areas, including the introduction during 1999 of a comprehensive removal and relocation package which staff are able to use

towards removal expenditure, to fund short-term accommodation needs, or to contribute towards the cost of house purchase.

The department has also taken steps to increase the availability of accommodation for short-term lease so as to provide staff with more time both to dispose of their former property and to find and complete a property purchase locally.

However, the department does recognise the current property market presents problems for the majority of persons coming to the Island for employment purposes, and those locally trying to get on the first rung of the property ladder, and this issue cannot be resolved in isolation.

In this connection, the department member with responsibilities for the health service has for some time raised concerns over the impact of the imbalance in the market place for property, and is to meet with the Chief Minister to discuss this situation, not just for nurses, but for all who are facing difficulties in obtaining this requirement of life.

The department is supportive of a review presently being undertaken and led by the personnel office, aimed at supplementing existing removal and relocation schemes, which it is understood will be applicable across the public sector as a whole, as one of a number of measures to help all those seeking affordable accommodation.

Corporate Service Providers Bill – Third Reading Approved

The Speaker: Hon. members, we now move on, and item number 6 is the Corporate Service Providers Bill for third reading. The hon. member for Douglas East, Chairman of the Financial Supervision Commission, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I am very pleased to bring forward the Corporate Service Providers Bill once more before the House to move that it receives its third reading.

The Corporate Service Providers Bill has arrived on our agenda today after an extremely lengthy and comprehensive consultation process, and of course we have then had the detailed consideration by this hon. House at the second reading and clauses stage. I do believe now that the main issues with the Bill raised by the various professional bodies and associations, and indeed by members of this hon. House, have been thoroughly debated and, as evinced at the clauses stage, decided upon by this hon. House.

At the clauses stage of the Bill there were a number of issues raised which I feel need some clarification. The hon. member for Ramsey, Mr Singer, raised concerns regarding the regulatory codes which, at the time of the clauses stage, were out for consultation with the industry. The hon. member stated that the concerns relating to the latest draft set of codes are considerable and the consultation comments must be closely scrutinised. I can assure this hon. House that all comments received will be thoroughly considered and, if necessary, a further round of consultations will take place. The hon. member also requested that I give an undertaking to this House that the commission will arrange a presentation to hon. members before placing the regulations before this hon. House or before Tynwald. This I am pleased to do and have provisionally scheduled a presentation to be made to members on July 11th of this year.

The hon. member for Peel, Mrs Hannan, moved an amendment to clause 10 of the Bill regarding the commission's supervisory and investigative powers which in the event was unsuccessful. The hon. member's concerns were focused on the commission's ability to enter not just business premises but the home of a CSP or former CSP without the need for a JP or deemster's warrant.

As was stated at the clauses stage, the powers conferred on the commission in the Bill are identical to those powers already granted to it in the investment business and banking

legislation. The commission has never abused these existing powers and as has been previously stated. This provides reassurance that they will continue to act in a responsible way. In order to regulate and supervise effectively, the commission needs the ability to inspect the books, accounts and documents of a CSP or former CSP wherever they may be kept. This is critical for effective supervision and enforcement, providing also for where a CSP has moved from his or her premises. However, I would emphasise the significant distinction between entry of premises for inspection of records and entry to search for those records. The former involves looking at records presented; the latter potentially involves a thorough search for those records, hence the higher test of authorisation required. This is why the power to search can only be achieved under a deemster's warrant under section 13 of the Bill.

It should be noted that under other legislation such as the Value Added Tax Act 1996 and the Customs and Excise Management Act 1986 authorised persons have powers to enter and inspect premises used in connection with the carrying on of a business which could include a person's home without a warrant. However, a warrant issued by a justice of the peace is required in order to undertake a search.

The hon. member for Peel also expressed concern regarding the issue of a public statement under clause 14. I can confirm, as mentioned in my response at the clauses stage, that the notice of the proposed statement is sent by registered post to the person concerned at the address held on the register of licence-holders. This not only ensures that receipt of the letter is recorded but, in the event of a non-receipt, the letter may be tracked. In cases where the commission is aware that the licence-holder is located elsewhere, it will do its best to send a duplicate of the letter to that particular location.

Finally, the hon. member for North Douglas, Mr Henderson, requested clarification in regard to matters. The first was on the definition of holding of assets in the amendment moved by Mr Corkill on clause 2 and schedule 2 on domestic services. Holding includes buying and selling of assets and also the supply of goods and services made in the Island. This also embraces exports of those goods which are manufactured in the Island.

Mr Henderson also requested clarification on clause 23. I can assure him that there is no requirement for a corporate service provider to be a limited company. Clause 23 imposes an obligation on the auditor of a CSP to report to the commission if in the course of his work he becomes aware of any matter which would give him reasonable cause to believe that the CSP may be contravening the Act, any regulatory code, any licence condition or any direction or requirement imposed under the Act. I can confirm that this does not oblige a CSP to engage the services of an auditor if they are not already required to do so under existing legislation.

I should also like to express my thanks to the officers of the Financial Supervision Commission and the legislative draftsman in preparation of this Bill, and also for the support so far of the hon. members. I beg to move that the Corporate Service Providers Bill receive its third reading.

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

Mr Shimmin: Mr Speaker, I would firstly congratulate the chairman of the board of the FSC for successfully getting us to this stage. Regrettably, I was unavailable last week for the clauses stage. However, it is a Bill that I have followed with great interest over many months now and I would like to take this final opportunity of making a few comments to the chairman for his future information.

Firstly, I believe that the introduction of this Bill is long overdue and I am supportive of the need to legislate in this area. However, the episodes that have been involved in getting us to this stage cause me some concern. The often repeated comments from the chairman that this Bill has had wider consultation than probably any other piece of legislation coming through I believe is not something to be praised but is a criticism of the original way in which this Bill was drafted. I believe the FSC must take notice that in the last number of months throughout this

Corporate Service Providers Bill they have lost some confidence, with-in the industry and myself and possibly amongst other members, in their ability to actually move the legislation in a smooth and coherent fashion. Much of the consultation that took place on this Bill was because of faults and errors within the original consultation draft, which I believe was unsatisfactory. I hope that the FSC will not take this as criticism per se but the fact that on this occasion they did not get their act together quickly enough on such an important piece of legislation. Rather than satisfying themselves that they have now been successful in, I assume, getting the third reading of this Bill, I hope that they have learnt lessons that if they are going to take their responsibilities seriously, if they are going to take the industry that they service with them, there is a need for genuine consultation at the earliest stage and to actually listen to that consultation, not to merely replicate what the views of the industry are but to listen to sincere comments and observations which I believe at the first draft of this Bill they failed to do.

Also, the repetition of legislation enacted in other pieces of legislation which are repeated in this legislation I believe is not justification in itself to say that that should be replicated in further pieces. I refer to the Banking and Investment Acts which have been referred to by the chairman. I believe the FSC need to scrutinise that more closely, because any further pieces of legislation are going to hit the same level of problem as this piece of legislation did. Personally, I am grateful that we are hopefully going to get this legislation in, and that it has not been put away to a committee. The length of time the chairman has done in trying to accommodate the concerns of the industry does him credit. I believe the FSC has some bridges to build with regard to this particular sector of the industry but also, on a wider scale, all those affected by FSC regulations. I trust that the chairman will take these as positive words of support, but genuine criticism with the way this was handled has not done the FSC any credit. Thank you, Mr Speaker.

Mrs Hannan: Vainstyr Loayreyder, I would just like to make comment first of all, following on from the comments of the member for Douglas West when he says there are bridges to build and that the FSC could have done more. I think you have to remember that this piece of legislation controls people who have never been controlled before, or inspected, or in actual fact had any regulation whatsoever, and so of course there is going to be reaction to bringing in legislation such as this. I mean, it is quite natural: if somebody has never had any regulation, any law to comply with, of course they are going to be upset and of course they are going to write to us all, and of course they are going to call meetings, and of course they are going to say they should not be regulated. But they have to be and I accept absolutely that we need to protect the good name of the Isle of Man.

I accept that the member moving this legislation has in fact looked at the points that I raised when we came to the clauses stage. However, I cannot accept the points that he makes.

All I was suggesting in my amendment was that the office or the place of business of the CSP or former CSP should be the place where the commission has powers of entry, and this is the powers of entry, to inspect the transactions of the CSP or the former CSP, and the only point that I was making at that stage was that just this small amendment put in there would actually safeguard both the commission and the CSP or the former CSP, and that it was their office or place of business which came under this aspect of clause 12 where it says, 'The commission shall have every such power of entry and access as may be necessary for the purposes of subsection 1 and may take possession of all such books, accounts, documents as, and for so long, as may be necessary for those purposes.' Now, obviously that is a very wide-ranging aspect of this legislation. It is from other legislation but, as the mover of this legislation is suggesting that it has never been abused in the past and it will not be abused here, I can see that is no good reason why we should continue to support this legislation. We are here as lawmakers, to make sure that the law is good law, and if we are saying, 'Oh, it is

because it has never been abused in the past that we should continue with this,' then I cannot accept that.

The amendment that I was suggesting was very minor: without any reference to anyone else, the commission can go into the office, or place of business, or home, or anywhere where they think that there is documentation which they want to inspect, and they can also take property. When we are looking at legislation, we should also look at the reasonableness of it. Now, it does not say that this is just the registered office or the only office of the CSP or the former CSP. In a letter dated 13th April 2000 from the assistant supervisor of corporate service providers at the Financial Supervision Commission, this person states, 'We cannot be in the position of having first to obtain a deemster's warrant every time we make such a visit to a licensed entity in these circumstances.' Now, I am not saying that. I am suggesting here that the commission shall have every right of entry and access as may be necessary, but to the office or the place of business of the CSP, and in relation to clause 14 the mover states that it would be to the registered offices of the CSP that the notification would be sent. Also, under clause 12, an application can be made to the justice of the peace. A justice of the peace can be obtained any time of the day or night and can sign such a warrant for an investigation of the CSP or former CSP.

The assistant supervisor goes on: 'If we do not have these powers, which are fundamental to our ability to supervise effectively, then we have no authority to look at matters whenever a visit is made'. Now, presumably the FSC is not going to regularly go into people's houses to make these supervisory visits. Presumably it is to the registered office, and therefore I would have expected, following representations and the amendment moved - and I know there were only three members supporting it - but the next legislation we are looking at is human rights, and all I am suggesting is that the person, just because they are a CSP or a former CSP, should not have passed to the commission the right of entry to their home without going to a justice of the peace, as is contained in clause 12.

Now, I would hope that the Financial Supervision, the Treasury and the government could look at this with regard to the the banking and the investment legislation, because I think it is very important when we are looking at such issues as this that if they have the right of going to a justice of the peace, why should they need access to someone's home? Now, the member moving has said, 'They may hold documents there,' but if they hold documents there, a justice of the peace can give them the right to go into someone's property day or night to retrieve any documents as such, and all that I am suggesting in clause 10(2) is that inserted after 'access' could be the business address or whatever. They have to register under this legislation and surely the registration address under this legislation should be the address where the commission has the right of access and every such power of entry and access as may be necessary and take their books, accounts and documents. If they do that, then obviously they are going to be in a position where, if taking all such books, it may be possible that the CSP may not be able to continue in business. I have no problem with that; I have a problem with where they have right of entry and access, and I really think that government ought to look at this. If the Financial Supervision is not prepared to look at it, I really think government ought to look at, who has right of access to wherever when it does not state where that place is. Thank you, Vainstyr Loayreyder.

Mr Singer: Mr Speaker, I will certainly be supporting this third reading of the Bill and I do believe that there is general support for legislation by the CSP providers, but we have to take note that unless the codes are right we could be eliminating much of our productive, genuine business derived from international companies based in the Isle of Man. But I do welcome the assurances given by the chairman of the FSC this morning as to his consultation procedure, and also the fact that he is going to make this presentation to hon. members before the codes are presented to Tynwald.

I think the general view is that the perceived disadvantages can be easily eliminated and to the advantage of our CSPs and consequently the whole spectrum of Island business that derives from the business that the CSPs introduce. But the jury is out, and the crunch time will be when the proposed codes are put forward, but goodwill and a flexible approach by all participants will, I believe, take us to a position of strength and excellent credibility within the financial sectors on the world stage in general. So I do support this third reading and I look forward to agreement between the FSC and the CSP providers as to the codes so that we can actually all go forward together.

Mr Quine: Mr Speaker, I spoke at some length during the second reading and of course the clauses and moved amendments, and I do not wish to cover all that ground; that would be futile. And I am grateful to the hon. mover of this Bill for the time that he spent with me in trying to find some common ground on some of these issues, and indeed to the Minister for the Treasury, who gave me some of his time.

I just wish to put on record, I think, three points in relation to which my concerns remain. Firstly, the matter of the review procedure: I believe it is an incestuous procedure. I am still not convinced that it does not conflict with the European Convention on Human Rights and I will say no more and just make that short comment.

The second point I am concerned about is this question of immunity from legal process. To my mind, the extent to which that immunity is granted is excessive, it is unnecessary, and it is not one that you can draw a parallel with in relation to, for example, the police who are far more involved in this type of activity or related activity than the FSC will ever be. I believe that the immunity which is provided for in this Bill is going to end up being something of a stick which the FSC is going to be beaten with in the process of time and they would be better off without the extent of the immunity which is built into this Bill.

The third point which I still remain unhappy with concerns the question of entry without warrant. Now, I am not concerned, as is the hon. member for Peel, with the extent to which that entry is provided for - the buildings et cetera which one may enter; my concern is the question that it is without warrant. I cannot see a case for entry without warrant. The procedure, well established, well practised, well proven, is to get a JP's warrant. You can get a JP's warrant at the drop of a hat. I have woken up many JPs to get warrants and taken great pleasure in doing so! But it is the proper procedure; that is how it should be covered. This concept of entering a premise without warrant, I think, will be challenged also with the process of time; in the due course of time that will be challenged. We just need to have one slip-up and it is going to come tumbling down like a ton of bricks.

So again I concur with the view that this legislation is necessary. I am partly persuaded that it is a reasonably light touch - perhaps not as light as it could have been, but we will have to wait until we see the secondary legislation to pass judgement on that. But I remain seriously concerned about the review procedure, about the immunity from legal process, the extent of the immunity from legal process which is granted to the FSC and those who work with it, and I am concerned that we are entering into an era of entry without JP or magistrate's warrant. They are the three areas which I think we will be re-visiting in this House in the not-too-distant future.

Mr Henderson: Mr Speaker, I rise to support the legislation. It has received my general support throughout its passage through this hon. House but with some reservations I have raised on and off, and I am very grateful to the hon. mover who has taken the time to consider my reservations and the progress and extended consultative process which has ironed out some of the issues that I have been raising.

What concerned me first with this legislation was the fact that it was not a light touch and really, how many casualties were we prepared to take in small businesses in progressing something that could be seen as Draconian and favouring some of the bigger businesses over

the smaller businesses? (**Mr Houghton:** Hear, hear.) I am still not convinced, and I am certainly not naive enough to think that the speed this legislation has come through this House has got nothing at all to do with the Edwards review; I think perhaps maybe that that has maybe encouraged things to move along. I know we have been told that this legislation has been a long time in coming, but I think there has been an element of encouragement somewhere to get it to the floor of this House.

Notwithstanding that, I have to support the stance of the FSC in the way they have gone about the process of this Bill and, yes, there have been mistakes and errors and even the hon. mover has had to move an amendment but, notwithstanding that, I applaud the methodology used and I think it should be a benchmark for other legislation that may come through here, because I do not think at times you can consult enough. My original call here in this hon. place was to try and get this legislation as right as we can. Now I was soundly rubbished for that in some quarters of this House, who seem intent on silencing the more proactive backbenchers; well, I will not be party to that and I will contribute where I see fit to debate and make my observations, and my observations here were that perhaps there was an unease with this legislation and my call was for further consultation, and I am very pleased that that has gone ahead. It has produced, in my opinion, a higher quality piece of legislation and I feel that the industry will be more supportive of it, unlike possibly the hon. member for West Douglas's observations. I feel it will give it more credibility, and it shows that the FSC and other government departments are willing to listen and make changes, if necessary, and meet the needs of the area where it is directed more effectively and positively, and I have to congratulate the hon. mover in attempting to do just that. It makes imminent sense to me rather than trying to vote something through that we were unsure of, and there were concerns that we have stood back, and here we are, we have something that is not perfect, but it is nearly as right as we can get it. I am unhappy with some of the powers that the FSC are being invested with under this legislation, but I can live with that, because the main thing that I was bothered about was that it seemed to me that we were prepared to take any number of casualties to get this through on the small business side in favour of having this corporate image and providing this international image. It is not every CSP that is bad and far from it; some are quite legitimate and offer good services -

Several Members: Most.

Mr Henderson: Most - the majority are good, yes, indeed. I think it is wrong that the spin that was being put on. . . and certainly the CSPs I have met are nothing more than legitimate, so I think that was unfortunate.

Having said that, I think we have progressed this in good fashion and, as it stands at the minute, I am quite supportive of it.

The Speaker: I call upon the mover to reply, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. First of all I would like to thank Mr Henderson and Mr Singer for their support and also Mr Shimmin. I will take his comments on board; the FSC do take their responsibilities very seriously indeed.

Mr Quine brought up three points which I thought have been covered at the second reading and the clauses stage, particularly the review committee: statutory indemnity - I think I gave him an assurance on the statutory indemnity that, if we have to look at it again because of other legislation coming through, we will do. On the point of entry without warrant, which is clause 10, if I can just quote from Mr Quine at the clauses stage, 'I am a bit concerned about some of the definitions as to what is an office and what is a place of business, but, that apart, I feel that the Financial Supervision Commission does need to have a fairly wide right of access to premises, to cover the various contingencies where evidence could be placed, and really that could be almost anywhere these days.' It could even be offshore somewhere, it could

even be in a harbour, on board a vessel or something. So I think I have to give them the widest possible definition to cover that contingency.

Mrs Hannan - again, although she moved the amendment to clause 10 which failed, we were talking about inspection. Inspection and search are completely different. Now, Mrs Hannan was quoting from a letter of 13th April and I can continue on from where she was quoting when she finished that we have no authority to look at matters whenever a visit is made. 'Such a position would be totally inconsistent with the concept of effective supervision. One of the most important issues for the commission is that a regulatory regime for which it is responsible must be credible. Furthermore, if the commission is charged with a supervisory sponsor. . . then we would argue strongly that it must be given the powers to fill such duties in an effective manner, clause 10, we would submit, is central in this respect.'

It was quoted, again, Mr Corkill, in the clauses stage; a former CSP could have documents at home and we have to be effective, we have to act very quickly, and if we want to inspect those documents we need the power of entry to the domestic home. To search for those documents we would need a deemster's warrant.

I do feel I have covered as many of the aspects which have been raised in the third reading, in the second reading, and the clauses stage, and on that I would like to beg to move the third reading.

The Speaker: Hon. members, we have the third reading of the Corporate Service Providers Bill. Those in favour, say aye; those against, say no. The ayes have it. The Corporate Services Bill is now read for the third time.

Human Rights Bill – Second Reading Approved – Reference to a Committee – Debate Commenced

The Speaker: We now move to item 7 on our agenda, the Human Rights Bill, and I call upon the hon. Mr Brown, member for Castletown.

Mr Brown: Thank you, Mr Speaker. The Human Rights Bill 2000 gives further effect in Manx Law to the rights and freedoms guaranteed under the European Convention on Human Rights which have applied to the Isle of Man since the Island ratified the European convention in 1950. The convention's rights which already apply to the Island are given in clause 1, schedule 1. The Bill provides that legislation applying to the Island - that is, Acts of Tynwald, Acts of Parliament, (that is the UK parliament), church measures and all subordinate legislation whenever enacted must, as far as possible, be read and be given effect in a way which is compatible with the convention rights. The Bill provides that a person may seek an interpretation that legislation, whether primary or secondary, is compatible with the convention rights. If a declaration of incompatibility is made by the courts, this does not affect the validity, continued operation or enforcement of the legislation in respect of which the declaration is made. In other words, a declaration of incompatibility is not binding on the parties to the proceedings to which it is made. It will be a matter for government and ultimately the Island's legislature whether or not they feel that our Manx law should be amended to remove the conflict between the rights given to our people under the Human Rights Act, as the Bill will become if passed, and their own legislation. The courts cannot, because they will have no powers to, override the authority of Tynwald and its branches.

Under the Bill, the Attorney-General has to be notified by notice where a court is considering whether to make a declaration of incompatibility. The Attorney-General or a person appointed by him is entitled, on giving notice, where he has been notified that a court is considering whether to make a declaration of incompatibility, to be a party to the proceedings, and he may give notice at any time during the proceedings. The Attorney-General also has responsibility to advise government when a declaration of incompatibility has been made.

It is unlawful for a public authority under the Bill to act in a way which is incompatible with convention right. However, there is a defence if as a result of one or more provisions of an Act the authority could not have acted differently or where one or more provisions under an Act cannot be read or given effect in a way which is compatible with the convention rights and the authority was acting so as to give effect to enforce those provisions. A public authority is determined as a court or a tribunal and any person certain of whose functions are functional of a public nature - for example, government departments, government boards and local authorities. However, neither Tynwald, the Legislative Council, the House of Keys, nor a person exercising functions in connection with proceedings in Tynwald or any of its branches, are determined as a public authority or acting as a person whose functions are of a public nature.

Damages may be awarded by the appropriate court against a public authority. However, the court must take into account the principles applied by the European Court of Human Rights in relation to the award of compensation as provided under Article 41 of the convention.

The Bill provides, as does the European convention, which already applies to the Island, the freedom of expression, freedom of thought, conscience and religion. There is a provision to permit a derogation from an article of the convention to be made by an order made by the Council of Ministers and relates to any derogation or reservation by the United Kingdom on behalf of the Island. Designated derogations and reservations have to be reviewed by the Council of Ministers at least once in each succeeding five-year period, and the Council of Ministers are required to produce a report on the results of such a review and to lay it before Tynwald. The Council of Ministers are also required to report to Tynwald if a reservation is withdrawn, whether in whole or part, or if a derogation is amended or replaced. The Bill requires that the explanatory memorandum of a Bill to be promoted through the branches of the Manx legislature will be required to provide a statement to the effect that the Bill and its provisions are compatible with the convention rights, or a statement to the effect that although the member moving the Bill is unable to make such a statement of compatibility, the member nevertheless wishes to proceed with the Bill. In either case it will still be a matter for the legislature here in the Island whether or not it pursues the Bill and its provisions. In other words, there is nothing to stop the House of Keys enacting legislation which is incompatible with the convention. It means that at least hon. members will be fully aware of the status of the proposed Bill.

Nothing in the Bill creates a criminal offence within the Act and it makes the Act binding on the Crown. The Bill also provides transitional protection for public authorities.

In progressing the consideration of bringing into Manx law the matter of human rights for our people, the government, through the Council of Ministers, has undertaken extensive public consultation and has carefully considered the provisions put forward in the Bill. The Council of Ministers are satisfied that the Bill, and its provisions contained within the Bill, should be enacted within our Manx law. The European Convention on Human Rights already applies to the Island and we believe it is preferable that our own courts deal with such matters. It will provide greater access to our people to protect their rights and if we, as legislators, as government, along with our local government are playing out our responsibilities properly, then we should welcome this, the implementation of our own Human Rights Act.

Finally, there will be a considerable amount of learning required by our courts, government and other public bodies to ensure that the provisions of the Act are understood and complied with and therefore, as can be seen under clause 23 of the Bill, the Act will come into force when the Council of Ministers are satisfied that the Island is ready to progress with the provisions within the Act. The Act can be brought into effect on such day as the Council of Ministers determine by order and provisions of the Act can be brought into effect on different days.

I beg to move that the Human Rights Bill 2000 be read a second time.

Mr Gelling: I beg to second, Mr Speaker.

Mr Quine: Mr Speaker, I think it is broadly accepted that this Bill heralds a major constitutional change, probably one as large, if not larger, than anything that has taken place in recent times, probably several decades, and I believe there is a feeling outside that that is the case but, because of the nature, the complexities, of this particular subject, I think it is very difficult for the man in the street to grasp just what is the import of this legislation, and I will have to start by saying that myself, having studied the consultative documents and read through the Bill here, I have some serious concerns about this Bill. Perhaps in part they arise because I am not yet in a position to have a full understanding of the implications of some of these matters.

Looking at the Bill, it is in many respects simplicity itself, just to give effect in domestic law to rights and freedoms guaranteed under the European Convention on Human Rights. That is fairly straightforward, because, after all, we have lived with the convention for some time, the UK, of course, having included the Island in the ratification of the Bill. I do not think we in fact were signatories, as the Chief Minister said the other day; I think we came in under a different mechanism than that.

The other point I would make is this enactment, as I see it, would not confer any additional rights and freedoms; it would, put as simply as possible, implant them into the Isle of Man law. If this Bill - or my reading of it - is not passed, the Manx people will not be denied any rights and freedoms; their access to them would be different. I think that is a significant difference.

So in truth I think this legislation is unique and it has far-reaching implications. No matter what kind of a gloss you put on it, it represents a shift in power from the legislature to the judiciary. That is a fact, and if you look at the debate in the United Kingdom in relation to the Bill, that comes through clear and strong, and they are in an even better position than we are vis-à-vis their own legislation.

So if you look for a bottom line in this, in the future, no matter what strength of public opinion there may be in relation to a particular issue or if a general policy or particular measure contravenes the convention, then at the end of the run, elected members in Tynwald will be, I fear, powerless to act.

Now, given the general nature of the freedoms and rights as expressed in the convention, I also envisage it will not always be very clear as to what some of these rights and freedoms mean, and that came out very clearly in the UK debates. But, be that as it may, the lawmaking powers of Tynwald will be permanently curtailed; that is a fact and I think that is what we have got to take on board if we support this Bill. It may be a fait accompli, but that is what this amounts to.

Reverting to what I have just mentioned about broad and general terms in which the rights and freedoms are couched in the convention, it is my belief that this Bill will bring with it much uncertainty in the law. Now, that is something which we under British law have always been able to largely avoid. Certainty has been a strength, in fact it is a tenet of the law that we have certainty in the law so that we can understand whether we are infringing the law or not infringing the law. And my fear is that if we have difficulty in anticipating the effects of the convention now, when we are, so to speak, one step removed, then I think we are going to have an even greater difficulty in looking towards the certainty of the law when we have, or if we have, the procedure that is built into this Bill.

Now, the terminology which has been used has been described by distinguished lawyers - and I am drawing on the UK debate to some extent here - as, and I quote, 'wide general statements of principle', and by another learned source as being, 'incapable of general application'. The interpretation of statutes against vaguely worded principles, which is what we would be introducing into our law - that is something which is alien to us and that is something

which I think would present new and quite specific problems for us. And I think this is recognised in the Bill, but that recognition alone I do not think is going to be particularly helpful to us. If you look at clause 3(1), it states that the judiciary will be required to interpret Manx statutes, and then I quote, 'As far as it is possible to do so'. Now, in truth I am not sure what that means and I think, again, others are unsure of what that means. I think it certainly means - or at least one of the meanings is - that the onus falls on the judiciary to place an interpretation on the law reflecting European rights and freedoms. It does not remove - and I think this is another point to take on board - the right of appeal to the House of Lords; it does not remove going to the European court. It is a first stop, domestic law, but after that it goes on: the House of Lords, the European court. So this idea that we are taking onto ourselves the ability to administer and take into account European law is a half-truth. I think we must also recognise that people can go from there, they can go on to the House of Lords, go on to the European court as they can now. So it gives us the first bite at it, then it is elongated and it carries on.

In relation to any Bills following the passing of this enactment if this enactment is passed, looking at the compliance of the provisions of the convention, these rights and freedoms, in the future, as the hon. mover has clearly spelt out, we are going to have to confront them head on, albeit in a somewhat unusual fashion, because when introducing legislation, in the future it will be necessary for us to state either that this Bill's provisions are compatible with the convention rights or, alternatively, although unable to say that they are compatible we are going ahead with this Bill anyway. Now, I am not quite sure where that second statement takes us other than into, I think, a legislative process that is going to be very difficult to tread. It will certainly add greater uncertainty to the situation than what we have at present.

In a manner of speaking this Bill would also have retrospective effect. Now, that is another principle which is something which we have not hitherto taken on board other than in the most rare circumstances, because the court would be required to interpret both past and future law as to its compliance with the convention. I can see the lawyers rubbing their hands! As intimated here in the brief which I have only had a chance to glance through, the learned Secretary's brief, we have in Scotland at the moment a very limited application of these provisions. They are limited in the sense that they are, as I understand it, brought in through the Bill that created the Scottish parliament and relate purely to issues concerning the competence of that parliament and that and that alone, and yet, as we have got in this brief, we are talking of hundreds of actions, some of which may be, as the learned Clerk has said, be quite minor or quite unsubstantial, but that just indicates the sort of scenario which lies ahead if we are moving into this area.

I gather that during the passing of the English Act the Lord Chancellor said that the courts are likely to follow - and I quote, 'expansive European methods', which he said included, 'straining the meaning of words or reading in words which are not there.' That flows, of course, from the broad nature of the stated principles. Again, to me that has the potential for a nightmare scenario. Reduced to a practical level, and looked at from the point of view of the man in the street, it will often be nigh impossible for a lawyer to advise a client against this sort of backdrop because the law will be so uncertain. The law will be more expensive; unquestionably, access to the law will be more expensive and, as I said, this basic tenet that we have always worked to that the law should have this high degree of certainty is out of the window.

Clause 5 deals with, again, the matter which the hon. mover has focused our attention on: that is, the issuing of declarations of incompatibility. And it has said that it will then be for the legislature to decide whether to amend the law. I suggest that that is living in cloud-cuckoo-land, because the fact is, if we pass a law that does not comply we are all perfectly well aware what is going to happen: it is going to go through the process stage by stage and, in the same way as we have been given the odd clip around the ear in the past, we will be given an even more substantial clip around the ear in the future. So to say that we have in

point of fact, having received a declaration of incompatibility, a discretion as to whether we respond to that law or not - I am afraid that is a complete overstatement. Our legislature unquestionably is going to be in a subordinate position and we are going to have to act in relation to any legislation which exists or which we are proposing to make which is incompatible with those provisions.

I fear that we will be entering a novel and somewhat frightening era of what perhaps I could describe as 'government by pressure group' once this legislation comes in as well, because it would be possible for a small minority with no support for its broad aims or objectives from the majority of the public outside to run with an issue on a point of law, get a declaration of incompatibility and this legislature would be left with no alternative than to respond and change the law. At least, in relation to these matters that come within the ambit of these rights and freedoms, it seems to me that gone would be the need to engage in what we rightly look towards as a full democratic process in determining these matters. Normally, if we are entering into a situation where we wish to bring in legislation, we have consultation, we have to bring the general public with us, we certainly have to bring the members of this legislature with us; that scenario would be pushed out to the sidelines, because you can have a scenario where the minority view, not a view carried by the broad population - by that minority interest hitching a ride under these provisions they could enforce a change in the law. That is very different from the courts taking a view in relation to, for example, our national constitution. We are familiar with the fact that the courts and past judgment as to whether an act is unconstitutional, but that is not a parallel with this because in that scenario it is always open to us to amend that; any constitutional issues are subject to come before the legislature and we can amend them. We cannot do that in this scenario; we will have to apply them absolutely in accordance with the law. It would not be possible, in all practical terms, for the Manx people to alter the content of the convention provisions which would be applied to us. Its clauses, I would suggest, are inviolate.

If I could just try to look towards the sum of the totals, as they say, this Bill is not needed to confer rights and freedoms on our people. That is not an issue. This Bill is not needed for that purpose at all. They have those rights and freedoms, and properly so, and they will retain those rights and freedoms. The aim of this Bill is to transfer, as I understand it, the policing of those rights and freedoms. As a first port of call from the European court to our domestic courts, not in itself an unworthy objective, but it carries with it, or so it would appear to me, serious implications, and my concern is whether we have recognised fully those implications and whether we have brought to the attention of the people outside the import of those implications.

Access to the convention provisions, - they are not in some ways streamlined because, as I say, although we do have access through the domestic courts and that is going to give them an earlier port of call than if they had gone to the European court, the fact remains these matters can still go to the House of Lords, they can still go to the European court. With that procedure I believe that we are going to have increasing uncertainty. There is going to be greater risk of misinterpretation and extensive legislation, litigation indeed. With it unquestionably comes the subordination of this legislature to the judiciary, and I would simply point to the one matter of the declaration of incompatibility and the bottom line which rides with that, and the bottom line is quite clear: if we have a law existing, or if we propose to make a law, which is incompatible at the end of the day we are going to have to change it.

I think I have to also ask myself whether on balance we are really helping the people of this Island. To my mind uncertain law greater expense in accessing the law and the lack of clarity in legal interpretation - they are questionable assets but certainly, if there are benefits for the public as a whole, then that is something to which we would naturally be expected to give a fair wind. We have to be ready to live in a very different legal position than we had been familiar with. At present anyone who objects to proposed legislation can go and he can contact his member and come forward and we can seek to change it if we are minded to change it. In

relation to matters that are caught by these freedoms and rights, that will not be open to us. Some would argue, perhaps, that it is not open to us now because a person can still take it to the European court; so be it, but that is the situation.

At the outset I said that I cannot claim to say where this Bill has taken us; I cannot claim to say that I understand all the implications of this Bill. I made an honest effort to try to grasp it and I am sure other members have, but I am left with serious doubts as to where it is taking us. I have serious doubts as to whether the impact of this Bill, what we are proposing to do, has been grasped by many people outside of the legislature, accepting, as the hon. mover said, the Council of Ministers have entered into a consultative process. I believe that we really need to readdress this question of getting across to the general public exactly what we are trying to do by way of this Bill. And I believe we have a responsibility to ourselves, and we certainly have a responsibility to those that we represent, to ensure that before this Bill goes through we understand exactly where it is taking us and that the public understand where it is taking us, and if at the end we are satisfied on those scores and this House is then minded to progress this Bill, then I would be as happy as any other member of this House. But my reservations are there, my reservations relate to matters which are, I believe, serious matters, some of them are constitutional issues, some of them are legal procedural issues, and my mind is far from settled in regard to these matters.

I look forward to today's debate on this. It is a very important matter and I am sure a good number of members will seize the opportunity to speak to it and I will listen carefully to what is said in the debate, but my present inclination is that so important is this Bill that it should be at least looked at by a committee of this House. Thank you, sir.

Mr Karran: Vainstyr Loayreyder, I think the hon. member resuming his seat knows why we need this piece of legislation. This legislation is here to try and protect minorities against unscrupulous individuals and people who would find and curry favour with those that would like to persecute and do them down, and I think that is the reason why we have got this Bill here today. I am only sorry that it did not take the recommendation of my minority report as far as the Bill is concerned. It should have been done many years ago to consolidate, because it is all right talking about the House of Lords and it is all right talking about Europe and it is all right talking about the judicial system if you have got the money to do so, and the point is this: what this Bill does is simplify the system, it puts basic guidelines down in our judicial system so that it can be done at home. We do not need to be part of some dim and distant empire and go to the House of Lords or some upper chamber of some other country's parliamentary system in order to sort out our differences. We should be able to sort them out here today.

As far as I am concerned the Bill should be supported. I suppose now that we have lost the initiative of putting it in there and it is once again seen as being reactionary because many in this House's mainland has done it, they will do it over here. I am only sorry that we did not do it first as we should have done to show a record that we do value human rights.

I would like the hon. mover to just, in his summing up, tell me about what sort of implications we are going to have as far as legal aid is concerned, because I do believe that it is important that if persons are going to be going to be taking on the government there should be some guideline down here, because we have always had justice if you can afford to buy it, and that has always been the way in our system; some people can afford it so some people get more justice than others. I believe that it is important that we do need to investigate the legal aid system.

I support the principles of this Bill. I think it is insulting when I listen to people say that we do not need any of this. When I see the situation as a member who has sat in this House for 15 years and lived virtually under siege for part of it because some of us were brave enough to stand up for a minority within our community as far as the Sexual Offences Bill was concerned, getting unsolicited mail, getting abusive telephone calls, getting threatened, I know in my constituency where I can go down streets where I know that if I was going to treble their

wages, extend their life by 15 years, I would never get a vote out of them. Some in this hon. House in the past have been prepared to stand up and protect the rights of minorities and others have not, and I find that rather offensive when I get told, 'Well, we don't need this' when we do need this. We have the absurdity even now where we are going to be thrown to the wolves over the issue of the age of consent because of the absurdity that it is legal at 21 when our age of majority is 18 and it should have been at 18. As far as I am concerned I do not support the age of 16 but I do support the fact that when you are an adult you are an adult. This is just one classic example of where this House is not prepared to legislate for a minority because it is too worried about losing votes of a few within their own constituencies, and this piece of legislation should resolve that so that will protect the weaker members who are not prepared to say, 'That is wrong, no matter, that is wrong', and that is the way it should be.

I support the Bill but I do feel that we do need to look at the issue as far as legal aid is concerned because it is very difficult; even if somebody in this hon. House was taking the government to court - our wages are not the average work wage of our manual workers - we would find it very difficult to be able to afford the judicial system to be able to do it. So I support the Bill but I do think it is wrong to try and gloss over that somehow we do not really need it. Unfortunately we do need it, and it is very sad that we do need it in this hon. House, but it is a fact of life and for once we will sort out our problems in our courts instead of trying to use the excuses of other courts in other countries, in other jurisdictions, to do it for us. We are a nation; we should be proud to sort out our own stuff in our own courts. This is a national government and that is the way it should be.

Sir Miles Walker: Mr Speaker, I do not believe that this Bill is about whether or not we support human rights. We have had, as you know well, an obligation under the European Convention on Human Rights for very many years now, the Bill in front of us today is not going to alter those obligations, and I for one am very happy to comply with those obligations and fulfil the responsibilities that being signatories, in the widest possible sense, to that convention gives us. As I say, I am content with that.

I have to say I was also content with the findings of the select committee that there was a few years ago. The hon. member for Onchan, Mr Karran, referred to it when he presented a minority report, and I think the findings of that select committee was basically that we should not put the European Convention on Human Rights into our own legislation. The principle of that I know was considered by Executive Council and a little bit later on by the Council of Ministers. We received quite a lot of advice on the situation and, as I say, as an individual I feel quite comfortable with the European Convention on Human Rights and our responsibilities under it.

But there are one or two principles, and I think the hon. member for Ayre, Mr Quine, touched on one of them, and that is the supremacy of the legislature, and that does not mean, in my book anyway, that the legislature has overriding rights over all our international obligations and our local obligations, but it does mean that the highest court in the land, as we often refer to Tynwald. . . and I am not quite certain where that phrase comes from but I use it and I know other members use it; I do not believe that that could be said after this piece of legislation is put into place.

So there are one or two, I think, very serious principles that we should be thinking about. But we have now moved on, and the hon. member for Onchan says we should not take too much notice of what happens in other places; I would suggest that we should. In the United Kingdom we know this legislation has been enacted and is going to be put into place. We know in Scotland it is, and we know that there is a great body of case law going to be built up. We know there is going to be a wealth of experience built up over there which I think will be very useful to us. In my book one of the privileges we have in the Isle of Man is that very often we can sit back and watch legislation be introduced into the neighbouring isles and we can see what happens to it there, we can benefit from their experience, we can cross out bits that

we do not like very much and we can enact the best of it. I think that that would be a very good thing to do with this piece of legislation. I would feel comfortable with that.

But there is a problem and I think it is a very practical one, and that is we know as a community we get all the United Kingdom newspapers, we get the United Kingdom news, we get the bulletins on the BBC and on ITV and so on, and I think it would be unfortunate in the extreme if our people within the community of the Isle of Man felt that they were disadvantaged because we did not have this piece of legislation on our statute book and they did in the United Kingdom, and the person with the same problem in the United Kingdom could go to their local courts whereas in the Isle of Man they would have to go off to the European Court on Human Rights, with all the problems and cost, I suppose, and so on that that could cause them.

I think it is for that reason alone that I would be at this stage supportive of this Bill. I do not see it imposing any more obligations or responsibilities on us than we already have. It might make us more alert to them and perhaps that is not a bad thing, but I do not think it imposes any more responsibilities on us. But there are a great deal of things that will happen in practice that our courts will have to learn, that we will have to learn and so on, and, as I said before on very many occasions, we are able to sit back and watch those things evolve and emerge in the United Kingdom and benefit from that experience. I do not think that that is possible with this piece of legislation so I support its introduction but I do so not with a heavy heart but with a concern. As I say, I was content not to embody this piece of legislation into our own statute book and I was content with the advice we received from the United Kingdom and other people that we should not do it, and because we have had the change of complexion of a government in another place and they have enacted it, then it is in a way unfortunate that we get advice that we should do the same, but in support of our people, of the individual within our community, I do think that under this piece of legislation or under this canopy of legislation, he should have the same rights as his fellow both in the United Kingdom and in Scotland and in other places, and it is on that basis that I will support it.

Mr Cannell: Mr Speaker, I am pleasantly surprised at the seriousness of this debate because undoubtedly it is a most important item, but it all seems to have taken the tenor of what actually is embraced by us charging the judiciary with the aspects of complying with the obligations of Europe and beyond, but no-one seems to have touched very much on what actually is involved if and when we do it, and for guidance for that, and notwithstanding the comprehensive briefing which we received and the Bill which is set out which does not appear to cause any great difficulties, I would prefer to rely on the schedules which are at the back to see what actually we are going to do if indeed this is passed.

It does not seem to me to be causing any great revolution. The Isle of Man with its history and its thousand and more years of parliament never really, if we were totally honest, has enabled complete freedom of its inhabitants. We have always, though not quite as much as the hon. colleague for Onchan, Mr Karran, would have us believe, had to be subservient to a degree, and most other countries are similarly minded too and in recent times they, in fact, have moved towards being responsible enough to be compliant with that, without the nationalistic cause for which we are all so proud, and none, except Mr Karran perhaps, fights the cause like I do.

I really do believe that we ought to be able to be in a position of operating as much legislation of our own as possible. Nevertheless we have always throughout the ages either operated to a feudal system or considerably later had some kind of direct rule from Westminster where certain obligations have always been statutory, and although people huff and puff and say we do not need to take any notice of those, it is not all that long ago that in fact one of the major items of it was of course the famous birching issue, where a straw poll even now of the Isle of Man, I would humbly suggest, would show overwhelmingly that the population would prefer a return to corporal punishment in that regard, and it was a sad day

when we had to say, 'I am afraid we are not able to impose it.' Considerably later, though you might have thought it would have been the other way round, came the decision to go away from capital punishment, but of course there never was the emotion which was attached to that in the Isle of Man, because I think a straw poll in the Isle of Man would show that that was a reasonable reform. I do not subscribe to that myself, by the way, but I think the majority of the Isle of Man public probably would have said that capital punishment had probably had its day.

But when you look here and you see what position we are in, we really are not - and it does grieve me, as it did to Sir Miles - in a position, really, of having a throne of home rule, and we are not as free as thy sweet mountain air - not really; we wish we were but I do not think we ever have been. All we are trying to do is to preserve our position as best we can, but we do have obligations towards our people vis-à-vis their European standards and we would be doing a disservice if our people were anything less than franchised to enjoy the same benefits of human rights.

So I do not have any difficulty with the Bill whatsoever. I do not get into the legal side of what it means to the judiciary because I do not believe, as an ordinary MHK representing people in the streets, that in fact that is required. Better and legal and more highly paid brains than mine have got plenty of opportunity to sort that out, but I do agree with the hon. member for Ayre, who says it is a lawyer's paradise which we are actually contemplating before us here when that comes, and I also agree with my colleague from Onchan that justice is fine provided you have a fat cheque book, because legal aid - you may talk, but in fact that is not what happens when it comes to reality and there are many constituents, I am sure, who have approached hon. members on matters of considerably less importance than this and they say, 'Yes, I wanted to fight but I ran out of money' because inevitably the cases in the Isle of Man particularly are nearly always taken against departments of government who of course, to a certain degree, have the big stick at the end of the day. It is an insurance company against an individual and there are not many individuals fortunate enough to be able to say 'I shall take this all the way.' One or two people have been foolhardy enough to actually attempt it. Very few have won. Only the big rollers stand a real chance because when you come up, even in a recent action in the Isle of Man over a planning decision in Onchan, you had even our own well-briefed departmental members facing a QC drafted in. Now we have our own QCs and anybody can buy the services of a QC, but you see the big rollers like George Carman and people like that and they command massive fees to take on comparatively innocuous cases, and if you have the money to do that, then that is fine. You get George Carman and you will stand a very good chance of winning, but with his knowledge and his clout it is not open to the general public to be able to do that.

So to return to what I said at the outset, I do not have much difficulty with this; in fact I welcome it. I do not quite know how it would sit with a Manx Bill of Rights as such, which we might consider in the future, which would enable particular individual circumstances of our citizens to be emboldened in those, where you could have local circumstance which in fact would be a right of people who are fully qualified to enjoy it within terms which we might decide in the Isle of Man. But when you come to this, there is nothing very nasty about it. It gives you in article 2 the right to life and sets out what can be done for that, and in fact there is no finer case recently than the difficulty which has been faced by a gentleman who actually operated a shotgun to take on burglars who were burgling his house. Regrettably, in my opinion anyway, he was convicted of murder and was in fact jailed for that. This is a very great highlight, but it does actually say in here that you can actually utilise that deprivation of life in defence of any person from unlawful violence, so I do not quite know how that sits with that conviction, but still it is something to which we should address ourselves. It is not beyond the bounds of possibility that that type of offence could happen in the Isle of Man. We have some very wealthy property-owners here and some very good and highly expensive artifacts within those properties, and there is nothing to say that type of thing only happens in England. Those days

are gone where we say, 'This is the Isle of Man; we do not act like that.' I am afraid to say that the more wealthy we become with our new and welcome residents, the more likely it is that just such a crime could be perpetrated. So we would have to have, in defence, this type of article as outlined in the Bill as number 2.

I do not think the prohibition of torture is probably a starter for general purposes. Prohibition of slavery and forced labour - I am sure my hon. colleague could make out a case in his view, anyway, where in fact that does happen over here. I do not think many others would. The right to liberty and security, article 5, is most certainly something that everybody needs to enshrine. It is absolutely patent and basic to the function of the existence of people in the style and way of life that this Isle of Man is still privileged to enjoy despite all the attacks made upon it.

The right to a fair trial - that is encompassed in everybody's basic standing in the Isle of Man. We could not possibly deny that. No punishment without law; freedom of thought, conscience and religion - well, once you start on that, that could be an absolute minefield because it is capable of individual interpretation. Freedom of expression - I think probably that is one where we highly score in the Isle of Man; there cannot be anywhere else in the world where expression can be more freedom than this sceptred isle where virtually anything can be said to anybody without recourse to law. We do not get the great libel actions and people being arrested for making their views known, however wild they are. Freedom of assembly and association - that is what we are doing here. The right to marry, prohibition of discrimination, restriction on political activity of aliens - well, that is a possibility, as I hinted in a question fairly recently in another place that we could actually be facing. The possibility of immigration to this Island is another matter, I would humbly suggest, where everybody says it could not happen. It could certainly happen. There are many ways in which immigrants could make their way to the Isle of Man and impose great difficulties for the judiciary, for the Department of Health and Social Security with its provision for accommodation and the various other aspects of it which go along with it. The prohibition of abuse of rights and the sixth protocol which contains the abolition of the death penalty and its restoration in the remote possibility of a world war. There are then some notifications made for what I presume in my very limited legal interpretation appear to be updates, and all of those as well I have no difficulty with. So, yes, I think we do need this Bill to put the citizens of the Isle of Man on at least a par, if not better, than the situation of their people elsewhere.

Mr Rodan: Mr Speaker, I will certainly be supporting this Bill from matters of basic principle, notwithstanding some of the practical implications of this which the hon. member for Ayre has quite rightly alluded to and over which we must take great care.

The first matter of principle was voiced quite rightly by the hon. member for Rushen, Sir Miles Walker, where he drew our attention to the fact that what was happening is that we, in this measure, will be giving to our people the same statutory rights as are afforded to people in the United Kingdom. That may sound a very pragmatic principle, but it is now a statement of the current reality and it is pragmatic and, if for no other reason, the people of the Isle of Man should not be denied the same statutory rights as our neighbours across the water.

But perhaps more fundamentally there is the issue of principle that the Convention on Human Rights is now almost 50 years old, it was introduced by the Council of Europe and virtually every European country has over the years incorporated it into domestic law. The major exception, of course, of the signatories was the United Kingdom because they felt that there was no specific need, and the view was taken that the rights and freedoms within the convention were already protected in British law, but case law over the years and evolution, I think, has shown that that has not been the case.

The same principle, therefore, I think, applies to the Isle of Man and the hon. member Mr Quine said that the Bill was not really needed because our people already have the rights and freedoms guaranteed to them by the convention, and what this Bill is about is a matter of

policing within the domestic court situation as opposed to the European situation. That is the basic principle that we are dealing with today, the fact that non-incorporation of rights which, certainly in the United Kingdom, citizens believed already existed but has not been proved to be the case necessarily and, similarly with the Isle of Man, yes, the basic principle is this one: that because the exercise of those rights and freedoms and the defence of them actually takes so long to pursue through European courts, the principle is surely that it is right that those legal rights, convention rights, are brought home and exercised domestically. Enforcing them takes too long and costs too much since it takes on average some five years to get an action into the European Court of Human Rights once all domestic remedies have been exhausted, and it has been shown to cost an average of £30,000. These long delays and high costs are matters of fundamental principle which we are rightly concerned with, and that is the purpose of the measure. It is not that we are introducing new human rights into law; it is the matter of where they are enforced and the cases being made that they be better enforced here in the Isle of Man than by long, expensive judicial process in Europe.

The hon. member Mr Quine objected to the measure in a very measured way. One of his main objections is that it represents the shift in power from the legislature to the judiciary. Now, I would see it as more of a shift in power from European judicial influence to Isle of Man domestic influence rather than a shift of power from legislature to judiciary, because at the end of the day, whatever the judicial decision wherever it is made, there is going to be an impact of sorts on legislative process.

He also raises as a major concern that the lawmaking powers of Tynwald will be permanently curtailed - I think that was the way he put it - and I would say that that is, in my opinion, not necessarily the case. The is stated in relation to concerns over clause 4 with declarations of incompatibility. However, a declaration that legislation is incompatible with convention rights would not in itself have the effect of changing the law. If our legislation was found to be inconsistent with the convention, what would happen, I imagine, is that the matter would be raised in Tynwald one way or another, either by the executive or by someone else, and that amending legislation would be passed, and in cases where, if UK legislation which had been extended to the Isle of Man was found to be inconsistent, presumably it would be raised with the Home Office. So there is a difference here than saying that the lawmaking powers of Tynwald are being curtailed. At the end of the day the power remains with Tynwald and will make the appropriate decision in the light of judicial interpretation.

Where the hon. member Mr Quine is quite right is to highlight the uncertainties that will be introduced in relation to existing legislation, because this has certainly, as the learned Secretary has advised us, been the case with the Scottish Parliament and there have indeed been major implications. A new case seems to be emerging on a daily basis. I think the filing cabinets of defence lawyers in Scotland are being opened on a daily basis, defence files are being dusted down and new reasons being found to reopen cases, and this, of course, is becoming an increasing concern and is giving some real practical difficulty over there. Just to give one or two examples, the process of having appointed temporary sheriffs, which is a practical means of ensuring that the judicial process proceeds without backlogs of cases, has been challenged that it is in breach of the right to a fair trial and an independent and impartial tribunal, because the temporary sheriffs are appointed by the Lord Advocate, which is a political appointment; the rights to privacy under the European convention are allegedly being breached by CCTV security cameras; the system of legal aid and the fact that there is a monetary cut-off point for legal aid - has been suggested that the £500 fixed fee for criminal trials denies people the right to a fair hearing, and that is in breach of the European convention; the seizure of the proceeds of crime from convicted criminals is being alleged to fall foul of the European convention because it appears to reverse the onus of proof from the prosecution demonstrating guilt to the defendant having to prove he had obtained goods legitimately.

Now, these have all in recent months come up and there have been many others, and it is for this reason if no other, then as our learned friends would say it is a case of *festina lente*, hasten slowly with this legislation and actually bringing it in. The very key to it, therefore, is the last part of the very last clause, and the hon. mover did refer to this, that the Act shall come into force on such days as the Council of Ministers may by order appoint, and different days may be appointed for different purposes because what has to happen is that great care is taken and great scrutiny is made of emerging case law across the water, and the way the human rights legislation there is having a profound impact on existing legislation will have to be taken into account.

The incorporation of the Convention on Human Rights into our law is going to require a completely new approach to legal processes, and of course a duty on public authorities to act hereafter in accordance with convention rights, and therefore there is going to be a most significant impact in a wide cross-section of the community, within the judiciary, the police, government both national and local, and therefore we will have to review primary and subordinate legislation and existing practices, procedures to ensure compliance with convention rights and, as the legislation makes clear, have to check new legislative proposals for compliance with convention rights, and all these measures and this scrutiny will need to be progressed and in place, I suggest, before the legislation can be introduced. Certainly the Social Issues Committee, which I joined for the latter part of the consideration of this Bill, was itself very clear that there would need to be great care taken in how this legislation impacted on existing domestic legislation and that the Attorney-General's office was going to have quite a job ahead of scrutinising existing law to ensure that the problems that have manifested themselves across the water were at least kept to a minimum when this legislation actually comes into effect.

So I am sure the hon. mover will refer in his summing up to the great care that is going to be needed in the Isle of Man before this legislation is brought into effect because of the practical impact it is going to have.

Mrs Hannan: Vainstyr Loayreyder, I welcome this legislation. Some of us do recognise and have over very many years recognised human rights and have defended them where and whenever, and because of that I think this legislation, bringing it home, makes human rights more accessible to our people, and I think it is for that reason that I welcome it. Freedoms equal rights, rights equal freedoms, but one of the comments that has been made by at least two members speaking previously is that this is now going to be a lawyer's paradise. I would suggest that everything that we do in this House, except for questions, is a lawyers' paradise. We make laws and it is making these laws that actually then gives somebody - and this happens to be lawyers or advocates - a position which they can either use in court or advise their clients not to, but that is what we do. If things were so simple that we did not need law, then there would be no need for us to be here as lawmakers.

This convention has been in place since 1952. We should not have ignored it but I would put it to this hon. House that we have ignored it on a number of issues, and this House went into private in 1976 and took away the right of individual petition to the European court - they did not even have the courage to do it in public. That took a lot of the freedoms away from our people and they were only put back in place again after the decision to remove the birch from the statute book almost totally. So you would think that we represent the people and that because of our closeness to the people we would protect the interest of the people. In the past we have not done that.

This legislation, I would put it to this hon. House, should be enacted in full, and I am very sad that a minister of the government is suggesting different appointed day orders. This should be an extremely proud day for this House that we have got this bringing home human rights for our people, making them accessible. I wonder why we are so frightened to enact legislation which gives more power to the people that we represent.

The member for Onchan talked about the position of people in the distant past being feudal subjects, and that has gone on for a very long time. What we should be doing now is giving them the freedoms, bringing them home and our courts being able to look after them. Yes, there are going to be problems, but every piece of legislation that we pass before this House that goes on to the Legislative Council creates problems for someone. We heard the legislation that we have just passed, the Corporate Service Providers Bill. They did not like it, but it is providing regulation within an area, and in some cases they have had more rights than many other people when we pass legislation because of the consultation procedure that they have had.

I do have - on the human rights issue - a problem with that legislation, but I think that we should be proud to have this legislation in front of us today. We should not be frightened of giving them rights and, yes, if the courts have a little more say and are able to voice their concerns about something, they do that all the time and they are reported anyway, because it means that it is newsworthy.

There is one concern I have, and that is the derogation which is included in this Bill, and it must have to be here because it is a derogation because the UK are the high contracting party, but when we took the Prevention of Terrorism Bill through in 1990 we complied with the Convention on Human Rights; we complied with the European Commission ruling; it was debated in full; we abided by the ruling that came down from the case of Brogan and others at the European Court of Human Rights, and therefore I think there should be a codicil entered here that we do not have to abide by this derogation because we actually complied with the ruling of the Court of Human Rights at that particular time. As I said, we fought long and hard to defend human rights wherever and whenever necessary. All that the Prevention of Terrorism does is that before somebody is held for a long period of time they would have to go back to the Court to be able to hold them, so they could not hold them for longer than under the human rights convention.

Therefore I do welcome this legislation. I am just a bit concerned that we have to have this derogation in because I do not think it is absolutely necessary, but we should not forget that we represent the people and I think, far be it from looking after minorities or looking after lawyers or looking after somebody else, they are there to actually help us to do the job that we are doing in looking after these rights, and minorities are still the people that we represent and I believe that we should be proud today of this legislation and being able to protect minorities where and whenever, as we do majorities.

Mr Singer: Mr Speaker, this Bill is a far-reaching and difficult Bill and its implications, I believe, are really unknown because European law is so different in character and methods of interpretation from UK or Manx law. So by saying 'Do not rush into legislation' it is not saying it is a case for opposing a new Human Rights Bill but having a full understanding of what it will mean to this Island. The Bill is so radical, complex and fundamental that it is difficult to assimilate its detailed contents. Even in conjunction with the latest briefing notes from the learned Secretary, whilst these notes are very welcome they have only been in my hands for 12 hours and they do throw up many questions. Within such a short time I personally cannot get the answers and consider their relevance to this Bill, and therefore it is rather unfair and I think it gives me a sense of unease to support the Bill at this stage when its ramifications may have effects on my constituents, on this Island, which will be irreversible, and reducing our independence and perhaps taking us to the favourite position of the hon. member for Onchan when he says that we end up as a county council of England.

Surely this should signal a warning to us to proceed with the utmost caution in order not to surrender our sovereignty and independent judicial system. I understand that being a signatory to an international convention does not mean that that convention has to be incorporated into international law. The signing of a treaty was traditionally by or on behalf of a monarch, but the monarch cannot enforce that treaty onto their own citizens. It is only

incorporated into domestic law by parliament, and the legislature has complete autonomy to incorporate treaties into law. This is introducing a serious constitutional change.

So the question is that whilst the UK extended the human rights convention to the Isle of Man in 1953, did Tynwald ever debate the subject and vote to incorporate it into Manx law or was it the Governor who decided that it was a good idea and that was that? Perhaps the mover could clarify the dates of the debates and the votes that took place within Tynwald to incorporate the initial human rights convention into Manx law. So any argument that this parliament is forced to introduce this legislation has no reality if Tynwald records do not show that the parliament did sign up to the original treaty.

If this Bill is introduced, then Manx law can be amended whether or not the Manx public wishes it to be. Election candidates will no longer be able to state what future changes they will be seeking in the criminal law; They will have no choice but to accept European law, and there will be a dramatic effect on criminal law. Our judiciary will be bound by European precedent but, hon. members, European precedent is far removed from what we know as precedent. European precedent is ongoing and can change regularly, bringing great uncertainty, and legal advice would become guesswork and therefore encourage litigation. I am certain that the courts would become overrun because of this uncertainty and, what is more, the judiciary, not Tynwald, could well be taking on a legislative role.

In referring to the declaration of incompatibility where the Council of Ministers could change the law I think we should be in no doubt that unless the Council of Ministers have the genuine stomach to fight the genuine self-government they will not be able to resist the pressures from Whitehall.

The Chief Minister has said that as we are signatories to the European human rights convention we cannot refuse to introduce this legislation. The information we require is whether Tynwald did or did not vote to incorporate this convention into Manx law. But there are many other questions that need to be answered, and I would take up the point of the hon. member for Ayre in that we do need a committee so the committee can take expert advice. With all respect to the hon. mover of the Bill, he is not an expert in European law and neither is any other member of this hon. Court, and a committee of this House could call upon such expertise and then make suitable judgement and recommendations to this hon. Court on what will be the effects, both good and bad, on this Island. We do need the full story and then make a judgement as to its introduction to understand what we will be gaining and what we will be losing and to put at ease members' reservations that have already been voiced in the debate.

I believe that we have to proceed with caution and not in haste, and I hope that this Court will do so in order that when we do support a Human Rights Bill - and I so support the basis of a Human Rights Bill - we know that it will be for the best of the people of this Island.

Mr Henderson: Mr Speaker, in opening my contribution to this debate I just want to comment on two previous contributors who are now unfortunately not present, but I am certainly going to lay it on record how I feel about one or two observations that were made.

The first hon. speaker I am referring to is the hon. member for Onchan, Mr Karran, who wholeheartedly supports the Human Rights Bill 200 per cent - excellent, except we seem to have a situation where he 'speaketh with forked tongue' because at other times in other places, when other members are exercising freedom of speech, he is jumping round like an electrified jelly in protest at even being asked a question, and I think that is a basic human right.

The other hon. member for Onchan, Mr Cannell, supports the principles, and I am very pleased and delighted; obviously he has taken a new leaf here, because going back a little way Mr Cannell had a very unfortunate disposition towards human rights when I presented him with staff and employee problems. I was mortified, but I am very pleased and I must take heart from the minister's nodding there that Mr Cannell has indeed turned a new leaf -

Mr Cretney: I am not a spokesman!

Mr Henderson: - because I made some stiff representations on human rights issues and as far as the hon. member for Onchan was concerned the individual involved was nothing but going to be ground down into the deck, and I was dismayed.

Anyway, this Bill has been a long time coming - too long in my opinion. It is showcase legislation for the Isle of Man, legislation which sets the Island on a par with other countries and certainly gives us an equal footing on the international stage, sorely needed at this time, I feel, with the international spotlight still turned our way. It is this kind of legislation, a quality standard, that puts the Island shoulder to shoulder with others as equals and partners, not some small part player who waits in the wings for their two minute piece of fame.

The Isle of Man needs to present itself as a key player on the world stage. We may never reach the aspirations of the larger countries, but there is absolutely no reason why we cannot match them in quality, effectiveness and the way we conduct ourselves in the global arena. We should be aiming at the highest standards for our Island in everything we do from business to quality of life issues such as laid before us today, so in percentage terms or in ratio with other countries we are able to demonstrate we are better.

We are a special nation, an island with unique characteristics and a thoroughbred history and we need to be showing this. The Human Rights Bill is one way of doing this, a piece of fundamental legislation that will underpin everything this legislature attempts to do from now on, and hopefully impact onto members of our community in a positive and beneficial way. It is a quality standard which will set in place a framework and focus for forthcoming legislation, causing it to be rooted in this human rights foundation. A review of present legislation may be necessary and it may present problems. Present and future policies in government objectives will be affected, but it will offer guidance for important issues, guidance which will now have to be firmly taken into account when progressing these issues.

Earlier this year, as we are aware, the Chief Secretary and the Attorney-General were summoned to the Supreme Headquarters of the United Nations in New York to give an update and progress report on the implementation of various human rights issues as part of the United Kingdom's report on its dependencies' international responsibilities. I will quote some important commitments made to the UN on behalf of the Isle of Man at that time. Mark de Pulford, head of the Human Rights Unit, Home Office, of the United Kingdom, affirmed to the Human Rights Committee that the Human Rights Covenant had not been ignored and was given to its incorporation. Certain efforts, however, were focused on the successful incorporation of the European convention.

The government of the Island recognised its increasing international responsibility, especially in the area of human rights. It was committed to the provisions of the covenant which had been cited in cases referred to courts on the Isle. The new Human Rights Act would change human rights training for public officials. In June there would be a major training process begun on the Isle which would bring together about 170 officials and introduce to them the concept and practices necessary for the new regime once the Act is in place. Following that, more detailed and comprehensive programmes would be required.

These statements made to the UN in the presence of a senior Home Office delegate by the Island's more senior officials have committed us to bringing this legislation in. The Chief Secretary committed to June for a major training process. It is already assumed this legislation will go through. That will tell you its importance. However, I do like being told what we will be legislating for, especially without debate, and what we will not. This is a democracy and as far as I am aware we are our own Island, and yet here we have another clear example of again being committed to something over our heads: two Crown appointments with a Home Office official committing the Isle of Man Government to this Bill in front of the UN and taking for granted that this legislation will be enacted.

I find it shameful in some ways, and it is a great pity that we are not progressing this on our terms, giving us even more credibility and substantiating our position in international perspectives and, of course, the positive PR that would come off it. I believe that we need this legislation in place, but to have it brought over our heads in this fashion is something I find completely unpalatable and unacceptable. We have missed yet another chance. Quite frankly we will hear the excuses coming back, and I am not bothered what they are or whatever. I personally would have liked to see a senior Manx politician rendering to the UN what we were doing on our terms, our initiatives, our ideas, our legislation, not a cap-in-hand process. We should have been there saying, 'This is what we have brought in and I hope it meets with UN approval' - another golden opportunity lost, in my opinion, in setting ourselves up as partners, not being introduced to this important international committee as the United Kingdom's dependency but as an autonomous legislature with the oldest continuous parliament in the world, which just happens to be a British island dependency at present; at least that would have been something.

Legislation which enshrines principles such as right to life and, as the hon. member for Onchan, Mr Cannell, pointed out, prohibition of torture, prohibition of slavery, forced labour - and I think 'forced labour' there - it depends on your interpretation: if somebody has to work for £1.50 an hour to keep their family I think you have got to look at the spin on things - right to liberty and security, right to a fair trial, no punishment without law, freedom of expression, et cetera - these are very, very important, it is important legislation. Certainly the onus of promoting it is through our own courts now for the man on the street and to make it more accessible and having an attempt through Strasbourg. It says an awful lot about any country which adopts these basic principles, principles which I fully support, and the sooner we send out a clear message to the world that we are a responsible and modern nation with strong social legislation which protects our community, especially the vulnerable, the better.

Up until now we have had a poor record, really, of implementing any social legislation, and, when we have, the dissenters have had to be dragged kicking and snarling all the way to the floor of this House and another place and even then would not vote and had the audacity to say we did not need this kind of legislation. The minimum wage was one example, but the all-time classic in my opinion, if there was ever an event that nearly brought the roof in and put the credibility of this House in jeopardy, and hand on a plate, the biggest and most damaging headline in the UK national press would ever had had out of this Island would be a Sex Discrimination Bill which legitimised nearly every employer in the country to legal sex discrimination. It took a lesson from the Attorney-General and an amendment back to here based on my original amendment to sort that one out.

I sincerely hope this Bill does not suffer the same fate. I will give this House once again the benefit of my interpretation, as I have done before on similar issues, and say that it is important and it needs careful progression towards implementation. Now, I am not using 'speedy progression'; I am using the words 'careful progression' here because there are important elements within it that I believe need further investigation and further debate.

Now, it is significant and I cannot think of any more important social legislation. I also hope, however, it is the catalyst to further improvements in our other domestic arrangements, especially for our outdated and outmoded employment legislation which is long overdue for an overhaul and which is, I believe, weighted in the employer's favour.

Further, a system which at present allows no right to representation, no right to recognition and no legal aid at an employment tribunal is completely unfair and, as far as I am concerned, a breach of basic rights. This is not caring and sharing, and it is loading the system in favour of the 'haves'.

It would be nice to report back to the UN that we had rectified that situation, but I notice, when the subject was broached in New York, answers were given in a careful and measured

way. Well, I am not an optimistic when it comes to this side of things and the sooner we have some equal rights and proper, meaningful legislation from employees the better.

On the subject of legal aid I would ask the hon. mover if legal aid will be available for those seeking to uphold their human rights who can not afford expensive lawyers because, if not, then surely this is a travesty in breach of human rights in itself if someone is on a low income but cannot protect themselves. Surely this is not right.

My other observation on this weighty issue is the fact of briefings. I received at 5.30 last night, luckily, a 10-page fax from the Clerk of Tynwald's Office which shed some illumination on the subject but, given it was the Chief Minister's seminar policy for every member of parliament yesterday and not getting back until late, it gave little time for perusal of the document that I received. As far as I am aware I have not received a briefing document from the Council of Ministers, and certainly, if there has not been a seminar I would like a seminar to be put forward, and certainly I am making a call here and now that perhaps we should delay the clauses section for a briefing for members to ensure they are up to speed with the more important aspects of this legislation that have been illustrated here this morning by many speakers, not least of all from the hon. member for Ayre, Mr Quine, who has illustrated some issues here that I feel I certainly would like more information on and a chance to answer some questions.

What I do not feel is fair is that as a responsible member of parliament, yes, a Bill such as this comes along, we should do everything in our power to go and find out what we can, but I do not think it should be incumbent on members to go round by process of discovery either. I think it is incumbent on the mover of such legislation, the department or the Council of Ministers who are promoting it or whatever that may be, to actually do something about it, and I can see the hon. mover pointing to something in his file but, really, it is so long ago we have received anything that a refresher would not have been a bad idea considering the importance of this and the effects it is going to have.

I make a call on the mover once again, whether it is palatable or not, to put the clauses stages back by at least one week so members can have a bit of a briefing on the main elements and their implications. Once we have been around that circuit, then I for one will be only too happy to support this long overdue legislation. Thank you, Mr Speaker.

Mr Houghton: Mr Speaker, I rise to firmly oppose this Bill as set out in its current text, sir. By signing up to this proposed legislation we could be setting ourselves up for the introduction of the most significant changes to legal practice ever known.

The Bill mentions the future requirements of declaration of incompatibility with convention rights, which will lead to the revision of many Acts of Tynwald, these Acts which have been examined and approved by this hon. House in the past. If we approve this Bill its implications will undo a lot of that work. It will lead to even more bureaucracy for all, which will be costly for the government and will undoubtedly lead to excessive additional costs for the public when engaging the services of an advocate. Indeed, when they do engage such legal advice, that future advice could be vague because Manx law as it stands will have to be interpreted in the future to comply, of course, with convention rights.

This Bill sets out also to restrict members of this House wishing to bring future legislation forward when they have a mandate from the public to do so, unless it complies with the convention.

No-one has a problem with the meaning of human rights. Many of them are set out clearly in Acts of Tynwald. Articles 2, 5 and 6 of the convention are, of course, transparent to this. Nor does anyone, I believe, have a problem with Articles 8 to 12 which cover issues such as freedom of privacy, thought, expression and marriage, et cetera. So I do not see the need to approve this Bill covering those particular areas. I have to say that I am at odds with signing up to Article 3, which deals with the prohibition of torture. This, among other issues, deals with

putting the final death-knell to the future use of the birch. I cannot and will not subscribe to that. When one considers the growth in mindless and physical violence which occasions this Isle, it is still the opinion and belief of many that these perpetrators should be birched. Having been at the raw end on many occasions with violent and defiant thugs, I can testify that law and order will continue to crumble unless effective deterrents such as the birch are brought back into use, and not used sparingly either. The issue of side-handled batons to uniformed officers of the Isle of Man Constabulary is, of course, testament to this.

The sixth protocol deals with the abolition of the death penalty, which is another issue I am indeed unable to support. Whilst law and order around the world has gone soft, violent incidents have grown steadily. I wonder just how many hon. members present today have indeed met with the families of loved ones who have been murdered? Those who have will clearly understand the agony those families have to endure.

This Bill will create a very expensive and bureaucratic nightmare. It will do nothing for ordinary members of the public. It most certainly will dilute legal powers and transfer the authority of interpretation to the judiciary. This will lead to uncertainty in legal advice, which undoubtedly will cost more.

Nothing in this Bill will create a criminal offence so it has no teeth, although it will attract very expensive claims for legal damages to be made against the Treasury and others. It will effectively devolve the right to make future independent legislation away from the Island to Europe, and to that end I do entirely oppose this Bill. Thank you.

The Speaker: Can I now call upon the mover to reply? The hon. member for Castletown, Mr Brown.

Mr Brown: Thank you, Mr President, and I first would thank members for their consideration of what is a very important piece of legislation, a major step in terms of bringing into our own domestic legislation the Convention on Human Rights which already applies to the Isle of Man.

I think that is the important issue: it already applies to the Isle of Man. Our people already have these rights. It is nothing new; they have them. The big step in this legislation is, in fact, that by enacting this legislation we will enable our people to exercise their rights in the Manx courts and not have to consider going to Europe to judges who live in another world, who live in Europe in terms of their thinking, they do not necessarily speak English. And furthermore, the Isle of Man, when it is defending its case, if that is what it feels it should do, has to be represented by Home Office personnel. Surely what the Isle of Man should be saying is, 'Let us look after our own people in our own way, applying the convention to those people, those rights that we have already given them'. Let us stop pretending, because that is what we are trying to do.

The last speaker said, 'I want to be able to have the birch back in operation'. (**Mr Houghton:** Hear, hear.) When is the Isle of Man going to get into its mind that the birch is dead? (**Mr Cretney:** Hear, hear.) The birch has been dead for nearly 20 years. It has not even been allowed to be used, and the only way the Isle of Man can inflict the birch against an individual is if we come out of the convention and withdraw all the rights and freedoms that our people presently have, protected under that convention. So let us not have a red herring; the birch is dead, it has been dead a long time and, even though it is in our legislation, we know what would happen if it was given by the judiciary that somebody should have the birch.

Mr Houghton: What a pity!

Mr Brown: If it was given. Let me just make the point, the birch was not that effective.

Mr Houghton: It was. By God it was.

Mr Brown: One of the things that brought the birch into discredit was the attitude like that of the hon. member for North Douglas, when we had JPs birching young children, basically. That is what brought it into disrepute - stealing a pint of milk, they were birched; stealing apples, they were birched. This is while I was a child, 1964, and I do not believe that is what the Manx people want. Some do, but not the vast majority who are sensible and who think things through carefully.

Now, a number of very important issues have been brought up and I would like to try and get one thing clear and clearly through to members, and that is it has been said that this represents a shift of power from the legislature to the judiciary - nonsense, absolute nonsense! We as a responsible legislature should be complying with the convention anyway.

Mrs Crowe: Of course.

Mr Brown: The difference is that what will happen is that every piece of legislation that comes before the House will have to have a clear statement as to whether or not the legislation before the House is in fact in contravention of our obligations under the convention - in other words, under our own legislation. If it is in contravention - in other words, it is incompatible - it does not stop the House of Keys passing that legislation. The hon. member for North Douglas said it will stop a private member bringing in legislation that is not compatible with the law. That is not true.

Mr Houghton: Effective legislation.

Mr Brown: That is not true. I read it out in my introduction. It will have to state on the introductory explanatory memorandum of the Bill whether or not the legislation before the House is incompatible, and if it is, the House can consciously pass that legislation, we can be challenged in the courts and the courts can make a declaration of incompatibility, but the legislature may still not decide to change that law. But that will be in our hands, and ultimately an individual who feels it necessary can then go to the European court and challenge that we are enacting legislation that is not compatible, and then we have a higher level of criticism.

So it is not restricting the rights of the legislature; it is not restricting the rights of this House; it is not restricting the rights of Tynwald Court; it is not restricting the rights of the Legislative Council. We can pass what we believe we want to pass, but we will clearly know whether or not it is incompatible, and the best example we have got is the point the hon. member, Mr Henderson, made. Mr Henderson stood up there a few weeks ago fighting the Sex Discrimination Bill and saying this was wrong, and the majority of the House said, 'We don't agree with you.' It went up to the Legislative Council, a specific question was asked of the Attorney-General, is the Sex Discrimination Bill contrary to our obligations under the convention? And rightly he said yes. The Legislative Council amended the legislation and then we as the lower House accepted that change. Would it not have been much better if the Bill before us had said it was in contravention of it, it was incompatible, and this is why, and then we would have all known that we were making a conscious decision to go one way or the other?

That is what this is about. This will help the legislature; it will not hinder it. It will help the people we represent because it will protect their rights which the hon. member for Onchan, Mr Cannell, read out quite clearly when he read out schedule 1 and protocol 6. He read out those rights. Who objects to our people having those rights?

Now, what the courts may interpret is one issue. If a Manx resident has a concern about how the legislature or a government department or any other public body is interpreting the law or is enacting the law, is it not much better that our own people can go to our courts not a hundred yards from here, go to our deemsters and make their case, and we have our people making a judgement that we then have to consider whether or not we make an amendment to our legislation? Or the deemster may say it is not incompatible, and if that is the case that is the end of the story. If, when we have an incompatibility situation from the courts and the Isle

of Man Government or the legislature decide not to end the law, then the individual has the right to go to Europe. Is that not a better procedure than being, as we have used the term, 'dragged to Europe' to answer to what we are doing? That has to be a better situation.

So let me get it clear: nothing in this Bill and nothing in the convention that will be enacted in this Bill into Manx law affects the rights of the legislature. What it will do is identify problems for us, and we can consciously ignore it if we wish. Whether we do or not that is a matter for the future but at least it will be clear. The uncertainty we have at the moment of this distance between ourselves and Brussels, with the Home Office in the middle, will be gone unless somebody actually ends up going to Europe. That has to be better.

The briefing that the hon. Secretary of the House provided, the Tynwald briefing which only arrived yesterday, which I think is straightforward - but that might be easy for me to say being the person who has been dealing with the Bill - I think is quite straightforward in explaining that this is where you are, these are the benefits, and maybe there are some questions you want to ask but these are the general benefits of what we are doing, and I thought the briefing was very helpful in that way. I read it through and found it quite straightforward. Here is the situation: you either control it yourselves or you let somebody else control it.

I know what I want and I think what most people want. If we are going to have it applying to us, which it does and has done for a long time, then let us at least have it dealt with here on the Island. Let us deal with it on the Island. Let our people deal with their concerns here on the Island.

The situation of human rights - I think we just need to remind ourselves of why these developed. The difficulty we have is that we often hear of the UK being taken to the court of human rights and on occasions the Isle of Man has been taken to the court of human rights, and the reason for that is, of course, because it has not been enacted in domestic law and the UK, Ireland, the Isle of Man, Guernsey and Jersey are some of the last jurisdictions to enact the convention into their own domestic law. That is why we have the situation we have. This will mean that we can now deal with most of the cases, or any complaints that people have, on the Island. Do not get confused with what is going on in Scotland; the point is that when there have been judgements in Scotland, that is fine, but the legislature, as would happen here, then can consider those judgements and consciously decide whether to enact the legislature. They could still ignore the courts, but there is a peril to that because then we are potentially in contravention of this convention which we are part of, so we have to be clear on that.

Mr Karran asked a question about legal aid and my understanding is that, yes, it will be available because this is civil proceedings. I will check and make sure and I will respond to the hon. member at the next stage of the Bill so that we know whether or not legal aid is available, but my understanding is that, yes, it would be available for such cases.

If I can just try and go through - because I think I have generally answered the whole question; I hope anyway - another point that was raised was about the introduction of the legislation and the reason why on the last clause it says it is to be introduced on a day and such sections can be brought in at different times. The reason for that is because there is an important learning curve for the judiciary, for everybody involved in this - civil servants, everybody. This is a major change because the difference is they will be more able to be questioned on their actions here locally than is presently the situation and, as far as I can see, that is an important step. We must not rush into it. What we do is get the legislation onto our statute, I hope it is enacted as soon as possible but we have got to be practical and make sure that everybody who has got to deal with this is clear about how they will deal with it.

Mrs Hannan raised - and I thank her for her support - the point about the Prevention of Terrorism Act and the derogation. I will check that out. My understanding again is that, because we passed the legislation after that derogation was made which still applies to the

UK, our legislation, our own Prevention of Terrorism Act, in fact takes precedence because it is here in our own domestic law, but I will check that out and I will respond again at the next stage.

Mr Singer, the hon. member for Ramsey, said he felt there were difficulties and it was a far-reaching Bill and so on and we fully need to understand, but again I would say to hon. members, it already applies to the Isle of Man. The convention applies. The big difference will be that we will know that when we pick up a Bill we are being asked to pass, whatever side of the fence you may be sitting, it either does or does not comply with our obligations, and I have to say that after the situation with the Sexual Discrimination Act government has said we need to know that anyway, because what is the logic of us coming here, promoting a government Bill and people like the hon. member for North Douglas, Mr Henderson, standing up and saying, 'I don't think this is right because it doesn't do that.' We all have a big argument and debate about it and we end up cracking on, only to find that, yes, he was right because it did not say and nobody had maybe asked the question or we were not clear. Surely that has got to be an improvement? So that is going to happen anyway.

As for the detail of the Bill, I thought the hon. member for Onchan, Mr Cannell, answered it quite well. How it is actually administered and everything is not a detail for us, because we are not judges, we are not lawyers. We are legislators; let us get the line drawn right. We enact the legislation. Other people will interpret whether it is this Bill or any other Bill that is before the House. What we have to understand is the principles and the basis of what we are including in the Bill, and that is the job of the mover, that is the job of us all, to sit and consider whether or not what is being asked to be enacted is the right thing for the Isle of Man.

I do not see the Bill as radical. I cannot see how it can be radical, because the convention has applied to the Isle of Man since 1953, so I would say to the hon. member, I do not really see it as radical. It will make a change, an important change, but to protect the rights of the people we represent.

The hon. member also asked, who introduced the rights? Was it the Governor and did it go to Tynwald? Well, it is quite straightforward. In 1953, or round the '50s when it was all coming about, the Governor was the government. We were a dependency, we were basically a colony, and the Governor ruled. What he said went, so a letter came from the Home Office to the Governor saying, 'Do you want this in the Isle of Man,' and he wrote back and said, 'Yes' - end of story. But I have to say, as far as I am aware, since 1953 to date Tynwald has never been asked not to endorse it or to come out of it. The only time, as Mrs Hannan said, was when they removed the right to petition, and even that was criticised considerably and done in private. But today for the first time, I would say to the hon. member for Ramsey, the government of the Isle of Man, the Council of Ministers are saying to you, 'We believe we should enact it in our legislation. This is your chance to debate it. This is the first chance that the elected representatives of the Isle of Man are having to say whether or not this convention should be part of our Manx law.' That has got to be a good step, so today we are being asked it; this is the time. It was not there before, and what happened before, to some degree, is irrelevant, but I have to say that even if it was, the Tynwald of the day, the House of Keys of the day has never since challenged whether or not that convention should be in being except the time when they reduced the petition, and we do not know what went on because it went on in private; there is no *Hansard* record - nothing. That is why legislators should never go into private. (**A Member:** Hear, hear.) So, quite clearly, here we are being asked to adopt the European convention into our Manx law.

I thank Mr Henderson for his support. I would make the point about the Crown officials. I mean we are talking about the Chief Secretary of the Isle of Man and we are talking about the Attorney-General of the Isle of Man, who were accompanied by Home Office representatives, I understand, but the people who did the speaking on behalf of the Isle of Man were Fred Kissack, our Chief Secretary, and John Corlett, our Attorney-General, and what they said was

what the government had said, which was that it was our intention to introduce into the House of Keys a Human Rights Bill in the year 2000. That was our intention. What the legislature decide, as they will understand, applies in the Isle of Man, as it does in Westminster and as it does in America or anywhere. Where you have a democracy, the parliament, the legislature, will ultimately decide whether or not what the government wants is what we should have, because at the end of the day that is your responsibility. So I do not have a concern that the hon. member seems to have because we had our Crown officials putting forward the case that the government had asked them to put forward on our behalf. It was really not putting the case anyway; it was advising the UN of where we were up to, what we were doing, where we were going forward.

So I have taken some time on this because it is an important Bill. I would again just re-emphasise: nothing in this Bill will stop or restrict the ability of any member of this House to bring forward a private members' Bill that is in contravention of the Human Rights Bill if enacted. What will be a responsibility on the member, whether it is a private member or the government, will be to clearly explain in the explanatory memorandum that it is in contravention, but then it is up to the legislature whether or not it consciously passes that law. Mr Speaker, I beg to move the Human Rights Bill 2000.

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

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Mr Shimmin, Mrs Hannan, Messrs Singer, Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 21

Against: Mr Houghton - 1

The Speaker: Hon. members, 21 votes for, 1 vote against. The Bill is read a second time. I call upon the hon. member for Ayre, Mr Quine.

Mr Quine: Thank you, Mr Speaker. Having concluded the second reading, I would like to move a motion:

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

In doing that, I would like to just revert to three issues which seem to have come out more strongly than perhaps some of the others, important as the others may be.

In his reply the hon. mover has made the point that in large part the objective of this legislation is to remove it from the European influence to the Manx influence by making available access to the Manx courts through this legislation. I can understand in part what he says but I cannot take that as being a complete statement. The simple fact is that whether it is our judges or whether it is the House of Lords, and indeed if it is the European court, they are going to be looking to case law that has formed through the European court. That is going to be the primary influence in determining actions here as it would across the water and as it would in Europe. So I think that is, to say the least, an oversimplification but I think it is more than that, because to hold out that by allowing the Manx people access to our courts they are going to have some advantage in terms of the manner in which these issues will be interpreted and considered and adjudicated with a Manx influence of some sort - that is not so.

The second point I would like to revert to before I go on to the main part of this is that the hon. mover insists that this is not a shift of power from this legislation to the judiciary. I refute that completely and I do not think that any objective assessment of what is happening could arrive at any other conclusion. If there is a declaration of incompatibility, if we have a piece of legislation which states that this legislation is incompatible, where does it take us? Let us take

the legislation first of all. Where are we going to get with a piece of legislation that says 'This piece of legislation we have decided to enact is incompatible with human rights. Home Office, please give us your consent; can we now have consent to this legislation?'. You know very well what is going to happen: it is going to be kicked into touch. So I cannot accept that what is inherent in this Bill does not involve a shift of power from Tynwald Court to the judiciary. (**Mr Houghton:** Hear, hear.) Quite clearly it does, it will and I think we would be deceiving the people outside if we said anything less.

There is also a suggestion that by having access to the courts here this is going to curtail the proceedings, and in so far as it becomes a one-stage proceeding, i.e. that the procedure terminates in the Manx courts, I can live with that, I can see that could curtail the procedure, but in so far as there is an appeal - and there are two sides to every suit, to every action - that could go to the House of Lords or to the European Court, it does not necessarily follow that it would be a truncated procedure; it could indeed be a longer procedure.

Now, these are matters of the margin, but if I could move on to what I believe is the case for referring this matter to a select committee, I would just ask members to consider this first of all: is there a pressing case to be made at this point in time to push forward with this legislation? What is the degree of urgency? The rights and freedoms are available, have been available, will remain available, so really what we are talking about is the pros and cons of changing the procedure to let them have access to the Manx courts, and I am not necessarily opposed to that; I am just saying that is what we are talking about, so this issue of urgency or haste in terms of the passing of this legislation, to me, does not have a great deal of credence. What we are really talking about is trying to take on board the implications of these changes; that is what I am trying to get at. That is what I spoke to. There are major implications arising from the procedure that we are proposing to bring in through this Bill, and what I have been saying to this hon. House is, before we pass this Bill, let us take the opportunity because there is no great rush, because there is no pressing case, as a House to acquaint ourselves with these implications, to assess these implications before we sanction this Bill and go further ahead with this Bill. That is what I am saying, because there are issues there, not only issues which I have raised today but issues which others have raised, and I believe we should be looking at them, we should be looking at this question of the Manx courts and the advantages and the pros and cons that come out of that. We should be looking at this question of the legislature vis-à-vis the judiciary and what we gain or what we lose on that. We should be looking at the decision, vis-à-vis the Home Office in relation to whether in fact we take one step forward or whether we come up against a bottleneck. We should be looking at this issue of derogation, which is an important issue, because I think it might give comfort to some of us if we had some reassurances about this issue of derogation, and we should be looking at certainly the quality and the administration of the law that is going to come out of this change. These are serious issues, and what I am suggesting to hon. members is that we do not have, as one hon. member said this morning, a full understanding of the need and we do not have the full story, and indeed, another member has indirectly come to the same conclusion by saying we should be monitoring what is going on and taking this on board before we get ourselves too far along the track.

So what I am doing by moving this amendment to say that it goes to committee is offering this hon. House the opportunity to have a closer look at the implications that arise from this legislation. I believe, as I said earlier, we owe it to ourselves; we certainly owe it to those that we represent. I see no problem in three members of this hon. Court taking the time to look into this, to take advice and report back so as when we do sanction this Bill - and I hope we will, I think that will come - at least we know what we are talking about; we know what we have been asked to adjudicate on. I see nothing to lose and I see much to be gained by that process. If hon. members here today feel that, oh no, they are completely happy with this and are prepared to push that aside, then that is fine, let the record show that. By moving this amendment I have afforded that opportunity. Mr Speaker, I beg to move, sir.

Mr Houghton: I beg to second, sir.

The Speaker: How many members wish to speak to this motion? In which case I think it is best, then, that we adjourn to lunch and reassemble at 2.30 p.m. Thank you, hon. members.

The House adjourned at 1.07 p.m.

Human Rights Bill – Reference to a Committee – Debate Concluded – Motion Lost

The Speaker: Hon. members, we have a motion before us that the Human Rights Bill go to a committee. The hon. member for Castletown, Mr Brown.

Mr Brown: Thank you, Mr Speaker. The hon. member who has moved this motion has endeavoured, really, to tie onto a number of issues. One I was a little bit surprised at - he seemed to question whether or not it was an advantage - or at least this was how I picked it up - to the Manx people to have access to the Manx courts as against dealing with the European court, and if I picked him up rightly on that, because my indication was he did not feel that was the case, I do find that rather a strange comment to make as to the reasons maybe why we should examine this legislation. I cannot believe it can be anything but an advantage for the people of the Isle of Man to have access to the nearest courts to where they actually reside, hence here in the Isle of Man.

The other thing is the shift of power from the legislature to the courts. Again, I thought that in the second reading I had quite clearly responded to this in terms of what was said. Clearly as legislators this is an important issue to us, although I have to say I think the paramount importance is the rights of our people whilst we represent them and ensuring that we do what we can. But in the explanatory briefing from the Secretary of the House, he makes the point quite clearly that the House and the legislature of the Isle of Man can only be given notice of an incompatibility notice; in other words, they can be aware of that. My understanding of that is that that does not say that Tynwald has not got the power not to adhere to that incompatibility. So the power of Tynwald and the House of Keys and the Legislative Council still remains. The courts might well determine that the legislation in the Isle of Man is incompatible with the rights that we have given our people under the convention, but it does not say that the courts then can direct the Manx legislature to actually amend the legislation. What will happen then is that, when a notice is served on the Attorney-General, he will then bring this to the attention of the Council of Ministers; they will then, with the Attorney's office, evaluate the implications of the judgment that has been made and they may or may not recommend a change in the law, and even, if they do recommend that the law be changed to do away with the incompatibility, they will have to make that clear in the Bill, but it will still be up to the House of Keys whether or not it wishes to amend the law to comply with the convention. That is not the end of the story, because if the House does not do that, of course an individual still has the right to go to the European court because the Isle of Man then has not adhered to the incompatibility of the situation that has been referred to.

Now, that has to be a better situation than we have now because now an Isle of Man resident has only one option: if they have a concern about their rights in relation to the convention which the Isle of Man is a party to, the only option open to them is to seek a judicial result via the European court, and the implications of that to the people we represent are quite onerous. They are very expensive, it is a very difficult procedure and it is a procedure outwith the control of this Island. I cannot believe that we believe that is a good thing for the people we represent. It is being said that some of us have not made any case for protecting the rights of our people by other parties outside this chamber. Well, I made it clear when I stood in 1996 that for protecting the rights of the people of the Isle of Man in Manx law was important, and I do believe that is what we are here for. We are there to protect people's rights.

The other thing is that I think, as far as the full implications of understanding the Bill are concerned - and that point has been raised - the Council of Ministers have gone to quite considerable lengths to actually provide information publicly. This is the report that went to all

members of Tynwald, was available to the public, headed 'A Consultative Document, prepared by the Council of Ministers, Human Rights Bill', and it was released in August 1999 with views to be in no later than 30th November 1999, to which we got a very good and extensive response from members of Tynwald, from members of the public who raised issues that were considered by the committee set up by the Council of Ministers - and they were not just ministers, there were other members as well on the committee - who went through these points one by one, thrashed out many of these concerns and in the end were content that the Bill that is before the House responds to the points that have been raised, no different from what the hon. member for Ayre has raised today in terms of his views. I just make the point, if I may, there has been information available which explains to members and to the public the basis of the legislation.

Now, if you are then saying, 'However, we do not necessarily understand all the x, y's and z's of the legislation's implications,' I would suggest that is true of all legislation because we are often told that when we pass legislation anybody can go to court on anything we do and the interpretation of the courts as to what the legislation says will advise us whether or not the legislation is what we expected it to be, and this will be no different. We are talking about the only powers the courts have - and I re-emphasise this because I think it is so important - which is whether or not any legislation that applies in the Isle of Man is incompatible with our obligations to our people under the human rights convention and as it will come, if this is passed, the Human Rights Act of the Isle of Man.

The other thing - because I just want to cover it, if I may - on the retrospective aspect of it - if we did not cover the retrospective provision for legislation we could have a nonsense situation where, after the Human Rights Bill became an Act and was implemented, all legislation after that date could go to the Manx courts but all legislation before that date had to go to the European court, and it would just make an absolute farce of the situation. At the end of the day it is about our people's rights under the laws we pass and how those laws are administered by those responsible to administer them, and I do not believe that there is a need for us to go to committee. I believe rightly this issue should be openly debated here in the House of Keys. It is my responsibility to endeavour to respond to the questions that may be raised by members and try to explain how it works.

I would just finally say that the point was made by one member that the Bill is relatively straightforward, because what the Bill does is put into Manx law the convention that already applies to the Isle of Man and the courts will determine whether or not we are complying with the rights that we are signatory to. So I hope members will not support this going to a committee and will openly debate this issue here in the House, which is where we should do it.

Mr Henderson: Mr Speaker, earlier in this debate today, rightly or wrongly or whatever way you want to see it, I asked for the clauses stage maybe to be put back a week so we could have a briefing session. That was not raised in the hon. member for Castletown's summing up earlier. I am still of that opinion. Yes, the Bill is straightforward but the implications are there and they need further examination, in my opinion. I am supportive of the legislation but there is no harm whatsoever in my book in examining things slightly further.

Mrs Crowe: Oh!

Mr Henderson: Here we go again, the cries from Rushen! (*Laughter*) I was right last time, Mr Speaker, when I was discussing the same issue on the Corporate Service Providers and I do not think I am far wrong from things this time either, so in that respect I support this move.

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

Mr Quine: Thank you, Mr Speaker. I think we have all heard what the hon. mover of the Bill has said in opposing the suggested referral to a committee, but it does not answer the issues at all. The fact remains - and indeed this seems to be common knowledge or a

common position held by many people that have spoken today - that the implications that ride on the back of the passing of this Bill are not fully understood, and the proposition here is - because there is no good reason why we do not - that we should refer this to a committee and let us take a look at that and report back. That is going to provide not only an opportunity for us to have a closer look at these issues but also, because of the public nature that a select committee can work to, it is going to allow the public themselves to have a further look at the implications of this before it passes into law because, make no mistake about it, from the time this Bill is passed, if it is passed, we will not be allowed to free-wheel. There will be pressure piled upon the Council of Ministers to get it introduced and make it available, so we do not have that luxury. We have to take a decision now that we are happy with the Bill, that we understand what the Bill is all about and - and this is the big issue to my mind - that we have a full understanding of the implications. Unless and until this hon. House can assure themselves that they have an understanding of those implications, then I think it would be folly of them to vote against this referral to a committee because it is common sense and it is prudent to take that course of action. I think people outside, recognising the importance of this Bill, would consider it to be cavalier in the extreme for us not to take that step and allow them that further opportunity in relation to a matter of such importance (**Mr Houghton:** Hear, hear.) and such constitutional importance. That is all I am proposing. Others can answer for their own decisions. That is what I am proposing and I so move, sir.

The Speaker: Hon. members, the motion before us is that the Human Rights Bill be referred to a select committee of three members to consider and report. 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 Quine, Houghton, Henderson, Duggan, Mrs Cannell and Mr Singer - 6

Against: Messrs Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Braidwood, Shimmin, Mrs Hannan, Messrs Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 14

The Speaker: Hon. members, votes for, 6; against, 14. The motion is lost.

Criminal Justice Bill – Second Reading Approved

The Speaker: We now move on to item 8 on our agenda, the Criminal Justice Bill. I invite the hon. member for Ramsey, Mr Bell.

Mr Bell: Mr Speaker, this Bill makes a number of miscellaneous but nevertheless extremely important amendments to the Island's criminal law. Most of them are unrelated to each other but in their different ways they all strengthen the law to a significant degree. The Bill is divided into 12 sections, therefore I will take one section at a time and identify each salient clause, explain its purpose, what it will achieve and how it will be implemented.

Section 1 of the Bill covers sexual offences, and clause 1 and schedule 1 deal with the registration of sex offenders, in clause 1 making provision for registration and schedule 1 giving details of the offences. Offenders convicted or cautioned in respect of specified sex offences will be required to notify their names, addresses and employer to the police. Any subsequent changes are also to be notified. It is the intention that this registration system will be proactive. Offenders will be required to present themselves to a police station within two days after release or caution.

The purpose of the registration is to protect the public from sex offenders, reduce the risk of reoffending and lower the fear of crime. It also stops the Island from being vulnerable to being used as a bolthole for sex offenders moving from the United Kingdom and other jurisdictions. On this matter the police, the prison and probation services will all work together. Where high-risk offenders are concerned, multi-agency groups working with specialist consultants will actively assess, monitor and manage the risks related to each individual.

Lower related risks will be visited by the police on a timescale dictated by the risk assessment. The sex offenders register will be kept by the crime management unit on a separate section of the police database. This register is not to be made public other than on a need-to-know basis.

Clause 2 together with schedule 2 introduces new offences for committing certain serious sex acts while abroad, while clause 3 and schedule 3 makes it an offence to possess indecent photographs of children, including taking, distribution, publishing and storing data on computer, including that downloaded from the internet. Under clause 4 it will no longer be presumed in law that a boy under the age of 14 is incapable of sexual intercourse.

Section 2 covers offences against the person, and in clause 5 it introduces an offence of ill-treating or intentionally neglecting residents in a nursing or residential home, making this a specific offence by any person providing care in that residential nursing home, including the proprietor, manager and staff. Clause 6 introduces an offence for making verbal or written threats to cause death or serious injury. Clause 7 abolishes the year-and-a-day rule in murder cases which presumed that, if a person died later than a year and a day after an injury was caused, the offence was not unlawful killing.

Section 3 covers weapons and clauses 8 to 18 introduce controls on the sale and the advertising of knives, suggesting a suitability for violent behaviour. A defence is provided in the case of marketing for use by the armed services and as an antique dealer. Supplementary powers of entry, seizure and retention are provided to allow enforcement of these new controls. Where persons are convicted of an offence under these controls, the courts can order forfeiture of knives and publications, and offences by bodies corporate are also included. Extended powers are provided to stop and search for knives or offensive weapons, and these will permit an officer of the rank of chief inspector and above to authorise stop and search in anticipation of violence. These powers currently only lie with the deputy and Chief Constable. The period of extension allowed for continuing searches is also increased from six to 24 hours. The possession of knives on school premises will be prohibited except in certain circumstances, with the power given to constables to search school premises for the purpose of searching for weapons.

Clause 19 introduces controls on certain weapons that use gas other than air. There is currently a question as to whether weapons powered by gas or gasses other than air are covered under the rules that apply to air guns which currently require a certificate. This clarification in the law will ensure weapons that use separate canisters of CO₂ or other gasses in order to fire a projectile through the air are treated in the same way as air guns. As far as ball-bearing guns, known as BB guns, are concerned, it will mean that those BB guns using preon gas will be treated as though they were air guns. These controls will not change the law on toy guns, which will be treated as they are now.

Clause 20, which is in effect section 4 of the Bill, clarifies the law, which is presently not clear, to allow the search of postal packets suspected of containing drugs or illegal substances for the manufacture of drugs.

Section 5 covers dishonesty, with clause 21 taking the effect of technology into account, updating the law to include the introduction of modern forms of money transactions, with new offences created for obtaining money transferred by deception and retaining credit from dishonest sources. Clause 22 expands the fraudulent use of public telecommunications systems to include the offence of dishonestly obtaining services through a telecommunication system with the intent to avoid paying for the service - for example, the use of equipment such as mobile phones to obtain a telecommunication service dishonestly. Clause 23 introduces the offences of unlawfully procuring personal data, disclosing such personal data, selling or offering to sell unlawfully procured personal data and advertising the same for sale.

Section 6 covers trespass, and clause 24 is the clause which covers this point. Currently the police can only remove trespassers if there are at least two of them. This change in the

law will permit the removal of individual trespassers. Clauses 25 and 26 and schedule 4 introduce powers to permit the Island's courts to try offences of conspiracy and incitement to commit corrupt transactions where part of the offence was off-Island. This fills a loophole in the law whereby, if a corrupt transaction includes an exchange of money outside the Island, it cannot be tried on the Island. Clarification is also provided on the meaning of attempting to commit an offence.

Section 8 covers sentencing, and clause 27 introduces orders prohibiting anti-social behaviour - that is, acting in a manner to cause harassment, alarm or distress to one or more people. Orders can be placed on any person aged 10 or older for a maximum period of three years. The requirement to apply for orders is with the local authorities, the Department of Local Government or the police. Each of these can apply to the courts for an order prohibiting the defendant from doing anything within the order. Penalties for failing to abide by orders include, on summary conviction, up to six months in prison or a fine not exceeding £5,000 or both, on conviction of information up to five years in prison or an unlimited fine or again both. Clause 28 and schedule 5 enable courts to impose curfew orders for any offence except those that have a fixed sentence by law - for example, murder. The periods of curfew can be set at between two and 12 hours each day for a maximum duration of six months, and these can be reinforced by electronic monitoring - that is, tagging. It is intended that a UK contractor provide the technological requirements for this service. The various contractors will be evaluated in the coming months to find the most suitable and cost-effective for Island circumstances.

Clause 29 and schedule 6 enshrine in legislation the existing practice of convicted offenders being subject to drugs testing during the probation period in order to ascertain whether improvement is continuing, and clauses 30 to 32 introduce a reduction in the minimum age when an offender may be ordered to undertake community service from 14 to 13, and allows a court to permit a fine defaulter to undertake community service to work off a fine as an alternative to prison. The maximum number of hours of a combination order is also increased from 100 to 120. Clause 33 increases the maximum compensation payable by offenders to victims of crime from £2,000 to £5,000, and I have to point out that this is the first increase in this figure since 1981.

Clauses 34 and 35 enable the court to order offenders to make reparations. The purpose is to allow an offender to show remorse and to make recompense by undertaking such work as agreed should be made in reparation. The offender will either work for the good of the victim of the offence or for the community at large. Reparation orders must be consensual both by victim and offender and can be for no more than 24 hours in aggregate. These can be combined with some other sentences, but not custodial sentences or those already involving an element of community service.

Clause 36 and schedule 7 enable courts to order offenders to attend at attendance centres for a specified number of hours not exceeding 12 in aggregate. An attendance centre will be set up during the coming financial year. The attendance centres combine elements of physical education and a form of tuition involving talks on pertinent subjects. Exploratory talks are already taking place with the Department of Education with regard to the establishment of such a facility.

Section 9 covers custody, and clauses 37 to 41 empower the courts to impose a maximum five-year extended period of post-release supervision on violent criminal offenders, and allows for the release on licence of these offenders. The courts will be able to place sex offenders under supervision for a maximum period of up to 10 years, regardless of the length of sentence that has been served. Restrictions are also placed on the unconditional release of certain sex offenders. Conditions can also be imposed on detainees on licence including curfew and electronic monitoring, which was the subject of previous explanation. The purpose of these new sentences is to help prevent the commission by the offender of further offences and therefore secure rehabilitation. Clause 42 provides for the testing of prisoners for drugs

and alcohol which will help the prison authorities control the use of these prohibited substances.

Section 10 covers proceeds of crime, and clause 43 allows the confiscation of any amount identified as being a proceed of crime. Previously, the amount of proceeds had to exceed £10,000. The powers to trace et cetera the proceeds of crime are also enhanced. Section 11 covers powers of law enforcement, and clause 44 provides the powers for a constable to seize a vehicle licence if he suspects it to be false. Clause 45 clarifies the situation with regard to access to computers by enforcement officers. The Computer Security Act of 1992 makes it an offence by an unauthorised person to run a computer programme. In order to ensure that police officers cannot fall foul of the law while in the process of carrying out their legal duties, an amendment to the 1992 Act is made which will mean that they cannot be found guilty of an offence of running a computer programme without authorisation.

Clause 46 makes it clear that the 1996 VAT Act enables the UK customs authorities to apply for access orders through Isle of Man Customs and for the courts to order access to the records in the Isle of Man of a person suspected of committing a VAT offence in the United Kingdom. The UK authorities' current practice of requesting access to records through general powers provided under the Criminal Justice Act is unsatisfactory, and clause 46 extends this arrangement to include all EU member states and adds excise offences to those which can be used as a case for gaining access orders.

Clause 47 provides special constables with the same powers of entry to licensed premises as those of other police officers. This will help improve the utilisation of the specials at times of high demand at public house closing times.

Section 11 covers criminal justice itself and clause 49 introduces changes to simplify the proof of a person's previous convictions, making convictions admissible that are received from any other court in the British Isles and Eire. This will therefore mean that if an individual was convicted of the same offence for which they are now being tried, the previous conviction could be used to show that that person was capable of committing the offence. Clause 50 deals with imputation of character in respect of the deceased victim of an alleged crime, and the amendment limits the scope for unnecessary attacks on the character of the deceased. Clause 51 will allow evidence to be received at committal in the absence of the defendant if there are exceptional circumstances which make it acceptable for the accused not to be present and the accused has agreed evidence may be received by a committal proceeding. Clause 52 allows for the extension to the period a person can be held on remand between court appearances of from seven to 28 days with their consent, and this will avoid persons on remand appearing each week in court. Clause 53 increases the time a person can be held in custody from four to six weeks in order to obtain social inquiry reports. Clause 54 provides that documents sealed or stamped with a court seal have the same effect as that signed by a judge. Prior to 1991 the deemsters had to sign every document in the high court; this was in some cases hundreds of documents. In 1991 a change in the law introduced the use of a seal or stamp.

Clause 54 introduces the same administrative mechanism into the Court of General Gaol Delivery. Clause 55 abolishes the sentence of whipping by removing the power of the Court of General Gaol Delivery to sentence a person to such a punishment, and clause 56 provides the definition for 'felony'. The word 'felony' is to be defined as any offence which is by any act specifically declared a felony. The current distinction between a felony, which is a more serious offence, and a misdemeanour is far from clear because of the many changes in the law in the last 30 years. Therefore, in order to make a clear distinction an offence will only be a felony if an Act states it is. If not, it will be a misdemeanour. This is a technical legal matter and relates to persons who assist offenders in a crime.

My department has carried out an extensive consultation process in the construction of this very important Bill and I have tried to include all of the main concerns raised with us and

that is concerns which have been raised by the public, by the judiciary, by my officers within the department and, of course, by hon. members themselves. I believe this Bill will introduce a range of measures to combat crime and reduce the fear of crime within our community, especially in relation to sex crimes, whilst providing the judiciary with the option to be more creative in their sentencing by granting further alternatives to imprisonment. It is a step forward in the modernisation of our criminal justice system and I urge hon. members to support the second reading. I beg to move.

Mr Houghton: I have pleasure to rise and second this Bill brought forward to the House this afternoon and to congratulate the minister and his department for the amount of thought and consideration which has gone into the complexities of each section of this Bill. There are numerous initiatives contained therein which will be separately examined, of course, at the clauses stage. However, I would like to touch on a few sections on which I have a particular interest.

The paedophile register is long overdue. Its provision in this Bill will be widely welcomed by the public. Schedule 1 of clause 1 sets out the regulations for the registration of sex offenders in a detailed and comprehensive way.

Turning to part 8 of the Bill, dealing with sentencing and custody, I welcome the introduction of anti-social behaviour orders, which will help to deal with the growing nuisance of neighbours from hell. The implementation of this section will, I hope, bring a swift end to badly behaved neighbours who continue to upset the peace and tranquillity of those living nearby. There is a rather serious problem in my constituency which can easily be resolved once this particular section is enacted.

Another section of the Bill deals with curfew orders. Hon. members will recall that I was kindly given leave to introduce a Bill to bring forward this kind of legislation some two years ago. However, I was pleased to meet with the department which itself wished to bring this issue forward together with its own proposals, so together we reached mutual agreement and I then stood down. I therefore welcome the implementation of clause 28 together with schedule 5, which confers powers on criminal courts to impose curfew orders.

I also note with interest the tightening up of regulations as set out in clause 38, dealing with extended sentencing for serious criminal offenders. Hon. members will recall that I have leave to introduce a Bill for consideration by this hon. House which touches on this subject. Hon. members will be asked to consider proposals to allow the courts to hand out longer sentences to serious recidivist offenders. However, at this stage I do not foresee any complications with clause 28 of this Bill as it is currently set out.

There will, however, be one clause in this Bill I shall be voting against. That is clause 55, which sets out to abolish the use of the birch, which I am sure will come as no surprise to this hon. House.

I could comment on numerous other clauses contained in this Bill to which I am delighted to give my support. Each and every one of them will bring vast improvements to the law as it stands. I congratulate all those who have been involved in its creation, and the sooner many of these measures are brought into force, the better for the protection of the people of this Island. Thank you.

Mr Cretney: I would like to offer my support for the legislation which is before the House of Keys this afternoon, Mr Speaker. Sadly it does appear to be the case in other constituencies, but certainly I can recognise what is being said by the hon. member who has just resumed his seat in relation to neighbourhood problems. This is a real, sad situation in as much as it is only the last, I would say, three or four years that this situation has come about, and what happens is you would contact your local authority and they would say, 'It is nothing to do with us.' Sadly, all too often, you would contact the police and they would say, 'It is difficult in terms of the powers which we currently have.' I am sad that the situation exists but

we have to recognise that it does, but I am glad that this piece of legislation may go some way to making the lives of some of those who we represent a little easier than they are currently.

The other item I would comment on as well is the matter which the hon. member referred to and that is in relation to the sex offenders register. A number of us, not just those who grab the headlines, have for some considerable time been trying to beaver away to try, again, and make the situation better and make those innocent people in society who are concerned about the situation in this regard more comfortable in their daily lives, so I do welcome the measure which is in the Bill and I am sure that that will be welcomed widely outside as well.

Mr Singer: May I also add my support to this Bill. I think that there are many measures within this Bill that have been needed, have been called for and at last we have them before us, and I hope that hon. members will support this wholeheartedly.

There is one item that I would like to ask the hon. minister to comment on, and that is the increasing problem that one reads about nowadays - it has not yet happened in the Isle of Man the problem of air rage, where people are causing problems on aeroplanes and are having to be physically restrained and they are then charged, certainly within the UK, and I wonder whether the hon. minister could comment on the need for the introduction of such a regulation within the Isle of Man in order that we can also help protect the crew and the passengers of aeroplanes which are coming to and from the Isle of Man. But I am very pleased to support the general tenet of this Bill.

Mr Henderson: Mr Speaker, I rise to fully support the new Criminal Justice Bill 2000 here before us this afternoon and welcome the Department of Home Affairs' input into our legislation and thank the minister for bringing these orders to us. Specifically I am very interested in some of the contents here.

We have the sex offenders register and the management thereof; we have also something very close to my heart in relation to residential and nursing care, where it now becomes an offence to abuse the elderly and the vulnerable in our society who are residing in those particular establishments. I am saddened that this kind of legislation has to be here in relation to that and would have thought that places advertising for care and residential and meeting the needs of our elderly. . . and that there is a necessity to bring this in, but we need to protect those people.

I am also extremely pleased with the threats of serious injury to members of the community because for too long now this has gone on whereby certain criminal elements know just how far to push the law, what threats to make and how far to intimidate - just below the level of arrest but enough to cause somebody serious psychological stress and alarm and ruin their lives for however long these bouts and threats continue.

I am pleased with the control of knives, I am pleased with the new interpretation on trespass and one I am especially pleased with which my colleague for North Douglas, Mr Houghton, has alluded to already and I fully support is the anti-social behaviour orders, because I think things were becoming to such an extent, certainly for our constituency, that should I not have discovered this in this Bill when I approached Home Affairs before Christmas on the issues, I would have probably considered a private member's Bill on the subject. I do not think I need to go into the explanation of it, but when hands are tied and anti-social behaviour is being committed and people are throwing their hands up everywhere saying, 'Oh, there is nothing we can do' and pensioners and vulnerable people are being harassed and their quality of life is being made a misery, then it is high time we had this in and I welcome it.

One thing I would ask the minister, though: it seems to be that it is up to local authorities, the local government or the police to apply these orders; how much of it is to the local authorities to apply? And, please, if there is an element of responsibility on this, could we monitor their effectiveness in use of making applications, because up until now some local authorities are very slow to enact what responsibility they have in regard to their tenancy

agreements? So I would ask the minister to watch that one so that these are as effective as we can have and that they work. But I am really pleased they are here and it will undoubtedly improve the quality of life for many people.

I am also pleased with the electronic monitoring situation which also goes a long way to the management of certain situations. I would just like to add in this debate that obviously I am pleased with these new initiatives. They recognise a certain element within our society, and I too am saddened that perhaps the birch is going to be. . . We know we have said it is lost forever and what have you - fine, but there are certain elements within our society that unfortunately, whatever we do, their thinking patterns and their psychological make-up is such that, it does not matter what happens, they will always opt for the deviant course of action. They cannot be cured. I know it is psychopathy from my professional background, sociopathy, whatever you want to call it - basically, somebody who is so selfish in chasing and pursuing their own deviant needs that they do not care what happens and who is hurt in the pursuance of their own deviant needs. There is a core of these people, unfortunately, in our society, and I am pleased that some of these measures are here today which will help curb and control that. We have got to recognise it, whether we like it or not and, whether we want corporal punishment or not, if we are going to be a responsible society and recognise our international obligations and walk onto the international stage and arena and so on, then in place of those more antiquated measures we need some proper back-up and measures which can manage the ongoing situations. I am pleased about this and I fully support it.

Mr Shimmin: Mr Speaker, as a member of the department I do not intend to take the House's time for long. Just a few observations as somebody who has been working on and with this Bill for a long period of time. There was a long period of time when members have had an ability to consult and look at this Bill. However, we did recently have a briefing for members which, through its timing, was poorly attended. If any members do still have some queries there are briefing papers from that presentation available through the department which may be, even at this late hour, an opportunity to understand aspects of the Bill.

I am grateful to those members who have already spoken and appear to be generally supportive of the Bill. Within the department I think it is fair to say that this Bill has taken longer to come to this stage than we would have liked, because every time we turn a corner there are more issues to try to squeeze in, and I think this is something that central government needs to be looking at where, in an amendment Bill or a Bill of this nature, the speed to actually get it to the House is often compromised by trying to add extra bits in, and I am conscious of Mr Singer this afternoon, who has raised another issue, which is one which has not been incorporated here, and this is the sort of issue that we as a department have dealt with. New issues come up. We feel that should be appropriate to be introduced as legislation and therefore it has delayed the introduction. I think that as soon as this Bill, hopefully, goes successfully through the chambers, then the department will be looking again at the next one, to try and incorporate those other areas which have not been included here, and I think that all members need to consider in their own departments whether the methodology of getting these sorts of Bills of such length and amendments is the best way of bringing forward legislation, or whether we should actually curtail them and get them in more rapidly because, as the members for North Douglas have already mentioned, there are issues within this Bill which I believe could have been brought in 12 months ago to the benefit of the people of the Isle of Man but as a department we have had to try and use this vehicle in order to add extra bits upon it.

So that is a general observation regarding the time it has taken. We are appreciative of the support that members appear to have given in consultation and at this stage and, if people do require further information, that is available through the department. Thank you, Mr Speaker.

Mr Karran: Vainstyr Loayreyder, I will not get on to the whipping or birching issue or whatever. I do feel there are things that we do need to know about. I am concerned about the 17-year-old lad who has sex with some 15¹/₂-year-old girl; are they going to be forced onto a register? As far as I know, that is not the case, but I think it is important, before we get into a frenzy of who can go to the lowest common denominator over the most emotive of things in this hon. House, that these issues need to be addressed. What I do not want, and one of the biggest problems that I see today with criminal justice, is that we are too keen to criminalise people and we need to try and keep people from the judiciary and out of the system as much as possible. As I was dealing with a number of them last week, you just sometimes wonder - maybe our social services need to be more involved and maybe we need more resources into social services, in my opinion. What does concern me about this Bill - obviously the Bill will get my support on most of the points - is that firstly it needs to be clarified that we are going to protect our youth and that we do not end up getting them put onto registers when they have done something stupid, when many in that position, in that age group or under the age of 18, have been in that sort of relationship. I would hate to see them starting out in life with the stigma of something like that, if that can be helped. I understand the emotiveness of the subject. Nobody wants to protect paedophiles and I think that is important.

The other issues that I would like to ask the hon. member about and I would like to see possibly is whether there could be any moves in this Bill towards making sure that more work is done by the JPs than done by the High Bailiff's Court, as I do find at the present time it gives me some concern that there is not sufficient work being done by the JPs and, I have to be honest with you, I sometimes think in the High Bailiff's Court some of them seem to have lost the plot of the situation. Whilst I would protect their independence from the legislature, they are bringing themselves into disrepute, and I wondered whether the minister, the mover of the Bill, would look at that.

An issue which concerns me greatly - I think it may not be as fashionable - is that with HIV infection, Hepatitis C infection things like that, nowadays I think the issue is whether it should be a criminal offence for someone who has a disease that can be life threatening to pass it on to somebody else. I think that is a criminal offence that you could have a situation where you know you are infected with a certain disease which almost certainly will be passed on if you do not take proper precautions, and you can ruin somebody else's life, and I do feel that that should be a criminal offence. I do not think that is unreasonable. That is something that should be looked at, because one of the biggest worries I have at the present time is that I do not think we are doing enough with certain diseases where in certain African countries the life expectancy is halved down to 30 years - and one can speak like this now because there is no press in the place. I do think that is an important thing that we need to be looking at and I wonder whether the hon. mover would give it some consideration. I do not want to stereotype it, I do not want to persecute people, but I do feel that this is an issue, criminal justice, where it should be a crime.

I would like the hon. mover to look at the possibility of the police. We moved amendments a number of years ago so that the police could take the alcohol off youths in public places. I am tired of being told by people that my amendment is not working and that something needs to be done to it. I wonder whether the minister, either now or maybe before the next meeting - and I welcome his department member's offer of the notes and I do apologise for not getting to his presentation has any observations as far as that is concerned.

Obviously many have raised the issue of clause 6, and the hon. member for North Douglas is quite right from the sad days when we first brought in the Nursing and Residential Homes Act when there were horrendous things happening, and I think this strengthening of the law is a very good thing as far as that is concerned and, as more people do not have children, I think that it will become more of an important issue.

On clause 17 I was interested in the issue of knives and offensive weapons and I have written to the chief minister. I am concerned that, whilst we are doing our obligations under an international law over the port of exit having to check what weapons of any sort are leaving the country, we need maybe to look at more powers to allow that sort of facility to be happening here, because there is an increasing element in the adjacent island, in the United Kingdom, where particularly arms are getting more involved in the criminal fraternity, and I would like the minister to maybe look at whether the powers are sufficient; I would rather see more checks done on those coming into the Island.

Clause 18 I thought was very good, but I just wondered whether these powers allow for schools; does it allow for youth clubs, other public places where you have a problem? Will it be extended to the likes of youth clubs in particular? We have facilities, cafés and the like - will that be a facility that will be allowed for as far as that is concerned?

I could not quite get to grips with clause 21 and the meaning of it. Maybe when I get the notes I could, but I was not quite sure of the meaning of it and I think it is important, whilst we are here passing this legislation, that we should know the meaning of what we are passing; maybe some are better at that than myself.

I was also concerned on clause 24 and I would like a deeper clarification on the powers of trespass. I am concerned that, as a child growing up in this country, there is a lot more trespass now than there was, and whilst I welcome the fact that you have got to protect your property, I also am concerned that increasingly there are chunks of land where I once walked quite freely and happily but now I cannot walk there, so if the hon. member could just clarify on clause 24?

I am glad to hear about clause 37, because one of the things that has come out in my limited exposure to the community service people is this thing about education courses and careers courses, and I take it that this clause 37 and around that area, and clause 36, schedule 7 will help, because one of the things that has come out to me when talking to these individuals is that many of them are questionably literate and really need some sort of guidance to get them into work, and I do think that if we spent more effort on that, maybe we would have less of them going into jail. I met one with two kids at 17 and unemployed, and I would not be surprised if he would not know how to spell his own kids' names, never mind anything else. How, when you have that initial embarrassment, can you fill out application forms? I welcome this but I would like to hear what the mover's intentions are as far as attending these centres in order to help them and whether there can be some cooperation with the Department of Education's careers service.

On clause 45, I was just concerned about the talk of getting into somebody's computer programme. Now, I as a person who has not managed to work out how to use a television video (*Laughter*) would find it rather disconcerting if I did manage to get on my nephew's computer and break into somebody's computer programme, but I just wonder, what are the levels of instances when we talk about getting ourselves into somebody's computer programme? I have not got a clue, but again what I am concerned about is trying not to criminalise the innocent who fall between stools, because what we are finding in society today is that going to prison is almost socially acceptable nowadays and that is where it is wrong. The point is that there are far too many people going into prison for the wrong offences, in my opinion - to the hon. member for Ayre - and I think that is the problem. It is being used far too much as a first resort and not a last.

On the issue of clause 50, I wondered whether the hon. member could just go through and explain what it means again with regard to the Criminal Evidence Act, and on 52 it says it is extending the custody days. What I am just concerned about is that it says it is with consent. Would that be consent with a lawyer involved or without a lawyer involved? Will it be under duress? That is the other thing that I wanted to ask.

There are three other things that I am disappointed on, and one is that I do believe and I have thought for a long time that there should be weekend prison. I find it absolutely incredible that people who cannot hold their liquor end up being put in prison for six or eight weeks; their wife has to suffer and look after the kids and they are living in prison. If people cannot hold their ale on a Friday and Saturday night, I do not see why we should not be able to produce court sentences where they can go to jail on a Friday night and be released on a Sunday evening and they can then go to work the rest of the week and look after their kids. I find it nonsense now and I found it absolute nonsense before I got the sack from the Home Affairs Department many years ago.

The other issue I would like to see - and maybe the minister could consider this other point - is that I get very annoyed that we produce probation, we produce community service orders and what is happening now? From what I see they are being put on top of the prison sentence, and the question has to be asked, are we doing the right thing by allowing the courts to have either/or, because I think it is wrong and an abuse of the system, and I wonder whether the minister could have observations on this, because I do feel that this is a legitimate point. I do think that it is wrong that we have these alternatives to custody and, because certain people in the judiciary are on an ego trip, we seem to be upping the ante as far as this is concerned - good election stuff, but not good on a criminal justice basis.

The other issue that I would like to ask about is that I moved an amendment to the Theft Act a number of years ago to do with bugging and the right of privacy, and I do feel that there is an anomaly there: your house can be illegally bugged, we can do you for theft but that information can be used by a third person to your demise. I believe that if it is a criminal offence to bug, it should be a criminal offence for that information to be used by other people, and I actually believe that that would be of benefit particularly to the finance industry; this is partly why I put the amendment in in the first place.

I also feel that we should use this opportunity in this Bill to lower the age of consent for homosexuality from 21 to 18, to the age of majority, because at the present time we cannot defend it. I would be interested in the hon. mover's observations, and if I do not get satisfactory replies I will not be supporting, just throwing it through willy-nilly as far as that is concerned. Thank you, Vainstyr Loayreyder.

Mrs Hannan: Vainstyr Loayreyder, I have got a number of queries, but I would like to thank the Department of Home Affairs for the briefing; it was most useful. With regard to clause 2, schedule 2, it relates to sexual offences committed outside Mann. I wonder, in relation to clause 1, schedule 1, where this relates to offences that have been committed and where people appear on registers in different places, in the briefing it says, 'The purpose of registration is to protect the public from sex offences, reduce the risk of offending and lower the fear of crime. It also stops the Island being vulnerable to being used as a bolt-hole for sex offenders moving from the UK to other jurisdictions' and I just wonder how this relates to people being on registers here if they have committed an offence, whether they would transfer to a register in the UK if they moved, and vice versa. I am not sure about the provision for stopping sex offenders moving from the UK to here, so if I could have some clarification on that, that would be helpful.

With regard to section 4 - this is the abolition of presumption of sexual incapacity and relates to boys under the age of 14 being incapable of sexual intercourse, whether natural or unnatural, which is hereby abolished. I am not sure what 'sexual intercourse' relates to, but I wonder why the term, 'natural or unnatural' has been used. If it is just penetration, surely that could read 'vaginal or anal', but it seems you could have a court case on what is natural and unnatural. We have talked this morning about advocates and lawyers having a field day, but I would imagine, bringing law up to date in the year 2000, it is possible that that term should also have been abolished.

Another area that concerns me which I have brought up with the legislative draftsman when the briefing took place is a change of name. I am led to believe that in the UK people are able to change their names and get outside the sex offenders register simply because they have changed their name. And also, with regard to stalking, if somebody stalks and somebody gets a restriction order on them in the UK, they can then change their name and they no longer become restricted because of their name change, and I would just like to know if that has been addressed. The legislative draftsman said that he would look at it.

With regard to the clause in relation to antisocial behaviour, I am, I have to say, rather concerned about that because it is very easy to say people are antisocial, but in some instances it might be that the neighbours are complaining about somebody being antisocial because they have been anti-social in the first place. Many of these issues tend to be issues which are neighbours' disputes or whatever, and I think it would be most unfair, without some sort of mediation service or whatever, to try to get a settlement between neighbours especially in housing estates where local authorities can go willy-nilly and get possession of properties at the drop of a hat. It does not matter what people say or what circumstances they are in, a local authority goes along to court, they do not take any notice of the problems that people have, and all they have to say is just they have not paid their rent, they are not up-to-date with their rent, whether they have made a plea or not or whether they are in difficulties or not; nothing seems to be taken any notice of and the local authority gets possession.

I would see the same thing could happen here; the local authority will not listen to what is being said and will just say, they are antisocial, move in and the court will say, yes, they can be removed. I would hope that maybe before we get to that stage we do not criminalise everyone; they are least able to cope with situations such as this, and some people, especially in circumstances where they do live in deprived conditions, do let things go, they let it get out of control so that there is no turning back. It is all right bringing in legislation, but I would hope that before we get to the situation where we are actually taking action against people to get them removed out of a property, we try to solve some of that problem, otherwise all we are going to do is have somebody living in - I will use my own constituency - Kerrow Coar or something and they then come on the streets because they have been turned out, nobody else wants them so the Department of Local Government then houses them wherever they have got properties, Ballasalla or somewhere like that, and without the proper support they could have the same problems wherever they go, and I would hope, before we get to that stage, we would try to start working with people who do have problems.

It is not always local authorities, but some of these properties are so basic that you can actually hear what is going on in your neighbour's front room, bathroom, loo, whatever, and that does not lead to conducive neighbourliness, especially if there are young people in the house maybe running up and down the stairs all the time. So, I think we have a lot of responsibility ourselves before we start criminalising people because they have difficulties, maybe, living with their neighbours, and I would hope we would be a little bit more understanding before we start moving them out.

I share some of the concern of the member for Onchan. He talked about trespass, and I know now there are many more signs erected saying, 'Private road, keep out'. These are in many of the places where as children we used to be able to wander quite freely, and I do think it is rather sad that you get different landowners who do not want anybody passing over, whether there is a lane there or whatever, and so they put up a 'Private road, keep out' and therefore I am concerned where they are establishing further this particular criminalisation of somebody simply because they trespass in an open area, not interfering with anyone else. I can understand it if it is for a crime or if they are doing damage, but where people are just wandering. I had an issue of a man wandering along a foreshore and he was told by the landowner, 'You are not allowed to walk along here', because at high tide he was obviously walking on this person's land, and it is this sort of issue where people have been able to freely walk the coast and walk other lanes and suddenly the strong arm of the law is going to remove

people like this, and I just think it is unfair that we are perpetuating that and I hope it is something that the department will look at further.

I welcome the community service and the introduction of tagging because I, like the member for Onchan, see prison as the last option, not the first option, and I hope that with community service, tagging and all the other areas, and also maybe the weekend imprisonment that the member for Onchan spoke about, it is something that we can really look at quite seriously.

I also welcome the reparation and mediation schemes, and I would hope that we can get these schemes working as soon as possible because I think it would give a lot of succour to people who have been victims of criminal acts, because sometimes it does help them come face to face with the perpetrators, and also with regard to the reparation, and I would hope that this can be up and running as soon as possible.

With regard to the removal of the birch from the statute book, I welcome that. I think it is long past time that it should have been removed, and so I welcome it and I will be supporting that piece of the legislation. I will support this legislation but in supporting it there are a number of issues which concern me greatly and I think before we embrace this wholeheartedly there are a number of issues which I would want to look at further. Thank you, Vainstyr Loayreyder.

The Speaker: I call upon the hon. minister to reply, Mr Bell.

Mr Bell: Thank you, Mr Speaker. I thought I was doing quite well, actually, in getting the support of hon. members until I realised that I have just had the support of two members of the APG, and I think perhaps I should go back and look at the legislation again; perhaps I have done something wrong!

Mrs Hannan: Yes, you have!

Mr Singer: It is the first time you have done something right!

Mr Quine: We are right behind you, Allan!

Mr Karran: With the knife in our hands! *(Laughter)*

Mr Bell: Seriously, Mr Speaker, I first of all would like in a general sense to thank all hon. members who have spoken for the general support that they have given for the Bill. As I think most members know, this Bill, as the hon. member for West Douglas has said, has been a very long time in gestation. It has taken longer to come to this hon. Court than I personally would have hoped but, as has already been explained, a number of new issues have been raised with us as the Bill has progressed and it was felt appropriate to try and include them as best we could in the legislation as it was progressing. So in an effort, really, to try and respond to members and indeed people from outside who have raised these points, the Bill has been delayed, but at long last we are here and I hope we will be able to get a speedy conclusion to it now.

Again, in a general sense and in particular with reference to a lot of the comments made by the hon. member for Onchan, Mr Karran, whilst I take on board the issues that he has raised, a great many of them have got nothing at all to do with this Bill, but I would just remind the hon. member that consultation with members started some 12 months ago now when the initial draft of the Bill was sent to members with, if I remember rightly, a covering letter asking members, if they had any particular issues that they wished to raise with us, to let us know and we could have investigated it further. Now, a number of the points which the hon. member for Onchan has raised, whilst I have a lot of sympathy with him, may well have been able to be included in the Bill had he approached us previously (**Members:** Hear, hear.) and raised the matter with us. At this stage I can really only comment on the Bill as printed, and it is very difficult to start pursuing another nine or ten issues which he has raised here which really are

not included in the Bill at this stage. So, whilst I have a lot of sympathy with the points the hon. member has raised, it really is impossible to comment on it at this particular juncture.

The hon. member for North Douglas, Mr Houghton, has offered support for virtually the whole of the Bill. There are two issues, perhaps, that he has raised which I should comment on. First of all he has welcomed the idea of extended sentences for offenders. What the Bill actually entails is extended supervision of offenders. It is not extending the prison sentence itself; it is extending the supervision after they leave prison, particularly for sex offenders which could actually give us then up to 10 years' supervision of people who are considered to be a risk to the community. That would not keep them in prison but it would keep them under the supervision by the police or probation or possibly both, and that, we feel, is a fair balance bearing in mind what we have talked about this morning with human rights - and even offenders have human rights - and yet protecting the community at the same time. So we have been aware of this situation and have tried to strike a balance on that particular issue. It should give added protection for the community, I think.

The only point that the hon. member has expressed his opposition to, which I think comes as no surprise, is clause 55, the removal of the birch provision. Now, I think the time has come when the hon. Court has got to adopt a responsible and mature attitude to this particular issue. I fully accept - and I think the hon. member for Onchan, Mr Cannell mentioned it this morning - that if a straw poll was taken, probably the majority of people on the Island would still like to see the birch (**Members:** Hear, hear.) That may well be the case, but we have got to live in the real world. The birch has not been used now for nearly 30 years. We are hanging on to this myth that the birch is the answer to all our problems. It really has been totally overtaken by progressive punishments over the years. It has not been used, as I say, for nearly 30 years and it is quite clear to anyone who investigates the situation that it is not going to be used again.

Now, there may well be a lot of sentimental argument that, yes, when we had the birch we had no social problems on the Island. As I say, the birch has not been used for 30 years anyway, but Manx society 30 years ago was totally different to what we have today, and if people took off their rose-tinted glasses which they reflect that period through, they would see that a lot of the social problems 30 or 40 years ago in some respects were every bit as bad as what we have today. So what we are trying to do here is not taking sides for or against the birch one way or the other, but recognise the reality of the situation as we find it today. It has not been used for 30 years, it cannot be used again, but - and I think again the hon. member for North Douglas Mr Henderson, touched on it when we were talking about the Human Rights Bill - the Isle of Man today, whether we like it or not, is an international player from a business point of view. We are trying to develop a worldwide reputation not only for business excellence, not only for regulation but for being a modern, go-ahead, outward looking society.

If we look back over the last 20 or so years, almost every piece of bad publicity that the Isle of Man has had has also had the tag attached to it. that it still birches its children. It has been complete nonsense, it is a total fallacy but it is something that the enemies of the Isle of Man have been able to latch on to time and time and time again. I think the watershed which we have come to today, whether we like it or not, is that if we do intend honestly to pursue this new direction which we want the Isle of Man to go in, which is to be an international player, a responsible nation, one which is prepared to recognise its international obligations and to also recognise international standards, then we have to recognise that the time has come, like it or not, where we take the birch off the statute book altogether. At the moment we get the worst of all possible worlds: we have got the birch on the statute, we cannot use it, it has no effect at all on controlling criminal activity and yet the Isle of Man gets all this welter of bad publicity as a result of it, and at a time when we have the international focus of attention on our finance industry and will do for the next few years, we need to cultivate and court all the international friends we can possibly get, and I think the anachronism of keeping a birch provision within our legislation when we know full well it cannot be used, simply from a populist point of view to

keep people who hanker back to days of yore when it was used and give them some sort of sense of comfort, is dishonest in the extreme and we are misleading our people to think that we can, should we wish at some time in the future, just bring the birch back again and everything will resolve itself and crime will disappear.

I would ask hon. members to put aside their views for or against the birch at this stage and simply recognise the reality of the situation we are in today and vote accordingly. We are trying to modernise the Isle of Man. I am trying to modernise the criminal justice system, but we collectively are here to project a positive, constructive, outward-looking image for the Isle of Man to the outside world and we want to try and disarm our enemies and disarm our detractors, and I think this is one positive measure which we can take to do it. So, I would urge hon. members, please, to put aside your own prejudices on this particular issue. I know it is an emotive subject, I know a lot of people would like to turn back the clock: accept reality, we cannot do that, and please give us support on this, face reality and let us move on and let us also recognise that there may well be far more effective antidotes and punishments that we could be looking at instead of hankering for something that, as I say, has not been used for 30 years.

Several members have referred to the antisocial behaviour orders and I welcome their support for that. The hon. member for Peel - I think it was Peel - has suggested that we should monitor it to make sure as to how it is being used. I know in the United Kingdom, where this came in, I think, some 12, 18 months ago, it has had a fairly sluggish start because local authorities in the UK who have a similar power were initially reluctant to use this power. I understand now it is getting used more and more and is now starting to have some effect, but I would give all hon. members the assurance that we are bringing this in at the moment in good faith in the hope that we will be able to resolve, or to go some way to resolving, some of the issues which have been raised with me by all members. We all have trouble in our constituencies from time to time from antisocial behaviour in houses. If we find there are problems with the operation of this order, we are quite happy to revisit it again and bring in further amendments if need be to refine it, but at this stage we are bringing it in, pretty well mirroring what goes on in the UK. If it works, fine, it will help a lot of people; if not, then we will revisit it and fine tune it further, so you can rest assured that we will be monitoring this situation, and I would hope that it will be used in the correct manner.

The hon. member for Peel has mentioned about local authorities pursuing their tenants, for example, for not paying rent and taking them to court for that. This has got nothing to do with rent arrears or financial problems; it is noise nuisance, it is barking dogs, it is loud music, it is antisocial children. It is this sort of area that we are concerned about. It does not in any way include the fact that they are behind with the rent or there are some outstanding debts; that is not part of the situation. The fundamental aim of this legislation is to promote good neighbourliness on all housing estates, and we are not just talking about council estates; I know that was why it was brought in in the UK, but in the Isle of Man we are talking about right across the community, because it can happen in private sector housing in just the same way as council housing, but it is good neighbourliness we are trying to promote.

My colleague from Ramsey, Mr Singer, has raised the issue of airrage and what is being considered for that, and once again this is outside the scope of the Bill at this stage, but I would say to all hon. members that although we are now coming to the end of this particular Bill we do have a Criminal Justice (Amendment) Bill in the early stages of drafting which I hope will not take another three or four years to get here! But this is really just, I hope, intended to tidy up a few loose ends, and it may well be that one or two issues like this, if it is felt to be a problem, could well be included at that stage. But at this moment we have not got it in the Bill and we have not given it consideration, so that really would be for the next Bill.

Several members have made comment about the clause relating to trespass and reducing trespass from two people to one. This is not in any way designed to give extra

powers to landowners who are closing off traditional access, footpaths et cetera; that is not the intention of this at all. This was initially triggered by the extremely embarrassing problem the police found themselves in in Laxey a couple of years ago with the 'siege' of Laxey Wheel and the fact that they found themselves in an extremely difficult position that they did not really have the legal powers to do what we were all urging them to do. This really is to tidy up that particular anomaly, and I would hope that it will be used sparingly and in very limited circumstances, but it most definitely is not a power being brought in to encourage landowners to discourage the likes of us who have been walking the hills for many years - maybe to stop Mr Braidwood trampling down the hillside, but not the rest of us!

There were only another couple of points, I think, which were raised. The hon. member for Onchan, Mr Karran, raised the question as far as the sex register is concerned and about how it impacts on juveniles and young offenders. The case that he quotes of a 17-year-old having illegal sex with a 14¹/₂-year-old girl - in most normal cases that would not constitute an offence which would go on the sex offenders register, and if the hon. member looks at schedule 1 he will see exactly how the young offenders would be dealt with on that, and that, I think, explains it quite well.

He refers again to more work for the magistrates. I have had meetings with Deemster Cain on this to try and help the situation for the magistrates because I do believe there is a serious problem there. That is not directly my responsibility, but I do take the point that he is making.

Again, a lot of points were raised, really, which have nothing to do with this Bill.

Clause 45 he refers to. Again I think he has misunderstood the situation: this simply gives protection to enforcement officers which, in effect, would be the police who need to run a computer programme when they are investigating some sort of criminal offence or fraud or whatever. This is just a technicality to give them the ability to do that without themselves committing a crime in connection with data protection, so it is a fairly limited offence there.

Clause 52, which the hon. member also refers to, is to do with the extension of the period the suspect or detainee can be held on remand from seven to 28 days. Now, this is an issue which has been raised with us on several occasions but was highlighted particularly after the arrests made after the drugs raids before Christmas, when we had something like 30-odd people every week having to be transferred from the prison to the court simply for a two-minute hearing and were then shipped back again. It caused a massive disruption and in fact it is still going on at the moment. This extended period, though, can only be given with the wholehearted support and agreement of the detainee himself, it cannot be imposed on him, and if the individual wants to come down for his two minutes in court every week, then that facility will still remain; there is no question of it being forced upon them.

Just finally, going back to Mrs Hannan the member for Peel's point, about whether in fact - at least I think I understood what she said - offenders who are registered on the Isle of Man who move to the United Kingdom will be expected to go on the UK register when they go over there and vice versa, that is really why we have tried to keep the Isle of Man sex offenders register very much in line with what they have in the United Kingdom so we can have this reciprocal exchange of information and supervision. Ultimately, though, the supervisory aspect of the Isle of Man sex offenders register will be much tighter than they are having in the UK. Naturally, because we are a smaller community, we can do it more effectively but we have had first-hand experience of a similar situation over the last couple of years and we feel that we will be able to provide a much tighter regime on the Island than they have in the United Kingdom, and we have all read about some of the problems they have had over there. So, yes, it is a reciprocal agreement; offenders coming in will be expected to register within two days of coming into the Island, and likewise our offenders going to the UK will have to register on the UK basis.

I think I have covered most of the relevant points which have been raised. I just simply would like to thank hon. members for their support for the Bill. It is a very important Bill. A tremendous amount of work and consultation has gone on on this. It may not be perfect, it may not have covered every point that members want included in it. All I would say is that first of all, reiterating my colleague from West Douglas, if members still have concerns about the Bill or if they do not understand any aspect of it, please contact myself or my officers before the clauses stage in a fortnight, we would be more than happy to give another briefing to you. And also, again I would simply issue an invitation to all members, considering some of the comments which have been made: if you have any particular issues that you want us to look at including in future legislation, please let us know as soon as you can and we would be more than happy to consider it and see what we can do. So with that, Mr Speaker, I thank hon. members for their time and I beg to move.

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

Standing Orders Committee – Member Elected

The Speaker: We now move on to item 9, the Standing Orders Committee, to elect one member to serve during the life of this House. I would advise members that the existing members on the Standing Orders Committee are Mr Brown, Mr Gilbey, Mr Quine and Sir Miles Walker. Can I have nominations, please?

Mr Singer: May I nominate yourself, Mr Speaker.

Mr Shimmin: May I second that, Mr Speaker.

The Speaker: Are there any other nominations? No other nominations - I declare myself elected. *(Laughter)* Right, that is me gone! *(Laughter)*

Standing Orders Committee – Second Report for 1999-2000 Received

The Speaker: Item 10, hon. members. I call upon Sir Miles Walker to move that the Second Report of the Standing Orders Committee for 1999-2000 be received and its recommendations approved.

Sir Miles Walker: Thank you, Mr Speaker. May I be the first to congratulate you on your election! *(Laughter)* I beg to move:

That the Second Report of the Standing Orders Committee for 1999-2000 be received and its recommendations approved.

Mr Speaker, hon. members, I am pleased to present the second report of the Standing Orders Committee to this House. We dealt with, I think, four different issues.

The first recommendation we make is in paragraph 2.6, where we recommend that after standing order 49(4) we insert '(a) A Question shall not be asked on the provisions within a Bill which is either before the House or the Council.' This matter was raised by the Standing Orders Committee, and I suppose one of the background issues which took place and which draws attention to this particular subject was the situation of the Bill that was before the Legislative Council, there were members wishing to ask questions and in fact it was against standing orders or that was the declaration. So this matter came before the Standing Orders Committee and our deliberations we recite in paragraphs 2.2 to paragraph 2.5. The nub of the debate is in paragraph 2.5 and we say, 'In principle, if a Bill is under consideration by one procedure in the House, this should preclude its consideration by another procedure.' If this principle were to be accepted as we feel it should, this suggests that tabling questions on the substance of a Bill would certainly be precluded, and there might be an argument that tabling questions on peripheral matters relating to the Bill, such as the nature and scope of consultation on its provisions, should similarly be precluded as they may be raised by

members in the course of the Keys scrutiny of the Bill. We recognise, however, that there may be circumstances in which members might quite reasonably wish to table a question on peripheral matters relating to a Bill and that it would be inappropriate to restrict the capacity to table questions to this extent, and that is why we recommend the amendment as in paragraph 2.6.

Paragraph 3 refers to the extension of the period of Question Time. It appears to the Standing Orders Committee that the present arrangement is inadequate and we say in paragraph 3.2 that the regular suspension of standing order 43(2) suggests that in its present form it is not meeting the contemporary needs of this House, and we suggest that there should be an extra hour added on to Question Time and we -

Mrs Crowe and other Members: Half-hour.

Sir Miles Walker: Sorry, Mr Speaker, that Question Time should be an extra half-hour and we so recommend in paragraph 3.4.

Paragraph 4 refers to requirements for notice of amendments to Bills. This is a more substantial amendment but one that we think is important. We say in paragraph 4.1, 'the amendment of a Bill before the House is a function which members recognise as one in which responsibilities have to be carefully balanced', and we go on in that paragraph to explain the needs, as we see it, for that balance. At present standing order 154 prescribes the present position and that we quote it in paragraph 4.2, but in 4.3 we say that the present standing order has its defects. For instance, the required notice period is a short one and is satisfied by giving a notice to the Secretary of the House rather than the members.

Paragraph 4.4 of the report spells out our concerns. Whilst it is true that amendment of a Bill may be posed by tabling a new clause, equally significant amendments, indeed even more significant amendments, may be made by tabling amendments to existing clauses or schedules or tabling an amendment which proposes a new schedule to the Bill. If there is merit in requiring notice of new clauses on the grounds that it is necessary to provide members with time to consider them and take advice on their legal implications there must be equal merit in the notice procedure being extended to other tabled amendments which may have similar or greater implications. That is an important consideration; we spell it out in detail in paragraph 4.5, it is there for members to read and there is little point in me quoting it. So what we are saying is that we believe there should be as long a notice for amendments to clauses as there are for new clauses to a Bill, and the present procedure, in fact, the notice requirement is too short, so we are recommending that there should be a minimum of eight days' notice given for new clauses and amendments to clauses to a Bill and that recommendation is in paragraph 4.7 and we so recommend.

Now, we do recognise that as at present there will be small and insignificant amendments which members may wish to move, last minute things or things that come to attention, and it is always possible to suspend standing orders to allow that sort of amendment to be moved, and that is in the gift of the House, but we do believe that there should be a longer period of notice given on amendments and that period should be eight days. That recommendation is in paragraph 4.7. and there is a consequential amendment spelt out in paragraph 4.8.

Finally, in paragraph 5 we just refer to our agenda as we know it today and recommend that in future it should be known as an order paper as the case in Tynwald; it is just bringing you the modern terminology - insignificant, but we believe appropriate to fit in at this stage.

The other matter we considered with the eight days' notice having to be given that there will necessarily be a two-week gap between a second reading in principle and the clauses stage instead of one week as at the present time.

Mr Henderson: That makes sense.

Sir Miles Walker: Well, we believe it makes sense; I am glad the hon. member, Mr Henderson, agrees with us, and that two-week gap, of course, would be the case even if it were Tynwald that were sitting in the middle rather than a sitting of the House of Keys.

So it is fair to suggest that if these amendments come into being, if they are agreed by the hon. House, then any amendments to the Bills that have been in front of us today will need to be in the hands of the secretary by next Monday. They would then be distributed to members who would then have a week to consider the implications of what is being suggested. Mr Speaker, I beg to move.

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

Mr Karran: Vainstyr Loareyder, in a nice world, an ideal world, wonderful ideas. I mean, we can suspend standing orders if we do not want to do it. If I was doubling the wages of every member in this House I can guarantee that at least six would be against me because I am moving it! I am absolutely appalled. The point is here, what we are doing is curtailing the flexibility within this hon. House and we are going down the road of a banana republic, in my opinion, and that is the situation we are going to end up, and all for the fact that people should not try and destroy pieces of legislation, but at the end of the day the situation is sometimes that things come up; you only have somebody ringing you up two days beforehand. Some members in this hon. House have different workloads to other members in this hon. House, so consequently they might not have the luxury to sit around until they leave it to the last minute. Effectively what you are saying is they might as well not turn up. That is what we are talking about: we might as well not turn up but we have got to become the nodding dogs. As I said when we were fighting with the ministerial system, we are gradually turning ourselves into the nodding dogs. Wicky wacky woo, we have got an extension for half-an-hour for the Question Time. That is not the prime role of this hon. House. The prime role of this hon. House is a legislative assembly, to be fair, and obviously the other side is a luxury, and if people decide there is something that they feel the day before or two days before, they cannot move it unless they suspend standing orders. So it is a scandal, an absolute scandal! I know I will get the usual abuse from some of the ones you hit the nerves of, but the truth is it is a scandal, and if you go down that road of doing that we are going to have a situation where you are going to detract from the House, and I rue the day. I think the majority want to remember that they could be the minority, and maybe some of us in this House who claim to be on both sides because we try to be fair with both sides suffer at the moment, but the danger is that you could be in the minority and I think that any proposals to minimise the effectiveness of this assembly are wrong and you are doing so.

May I also say on the first point about questions that I personally feel that that worries me greatly as well. The point is, this House should have the freedom to do as it feels fit and the danger with this is you are constraining it and it is all right people saying, 'Oh, we can suspend standing orders'; I have been in this House 15 years and some are more equal in this House than others in this hon House, and that has always been the case in this hon. House, and if you support this you will rue the day if any of you go against this system. I am very concerned about this - nice in theory but in practice you are going down the road of becoming the very nodding dogs I talked about years ago, when you had the situation where I said you will be constrained; you should have the flexibility and if you support that proposal as far as amendments are concerned, I think you are doing your constituents a terrible disservice and I hope that some of you will have the sense to see the dangers of that to this hon. House.

Mrs Hannan: One of the principles of parliamentary democracy, Vainstyr Loayreyder, is debate, and within that we would debate to try to change the position of our opponents, or the people that we are debating with, and what this document is suggesting is that if you have not got something in eight days prior to the sitting of the House then there is going to be no change to legislation which is up for debate at the sitting eight days hence. So why do we bother turning up? We cannot change anything; we have just got to accept it as it is, and I am

concerned that parliamentarians are coming forward with this suggestion for change of standing orders. What it is saying is, this is putting all the legislation totally in government hands, if government have not got the legislation or amendments or whatever on the day they withdraw the Bill; they bring it forward the next week with amendments in place or whenever the amendments are ready. But, as a member of the House, if I have not amended it or put in an amendment eight days previously, I might as well not come here, take part in anything because I cannot change anything. All I am, then, is voting fodder, and I would like to think that every time I walk in to this hon. House I can debate with people, argue with fellow members, change things if necessary; it might only be to add an 'and' or an 'or' but it might be something that I feel extremely strong about but I cannot even do that under what is suggested by the Standing Orders Committee, and therefore I really feel that the Standing Orders Committee have let me down as a parliamentarian. It has put the power into government to be able to secure any piece of legislation that comes before us. We cannot amend it unless eight days previously we have put that in. Members will be aware that amendments can come from the floor of the House during debate, and that is one of the strengths of being here in this parliamentary setting being able to represent the wishes and the feelings that we have in representing our people, and therefore I do feel very let down this afternoon. (**Mr Karran:** Hear, hear.) Thank you, Vainstyr Loayreyder.

Mr Bell: Mr Speaker, the hon. previous speaker has stated that in effect, if we approve this, it is putting a greater power in the hands of government to force through the legislation. As a member of government I reject that offer, quite honestly. I think entirely along the same lines as the previous speaker and the member for Onchan. I think this is a very serious retrograde step we are taking if we approve this today. It is introducing total inflexibility into the legislative process. We have enough problems as it is, getting through the legislation that we have; this is going to delay it still further on a number of occasions or it will be deficient, and we will find more and more amendments coming from the Legislative Council because that will be the only avenue that the people will choose to pursue because the opportunity will be lost. If we are having to suspend standing orders every time a member wants to bring forward an amendment, it is going to totally disrupt, on some Bills anyway, the passage of the Bill through the House.

There have been odd occasions where we have been bounced into supporting kneejerk amendments for which I hold my hands up and which we all regret, perhaps, in the light of day afterwards. These things happen, but they are very, very much a minority of actions which are taken in this House. I have seen no evidence whatsoever to justify putting forward these changes which are taking place now. It is going to make the system that we are working within even more inflexible than it is now. It assumes in effect that we are all very good people who read the Bill studiously three or four weeks in advance, that we analyse everything well in advance, that we all have our thoughts and amendments and concerns marshalled three or four weeks in advance so that we can all put our amendments down. The real world does not work like that and hon. members, I am sure, would agree with me: a lot of ideas about a particular Bill only pop into your mind while the Bill is actually being debated. Often issues are raised which we have not perhaps even thought about prior to the debate, and in effect I think, if we introduce this system, we are going to deprive members of the opportunity of responding to that new thinking which might come into the process at that stage.

As for wasting our time with yet another structured half-hour of Question Time I think it is complete nonsense, because the next stage is that we are going to find ourselves extending it then to half-past, and the quality of the questions is going to go down by the week because people are going to be struggling to fill that time. The public as a whole at the moment have still got the impression that Question Time is the only thing we do in this place

anyway -

Mrs Crowe: True.

Mr Bell: - and this is only going to compound it. We are moving away from what we are supposed to be doing here, which is freely debating legislation on the floor of the House for the benefit of the Island, and I think if we support this move today it will be a very retrograde step. I will be totally opposing it and I urge hon. members to oppose it as well.

Mr Cretney: Mr Speaker, there are some elements of the report before us which I am content with, but the one element I am not content with is that which has been spoken of by the hon. members for Peel, Ramsey and Onchan, and that is this inflexibility which it is now being proposed that we should build in in relation to amendments. I know that the standing orders dictate that at the start of a debate it should be put to the House whether matters in a report should be taken separately and I know that we missed that opportunity, but I would ask you if you would be prepared to exercise some discretion so that members may have the opportunity, when it comes to the end of this debate, to exercise their democratic option and vote against this particular new proposal which I think is not going to take this House further at all.

In terms of the Question Time, I have no problem with that. What it means is it is adding a little bit of flexibility and even if it takes to 11 o'clock it takes to 11 o'clock. If we have finished our questions at half past ten, as we had today, we have finished at half past ten -

Mr Henderson: Hear, hear.

Mr Cretney: - no problem. But I have to say I do feel differently about the amendments and I do hope. . . and perhaps if I was to compliment you on the way you performed and the way you look, sir, you may be good enough to exercise some discretion! (*Laughter*)

The Speaker: Hon. members, first of all flattery will get the hon. member nowhere, (*Laughter*) but I would ask the House's view before we debate any further. There are five recommendations in this report; there are recommendations on paragraphs 4.7 and 4.8 which appear to be contentious and I would like to use my discretion that at the end of this debate a vote is taken on those separately and there are three other recommendations, para. 2.6, which is the tabling of questions on Bills, para. 3.4, which is the extension of Question Time, and para. 5.2, which is to change the name of the House of Keys Agenda to the House of Keys Order Paper. With your permission, so that you will know when we continue this debate, I propose that paragraphs 4.7 and 4.8 are voted upon separately and that paras. 2.6, 3.4 and 5.2 - again, just to emphasise, that is the question on Bills, extension of Question Time and the change of name from 'agenda' to 'order paper' - be voted on en bloc. Is that the wish of the House?

Members: Agreed.

The Speaker: Is there anybody against?

Mr Karran: Vainstyr Loayreyder, I am against the one to do with the questions as well. In my opinion I would have preferred the questions one to be voted on separately as well, because the thing that I am talking about is the flexibility, if that is possible. I am happy with the other two being together, the order paper and the extension to Question Time; I have no problem with that but I am worried about the flexibility and the rights of individual members.

The Speaker: If that is the case, hon. members, there are five recommendations. At the wish of the House, each recommendation will be voted on separately. Is the House agreed?

Members: Agreed.

Mr Singer: Mr Speaker, first of all if I can refer to the Question Time, I think that the hon. mover referred in terms something like 'we are moving with the times' and he felt that the extension was moving with the present time and the present circumstances, and I think that is true because, certainly for backbenchers, Question Time is a very important time. It is a backbencher's job to scrutinise government and department actions and policies and maybe

bring forward items into public which may never actually come into public by way of decisions being made by the particular departments, and no doubt the views of a member of a government or a chairman or a minister are for that very reason different to backbenchers'; perhaps they do not wish them to come into public whilst the backbenchers perhaps feel that they cannot get anywhere other than to bring the item into public and I think that it is important that there is this freedom to question. As has been said, we do not always extend the period of time to 11 o'clock and I do not see any reason why that should happen; it all depends what the subjects are in that particular week.

As far as the two weeks is concerned I am split here. I think that it is important, and it would be an important change, for us to have two weeks between the second reading and the clauses stage because often at second reading an item may well arise and a member may then feel that they wish to do some research or do some consultation and may well wish to bring forward an amendment. Now, perhaps it would be considered that a week to do all that is not long enough but, in saying that and agreeing that there should be two weeks between the two I do not think it should be restricted so that the notice of motion has to be in within eight days. I think there should be this flexibility to bring it in as and when necessary. It may be important that we perhaps bring it to the notice of other members before the actual clauses stage is read on the particular Tuesday, but I do not think we should be restricting people and saying, 'Eight days before cut-off time - that is it? So, as I say, I do think it would be a forward step to leave two weeks between the second reading and the clauses stage. Thank you.

Mr Shimmin: Mr Speaker, as somebody who often takes the time of this House asking questions I find no problem with the issue on extension from 10.30 to 11 o'clock. I often listen to the questions, and every morning at 10.30 we have to suspend standing orders and to me that has become a nonsense. Therefore it seems common sense to extend it to 11 o'clock.

It is going to be a little bit radical, though. As far as I am concerned, all of the huff and puff regarding the issue on the notice of amendments I am somewhat bemused by. I can hear the arguments and, yes, on one level you can say that that is denying the rights of individual members, but we are not talking about something which is going to sneak up on us overnight; this is something that follows the second reading. By then, if any hon. member of this House has not sufficiently taken the time to look at the paper, then that is an issue. You then have to date two classic examples of serious legislation coming forward where I think that this House has equipped itself admirably on actually evaluating at second reading stage, to raise all of the issues, which is what we are here to do, and therefore by the time that it comes to the clauses stage we should all be well versed with the thoughts of what we believe that legislation is going to do.

Now, the exponents of those who are saying that we should have the opportunity to raise amendments on the floor - yes, that is attractive, but it is also one which has been, in the 3¹/₂ years I have been here, manipulated and highjacked so many times that I, as a member, when coming up with an amendment to face, having, I thought, understood the nature of the Bill and having taken time before to then try and be able to listen to two conflicting views of what the implications of that amendment are, I find difficult.

I have listened to the opposition and I believe that there is experience there from the three or four members who have spoken, and I am prepared to listen to the rest of the debate because certainly I bow to those who have got collectively 30 or 40 years' experience in this chamber, but I would prefer as a member to actually be able to look at an amendment in advance, and it is no surprise that the vast majority of amendments which are successful in this Court are those which have been circulated in advance, have been discussed, have given the opportunity for clarification to be given to members and then the vote can be taken accordingly. The vast majority of amendments fail not because they are unworthy but because they have been sprung upon the House at the last minute and therefore members are concerned as to the impact on the rest of the legislation.

So I shall listen to the rest of the debate. My instinct would tell me that those members who have spoken have legitimate concerns which I do not fully understand. Looking at it as a personal member I would prefer to have that period of grace, but as the other members have expressed such strong views I think there needs to be a case made by the members of the committee before I would be satisfied to support this section. I believe they have attempted to do something for the right reasons but they certainly have not yet made a case that satisfies certain hon. members whose judgement I welcome. They are very strongly against it, therefore I need some reassurance before I would vote in favour.

Mr Henderson: Mr Speaker, I am glad this issue is here this afternoon and opened up for debate. It is one that has been rumbling along now for a little while. It has been one that is probably going to spill over at some stage or other in some form or other, so it might as well come now sooner than later. It has perhaps been generated by one or two quarters within this hon. House. So the time could not be more correct, in my opinion.

I was concerned at the outset of the debate where we have, yet again, another subject to be debated that has positive points and some negative points all rolled into one, which puts a member in some dilemma, because if you do not vote for it you do not get positive points but, then again, you are endorsing the negative points that you do not like. So I am pleased that the House has come to the decision to shake these issues out one by one and examine them piece by piece; at least we will get some sense into it then and hon. members will feel they have had a better chance at examining the issues rather than at the end of the day, such as we do in another place with some DHSS orders, have the whole lot rolled into one and you just have to vote on it en bloc, which seems to me unfair.

I am pleased the issue of Question Time has surfaced because that is certainly something that has been generating a lot out of this place, issues and queries and so on. I do not see it in the view of the hon. member for Onchan as a waste of time and this, that and the other. It is a very important time for this hon. House and I am in agreement with the hon. member for Ramsey and his comments here. Time and time again we get 'Oh, we are bringing this House down' and we are doing this and we are doing that, but at the end of the day hon. members have the right to ask questions, and the hon. member for South Douglas is quite correct in what he is saying in regard to timing. It is the same as now. If we finish before half ten we move on on the order paper or agenda paper, the same with this. I see no problem with that. It is flexible and it does allow time for one or two more questions. I agree with the hon. member for Rushen who is moving this, Sir Miles. Times have changed and times have moved on, and the way we deal with things has moved on and the ways issues are addressed and broached has moved on to. It might have been in long days gone by where a question was the very, very last resort an hon. member would do and he would perhaps maybe ask one or two in an entire year, but the way the bureaucratic machinery is moving today and the way the red tape is moving and the system is in place, once that has been exhausted it leaves certainly a backbencher little choice but to approach the subject in the form of a question. We could always try moving a motion in another place all the time and see how far that got but I think the Question Time now has to change with the times. Also, as the hon. member for Ramsey said, and quite rightly, some issues may not receive public debate only for the fact that they are being highlighted in this fashion. Sometimes it is the only way a backbencher can actually address an issue in a positive and sincere fashion. It is not a case of headline grabbing and media hogging and all the rest of it; sometimes the work requires you to do it and I have got no qualms, if needs be, of placing a question and I am sure I will get rolled down the hill sometimes because I have placed one or two questions.

But, having said that, this is a fundamental issue and I am glad it has been drawn out as one issue to be voted on. It is important and I believe we should have the further flexibility if needs be. The hon. member for West Douglas is right: come half ten, let us move standing orders. Well, the other thing that strikes me, the advocates of time-wasting in this House, most times so far in my brief election period here we finished well before 5.30 p.m. and in some

cases well before lunch, and there has been ample time to get on with other issues if needs be there.

Another thing that annoys me about this time-wasting issue is that if a member wants to place a motion or resolution. The fact that it is tacked on the end of the order paper or agenda paper is not wasting any time at all. It is usually at the end of the government business anyhow.

So that is where I am coming from. I see it as important. Times are changing and I think we should examine the Question Time issue very carefully. There is no need to go backwards, we need to move forwards and, if it comes to the public thinking that the only thing we do is Question Time, yes, that is a valid point. Perhaps it is time to look at other measures and have debates fully aired by the media on the radio, or even, in time, on the internet. Who knows?

The amendment issue, though, is something else, and I must admit I will be guided by the hon. mover on this because I like the idea of the time cushion, because it allows for further thought and on-the-hoof legislation that a member might try and put in at a split second's notice and then the ramifications afterwards come to light. It might help there and it helps in other ways but, having said that, I am also conscious that while the debate is ensuing it does generate other points and spur-of-the-moment issues that have not been shaken out at briefings and so on, and I can see that argument too. So I will listen carefully to any further issues and I am sure the hon. member for Castletown is going to give us some further enlightenment in a minute. I will be interested in what he says because of his experience with standing orders, which I know we will benefit from in a minute. So I am 50:50 on the amendments and interested to see how it transpires. Thank you, Mr Speaker.

Mr Brown: Mr Speaker, as a member of this committee these issues, I can assure members, gave us quite a lot of thought. At the end of the day our responsibility is to look at it as members of the House and to put aside any role we may or may not carry out on behalf of government, and I think members know those of us on the committee, as any other members, would take that role quite clearly as a serious role to advise the House.

Question Time, I think, is straightforward. Whether we like it or not, ever since Question Time started, the half-hour was seen as 'Well, let us try it and see.' It has not been adequate by the time we have had prayers because it does not say half-an-hour, it says 10.30, and we actually end up in a position where consistently the House runs over and usually has finished about twenty to or quarter to eleven, and this is a way of saying 'Look, if this is happening, surely the demonstration from the members is that half-an-hour' - or 25 minutes, as it tends to be - 'just is not enough' and I think we have a responsibility to say 'Let us get the House in order and let us give a proper amount of time without the need to continually suspend standing orders' and I think we all then know where we stand. So I am sure that one, will be supported by members.

Now, the one that is causing the concern - and I think that is understandable because it took us quite a long time as a committee to thrash through our own thoughts about this - is the issue that has been raised with regard to putting down amendments. The first thing I would say to members is that it is not just one way, accepting that at the moment a member can put down an amendment just like that on the floor straightaway. First, you have got to say 'Is that an appropriate way to do it?' and to some degree, yes, on lots of occasions it may not be a problem, but an amendment from any of us, whether we be government, whether we be members individually or whether it be members fighting their own cause, can put down amendments and we have seen them on this table - A4 sheets, five or six pages. Now, with the greatest of respect to all of us, how on earth can we, who are being torn between, say, the mover of the Bill and somebody trying to amend it, evaluate when we come in and we find five or six pages or two pages of amendments on the table when we are actually trying to go through the Bill? I am sorry, even with my experience - and there is more experience than mine in here - sometimes it is difficult to catch up and say, 'What on earth does that mean?'

and what is happening is, with respect to us all - and that is the basis of the system - we are relying on the person who is trying to promote the change against the Bill as it is written to explain to us and to persuade us to go with their amendment or amendments, which could be quite substantial.

The other issue, then, is that if you are going to do that - and I have said this ever for most of the time I have been in the House - is that legislation is the most important job we do. Forget everything else. All the other things are important: asking questions is important, making sure the executive responds to the needs of the public - very important, no question. I never have a problem with Question Time. I think it is an important role. Our departments - an important role, we have got to do something, but there is a fundamental difference with legislation. Legislation puts it in statute. Everything else is a policy and if we get a policy wrong today, a department can change it tomorrow, can change it later today if a member comes to us, but when we have been asked to put it down in legislation we have actually gone through quite an extensive process, the department formulating the legislation, on most occasions now going out to extensive consultation, and then even, within the procedures within the House, we have a first reading to give public notice, we have a second reading clauses principle to give members time and at a subsequent sitting, usually a week later, we then have the provision of the legislation coming up for the detailed clauses. What we are saying is we will actually extend that another week. So members are no worse off in terms of putting an amendment down, and when it says eight days what that means - because you are taking Saturday and Sunday in that - is that by Tuesday before the Tuesday of being considered your amendment should be in. Now, I would say to hon. members - and you are all going to make your own mind up - just consider it carefully if you are on the other side of this. You might be on the other side with someone trying to persuade you to accept a substantial amendment and trying to ask you to go with it. Now, I would say that the view tends to be, in the House, 'if in doubt go with the Bill' because at least, if you have a substantial amendment and you are not really sure whether to go with it, the tendency seems to be to go with the Bill because the uncertainty is there. What this will do is give every member of the House the opportunity when they have got the amendment, if they wish - and that is the big thing, *if they wish* - to actually look at the amendment, get advice and maybe be persuaded that the amendment is better than the Bill, because do not forget, you will have had the Bill in your hand for a period of time, because there are procedures there we all have to comply with whether it is a private member's Bill, whether it is a government Bill is irrelevant, it is the procedures before us.

So I would just ask, as a member of standing orders, just think about it carefully. Yes, there may be some slight disadvantages, but if a member has a strong case - and this House has always taken a lenient view where members have made a strong case - the House is not adverse to suspending standing orders. That is not an excuse and I think most members are reluctant to suspend standing orders, but if a case is made there tends to be a lot of sympathy to help a member to move an amendment or a change to legislation.

So I think it is important to try and balance all these up. It is certainly not, I can assure you from where I am, and the other members of the committee, I am sure, will be the same, the Standing Orders Committee coming forward to say we want to restrict how you deal with legislation. What we are actually saying is we think we can have a far more sorted out system of dealing with it, and okay, we cannot fire from the hip any more. Well, some would say, 'Is that really a bad thing?' because what we are talking about here is the public. We are talking about the legislation we pass and how it affects those people we represent, some who will want what we are doing and some who will not, and ultimately what matters is that when members are voting on something, whether it be the Bill or an amendment, they feel comfortable that what is before them is right and they are satisfied with the explanation they have had, and I would have thought this gap - an extension of another week to give you which was not there before - and this gap of giving the provision to consider an amendment would have been welcomed.

I would also make another point. I was the one who moved the motion in this House that we look at separating the principle of second reading and clauses, because what we used to have when I was in the House in the early days was a situation, as some members will remember who are here, whereby at the second reading a number of issues would be raised. I have had some today and I have said to members I will go away and I will get advice to answer those questions, but we did not have that luxury. We used to then go straight into the clauses after the principle was agreed and there was no chance at all for amendments to really be done logically and get advice by the member moving the Bill or members who wanted to see amendments. Now, we have made that change. It put back consideration of the Bill by giving a week's gap but it did not really make a difference, because what it did do was give members, both the mover and those who wish to make changes, the opportunity to seek advice to get amendments done to legislation that would enable them to make and encourage a change to that Bill. This will actually take that a bit further, because what it will do is give those other members, which are the rest of you, not the one moving the amendment, the chance to sit down and consider the amendment that is being proposed that somebody wants to introduce into legislation.

Now, you have got to make your minds up on this. If you do not want that, that is fine. We have thrashed this out quite a lot because we were very conscious of concerns that members may have, and I think my views are well known. I think the rights of members in the House are important, they have got to have the right to do what they can but within a procedured system, and if a case can be made to put aside that procedure because of very good grounds, then the House always has that ability.

I do not think there is any more, certainly, that I feel I can say on that, but I believe that the system may well work. I believe it has a lot of merit, and again I would make the point that if the procedure causes a problem it is in our hands to change it. It is not legislation; it is purely a matter for standing orders, and if you never try the system you will never find out, but the situation we have at the moment is we can have four or five or six pages or ten pages - and we have had it recently - of amendments -

A Member: It is scaremongering.

Mr Brown: It is not scaremongering, it has actually happened.

A Member: It is.

Mr Brown: Mr Speaker, it actually happened -

Mrs Crowe: Yes, it did.

Mr Brown: - and it has happened more than once, and it happens regularly now. It never used to. We used to get the odd amendment on the floor to make amendments which were quite small. I used to sit here and handwrite them and pass them to the Secretary of the House and that is how it would be put by the Speaker. We have moved from that now that it is properly typed out and we do, because members have got this extra week gap to consider it, have amendments which are quite substantial. I am not into scaremongering; I am into saying this is what has changed in the House, this is actually what is happening. Whether you like it or not, that is what is happening.

Mr Karran: Great.

Mr Brown: I do not care. It is a matter for members. (**Members:** Hear, hear.) You will make your own mind up.

A Member: Hear, hear.

Mrs Hannan: Once it came up, that is all.

Mr Brown: It was not once. I am just explaining that the Standing Orders Committee looked at this whole issue because there were matters that were being expressed, concerns being expressed, by members about how amendments were being dealt with on the floor of the House.

Mr Speaker, it is a matter for members. I am just explaining why we got to it. (**Mr Cretney:** Hear, hear.) I just believe that whatever happens it will not cause a major problem. I do believe there is merit in a new procedure and I do hope that members will support the report and all its recommendations.

Mrs Crowe: Mr Speaker, I agree with all that the hon. member for Castletown has just said.

Mr Cretney: Sit down then! (*Laughter*)

Mr Karran: Surprise, surprise!

Mrs Crowe: No, I do not feel that these proposals before us today will lessen the effectiveness of the House.

Mr Karran: Oh!

Mrs Crowe: I think they will provide for meaningful legislation that is not flawed by amendment on the hoof, and I support all that is in the report. During the life of this House I have been asked to take four Bills through their readings. The sex discrimination Bill with over 50 clauses saw some amendments, as did the sale of tobacco and intoxicating substances Bill, but the Bill that excited most amendment was the Shops Bill, and in that short Bill 26 amendments were placed before this House! If they had not been robustly defended the Bill would virtually have been rewritten. It would have had none of the substance that it had when it was first promoted.

Mr Karran: That is called debate, love!

Mrs Crowe: It would have been meaningless.

Mr Henderson: Hear, hear.

Mr Karran: That is debate!

Mrs Crowe: As it turned out, only two amendments succeeded.

Mrs Hannan: But that is debate!

Mrs Crowe: Ugh! Yes, in my limited experience of the progression of legislation, yes, the debate could have been sustained but it would have been far better had I been advised and had legal backing and the knowledge of all these amendments prior to their being placed before this House. It is a nonsense to expect people moving a Bill to be able to defend that kind of onslaught: 26 amendments in one short Bill. As it was -

Mr Singer: May I make a point of order?

The Speaker: What is your point of order?

Mr Singer: The point of order is that I am sure that those amendments were circulated before the day and were in your hands quite a few days before the actual day.

The Speaker: Hon. member, that is not a point of order.

Mr Singer: I beg your pardon.

Mrs Crowe: No, it is not.

The Speaker: Hon. member for Rushen, Mrs Crowe, carry on, please.

Mrs Crowe: Yes, maybe three days.

Mr Henderson: Yes!

Mrs Crowe: Mr Speaker, I support the recommendations of the Standing Orders Committee because I feel it is dangerous for this House to be making amendments on the hoof which can flaw legislation. Thank you. *(Mr Karran interjecting) (Laughter)*

Mr Rodan: Mr Speaker, can I ask the mover of this report just to say a little bit more about the thinking of the committee when they state that the Question Time allocation does not meet the contemporary needs of the House. I would be interested in the sort of thinking that went into what are the contemporary needs of the House. It is my understanding that it is only within the last few years that Question Time was introduced into this House on the basis that it was an opportunity for giving essential parliamentary scrutiny to fairly urgent questions that could not wait a month until the meeting of the full parliamentary body, and therefore it was felt appropriate to permit questioning of ministers to take place on this weekly basis.

Now, are we saying that the original purpose has now been forgotten and that as newer members have come into the House they have never been aware that this was the purpose of questions in this hon. House as opposed to parliament, or are we saying that this hon. House is evolving more of a parliamentary function as opposed to a legislative function? Are we saying that the prime purpose of this House is no longer to pass legislation but increasingly to conduct parliamentary business? If that is what we are saying it seems to me then - I would be interested in the committee's views - in my personal opinion it might be more appropriate to so conduct parliamentary business on a weekly basis properly and be done with it, have parliament meeting in the mornings and a legislative branch meeting in the afternoons, let us say, as an example, but it seems to me that we need some clarity of thought as to what the purpose of the House of Keys is. Is it a legislative branch primarily or is it not? If is not primarily, this has implications for the passage of legislation, for the progress of government Bills and so on. So I would just like a bit of clarity on that.

It seems to me, contrary to what most hon. members have said actually, that the conscious decision at 10.30 of having to suspend standing orders actually imposes a bit of discipline upon us. Now, it may be said, 'Well no, we do not need that particular discipline because this place is evolving more of a parliamentary role,' in which case let us say so and make it an hour or make it a morning for parliamentary business, but if the prime purpose is legislation it seems to me that there could well be times when the pressure of legislation is such that it would be useful to have this self-imposed discipline of making a conscious decision at 10.30 whether to proceed. I have no objection to Question Time being an hour or however long it takes, but let us make a conscious decision that it is that.

As far as this question of amendments to Bills is concerned, it seems to me that there is much ado about nothing in this. If one reads the report it seems to me that there have been two deficiencies identified, the first one being the inconsistency of the way we treat certain amendments as against other amendments. An amendment that represents the tabling of a new clause is treated differently to an amendment to an existing clause or introducing a schedule. Paragraph 4.4 makes that quite clear - the mover referred to it. So it seems to me perfectly appropriate to treat them both the same way, because the same amount of scrutiny and thought needs to go into consideration of such a change, whichever form the change takes.

The second deficiency identified - and this is the one that appears to be giving all the grief - is the period of notice being required. Now, I will not repeat what others have said but clearly there is a strong case for having considered scrutiny to legislation, and I have rather resented in the past quite complex amendments tabled on the same day when really I would have preferred to seek advice and have it considered that it has been possible to give the necessary careful consideration of such amendments. And therefore I would say that on balance it is no bad thing to have a period where mature consideration can be given and advice taken, and I would say to the hon. member for Onchan, Mr Karran, and others that

really you should be able to take this sort of thing in your stride. There will always be the facility there for the situation as described where something new has been brought at relatively short notice. If at the clauses stage it is indeed of such importance, then it will stand on its merits and the House will readily give permission for the suspension of standing orders for this to take place -

Mr Karran: Live in the real world.

Mr Rodan: - and you can take this in your stride, I suggest, and it should not be any question of denying democratic rights to members by requiring some scrutiny to take place. Again, it is quite good parliamentary discipline. We are not a debating society here. This is a legislature in which considered views and thoughts must be given to important changes and I am not suggesting that it is not just because something comes forward at short notice, but it would be a useful discipline to have that notice, but there is no question of members rights, I suggest, being taken away.

But really the Question Time situation I think does need a little bit more clarity because I know what my preference would be and that would be for parliament to sit more often than once a month and for proper parliamentary consideration of questions to take place in an appropriately allotted time instead of this halfway house situation which we appear to have at the moment.

Mr Corkill: Mr Speaker, many of the points that have just been raised I was going to mention, so there is only a little bit of residue of what I was about to say.

Firstly, with regard to Question Time, the points have been made about its origins and why we should extend it and the debate which we used to have from time to time on whether to suspend standing orders I suspect no-one has really got the stomach for, bearing in mind sometimes it used to take longer than Question Time itself, but in fact I look forward to the day when we do not need this standing order, then in fact we do away with what we have at the moment which is the worst of both worlds where we have half the media included for part of the time and not for the rest of the time (**Mr Henderson:** Hear, hear.) and we get this complete distortion in the public's eye of what really goes on in this House, and other members have made a suggestion to that.

So I look forward to the day when the media determines what it wishes to broadcast to the public, as they do in the written press: they determine what is going to end up in the newspapers by reporting and by investigation. Surely the broadcasting media can do the same sort of reporter's job. So I look forward to the day when that standing order is made redundant. We should have it all or nothing. What we have at the moment is a complete aberration of what goes on.

The other point which has been talked about of course is this notice for amendments and I would just like to share with the House an experience since Christmas I have had with moving legislation through this hon. House, and the hon. member for Ayre, Mr Quine, was the instigator of a particular amendment to a Bill that I was taking through, the Retirement Benefits Schemes Bill, and the point is at the second reading the hon. member made quite clear he wanted to move amendments and so I waited for the amendments to come forward in the normal way and there is a grey area operating in the background whereby the owner of a Bill or the mover of a Bill sometimes gets wind or gets a draft of amendments in advance so that he or she can prepare the arguments to defend the Bill as written and so I had the privilege of knowing what the hon. member Mr Quine's amendment was going to be well in advance of all the other members of this House. Now, as it happened that amendment failed and the Bill continued its passage. I was able to give due consideration to that amendment because I had the notice or a certain amount of lead-in time and so when hon. members walked into this chamber and there were eight pages, and it was eight pages on the desks, I already knew what was in it and I knew what the arguments were. I would have actually liked to have known

what the arguments were from other members, and I think the hon. member for Castletown, Mr Brown's, point, that under those circumstances members tend to move along with the status quo of the Bill, certainly occurred in that particular situation because I do not believe that any member in this House actually read every single word of the hon. member's complicated schedule to that particular issue. I certainly did not because I knew what the arguments were against.

So I really do think, in terms of moving legislation through this House to the upper chamber for them to then rescutinise what is going on, that this lead-in for amendments will be very useful, and I can also, in terms of an example, remember some years ago when the member of the Council, Mr Crowe, who was then a member of this House, moved an on-the-hoof amendment to a particular Bill which actually scuppered the complete Bill, only no-one actually realised in this chamber. The Legislative Council found it and sent it back to us and that amendment was then removed after due consideration and after due scrutiny by hon. members. It would have occurred with a lead-in period that scrutiny could have occurred to start with. So I support the report, Mr Speaker.

Mr Cannell: For once I shall really be brief, Mr Speaker. On the Question Time issue I really feel that you do not need a limit at all, it will balance itself out. If people get sick to death of dozens of questions they will make their feelings well and truly known. There does not need to be a limit. In Tynwald the limit is lunch-time and they fail after that, but in the House of Keys I cannot honestly see that situation occurring from a 10 o'clock start.

I agree with the broadcasting of the further items of the legislature which would actually mean that people would see the real work that gets done, the real long hours we put in such as today, and as one who has done radio broadcasting and newspaper writing, in actual fact it is perfectly understandable that the editors are responsible to decide what the public should read or hear on their publications or radio stations. It is no different to what they are actually doing now, as I said years ago, but it was resisted.

But one point which does not seem to have been made, if I may be so bold, is on the amendment issue. It is not just whether we like it, it is actually whether the public are best served by it, and I do not have any problem with having an advance notice of an amendment because we are changing the law which affects the public when we are doing it and in fact if we require the Bill to be published so the public can see what is in it, we equally require a similar amount of time for any major amendment which is contained in it because that gives the mover of the Bill and everybody else associated with it the opportunity to go to the public and actually ask them do they still favour it in its amended form? Now, admittedly we are not rushing out every five minutes with Bills asking the whole of the electorate in our constituencies what they think about it, but it would be published and it would be heard on the radio and you can guarantee that if it is something that gets up their noses they will get on to their members and say, 'You're not going with this, are you?' and it does give them the opportunity.

Now, I cannot pretend for a moment, as the hon. member for Ramsey said, that we are all up to date, reading our Bills four weeks in advance and everything is organised. In actual fact all you do is use the time you have got available and because you know you can put amendments up at short notice you tend to leave things to the last minute, but it is certainly not unknown that the information you are getting to work upon is equally coming to you at the last minute. You are technically getting Bills the night before for a first reading, at which in fact you are perfectly entitled to make the points at the first reading as you are at any other stage along the way, so it has got to be both ways. But the public does have the opportunity to consider whether the amendments which are being produced are equitable and are acceptable to them.

In fact another point is that some of the Bills are promoted by departments and if the departments have to then have an instantaneous amendment it leaves the member high and

dry who is moving the Bill. He may think that he has got the backing of his department and most times he has, he may think he has got enough knowledge to be able to act on behalf of the department and again most times he or she does have, but in actual fact if you want any consultation back to the department of a major amendment, you have had it unless it comes at least a week before, otherwise you have the sort of tick-tack situation of the chief executive and that trying to fastload the information across to the members, which is all right, it works reasonably well, but it is a bit degrading.

So I am in favour of it and as far as I am concerned what I would like to see if the Standing Orders Committee's recommendations are done, I would like to go further and instead of seeing a sheet of amendments, in actual fact with so much notice it should be possible for every individual clause, say for instance clause 64, to be printed in its amended form in full when you have enough notice, so that in fact rather than saying 'from the words "to" to "the" insert', the clause is printed as a separate sheet and you say, 'That's what it would like like', because I do not find it very easy looking at the green Bill and saying, "from the words "to" to "the" insert so-and-so", but I could follow it if the clause was printed in full and an opportunity of a week's notice would enable that to be done.

The Speaker: Hon. members, can I call upon the hon. member for Rushen, Sir Miles Walker, to reply.

Sir Miles Walker: Thank you, Mr Speaker. Hon. members, can I just start by saying that, as I see it, standing orders are our rules of procedure. They are for us as individual members of this House to construct, put into place and then to abide by and they are not things for government or the back bench or the opposition or the front bench sitting on the back bench or the back bench sitting on the front bench or whatever. They are our rules of procedure for us as individuals and I think we should approach them in that light and I can tell hon. members who have suggested that this is a way of trying to shut up backbenchers, which I think was the approach made by the hon. member for Onchan, Mr Karran -

Mr Karran: Of course it is.

Sir Miles Walker: - that that was certainly not the approach of the members on the Standing Orders Committee and if you run your eye down your report, if you have it, Mr Karran, you will see from the members of that committee that what you suggested is in fact far from the case.

The question of Bills was the first issue and I do not think that has been mentioned, so I think it is fair to assume that the conclusion that the committee drew on that particular front was accepted.

As far as Question Time is concerned, I do not want to get into the debate of, is Question Time important or is it not important? I do not think that that is the matter that is in fact in front of the House. The situation that was addressed by the Standing Orders Committee is that week after week there is a request for a suspension of standing orders at half past ten, there is no debate and that suspension is generally agreed, and it seems to us that when that happens week after week after week the standing order as it is written needs amendment and we have come forward with a suggested amendment to that effect.

Whether or not it should be time limited at all I think is a question that we did discuss but my own personal view on that is that as the House of Keys is primarily a legislative-making body, then there should be a time limit and it seems to me that half an hour, as things have progressed, is not long enough. When Question Time was first introduced into this hon. House it was introduced for the first sitting of the month because that was meant to be halfway between Tynwald sittings and there may be urgent questions which need to be asked and answered.

Mr Cannell: That has no chance.

Sir Miles Walker: As time progressed it was decided that there were more urgent questions than that and there should be an opportunity every week for those urgent questions to be put forward and addressed and I would suggest that if there were some way of deciding what were urgent questions and what were non-urgent questions and we stuck to the urgent ones, half an hour would be plenty of time -

Mr Cannell: Who is going to decide?

Sir Miles Walker: - but there is no way to decide and so the practical way forward is to allow, in our view, one hour for questions and there may be a time when time is so pressing for reasons of legislation that it is prudent to say after one hour, 'Sorry, this House will not accept the suspension of standing orders to take us any further.' So we believe that the recommendation that we have made on that front is an appropriate one.

The requirements for notice of amendments to Bills is the issue, I think, that has drawn the most debate and I thank each and every member who has made a contribution. I have to say the Standing Orders Committee expected a debate on this particular issue and that is why the clerk to the committee circulated the report in plenty of time for members to have read it and to have come to their own conclusions, and I think Mr Rodan, when he was on his feet, really put it into a nutshell when he suggested there should not be a distinction between a new clause and the way that was dealt with and an ordinary amendment to a clause because they may both have important considerations attached to them. I think the Standing Orders Committee agreed with that.

The next issue, as he rightly pointed out, is the one of timing. For a new clause at the moment it is 24 hours' notice in the hands of the clerk, for an amendment there is no notice, it can be done on the hoof. Now then, some members take advantage of doing it on the hoof, but do we want members just to take advantage or do we want properly thought out and well-constructed legislation? Because if that is what we are after, and as members of the legislature I would have hoped that is what we are after, then that is not the way to legislate, on the hoof, and some prior thought ought to be given.

In order that proper thought could be given, as the hon. member for Castletown said in his participation in this debate for which I thank him, we have suggested an extra week between the second reading and the clauses stage of second reading and that, we felt, would not disadvantage members, it would give members more opportunity in fact to seek the appropriate amendment that they were looking for.

Now, the suggestion was that the suspension of standing orders would happen over and over again. That is certainly not what the Standing Orders Committee suggest and we say, I think, very clearly in paragraph 4.6, 'We recognise that, as at present, there will be the occasional minor amendment, where it would be inappropriate to apply the full rigour of the Standing Orders procedures.' It is a minor amendment we were suggesting that the House should in fact readily agree to the suspension of standing orders to move.

Mr Karran: Private member's Bills - that has gone by the way too.

Sir Miles Walker: I am not certain that this report touches on private member's Bills at all.

Mr Karran: Because the principle has been lost there too.

Sir Miles Walker: I think as far as private member's Bills go, if I may say so, we have a great privilege in this House of Keys that every member can produce a private member's Bill if he seeks leave so to do.

Mr Karran: It can be refused.

Sir Miles Walker: If we look at other legislatures and we look at ones that are close by us, the opportunity that is given to members to produce private member's Bills is in fact almost nil. Thank goodness we do not have that.

If we want properly thought out amendment legislation that is coherent, that can be understood and that is not full of mistakes, then we believe it demands adult consideration and that is the recommendation we make, and apart from thanking the hon. member Mr Brown and the hon. member Mr Corkill, I think, who made important points in support of this legislation, I beg to move, sir.

The Speaker: Thank you. Hon. members, now we have the report before the House and, as agreed earlier, we were going to take the recommendations and vote on them singly. I ask you to look at 2.6: 'after Standing Order 49(4) insert: "(4a) A question shall not be asked on the provisions within a Bill which is either before the House or the Council.' Those in favour say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Henderson, Duggan, Braidwood, Shimmin, Mrs Hannan, Messrs Corkill, Cannell, Gelling and the Speaker - 16

Against: Messrs Cretney, Singer, Bell and Karran - 4

The Speaker: The recommendation is carried, 16 votes in favour and 4 against.

Hon. members, we now move on to paragraph 3.4 with the recommendation that Question Time be extended to 11 a.m. Those in favour say aye; those against say no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Quine, North, Sir Miles Walker, Messrs Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Shimmin, Singer, Karran, Corkill, Cannell, Gelling and the Speaker - 16

Against: Mr Rodan, Mrs Crowe, Mrs Hannan and Mr Bell - 4

The Speaker: Hon. members, the recommendation is carried, 16 votes for and 4 votes against.

I now move on to paragraph 4.7. It is a very long paragraph; I do not intend to read it all out. It is to do with the amendments to be placed before the House as regards Bills. We have debated it in strength. Will those in favour of the recommendation as printed, paragraph 4.7 in the report, please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Quine, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Henderson, Braidwood, Shimmin, Corkill, Cannell and Gelling - 12

Against: Messrs North, Cretney, Duggan, Mrs Hannan, Messrs Singer, Bell, Karran and the Speaker - 8

The Speaker: Hon members, that recommendation carries, 12 votes in favour, 8 votes against.

We now move on to paragraph 4.8 which is consequential to your passing 4.7 and those in favour of 4.8 please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Quine, Rodan, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Henderson, Braidwood, Shimmin, Corkill, Cannell, Gelling and the Speaker - 13

Against: Messrs North, Cretney, Duggan, Mrs Hannan, Messrs Singer, Bell and Karran - 7

The Speaker: Hon. members, 13 votes in favour, 7 against.

I now move on to the final recommendation which is in paragraph 5.2. It is to change the name or amend the name from 'Agenda' to 'Order paper'. Those in favour say aye; against, no.

A division was called for and voting resulted as follows:

For: Messrs Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Brown, Houghton, Henderson, Cretney, Duggan, Braidwood, Shimmin, Singer, Corkill, Cannell, Gelling and the Speaker - 17

Against: Mrs Hannan, Messrs Bell and Karran - 3

The Speaker: Hon. members, that recommendation carries, 17 votes for and 3 against.

Supplementary Agenda – Bill for First Reading

The Speaker: Hon. members, we now move on to your supplementary agenda and I call upon the Secretary of the House.

The Secretary: The Protection from Harassment Bill, Mr Bell.

Mr Bell: He's been harassed all right!

The Speaker: Hon. members, the House now stands adjourned till Tuesday 16th at 10.30 a.m. in the Tynwald chamber.

The House adjourned at 5.30 p.m.