

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS
(LEGISLATION AND OTHER MATTERS)**

**Douglas, Tuesday, 29th January 2002
at 10.00 a.m.**

Present:

The Speaker (the Hon J A Brown) (Castletown); Mr D M Anderson (Glenfaba); Hon A R Bell and Mr L I Singer (Ramsey); Mr R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon S C Rodan (Garff); Mr P Karran, Hon R K Corkill and Mr A J Earnshaw (Onchan); Mr G M Quayle (Middle); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Hon R P Braidwood and Mrs B J Cannell (Douglas East); Hon A F Downie and Hon J P Shimmin (Douglas West); Mr D J Gelling (Malew and Santon); Hon J Rimington, Mr Q B Gill and Mrs P M Crowe (Rushen); with Mr M Cornwell-Kelly, Secretary of the House.

The Speaker took the prayers.

Amendments Bill — Second Reading Approved

The Speaker: Hon. members, we turn to item 10 and I call on the hon. member for Onchan, Mr Corkill, the Chief Minister.

Mr Corkill: Thank you, Mr Speaker. The Amendments Bill 2002 is promoted by the Council of Ministers and it is to enable reference in Manx legislation to United Kingdom authorities or legislation to be amended by order.

As hon. members will be aware, following the 2001 United Kingdom general election, a number of functions previously exercised by the Home Secretary were transferred to the Lord Chancellor. These functions principally related to matters which elsewhere would be dealt with by Ministry of Justice but also included responsibility for relations with the Isle of Man and the Channel Islands. References in Acts of the United Kingdom Parliament and orders in Council to the Secretary of State, so far as they related to the transferred functions, were amended so as to refer to the Lord Chancellor by an order in Council made under the Ministers of the Crown Act 1975. There are numerous references in Acts of Tynwald to the Secretary of State, which normally are taken as referring to the Home Secretary. However, those references were not affected by that order and need to be correspondingly amended by Manx legislation.

At present such amendments would require an Act of Tynwald, and any future transfer of functions from one United Kingdom minister to another may also require consequential amendments in Manx legislation as well as in United Kingdom legislation. In addition, there are in various Acts of Tynwald references to United Kingdom legislation. Where that legislation is repealed and replaced the references become out of date and need to be corrected.

It is possible sometimes, where a new Act of the United Kingdom Parliament is to extend to the Isle of Man, for consequential amendments to Acts of Tynwald to be incorporated in an order in Council under the Act of the United Kingdom Parliament, but this clearly is politically quite unsatisfactory. In other cases an amending Act of Tynwald is the only solution.

The establishment of new legislatures and executives to Scotland and Northern Ireland, and an assembly in Wales, will increasingly cause similar difficulties. First, references to United Kingdom ministers will require amendment where their functions have been taken over by Scottish or Northern Ireland ministers or indeed the Welsh Assembly. Secondly, reference in Acts of Tynwald to Acts of the United Kingdom Parliament which previously applied throughout

the United Kingdom will need to be amended where they are replaced in Scotland or Northern Ireland by local legislation.

In conclusion, previously anomalies of this kind have been allowed to continue indefinitely unless the opportunity has arisen to make amendments in a Statute Law Revision Bill or in a suitable programmed Bill. This process is unsatisfactory, and so to avoid that situation, this Bill proposes that the Council of Ministers be given power to make amendments of Acts of Tynwald of this kind by order but subject to Tynwald approval. Mr Speaker, I beg to move the second reading.

The Speaker: I call on the hon. member for Garff, Mr Rodan.

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

The Speaker: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: I wonder, could the Chief Minister explain, in less legalese maybe, the exact use that this Bill would be put to? Does it mean that all retrospective legislation which related to the Home Office or the Home Minister or some other office would just be changed by an order, or does it mean that this gives the Council of Ministers even more power to make orders that have been made in the United Kingdom and just placed before Tynwald, in a way bypassing the House of Keys that was elected to look and bring forward and consider and debate on three occasions legislation?

Now, I do not think that that, in the clarification of what the legislation was about, has been made and I think it needs to be made in the very clearest of terms as to whether it is just a name change in reference to legislation that has been passed and needs to be brought up to date or that this is going to happen in the future, because by what the Chief Minister says and what is in the Bill and what is in the explanatory notes, it is quite confusing what in actual fact this Bill is actually going to do. Now, it is possible that the Council of Ministers have had a clarification of these points and they know exactly what is coming forward and maybe that is why they are quite happy with it, but I am concerned that this is usurping the power of the House of Keys and in actual fact putting power into the Council of Ministers where all Tynwald would have to do then is accept or reject, so I wonder if the minister, in winding up, could explain exactly what in English it means.

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: Thank you, Vainstyr Loayreyder. I am conscious that this Bill appears to be an administratively convenient method of incorporating the myriad changes in our relationship with the British Government, Welsh Assembly, Northern Irish and Scottish parliaments. I further appreciate the comments from the Chief Minister that this Bill appears to be a simple and sensible way of incorporating secondary legislation onto our statute books without the lengthy process we often currently employ, but I would like to reiterate the comments of the member for Peel, and I feel this is a crucial point; I do have concerns about the circumvention of the rTMle of this House in this process and I would therefore seek reassurance from the Chief Minister that any amendments necessary to reflect the primacy of the House of Keys will be considered favourably. I would therefore like to conclude by asking the Chief Minister to acknowledge that the rTMle of the House of Keys should not be circumvented. Thank you.

The Speaker: I call on the hon. member for Douglas North, Mr Henderson.

Mr Henderson: Thank you, Mr Speaker. In my opening comments I would just like to congratulate the new member for Rushen in what I think is his maiden speech (**Members:** Hear, hear.) - short, sharp and to the point with some very interesting comments that I think all members in this House take note of (**Members:** Hear, hear.) because I too share the same concerns and that of the hon. member for Peel, Mrs Hannan. Okay, we have an Amendments

Bill here which, on the face of it, does not seem to be anything much - administrative process et cetera as we have heard; what I would like to have seen before we had this particular point in the Bill's passage is a briefing for all members, because I am not particularly understanding the explanatory notes too well either. I concede the point in the move from the Home Office and so on to the new delegated powers in Westminster and all that kind of thing; that is fine, but having said that, are we in fact opening a conduit here in what has already been said to the primacy of the House of Keys for that to come under some sort of threat? Are we opening a door here where the UK can actually pass various degrees of legislation and they can just come through here on this conduit that we have got here before us this morning? That is what concerns me, and also the issue with the primacy of this House, Mr Speaker.

The Speaker: I call on the hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I share the observations that have flowed so far. I am quite interested in the explanatory notes that actually accompanied the Bill for hon. members to look at, which is of course a new move and a welcome move, but of course it has perpetuated the concern of hon. members. It is clause 1 that I have a particular concern with, because in the explanatory note clause 1 give the power to the Council of Ministers, subject, of course, to Tynwald approval, to amend Manx legislation consequential *on any circumstance*, and in clause 1 it says, 'Where it appears to the Council of Ministers expedient to do so in consequence of - (a) any UK legislation (b) the establishment or abolition of a UK authority, (c) a change in the style or title of a UK authority' - of course that could mean a change of government - this is the way we are reading it - 'or (d) any transfer functions from or to a UK authority, or (e)' - which I have a question mark against, Mr Speaker - 'any other act, event or circumstances . . .' and I think this is where the fear and the doubt is coming in for hon. members here today. Rather than wait - because this is the second reading, so it is the principle of the Bill that we are debating today - and perhaps risk the Bill falling at this particular juncture of time, it might be appropriate to ask the Chief Minister to withdraw the second reading at this moment in time and arrange a briefing to allay the fears of hon. members, because there may well be very good reason for members to support this, but there are concerns - and I can see the frustration from the hon. seconder, who obviously fully understands the implications, but, Mr Speaker, hon. members in the Keys do not, and it does appear to circumvent the power of this hon. place as opposed to another place where we meet with the Legislative Council. This is the powerhouse, Mr Speaker; you have always said yourself in the past. Those who sit in the powerhouse have a concern about this particular Bill which, on the face of it, seems quite simple, but it is when you read in the explanatory memorandum there could be hidden meanings to the wording that is being used, and I would call upon the hon. Chief Minister to actually withdraw it at this junction in time. Thank you, Mr Speaker.

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

Mr Karran: Vainstyr Loayreyder, I think the issue is whether members of this hon. House want to be proactive or reactive. At least, what we do need to do is have a select committee to look into the issue when it gets to its clauses stage. The danger is that if it has been agreed by the Council of Ministers we could end up with the common complaint of vanity over sanity and, because it was not picked up at that stage, it would not be allowed to be picked up at a stage when it comes to Tynwald for approval, and I think that is important.

What concerns me about this piece of legislation is a number of things. One is that we are not a devolved government or assembly of the United Kingdom. This might be the right way for devolved assemblies of the United Kingdom; we have never been part of the United Kingdom. Our only association with the United Kingdom is that they happen to be a lot bigger than us and better at fighting. I am just concerned that this House should seriously consider: what is so wrong with having to bring the orders into primary legislation? Obviously we have seen often in

this House how it has been used as a convenience for the executive. They can suspend standing orders, they can have three readings of any Bill in one sitting if they want, so this nonsense that 'we have got to do that because we cannot work quick enough in that regard' really is something of a red herring.

I believe that this House should be very wary. I think the imbalance in this House as regards the power of the executive over the parliament has very much alarmed me as to the way we are slipping, because the importance of recognising the independence between the executive, the parliament and the judiciary is being whittled away so people like myself are just abused.

I believe that if this government of the executive - I am not a member of the Council of Ministers - wants to act like a county council of the United Kingdom, then it will be treated like a county council of the United Kingdom. I believe that what we must do is have this referred to a select committee, because I believe that whilst most of this is what is existing at the present time, it can be used as a device to circumvent the rights of this House. It outrages me; as you may remember, on several occasions I have complained in another place about how we get these orders and with a bit of Tipp-Ex they cross out this and cross out that - 'Oh well, you know, it is a UK piece of legislation; we will just cross out the relevant bits and put in our own.' I am afraid it is about perception, and I believe that this House will be very much advised to have a select committee to look at the clause, to look at the implications and look at the abuse. I believe, as we go on, it is going to be more and more important that we must defend parliament's right, and I believe parliament's right has been whittled away to a frightening extent as far as I am concerned as a member of this House, one of the few members who is a BC member, 'Before Council of Ministers,' of this hon. House. *(Laughter)*

I am happy to give it a second reading, but I do think that we really do need a situation where we are going to have full scrutiny of this and we must not allow it to be sat on through cronyism of allowing only people who . . . There is the old saying that there are none so blind as those that will not look, and I would hope that when we do get a select committee, we will have somebody from the executive, but we will also have people that are part of the parliamentary scrutiny part of this, where our country is concerned. At the end of the day, the alternative to this is having to do everything in primary legislation. What we have got to do is make sure that we do not allow this to be used as a Trojan Horse, and it certainly gives me concern that it can be used as a Trojan Horse at a later date.

I do believe that, if we do not have a select committee to review the implications of this piece of legislation, then what we are doing is going on in parliament is allowing primary legislation to be done by the executive instead of by the parliament and that then it means the parliamentarians are then working on a reactive instead of a proactive basis.

The Speaker: Hon. member for Rushen, Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. Though I do appreciate the sentiments of the previous speakers expressing concern about the parliamentary process and the circumvention of this hon. House, and the issue has also been raised for the need for a select committee to scrutinise the Bill, I would ask hon. members to just take this opportunity to read what is there, because it is written down in black and white - well, sorry, green and black! - very clearly what this Bill is intending to do, and now, when you read clause 1(1) - and this is the area which has caused concern because it just says, 'any UK legislation, the establishment or abolition of a UK authority,' lower down, 'any other act, event or circumstances' and you think, 'Good heavens, this is opening it out and the Council of Ministers can put in an order to do anything about anything,' but quite clearly, at the bottom of that same page, line 10, subsection (2), 'An order under this section may amend any statutory provision -' and then goes on on the following page, so it is relating that very clearly to what is there in subsection (2). It does not mean any event that we are

now going to introduce - the UK Prevention of Terrorism Bill by order or any such matter like that; it narrows it down very firmly to changing names or references to different authorities in the UK, and specifically narrows it down to that particular issue and does not wander off into the ether, possibly giving the impression that this is a nice tasty little number for the Council of Ministers to subvert the primacy of this House, but is purely talking about the names which is as a consequence of the changes that have happened in the United Kingdom and their administration of the changes of functions from the Home Office to the Lord Chancellor's department in relation to the Isle of Man, and indeed, as we do not intend to do at the moment, they are constantly changing the names of all their different departments. I mean, DAFF is now DEFRA and DETRGL, or whatever it is, is now DRGLT or something; they are constantly changing, and so therefore it is a mechanism by which you can make the right reference in our legislation to the right bodies in UK legislation, and that is purely what it is focusing upon. I honestly cannot see the need that we should have a select committee for this process of scrutiny, because we are here in this chamber to exercise that process of scrutiny, and all you need to do is just read there clause 1(1), (2), (3), and so forth, very clearly at this point. Thank you.

The Speaker: Hon. member for Middle, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker. I suppose I am looking for reassurance, and maybe the hon. member for Rushen has at part given some of that, but I wish to put on record my concern that this Bill does maybe sideline the House of Keys, which should be the primary place of initiation and consideration of legislation. We are all elected as Members of the House of Keys and, as a member in this hon. House, I think we are here to guard the rights of the Keys, to pass laws and scrutinise legislation. (**A Member:** Hear, hear.) I think that this Bill perhaps does, unless I can have reassurance, seem to streamline passing of legislation by Tynwald and I do not think that is necessarily a good thing. I do not think we should be in a position of making law in haste, only to repent at leisure, and I think also we should only be making laws which are pertinent and required by the people of the Isle of Man, so I look to the Chief Minister perhaps to give some reassurance on the points that have been made this morning by myself and the other members. Thank you.

The Speaker: Hon. member for Douglas West, Mr Downie.

Mr Downie: Thank you, Mr Speaker. Those who follow the parliamentary rTMle, particularly in the United Kingdom, and see what has happened with devolution and the major changes which are taking place, and in fact the way in which the Secretary of State does act - unless we come up with a formula that is acceptable for this House, I would predict that we will need to be meeting two or three times a week, we will have to extend our meeting periods at some times; we are going to be absolutely swamped, because there is a major change afoot.

We have not just got the situation regarding legislation from England any more to deal with. When you start to look at issues relating to fisheries, for instance, in the old days if the Isle of Man wanted to amend its fisheries legislation, it just made reference through the Home Office, discussions took place and then any amendments or additional byelaw approval was then approved by the appropriate minister responsible for agriculture and fisheries. That situation has changed now, and what has got to happen now is we have to have concurrence with Scotland, Wales and Northern Ireland, and I think the purpose of this Bill is to try and come up with a formula where an opportunity can be taken to short-circuit some of the red tape.

I do not think there has ever been any intention to remove members' rights; in fact, I would welcome not only a presentation of this Bill for members, but I think that the way forward with all this is to have a House of Keys sub-committee which meets on a fairly regular basis and, whatever is coming through the pipeline, based on the back of this legislation before it goes to Tynwald, they can actually scrutinise it themselves and come with a report to the House. That is

actually what is happening now in other parliaments in the United Kingdom. They do not sit down themselves and scrutinise everything.

As previous speakers have said, a lot of the issues that are being dealt with are matters relating to justice, and we are seeing what is happening and this is a solution to try and stop our House of Keys, our legislative process, becoming bogged down. As I say, at the end of this the final arbiter will be Tynwald Court, which is the parliament of the Isle of Man, and I do not think there is any intention at all to pull the wool over people's eyes. If you look at what is happening in the DHSS, they have actually been adopting a similar system to this for a number of years with the various regulations and orders, so it is a more refined version of that, you could say, but it just enables us to look at primary legislation and, where there are references to the Secretary of State and other people, to be able to amend those heads accordingly, not to start to interfere with the principles.

I think perhaps the way forward is to have a full and frank discussion about this particular issue. I do not think pushing it off to a select committee is going to make any difference. I think the way to tackle it is to have everybody together who is interested in the progression of the Bill, have a proper explanation of it by the legal draftsman and hopefully the Attorney-General, and I think they will be able to put over to you that the problems that you are going to be facing in the not-too-distant future. If we do not find a mechanism to be able to deal with some of this legislation, it is the rest of the good work this House wants to get on with to deal with its own legislation that I think is going to eventually suffer. Thank you.

The Speaker: Hon. member for Ayre, Mr Quine.

Mr Quine: Thank you, Mr Speaker. There have been some interesting observations on this small Bill and I think it is interesting also to see the commonality of position within the Council of Ministers on this. It would appear that we have moved from the Bill into one of a position of constitutional reform, having just listened to the hon. member for West Douglas. But I think the real problem is, if you read the Bill you are left wondering exactly how far it takes us. It is not the purpose of the Bill, and I do not question what the Council of Ministers are trying to achieve, but as a question, I think, of how far in a *de facto* situation it takes us along the line. Does it take us further than we need to go? Does it take us further than we would wish to go?

If I could just take three possible scenarios which could emerge from legislation of this particular type, if we are talking of legislation which is intending purely to address nomenclature, just the name of an organisation, and to give the Council of Ministers the facility by order to react to a change of name - and there are one or two examples given here this morning - then that would not cause me too much concern, although I would say that we could do it in a much simpler and clearer manner than what we are apparently seeking to do through this Bill. If that is our purpose, surely we can do it in a simpler, clearer and more explicit way than what is in this Bill, but then, of course, I appreciate that the Council of Ministers among others are subject to the persuasion of our legal friends in the Attorney-General's Chambers, but if that is the purpose then I would ask the Chief Minister to go on record to say that that is the purpose, no more than that, and then I think a number of us would be happier with this piece of legislation as it progresses.

To take the second scenario, if the intent or scope within the Bill goes further than that and addresses not just nomenclature, a change of title, but also along with that allows for the transfers of duties and responsibilities along with a change of title, then I would say as a matter of principle I would not support this Bill, because that takes us into a different area entirely. So we want to be clear, because it is one thing to say 'I am changing the name of this body to X, Y, Z' or 'I am transferring the duties that are now performed by a department in the UK to another department.' Now, that takes us beyond the realms of nomenclature; that is something I think

which we could here, as the popular elected body, have views on, and I would not want that to be done by an order through Tynwald.

To take a third scenario - that is, if it goes further than that - and I have some doubt about this, just reading it - if it extends to a transfer of function by application of UK legislation, which is one interpretation that I could possibly place upon what is before us today, then I am violently opposed to that -

Mr Corkill: So am I.

Mr Quine: - the Chief Minister says so is he - and I would hope he is, but that is not really the issue. The issue is, does the Bill allow that to happen?

I feel that the least we need is a briefing to satisfy these and other questions, so somebody can, with the knowledge . . . and maybe the Chief Minister himself can meet with us and explain to us exactly what this means, not just what it was intended to mean by the Council of Ministers but what it actually allows in terms of the manner in which it has been drafted, that I think is the nub of the matter and the nub of my concerns, because I think, if you read this Bill, one thing that jumps out at me is that an approach has been taken which puts the accent onto generality at the expense of the specifics, and when you get a piece of legislation where you have the accent on the generality of the case and not on to specifics, then there is always a danger that you are opening the door wider than you intended it should be opened. (**Members:** Hear, hear.)

So again, provided the Chief Minister is prepared to give us a commitment here today that he will accommodate us by way of a briefing and by way of the timing of the Bill coming forward so that we can have sufficient time to deal with any amendment, I would be happy enough to support the second reading, because if the principle is as I have outlined in my first scenario, then I would be quite happy with that, but if it extends, for example, into my second or third scenario, then I would be very much concerned. Thank you, Mr Speaker.

The Speaker: Hon. member for Michael, Mr Cannan.

Mr Cannan: Mr Speaker, in view of the debate so far - and I perceive a need of members of the House of Keys to be better informed - I would like to move the adjournment of this Bill until the sitting of the 26th February, which would give time for what members have asked for - a proper briefing and consultation. I think it is too much to ask members now to vote on the second reading; if that is the case, in a fortnight's time we come to clauses. I believe that we would better to adjourn it. It is not so important that it has to go through today and the clauses in two weeks. Let us adjourn it. Let everybody be satisfied that they know what they are voting for, because that is very important. We have heard the hon. member for West Douglas moving into the constitutional implications of the Bill and I believe there should be an adjournment to give the Chief Minister time to have a full presentation to members and satisfy this House that they know exactly what they are voting for. Mr Speaker, I move:

That debate be adjourned to 26th February 2002.

The Speaker: Hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I am very happy to second that motion by the hon. member for Michael, Mr Cannan, and if it is indeed successful for that date, the 26th February, when we do have such a briefing, may I also ask if the hon. Chief Minister could arrange for the Attorney-General's office to be represented at that meeting to brief us on the technical and legal matters, sir?

The Speaker: Right, hon. members, we are now into an adjournment debate. Does any member wish to speak?

Mr Karran: Vainstyr Loayreyder, one of the concerns about this piece of legislation: I have to be honest with you, I cannot see why we need to adjourn it. We have got a second reading. If the principle of what the executive is saying is correct, which I do not think is so, then we have not got a problem, but I do believe that the important issue is this House's function of having a select committee at the clauses stage, which would be the far better way and more productive way. I cannot see what an adjournment would do. That is the reason we set up the situation of the second reading, the first reading, the fortnight before having the clauses, and that is the way that we must . . . and I would be complaining today bitterly if the executive was trying to pull a fast one by trying to move everything together, because that is the reason why we have had the standing orders and we have the time periods for the proper reflection, the proper research, and I do not really think an adjournment is the way forward.

The Speaker: Hon. member for Rushen, Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. Obviously I defer to the mover of the Bill but I would be reluctant to go down the road of an adjournment, because it only requires members to read approximately 20 lines, and absorb what is in those 20 lines, and it is perfectly clear -

A Member: It is not perfectly clear.

Mr Rimington: - line 9, it says under subsection (2), that no order can be made unless it relates to subsection (2), and subsection (2) clearly says it is in relation not to duties or functions but just references to names that have changed, and that is solely what it is about. I think people are taking the opportunity to make a meal of this one where indeed it is not required because it is a very simple, straightforward piece of legislation which is nicely encapsulated there, the essence of it, in about 17 lines, and why members are struggling with that I am not quite sure.

The Speaker: Hon. member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I regret the inference by the previous speaker that members of this hon. House cannot read. Members in this hon. House, many of whom have read and read legislation (**A Member:** Hear, hear.) for many years are far more aware of the implications of it than the hon. member who has only been in this hon. place for five minutes (**Members:** Oh!) - some members have not got their head wet yet, but that is another matter - speaking to the adjournment, I think it is probably the most appropriate route to take. It gives and allows a little bit more time to fully consider the implications, because let us not forget, hon. members, that we are here to consider second reading, which is the body, the principle of the Bill, and I do not believe it is a good move for this new House to be considering and approving legislation in principle without being fully *au fait* with the effects or the negatives that might be contained within it. I think it is far too late to wait until clauses, because that is putting the meat on the bones, before referring it to a select committee or whatever. Now is the time to pull it back, to look at it more closely, to have a proper explanation. Does it go wider than the original intention?

I think we are duty-bound in this place to support the adjournment so that when we do approve second reading, presumably we will be fully satisfied by the explanations and if we are not we will come forward with amendments at clauses stage and change it to the way we would desire it to be and to impact upon us, but the adjournment is the proper way to go, really. I did suggest, when I got up and spoke earlier, that the hon. Chief Minister might withdraw it to allow some kind of briefing for members. We must feel sure to support, something in principle, that it is the right thing to do before we start getting down to the nitty-gritty and putting the meat and trimming the fat off the bone, so I would urge hon. members to support the adjournment.

The Speaker: Before I call on the next hon. member, I would just pick you up on the point the hon. member for Douglas East has raised and refer members to standing order 156, which

makes it clear that as soon as the Bill has had its second reading a motion can be moved to refer a matter to a committee, so there is no time gap if the House does not wish there to be. I call on the hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I would have thought the proposal to adjourn and to have a briefing, although the mover of this legislation has not accepted that there would be a briefing, would be a way forward. It would not then take away the responsibility or the wish of the member for Onchan to raise a select committee if it received second reading, so I do not see that as being a problem but I do think the executive should be able to explain to us - and that is why I asked the question when I was speaking before - whether this was just retrospective, because it does say in the explanatory notes about being retrospective but then it goes on about any substituting for or adding to any reference, and therefore is it just retrospective? Presumably by what the member for Douglas West said, it was not retrospective, it was anything in the future, and I think we have to be protective of the rights of the House of Keys and I think that what members are quite rightly doing this morning is being protective of the rights of the House of Keys. No matter what the member for Rushen says, I think we have to be absolutely satisfied that this Bill says what he says it says it is going to do, and that is why I asked for a proper clarification by the mover of this legislation as to what it is doing, because this legislation says, under sub-clause (3), 'Before making any order under this section the Council of Ministers shall consult the Lord Chancellor.' If it is a simple matter of just changing names, why must the Lord Chancellor be consulted? Why not the House of Keys? Thank you, Vainstyr Loayreyder.

Mr Houghton: Hear, hear.

A Member: It is irresponsible.

The Speaker: Hon. member for Onchan, Mr Corkill, speaking to the adjournment.

Mr Corkill: Yes, thank you, Mr Speaker. Can I just say to hon. member that in moving this this morning - and I am speaking against the adjournment - because certain members have written to me asking for further information, which I thought I had provided in the initial brief, it was my full intention to make sure that we had a session with the legislative draftsman on this before we went to the clauses stage, and I was hopeful that this morning we would get the principle of the Bill established, because it is a tidying-up exercise and that is all it is, and I do fully appreciate the scrutiny rTMle of the House of Keys this morning; that is the work of the Keys that I have to say I enjoy the most. Can I say that since the new House this is the most enjoyable time I am now having in the House of Keys in that we are actually doing something meaningful here.

The issue really is, do we adjourn whilst we get further information and comfort ourselves before we have the second reading? I am hoping that in my summing-up, Mr Speaker, I will be able to convince people on the principle of the Bill notwithstanding all those concerns and worries that hon. members have quite rightly, put forward, and there will be a time that I will arrange to make sure that all members can sit down with the legislative draftsman and the Attorney-General, if that is what members want, so that we can hopefully rub out the concerns where hon. members think perhaps the Bill goes wider than it does. My understanding of the Bill is that it is very narrow in its approach - talking to the adjournment, so I will have to be careful, Mr Speaker, bearing in mind it is a short Bill - there are only three clauses here - I am hoping that hon. members will get behind the principle of it and I will make sure that that briefing takes place before I bring this back to the Keys for the clauses stage, and if members are still not happy at that point, then there is still a way forward, which is obviously to vote against the clauses or indeed send it to a committee. So I think the adjournment is probably not helpful from a number of points of view this morning from either side of the fence, as it were. I hope that will be helpful to hon. members. There is no intention to push this Bill through willy-nilly and ignore the Keys; we will make sure that the information is there for hon. members with a full briefing.

The Speaker: I call on the hon. member for Michael to reply to this adjournment.

Mr Cannan: Mr Speaker, we have heard the Chief Minister's explanation but I personally still think an adjournment is better than to be asked to give the second reading, which is approval in principle, and then find out afterwards. Better to find out before and then give approval. It is not that urgent, this Bill, and two or three weeks will make no great difference. I just reiterate what I have said: the Chief Minister has agreed to inform you all after you have approved it in principle. I believe that he should satisfy you before you are asked to approve it in principle. That is the fundamental issue. Do you want to be satisfied before you give approval in principle or do you want to give approval in principle and then find out what you have given approval in principle for? The best way, the most appropriate way, is to support the adjournment. Thank you, Mr Speaker.

The Speaker: Right, hon. members, the motion before the House is that the Amendments Bill 2002 be adjourned. All those in favour say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Anderson, Cannan, Quine, Quayle, Gill, Houghton, Henderson, Duggan, Mrs Cannell, Mrs Hannan, Messrs Singer and Earnshaw - 12

Against: Messrs Rodan, Rimington, Mrs Crowe, Messrs Cretney, Braidwood, Downie, Shimmin, Bell, Karran, Corkill, Gelling and the Speaker - 12

The Speaker: Right, hon. members, the voting on the motion for adjournment is 12 votes for, 12 votes against; therefore my casting vote is against, to keep the motion alive as in the Bill. I call on the hon. member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker. I do believe that the principle involved in this is a simple one. It is really a matter of how hon. members are interpreting the text before us and, certainly bearing in mind the concerns that members have had, as I have said before, I will be contacting members so that we can meet up with the legislative draftsman and we can discuss privately every word and every clause of the Bill and where that leads us to.

The fundamental proposal in this Bill - and this is the principle that I am asking hon. members to support at the second reading - is that there be machinery which will enable a very limited range of amendments to be made to Isle of Man legislation by means of Council of Ministers' orders. There are a number of references in Manx law to United Kingdom legislation or to persons with official positions in the United Kingdom; these do change from time to time, and what we are acknowledging is that these changes are likely to become more frequent in future with the devolution process that is going on in Scotland, Wales and Northern Ireland.

I was a bit concerned when one hon. member mentioned the devolution issue as if in some way it was applying to the Isle of Man and, quite rightly, the hon. member said that we are not part of the United Kingdom and never have been, so how on earth could we be devolved from something that we have never been part of? This is nothing to do with us in that relationship, but this Bill does acknowledge the fact that because of the devolution process in the United Kingdom, there are changes of roles of Secretaries of State in particular in that jurisdiction which we will have to take account of in the way that they affect us here in the Isle of Man, and that is all that is, so I hope that we have not got a red herring going on on the devolution issue and in fact I do, at every opportunity, inform people, particularly from off the Island, that in no way is the Isle of Man part of the United Kingdom's policy on devolution, and that is quite clear.

What I want to say is that the changes that the Council of Ministers are proposing to take on board with these orders are not changes of any substance; all we are saying is that we need to keep abreast of these - as the hon. member Mr Quine said - changes of nomenclature. At the

moment, what we could do is continue to rely on these changes being made in primary legislation, and obviously that is the issue that hon. members have raised. So we can carry on without this Bill by producing a frequent number of small green Bills; that would be one way of doing it so that we would have. I do not know how many but I think it would be quite a substantial number of small green Bills which would not require any scrutiny by the House in as much as they would be these changes of, effectively, nomenclature. I do believe that that would be a waste of the House's time but I do respect the fact that if the House of Keys wishes to scrutinise legislation and retain that process, then that is obviously a matter for the House; it is not a matter for the Council of Ministers and that is why this Bill is before us this morning.

Another way of doing it would be to save up all these changes and log them and produce larger Bills, but of course what that would do is to allow our legislation to get out of date in the meantime.

I just believe either way is not the most efficient or the best way of dealing with the changes, and so what the Council of Ministers is proposing on the advice of the Attorney-General's Chambers and we do take advice from the Attorney-General's Chambers, we sometimes refuse that advice, so there was a suggestion that we are being used, perhaps, as a conduit just to make things easier in the legislative draftsman's area. That is not the case; it is a practical way forward, and that is why this proposal is for the single-stage process in Tynwald, and Tynwald obviously has the right to say no to any of those orders. I detect this morning that the House of Keys is saying that they would feel uncomfortable at that one-stage process going to Tynwald, albeit that Tynwald can vote any of these orders out and say to the Council of Ministers, 'We do not want to do it this way, come back and have primary law on any one issue.'

Notwithstanding that, the House of Keys quite rightly is asserting its supremacy this morning, and I support that. I am one of the hon. members from the last administration and from the last House which fought against the constitutional changes which would have diluted the power of this House in my opinion, and fought a rearguard action for a number of months, even years, to ensure that we do have the scrutiny process that we are used to still in place. So I would not want it thought that the Council of Ministers is in some way trying to undermine that scrutiny process, and that is why I said in my comments to the adjournment that the satisfaction I have as being a member of this hon. House is that we do have this full scrutiny process.

I would like to make it clear that this Bill does not permit . . . and I am going to arrange this briefing so that we can all ask this question, but it is my understanding that it is not a device and cannot be a device for introducing UK and, still less, European legislation and it is not a way of bypassing the normal scrutiny process. It is a simple principle, and I hope hon. members will see it as that. The devil is always in the detail, and I suspect hon. members are saying, 'We want more reassurance,' better reassurance that I can give here this morning on that detail. We will have that opportunity at the clauses stage.

I would say to hon. members that before we get to the clauses stage I will be bringing this back; I am in charge of the way the timetable of this Bill goes forward but, for the benefit of hon. members, I will not be rushing it through. It will come back when all hon. members have had the opportunity to have a briefing and, if members cannot make the first date that I will set, then I will try and catch up with those members who are busy who perhaps need a second attempt to make sure that the detail does actually deliver the simplicity that I understand this Bill does, and I do not have a problem in that. If after that briefing process members are still dissatisfied, this House can set up a select committee. In fact, if it gets to that position where hon. members are still uncomfortable and have not got the answers they wish to have, then it would be a good thing for a committee of this House to scrutinise what we have got before us, but I do feel that we are perhaps looking too far into the fears that perhaps we have in terms of all the legislation

that we pass. We are, quite rightly, proud of our independence and the way we process and pass our legislation, and I obviously do not want to undermine that in any way.

The principle of the Bill is to provide a machinery which will enable a very limited range of amendments to be made to Isle of Man legislation where we have references to UK law. It is as simple as that, and I would wish to move the motion in my name.

The Speaker: Hon. members, the motion before us is that the Amendments Bill have its second reading. All those in favour say aye; against no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Anderson, Cannan, Quine, Rodan, Quayle, Rimington, Gill, Mrs Crowe, Messrs Houghton, Henderson, Cretney, Duggan, Braidwood, Mrs Cannell, Messrs Downie, Shimmin, Bell, Karran, Corkill, Earnshaw, Gelling and the Speaker - 22

Against: Mrs Hannan and Mr Singer - 2

The Speaker: Hon. members, the motion carries with 22 votes for and 2 votes against.

Photograph of the House

The Speaker: Hon. members, that concludes the business of the House, except that I would say to hon. members that you did receive on your desks this morning a letter where I hoped that we could carry out an official photograph at the next sitting. I have subsequently been advised that a member of the House is likely to seek leave of absence for that date. Clearly it is my wish that the House is complete when such a photograph is taken, and therefore if you could please put in your diaries 9.45 a.m. on 12th February, subject, of course, to no member advising me now that they are in fact going to seek leave of absence for 12th February.

The other thing, if I could ask hon. members while I am discussing that - the normal photograph of the House is taken with the House sitting portrait-like. It is my suggestion for hopefully some publications that we should allow the photographer for a period of time to take some photographs whilst we are dealing with questions when members are on their feet. Are members happy with that?

Members agreed.

The Speaker: Hon. members, the House will now stand adjourned until Tuesday next, 5th February, at 10.00 a.m. in our own chamber. Thank you, hon. members.

The House adjourned at 11.52 a.m.