

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

**Douglas, Tuesday, 3rd December 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); Mr J R Houghton and Mr 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); Capt. A C Douglas (Malew and Santon); Hon. J Rimington, Mr Q B Gill and Hon. P M Crowe (Rushen); with Mr M Cornwell-Kelly, Secretary of the House.

The Chaplain took the prayers.

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Procedural

The Speaker: Hon. members, as I have advised you via the Secretary to the House, the House will adjourn this morning at 11.00 a.m. or at the conclusion of Question Time to enable hon. members to attend the funeral of a former member of the House, the member for Onchan, Mr Ron Cretney, which is to be held at 11.45 a.m. today at Onchan Methodist Church. The adjournment will be until 2.30 p.m. this afternoon, when the House will resume the business on the order paper.

Tribute to the Late Louis Ronald Cretney, Former MHK

The Speaker: Hon. members, it is with sadness that we heard of the death of our former colleague and Member of the House of Keys for Onchan, Mr Ron Cretney. Mr Louis Ronald Cretney was born in Douglas on 7th February 1923. He was educated at Hanover Street School, Douglas, and Douglas High School. He then moved to Chester Diocesan Training College, and he became a certified teacher in Chester in 1942. He then joined the armed forces during the Second World War and served his country in the Royal Artillery from 1942 to 1946, serving in the 19th Indian Division and the 82nd West Africa Division in Burma. After the war, he returned to teaching, teaching at Moreton in the Wirral from 1946 to 1953. In 1951, he married Marjorie and they had a family of two sons and one daughter, and in 1953 he returned to his Island home and was employed as a teacher at Rushen Primary School from 1953 to 1955. In 1955, he was appointed headmaster of Ballaugh School and remained there until 1964 when he then moved to Willaston Junior School and served from 1964, to 1969, and then to Onchan Primary School from 1969 until his retirement in 1983.

Ron Cretney first entered Manx politics in 1977, when he served as a member for Onchan Village Commissioners until 1988. During that time, he was elected chairman of the commissioners during the year 1983-4, a rôle he undertook with honour and dignity. He was also elected as a non-Tynwald member of the Board of Education from 1985 to 1987, a member of the Island's Building Trades Council from 1985 to 1987, and a member of the Health Service Advisory Council from 1985 to 1988. It was, therefore, a natural progression for him that, at a by-election for the House of Keys for Onchan in 1988, Ron Cretney stood for the seat and was successfully elected.

Ron Cretney became very quickly involved in the work of being a member of the House and joined the government, first being appointed to the Department of Agriculture, Fisheries and Forestry and the Department of Education, where he served until 1990, when he was appointed to be a member of the Treasury. Later during that year, only three years after being first

elected to the House, he was appointed as Minister for Education, where he remained until the general election of 1991. He also served on a number of Tynwald committees and represented the Island at CPA conferences in the UK in 1989 and Malta in 1990, and he was also a member of the Executive Council's Administration Committee between 1989 and 1990.

For those of us who had the pleasure of working with Ron Cretney and witnessed his dedication, active involvement and understanding of his departments and his total commitment to the Island, it came as a great shock when he announced in 1991 that he was to retire from politics at the general election due to his health. In what was, at national level, a very short political career but a very effective one, Ron Cretney quickly and effectively stamped his own personal mark on what he did and earned the respect of all of us who had the pleasure of working with him. He was honest, forthright and trustworthy. He had a wonderful calm way of getting his point of view across in a very effective way.

Ron Cretney was very much a family man who was proud of his family and the unstinting support of his wife, Marjorie. He was also very much a community man. He cared about people and generally took a great interest in everyone he dealt with. He was someone you could totally trust, he would never let you down and he would do his best for everyone, and he never spoke ill of anyone. I, for one, felt privileged to have known him, to have had the opportunity to work with him albeit for a short period, and to call him a friend, as I know many of my colleagues did also. To his wife Marjorie and all his family, I extend sincere condolences on behalf of the whole House, and our thoughts and prayers are with them at this time.

Hon. members, let us now stand for a moment to remember a former colleague and friend, Louis Ronald Cretney.

The House stood in silence.

The Speaker: Thank you, hon. members.

Chaplain – Congratulations on Ruby Wedding Anniversary

The Speaker: Hon. members, just before we move on to the next part of our business, tomorrow, 4th December, is a special occasion for our chaplain and his wife as they celebrate their ruby wedding anniversary. I am sure I speak for all of us when I extend, on behalf of the House, our heartfelt congratulations to Dennis and Dorothy on reaching this wonderful time in their lives. I am sure you both have much to remember, Dennis, and to celebrate, and much to be thankful for, and we wish you both a most joyous time in celebrating this special event in your lives with your family and your many friends. Once again, many heartfelt congratulations to you both from all the Members of the House of Keys.

Members: Hear, hear. (*Applause*)

The Chaplain: Thank you, Mr Speaker.

Leave of Absence Granted

The Speaker: Hon. members, I have given leave of absence, if it is required, for later today to the following members if our proceedings continue in the afternoon late on: the hon. member for Glenfaba, Mr Anderson; the hon. member for Malew and Santon, Mr Douglas; the hon. member for Onchan, Mr Earnshaw; the hon. member for Rushen, Mr Gill; and the hon. member for Middle, Mr Quayle, who will be off the Island on business.

Questions were taken at this point and concluded at 2.50 p.m. They are published separately.

Anti-Terrorism and Crime Bill – Second Reading Approved

The Speaker: We move on to item 3, which is Bills for second reading, and I call on the hon. member for Douglas East, Mr Braidwood. Anti-Terrorism and Crime Bill.

Mr Braidwood: Thank you, Mr Speaker. On 11th September 2001, the world as we know it changed forever as a result of the tragic events in New York and Washington. The governments of the western world have reacted to the direct threat of terrorism by introducing legislation to protect their citizens. The United Kingdom, Jersey and Guernsey have already recognised the urgent need to address the increased threat from terrorism and have similar legislation in place to that proposed. This Bill will ensure that the Isle of Man Government not only has the means to protect its people but plays its part in the international arena by ensuring we have measures in place to prevent the Island being used by terrorist organisations in any way to assist them in carrying out atrocities. My department has conducted a consultation exercise on the Bill and provided a further opportunity for all members of Tynwald to ask questions at a presentation last Tuesday.

The Anti-Terrorism and Crime Bill has been drafted as a result of an extensive review of the United Kingdom's Anti-Terrorism, Crime and Security Act 2001 and our existing legislation. This review clearly identified the urgent need to update the Island's outdated preventative laws on terrorism, which currently still rely on the Prevention of Terrorism Acts of 1990 and 1992, which were to deal primarily with Irish terrorism. Therefore, the government, uniquely in the British islands, has, in effect, no such additional powers to protect the Island's residents. In addition, the recent visit of the International Monetary Fund has highlighted the Island's vulnerability to international

criticism as a result of the Isle of Man falling behind the world in preventative laws on terrorism. In effect, therefore, the Isle of Man is conducting a catching-up exercise to take account not only of recent events but those of the last 10 years to ensure that government is equipped better to face the menace of global terrorism.

The Bill strikes a balance between respecting the Island's fundamental civil liberties and ensuring that they are not exploited by those who would destroy them. It brings specific targeted and proportionate measures into place, along with extensive checks to ensure the use of additional powers is always terrorist-related and at all times reasonable, while providing enforcement, intelligence and other services with the means to tackle the new terrorist threat. Having said this, it is important to note that much of what is included in the Bill is not new; it re-enacts those provisions of the Prevention of Terrorism Act 1990 which remain necessary, with a number of modifications, for example applying the provisions to all categories of international terrorism and not restricting them to the affairs of Northern Ireland.

In brief, the Anti-Terrorism and Crime Bill updates the Island's laws by: introducing measures to proscribe terrorist organisation; dealing with fundraising and other means of support for terrorism; providing greater powers to the police to investigate and arrest terrorist suspects; introducing ancillary offences for terrorist weapons training and directing terrorist organisations; providing the Treasury with new freezing order powers, including the power to freeze assets related to terrorism; introducing new powers in regard to the disclosure of terrorist-related information by public bodies; providing new offences for bomb and substance threats; and dealing with international bribery and corruption. These measures will enhance the Island's anti-terrorist and security capabilities and bring them broadly in line with the international norm.

In summary, the terrible outrages committed in the last 15 months have increased our awareness that anywhere in the world is a legitimate target for terrorist outrage. It is, therefore, our responsibility to act on this awareness by ensuring we protect our people and reduce the chances that the recent events in Bali can never happen in the Isle of Man. Mr Speaker, I move that this Bill be read a second time.

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

Mr Gill: I beg to second and reserve my remarks, sir.

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

Mrs Hannan: Thank you, Vainstyr Loayreyder. I had not really meant to speak at this stage but, seeing nobody else was going to speak, I will comment on it. I realise that the legislation that we had before the 1990 legislation is now out of date because the world is seen in a different light. If I could just comment that

one man's terrorist is another person's freedom fighter. We have heard that before, and it is all very well to say that the world changed on September 11th, but the world changed for many people throughout the world at different times. Therefore, September 11th changed it for the Americans; it did not change it for other people in the world who were already being bombed and who already had land mines (**Mr Karran:** Hear, hear.) - and land mines put there by elected governments. In many areas, it is the governments that are the terrorists, and we play a part of that, hon. members. It does not mean that we do not need legislation against bribery and corruption, and that could easily be introduced without introducing legislation which affects the civil rights of our people.

If we start off with looking at what has happened and why we needed to introduce legislation against the Irish terrorists, the Irish terrorists were being supported by the very country that has been bombed by we do not know who - but it is assumed Osama bin Laden. America was supporting Irish terrorism - and supporting it quite openly - while bombs were being exploded in London and Manchester and other places in the UK. So, it is different when it affects America, and everybody else then has got to join in this fight: 'if you are not with us, you are against us.' And this war against terrorism: there are many wars out there to be fought, many wars where the same amount of money could make a huge amount of difference to this world. Again, with America, the very country that is suggesting that Iraq should now be bombed after Afghanistan was bombed almost out of existence, that very country that is suggesting that supported the bombing of other countries.

So, it is very difficult for me when the Minister for Home Affairs is suggesting that we should introduce legislation which curtails some people's objections to what is happening. And in lots of places, I would suggest that, even for making political comment against some of these governments, ordinary people have action taken against them - and they are ordinary people like you and me who are starving and very poor because of issues which are happening in their country: because these countries cannot feed their people, because they have got to pay major repayment of debts to the western world, or their crops fail or they are thrown off their land by the very countries that they live in - the bush people in central Africa - or big businesses. We heard at lunch-time Christian Aid talking about how countries and businesses affect ordinary people. They find gold or they find diamonds, and therefore the ordinary people are thrown off their land. They then move to towns or cities, and there is no work and they become disaffected. There are many areas where we could take action and we do not, and I realise we are small, but we are suggesting that we introduce legislation which. . . If we did other things and took a bigger part in trying to solve the problems of the unrest within the world, then I would suggest that we would go further than we are doing with this legislation.

It is because the Americans and the British supported and boosted Saddam Hussein at the time when the Iranians and Iraqis were fighting a war - they sold him arms, they trained his troops and we probably trained his pilots at Ronaldsway - that we have given him the wherewithal, if he has got these weapons of mass destruction. The West also supported and used Osama bin Laden to get the Russians out of Afghanistan. Once you create something like this, it is then very difficult to control something that you have produced, as we have found with Osama bin Laden, Saddam Hussein and with any of these situations. Afghanistan is a typical example; the warlords in Afghanistan now cannot be controlled. America cannot control what it has created. There is also the oppression of the Palestinians in Israel - or it is not in Israel, it is outside Israel, but the Israelis are oppressing the Palestinians because they need more land. Russia is oppressing Chechens. India and Pakistan are fighting over Kashmir. China is oppressing Tibetan people. In the past, we have had East Timor being oppressed by its neighbours, and I realise that South Africa is signing up to international law on terrorism, but it was these very people, supported by us in the West and objecting to the apartheid situation, that were able to remove and change the situation in South Africa. Now, is this legislation going to change this? Are we not going to be able to support areas where we feel that people are aggrieved? Are we not able to support, maybe, people in Zimbabwe? Zimbabwe has a democratically elected government, whichever way you look at it. Is the international world going to take action against Saudi Arabia or Syria? They did not take action against Rwanda. These are difficulties which could change if the world community, the United Nations, also did something about it to change some of these issues.

This legislation does not differentiate between the terrorist and the freedom fighter. What we are saying in the future is that no government that oppresses its people can be opposed, no matter where and no matter how these people are treated, and I do not know why the government is introducing this legislation, because I have not seen it try to make any changes in any other way to address some of the issues that have been spoken about by the mover of this legislation. Osama bin Laden and Saddam Hussein were created by America; we have got to be with them, because if we are not with them, we are against them. And can I just tell members that from the Christian Aid meeting that we had at lunch-time, where the director was speaking, he informed me that, in the first week of the bombing of Iraq, £1 billion will be expended. That is not on the government; it will be against ordinary people like you and me. That country will be damaged and will hardly be recognisable, as Afghanistan has been after the devastation that happened there after the bombing. I think what we are asking people to do is to pay the price for somebody bombing America, when America has moved into many countries and influenced the countries, sometimes - and mostly - for their own ends. And this is the scene that America is wanting at the

moment; it is wanting control of Afghanistan to put oil pipes through, and it is also wanting . . . Sorry, I am corrected; it is £100 billion in the first week, not £1 billion, if we are going to bomb Iraq. I thank the Treasury minister for that.

There are these issues, I believe, that should be addressed and must be addressed. We are a sovereign government, and because the IMF had come in and told us that we are not doing enough to bring about change within the legislation that we have at the moment, then I think what we should be doing is introducing legislation which attacks bribery and corruption, because I believe that is something that we should not be a part of. I believe that we do have international responsibilities. I believe there is legislation on the statute book now that can protect our people and our civil liberties, and therefore I do not think this legislation should be introduced. I do not think we should be dictated to by America - and that is basically what the IMF is. The IMF has ruined numbers of countries throughout the world, especially in Latin America, and what happens when countries' economic situations are ruined? They then turn to something that they *can* sell, and what do they do then? They grow drugs. They export drugs to the West, and then we worry about the effect that that has on us and our people. We do need means to tackle, but I believe we have got those already. I do not believe we should be introducing legislation which affects the civil liberties of our country; it puts more responsibilities on the police, away from elected politicians. Once we have this legislation, I believe that it will weaken the ordinary members of the public, and it could be that in the future . . . It is all very well that the UK is now quoting and using the reports of Amnesty International, but this information has been known for at least 12 or 13 years about Iraq. They have never touched that information, they have never cared about human rights in Iraq until this particular week, you might say, and now suddenly they are bringing it forward - 'This is what is happening in this awful country.' Why were they not doing it before? Why were they not trying to tackle some of these issues? Why are they not trying to trade with some of these countries to give these countries the trade, the finance, to support their own development instead of them being left behind? We are told by the minister moving this legislation that the Isle of Man is falling behind and this is a catching-up. I would suggest to this hon. House that we do have a lot of catching up to do, and this is to catch up and support countries throughout the world by trading with them. Forget this international trade; trade fairly with them. Move away from trading unfairly and let us trade fairly with people. Let us buy their goods and let us support them. I do have a question down in another place about this, and I hope that, in a very small way, the government will try to move on with this.

International terrorism, I would put to this House, is there because people feel disaffected. Let us try to affect them. Let us try to make them feel part of the world so that they do not need to move into terrorist

activities. I just hope that there are not any more bombings of any unfortunate people - innocent people, as we are told throughout the world - by terrorists, but I also hope that there is not going to be bombing throughout the world by governments who are seen to terrorise not only the other government but, in lots of places, the innocent people who already have the terrorism of the elected government to cope with.

Nothing that the mover has said has convinced me that this legislation is needed in this particular area. I would just remind members once again that £100 billion will be spent in the first week by the Americans bombing Iraq. That could have a major effect on one of the biggest problems in the world - and that is HIV. That could help at least get to women who are pregnant with HIV and treat their babies to give them a future. I would hope that our government can have an influence on the British Government to help them to get that money - that must be available - to these places in the world that need support. I would also hope that this government will also have an effect on selling arms to anyone in the world. Maybe we need to put a moratorium on that, not say that because other countries are selling these arms we must also sell them. And maybe there is a price to pay for that, because maybe our income is reduced somewhat, but I would say it is a small price to pay for stability in the world, and I would hope more members will support me in voting against this legislation.

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

Mr Rimington: Thank you, Mr Speaker. I will be voting for the second reading, not without some trepidation on my part. If I was what you might call a backbencher, my conscience would be severely tested in having to support this legislation. I would be weighing up the points that have been raised by the hon. member before me, this deprivation of civil liberties that will take place and the draconian powers in that. Weighed up against that would be the fact that we might do economic damage to the Isle of Man by not supporting it; we might jeopardise our position in the international community. I am not sure whether my constituents, my relationship with whom, as for everybody else, is a very broad one in that the support that you get is across the board, would appreciate me standing that as a matter of conscience versus that question of economic jeopardy, and that would be an issue I would have to struggle with. But, as a member of the Council of Ministers, it is a government Bill and I have no wish to be disloyal to the existing administration - and I say that quite frankly - (*Interjection by Mr Cannan*) so I will support that. Not to do so would justifiably see my position in Council terminated, as you might say, or a request for my resignation, which would be fair enough.

A Member: Do not push your luck.

Mr Cannan: Vote on your principles.

Mr Rimington: That would represent a major improvement in my family life, but it would be irresponsible to undermine the two industries which I am currently responsible for, agriculture and fisheries, at this critical time, and I do not think they would be at all happy if there was a sudden changeover in that area. (*Interjection*) So, with one year in office, I am hoping to be there a little longer and to bring some positive changes to those industries.

However, we should recognise that the proposed legislation has serious defects and that we are only progressing it because we have little or no choice but to do so. The very title of the Bill, in my mind, is wrong - the word 'terrorism'. There is no accepted definition for terrorism - the system of terror, the creation of a state of terror . . . And I have taken off from the internet, from the United Nations Office for Drug Control and Crime Prevention, definitions of terrorism. The question of a definition of terrorism has haunted the debate amongst states for decades. There is no consensus on what that definition should be. The lack of agreement on a definition of terrorism has been a major obstacle to meaningful international countermeasures. Cynics have often commented that one state's terrorist is another state's freedom fighter, as mentioned by the previous speaker, and that is most absolutely true. Only in yesterday's paper is a report about the Bush family and their relationship to the right-wing Cubans; at the same time, after September 11th, as they were bringing in this draconian legislation, taking measures and bombing people there, they were releasing people, right-wing Cubans, who had been convicted of terrorist offences. But that section of the community (*Interjections*) were supporters of the high and mighty Mr Bush, so they were okay. And those same people, Bush senior, the right-wing Cubans et cetera, were also highly involved in another terrorist organisation, i.e. the Nicaraguan Contras. From a different perspective they might have been called freedom fighters but, to the legitimately elected Nicaraguan state, they were terrorists. So, terrorism or a terrorist is only what you choose to call so; it does not have a real meaning and it is not a defined act. In the United Nations paper, one short legal definition they are proposing proposes that an act of terrorism equals a peacetime equivalent of a war crime. Well, those are happening all over the place, as the hon. member for Peel has mentioned. What may be collateral damage to the Americans, when a little village of Afghan people is wiped out by a misplaced bomb or two, is terrorism to those people. Terror is struck in their hearts - that is simply it - and terror comes from all sorts of places.

So, we are creating a law which is based on a subjective interpretation; it is a bad piece of law. Clause 1, the definition of terrorism, does not and cannot escape that subjectivity. The state machine of whichever state it is, whether it is America, Israel, Russia or whoever, across the world, under the terms of this legislation, if there was the will to do so - which I am sure is sadly lacking - could be prosecuted for terrorism. There is nothing there, in terms of the law,

to say that those countries or elements within those countries could not be prosecuted for terrorism in the same way as a Palestinian suicide bomber could be prosecuted for terrorism or, for those who are feeling in the same way, Prime Minister Sharon, in his wiping out of various people in his 'anti-terrorist measures', as he would call them. So, we are actually creating a law with an inherent subjectivity, an inherent ambiguity, but it does therefore make it important that if we are creating that law, we should express that in this hon. House. When those who actually have to enact that law - or hopefully would not *have* to do so on this Island, but if they did - will actually have to look to the lawmakers, ourselves, for interpretation and for guidance and maybe for caution, because where else can they look? It is so subjective in the law itself as to what can be implied that they have to look to the intent of those who pass the law, and therefore I feel it is important that at least I should make my contribution to this debate in that regard.

And all the way through we do have this area of inconsistency, of subjectivity, whether it is in the schedules in relation to detention and the powers that are given to the police. It is sweeping, and in our schedule 2, I think - the proscribed organisations - we are tying ourselves to other people's political agendas. We are tying ourselves to, primarily, the agenda of the United States of America and who they determine as terrorists through their agents in Europe - the United Kingdom Government - who, as we are all quite well aware, are servants of their interests in many respects over here. It would be nice to say this would work if we knew that the governments of the United States and the United Kingdom, ourselves and wherever were all benign institutions and the people in it were all honest, decent men and prepared to take fair, honest, decent decisions, but I do not have that confidence whatsoever. Whereas you might be prepared to accept things now, you are putting into primary law mechanisms by which, in the future, unreasonable people can add in unreasonable things, and we would be tied to those in primary law. That is why I do think we need to be very cautious about this particular Bill.

I just refer, if I may, to the area of disclosure of information, which is an area obviously of concern. In clause 58 and in section 12 in the amendment to the Customs and Excise (Amendment) Act, it gives, quite clearly, a blanket fishing power to the British intelligence services, not in relation to crime - criminal investigations, criminal proceedings - but a blanket, open door: 'You will tell us whatever we want to know.' No qualification. Funnily enough, in clause 59 - and this is perverse - the definitions of 'criminal investigation', 'criminal proceedings' and 'criminal conduct' are for what is called a double offence, i.e. that criminal conduct must correspond to a crime in the Isle of Man, whereas, in fact, in the Customs and Excise (Amendment) Act, the definition is for a single offence, i.e. an offence only in the country of origin which does not have to correspond to an offence in this Island, although hon. members were not alert to this major change in practice when the Bill was discussed

on the floor of this House. Therefore, I think it is distasteful that these powers of disclosure in part 8 of this Bill are there but they largely exist already in the Customs and Excise (Amendment) Act, which we are now proposing to extend in clause 58 with more lax conditions to trigger disclosure. I am hoping that the hon. mover, when he gets to the clauses stage – I do not expect him to have the information now – will explain whether the UK and other comparable jurisdictions have enacted legislation similar to that Customs and Excise (Amendment) Act in relation to the single and double offence issue.

Finally, Mr Speaker, I will support the legislation. I understand why I am going to support that legislation, but I think we should support it with a clear statement of our disquiet. We should say yes, we are committed to the international community, but we are wary and cautious of this draconian legislation that is riddled with ambiguity and subjectivity. Therefore, I believe there is a need for a sunset clause that we should not put this legislation on the books indefinitely. If we are going to take this, what I consider, quite drastic step, then that legislation should be reviewed after five years, and at least we would be giving some message of hope to humanity that this world is not going to continue in this mess forever after.

The Speaker: Hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. The first speaker in the debate after the minister, the hon. member for Peel, gave us a lecture and a rather one-sided history lesson, expecting an often corrupt United Nations to change the world, in my view a very, very self-righteous attitude. Of course many things have to be improved in this world, and all this has to be done by international effort. And then we had the hon. member for Rushen speaking, tearing his conscience apart as to whether he should be going one way with the vote with his conscience or going the other way with his vote in order to retain his ministry. And all that has been said by those two members has nothing at all to do with this Bill. (A Member: Hear, hear.)

We had New York, we had Washington, we have had Bali, we have had Kenya - where next? What we do know is that there *will* be a next time, and that could be anywhere in this world and it could be close to us. The hon. member for Peel said that the world is seen in a different light. In fact, the world *is* in a different light, and our duty here is to protect our people before the event, because you cannot protect them after the event. Our job is to protect the people of the Isle of Man, even if it is at the expense of restricting someone's civil liberties. People's lives come first.

And then we have the statement, 'One man's terrorist is another man's freedom fighter'. I am sorry; as far as I am concerned, the deliberate and indiscriminate killing of as many people as possible - as many innocent victims as possible - of all

nationalities and creeds because they are in the wrong place at the wrong time is terrorism. If you go out to kill as many innocent people as possible and that is your intention, then that, in my view, is terrorism, when it is not accidental but it is deliberate. I said before that you cannot go back to the past and then judge today what was right then and what was wrong then. We have to protect ourselves now, and for some reason - I do not know why - it is always the fault of the wicked Americans. That country is a democratically elected, multi-racial, multi-religion country with a public right to criticise its government, and they have a right to protect what they see as their interests, as we do. So, I would say that not to bring in this Bill is aiding and abetting terrorist activities, and I hope that members will support it.

The Speaker: Hon. members, before I call on the next member, I would like to just clarify a point. The hon. member for Ramsey, Mr Singer, indicated that it was his opinion that the contribution from the two members, the hon. member for Rushen, Mr Rimington, and the hon. member for Peel, Mrs Hannan, had nothing to do with the Bill. As Speaker, I take the view that it had everything to do with the Bill. The Bill is before us because of world events, and I just wish to make that point.

Mr Singer: Am I not entitled to express my view, which I did? Thank you.

The Speaker: You are, hon. member, and I am not questioning your right to express a view. What I am doing is just indicating why the chair has allowed the debate to be as broad as it is. The issue is a world issue that has landed on our doorstep, and I believe it is absolutely right that this House should fully consider the implications of this legislation and how it affects the people that the hon. members represent.

Mr Singer: A personal explanation, Mr Speaker. I was not criticising in any way your –

The Speaker: I appreciate that. Hon. member for Ramsey, Mr Singer, I am not questioning what you said; I am just putting my view, as Speaker, as to why I am permitting the debate to be as broad as it is, because I do know there are a number of members who feel it is a bit too broad. I take the contrary view. I now call on the hon. member for Rushen, Mr Gill.

Mr Gill: Thank you, Vainstyr Loayreyder. I rise to speak, having previously stood to second the Bill, and really to offer a few observations about not the last so much but the previous two speakers. Firstly, if I could say that I find it ironic that the hon. member for Peel has objected so vociferously to so many elements around the world - against the intervention in Afghanistan, Iraq and other states - and I find it ironic because, as such, I know she is a great supporter of women's issues - and I am sure I am not alone in here in supporting her in that - but I am interested that she

conveniently seems to have omitted to acknowledge that these and other régimes have been misogynist in the extreme. Women and girls have suffered unprecedented levels of institutionalised, systematic and prolonged régimes of abuse and disenfranchisement. (*Interjection by Mrs Hannan*) These are régimes which disallow girls and women the right to education, the right to civil liberties, the right to self-determination and the right to vote, and in some cases they do not allow girls and women the right to life, so it is interesting that that did not get a mention in the speech. I acknowledge the hon. member for Peel's interjection - just. That said, I think she has made many valid points, and I would suggest that she is not alone in holding such views. Certainly, she is not alone in having the concerns to address the spread of terrorism - at least I hope she would accept that that is a concern that she has, however she perceives terrorism.

We have also heard my colleague for Rushen, Mr Rimington's views, which again I acknowledge and have a great deal of respect for because I know, like the hon. member for Peel, that they are legitimately and sincerely held. But I do think that there is a balance in all things, and I do not find it incongruous in the least bit to agree with peaceful, equitable and respecting methods of conflict resolution and with the provisions of this Bill. Certainly, I believe this Bill reflects the duty of the government - in fact, any government - to fulfil their first responsibility, which is the protection of its own people. So, whatever the semantics of the case, whatever the high morals members like to take, that is the position that I would come from, and I hope that others will respect that and hopefully accept that, and on that basis I will very much support it as a matter of duty to the people of the Isle of Man. Thank you, Mr Speaker.

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

Mr Quine: Thank you, Mr Speaker. A number of interesting philosophical and academic arguments, of course, can be mooted in any debate on terrorism, and I have no doubt that such arguments - perhaps with good cause - can attract sympathy from one side or the other, but I do not think that that is really what should be the factor that holds sway in determining whether or not we give this Bill its second reading. Terrorism, by definition, involves the use, or the threat and the use, of criminal activity to advance political, religious and ideological causes, and essentially, if one reflects on this, it involves the subordination of democracy by the most extreme forms of intimidation. So, against that backdrop, when we are talking about all these other people who are living under very repressive régimes, I cannot see that we are advancing their cause by attempting to minimise the effect of those who would have democracy hold greater sway; indeed, I think we are condemning them to a longer period of terror under these régimes. The motivation, Mr Speaker, whether it be real or actual, is what I think . . . It is difficult for one to put one's finger on, because whatever that cause

may be or whatever that motivation will be, the way that I see it is that legislation such as this does not prevent; indeed, it provides greater incentive to proceed in parallel to seek to provide the political push that is necessary to address these injustices and to address these states of terrorism. But simply because injustice is there, it is not a reason why we can ignore the realities of terrorism. I just do not see that argument at all. Yes, I do not think that the need to take action to address injustice and deprivation is in question, and that is something which we should lend our support to, sir, but, at the same time, if we have international acts of terrorism, there can be no way that half-hearted action on our part, action on which we withhold our co-operation, can be justified simply because somebody else elsewhere is not getting the democratic process to which they are entitled.

As I see it, depending upon the political leanings or the inclinations, terrorism is either acceptable or it is unacceptable, and that has been quite clear listening to the debate here today. Some will justify it from one side of the fence, some will justify it from the other side of the fence, but I take a fairly simplistic form of this: terrorism consists of heinous criminal acts involving the deaths of thousands of innocent people. *Criminal* acts. You can put aside for the moment the motivation because, whatever that motivation, it cannot justify those sorts of acts, and if there is international collaboration that is necessary to bring the full force of international law down on people who will indulge in those sorts of criminal acts, then we should be playing our part in it. You cannot stand back from that and say, 'Well, for reason of my dissatisfaction with whatever America or any other country may be doing, I am not going to play my part in trying to address major criminal acts involving the deaths of thousands of innocent people.' And it is international, and by the very fact that it is international we have to play our part. We cannot sit this one out. If we were to try and sit it out, we would be the soft belly and we would be exploited. So, I do not see that we have any alternative.

There are aspects of the Bill, when we get into the clauses, with which we may not be very comfortable. Let us address those as and when we look at the clauses, but in terms of the second reading, I am very content to lend my support to the second reading of this Bill because, quite frankly, I do not think we have got any alternative. I do not think we can sit it out. I do not think we can turn a blind eye to what is called terrorism and try to dress it up as the underdog fighting for his democratic rights. It does not matter; what it comes down to is that they are committing heinous criminal offences, putting to death thousands of innocent people, and we have got to play our part in countering that. That is the way that I look at this, and it is on that basis that I will be pleased to lend my support to the second reading of this Bill.

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

Mr Karran: Vainstyr Loayreyder, I have to say that I sympathise with what the previous speaker has said, and I do believe an awful lot of this debate is subjective to how you look upon issues, but I think the point on which I would just get a little bit concerned with my hon. friend behind me is the fact that I think some of us are wanting to look more at the practical aspects of the price as far as the freedoms of our citizens are concerned. He talks about the bottom line; I totally agree with him that if people take people's lives, then that is a bad state of affairs and it is quite scandalous, but the fact is that it seems to be very much about 'might is right'. What I want is to make sure that there is a protection for our citizens and that we could not have a situation where we have people who are protesting against government policy like the incinerator and trying to stop it going ahead, which could cause an economic problem or a problem as far as what many in this House, when we see the sort of Moonies coat in here that suddenly everything that they do is unquestionable . . . This is the sort of thing I am concerned with, and I think the hon. member for Ayre would sympathise that maybe we do need to make sure that we do not allow a situation where we are not just talking about the sheer atrocities of the loss of human life but other issues such as strikes that create terror in the hearts of the government, where the powers within this piece of legislation could be used to get the information that they require.

That is the sort of thing that we have got to be careful of, and I think we need to bring it back from the international issues. It is all right us all looking . . . We had Mr Gill on about criticising Mrs Hannan, the hon. member for Peel, about the situation about women's rights as far as the Afghans are concerned, but there is nowhere worse for the rights of life for women or baby girls than China, but we hear nothing about that. I do feel that the problem . . . We must be fair in this House when we are talking about . . . We are so poorly informed within this House about the real situation, and we must not get involved in that situation like the member for Ramsey, Mr Singer, who was talking about the terrible events that have happened to do with Israeli citizens. And I totally agree with him; it is a disgrace, and it is something that I would not want to be associated with in the likes of Kenya, and I would be ashamed as a Manxman, but again what we have to remember is that if we look back to when the likes of the King David Hotel was blown up 50, 60 years ago with British people in there, half of the people who were part of that terrorist organisation ended up becoming the top people in that government. I think the problem in this House is that we have got to divorce ourselves away from the international situation, even as a person who comes from a family which, when we were kids, always supported the Israelis. I have to say that I have an awful lot of sympathy with the Palestinian situation, because the government of that country has got worse. They are almost as bad as the terrorists, the Palestinians, in my opinion, but I am not living there, and I could maybe be too harsh, but I can empathise

with some of the things. When citizens go down the street and find all their cars have been run over by tanks from a neighbouring territory, I can go and complain to my Chief Minister, but there is nothing that he can do about it. That is a different issue, and I do think that it is important, but I do feel that we have all got to try and look at all the perspectives as far as what is going to affect us in this hon. House is concerned.

We have just had the Lord Chancellor over, and I believe there was a famous quote many years ago of a Lord Chancellor who talked about the devil coming to their land and something on the lines of 'what would you do? We would fight it with all our laws and all our efforts and all our might, and we would do everything to control the devil.' The Lord Chancellor, I believe, in paraphrasing the statement was . . . What you would end up doing is being in a situation where, once you had used all efforts and you had thrown all your laws and all your civil rights basically away, the devil would actually take you over, and that is all I am concerned about with this piece of legislation today. In my opinion, what we have to be careful of is not losing the reality of how it affects our people, our freedom and our democratic system within this Island, and we have blatant problems with our own system of government: we have no formal opposition; we almost have a one-party state, as much as most of them are nice people who are in it, but that is what we have got; and we have a press that is not free and is little better than what you would expect would have been behind the Iron Curtain, but instead of it being affected by party, it is affected by economics.

The danger with this piece of legislation is that we can actually be helping to augment the problems that we have already got with the glaring weaknesses in our democratic process within this Island, and that is what worries me. I have said we have always had gentlemen as Chief Ministers, but if we did not have, you would have a problem. We have to make the checks and balances, and that is more the reason why I am concerned about this piece of legislation, because it is too blasé. We need this to go to a select committee and for the select committee to go through it clause by clause. I do not want the Isle of Man to be part of any soft underbelly for terrorism on this Island, but I also do not want to be having to see the situation like this famous Lord Chancellor of 500 or 600 years ago – I have forgotten his name now – who was on about the issue of the devil and that. What we must not allow ourselves to do is to allow this piece of legislation to then be to the detriment of our standards of freedom and democracy in our country, and that is the important thing that we have to be careful of. So, when this Bill comes through the clauses stage, I hope the government has a good line-up of persons that they are going to put on a select committee - that is if the block vote is not there to stop it - in order to make sure that we go through it clause by clause, because there are real issues. We have heard several inputs into this House about the definition of terrorism and terror, and that is something that members need to realise. We all

know the position as far as international relations are concerned and what little input we can have, but what we *can* have is a big input to make sure that our citizens and our people do not end up being the worse for this piece of legislation, so that we do not have the situation where this piece of legislation cannot hit terrorists. You cannot hit genuine people who are protesting or cannot circumvent proper democratic process simply by using the power of this Bill to find information against persons who do not have the same political viewpoint as yourself. I do hope that hon. members will consider sending it to a select committee, and I think, to be honest with you, where my colleague from Rushen is concerned, that it is an excellent idea that we put the piece of legislation on the statute book for a time period and then it has to be reviewed. I would be on the same lines as the hon. member for Ayre; the Isle of Man and the Manx people are the most tolerant nation on earth. We have put up with eight years of being doormats, and we have always managed to survive as Manx people, but I do not want us to be used as a doormat for our rights of our people and to end up allowing a structure that is already flawed as far as our political structures are concerned to be able to use this piece of legislation against our own citizens on legitimate protest. I believe you will find that there are aspects of this piece of legislation that can actually be to the detriment of legitimate protests within the Isle of Man as far as economic terrorism is concerned - and it is not just economic terrorism.

So, I would say the two points are that I think the idea of a time period is excellent and I believe a select committee is the important thing. I am not going soft on terrorists, but what I will not do is get into the Dutch auction in this House of who is more anti-terrorist; we have seen it too many times over too many issues, where the media run full-flight with national sentiment behind them and all common sense and logic goes out of the window.

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

Mr Cannan: Mr Speaker, as a member of the Department of Home Affairs, I will be supporting the Bill but, having listened to part of the debate and some of the contributions, I just wonder what we are actually debating, whether we are debating the Anti-Terrorism and Crime Bill 2002 as it will affect the Isle of Man or whether we are having a wide-ranging foreign affairs debate. (**A Member:** Hear, hear.) I have no objection to a wide-ranging foreign affairs debate at the appropriate time - and we had one in Tynwald only last week (**Mr Houghton:** Hear, hear.) - but, having said that, today's agenda item is the Anti-Terrorism and Crime Bill, and this Bill has been introduced so that the Isle of Man is part of the campaign against terror and terrorists that is being established worldwide. It is being established through the governments of Western Europe, the United States, Australasia and New Zealand, and very many other countries are coming

together to make sure that the international terrorist is not able to do his heinous acts. It is not against legitimate protest. It is not against strike or discontent or even disaffection. It is against those who seek to overthrow lawful democratic governments by international terrorism, not declaring war on those states but murdering their citizens around the world surreptitiously and without notice, and that is a terrible thing. People must have the right to fly in aeroplanes without the worry that somewhere, somehow, somebody may try and shoot them down and to go in the underground railways or into public buildings without the threat of being blown up by they know not who.

So, I say to this House: what you have before you is a Bill. Short, long, detailed, it does not need to go to a select committee because this House will be the select committee, each and every one of you, as you debate the clauses one by one.

A Member: Exactly.

Mrs Hannan: What are you frightened of?

Mr Cannan: 'What are you frightened of?' You, the House, will be the select committee, and we have to play our part in the international arena. We have to conform, and if people have nothing to fear, then they have nothing to fear from this Bill. The only people who have something to fear from this Bill are those who are on the road to misdemeanour - 'felony' is a better word, I beg your pardon, not misdemeanour. And so I say to hon. members: please keep your feet on the ground. I am all in favour of international debates at the appropriate time, and it is up to every member; you could have had one on this order paper today. You can have one on this order paper in January, an international debate, but we are debating legislation, anti-terrorism and crime, to make sure that the Island is not used as a vehicle for the promotion of terrorism and terrorist crime. That is what we are debating, and I ask hon. members to support the Bill and to support the second reading. You will have your select committee, each and every one of us partaking, when we do the clauses in January.

Mr Houghton: Hear, hear.

The Speaker: Hon. member for Onchan, the Chief Minister, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker. My comments will be brief. Listening to some of the comments from hon. members who obviously see this as a sensitive and important piece of legislation from differing points of view, I would just like to make the point that anti-terrorism legislation in this Island is not new. We already have a great deal of anti-terrorism legislation in place because of events elsewhere - fortunately events not on this Island. I would also like to make the point, too, because earlier on in the debate there was a certain amount of anti-American feeling

expressed within this House, and certainly, where a country is as big and as powerful as the United States of America, they do things wrong from time to time. They also do a lot of good, I believe. I would like to make the point that, for many generations, the United States of America has been a long-term ally of these islands. Another point I would like to make, Mr Speaker, is that, as an Island, as a growing, mature country, small as we are, we often ask for international recognition on the basis of furthering our own progress, and I think we have a situation here where many large countries of the world are asking the world to actually help them in order to further their interests, those not necessarily being economic interests but the interests being the safety of their citizens, wherever they may be. I think the previous speaker alluded to that. Citizens of our global world today have the right to be able to move around and live peacefully, and whatever one's political point of view, there is no justification - none whatsoever - in trying to change political opinion, to force change, by terror campaigns. And we are all aware of some of the crimes that have taken place in recent times.

Moving to this Bill in particular, there is an area in this Bill which is really all about targeting the resources of terrorists because, without resources, these terror groups cannot function. If we were, by some default or some misunderstanding, to put ourselves in a position where we were used to further the interests of some of these groups by default, then I think we would all be a very sorry House indeed. So, we do not have a lot of choice in respect of what is now the new international mood in relation to these things. This particular piece of legislation, of course, had a stormy passage within the United Kingdom because of some of the principles enshrined in that particular legislation, but I am sure the mover of the Bill, as he progresses this Bill through the House, will explain that there are large pieces of the legislation that so much hit the headlines within the United Kingdom that are not within this Bill, and so a lot of the sensitivity I spoke about earlier has already been removed from this Bill, and I think we should take note of that.

My hon. colleague from Onchan, Mr Karran, said he would rather we divorce ourselves from the international picture in relation to some of these things. Whether we want to or not, I just do not think that is possible. I know he is concerned that perhaps some of the powers within this Bill may be directed in some way for some sort of domestic agendas within the Island, and I hope I can assure him that there is no intent and no ability within this legislation to utilise it against things like strikes against the government et cetera. Can I say that legitimate protesting is something I have always supported, but it cannot be allowed to be coupled with violence. That is a basic human right: freedom of speech et cetera. I have been on protest demonstrations over the years, but I have always steered well clear of anything to do with violence. But we have to be aware that, in this community of the world today, there are very well-

organised groups of people whose prime motivation is terror, and we have to play our part. Those are the points I wish to make, and I do believe that the United States of America, over many years, has been this country's long-term ally.

A Member: Hear, hear.

The Speaker: I call on the hon. member for Douglas East, Mr Braidwood, to reply to the debate.

Mr Braidwood: Thank you, Mr Speaker, and may I thank every hon. member who has contributed to the debate. In reply to Mr Karran, I am not standing here as the devil's advocate, but one thing I wrote down after Mrs Hannan's contribution was 'protecting the people of the Isle of Man', and this is what this legislation is about. I thank Mr Gill and Mr Singer, who both mentioned that in their contributions.

Mr Karran said he would like to see it go to a select committee for the clauses to be scrutinised. I have the same opinion as Mr Cannan, the hon. member for Michael; this hon. House scrutinises the clauses and, in eight weeks' time, if the second reading is given the go-ahead, we will be scrutinising those clauses.

Mr Rimington expressed that it had inherent ambiguity, that he had reservations and that there were a lot of defects and subjective interpretation, also on terrorism, but the definition of terrorism is already law in the Isle of Man under the Terrorism (United Nations Measures) (Isle of Man) Order 2001, which provides for the freezing of terrorism funds, disclosure of information and other matters, and it gives the definition in the Bill itself and in the Terrorism (United Nations Measures) (Isle of Man) Order. Action is terrorism if it: involves serious violence against a person; involves serious damage to property; endangers a person's life, other than that of the person committing the action; creates a serious risk to the health or safety of the public or a section of the public; or is designed seriously to interfere with, or seriously to disrupt, an electronic system. I think the Chief Minister answered another query of Mr Karran's: this Bill is not going against the people (**A Member:** Hear, hear.) who are causing legitimate protests; this is against terrorism. If you look at the actual Bill, at the explanatory memorandum, and go through the parts, it talks in part III about terrorist property, part IV terrorist investigations, part V counter-terrorist powers, part VI miscellaneous terrorist offences, and part VII the freezing orders which will enable the Treasury to freeze terrorist funds; part VIII deals with the disclosure of information for the purposes of criminal investigations and proceedings for national security, all to do with terrorism. I can understand Mrs Hannan's concerns when you look at the world and the problems, and she says again that one man's terrorist is another man's freedom fighter. We know that in a country she just visited a few months ago, Namibia, there the government now used to be the people who were fighting for the freedom of that country. But you can

look back in history; I can say the Scots were terrorised by the English, and William Wallace came to defend the Scots, and if you look back there are always different people fighting.

I do thank Mr Quine, because I think he put it quite succinctly what this Bill is about. I do not want to go on too long. We will be coming to the clauses stage if we pass the second reading, and therefore I beg to move.

The Speaker: Hon. members, the motion before the House is that the Anti-Terrorism and Crime Bill be read a second time. All those in favour say aye; against, no. The ayes have it.

A division was called for and the voting resulted as follows:

For: Mr Cannan, Mr Quine, Mr Rodan, Mr Rimington, Mrs Crowe, Mr Houghton, Mr Henderson, Mr Cretney, Mr Duggan, Mr Braidwood, Mrs Cannell, Mr Downie, Mr Shimmin, Mr Bell, Mr Singer, Mr Karran, Mr Corkill and the Speaker - 18

Against: Mrs Hannan - 1

The Speaker: Hon. members, the motion carries with 18 votes in favour and 1 vote against.

Submarine Cables Bill – Second Reading Approved

The Speaker: I now call on the hon. member for Douglas West, Mr Shimmin. Bill for second reading: Submarine Cables Bill.

Mr Shimmin: Thank you, Mr Speaker. This Bill is intended to fill a gap in Manx law, as there is currently no legislation covering the laying of cables on the seabed within Manx territorial waters. There is, however, a convention of 1884 on submarine telecom cables outside territorial waters, which is given effect by the UK Submarine Telegraph Act 1885, which extends to the Isle of Man. Within territorial waters, there is currently no statutory requirement for those proposing to lay a cable to comply with safety requirements nor with obligations in respect of the initial laying of the cable. This may include such things as the granting of authorisations and the requirement for applicants to provide information such as an environmental impact assessment, survey data, project layout et cetera. At the present time, there is reliance on owners and contractors working voluntarily to established good practice.

The Territorial Seas Committee therefore concluded that submarine cables should be covered by a similar statutory framework as currently applies to pipelines. This would be carried out under the stewardship of the Department of Transport and would provide statutory controls to strengthen the

department's ability to control activities and to achieve specified standards in Manx territorial waters. The Bill and the regulations leading from it will achieve this. For the laying of any submarine cable within Manx territorial waters, the Bill requires that an authorisation by the DoT is required. In the Bill, the procedure for the granting of authorisations is modelled on the Manx legislation applying to the laying of submarine pipelines – that is, part III of the UK Petroleum Act 1998 – which applies to submarine pipelines, as applied to the Isle of Man by order under the Petroleum Act 1986 of Tynwald. The Bill also enables the department to make safety regulations in order to control operations and vessels in the vicinity of the cables. The 1884 convention on submarine telecom cables and the United Nations Convention on the Law of the Sea impose corresponding obligations on cable owners, namely to pay compensation for anchors or fishing gear sacrificed to prevent damage to a cable and to pay the cost of repairing damage caused to any other cable or pipeline.

Mr Speaker, there will be no financial implications to the department. The Bill contains provision for regulations, and it would be possible to include licence or inspection fees in regulations. I beg to move, sir.

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

Mrs Cannell: Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion before the House is that the Submarine Cables Bill be read a second time. All those in favour say aye; against, no. The ayes have it. The ayes have it.

Hon. members, that concludes the business before the House. The House will now stand adjourned until Tuesday, 10th December, at 10.30 a.m. in Tynwald Court.

The House adjourned at 4.08 p.m.
