

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

**Douglas, Tuesday, 11th February 2003
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.

Items Considered

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Expression of Sympathy to Mr John Houghton, MHK for Douglas North

The Speaker: Hon. members, before we start the proceedings of the House today I am sure I speak on behalf of all members when I extend our sincere condolences to our colleague, the hon. member for Douglas North, Mr Houghton, on the loss of his mother.

Members: Hear, hear.

Well-Wishes upon Retirement to Mr Billy Denver, Messenger of the House

The Speaker: Also, hon. members, can I just advise you that our messenger, Billy Denver, is having his last day here with us today as he is retiring from his position as one of our messengers. I am sure we all wish him well in his retirement as well.

Members: Hear, hear.

Questions were taken at this point and concluded at 11.20 a.m. They are published separately.

Bills for First Reading

The Speaker: We now move on to item 3 on the order paper and I call on the Secretary of the House.

The Secretary: Mr Speaker, there are two Bills for first reading: the Gas and Electricity Bill introduced by the hon. member for Douglas West, Mr Downie; and the International Criminal Court Bill, introduced by the hon. member for Rushen, Mr Gill.

Heath Burning Bill – Second Reading Approved

The Speaker: We move on to item 4 on the order paper, bill for second reading, and I call on the hon. member for Rushen, Mr Rimington – the Heath Burning Bill.

Mr Rimington: Thank you, Mr Speaker. Fire is one of the oldest land management tools. However, it is a powerful one and has to be used with great care. The current 1939 Act and subsidiary legislation set a season for burning and enabled areas to be identified as heathland for the purposes of the Act. However, the Bill before this hon. House is intended to provide a greater measure of control and is in two stages.

The first stage is in identifying and registering areas of heathland and recording their particular characteristics in terms of flora and fauna, their relationship to water catchment areas, any archeological sites or other special features. This will

enable the department to be more proactive than under the present legislation. The interests of other parties in and other concerns about heathland areas is taken into greater account than in the 1939 Act.

The second stage is that the burning of heathland will be permitted only under a licensing régime. The present legislation deals with permission to burn during a season. The department has issued guidelines on best practice. Practices are unsatisfactory where too little regard is given to others with an interest in heathland or to the environment and ecology of an area. However, the 1939 Act and the heath burning regulations made under it are too general in their terms to enable the department to seek legal remedy when burning has been carried out in an unsatisfactory or even potentially dangerous way.

This Bill enables the department to require that best practice be observed, both by making regulations and orders under powers provided by clause 13 and also by making the grant of a licence to burn heathland subject to conditions. The department will be able to authorise burning only if, for example, sufficient notification is given to neighbouring areas; the wind is in a certain direction and wind speed is within certain parameters; or there is sufficient monitoring of the burn. Conditions may control which particular parts or how much of an area of heathland may be burnt at one time.

Mr Speaker, I have circulated a copy of my department's Heather Burning Code to hon. members and this will help members to understand what is involved in heath burning and place the current Bill in context.

Members may have noticed that a certain paragraph, clause 3(4)(b), is less than clear. Perhaps it was remiss of me not to have noticed this paragraph earlier and for that I apologise. I think I must have read it the first time and thought, 'that must mean something'. In my preparations for the second reading it is evident that its meaning is difficult to grasp and the legislative draftsman is currently seeking to provide a clearer version for amendment at the clauses stage.

Mr Speaker, the Bill has been through significant rounds of consultation. The first round of consultation was in June 2001 to a large number of interested bodies, raising tenants, shooting tenants and various departments of government with interest in these matters, Manx National Heritage, et cetera. Then, Mr Speaker, there was the second round of consultation with the draft Act in February 2002, so all appropriate parties have had the opportunity to respond and make their points on the various issues enclosed in the Bill.

Finally, Mr Speaker, I would like to thank the many parties who have been involved in bringing this legislation forward and for taking part in the consultation process. This legislation was initiated under the previous administration and I am pleased to continue with their good work and bring this forward. (**Mr Henderson:** Hear, hear.) I will endeavour to answer any queries from members today and the

officers of my department are also willing and available to assist with their professional knowledge should it be required. Thank you, Mr Speaker.

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

Mr Henderson: Gura mie eu, Vainstyr Loayreyder. I am quite happy seconding this proposal before us today, the Heath Burning Bill, and in doing so I would like to speak to the hon. minister's speech and say that the roots of the Heath Burning Bill go back somewhat further than perhaps 2000. In fact, they go back even to 1996-7 when it was first brought to the department's attention by Manx Ecological Concern, which was headed by myself at that time and various professionally trained conservation officers. One instance in particular which highlighted to the public the problems with heath burning was that one particular negligent landowner who owned vast expanses of land in the Manx hills, especially in the northern area –

Mrs Hannan: No, he did not.

Mr Henderson: – burnt a considerable acreage off in one go and completely blotted out the mountain road from drivers seeing where they were going. Ramsey town was covered in the smoke of it and the debris was rained down on the town. That certainly illustrated the point that the hon. minister has made this morning that we need proper controls and proper recognition for this particular area that we are 'trying to manage'.

I also have to draw to this House's attention that the Manx uplands which are under scrutiny this morning are some of the most important habitat and recreational area that the Isle of Man has, and certainly in conservation terms the habitat under scrutiny this morning is probably in European/world significance. We love our heather moors, we love the colour the heather gives us in the late summer and we take it for granted. We have got lots of it and there is plenty of it wherever we go, but in real terms, in the bigger scheme of things, there is not much left on this planet and we have one of the best examples left, including us, Scotland and maybe northern Denmark. It is something that we should cherish and something that we should look after properly – certainly the animals and wildlife that the heather moor supports.

On top of that, again, it puts the Isle of Man on the European map and put the Isle of Man on the world map in some instances, and we are well recognised for it. I think it is high time that we had something like this before us.

I would go further, Vainstyr Loayreyder, and I would say that I hope in time the department will be bringing orders forward to designate all of the uplands that are in the department's ownership. I know the argument is: 'Well, we own it and therefore it is protected to some degree', but I think to do the job properly we have to designate the uplands properly

under the Manx Wildlife Act, progress areas of natural heritage and build those all into this picture of managing what I have always classed as a national treasure. It should be, in legislative terms, classed as that to give it the priority that it deserves.

As I say, Vainstyr Loayreyder, I am pleased it is here this morning and I hope the good work can continue with the department. I am happy with what has gone on already and I hope we can build on it; I see this as a starting block and it is a foundation that is needed to protect our valuable uplands and for land management to be curbed in certain instances. Certainly I know that there are plenty of people up there who rent patches of heather moor and it is taken care of very, very well and there are some excellent examples from the shooting fraternity in the Island. I must mention Mr Bruce Walker in particular and his associates who look after the land in an exceptional fashion and have managed to increase the value of the habitat and certainly the wildlife that is living there. As I say, this should be built on, improved over time and built into further designation for areas of importance and national heritage areas, Mr Speaker. Thank you.

The Speaker: Hon. member for Garff.

Mr Rodan: Thank you, Mr Speaker. I would of course welcome this Bill. I think it is a long overdue tightening-up of the legislation and to give some needed teeth and enforcement power in support of the codes of practice.

I have a couple of observations. Clause 7 deals with the rehabilitation of registered heathland in the event that that heathland has been set fire to without the benefit of a licence issued under section 4, and of course it makes provision for the rehabilitation of land so damaged. Can I ask: does that rehabilitation only extend to the registered heathland or can the rehabilitation notice or remedial works required also include the situation where there is poisoning of water supplies? I think of an incident at Ballacregga reservoir in Agneash some years ago – I do not know if it is the same incident that the hon. member for Douglas North was alluding to –

Mr Henderson: It was one of them, yes.

Mr Rodan: – but the upshot of that was that the heath burning there resulted in the poisoning of this reservoir, which is a holding reservoir to supplement water supplies to Laxey. It was out of action – and to my knowledge is still out of action – for some years and caused the Water Authority of the day considerable concern. Would this legislation provide for . . . I do not know what remedial action could be envisaged in that situation, but clearly that situation would need to be put right in law, as much as restoration of damaged heathland. So that was the first point and that is to deal with rehabilitation in the circumstances where a licence has not been obtained.

Where a licence *has* been obtained under section 4 and the burning takes place in breach of conditions that

were imposed – we might get a similar situation arising of poisoning of water supplies – is a provision under section 7 for similar rehabilitation to take place? As I read clause 7, this only refers to the event of burning without a licence. What about burning in breach of conditions of a licence that has been issued? Thank you, Mr Speaker.

The Speaker: Hon. member for Glenfaba.

Mr Anderson: Thank you, Mr Speaker. I have some reservations about this Bill. The minister when he made his introductory comments said full consultation had taken place.

Mr Rimington: It has.

Mr Anderson: This initial consultation took place over a year ago, and since then there has not been consultation with the tenants of the department, with the Manx National Farmers Union, with the shooting tenants of the department nor with other private landowners. Since this Bill was drafted, none of them have been in receipt of it for their comments. Obviously the minister thinks it is maybe too late at this stage to make any comments, but I understand from the comments that were made from the Flock Masters Association their comments have not been taken on board in the contents of this Bill.

Some of the conditions are quite onerous. I can see the situation arising where certain tenants will decide that certain of the conditions are too onerous and will decide it is too risky for them to put this burning management into operation and therefore will decide not to burn at all. What does the minister think would happen in that situation, especially where the government is the landlord of that land? Will the department then put some management plan into action and then bill the tenant? As it clearly states, you have to have quite a lot of well organised labour to carry out these organised burns, therefore I can see justification for these tenants or private landowners opting out of a managed burn. Would he not agree also that that would then increase the risk of unmanaged burns, which would do substantially more damage? Thank you, Mr Speaker.

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

Mr Earnshaw: Thank you, Mr Speaker. I share some of the concerns of the hon. member for Glenfaba. I think whilst it is clear from the explanatory notes that there are significant benefits from heath burning and these are clearly set out. It appears to me under the existing arrangements to the present, an application for a licence to burn is not required. So the questions I would like to put to the minister are therefore: how involved is the proposed process of seeking permission to burn? Does he think that this process may act as a disincentive to burning, which obviously the department wants to encourage, and it will have a

negative effect in the long run that perhaps less burning will take place? And my final question is: how much notice is likely to be taken of the new Act and does he consider this to be over-governance?

The Speaker: Hon. member for Middle.

Mr Quayle: Thank you, Mr Speaker. I share the concerns echoed by my hon. colleagues in the fact that I do not believe there has been the fullest of consultation. I had one of the largest flock masters onto me only yesterday to say that whilst they had initially been consulted last year, the concerns raised have, in fact, been ignored. As I understand it the Manx National Farmers Union have not even seen a copy of the green Bill for their comments from the department, but have had one to peruse since. I would suggest that all appropriate parties have not had sufficient consultation, but I would probably draw the line at calling it a sheepdog's dinner of a Bill!

So perhaps some of the consultation could now be, at this late stage, be extended to include the relevant parties and I mention for example clause 7 where it says: 'Deliberate or wilful burning or accidental burning by another party makes the landowner responsible to seed with or plant on the registered heathland such plants of such species as may be specified.' Sorry, I need to clarify that: the fact is that the burning may not be by the landowner itself, it may be by another party either accidentally, deliberately or wilfully. So I would really urge the minister to take these concerns and hopefully see that they can be addressed, perhaps through various amendments and further consultation.

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

Mr Karran: Vainstyr Loayreyder, I find that from being in the situation of being the former Chairman of the Water Authority, now seeing the implementation of this piece of legislation, I know that this piece of legislation gave us grave concern for some time and the issues that can cause possible carcinogen release into the water supply are issues that we have got to address.

It was all right, Vainstyr Loayreyder, when I first went to the Water Authority and we had the likes of treatment plants that were built in 1910 that were two holes in the side of a hill where there would be a sheep left in it floating around for a week until someone came and wound up the mechanism to put the stuff in to try and put some sort of disinfectant in the water supply. Those days have gone – like the days have gone where we did not even have the situation of knowing where the pipes were. When I first came to the Water Authority, because someone did not get a job in the 1950s they burnt all the records, so we did not know where the pipes were. Today we do know, we do test the water. We have started to get the infrastructure right as far as the water supply is concerned.

This issue is not just about environmental issues, it is about public health as well. I think that is what is important that members need to realise with this piece of legislation, that there are issues that need to be addressed which are not strictly to do with the environmental issues that the hon. member for North Douglas has talked about and others. So I think it is very, very wrong for people just to think of it from an agricultural or an amenity point of view. There is a public health issue about controlling the likes of this, especially today. When I think back to when we first started and we tested the water sort of once or twice a month, to now we are testing the water several thousand times a month to make sure that the water supply is safe.

So, Vainstyr Loayreyder, I would hope that members would not think that this issue is something of a side issue because it is an important issue, and I would just like to say that I am glad that my department has finally instigated this piece of legislation. This was just one of a barrage of issues that needed to be addressed as far as in my old rôle as Chairman of the Water Authority that we wanted to see addressed. Whoever wants the credit for bringing the Bill is up to them, but all I am putting down is what is the history as far as the issues with the Water Authority are concerned.

I hope this hon. House will support my shirveishagh (A Member: Hear, hear.) and vote for this piece of legislation, but I do feel that people must not forget the issue that we are talking about. It is not just environmental, not just wildlife, we are actually talking about public health when we talk about this issue.

The Speaker: Hon. member for Ayre.

Mr Quine: Thank you, Mr Speaker. I am not surprised that a piece of legislation dating back to 1939 should require some updating and hence that we have a Bill before us. That does not surprise me at all, but I cannot say that the mover made a very pressing case for this legislation. One begins to wonder where it sits *vis-à-vis* an order of priorities.

I just pick up two or three points here. There is a code in existence and the hon. mover has intimated that that would be reprinted, presumably with any variation to it if this Bill goes through, but I think it would be interesting for us to find out to what extent are there documented breaches of that code in recent years. If the situation is that we have had a code in being for a number of years and we have few if any documented breaches of it, then you have to ask the question firstly whether the legislation is needed, but then more particularly whether the extent and the form of this legislation is really required. If there are certain aspects of an existing code which have been breached and it is felt that they should now be strengthened by taking them out of a code and putting them into substantive law, I can understand that. I can understand that if the case is there, but then we go into a whole list of other matters which really I begin to wonder

whether it is just creating yet a further paper trail. We are into a register of heathland, registration procedures, licensing procedures and then of course we go into, quite naturally, a question of a procedure in relation to rehabilitation. Of course, with rehabilitation you begin to wonder: is it going to be of limited value anyway? I suspect with this sort of régime put into law we are going to have it honoured in the breach. We are going to have unknown burning taking place. It is going to be of limited value. Then we also have quite expansive – it is understandable one should have them – appeals procedures with tribunals. They may not meet very often, but it just seems to me to be an overkill, unless we have, which we have not had presented to us today, a strong case to upgrade our approach to this whole subject.

I would ask the hon. mover, when he is responding to hon. member's comments, if he could cover some of these, because although I have no problem at all in supporting the principle that there is a need in some form to ensure we do not get injurious burning taking place, it is the usual business: I think it should be done in a balanced way. It should not be done with an approach which represents an overkill and it certainly should be done with a very keen eye as to whether the procedures are going to represent costs that are essential or just something that seemed a good idea at the time. So I do look forward to the hon. minister responding to some of these questions and perhaps, while we may not be any the wiser, we will be better informed.

The Speaker: Hon. member for Michael.

Mr Cannan: Mr Speaker, I concur with much of the comments of the hon. member for Ayre, but I do put a big question mark over this and the sense of priorities in the Department of Agriculture, Fisheries and Forestry. I wonder where in the order of priority of that department this heath burning measure comes, when we know of the difficulties and that the viability of the agricultural industry is in severe straits. I say: would the department not be better employed ensuring that we had a viable agricultural industry and committing themselves to that, rather than wandering off and having a dream as they shave in the morning, 'Well, yes, let us have a law about heath burning because somebody saw a part of the mountainside being burnt'? Let us have priorities from that department, otherwise I am left with the impression that they are short of something to do. The viability of the agricultural industry throughout the Isle of Man is under question, and if they can find time to wander and worry about a few mountain fires rather than determining the future stability of the agricultural industry, then I think either the department is over-staffed or they have not got enough to do or they are underemployed in the performance of their duties.

I will support this, but it is sheer over-governance and I do hope that the department will sort itself out, instead of running round in circles looking for foxes and heath burning while the farming industry,

(Interjection) the dairy industry, the cereal industry and the fat stock industry have very serious problems. Minister, I urge you to concentrate on the primary duties of your portfolio.

The Speaker: Hon. member for Peel.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I am on my feet really because of the comments made by the previous couple of members. The member for Michael speaks about the department having responsibilities and should concentrate on agriculture. The department has many responsibilities and this just happens to be one of them. You cannot isolate a department and say, 'That is what you have got to look after to the exception of everything else.' This legislation will bring into being legislation that upgrades legislation that was first brought in in 1939. Now many people would have said in 1939, 'We have got better things to think about' –

Mrs Crowe: Absolutely.

Mr Cannan: There was a war!

Mrs Hannan: – but in actual fact they brought in legislation –

Mr Cannan: There was a war! *(Laughter)*

Mr Downie: There is a war now, isn't there, the way you go on?

Mrs Hannan: So that is all the more reason why this legislation should be updated now, I would put it to hon. members. The viability of agriculture is one thing, but passing legislation or just concentrating on it is not going to make it suddenly viable. The agriculture department has a responsibility not only under the Wildlife Act, which was brought in, I think, in the late 1980s or 1990, but also under international conventions which we are signed up to. Therefore I would hope that members will support the legislation that is before us. We cannot please everyone – I think as the Minister for Transport said this morning with regard to taxi drivers – in the same way as we cannot please all the farmers or all the landowners. I know from personal experience that farmers love to get a match out and set fire to something and see the fire whip away **(Mr Henderson:** Hear, hear.) *(Interjections)* It is wonderfully satisfying and all the rest of it, but there needs to be some rick on it. This legislation will put some rick on it, make people understand that there are certain things that they have to do before and, if it does overrun and overtake everything, that they have to put something in place. So I will support it, but I do not think this legislation is in place of other responsibilities in the agriculture department, which I have served in since the member for Michael and I do not think the member for Ayre has served in it, so he does not know the

responsibilities of the department. Thank you, Vainstyr Loayreyder.

The Speaker: Member for Douglas West, Mr Downie.

Mr Downie: Thank you.

Mr Quine: Thank you, my dear.

Mr Cannan: Thank you, my dear.

Mr Downie: Mr Speaker, I think we are very fortunate to have uplands and hill-lands in the Isle of Man of such an international significance, and whether some of us agree or not that is a fact of life. They are highly regarded and the fact that we do allow burning to take place at the present time is very beneficial to them, but the burning has to be carried out in a specified way. There are a number of options available, and in places where you do not want to have burning take place you can also introduce a system which is called brashing. That is where the gorse is cut down by a particular type of machine and broken up and that fertilises the area.

Listening to the debate thus far, one of the issues that has led to the introduction of this legislation is the huge amount of overburning that has gone on in the past when the heat and the flames have actually got into the subterranean peat. It has burned for weeks and weeks on end and then when the rains come all that gets washed out and then down into the rivers and water courses. Not only does it kill the fish, but it renders the water in the reservoirs absolutely hopeless as far as drinking goes. So there needs to be a balance. There needs to be some mechanism in place where this burning can be properly controlled. I accept the comment that was made by the hon. member, Mr Anderson; he is quite right. This is all about a partnership. Now there are a number of tenants and flock masters who manage the government's landmass and it does need to be managed in a very careful and sensitive way.

I would just put it to the minister now that if this Bill receives its second reading today, perhaps the minister could have some further dialogue with these groups and perhaps delay the process of the Bill for a few extra weeks to enable this to take place, and we may be able to clarify the situation and then give him a clear run. I think they are very, very sensitive to the environment that they work in themselves, because at the end of the day any damage or unnecessary damage that they do by burning this heathland, upland, does seriously affect the grass and their availability to graze their animals on it. So it is a balance and it is all about looking after our nature, our environment and our wildlife. It is a very precious commodity and a very sensitive commodity, so I think we have got to do something to work together and try and bring in legislation which makes common sense, but also has regard for the people who are working up there in that environment and all those connected with the wildlife,

the flora, the fauna and all the other pursuits as well. Thank you.

The Speaker: I call on the hon. member for Rushen, Mr Rimington, to reply to the debate.

Mr Rimington: Thank you, Mr Speaker. I thank all those members for their contributions and I have taken notes and the good officer has also taken notes. We will try and address the issues that have been raised.

I would first of all say that I am more than happy to delay the passage of the legislation to the clauses stage for more than the two weeks if there are particular issues that people want to address. I would not wish, this having gone through such a long period of consultation, to push it through right at the last hurdle, or close to the last hurdle, without people having the full opportunity to come forward if they have got amendments or particular concerns. Obviously if people are particularly concerned about a particular issue then if they could discuss with me then I will make sure that is taken due concern and that full opportunity is given and it would not be rushed through. I know that to get an amendment in you have to be there by next Monday or something, which can be very difficult in the circumstances. So I am quite happy to delay the passage of the Bill for some extra weeks if that is going to assist members.

However, I would like to point out to members that the consultation process has taken place and it has been quite extensive. I am sorry that the hon. members for the farming community have been misinformed and have been led, I am afraid, down a garden path on that issue. I have the consultation in my hand and I have the letters from the Farmer's Union from –

Mr Anderson: What date?

Mr Rimington: – June 2001 and February 2002 when they had the draft Act, and the Flock Masters Association when they had the draft Act to make their comments on, and the full list as it went out to all the grazing tenants, all the shooting tenants, all the government bodies, all the ecological and environmental bodies. There has been considerable and extensive consultation. Now if a few people with particular interest who do not feel that their interests have been fully satisfied wish to come at the closing stage and say, 'Whoa, let us hold on!', I am afraid that is not legitimate. Yes, it may be true that everything the Flock Masters Association said has not been taken on board, but that is the process of consultation. When you go through, and there is a whole wide variety of interest in terms of the uplands, you do not necessarily take the views of one particular interest and say, 'Oh, yes, they have said that, we will therefore put it in legislation.' It will be considered and has been considered by the department in the round to get the right balance. I think that is what my hon. colleague, my predecessor, Mr Downie, has pointed out that it does represent a balance between all those interests. I

think what we must understand, and I think my hon. colleague from Douglas North will be very keen for me to say this, that the uplands are held primarily by my department on behalf of the people of the Isle of Man. Now they are not held on behalf of the agricultural industry, the shooting tenants or the environmental organisations; they are held on behalf of *all* those interests, and that is how we have to manage them to find that appropriate balance in the activities that take place on those uplands. My hon. colleague from Douglas North was quite right: this is only one aspect of management of those uplands. There are other aspects, and very painful and quite serious aspects, of management in those upland areas, which we have to address at another time, but this is one particular area of there. I do thank the hon. member for Douglas North for his support and both previous ministers of the department for their support and recognition of what is going on.

I was very surprised by the hon. member for Michael's contribution which seemed to me just – I do not know if it was – a chance to get a headline out of this. The hon. member seems to forget that we are also responsible for the fishing industry – should I just forget about the fishermen? (*Interjection*) Are they of no concern either, and is the wildlife of the Isle of Man of no concern? All these things are concerns. The department has many responsibilities, and it is my responsibility and the department's responsibility to meet all those responsibilities. He was quite right to say that agriculture is in a very poor and perilous state at the moment and it *is* a priority within the department –

Mr Cannan: Good.

Mr Rimington: It is, probably by far, my greatest priority within the department and I would probably say after that the fishing industry as well is one of my priorities. This does not mean that all other activities within the department stop. Do we close down the glens? Shall we put red tape over the entrances and say, 'Sorry guys, we are all off to do something else'? All the activities in the department, as with everything else, continue and have to be managed and there is a large number of staff who are not directly concerned with agriculture and could not usefully be just switched over into that field or have any clear purpose to do so. This arises out of the Forestry, Lands and Amenity Division who have responsibility for the management of the upland areas and they manage all the leases with the tenants.

The hon. member for Ayre, Mr Quine wonders where this is in the order of priorities. It is not a question of order of priorities, as I said; it is one facet of the department's activity and it does not rank either higher or lower, it is here. It is an opportunity. Now if I had a huge agricultural Bill to take through at this point in time and there was this Bill and there was only so much parliamentary time, then possibly yes, one might give way to the other, but as you know from the

order paper today I am not really encroaching heavily upon the legislative timetable at this moment in time.

Mr Henderson: Hear, hear.

Mrs Crowe: Quite right.

Mr Rimington: I think it is quite legitimate that the –

Mrs Crowe: Of course it is.

Mr Rimington: – House should manage to stay here for a little bit longer to just after 12 o'clock to discuss these issues (**Members:** Hear, hear.). There is a strong case for better management of the uplands, covering all interests and your colleague who you sit next to has made that strong case, which is the problems that arise when burning takes place either illegally or in a manner which is not conducive to the environment. You get problems thereof – water pollution.

Now, if the hon. member would like to get some exercise during the summer months and actually walk on the hills, you will see in certain areas – and I am not talking about the one particular incident where there was a major problem – where heath burning has taken place, that sometimes it has taken place in rather large blocks. That has obviously been within the legislation as it stands, and a larger block is easier to manage than a smaller block. But that larger block would not necessarily be the best management practice for those heathlands – to have the balance between recycling the heather growth and management for sheep and for wildlife, you want to have it in smaller blocks, in narrower strips (**A Member:** Yes.). That is one of the critical factors there in actually doing that, and what this Heath Burning Bill does is give us the powers when people are going to burn the heath to say, 'Yes, fine, but can you do it in such and such a way, so that it is not such an extensive burn all in one go, although that is the easiest thing for you to do', to do it in a more sensitive manner and also to make sure that heath burning does not take place in areas where there is particular wildlife sensitivity, i.e. not just the natural heath, but where there is particular sensitivity. That would be where probably our wildlife department would come in, in terms of acknowledging where those particular areas are and where they should be treated carefully.

Regarding the point the hon. member Mr Karran made: it is greater control, there are public health issues there, the protection of water supplies is a particular issue, but people say: 'Well, this is overgovernance.' Yes, I can understand when you bring in new regulations and so forth it may seem to be overgovernance. I suppose the Road Traffic Licensing Committee could probably fall into that (**Mr Henderson:** Hear, hear.) (*Interjection by Mrs Hannan*) and there are all sorts of activities – the Financial Supervision Commission, the poor old finance sector might feel they are overgoverned – but

that is the necessary part of modern life in the modern environment and people cannot be immune from that. I am sure the agricultural industry would say that our procedures on tagging of cattle are overregulation and I can perfectly understand that point of view, but they are there by European Union directive and these things happen.

Re the appeals procedure, yes, we are going into an appeals procedure in the Bill, but I am sure the hon. member with his historic concern for human rights (**Mr Quine:** Hear, hear.) is pleased that there is an appeal procedure so that if the department does make decisions which are wrong or questionable, whether that is in the granting of a licence or determining what is heath or the conditions on a licence, then there is a procedure where that can be challenged. That is right and proper and that should take place, but this whole Bill is not considered to be that burdensome. It is not considered that there are going to be significant extra costs involved on this particular Bill.

On the question of rehabilitation, which the hon. member for Garff and others have mentioned, who have been looking at that, as far as I understand from my looking at that, there is not the ability there to penalise somebody for the reconstitution of the public water supply. I do not think the Bill unfortunately goes into that length, but I do notice that under clause 7(2)(b) – whereas subsection (a) there is on summary conviction, and obviously in summary conviction there is a limit on the penalty imposed – it says: 'on conviction on information, to a fine.' That should mean if there was a very serious offence which involved such matters as causing concern there, i.e. deliberate, then there should be within law that ability to impose a greater penalty if appropriate.

As far as I understand, in terms of the rehabilitation, – I will obviously have to revert to the hon. member at the clauses stage – I would imagine that if conditions and the licence has been breached, therefore that clause 7 could then be enacted. I do accept the point that rehabilitation of burnt heath is not the easiest thing to do and may well be totally impractical in many circumstances –

Mr Henderson: It can be done.

Mr Rimington: – but to have that ability within there is necessary and it is necessary for the department to take that on board.

I think, hopefully, that I have covered many of the points that members have mentioned. If there are, as I have said, any particular points for which people wanted to bring an amendment but found that the timescale was too short, then obviously if they come to me and let me know then I will make sure they have the opportunity to reflect and fully consider that.

I just re-emphasise that that consultation process has taken place and where possible, matters raised have been taken on board, but obviously in that consultation place the final arbiter is the department, taking into account the range of views that have been

expressed. Thank you, Mr Speaker. I beg to move the second reading.

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

A division was called for and voting resulted as follows:

For: Mr Cannan, Mr Rodan, Mr Quayle, Mr Rimington, Mr Gill, Mrs Crowe, Mr Houghton, Mr Henderson, Mr Cretney, Mr Braidwood, Mrs Cannell, Mr Downie, Mr Shimmin, Mrs Hannan, Mr Bell, Mr Singer, Mr Corkill, and the Speaker – 18

Against: Mr Anderson, Mr Quine, Mr Duggan, Mr Earnshaw and Capt. Douglas – 5

The Speaker: Hon. members, the motion carries in the House with 18 votes for and 5 votes against.

Hon. members, that concludes the business before the House. The House will now stand adjourned until Tuesday next, 18th February, at 10.30 a.m. in Tynwald Court.

The House adjourned at 12.10 p.m.