

**5. CONSIDERATION OF CLAUSES**

**5.1. Abortion Reform Bill 2018 –  
Consideration of clauses continued and adjourned**

Dr Allinson to move.

**The Speaker:** Item 5, consideration of clauses, Abortion Reform Bill 2018. In accordance with the memorandum sent around to Members, I will call first Mr Peake to move his amendment to the Long Title.

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**Mr Peake:** Thank you, Mr Speaker.

I would like to move the amendment to the Long Title:

*Amendment 1*

*Page 7, line 1, after ‘amendments;’ insert ‘to make provision about access zones for premises where abortion services are provided, and where those who provide them reside;’.*

Mr Speaker, I beg to move the amendment to the Long Title.

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**The Speaker:** Mr Ashford.

**Mr Ashford:** I beg to second, Mr Speaker.

**The Speaker:** Hon. Member, Mr Robertshaw.

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**Mr Robertshaw:** No, Mr Speaker, not at this stage. I have asked you that I will want to ask the House to move to a Committee of the Whole House if we get to the body. Or would you like to do that at this stage?

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**The Speaker:** I think it would be wise if the Houses discuss this general principle, and of course there is nothing to stop Hon. Members referring to the detail of the clauses in their contributions. At this stage it would cover the whole of the new part and all of the new clauses, so I think this would be the prime opportunity, ideally, for Members to discuss and debate the impact of the principle and the detail of the implications of the change to the Long Title.

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**Mr Robertshaw:** Mr Speaker, thank you for that advice then. I would like to move that, in accordance with clause 4.4A of Standing Orders, the House moves to Committee of the Whole House.

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**The Speaker:** Mr Malarkey.

**Mr Malarkey:** I beg to second.

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**The Speaker:** Hon. Members, the motion is that we move to a Committee of the Whole House. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

*In Committee of the Whole House*

**The Speaker:** Hon. Members, we move to a Committee of the Whole and I would perhaps like to offer Mr Peake at first flush the opportunity to expand on his comments.

**Mr Peake:** Thank you very much, Mr Speaker.

40 The intention of this amendment is: to provide safe access for patients and Department staff to abortion service facilities, the homes of persons providing abortion services and the surgery of every medical practitioner who provides abortion services; it also clearly defines prohibited conduct within these areas; and finally, injunctions, notices and regulations.

45 A year ago, some may have thought there was no need for this legislation in the Isle of Man, although just six months ago when the consultation results were published it showed a very different story. Question 17 of the consultation asked:

Should there be legal protection to prevent demonstrations or protests outside any facility which provides abortion advice or treatments in the Isle of Man?

Eighty-five per cent of respondents said yes.

50 Since then we have all seen graphic images used by protestors and received those images into our homes. I, like many of you, have probably received communication from constituents who find this type of behaviour unacceptable. I believe now is the time for legislation for safe access zones for abortion services.

55 The Chief Constable of the Isle of Man has expressed his concern and, based on patterns in the UK and other countries, the protest will escalate and become unpleasant with focus shifting to hospitals, homes of staff and patients directly. We do not need to follow this route of other countries by ignoring the issues and witness protests escalating; we have the opportunity to learn from these events and provide safe access zones around facilities.

60 This topic is very much in the spotlight at the moment in the UK; in fact, the Parliament Home Affairs Committee met on 12th December 2017 to investigate harassment and intimidation near abortion clinics. During that session, Council leader for the London Borough of Ealing, Julian Bell, stated, 'The rights of women to have privacy.' Ealing Council member, Binda Rai, said of the protestors' approach made to patients and staff: 'This behaviour is unacceptable. The images make residents feel uncomfortable. Many women have rung and cancelled appointments once they see the protests.' This is denying women's rights to healthcare.

65 Some people believe we have sufficient legislation and that this can be dealt with with our Public Order Act 1998, the Protection from Harassment Act 2000, or even the Equality Act 2017. As we heard earlier, the Police do not agree. The protesters outside the Mary Stopes Clinic in the London Borough of Ealing told the *Independent*, and it was reported on 6th October 2017: 'Harassment is a crime. If we were harassing anyone we would be arrested. In fact, what we are trying to do is to help women to achieve an alternative if they are willing to accept this.'

70 Mr Speaker, the challenge is using our existing legislation and presenting enough evidence for a successful prosecution. For example, the Protection from Harassment Act 2000:

Prohibition of harassment

(1) a person who must pursue a course of conduct –  
(a) which amounts to harassment of another ...

Later on there is an explanation of that in Item 7:

'(2) A "course of conduct" involves conduct on at least two occasions.'

75 You can start to see the challenges facing police when presented with legislation like this. A patient seeking healthcare for pregnancy or abortion services may only need to visit the site once so can never provide a course of conduct that requires at least two occasions.

Alternatively, the use of the Equality Act 2017, clause 27 on harassment states:

(1) A person (A) harasses another (B) if –  
... (b) the conduct has a purpose or effect of –  
(i) violating B's dignity, or  
(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

Or if we try to use the Public Order Act 1998:

Harassment, alarm or distress

(1) A person is guilty of an offence if he –

(a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or

(b) displays any writing any writing, signs or other visible representation which is threatening, abusive or insulting.

To gain a conviction using either of these Acts would require the patient or staff to press charges and testify, thereby losing their confidentiality and any hope of keeping their medical business private. These laws were passed to protect people from individuals and bring about an end to a series of events.

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I have discussed the issue of legislation to manage protests with the Chief Constable, who is concerned about gaps in our public order legislation when compared with neighbouring jurisdictions. He would welcome the introduction of measures to protect the rights to protest, but which also properly define and protect the rights of those against whom the protests are directed. This amendment offers safe access to healthcare when a decision to attend has been made.

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Moving to the conduct within the access zones, Ealing Council stated they have a duty of care to their staff. This is why they propose to extend the safe access zones to the homes of persons providing abortion services and the surgery of every medical practitioner who provides abortion services.

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The proposed amendment makes it an offence to harass, intimidate, photograph, film, videotape a person providing abortion services, or a patient seeking or using such a service with the purpose of dissuading a person from doing so. This is to protect the identity of a patient in what is a private healthcare matter.

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The British Pregnancy Advisory Service provides services to around 80,000 women a year in the UK and stated on 2nd March 2018:

Protesters almost always approach women as they are entering or leaving the clinic, attempting to tell them their opinions on abortion to deter or dissuade them from accessing services ... Some use body cameras, they say to film their own activity and interactions but in some cases women they approach are visible and identifiable without their permission.

I believe this demonstrates there is no wish on behalf of the protesters to consider a woman's feelings or allow confidential access to healthcare.

Mr Speaker, Hon. Members, I believe a strong message should be sent out that this behaviour is not acceptable in our Island and I urge you to join and support this message and vote for this amendment standing in my name.

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**The Speaker:** Mr Robertshaw.

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**Mr Robertshaw:** Thank you, Mr Speaker.

I concur with many of the comments that the mover of this amendment has articulated there – who wouldn't? But I have looked at this amendment, and it is difficult to establish whether it is actually an amendment or a very significant departure from the Bill presented to us by the hon. mover, Dr Allinson. It is a significant departure.

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So I read part 3 very carefully, and have come up with four tests in consideration of it, as to whether or not the intentions behind the mover of the amendment's beliefs are actually delivered in his amendment. The four tests I addressed were: (1) is the law necessary – is the amendment necessary in the Isle of Man? (2) Does it comply with the European Court of Human Rights? (3) Is this actually an amendment or is it actually something very significant and a departure from the essence of the main Bill? (4) Finally, and probably most significantly, is it actually workable?

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So if I can go through those four, Mr Speaker.

120 Is the law necessary? Well, I do not know anybody who felt comfortable or anything other  
than extremely ill at ease with much of what happened with regard to and around Abort67. It  
was very un-Isle of Man. It was a point in time where essentially it was influenced from activity  
across in an effort to persuade legislators in the Isle of Man that they did not want to take a  
particular route. But it was a moment in time. Once the new law is arrived at, then that will be  
passed by and the Isle of Man will settle back down again. I do not think we should necessarily  
125 therefore in any shape or form assume that, because certain activities are carried out in the UK,  
particularly around private clinics etc. – and I understand that we are not having any of those – it  
should be a matter of concern to us.

Secondly, does it comply with the European Court of Human Rights? There will be some who  
say it does, but I think there is a very significant question mark around this and some of you may  
well already have to hand the commentary here, which if I may I will read out. There is very real  
130 concern that the wording would violate Article 10, the right to freedom of expression of the  
European Convention on Human Rights. The most relevant case is referred to as *Annen v  
Germany*. The case is important for both its statement for both its statement of general principle  
and its statements as to how these principles apply to the particular content of anti-abortion  
activity. As a general principle, the court said this:

The Court considers, and it was not disputed by the Government, that the civil injunction issued by the national  
courts amounted to an “interference” with the applicant’s right to freedom of expression as guaranteed by Article  
10 of the Convention. Such interference will infringe the Convention if it does not satisfy the requirements of  
paragraph 2 of Article 10.

135 Let me particularly refer here to something the court said, and this is very important:

Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic  
conditions for its progress and for each individual’s self-fulfilment. Subject to paragraph 2 of Article 10, it is  
applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a  
matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism,  
tolerance and broadmindedness without which there is no ‘democratic society’. As set forth in Article 10, this  
freedom is subject to exceptions, which ... must, however, be construed strictly, and the need for any restrictions  
must be established convincingly ...

I think it is important to bear in mind here that when the main Bill before us has completed  
its passage through this Hon. House and through the Legislative Council and it goes to the UK, it  
will be subject to a very particular test, which is ‘does it comply with human rights?’. If there is  
something of a question mark over the amendment it would have the effect of bringing the  
140 whole Bill into question. I ask Members to deliberate on that point because there can be no  
doubt that the body of the Bill as presented by Dr Allinson does comply with human rights. It is a  
question for Hon. Members to dwell on.

The third test: this issue about it being a major departure from what we have been  
considering. Dr Allinson, the mover of the Bill, has gone to significant lengths over a considerable  
145 period of time to consult and engage the general public on his Bill. He has laboured the point,  
quite rightly, that this is what he has done. I think he went out for two consultations.  
Subsequently there was a third type of consultation through ComRes, which is to some extent  
challenged but has value. The point is there was major and significant engagement. There has  
been no consultation on this section here, and it is a really important point. It is not an  
150 amendment to Dr Allinson’s Bill; it is a significant departure and addition to it. It has not been  
considered by the general public, it has not been consulted on and we are in danger of pushing  
something through here that is incredibly radical and requires significant deliberation and  
challenge. I would argue that he has some points, I really do, but I think the points that he makes  
need to be considered in the context of our Isle of Man situation, not posting in some fairly  
155 radical legislation from I think British Columbia, which is completely outwith the European Union  
and outside the jurisdiction of the European Court of Human Rights.

I would strongly recommend to the mover of these amendments that he continues with his passion to see vulnerable people protected but comes back to this House perhaps through another means – byelaws or a review of the Public Order Act – to construct appropriate  
160 protections in the Isle of Man where he considers there are significant sensitivities, and in those circumstances I would assure him that he would enjoy my support; but the way it has been presented, the volume of it and elements of it being inappropriate, are a real concern to me.

And then finally, Mr Speaker, is it actually workable? My conclusion was that it was not, and I would ask Members to address some of the detail here. In new clause 3 he talks about ‘access  
165 zone’ – ‘protection zone’, if you like – ‘means a person’s primary place of residence’, and then later on he talks about other areas, surgeries etc. These various access zones have different protected areas around them – some are 10 m, some are 100 m, some are 150 m – within which it is necessary, for somebody to avoid conducting a criminal act, not to be engaged in matters ‘by any means including, in particular, graphic, verbal or written means’. What sort of law is this  
170 that can make a criminal out of somebody who *may* say something that *might* be inappropriate in an area that they cannot recognise or identify?

Later on it says:

The Department

– presumably, I suppose, the Department of Home Affairs or the Department of Health and Social Care –

must, by means of notices

175 – in terms of these access zones –

... draw the attention of the public

– listen to this –

of the existence and extent of access zones ...

So, is a doctor who is conducting him or herself in abortion services going to allow a declaration that there is a protection zone round his or her house or round this or that surgery? Frankly, that is ludicrous. It is just nonsense. And yet if somebody steps inside that unknown, unidentifiable zone and says something that is not actually correct, then they could be subject of  
180 a criminal act. This is not the way Isle of Man law works and I really would ask the Hon. Member to either explain how these things are going to work in detail or he withdraws his amendments.

Imagine in a street where you have got two pharmacies. I think the distance between ... I *think*. You see, here I am, not quite sure whether it is 160 m or 100 m. So, if you are walking down the street and have a conversation with somebody, effectively, about abortion issues  
185 while you are articulating your view, at this point you are in the law and at that point further down you are a criminal, and further down you are not. That *cannot* be good law. That just simply cannot work – unless the hon. mover is able to explain to me something I have completely missed.

Mr Speaker, I will leave it there because I just do not think we can deliver good law on the  
190 basis of this amendment. Thank you.

**The Speaker:** Next on my list, Mr Ashford.

**Mr Ashford:** Thank you, Mr Speaker.

195 I want to start by saying I was one of those that, when Dr Allinson first sought leave to introduce this Bill, thought this would not be necessary. But unfortunately as time has moved on I think it has become more and more necessary.

Mr Robertshaw, the Hon. Member for Douglas East, referred to the protests that recently took place and said that it was a moment in time. It *was* a moment in time, Mr Speaker, but  
200 unlike Mr Robertshaw I am not convinced it is a moment in time that will not repeat itself. We have seen in the UK protests outside various clinics and there is no reason to suggest that we either will not have other people come over, or in fact home-grown protests outside clinics here. I think one of the key fundamental things is that people do have a right to access health services and that they have the right to do so without trying to be prevented from doing so.

205 I suppose I want to also put on record though, Mr Speaker, that I have obviously had lots of contact with people on both sides of the argument, and I must say that the overwhelming majority on both sides of the argument have done so in a dignified way. It really has been a minority; but unfortunately it has been a very vocal minority that has caused great distress to a lot of people. I suppose if Abort67 has achieved nothing else, their protests have achieved  
210 convincing me that we do need these access zones.

Freedom of speech is very important, Mr Speaker, and it is very important to me. But I believe that freedom of speech does come with a responsibility as well – and the freedom to protest. I worry in this case that there are people who hold certain views that are never going to change but they do want to, and I am going to use the word, ‘impose’ those views on other  
215 people, because I think that in some cases is what we have actually seen.

I also want to refer to some of the comments that Mr Robertshaw has just made in relation to the access zones. I think I heard Mr Robertshaw say this has never been consulted upon: from my memory it was in the very first consultation that Dr Allinson put out, and I think there were quite a few comments around it. It was only after that first consultation that it disappeared and  
220 was withdrawn.

In relation to the human rights as well, Mr Speaker, a couple of comments I want to make are in relation to where Mr Robertshaw asked does it comply with human rights, and he referred to Article 10. In 1976 there was a case of *Handyside v United Kingdom* where the court stated this:

The Court points out that the machinery of protection established by the Convention is subsidiary to the national systems safeguarding human rights ...The Convention leaves to each Contracting State, in the first place, the task of securing the rights and freedoms it enshrines.

225 There was also a study undertaken in relation to the whole of the Human Rights Convention by the Centre for Law and Democracy and it was a very in-depth study, and one of the things they said about the fight for freedom of expression is:

The right to freedom of expression, protected in Article 10 of the European Convention, is not an absolute right.

That was the finding from them:

The basic approach taken in Article 10 is to define freedom of expression very broadly, so as to include almost every form of expressive activity, and also to define very broadly what constitutes an interference with the enjoyment of this right, thus casting an extremely wide *prima facie* net of protection. Certain interferences with this right are justifiable under Article 10, so that Contracting States may legitimately impose restrictions on the right, for example to protect other rights or overriding interests ...

One of the things I would state, Mr Speaker, is I would personally say the right to access  
230 healthcare facilities is one of those rights.

There are other countries that have these buffer zones, or access zones, whichever phrase you wish to use. Obviously the more controversial ones are in the US where there have been challenges at State level, but there are other countries that do it successfully.

I really do believe that we do need this because, unlike Mr Robertshaw, I am not convinced that it will be a moment in time, and I think those that access this service do have the right to  
235 anonymity and they do have the right to do so without being harassed.

**The Speaker:** Mr Malarkey.

**Mr Malarkey:** Thank you, Mr Speaker.

240 The Hon. Health Minister has actually taken just about everything I was going to say, and I one hundred percent support what the Hon. Member, Mr Peake, is doing here with the exclusion zones. It has been highlighted lately, through these demonstrations that we have seen from Abort67, about the problems that we *can* have, and like the Hon. Health Minister this is not a moment in time at all. I believe it will happen in the future once this legislation goes through.

245 Only yesterday morning I was disgusted to open my post and a graphic picture of an unborn child was to fall on the floor in front of my family. I immediately picked the picture up, and the letter, and ripped it in half and it went straight in the bin. This is happening. Just because Abort67 is not here that does not mean it is not going to happen in the future. We have seen what demonstrations are with bodycams these days – pictures, cameras. So people are going to get photographed outside clinics. This legislation and this amendment will stop that.

250 I have had several meetings with the Chief Constable over the last month or two with regard to what was going on with Abort67 and what actions the Chief Constable could take. As the hon. mover says, he has spoken to the Chief Constable and we totally support this. We need legislation to stop this happening in the future. This is the Isle of Man, a gossipmonger.

255 Everything gets about in the Isle of Man, so we have got to protect these women and give them some privacy, so that there is not somebody standing outside a clinic naming and trying to shame people as they walk into it.

This legislation is not about being a capitalist state and trying to stop people having freedom of choice; this is about protecting a woman's choice, who wants to make a choice about an abortion. And I have said it in the last debate over the clauses: this is between the woman and the doctor, and her body and what she wants. It is not up to demonstrators to be standing outside a clinic or a doctor's house harassing them. Believe me, getting harassed by people outside your house is not nice. I have had it in the past by people.

260 We have to protect those professionals doing a job, and we have to protect the woman who wants to make the choice – and purely what is happening today with this is we are trying to get legislation to give the Police the powers, so that if somebody is harassed they have got some powers, more than they have got at the moment, to do something about it.

265 So I would urge you to support this today. I believe it is a step in the right direction. I do not think it is taking anybody's freedom of speech away. We have had lots of emails fired in, I have read quite a lot of them. I do not believe a lot of what is in them, but I do believe a woman should have a choice of privacy and this is all about the woman's privacy – nothing more. We are not trying to turn it into some sort of police state, it is just helping to protect a woman's privacy.

**The Speaker:** Mr Hooper.

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**Mr Hooper:** Thank you, Mr Speaker.

I am only rising, really, to address some of the comments that have been made by the Hon. Member for Douglas East. He has successfully managed to conflate a number of different sections within the amendments and tie them all together as if somehow they all flow naturally, without any extras or any context, which simply is not the case.

280 First things first: he talks about how the Department would be required to publish the addresses of every single doctor on the Isle of Man that is providing abortion services – that is frankly nonsense. The amendment that has been tabled by Mr Peake says the Department, as it considers necessary, may do this. The Department may determine, after talking to the doctors concerned, it is not necessary to publish the details of the access zones around their homes. It may simply decide that the only ones it needs to publish and make people aware of are the ones around the Hospital, for example. The same with pharmacies: it may establish, by order, access zones around pharmacies – it is not required to. It may be that actually there is no need to

290 establish an access zone around pharmacies in high streets. It may be that actually the  
Department decides the best place and the only place that it really needs these access zones are  
around the Hospital. That will be up to the Department, and I am sure the Department will  
consult with various people before it brings in one of these access zones which, again, have to  
be brought in by order, and would require Tynwald approval. This is not giving anyone the  
power to run roughshod over people's rights to protest.

295 The Hon. Member questioned whether this was necessary and again, like the Minister for  
Health, I did not think it was, six months ago. Now, I am convinced that this is unfortunately  
necessary. And the argument, 'Oh, it will all settle down in a bit, don't worry,' is not enough, is  
not strong enough for me to say yes that is fine, let's just hope that this settles down and this  
goes away. I do not think that is enough. At the *very least* this amendment sends out a very  
300 strong message – exactly as the Chief Minister did when he tabled amendments to prevent sex-  
selection abortion on the Island – to say this is not acceptable on the Isle of Man. I think that is  
definitely something we should be welcoming.

Finally, I would just like to touch on the comments regarding the European Court of Human  
Rights. In 1995 there was a case in the Netherlands – apologies for the mispronunciation of  
305 this – *Van Den Dungen v the Netherlands*, in which there was an injunction in place prohibiting  
an abortion opponent from handing out leaflets in the vicinity of a clinic. The European Court of  
Human Rights determined that this injunction was necessary for the protection of the rights of  
others. So the arguments being put forward in respect of the European Court of Human Rights  
are extremely weak in this respect.

310 Thank you, Mr Speaker.

**The Speaker:** Now, Hon. Members, we have had five speakers so far, I have another six on  
my list at this point. I have also had an indication from the drafter that he would like to come in  
and clarify some points at this stage.

315 Are we content with that, Hon. Members? (**Members:** Agreed.)  
Mr Connell.

**Mr Connell:** If you can give me a moment, sir, I have just been passed a note from  
Mr Cregeen ... I will have to address it as part of the answer.

320 For the record, sir, Howard Connell, the legislative drafter of the Bill.

Mr Speaker, you have touched on quite a lot of the human rights aspects of this amendment.  
I am obviously obliged, when framing amendments from Members, to have regard to the  
European Convention on Human Rights because at the end of the day the Attorney, to who I am  
answering, has to certify that the Bill is compliant in order for us to get Royal Assent under the  
325 Human Rights Act.

I *am* so satisfied, sir, in approaching the question of compatibility with the European  
Convention. One has to remember that where there are competing rights – and here there are  
rights under Article 8 in respect of a pregnant woman and Article 10 in relation to protestors – a  
balance has always to be struck and how the balance is struck is a matter where, provided a  
330 Member State or rather a Convention State has approached it reasonably and done the analysis  
correctly in their own minds, the European Court of Human Rights will not intervene, second  
guessing Member States and Convention States, in determining the balance between rights,  
provided it is a balance which is reasonable.

Hon. Members have referred to various aspects of the case law from which it can be seen  
335 that the balance will be struck in different places at different points and on different facts. But I  
think I can safely say that, as drafted, the Bill does not create a problem and the provisions do  
not create a problem with the Convention.

Can I also deal with access zones: with respect to the Minister for Health, it is not quite as  
simple as that. The Department must establish access zones; what is discretionary is how they

340 advertise them and announce them to other people. It has to find a way which is suitable in all circumstances for the Island.

Mr Robertshaw made the point that British Columbia is outside the European Convention's ambit – yes it is, but as any human rights lawyer would know, there is a cross-fertilisation of ideas between the various jurisdictions in relation to human rights and British Columbia will be  
345 subject to the same constraints, effectively, via the Canadian Charter of Rights, as apply in the European Convention countries.

Sir, unless I can assist the House further, those would be my observations.

**The Speaker:** Thank you.

350 Next to speak I have Mr Robertshaw.

**Mr Robertshaw:** Thank you, Mr Speaker.

Picking up some of the current commentary that is going around the Hon. House this morning: I am not – despite my great and deep respect for the drafter, Mr Connell – totally yet  
355 convinced that it complies with European human rights law. The two examples that have come to us have been in the 1990s and the example I quoted was 2015, which is very much more recent, so I put that question down. I think if this amendment goes into the Bill we have got to be sure that it complies with human rights, and I am not convinced it does.

Turning to a comment Mr Malarkey made about how these amendments will stop everything  
360 with these graphic displays which we have been concerned about – no, it will not. It will not because this talks about safety zones; it does not talk about anything outside a safety zone. So if you had an aggressive approach from somebody who wanted to display graphic images, they would just simply have to refer to the Bill and work out where they could stand and where they could not and the Police could do nothing.

365 This is about good law; it is not about gesture politics. We are here to do good law, not offer gestures. Nobody in this House is against trying to protect those who need protection, but let's make sure we do it properly.

I just want to follow the hon. drafter's comments about Mr Hooper's point. He talks about these zones that we are talking about are down to us. It does not say that in new clause 5, it says  
370 an access zone *is* established – not may be or will be or perhaps might be:

An access zone is established around the home of every registered medical practitioner, midwife, nurse or pharmacist providing abortion services.

You will do that if you agree this. And then further on it talks about pharmacies and again the same principle. To repeat what the drafter said, new clause 10 talks about how the Department will promulgate that. Now, if it is not going to promulgate it, if it is not going to promulgate a defined area, depending on what measurement you are going to use – 10m, 100m, 150m –  
375 Goodness me! If you are not going to promulgate that how does anybody know they are breaking the law? A criminal offence, 12 months in prison. Good law? Mr Speaker, I think not, I really do not.

380 So let's be very careful here between a desire we all have to protect those who need protection as opposed to gesture politics and seeing to be vaguely doing the right thing. There is a very clear difference.

I will be the first to support the need to bring in some appropriate byelaws. We do not have clinics and goodness knows what around the Isle of Man; we are going to have a significant amount of activity at the Hospital and I do not know, maybe Ramsey Cottage Hospital itself. So let's look at byelaws associated with them. Let's be sensible about this, let's be 'Isle of Man' in  
385 the way we approach our laws – not yank this stuff from elsewhere with a completely different set of rules and regulations and circumstances and geography.

**The Speaker:** Mr Thomas.

390 **Mr Thomas:** Thank you, Mr Speaker.

I am delighted that the hon. drafter made reference to the abilities that he could use to cast light on how this zone, these terms, this law will be construed later. Because let's all remember, what we have here is we have a group of politicians making policy inside a legislative process. We are assisted, ably, by a drafter who is helping us put that policy into law, but later on, the exact meaning will be construed in a different part of the process. It will be construed in our legal system, and perhaps ultimately in an international legal system. It is not for us completely today to guess how something will be construed later on.

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400 And that is why I want to come on to my second point, which is where we are in the legislative process. We are the House of Keys, we are the directly elected Members of our great Tynwald in our Isle of Man: it is for us to come up with the political questions and it for us to answer the political questions. Behind us in the legislative process, we have the Legislative Council, which will revisit this legislation and it can engage properly with the Attorney General and with the staff who work for the Attorney General's Chamber to imagine how something will be construed later. Pretty much the significant majority of amendments that come in Legislative Council are actually Government-inspired amendments. They are not out of the heads of newly  
405 elected politicians; they are Government amendments revisiting the legislation that will pass in good shape from this House, I hope, to the Legislative Council.

What is more, there is even a third stage to the process to make sure these words are exact. And if I take Members back to the first Bill that we considered in this House that was the Equality Bill and at the final stage, when the Equality Bill came back to Tynwald, there were some extra amendments brought in by Government, the Attorney General's Chambers, to make sure that we had dotted the i's and crossed the t's of that legislation, and we will still have this stage.

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415 So the question today, Hon. Members, is very simple. It is not for us to go around expressing opinions about exactly what this European convention case means or that European convention case means, I do not believe. I think it is about interpreting whether or not the situation in the Island is one that we need to allow for these access zones and I am persuaded that, because of the activities of Abort67 here and elsewhere, and because of the localisation of some of those activities, I do believe it is necessary. It is not just empty gesture politics; this is an important  
420 principle.

Obviously, eventually we can look to revisit public order and harassment frameworks in general law, just like the Hon. Member for North Douglas laid out in the opening remarks. Obviously, eventually we can look at the lower offences of disturbing public peace and being injurious to public morals, outrage and indecency, making use of provocative language or  
425 behaviour tending to a breach of the peace, that the other Hon. Member for Douglas Central brought to our attention when she asked about offensive graphic material, and we can revisit that legislation more generally. But at this stage it is a very simple question. Do we want the policy of these zones in our abortion law? I am firmly of the view that we have that need and I am firmly of the view that our legislative process is grown up and we can deal with the issues of  
430 how these words and these concepts will be construed later on.

**The Speaker:** Miss Bettison.

435 **Miss Bettison:** Thank you, Mr Speaker.

My hon. colleague for Douglas East, Mr Robertshaw, asked whether the law was necessary and he felt that this was something that was a moment of time. And yet I would like to read something from Abort67's own Facebook page, 'You have your own Isle of Man team now, who are resident there, and have every right to take a stand for your pre-born citizens.' Well, as a pre-death citizen, I would argue that that does clarify that they are here and they are not going

440 anywhere and they *will* be looking to challenge women in very vulnerable situations. I think we absolutely have to guard against that. We have to protect our medical professionals and we have to protect the auxiliary staff who support the provision of services.

There was also a discussion about whether, if you take two paces to the right and step into a different area, you move into a prohibited area, and there is some confusion surrounding that. 445 And yet unmarked prohibited areas already have precedence: we have bail conditions, we have sex offender exclusion zones, we have dog walkers' exclusion zones and we have no-fly zones. Clause 10(1) covers this with regard to appropriate notification of the existence and extent of access zones. The onus therefore is on the Department of Health and Social Care to issue this information, and I would seek reassurance from the Minister that this is something he would 450 take absolutely seriously.

Thank you.

**The Speaker:** Mr Shimmins.

455 **Mr Shimmins:** Thank you, Mr Speaker.

This debate has gone on in various countries around the world, as a number of other Members have already commented on, and having looked into this what tends to happen is that those who object on moral or religious grounds to abortion tend to promote arguments on the right to free speech. They also attempt to divert the debate by suggesting that legislation would 460 better sit in other areas than in abortion legislation, and already we have heard from the Member for Douglas East that perhaps this should sit in byelaws. I was surprised by that, Members, because are we really suggesting that local authorities are tasked with dealing with this very difficult topic? That feels incorrect to me.

If we look at what has happened elsewhere, in Australia, in the state of Victoria, they 465 considered this subject in some detail in 2015. There was a court case which concerned the actions of the Helpers of God's Precious Infants, which was an anti-abortion organisation in Melbourne. The case was actually against Melbourne City Council for failing to take action against the protesters, who had intimidated women for decades in that city, and it was found by the court that the Helpers of God's Precious Infants were harassing women and passers-by, 470 attempting to block entry to that abortion clinic, jostling and striking people passing the area and intimidating and harassing patients, which had the effect of deterring patients from attending that particular clinic.

However, the upshot was that, due to the lack of specific legislation, there was enough leeway for the council not to be liable to take action under their public health and well-being 475 Acts. Since then, in 2015, the state of Victoria enacted specific legislation which put in place buffer zones, and since then there have been other legal cases in the state of Victoria because one of the activist protesters was arrested for demonstrating outside that zone, and then again the debate about freedom of speech was presented. The court in that case found against the protester and made it very clear that they had infringed the rights, under their legislation, of the 480 people who accessed the abortion clinic. Members, the reason I mention this is it feels like a similar scenario that we may encounter here if we do not have specific legislation, but the details obviously vary depending on the laws of each land.

I was interested in the comments made about the European Court of Human Rights, which of course is based in Strasbourg in France. Members, France has very specific legislation making it 485 an offence to attempt to prevent a legal termination of pregnancy. This includes disrupting access to termination facilities, the free movement of persons within these facilities, employing moral or psychological pressure, threats or any act of intimidation on staff, women accessing the facilities or people accompanying the women. This is legislation which has been in France for many years and the penalty there is €30,000 or two years' imprisonment. Members, I am not a 490 lawyer and I take on board the points that the Hon. Member for Douglas Central, Mr Thomas

made, but I would suggest that Mr Connell's interpretation of the law and the relevance of the European Court of Human Rights would appear to be correct if that is the situation in France.

As a number of others have said, in respect of Mr Robertshaw's tests, is the law necessary, regrettably I think it is, because I have received, just like many of us, a number of condemning  
495 communications from a small number of local residents using extraordinary language, and sometimes comparisons are made with genocide by the Nazis in the Second World War in some of the letters I have received. So I think this is a very emotive issue, but given the conduct and correspondence that we have seen, the risk and harassment and intimidation must be considered high and it is unsurprising for me that the Chief Constable recognises this risk and  
500 has concerns about his ability to take action because of the legislation. It would be incorrect for us to recognise this risk and not to take action to mitigate it. That is what responsible lawmakers do and that is why this clause is being inserted, and that is why regrettably I feel that this is necessary and why I do support the clause being inserted.

In terms of the interpretation of the detail of the law, I believe that the Isle of Man  
505 Constabulary have a difficult job often interpreting the fine detail of the law but they do that with sensitivity and common sense and I personally am confident that they would exercise the same behaviours in exercising their responsibility under this clause.

Lastly, Members, I have no issue with demonstrations outside Tynwald, but not outside our Hospital. Vulnerable women should not be subjected to intimidation. This clause provides this.

510 Thank you.

**The Speaker:** Mr Baker.

**Mr Baker:** Thank you, Mr Speaker.

515 I rise to my feet with a degree of difficulty, I think, around this subject and I think it is helpful just to step back from where we are and let's recast that we have all supported the principles of abortion services being made available to the women of the Isle of Man. We have had some differences around some of the detail around it, but fundamentally the direction of travel was unanimously supported, so we need to recognise that.

520 We also need to recognise that this is a very difficult situation for those people who are affected. Nobody is going into an abortion lightly or without thought. People who are going through this are going through it because they are in a difficult situation, and we cannot do things that make it worse than it already is. That is really important for me, that we recognise that. Having said that, I think I have some difficulties with what is proposed here. There are two  
525 levels here, there are the principles and there is some of the detail and I do not think we can divorce the two.

I do not think we can, as I felt the Minister for Policy and Reform was indicating, leave this and let LegCo sort it out. I do not think that is right at all; I think we have got to sort this out.

530 I could not help but contrast the very prescriptive draft legislation that is in front of us right now with the Minister for Policy and Reform's approach on the GDPR legislation, where it is a very high-level piece of enabling legislation which will be backed up with detail in due course. I cannot help thinking that there may be some lessons in that. The Minister convinced us that that was the right approach to take in that area, so I would be interested in hearing why that is not the right approach here.

535 I think the Hon. Member for Douglas East made some very valid points and I think we have to recognise that there are concerns about what is in here. We can accept the principle of protecting women as they go about their treatment, but we could equally recognise that actually what is proposed is difficult. When I sat and thought about this my questions were around the proportionality of what is proposed and the enforceability, as well as the freedom of  
540 speech aspect. I think we have got to be really clear about where the boundaries are drawn. It is very easy to look at this and say, as a number of Hon. Members already have done, that of course there should be protection around the Hospital, that women who are going for

545 treatment should not be bombarded by protesters as they go at that difficult stage of their treatment, and that is something that I think is clearly right. However, the scope of what is proposed here is not just about hospitals; it is about the homes of every registered medical practitioner, midwife, nurse or pharmacist providing abortion services; it is around every surgery on the Island; it is actually probably around every pharmacy on the Island. These things are completely integrated into our day-to-day life. Again, the legislation that is proposed in NC4 does say:

the Department—

(a) must by order establish an access zone for any national health service hospital ... and

(b) may by order establish an access zone for any premises approved ...

550 That is fine, but we go into NC5:

An access zone is established around the home ...

NC6:

An access zone is established around the surgery ...

555 These are not 'may' or 'must'; these are they are created. They are created, as far as I can see – I am no lawyer either – instantaneously. These things will emerge and be created and nobody will know. They will disappear again if somebody moves house and the access zone is moved.

560 The definitions around protest again are extraordinarily broad, and we have seen some extraordinarily broad things in this whole Bill which we as an Hon. House have accepted that we are prepared to trust the judgement of medical practitioners to enforce around what is a social ground for an abortion, what is a ... significant impairment I think was the word that we got that would have a substantial impact. That is putting the judgement on to medical practitioners, and doctors are seen as professional people who can be trusted. Where is the judgement going to be around where these zones are? Where is the judgement going to be around what is protest, what is pavement interference? We are handing huge powers to the Police here, because they are the ones who are going to enforce it, and the judiciary. Where is this leading, Hon. Members?

570 What are 'graphic images'? The Hon. Member for Douglas South talked about a graphic image coming out of the envelope on his doorstep yesterday. I suspect very much it was probably a very similar graphic image to the one that came to me, which looked to me very much like an image from a GCSE biology textbook on the development of a foetus. I would not class that as a graphic image; it is a picture of a 12-week-old unborn child – or foetus or cluster of cells, whatever phraseology you want to use.

575 We are going down a path here that ... I may be overdramatising this, but where does it lead? We are creating extraordinary police powers here. (**A Member:** Hear, hear.) Are we getting to the point of criminalising any views that are not acceptable to the state here? Those of us with a literary background will be familiar with the book *1984* by George Orwell, which talked about thought crime. How far are we going to go here before we transform the Isle of Man into something that is completely different from the Island that we know and love as it is?

580 Whatever we do has got to be proportional. We have got to look after women in the Isle of Man and make sure that their experiences are appropriate. That is why this Bill has been brought forward by Dr Allinson and it is why it has had the support, but we are potentially in danger of going from one very specific problem here to making a very general broad law that will come back and haunt us in the future.

The question for me, Hon. Members, is do we need to do this? If we believe that the Hospital, as probably most of us do, needs some protection around its premises, could the Hospital not

585 protect itself? It is effectively private land. Could the Hospital not impose that? I do not know, but these are things that need thinking through.

That, for me, is the conundrum here: the principle sounds okay but when you get into the detail it just raises huge issues, Hon. Members.

590 **The Speaker:** Mr Malarkey.

**Mr Malarkey:** Thank you, Mr Speaker.

I was really brought to my feet by the Hon. Mr Robertshaw's comment about the fact that I seem to think that this is going to stop demonstrations. No, I do not think for one minute ... This is all about ... I will go back to the protection, the privacy of the person who is going for the  
595 abortion. That is really all this is about. It is quite simple. This is getting blown into something like a police state by the hon. last speaker. This is not what these amendments are about; it is about ... Let's read new clause 3:

**'pavement interference'** means—

- (a) advising or persuading a woman to refrain from availing herself of abortion services, or
  - (b) informing a person about issues related to abortion services,
- by any means including, in particular, graphic, verbal or written means;

It means interfering with somebody who wants to walk into a clinic (**Mr Robertshaw:** No.) to do an abortion. That is what it is about. (**Mr Robertshaw:** No.) (**Mr Peake:** Yes.) (**Mr Robertshaw:** No.) That is exactly what it is about.

**Mr Robertshaw:** No, it's not.

605 **Mr Malarkey:** It is not about interfering with somebody who wants to walk into here, into this building, and talk to them about an abortion. When a woman wants to walk into a clinic she wants anonymity and this gives her anonymity, nothing more. It is not turning it into –

**Mr Robertshaw:** Yes, it does.

610 **Mr Malarkey:** It is not turning it into a police state.

**Mr Robertshaw:** It does – you're wrong!

615 **Mr Malarkey:** The Hon. Member was talking about graphic images. That is an issue for another time. I have already asked my Department, after the demonstrations, to revisit the law with regard to what a graphic image is, what powers we have at the moment, what a demonstration is. This is nothing to do with what this here today is. As far as I am concerned, my Department is already looking at that under my instructions because there were many people  
620 who said at the time, 'Should the Police have been prosecuting Abort67, or not?' We had no legislation. We have had to look at it and we have had to revisit it. Again, that is a different story. That was a demonstration outside here. We are talking about protecting the identity of somebody who wants to walk into a clinic and not be harassed or talked to or spoken to or tried to be persuaded in another way. That is what this is about, as far as I am reading it.

625 **Mr Robertshaw:** No, it is not.

**Mr Peake:** Yes, it is.

630 **Mr Malarkey:** Absolutely, all the way. And yes, we do have to have those because we do have to protect the doctors, the nurses and other people in case they get harassed as well,

635 which again is what this is doing. It is all about protection, this. It is not about turning it into a police state or going round stopping demonstrations, or banning all sorts of different things. It is quite simple. (**Mr Robertshaw:** It's not.) To me it is about keeping the privacy of the person who wants to walk into a clinic without being harassed or talked out of having an abortion by somebody else who has got a different opinion, as far as I am concerned, Mr Speaker.

**The Speaker:** Mr Robertshaw.

640 **Mr Robertshaw:** Thank you, Mr Speaker.

What is clear here is that we all agree there needs to be protection. (**Mr Malarkey:** Oh, good!) Sadly, everybody is interpreting a piece of legislation in the way that suits them. I mean, even down to the Hon. Member for Policy and Reform, Douglas Central, Mr Thomas, saying, 'Well, actually it does not matter what we say here, somebody will interpret in another way.'

645 Goodness me, is this the House of Keys? We are talking about legislation; we are talking about words; we are talking about what the words mean – and everybody interprets them in a different way. We get comments from my hon. friend, my colleague in Douglas East, Miss Bettison, and we get, 'Well, these zone things, we deal with them in other ways'. What did she say? Something about 'no-fly zones'?

650 I think if you are a pilot – and I am looking at the Hon. Member for Peel and Glenfaba, here, he knows where there are no-fly zones, and he is nodding. Do you honestly think that an individual, innocent citizen understands where the zones are here? And somebody else ... what was the other one? There was something to do with bail requirements. *Of course* somebody on bail knows specifically if there are restrictions where they can or cannot go – they are personally told! And the fact that my hon. colleague here can somehow conflate that with varying sizes of zones around different facilities around the Isle of Man frankly is laughable in law. And that is what we are dealing with here.

655 And then the Hon. Member for Douglas South, Mr Malarkey, he has told us what he thinks the law is. He is talking about protecting women going to clinics. We have a *hospital* here.

660 **Mr Malarkey:** A hospital, then, or a doctor's.

**Mr Robertshaw:** We have a hospital.

665 The Hon. Member for Middle was talking about clinics and referring to somebody else. We have a *hospital*. Surely the sensible thing to do is that if we all genuinely think – and I am sure we do – that it is incredibly important to protect people in those circumstances ... and I am party to that, absolutely. We should construct something which does it properly, not yank down stuff from elsewhere that is irrelevant and inappropriate in so many different circumstances.

670 We are talking about a Bill. We are talking about wording. The Hon. Member for – (**Mr Baker:** Ayre and Michael) Ayre and Michael, thank you – has been quite specific in his points, so I will not repeat those. But if we are all of a view here – and I think we are, that we want to protect people in an appropriate way – let's find a way of doing it better than this. I would be happy to pick it up personally and try and produce something which was sensible and appropriate for the Isle of Man, because this absolutely is not.

675 Please do not get emotion and feeling and passion mixed up with good legislation, because with the greatest of respect, Hon. Members, that is what we are tending to do here this morning.

680 **The Speaker:** The Hon. Member for Douglas East, Mr Robertshaw, talks about Members interpreting things their own way. I would remind you that we do have the legislative drafter in the Gallery and he is available to answer questions if anybody does have anything about what the law is and is not, and what it does and does not mean in the legal context.

Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

685 I would like to thank the Hon. Member, Mr Peake, for bringing this clause in. It says it in the  
title it is an 'access zone'. We voted unanimously during the Second Reading of this Bill to  
decriminalise abortion and made the explicit statement that abortion services are an intrinsic  
part of female healthcare. Evidence from other jurisdictions shows that legislation on its own is  
not enough and that prompt access – *access* – to a range of services including counselling is  
690 essential.

This Bill in effect is a paper document and a statement of intent. To actually ensure that it is  
effective, the Department of Health and Social Care has to have the resources and staff to  
provide accessible services; and as a society we need to remove the stigma that surrounds  
abortion. This stigma restricts access, leads to feelings of shame and can damage a woman's  
695 long-term mental health.

All patients ought to be able to access medical treatments without intimidation and their  
confidentiality protected. Without these guarantees healthcare delivery can be severely  
undermined. Now, unfortunately, I disagree with some other Members, this is not a discussion  
about freedom of speech; it is a discussion about harassment and intimidation of people seeking  
700 treatment and of healthcare staff going to work to provide services.

I do not like doing long quotations but Arianne Shahvisi, who is a lecturer in ethics at Brighton  
and Sussex Medical School, summed up the difference, I thought, quite well. She wrote that:

Protest action is necessarily defiant and disruptive; its objective is to be difficult to ignore. It is distinguished from  
harassment by its focus on influential individuals and institutions, whose power renders them reasonably  
invulnerable to intimidation, and makes them good strategic targets for demanding change. Alternatively,  
protests may have a more nebulous target: a march or a stall which is designed to raise awareness within a  
community, or generate press coverage, but which has no specific group in mind.

The staple tactics of anti-abortion activism fit neither of these models. Their target is specific: they seek  
interactions with individual pregnant patients or health professionals ...

Abortion stigma is still widespread in the UK. Combined with the inevitable distress of an unwanted pregnancy,  
this makes abortion patients vulnerable. Intimidating them and their caregivers is not protest, it's bullying.

If people want to demonstrate outside this Hon. House they have the right to do so.  
(**A Member:** Hear, hear.) If people have the right to demonstrate outside an institution, they  
705 have the right to do so; but they do not have the right to intimidate an individual who is seeking  
healthcare (**A Member:** Hear, hear.) and that is the big difference here about freedom of speech  
and human rights.

Abort67, which we have been commenting about, want to turn the clock back 50 years and  
apparently boast their motto is 'making abortion unthinkable'. I went to one of their  
710 presentations which was held in my Catholic Church in Ramsey and they hold the absolute belief  
in life beginning in conception, and a firm commitment that all abortion or emergency  
contraception is absolutely wrong in any circumstance. They are quite open in their belief that  
they think that shock tactics are necessary to change people's minds and actions, and have  
trained local people then to carry on that work. They are part of a wider network of well-  
715 founded and resourced organisations, and unfortunately I think we are seeing the effects of this  
on this Island. It is not from our doing but these ideas and these policies can be imported and  
can affect women's ability and right to access services.

So unlike the Hon. Mr Robertshaw, I have come round to the way of thinking that this has to  
be part of the Bill, because if we say we want access to healthcare services, as we have all  
720 agreed, I fear that these demonstrations can obstruct that and that is why I think it is important.  
I believe it is essential that healthcare workers can do their jobs without fear of harassment and  
abuse and I also think it is essential that patients who are attending sensitive healthcare  
appointments can do so without being harassed or filmed. This is why sadly I feel that the  
legislation before us today is essential to protect our future healthcare services. I think it gives  
725 the flexibility to the Isle of Man Constabulary to keep the peace – that is their job! It gives them  
the flexibility to do so.

730 We have been talking about nebulous ideas like no-fly zones. We are saying it is unacceptable, it is a criminal offence for you to go and protest in a certain way outside a certain number of institutions; and if you do so, the Police will come and tell you it is an offence, and if you persist in doing so there is a charge there, that they can remove you. We do not have to have a huge list for everyone to see of where those are; people on the Isle of Man know what is right and what is wrong.

735 I think what this clause does is state this quite clearly, and I think it is very important that we protect healthcare services while not denying the very important democratic rights that this House upholds, like freedom of speech. Again there is a separate argument about graphic images – the size, the shape, where they can be displayed – which is another discussion perhaps with other legislation. But this clause is to protect the Abortion Reform Bill that was voted in unanimously at Second Reading. It is to say we can provide the services and women can use them without feeling intimidated, without feeling threatened or harassed.

740 So thank you, Mr Speaker, but I certainly support this very important clause.

**The Speaker:** Mr Cregeen.

**Mr Cregeen:** Thank you, Mr Speaker.

745 As you said, it is very important that the legislative drafter is here, and one of my concerns ... and the Member for Douglas South was very passionate that this is all about protecting the (**Mr Malarkey:** Privacy.) woman's rights and everything without being harassed, and then went on to read from 'pavement interference':

advising or persuading a woman to refrain from availing herself of abortion services, or ... informing a person about issues related to abortion services

750 One of the last things in the previous Bill that we were lacking was counselling, and we have agreed this time that counselling is vitally important for any woman to go and get. My concern is, this looks like it is actually making it illegal to go and get counselling if it is in the premises, because that is what it says. (*Interjections and laughter*) So I would like to ask the drafter for his opinion, please, Mr Speaker.

755 **The Speaker:** Mr Connell.

**Mr Connell:** Mr Speaker, Mr Cregeen and I have been exchanging notes – (*Laughter and interjections*)

760 **Mr Ashford:** Obviously not enough!

765 **Mr Connell:** There is an interaction between the provisions and it would be sensible for the sake of clarity, if nothing else, to add that in to say that a person providing counselling in accordance with the relevant provisions of the Bill is not to be taken to be engaging in pavement interference. (**Mr Thomas:** Hear, hear.)

By definition, pavement interference actually happens on a pavement – (*Interjections and laughter*) that is what it is about. But for the avoidance of all doubt it might be sensible to put the provision in ...

770 **The Speaker:** Mr Cregeen.

**Mr Cregeen:** Thank you, Mr Speaker.

It is amazing, those who were laughing have suddenly found that, as the drafter has said, it is *not clear*, and this is one of the concerns. And it really concerns me that we are getting told,

775 'Right, we have got to get this through now because that is what we agreed in Second Reading, this is a draft'. The Bill as it is has changed already from what was agreed at Second Reading, so whatever is waved in front you, 'this was approved' – no, it was not. It has been amended since.

This is legislation that we have to ensure is correct. It is not Mr Malarkey's interpretation, it is not mine; it is what it actually says in the Bill and how it is going to be interpreted. We have to  
780 be very careful. It is all very well saying, 'Well, we will get it right later on'. It is our duty to get it right now. Saying that we will pass it off to the Legislative Council ... And ultimately if there is an issue, why doesn't the Department of Home Affairs come with an update to the Public Order Act which will cover all of this? Rather than putting it into a very emotive Bill, let the Police have it in a Public Order Bill, because I think it would probably sit better within that than what is an  
785 emotive Bill here now, that everybody agrees we need to modernise our laws – but let's put it in the right place.

We have seen many times, with Planning and everything else, we put little amendments to it that do not really work. I would say anything like this would be better off – and I think the feeling of the House is that need to bring something in, and surely putting it in a Police Public  
790 Order Act would be the place to put it. (*Interjection by Mr Malarkey*)

**The Speaker:** Mr Thomas.

**Mr Thomas:** Thank you very much, Mr Speaker.

795 I want to associate myself with the remarks of the Hon. Member for Middle and the Hon. Member for Ramsey when they talked about full respect for the right to make any point of view under Article 10 of the European Convention, or even just under a sense of decency. This is not what this is about. Nobody is detracting or taking away any rights for freedom of expression, this is about something else other than that.

800 I am brought to my feet principally because of some remarks from the Hon. Member for Ayre and Michael, in particular, in three areas. The first one is I want to clarify exactly what it was I said about international conventions and the separation of powers and construing the exact meaning of words. There was a time, three or four decades ago, when we had a piece of social  
805 legislation in the Isle of Man that was quite controversial in the Isle of Man – but it was also decided by the European Convention of Human Rights, by the European Court, to do with birching and that the Isle of Man was in breach of that convention at the time. There was a group of senior politicians in the Isle of Man who then said, 'They are wrong; and if they are not wrong the convention effectively does not apply in the Isle of Man', for about eight or nine  
810 years. I get the impression from my understanding of history that was roughly what the situation was.

My point is simply this: it is absolutely right that the House of Keys of our great parliament decides exactly what the policy intentions are. It is our duty to make sure that the legislation leaves the House of Keys as correctly as it can be. In that respect I want to remind people that at this stage we are just talking about the Long Title. We are talking about the amendment to the  
815 Long Title to allow us to consider further exactly what the clauses should be to bring into legal effect our policy intention, which is that as there is gesture politics going on in the Isle of Man, as there is the potential for this to carry on, and as there is the potential for this to carry for a long time – it seems to be localised to an extent – we need to deal with that in our legislation in the coming weeks, before this legislation leaves us to go to the Legislative Council.

820 My point about the legislative process is that whatever we think today and whatever we say today we still have time because we have a second Chamber – I resisted saying the 'luxury' of a second Chamber. But because we have a second Chamber to consider legislation further, we can actually take our time to get our Attorney General and the honourable and learned staff of the Attorney General to give us very specific advice about how to draft this.

825 Then we have the stage of the final Tynwald approval before we go off for Royal Assent – and even then it is not unknown for questions to be raised after it leaves Tynwald before it gets

Royal Assent. I am sure the UK would take its responsibility for our compliance with international conventions seriously at that point to give us advice about the legislation.

830 The last point I wanted to make was to rise to the challenge set to me by the Hon. Member for Ayre and Michael, about the difference and the merits of enabling legislation versus detailed legislation. And yes, in principle, enabling legislation is valuable; and what Hon. Members will remember is that when we published to ourselves and to the public the Data Protection Bill, we put alongside that 300 pages of orders and regulations, about the secondary regulations that we would make. That would have been an alternative in this situation and we could have had a  
835 clause to allow us to make orders and regulations. But I for one would have wanted to know what was going to be in those orders and regulations, and at the moment we have got what would have been in those orders and regulations in primary legislation.

840 But I come back to my basic point: at this stage in this debate we are talking about extending the Long Title to allow us to legislate for access zones. We can come to the detail of exactly how we do that later on. I am firmly of the view, and nothing here today has persuaded me otherwise, that we need this extension to the Long Title so we can get to drafting good legislation that, in this House, will allow us to bring into legislative force the policy intention we have in mind.

845 **The Speaker:** Mr Ashford.

**Mr Ashford:** Thank you, Mr Speaker.

850 First of all, I would like to just follow on from a comment that the Hon. Member for Ayre and Michael, Mr Baker, made in relation to the Hospital. Mr Baker, if I heard him correctly, said surely it is private land, so therefore there could be an intervention. I can assure this Hon. House, Mr Speaker, if it had been possible for there to be an intervention, then Abort67 would never have been protesting up there, because I would not have allowed permission for them to go onto site. The advice I received at the time is that it is not private land in that sense, that  
855 under common law it is classed as a public place and therefore public authorities have limited right to interfere in the exercising of the right to protest. Had the protesters attempted to enter any of the buildings up there, that is a very different matter; but in terms of the actual site and land it was very clear. So I want to make it absolutely clear that if we had had the ability to stop that from happening, most certainly it would not have happened – just to clarify that.

860 I wonder, Mr Speaker, if I could ask the drafter, Mr Connell, something just in relation to the backwards and forwards that has come from himself and the Member for Arbory, Castletown and Malew, Mr Cregeen. Obviously in relation to all the access zones everything refers to ‘abortion services’ and just in the context of the issue we have been discussing about the counselling, section 3 the Interpretation of the Act states that:

‘abortion services’ means services (whether surgical or otherwise) whose purpose is to procure the miscarriage of a pregnant woman;

865 Now, the counselling is not procuring the miscarriage of a pregnant woman; in fact section 13 of the Bill makes clear it is post-termination counselling. I think Mr Connell knows where my question is going, so surely it is not affected by the access zones anyway because the access zones make clear throughout that it is referring to ‘abortion services’. The only reference where counselling comes in under abortion services is under section 6 where it is covered by 6(11), on the guidelines. But surely the interpretation of abortion services covers that anyway and should  
870 allay Mr Cregeen’s concerns.

**The Speaker:** Mr Connell.

875 **Mr Connell:** I am grateful to the Minister for pointing out this issue. The access zones do not specifically cover places where counselling is provided.

I had assumed, perhaps erroneously, that counselling would either take place at the Hospital or at a surgery – but I could be wrong. It may be that there will be specific facilities available; and in the event that *that* is the case, if there are specific facilities which are separate from surgeries or the Hospital, then there is a potential lacuna in the sense that the provisions about access zones would not apply in relation to that class of premises.

880 This a matter which the House may wish to consider and I would be perfectly happy to draft amendments to include a provision dealing with premises from which counselling is provided, if that is the House's pleasure.

885 Does that answer your question, sir?

**Mr Ashford:** It does.

**The Speaker:** Anything further, Mr Ashford?

890 **Mr Ashford:** No, Mr Speaker.

**The Speaker:** Just picking up questions to the drafter on this subject, Mr Cannan and then Mr Baker.

895 **Mr Cannan:** Thank you, Mr Speaker.

I just want to get a bit more clarification on this, I think, slightly different side to where the Minister, the previous speaker, was just coming from. I want to be clear with the drafter, under NC7 of these amendments:

While in an access zone a person must not ... place himself or herself close to, and importune, a person providing abortion services or a patient for the purpose of dissuading the person from providing, or the patient from using, abortion services;

900 I just want to be clear with Mr Connell that if a patient later claims they were dissuaded from having an abortion by a medical professional, that clause 10 of the Abortion Reform Bill which states:

For clarity, a registered medical practitioner, nurse, midwife or pharmacist or other healthcare professional does not commit an offence ... by providing a pregnant woman with advice or information about the possibility of abortion ...

905 – whether that actually protects and clarifies the situation in terms of the role of the healthcare professional in these access zones, and also really answers the queries and questions that Mr Cregeen was raising?

**Mr Connell:** Sir, the answer to that is even simpler. If you go on into New Clause 7, subsection (6):

In a prosecution under subsection (1)(a) it is a defence for the accused to show that he or she was—  
(a) a person providing abortion services;

910 So, a person providing abortion services in an access zone can never commit the offence, so you do not need to go to clause 10. Counselling on the other hand is a separate issue as I have mentioned.

**Mr Cannan:** Okay, thank you.

**The Speaker:** Mr Baker.

915

**Mr Baker:** Thank you.

So, Mr Connell, just to be really clear, as drafted at the moment, an access zone would sit around the Hospital and every GP surgery on the Island, and therefore, as drafted, the counselling services could not take place in any of those places.

920

**Mr Connell:** No, what we have got is the counselling ... As currently drafted, the position needs to be clarified. The intention was that the counselling services provided under the Act would not be caught, but as I say, that is a point we will need to revisit.

925

**Mr Baker:** So, to be clear, as drafted, those counselling services would be caught.

**Mr Connell:** Potentially.

**The Speaker:** Mr Robertshaw.

930

**Mr Robertshaw:** Did you say me, Mr Speaker?

**The Speaker:** If it is not on the specific –

935

**Mr Robertshaw:** Not specifically this, but it is –

**The Speaker:** In which case, we will move on. I have you on my list as we continue. Mr Hooper is next.

940

**Mr Hooper:** Before we move on slightly from this, just one clarification from Mr Connell. Earlier you said pavement interference by its very nature takes place on the pavement, so would it not be the case then that the counselling services, as long as they were not being provided on the pavement outside the Hospital or outside the doctor's home within an access zone, you are probably okay?

945

**Mr Connell:** You probably do get that, but it might be better to make the point explicit.

**The Speaker:** Keep off the grass! *(Laughter)*

Mr Hooper, continue.

950

**Mr Hooper:** That's his next Bill! *(Laughter)*

I really just wanted to go on from some of the comments that had been made earlier. Whilst I do agree with the Hon. Member for Ayre and Michael in some respects that the Minister for Policy and Reform is developing a Ministry for Truth, I do not think that we are moving towards a 1984 style system with this Bill. Some of the comments that were made are actually very relevant, I think, saying some of the services that we access are integrated into our lives – pharmacies and surgeries and the like – and so it seems to me that the main area of concern that is coming across from several Hon. Members is that actually there is a bit of uncertainty surrounding what can and cannot be done in certain places and that people may be inadvertently criminalising themselves by performing certain acts.

960

So I thought I would just revisit some of the specifics in the Bill that actually are going to be prohibited conduct: observing continuously or repeatedly, any premises in or from which abortion services are provided for the purpose of dissuading anyone from providing, or a patient from using; harass or intimidate a person providing or a patient using or seeking to use for the purpose of dissuading that person; photographing, filming, videotaping, sketching or in any

965

other way graphically recording a person providing; you must not repeatedly approach, accompany or follow another person providing or seeking to advise; you must not engage in threatening conduct directed at another person. These are all clauses I think we can all generally agree are not the issue. I cannot imagine for a moment that either of the Hon. Members who are speaking to this are trying to say that these activities should be allowed anywhere. I get the feeling these are all pretty clear cut.

So really the issue that we have surrounds pavement interference. That is what this boils down to, the wording in that section about pavement interference specifically relating to 'informing a person about issues related to abortion services', which I suspect is designed to address leafleting, or 'advising or persuading a woman to refrain from availing herself ...' That is the clause really that is at issue, so if we were able to tighten up that clause to more tightly define what 'pavement interference' actually was, I am getting the feeling that might actually address a number of the concerns that have been raised here, because what you are essentially saying is all the harassment and intimidation is fine, we have no concerns about that, that can stay in the amendment; it is this small section about pavement interference that seems to be the nub of the concerns and the fact that it is broadly worded and perhaps it needs to be a bit more tightly defined.

So perhaps if we can get that clarified and if that is something that will be okay, does that address a number of the concerns that are being raised here? If we can get some clarity on that possibly from Hon. Members, that would be helpful to the mover, I would imagine, to know that if that is the area of concern, that is the area that needs a bit more work, actually we can agree the rest of the amendment makes a lot of sense and just focus on the bits that actually are contentious.

990 **The Speaker:** Mrs Corlett.

**Mrs Corlett:** Thank you, Mr Speaker.

I would just like to ask Mr Connell to clarify something for me, if he could. My question is: can you legally enforce access zones without specifically informing the public exactly where they are? I am thinking of homes of practitioners. If somebody does not actually know that is an access zone, can it be legally enforced?

1000 **Mr Connell:** It would be very bad law if a person could not ascertain where access zones were, which is precisely why there is a requirement in new clause 10 that the Department must make known the extent of and location of access zones, and it would be incompatible if it did not have that provision in it.

**The Speaker:** Mrs Corlett, does that answer your question?

1005 **Mrs Corlett:** That is fine, thank you.

**The Speaker:** Mr Robertshaw.

1010 **Mr Robertshaw:** It is just to follow up on Mrs Corlett's point here, and this is addressed to the drafter, Mr Speaker. Clause 10 says:

The Department must, by means of notices and such other methods of communication ... *as* it considers necessary, draw the attention of the public of the existence and extent of access zones created by this Part.

Coming back to the Hon. Member for Douglas Central Mrs Corlett's point, that means then, doesn't it, that, referring to new clause 5, 'An access zone is established around the home of every registered medical practitioner, midwife, nurse or pharmacist providing abortion

1015 services' – is not activated until that notice takes place; and if so, how is it imagined that that notice will come into effect to ensure that that zone exists? I am a bit confused about that.

Thank you.

1020 **Mr Connell:** Mr Speaker, the answer is that commencement will be in the hands of the Department of Health and Social Care. It will have to work out how it proposes to announce the arrival of access zones around premises and it can do that by such means as it deems fit, including putting it on a website, because that is what the provision in the new clause 10 says, and until it does it really should not be brought into operation.

1025 **The Speaker:** Continue, Mr Robertshaw.

**Mr Robertshaw:** If I may, a follow-up question. That means that the website must specify somebody's home, then, effectively, specifically; otherwise it cannot be a zone?

1030 **Mr Connell:** It will not be an access zone unless it is so –

**Mr Robertshaw:** Named as such. So that means putting medical practitioners in a position where they are exposed to those who might wish to be aggressive towards them.

1035 **Mr Connell:** Well, that is –

**Mr Robertshaw:** Isn't that a contradiction? It is, isn't it? (**Mr Connell:** Well –) What you are saying is –

1040 **Mr Connell:** Perhaps it is, sir –

**Mr Robertshaw:** It is, yes.

1045 **Mr Connell:** – but one has to strike the balance between making access zones known and protecting people by reason of identifying them against the risk of interference. That is the balance you have to strike.

**Mr Robertshaw:** I think I have made the point, Mr Speaker.

1050 **The Speaker:** Mrs Caine.

**Mrs Caine:** Thank you, Mr Speaker.

Once again I feel really privileged to be part of the debate here today and to be ensuring that this legislation, and good legislation, is brought in to protect women who are in the position of seeking abortions.

1055 I feel, talking to the amendment that has got high-level changing of the Long Title of the Bill, we have agreed, all of us, that the provision of healthcare for women requiring a termination of pregnancy should be decriminalised and we have ensured under the provisions of Dr Allinson's Bill that they will have access to counselling.

1060 I go back to the point that the Hon. Member, Mr Robertshaw raised initially – is this necessary, are access zones necessary, and I think unfortunately they are. We are saying this is not very Isle of Man, but the Isle of Man is evolving. This is a modernising Bill. The Isle of Man is changing, the way of protesting is changing, there are many different channels now that people use and I do feel that healthcare professionals, as much as the women seeking the services, should be protected, and there may be a case, actually, when the Health Minister comes ... If this  
1065 legislation goes through, when they come to addressing what access zones are put into place,

many healthcare professionals may prefer to remain anonymous and not specified under access zones, but the provision would be there, as I see it, through this legislation, through this amendment, to say if somebody is being harassed, if somebody is being intimidated or there is an intrusion into somebody's private life who is simply working in healthcare, that area can be made an access zone, a buffer zone and a no-go zone for protesters, to ensure the privacy of that individual.

1070 The same is true, I feel, for the women accessing the healthcare. Women must have access to safe healthcare. We have agreed the principle that the Isle of Man needs to offer the services on the Island for the women who, after counselling and consideration, determine that that is the course of action they wish to take. My worry is that without these access zones women would be deterred from seeking safe healthcare on the Island and actually you could see a return to women going across the water to other clinics to preserve anonymity and to remove themselves from being filmed by protesters or in fact from having any hassle on the way to access the safe healthcare.

1080 In terms of pharmacies requiring access zones as well, I think that is a very important provision that the Health Department would need to look at, because if certain areas are restricted from protesters then they will seek other areas, and while I agree that it is fair game that the parliament and Members changing the law on such important matters do see the freedom of speech and the freedom of expression to say 'This is my point of view', and yes, we acknowledge that and we respect that but it should not be enforced on women who are seeking health services, healthcare at a very vulnerable time of their life.

1085 So, Mr Speaker, I would just like to say I take comfort ... I agree that there are some levels of detail in the access zone, in the new clauses that are brought here, that will need carefully looking at line by line, but I think the principle of it, the change of the name and the fact of including this legislation in this Bill, is for a specific purpose and it is for the specific purpose of the very emotive subject that we have witnessed has been and will be subject to protest in the future, and this is just furthering the protection for women so that they do have access to healthcare for abortions on the Island.

1090 I take comfort from both the Hon. Health Minister's comments and the Hon. Member for Home Affairs, that say the Health Department wants to see this provision included in this specific Bill and the Police would like the specific powers to deal with intimidation and protest for this specific purpose, and if that is to prevent pavement harassment of women seeking healthcare then I think that would be a very important addition to this very important legislation.

1100 Thank you, Mr Speaker.

**The Speaker:** Miss Bettison.

**Miss Bettison:** Thank you, Mr Speaker.

1105 I just wanted to pick up on the comment that my hon. colleague made again, when he said that the examples I gave were laughable. I think Minister Boot rightly identified he knows the no-fly areas by virtue of him flying a plane regularly. Mr Robertshaw rightly recognised that those on bail know their conditions. I absolutely agree, so why shouldn't those who wish to protest – which is a relatively small number, I am delighted to say – be expected to familiarise themselves with the locations where this is prohibited? I do not think that is unreasonable and I do not think it is laughable.

Thank you.

**Several Members:** Hear, hear.

1115 **The Speaker:** Mr Baker.

**Mr Baker:** Thank you, Mr Speaker.

1120 Just coming back to Mr Hooper, in terms of clarification I think you are right, the pavement  
interference clause is a significant weakness. Let's be clear: pavement interference says nothing  
about pavements, so those statements that were made about it having to take place on the  
pavement – it does not. It is about 'advising or persuading a woman to refrain from availing  
herself of abortion services, or informing a person about issues related to abortion services, by  
any means including, in particular, graphic, verbal or written means'. Nothing to do with  
1125 pavements, okay? So that clause is a fundamental problem.

The clause below, the definition of 'protest', is a fundamental problem:

'protest' includes carrying out any act of disapproval with respect to issues related to abortion services, by any means including, in particular, graphic, verbal or written means;

1130 That is basically anybody who says, writes or shows any images in any form in any way, which  
is disapproving of abortion. So that could be somebody making some negative comments in the  
pharmacy in Shoprite in Ramsey about abortion, because that is an act of disapproval and there  
will automatically be an access zone around the pharmacy within the Shoprite store in Ramsey  
because that is a premises in which abortion services are provided under the definition in the  
law. Whether it is what we intend it to be or not does not matter. That is what the legislation  
says and that is what this Hon. House has to approve, legislation as it is written, not as in  
Mr Hooper's interpretation or my interpretation or Minister Boot's interpretation.

1135 The other point – and we are losing track of this: access zones under NC5(1) – I am repeating  
myself:

An access zone is established around the home of every registered medical practitioner

Not may be or could be or will be: *is*. It exists.

**Mr Robertshaw:** They need to sort it out.

1140

**Mr Baker:** That is automatic. How on earth anybody is going to know where every registered  
medical practitioner, midwife, nurse or pharmacist on the Island lives and be able to measure  
the distance around that is an access zone, I have frankly no idea. But apparently the Minister  
for Health is going to sort it all out. (*Laughter*) I have got to say when Mr Ashford was appointed  
1145 Minister for Health I think there were a number of other people in this House who breathed a  
huge sigh of relief and wished him all the best. Your job has just got an awful lot harder,  
Minister, because you are going to have to implement this.

1150 I am not being critical of the Department of Health and Social Care, but what we heard in the  
debate about the future and the review is that the Department has got lots and lots of strategies  
and it has not been very good at implementing them, so how on earth you are going to  
implement this one, which is a strategy to have an access zone around everywhere that has  
anything to do with abortion, is just making your job even harder. And it is not about just doing  
it, it is about keeping it current *all the time*. And if anybody breaches it not only do they get a  
slap on the wrist, they could spend 12 months in custody.

1155 Dr Allinson talked about if you continue to do it you could get dealt with by the Police. It does  
not say that. The Police do not come along to a murderer and say, 'If you do another murder  
we'll try you and convict you, if you are guilty, and put you in prison'; they say, if you have done  
a murder, 'We're going to try you and convict you and put you in prison if you are guilty.' So it is  
not about continuing to do it; it is doing it once – you could inadvertently do it.

1160 I have got to say this is so broad, it is ... It comes back to my point from before:  
proportionality and enforceability. With that, I rest my case.

**The Speaker:** It is going to make life interesting if a registered medical practitioner lives within 50 m of the Legislative Buildings as well, isn't it?

1165

**A Member:** It is, isn't it?

**The Speaker:** Mr Boot.

1170

**Mr Cregeen:** Or his place of work.

**Mr Boot:** Thank you, Mr Speaker.

1175

Well, I have been listening with interest and I compliment Mr Robertshaw on identifying a number of issues, but it has moved on. We seem to be exposing the weaknesses in this all-embracing piece of regulation.

1180

I am always surprised that libertarians are very willing to restrict people's rights, and this in essence is restricting a lot of people's rights, and it works both ways. Not only does it stop people protesting or intercepting people in the access zones, but it also makes people who are practitioners in this abortion service very visible. It will have contrary consequences, in my opinion. Everyone who is involved in this will be listed somewhere on a public database that will be available through Freedom of Information or other forms, and that is a lot of people.

1185

When we talk about exclusion zones in other spheres, around airports or no-fly zones, we do not identify or put access zones around all the members of staff who are involved in enforcing those exclusion zones. This is a bit of the legislation that moves further than anything I have ever seen before. It is going to include maybe hundreds of people, and that has very profound consequences for me.

1190

Freedom of speech and expression is quite important. Whilst I – like all of us here, I am sure – want to protect women's rights when it comes to being able to access abortion services, the reality is that there are people that hold opposing views, and if they want to express those views, as the Hon. Member, Mr Baker tells us ... How do you interpret a graphic image? I got that same postcard as well, with a picture of a foetus at around 12 weeks. I remember seeing those pictures when I was at school and college. They are not necessarily graphic; they are just trying to illustrate a point of view, which is a fair way of proceeding in a society where we have freedom of speech.

1195

On top of that we seem to be concentrating very much on a very single issue. The reality is that in modern society, with social media, the internet and even the old-fashioned post, things can be done from outside of these access zones very readily, so why are we just concentrating on this one area? It seems to me that the Public Order Act and various other Acts can be used to address issues where there is aggressive behaviour happening without imposing access zones.

1200

I was also quite unimpressed by my hon. friend, Mr Thomas's comments, and in fact I listened to him with some incredibility – (**A Member:** Incredulity.) incredulity, sorry. (*Laughter*) It seems that he feels that we are able to pass unenforceable or defective legislation here and hope that LegCo or the Government or even the UK will pick this legislation up at a later date! This is not what this House is about!

1205

**Mr Robertshaw:** For goodness' sake!

1210

**Mr Boot:** We should be getting it right here and now, and this legislation is a step too far – or what we are looking at in terms of personal curtailment of freedom. And also, working from the other direction, all the people involved in the service will be identifiable on a public register and I think that is the wrong way to go.

Thank you.

**The Speaker:** Mr Harmer.

1215 **Mr Harmer:** Thank you, Mr Speaker.

Some questions for the drafter, in terms that I want to just draw down into this access zone around medical practitioners, pharmacists, and really just to check does that mean literally anybody who has ever been involved in that?

1220 My question then to the mover would be is a simple change, rather than saying an access zone 'is' established, is it better to say 'may be' established? That is my first question, but I have got a couple more as well.

**Mr Connell:** To deal with the first question, no, it is a person who *is* providing, not a person who has provided.

1225

**Mr Harmer:** And that includes anybody: counsellors, pharmacists, everybody?

**Mr Connell:** No, it does not, at the moment, include counsellors because counselling is not an abortion service. Counselling is a precursor to abortion services. I deliberately did not include counselling premises for the reasons I have already given.

1230

**Mr Harmer:** And would it be more straightforward to have it changed so it says 'may be' established rather than 'is'; and would the mover look at doing something like that?

1235 **Mr Connell:** That is a matter for the mover. He and I need to have a useful discussion afterwards.

**Mr Harmer:** Okay, thank you.

1240 My second question is on NC6, it is around surgeries. I want to just double check, are we talking about every single pharmacy as well, where it is dispensed; are we talking about that?

**Mr Connell:** We would be talking about pharmacies from which the services were provided.

1245 **Mr Robertshaw:** That is dispensing.

**Mr Connell:** Which includes dispensing, so, yes. Assuming ... I mean, there may be pharmacies on the Island whose proprietors would say, 'Actually we do not want to sell the pills so we are not going to be involved in providing services', but the current phrasing, in principle, yes, it does mean every pharmacy.

1250

**Mr Harmer:** Thank you. If you just bear with me, that is where I am slightly more uncomfortable now. Because if you said a surgery, that is one thing, a pharmacy – there are two in Michael Street in Peel, and there are pharmacies everywhere and we are talking about all houses.

1255 It comes to my next question, if somebody says, for example, you are asking them how they are and they say well actually this is what is happening to me and then that person says – forgive me if it sounds daft – 'Well, I do not agree with you, why are you doing that?' or says 'Please stop it', for whatever reason. Does that then make them potentially criminal, commit a criminal offence – could it potentially, or is that a grey area?

1260

**Mr Connell:** The short answer is it could theoretically cause them to commit a criminal offence but – which is an important thing to remember – not everything which is a criminal offence is prosecuted and it would be well short of any threshold for prosecution.

1265 This is aimed specifically at the sort of things that we have seen on the Island; it is not aimed at somebody making a casual comment, 'I wouldn't do that if I were you, dear'. It is in a slightly different context.

1270 **Mr Harmer:** Finally, to finish, I just want to get the passage of grace because I am, like everybody else, appalled at some of the presentations that have happened, but what I want to do is tease out the fact in the Hospital – where I presume some of the abortion services will be provided – it is quite possible on an Island such as ours, that two people might talk, might whatever, and it is knowing where the granularity is between ... We do not want to suddenly make criminals out of people, or could potentially, later down the road, become criminals that we never intended to do, and I want to just tease that out for my comfort.

1275 I am thinking of the example, if you were in the Hospital, and somebody was just ... maybe they went a bit too far and rather than just a casual conversation ... Where is the line, I suppose I am trying to understand?

1280 **Mr Connell:** They have to be seeking positively to dissuade somebody of availing themselves of the services, so it is a little bit more than a casual comment. But that is the test: dissuading somebody. You have actually got to intend to stop them. It is not really an expression of an opinion, sir.

1285 **The Speaker:** I have six on my list and I am grateful to the mover of this particular motion of the amendment's Long Title, who has agreed that should that motion be agreed in principle today, he agreed that he would hold off pursuing the clauses to allow amendments to that to come forward. For which, as I say, I am grateful, which may assist –

1290 **Mr Robertshaw:** Mr Speaker, could we have some indication of the timescale that the mover has in mind here, in order for us to prepare possible clauses?

**The Speaker:** The next sitting of the Keys is two weeks from today, which would mean that the next opportunity would be to have amendments required by Monday at five o'clock.

1295 **Mr Robertshaw:** Would he consider an extra week because this is a very broad submission here today and it needs a lot of in-depth thought to try to correlate what the House appears to want with what is written here?

1300 **The Speaker:** I am in the hands of the mover of that motion as far as that is concerned. I do not expect Mr Peake to be put on the spot right this second, so I might allow him to come in further down the line and respond to that when he responds to the debate on the amendment to the Long Title.

Next on my list I have Mr Hooper.

1305 **Mr Hooper:** Thank you, Mr Speaker.

I just want to clarify something with Mr Connell, if I can. You mentioned that whilst new clauses 5 and 6 provide that an access zone is established, you commented that until such time as it is publicised those clauses should not come into operation. So I take that to mean that if those clauses were to be brought in to operation the access zones would immediately be established, whether or not the Department has publicised the extent of the zones. As soon as those clauses are enacted and brought into operation they would immediately become active, is that correct?

1315 **Mr Connell:** The reality, sir, is that strenuous advice would be given, shall I put it like that, that they should not go into operation until such time as arrangements for the publication of the access zones had occurred.

**Mr Hooper:** The reason I ask the question is primarily around the homes and the privacy, because NC10 specifies that they should publish these notices as they consider necessary. So it

1320 may be determined that the Department of Health feels that it is not necessary to publish a list of all the homes and access zones.

And before you comment on that I will expand the reasons why: the list of prohibited conduct is quite specific, you are not allowed to threaten people and you are not allowed to harass people. If we put the pavement interference to one side because we have already identified that as a potential issue, the rest of the provisions, the prohibited conducts, are what I think most people would consider to be unacceptable behaviour – harassment, intimidation and threatening behaviour. So, to my mind, if someone has gone and they have sought out ... You know that it is illegal, you know the law says it is illegal to do this outside a doctor's home: if you sought out a doctor's home when you are doing this, I cannot for a moment believe it would be a defence to say, 'I did not realise I was standing in an access zone, whoops!' That behaviour is unacceptable to my mind, whether you are in an access zone or not. If you are threatening and harassing someone, it should not matter whether you are outside a doctor's house or not.

1330 So the publication of those particular access zones almost seems irrelevant in a lot of ways. Unless you actively sought out a practitioner's home to conduct this behaviour, it is very unlikely you are going to be there. 'I just happened to be outside his house protesting, a pure coincidence' – realistically that will not happen.

I accept that it is theoretically possible that I could be harassing and threatening and intimidating somebody seeking to use abortion services and I could happen to be doing that right outside a doctor's house. I could be, but my argument would be if I am harassing and threatening and intimidating somebody I should not be doing that anyway, and that should be an illegal act, irrespective of where I am standing. And so I can envisage a situation where the Department feels that it maybe is not necessary to publish a complete list of all those access zones around practitioners' homes.

1340 Take the issue with regard to things like protests and pavement interference: that argument resonates quite a lot with me because those definitions are quite broad and I *can* envisage a situation where someone is having a conversation, expressing an opinion or trying to dissuade someone, and I think that definitely needs tightening up. But when it comes to some of the more serious actions, I cannot see that as being really necessary. So I think what I am trying to get at here is for the issues around pavement interference and protesting, if those definitions were tightened up, I think the argument for then publishing that complete list of access zones is weakened somewhat, specifically surrounding the homes of practitioners. When it comes to surgeries and the Hospital I think, obviously that goes without saying.

1350 I would also just like to just touch on the 'is' versus 'may' provisions as well. My understanding of the reason for saying these terms are established automatically as part of the Bill is basically because of the number and complexity and the amount of work that will be involved in the Department constantly keeping these up to date and bringing an order to Tynwald every time you need to establish an access zone around someone's house. In the opinion of the drafter was it done for practicality rather than anything else; is that the reason for having 'is' rather than 'may' establish or 'must' establish?

1360 **Mr Connell:** The short answer, Mr Speaker, is no, it was not done for practicality. It is what is in the British Columbia provision.

That said, the establishment is to be publicised by notice, rather than by an order to be laid before Tynwald, precisely because that would take longer and, by definition, people move house and you want the list to stay up to date.

1365 It is clear we are going to have to have further consideration in relation to these provisions because I am getting the sense of the House that the idea is fine, but it needs refinement.

**Mr Robertshaw:** Exactly.

1370 **Mr Boot and Mr Cregeen:** Hear, hear.

**Mr Connell:** I have been asked, sir – if I might answer a question that I have been asked in correspondence, as it were – how long will it take to produce amendments? The answer is it is difficult to tell but probably we could achieve what is required this week.

1375 **Mr Robertshaw:** Probably.

**The Speaker:** Okay, we turn to Mr Robertshaw.

**Mr Robertshaw:** Thank you, Mr Speaker.

1380 As is clear, there is lively and energetic debate that goes on within Douglas East and I am sure that Hon. Members will be delighted to hear that. But I must return to fly zones and bail etc. I am sorry, but my hon. friend, Miss Bettison, suggested that of course we can tell whoever it is who seems to be out of order that they should not do it, but may I draw her attention to the wording in the Bill before us, which quite specifically says – I will skip the first bit, this is about  
1385 the Department's requirement to act in terms of notification – it says:

...as it considers necessary, draw the attention of the public of the existence and extent of access zones create by this Part.

It does not authorise an individual to be approached; it requires for it to become enacted for the public notice to have been exhibited. So I think my hon. friend will concur with me on that one, there is need for further revision in that area.

I just wanted to turn to another area which has not actually been examined by this Hon. House today thus far, and perhaps we should do that, Mr Speaker. New clause 8(9), this is about  
1390 communication in a non-personal way:

A person must not repeatedly communicate by letter, telephone, facsimile or electronic means with another person without their consent for the purpose of dissuading a provider of abortion services from providing abortion services.

Addressed to Mr Connell, is it possible for somebody to inadvertently slip into a position of acting against the law? Is it necessary for the person who does not want to receive these to advise them that consent is not given, could the hon. drafter answer that one?  
1395

**Mr Connell:** With respect, I would have thought that engaging in this sort of conduct you would know whether your recipient consented or not. I do not think there is a likely proposition that somebody would not know.

1400 **Mr Robertshaw:** Only likely, sir. (*Interjection by Mr Malarkey*) I mean we are talking about criminal law here. (**Mr Connell:** Yes.) So I think we have to be fairly specific.

**Mr Connell:** But a person would have to know ... [*Inaudible*]

1405 **The Speaker:** Mr Callister.

**Mr Callister:** Thank you, Mr Speaker.

Before I came into the House this morning I was quite confident to support the access zones, but the more and more I have listened to the debate this morning over the last couple of hours, I have got more concerned.  
1410

I was wondering if I could ask the legal drafter – he has just sent me a message which I am very grateful for, saying that we will not need a register, but the Department of Health and Social Care will need to publish the access zones, which my hon. colleague from Ramsey, Mr Hooper, has already outlined, so I will keep my comments rather brief – could he possibly

1415 just give us further details with regard to what information will be published? Will it include street names? Will it include house numbers? Will it include personal data? Are there any issues surrounding data protection issues when we start to publish this data? Because I do have some serious concerns and at this present moment in time, I am not sure that these new clauses are actually fit for purpose.

1420

**Mr Connell:** The answer is that as it would be a statutory obligation on the Department to publish the scope of the matter, the data protection provision would yield to those specific provisions.

1425 That said, there is clearly an issue about how you publish it and it has got to be published in sufficient detail to enable a person to know where the zones are.

1430 **Mr Callister:** Can I just continue to ask a question, because realistically if I am providing that service how does this work in the UK or other jurisdictions? Is this data published? Because if I was in that position and I was providing this service then, realistically my feeling is that I would probably step back from actually doing that service if I know that my personal data is being published somewhere for all to see. Can you just compare it to how the Isle of Man compares to the UK or other jurisdictions?

1435 **Mr Connell:** Since the only other jurisdiction that I know has this provision is British Columbia, I am afraid I cannot give you the answer because I do not know how they do it.

**Mr Callister:** Can you just clarify then, in the UK they do not publish it because of safety reasons for the individual person carrying out the service?

1440 **Mr Robertshaw:** They do not have this ...

**Mr Connell:** There are no corresponding provisions in the UK.

1445 **Mr Callister:** So they do not have to publish that data?

**Mr Robertshaw:** No because they have got no *vires*. The law is not there.

**Mr Callister:** Okay, thank you.

1450 **The Speaker:** Mr Baker.

**Mr Baker:** Thank you, Mr Speaker.

I agree with my hon. friend from Onchan, Mr Callister, that the more we look at this the worse it gets.

1455 If I can just add, I think the only way the Department is going to be able to publish this is through some form of geographical mapping of the Island, because what it says in NC5(2):

An access zone established under subsection (1) includes the land on which the home is situate and an area that extends out 160 m from the boundaries of the land on which the home is situate.

I have done some very crude maths, trying to remember back to my O-level maths trying to calculate the area of a circle: 160 m radius from a point, I think, gives us in excess of  $\frac{3}{4}$  km<sup>2</sup> around every home.

1460 We then add to that the hospitals and other premises; there are 100 m either side of those, so that is going to be roughly  $\frac{1}{3}$  km<sup>2</sup> at least –

**Mr Robertshaw:** We will take your word for it.

1465 **Mr Baker:** – around every pharmacy on the Island.

That is quite a big piece of real estate when you add it all together. You also combine that with what might be in that area and – I accept Mr Hooper is not the mover of this Bill – the definition of ‘protest’ and ‘pavement interference’ – I think you could be criminalising places of worship here.

1470 If a church is within that exclusion zone and they are expressing any act of disapproval with respect to issues relating to abortion services by any means, including in particular, graphic, verbal or written means, that is protest, that is a breach of this and, as the legislation says, whether it is what it intends or not, it does not matter, it is what it says: up to 12 months’ custody and a level 5 fine.

1475 This is just not fit for purpose.

**Mr Robertshaw:** It is well-intentioned, but not fit for purpose.

1480 **Mr Baker:** Miss Bettison has indicated and I would be happy to give leave to her to speak, but she is indicating that is not true, but actually that is what it says. It says the exclusion zones, the access zones, extending those dimensions, and that is what protest is defined as. So I do not know if it is not true. I am happy to be corrected, but I do not know why it is not true.

**The Speaker:** Mr Connell, would you care to clarify that?

1485

**Mr Connell:** I have looked very carefully at the wording. Bear with me.

This is within an answer, so an access zone does not include private property other than the type properly occupied by the provider of the service. I do not think that the protest provision actually would be brought because the access zones exclude certain private property and churches are private property for these purposes.

1490

**The Speaker:** Have you completed your answer, Mr Connell?

**Mr Connell:** I am just looking through. Mr Baker wants me to clarify exactly –

1495

**The Speaker:** Mr Baker has the floor and can ask questions. I just wanted to make sure you had finished that answer.

**Mr Baker:** Thank you.

1500

So that is if the organisation owns the building; what about if they are occupying public premises, such as schools or Commissioners’ halls, for instance, where a lot of these organisations actually meet; that is not private property, because the Minister for Health talked about how the Hospital is not private property.

1505

**Mr Connell:** Yes, I had not thought about itinerant churches, I confess.

**Mr Baker:** You say itinerant; it is not that they move around, it is that they just do not own the premises.

1510

**Mr Connell:** I am sorry. That was not meant to be flippant. I was thinking about churches which do meet in halls or schools or that sort of body.

Yes, there is clearly some sort of issue there.

**Mr Baker:** Thank you.

1515 **The Speaker:** Mr Robertshaw, do you want to come in on that particular point?

**Mr Robertshaw:** Yes, it follows up the exchange that has just taken place, and that is that it might very well be the case that this has not caused a problem in British Columbia because it is a vast estate and people probably live miles and miles from each other.

1520 We are trying to relate a piece of legislation which relates to a huge geographical area to a very constrained Island with everything cheek by jowl, which reinforces the point that Mr Baker has made and highlights concerns which the drafter has.

**The Speaker:** That was a statement rather than a question.

1525 Are there any particular questions to follow up on this particular point, otherwise I will add people to my list?

Mr Ashford, first.

1530 **Mr Ashford:** Thank you, Mr Speaker. I will break the habit of a lifetime and try and be helpful! *(Laughter)*

**The Speaker:** Be careful what you wish for!

1535 **Mr Ashford:** Maybe it would help the drafter, if he would be able to give me the views in relation to new clause 5(3)(b) and new clause 6(3)(c), which refer to the property outside of the land where it states that it does not just cover private property but it also has the phrase, 'exclusive right to use or occupy'. So would that not include those that are, for instance, renting a building or an organisation as well?

1540 **Mr Connell:** Where a person is renting a building, if they are actually engaged with a tenancy, that is an exclusive right to occupy. It is not like the right of ownership, but it is an exclusive right to occupy, and that was intended to exclude those pieces of land which are occupied by people who are *not* the providers of the services. So there is an area which is quite difficult to define, where people other than the provider of the services have rights and they will not form part of  
1545 the land which is subject of an access zone.

But as we have discussed, some of these pieces of land are in public ownership, and that is *not* covered by the exception.

**The Speaker:** Mr Ashford.

1550

**Mr Ashford:** It was just to follow on, Mr Speaker, and also to get the Hon. House to note that there is also the provision in new clause 5 in relation to homes of persons providing abortion services, in (3)(a) that:

if the home is a flat or other part of a building, any other part of the building than the part comprising the flat or part occupied by the registered medical practitioner, midwife, nurse or pharmacist;

is also exempt from the access zone.

1555

**The Speaker:** Mr Harmer.

**Mr Harmer:** Thank you.

1560 I am getting increasingly worried now because, as I say, I came in today and I knew exactly what I was going to do and I had a lot of support. **(A Member:** Hear, hear.) But in terms of some of the context, and it is again where people rent rooms from schools and things like that, this whole concept of access zones where we live in certain towns and villages, where public

1565 facilities, if you like, town halls are very close to pharmacies. As I said before in Peel, there are two one end of the street, you would basically be excluding most of Peel, and other places, Kirk Michael or wherever, where you might have somebody who might be having a private meeting or having a meeting in a public space. It is really, I suppose, a comment, can you give me any reassurance? Because I am not reassured at the moment.

1570 **Mr Connell:** I would remind the House that the objective is to deal with people who are seeking to dissuade others. The sort of situation you have just described does not sound to me as if it was a situation where a person would be seeking to dissuade others, other than in a public meeting, and that is not what this is about.

1575 I have wondered whether the position might be improved if the word 'knowingly' appeared in one of the clauses where I have got a list of conduct so that it would be if a person 'knowingly' were to engage in any of these activities with the intention of dissuading somebody. If it does not ... [*Inaudible*]

**The Speaker:** Mr Callister, you have a question.

1580 **Mr Callister:** Thank you, Mr Speaker.

I want to ask Mr Connell a follow on, just to be absolutely clear with the point I asked before. If I am a medical professional what data will be published? Will it be my street name; will it be my house; will it be my name? I want to be absolutely clear on that point because it will affect how I vote this morning.

1585 **Mr Connell:** It would be such information as would identify your *premises*, not the person. Now, in reality, that might amount to the same thing because some people will know that is where a doctor lives. But it has to be suitable to identify the premises because otherwise the criminal law will simply not work.

1590 **Mr Callister:** Okay, so it would not go as far as a name; it would be street name, it would be a house name possibly and then that would be zoned. (**Mr Connell:** Yes.)  
Okay, thank you very much.

1595 **The Speaker:** Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

1600 I just wanted to make sure I understood where we are in terms of the debate and what the vote is going to be about. My understanding is, although we have got into the detail, very helpfully, of all of the amendments that would come subsequently, dependent on a decision, actually what we are debating and deciding now is about the amendment to the Long Title to allow further discussion. That is my understanding, and I would like somebody to tell me that is incorrect if I am wrong about that.

1605 Secondly, my understanding is that we have already accepted that we can allow further amendments to come forward, drafted in a different way, an alternative way, and that is where we are, we are just at the moment doing this.

I have got two very simple questions which I think are to the Clerk and to the member of staff from the Attorney General's Chamber. My first question is the current Long Title is:

A Bill to restate the law relating to abortion with amendments; and for connected purposes

1610 My question is: is my understanding correct that this discussion of buffer zones, access zones, an amendment would not be allowed in the context of that Long Title, that is why we have

brought forward this amendment to the Long Title? Or perhaps it would be allowed – that is my question first.

1615 **The Speaker:** That is exactly right, sir. It is not within the purview of the Long Title, hence this debate.

**Mr Thomas:** Okay, so that is completely clear, that is all we have got to establish: that all we are voting on is to allow ourselves a title to continue the debate.

1620 The second question I want to ask, which is a very simple question, is even if we do pass this Long Title amendment today – which is to make provision about access zones for premises where abortion services are provided and where those who provide them reside – even if we have that in the Long Title, we do not actually have to do anything about it. We can have an enabling clause and then make regulations or schemes under another Act if we want to or we could have ‘must’, we could have ‘may’, we could have different types of alternatives.

1625 So my understanding is it would be a shame if we did not take this forward, that technically all we are doing is we are allowing us to have a month-long period, or three-week period, or whatever it is we agree subsequently, to debate about the amendments that come forward, having had further reflection. I just wanted to ask the Attorney General’s Chamber and the Clerk whether that is the situation?

1630 **The Speaker:** I think I understand it sufficiently to make it clear. In terms of when the amendments come back that is in the hands of Mr Peake, they are his amendments, so in terms of the timetable for that, that is up to him.

1635 In terms of the addition to the Long Title, if you add these words to the Long Title you then have the *vires* to add these provisions or not add these provisions. It does not mean that you must add any provisions in.

**The Secretary:** Mr Speaker.

1640 **The Speaker:** The Secretary of the House.

**The Secretary:** Thank you, Mr Speaker.

Can I draw the House’s attention to Standing Order 3.13:

(1) A Member who has moved a motion or amendment may withdraw it by the leave of the House.

(2) A motion which has been withdrawn may be tabled again.

1645 So you could decide that there are some significant issues, not proceed with this today, but come back on 27th March, which you would need to deal anyway to deal with amendments to new clauses, and then have perhaps – and I do not know whether this is necessary or not – a slightly redrafted Long Title. I hope that I have a supportive Mr Connell – we normally agree about most things! (*Laughter*) And perhaps then deal with a freshly drafted Long Title with some reconsidered new clauses, (**A Member:** Hear, hear.) taking into account the debate today.

1650 **Mr Harmer:** Hear, hear.

**The Speaker:** Mr Connell, would you care to comment?

1655 **Mr Connell:** That would sound like a very sensible course. (**Mr Harmer:** Hear, hear.) As the learned Secretary says, I do not often disagree with him and I do not on this occasion. (*Laughter*) I sense the spirit of the House is that you want something but you do not quite want this, so the

question is what do you want? And that, I think, is a matter which would be sensible to discuss and bring back fresh amendments.

1660 I am looking at the mover, it is for him ultimately.

**The Speaker:** Absolutely, and that is where I next turn. It is up to Mr Peake, as the mover of this amendment to the Long Title, as to how you wish to deal with it, sir.

1665 **Mr Peake:** Thank you, Mr Speaker.

It was very interesting to hear everyone's comments. I think there is a bit more work to do on that and I am happy to work with the drafter, I have listened to what you have said today, come back with some amended –

1670 **The Speaker:** So at this point you are content to withdraw your amendment to the Long Title and have that basically resubmitted at a future sitting, in conjunction with the mover of the Bill.

**Mr Peake:** Yes, we will submit it on the 27th, that is correct, Mr Speaker.

1675 **The Speaker:** Thank you very much.

Hon. Members, as the Clerk has stated under Standing Order 3.13, it was required for the Member to withdraw it, it is with the leave of the House. *(Interjection by the Secretary)* Yes! *(Laughter)* On this occasion, Mr Secretary, I am ahead of you! *(Interjections and laughter)* It is not very often that happens!

1680 Now, obviously we cannot deal with procedural matters in a Committee of the Whole House. I therefore need to seek a view from the Hon. Members as to whether you wish to continue asking some questions – and I am conscious that it is getting near to the end of the morning – or bearing in mind that the drafter is available outside of the sittings to assist with queries, to deal with it in that manner.

1685 Mr Robertshaw, you wish to – ?

**Mr Robertshaw:** Mr Speaker, I am content to move on, but I just want to get this point in before we move out – if we choose to – of Committee of the Whole House.

1690 I want to go back to new clause 8(9), and get further clarity because I do not think I explained myself at all well and I am going to try again. This subclause says:

A person must not repeatedly communicate by letter, telephone, facsimile or electronic means with another person without their consent for the purpose of dissuading a provider of abortion services from providing abortion services.

If you go back to human rights legislation and 10.2, it says:

Freedom of expression constitutes one of the essential foundations of a democratic society ...

1695 And you know that as well as I do, sir, so I will not bore you with that. But the point is, what I am trying to say here is that somebody could quite legitimately wish to express their views electronically, and whatever other ways, but inadvertently in expression of their views find that they are addressing somebody who was averse to that and did not wish to give their consent.

Now, is that sub-paragraph as it stands actually contradictory to human rights law, because there seems to be ... ? Could you explain that to me?

1700 **Mr Connell:** No. Again, one is looking at the balance between the right to respect for a private life on the part of the recipient and the right to free speech on the part of the person communicating. In those circumstances a person communicating in this way, electronically, has to know his recipient is not going to say, 'You did not have my consent.' Consent is, as you will

discover from another Bill which is before you, becoming a much more hot topic and this is an area where actually the right of the recipient has to be respected.

1705

**Mr Robertshaw:** But, Mr Speaker, that person could act quite inadvertently (**Mr Connell:** Yes.) and therefore find themselves subject to criminal ...

1710

**Mr Connell:** I go back to what I said earlier, sir. I think there was a case for it for improving the *mens rea* provisions in this Bill, in these provisions, because I think you probably need to put references to *knowingly* doing something rather than simply making ... Because you quite rightly make the point that *prima facie* it is possible to commit this offence without actually knowing that your recipient is in that position. And that is bad law –

1715

**Mr Robertshaw:** Thank you, that is all I want to say.

**The Speaker:** I have a good indication from two other Members that they would like to make some comments before we move on.

Mr Harmer first.

1720

**Mr Harmer:** I was just going to say can we move out of Committee, that was all.

**The Speaker:** Okay, in which case, Mrs Beecroft, you had something?

1725

**Mrs Beecroft:** Yes, please, if I may.

It was just to ask Mr Connell: I can quite understand all the concern about the addresses being known and having the zones around all the surgeries and everything. Would it not be possible and simpler to turn it on its head and say that anybody who provides the services, or has a surgery, or who has a pharmacy can apply to have a zone around them, but does not actually have to, so that the law does not actually ‘blanketly’ do everybody all at the same time?

1730

If you have not got any concerns, then why would you want a zone around you? I would have thought that was the way to do it, and then you are not worried ... If you are an individual you would not be worried about your name or your premises being on a list that you did not want, if you did not have any concerns in the first place and have to think about all the things that go with it – the data protection and that sort of thing. Would it not make it much simpler if people simply had the right to say, ‘I request for my premises, or my home, or whatever to have a zone around it because I have concerns’? But everybody else does not –

1735

**Mr Connell:** As I have said more than once in this House, I am the servant of the House where you do what it wants. If it wants something which is along the lines that Mrs Beecroft suggests, that is perfectly possible. Because I was looking for a precedent I picked up on the British Columbia Provisions which are mandatory. I accept that in the context of this Island that may not be the right solution. And if the sense of the House and the mood of the House is that something which is tighter and allows doctors and other professionals to effectively opt in, then it is perfectly feasible to draft it and it would be sensible to do so.

1745

**The Speaker:** Hon. Members, I am extremely conscious that we are likely to find ourselves back here in two weeks talking about this again, and the same opportunity will be afforded to move into a Committee of the Whole House. So I think at this point I would like to test the mood of the House.

1750

Mr Malarkey.

**Mr Malarkey:** In light of the mover’s intention to withdraw today, can I suggest we come out of Committee at this stage, Mr Speaker?

1755 **Mr Cannan:** I wish to second.

**The Speaker:** Okay. The question is that we resume business. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

*The House moved out of Committee and business was resumed.*

1760 **The Speaker:** I therefore put the motion that the amendment number 1 in the name of Mr Peake be withdrawn for today. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members.

I have had an indication from the mover of the Bill that he does not wish to make any other progress with the other clauses today.