



# HOUSE OF KEYS OFFICIAL REPORT

RECORTYS OIKOIL  
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# PROCEEDINGS

DAALTYN

(HANSARD)

**Douglas, Tuesday, 25th January 2011**

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*The House adjourned at 1.01 p.m. and resumed its sitting at 2.30 p.m.*

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*The House adjourned at 5.14 p.m.*

### Present:

The Speaker (Hon. S C Rodan) (Garff);  
The Chief Minister (The Hon. J A Brown) (Castletown); Hon. D M Anderson (Glenfaba);  
Hon. A V Craine (Ramsey); Hon. W E Teare (Ayre);  
Mr J D Q Cannan (Michael); Mr T Crookall (Peel);  
Mr P Karran, Hon. A J Earnshaw and Mr D J Quirk (Onchan);  
Hon. G M Quayle (Middle); Mr R W Henderson and Mr J R Houghton (Douglas North);  
Hon. D C Cretney and Mr W M Malarkey (Douglas South); Mrs B J Cannell and  
Mr C R Robertshaw (Douglas East); Mr C G Corkish MBE and  
Hon. J P Shimmin (Douglas West); Mr G D Cregeen (Malew and Santon);  
Mr J P Watterson, Hon. P A Gawne and Mr Q B Gill (Rushen);  
with Mr R I S Phillips, Secretary of the House.

## House of Keys

*The House met at 10.00 a.m.*

[MR SPEAKER *in the Chair*]

**The Speaker:** Moghrey mie. Good morning, Hon. Members.

5 **Members:** Good morning, Mr Speaker.

**The Speaker:** The Chaplain will lead us in prayer.

### PRAYERS

*The Chaplain of the House of Keys*

### Leave of absence

**The Speaker:** Hon. Members, welcome back to the House of Keys on this first sitting of 2011. I have given leave of absence today to the Hon. Member for Ramsey, Mr Bell.

## Questions for Oral Answer

### TREASURY

#### Income Tax Voluntary Disclosure Scheme for 2011-12

1.1. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for the Treasury:

10 *Whether her Department will be running an Income Tax Voluntary Disclosure scheme for the tax period 2011-2012?*

**The Speaker:** We now turn to Item 1 on our Order Paper, Questions for Oral Answer, and I call on the Hon. Member for Douglas North, Mr Henderson.

15 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.  
Ta mee shirrey kied yn eysht y chur ta fo my ennym. I beg to ask the Question in my name.

20 **The Speaker:** I call on the Minister for Treasury, Hon. Member for Ramsey, Mrs Craine, to reply.

**The Minister for the Treasury (Mrs Craine):** Thank you Mr Speaker.  
I can inform the House that it is not the intention of my Department to operate an Income Tax Voluntary Disclosure during the 2011-12 tax year. Many people refer to such schemes as tax amnesties: under our 2010 scheme we waived penalties and interest where taxpayers came forward

25 to report understated income. Any additional tax due as a result of the disclosure was payable, of course.

However, I would like to draw attention to the Hon. Member that, even without an amnesty, errors or omissions on Income Tax returns can be corrected at any time by making a voluntary disclosure to the Assessor of Income Tax. If a voluntary disclosure by a taxpayer is made in the  
30 circumstances set out in public guidance, then, providing the taxpayer concerned is not already subject to investigation, the Assessor will charge additional tax and interest only and no penalty will be imposed.

The key point, Mr Speaker, is that those taxpayers who come forward to report problems with their tax returns are treated more favourably than those taxpayers whose problems are uncovered  
35 by the actions of the Income Tax Division.

**The Speaker:** Mr Henderson.

**Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

40 I thank the Shirveishagh for her helpful Answer, but would ask her to reconsider her Department's position on this. Would she agree with me that the last tax amnesty netted the Treasury several millions of pounds worth of tax that was due?

Would she agree with me that it might be an exercise worth pursuing in the future, seeing how successful it was last time?

45 Secondly, Vainstyr Loayreyder, could she just clarify that, if an individual realises that they require to pay tax on certain sums of money that they may not have realised required disclosure, if it is done in an honest fashion they will be treated favourably by her Department?

**The Speaker:** Mrs Craine to reply.

50

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

I take the hon. questioner's motive for wanting this to come forward, but the fact is that I believe if we were just to make this on a regular annual basis, then the whole impact of having a tax amnesty will lose its gravitas and so I do not believe that it is something that we should just  
55 keep on a rolling programme, because then people will just regard that they do not have to put their tax returns in, when they are required to do so.

I would again say that, yes, certainly, if an honest mistake has been made and someone comes forward and voluntarily discloses the information that they believe has been missed, then there will be no penalty.

### Regeneration Moneys spent and allocated

1.2. The Hon. Member for Onchan (Mr Karran) to ask the Minister for the Treasury:

60 *How much money has been set aside this year and next for regeneration; what has been spent in this year's vote and what has already been allocated for next year's vote?*

**The Speaker:** Question 2. Hon. Member for Onchan, Mr Karran.

65 **Mr Karran:** Vainstyr Loayreyder, I ask the Question standing in my name.

**The Speaker:** Again, I call on the Treasury Minister to reply.

70 **The Minister for the Treasury (Mrs Craine):** Mr Speaker, at the beginning of this financial year the balance on the Town and Village Centre Regeneration Fund was some £8.9 million. Committed expenditure in the current year to date is some £346,000 and provision has been made for that to reach to a figure of £500,000 for the current year, ending 31st March 2011. The forecast expenditure for the coming financial year 2011-12 is expected to be some £2 million.

75 Hon. Members will be aware that the Regeneration Committee is chaired by the Chief Minister, with projects being developed across the Island's main towns and villages in conjunction with a number of stakeholders in each of the local communities. The Scheme itself is administered

within the Department of Economic Development, with co-ordination through the Chief Secretary's Office.

80 **The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, the Shirveishagh Tashtee informed this House of the breakdown of the money that has been spent in the north, south and west of the Island. Can the Shirveishagh also inform this House that this means the balance will be there, if something comes  
85 along that is of worthy investment, as far as the taxpayer is concerned, as far as the fund for regeneration is concerned.

**The Speaker:** Mrs Craine.

90 **The Minister:** Thank you Mr Speaker.

I will, of course, in conjunction with the Chief Minister, be prepared to give that breakdown of monies that have been allocated or spent so far in each of those areas and, yes, I can assure the Hon. Member that each of those Schemes that come forward from different districts in the Island will be considered and as I can see, or as we all can see, from the figures that have been given to  
95 us this morning, there is still a healthy balance in this Regeneration Fund and it is going to be available to those who come forward.

**The Speaker:** Mr Quirk, Hon. Member for Onchan.

100 **Mr Quirk:** Thank you Mr Speaker.

Could I ask the Minister regarding the breakdown of the nearly half a million that has been spent, could she give us a reassurance that money has been spent with local firms, local contractors?

The second part, if I could just ask, too, the Minister, if it is not her Department, then I would  
105 ask the Minister for DED, that maybe a small presentation to Members some time would be helpful, so if there were any concerns, we may be able to support her in their endeavours?

**The Speaker:** Minister to reply.

110 **The Minister:** Yes, on the first part, Mr Speaker, I can confirm that it is local firms that have basically been involved, because it is local firms that have come forward with the design briefs, largely, at this point in time, and certainly it is benefiting those firms within the community.

As regards a presentation, I am sure that can be arranged in due course, although I would say, Mr Speaker, that to my knowledge that local Members of the House of Keys have been invited to  
115 be involved with these Regeneration Committees, so I think they should probably be aware of what is happening in their own community, anyway.

**The Speaker:** Supplementary, Mr Karran.

120 **Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh just clarify it is £½ million that is being spent. Would the Shirveishagh Tashtee not agree that it is good that we are not just spending money out just out of fashion on this proposal, but why has there been such a small uptake as far as the regeneration when we look at many towns and villages around the Island that have got  
125 problems.

Secondly, what aspect has there been brought into the financial equation, as far as the issue that we are spending this money and will it actually benefit financially for the Island as far as the regeneration is concerned?

**The Speaker:** Treasury Minister.

130 **The Minister:** Thank you, Mr Speaker.

I can confirm, as I have said in the Answer, that we anticipate there being a figure of £500,000 being spent to the end of this current financial year at 31st March 2011.

I think it is worth saying that, yes, there was a slow mobilisation of this regeneration scheme  
135 and it has taken a little bit of time for some areas to come forward with their plans and to get themselves organised. It has not been any holding back on willingness on the part of the Central

Regeneration Committee to try and support those schemes, but it has taken a little bit of time for the local groups to actually consult and decide where they want to fund this or use the fund.

140 The financial equation, sorry... Can I just ask the Hon. Member to repeat the final part of that?

**The Speaker:** The final part, Mr Karran.

145 **Mr Karran:** Vainstyr Loayreyder, does the Shirveishagh Tashtee appraise, or the Treasury appraise, the opportunity of the investment, as far as it actually creating a financial return as far as the Government is concerned when using this fund for such redevelopment?

**The Speaker:** Minister.

150 **The Minister:** Thank you, Mr Speaker.

I think that we need to bear in mind that the purpose of this fund was to regenerate and to give an uplift to the spirit of our town centres and communities; it was not necessarily to see a financial return on the work that is being done. I would say that I think that all of us feel that many of our town centres and village areas do need a basic lift in order to be able to give some civic pride back into the town centres again and, with that, I would hope that financial benefit will follow.

155

**The Speaker:** Mr Quirk.

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

160 The Minister did mention, too, and she corrected herself, she mentioned villages as well, which is nice to see it is not only towns and she will agree with me on that. But can I ask when she said that local Members from each area would be given information and notes and communication, possibly she could tell me or provide me with some information: who is looking after our area?

165 **The Speaker:** Minister.

**The Minister:** No sir, I could not. I know that I am involved with the Ramsey regeneration, but I am not clear who is involved in each of the local areas and I would suggest that if the Hon. Member is concerned about lack of involvement from Onchan, then he would perhaps like to get in touch with Linda McCauley, the regeneration manager, and I am sure she would be able to give him that information.

170

**The Speaker:** A final supplementary, Mr Karran.

175 **Mr Karran:** Vainstyr Loayreyder, can the Shirveishagh Tashtee inform this House: things like the Douglas Development Partnership and other organisations like that, that are supposed to do redevelopment, is that included in the price of this, as far as this proposal is concerned; and, if not, has the Shirveishagh Tashtee got any ideas of the figures involved, as far as this other duplicate project that is going on as far as the costs are involved towards the taxpayer and the local authorities, and is it just in Douglas that they have this authority?

180

**The Speaker:** Minister.

185 **The Minister:** I am not sure where the Hon. Member has gone with the final question, Mr Speaker, but I can say that Douglas Development Partnership, as I understand it, is working with the Douglas Regeneration Committee in bringing forward their schemes.

## INFRASTRUCTURE

### Local authorities Powers to make byelaws

1.3. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Infrastructure:

*If he will make a statement on the powers of local authorities to make byelaws allowing officers and other employees to administer or impose fixed penalty orders under the authority*

of his Department, in order to enable national and local government to work more closely together?

190

**The Speaker:** We turn to Question 3. Hon. Member, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I ask the Question standing in my name.

195

**The Speaker:** I call on the Minister for Infrastructure, Mr Gawne.

**The Minister for Infrastructure (Mr Gawne):** Gura mie eu, Loayreyder.

I firmly believe that we should encourage local issues to be dealt with at a local level and, in practical terms, that means local authorities taking on some of the functions currently executed by central Government. To this end, I have been pleased with the success of initial discussions with local authorities undertaken by my departmental colleague, Mr Cregeen, Hon. Member for Malew and Santon. I support his proposals to continue dialogue and develop meaningful proposals which will result in local authorities having greater control and responsibility for their areas.

200

For example, currently, fixed penalty notices for parking offences may be issued only by police constables and traffic wardens appointed by the Department of Home Affairs or parking controllers appointed by the Department of Infrastructure. Where off-street car parking has been provided by local authorities outside Douglas, this arrangement does not work as well as I would like and I can see that there is a case for investing in local authority wardens or similar officers with like powers to issue such notices.

205

If legislative provision were to be made to give powers to local authority wardens for parking enforcement, it would be by way of amending the Road Traffic Regulation Act 1985, rather than by extending the scope for local authority byelaws. Currently authorised officers from local authorities are limited to issuing fixed penalties for litter and dog offences.

210

Gura mie eu.

215

**The Speaker:** Mr Karran, supplementary.

**Mr Karran:** Vainstyr Loayreyder, can the Shirveishagh inform this Hon. House of a time period to see whether we can get this joined up between national and local government, as far as the issue is concerned? If it is possible that we could find out whether there could be a time period, as far as bringing forward, which seems to be an eminently sensible proposal by Douglas Corporation.

220

Can I ask the Shirveishagh, when he talks about passing more powers back to local government, can it be possible that we have a circular of such powers, as far as that is concerned, and allowing for the fact I was unable to find out how much money was in the poacher's pocket, as far as redevelopment is concerned, for Douglas Redevelopment Partnership, maybe the Hon. Minister does know the answer to that: that the Minister –

225

**The Speaker:** Mr Karran.

230

**Mr Karran:** – the issue is that I think it is important that, whether that should be passed back if we are talking about hands on –

**The Speaker:** Mr Karran, that question has been well widened out from what is on the Order Paper, certainly the last two parts of the supplementary.

235

Minister.

**The Minister:** Gura mie eu.

240

With regard to timescales, as I say, the Hon. Member for Malew and Santon is working on this with local authorities. I believe that the sooner we can do this, the better. Certainly in my time as Minister, which will be at least up to the Election in September, I will do everything I can to make this happen.

The hon. questioner mentioned Douglas Corporation. There is no mention of that in the Question and I have not been aware of any issue, particularly from Douglas Corporation. We had an excellent meeting with the Corporation, I think it was last week or the week before and we explored a number of issues. Certainly, if local authorities want to approach the Department and suggest that we give them powers to do certain things, then we would certainly wish to work with them to do that.

245

250 As far as redevelopment is concerned, I think it is absolutely essential that we have the key players involved in ensuring how the money is spent. At the moment we have central Government, local government and the private sector and, indeed, all involved in regeneration committees. I think that is entirely the right thing to do, entirely the right way to do it. Talking about joined-up Government, this is exactly what we are about.

**Richmond Hill  
Speed limit; cost of development**

1.4. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Infrastructure:

255 *How long Richmond Hill will require a 30 mph speed limit; and what the total cost for the work done for the Richmond Hill development is?*

**The Speaker:** Right, we turn to Question 4. Hon. Member for Onchan, Mr Karran.

260 **Mr Karran:** Vainstyr Loayreyder, I ask the Question standing in my name.

**The Speaker:** Again, Minister for Infrastructure, Mr Gawne.

**The Minister for Infrastructure (Mr Gawne):** Gura mie eu, Loayreyder.

265 I can advise that the temporary 30 mph speed limit is required because there are remedial works to be undertaken on the carriageway. These works will require various traffic management layouts. The 30 mph limit is needed to ensure the safety of the workforce and the travelling public. It is currently the Department's intention to permanently reinstate the 50 mph speed limit on Monday, 31st January 2011.

270 With regard to the second part of the Question, the total cost for the work on Richmond Hill is budgeted to be £2,784,430, which is what most of us approved, as I understand. (**Mr Watterson:** A majority.) While... Is a majority the same as 'most', I wonder... (*Laughter*) Unfortunately I do not have the auditing skills to be able to work that one out, but (**Mr Watterson:** Count abstentions.) whilst there is still ongoing work, the project remains on target to be completed within budget, and that is all I can add.

275 **The Speaker:** Mr Karran, a supplementary.

280 **Mr Karran:** Vainstyr Loayreyder, can the Shirveishagh just explain to this House how it went up and then back down again, as far as the 50 mph speed limit? I think it is important that people need to know that.

285 Would the Shirveishagh also tell us, when he talks about his 'in budget' and whilst accepting that you have not had to come for a supplementary vote to bring the new budget level into budget, like it happens too often in Government, can you... (*Interjection by the Chief Minister*) Absolutely right, Mr Chief Minister.

290 Can the Shirveishagh assure me that the likes of the costs – the whole costs as far as this project – have already been expended? Is it not a fact that we still have not paid the landowner for the land and is that already included in the costs, as far as that is concerned? Would the Shirveishagh like to inform this House of any other costs, such as how much the costs that we have had to pay out for the likes of the Horses' Rest Home situation, as far as their car park is concerned?

**The Speaker:** Mr Gawne to reply.

295 **The Minister:** Gura mie eu.  
Up down, flying around... (*Laughter*)

**A Member:** Looping the loop and defying the ground!

300 **The Minister:** Unfortunately, an issue arose last week at which it was discovered that the application for a reduction in speed limit... the order had actually run out. Therefore, we had to increase the speed limit back to the original 50 miles per hour. Of course, on doing so, it was then

305 pointed out by another part of the Highways Division that there is a lip that has been left in the middle of the overtaking carriageway going up the hill and that this was a danger to motorcyclists travelling at more than 30 mph. Therefore, we have had to introduce an emergency reduction in speed limit from the 50 down to 30 again whilst the works are completed. The works, as I say, are going to take place over the course of the next weekend, after which the speed limit will be back permanently to 50 mph.

310 As far as the cost of the project, if the Hon. Member knows something that I don't, I will be very happy to hear from him about it, but it is absolutely clear: the information that I have seen, and has been provided to me, shows that the whole cost of the scheme will be within budget. Certainly, I am told from the Hon. Member that we have... Government regularly comes back for supplementary votes etc for schemes. I have been Minister now for 5 ½ years: I have never come back with a Supplementary Vote for any scheme that I have been responsible for, and I am sure most Ministers are in that position, so spreading this sort of innuendo around about Government schemes being always over budget is what the Hon. Member... what you would expect him to do: he is in opposition to Government. It is not necessarily true, though. I am not saying that there aren't occasions where this happens, but they are very few and far between.

320 **The Speaker:** Mr Malarkey, Hon. Member.

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

325 Could the Minister, then, give us some reassurance, since this mistake has now been discovered on Richmond Hill, that there will be no additional cost to the Department with regard to repairing it, and it will all fall within the budget or with those responsible for making the mistake in the first place?

**The Speaker:** Mr Gawne.

330 **The Minister:** I can absolutely give that reassurance. The total expected cost for the scheme is going to be within budget, including the improvements that are required as a result of the inadequate work.

**The Speaker:** Mr Houghton.

335 **Mr Houghton:** Thank you, Mr Speaker.

340 Can the Minister make a comment on whether he thinks that the ride quality on a road that should be smooth when it has been relaid, and in this case it is a brand new road for a good section of it... can he state whether he is pleased with the smoothness of that road and that the ride quality is what one would expect of a brand new road, especially in the section that has been laid?

**The Speaker:** Mr Gawne, we are starting to stray a bit.

**The Minister:** Gura mie eu, Loayreyder.

345 Perhaps the Hon. Member for Douglas North did not hear the earlier answer. Maybe it was because he was chatting to one of his colleagues, but I did make it pretty clear that we are introducing these temporary reductions in speed limit again, specifically to deal with issues in relation to ride quality and other issues.

**The Speaker:** Mr Karran.

350 **Mr Karran:** Vainstyr Loayreyder, can the Shirveishagh inform this Hon. House, will the land costs, the purchase land costs, have they been allowed within the total budget of this cost, allowing for any of the problems that can be done, as far as this project is concerned?

355 Would he not agree that it is disappointing that the fact is that the Hon. Member seems to have a different recollection, as far as the fact that often we have to come back for supplementary votes in another place and maybe he is not in the Chamber, a bit like the Hon. Member may be not answering the question... listening to the question –

360 **The Speaker:** That is a comment that is not relevant. Mr Gawne.

**Mr Gawne:** Gura mie eu, Loayreyder.

I had no intention to upset the Hon. Member for Onchan.

**Mr Karran:** You haven't upset me! (*Laughter*)

365 **The Minister:** Well, it looked like it, that is all.

It is absolutely clear to me, in the seven years – and, okay, I have not been in as long as the Hon. Member for Onchan, he has been in for much longer; perhaps he is recalling a time prior to my becoming a Member of Tynwald – but in my time as a Member of Tynwald, the times when we have actually had to come for supplementary votes to finish off schemes are extremely rare and I can only talk on my experience – and I do tend to sit in Tynwald for a reasonably long period of time. I very rarely disappear out of Tynwald. So, fair enough, if the Hon. Member wishes to attack my attendance in Tynwald, that is for him to do, but I do sit there on a regular basis, I do read the Order Papers and I do know what I see, and I do not see what the Hon. Member for Onchan sees, for some reason.

375 With regard to the purchase of land, yes indeed, that figure will be incorporated into the overall cost and I am absolutely assured that the whole scheme will be within budget, including the land purchase.

380 **The Speaker:** I will allow a supplementary, Mr Karran, but we are not going to have a debate about attendance records in another place.

**Mr Karran:** Vainstyr Loayreyder, I am very aware of that.

385 Can I ask the Shirveishagh how can he sure when the fact is we've took somebody else's land, we have not paid him out for a compulsory purchase order, it could go to court...? How can he be so sure that the fact is the figures are so correct at the present time?

390 Would the Shirveishagh also tell us: obviously, this remedial work that is going to have to be done, as far as the problems that they have got over the... they have had to reduce the speed limit back down because of, partly, the problems: has the Shirveishagh got confidence that, allowing for the fact that we took somebody's land, we have not paid him out through the compulsory purchase order, that we can actually be sure that we will be in budget if it has to go to court in order to resolve the issue?

**The Speaker:** Mr Gawne.

395 **Mr Gawne:** How can I am sure of what am saying is what the Hon. Member for Onchan is asking.

400 I can be sure of that because I have seen the figures. I know how much I wanted to pay in relation to the compulsory purchase of the land. I know how much legal costs, potentially, are going to be if we end up having to fight the particular issue. I know I have had strong reassurance from the officers involved that they are confident that the work will be completed within budget. That is how I know.

405 If I am wrong, then I will be the first to say so and I will hold my hands up and I will apologise but, as far as I am aware, I have checked all the information and the information seems pretty sound and pretty solid to me.

**The Speaker:** I call Mr Quayle, Hon. Member.

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

410 The Hon. Minister will recall me mentioning, in relation to various landowners, a number of issues in my capacity as Member of the House of Keys for Middle. Can I ask if he can, hopefully, bring matters to a conclusion for any landowners affected at the earliest opportunity?

**Mr Cannan:** Campaign speech, Mr Gawne.

415 **Mr Gawne:** Gura mie eu, Loayreyder.

Certainly, the Hon. Member for Middle has been very actively involved in pursuing the interests of his constituents and all I can say is that the Department is doing everything it can to resolve any outstanding matters as quickly as possible.

**Drink driving  
Blood alcohol limit**

1.5. The Hon. Member for Rushen (Mr Watterson) to ask the Minister for Infrastructure:

420 *Whether it is his Department's intention to introduce a lower blood alcohol limit for drink driving cases for all drivers in the future?*

**The Speaker:** We turn to Question 5. Hon. Member for Rushen, Mr Watterson.

425 **Mr Watterson:** I beg leave to ask the Question standing in my name, sir.

**The Speaker:** Again, I call the Minister for Infrastructure.

**The Minister for Infrastructure (Mr Gawne):** Gura mie eu, Loayreyder.  
430 It is not the Department's intention to introduce a lower blood alcohol limit for drink-driving cases for all drivers in the future.

**Quarterbridge roundabout  
Estimated costs of works**

1.6. The Hon. Member for Rushen (Mr Watterson) to ask the Minister for Infrastructure:

*What the estimated costs of the work to be done at the Quarterbridge roundabout are?*

**The Speaker:** Question 6, Hon. Member, Mr Watterson.

435 **Mr Watterson:** Thank you, Mr Speaker.  
I beg leave to ask the Question standing in my name.

**The Speaker:** Again, I call on Mr Gawne.

440 **The Minister for Infrastructure (Mr Gawne):** Gura mie eu, Loayreyder.  
I can advise that the cost of the works to be undertaken on the Quarterbridge roundabouts is £152,740.97. The cost can be broken down into the three main elements of the work: resurfacing on and around the junction, £51,671.31; carriageway widening onto the New Castletown Road, £73,741.96; and provision of pedestrian facilities between the two roundabouts, £27,327.70.

445 **The Speaker:** Mr Watterson.

**Mr Watterson:** In terms of the pedestrian improvements between the two roundabouts, will the Minister advise us what form that is going to take? Will it be a zebra crossing or a pelican crossing?  
450

**The Speaker:** Mr Gawne.

455 **The Minister:** No, neither. I can certainly advise you that it will be bolt-down traffic islands, which can be removed during racing periods. It is purely to assist the safety of people who are crossing at that point.

460 It is not to encourage people to cross at that point, because, clearly, it is not a particularly safe place to cross. However, there is no obvious alternative and people coming from the Braddan area, coming from the Bray Hill area get to that point and they need to get across the road, so what we are doing is making it safer. That is why we currently have the horrible red-and-white plastic bollards stuck in the middle of the road. I think they look hideous, quite frankly (**Members:** Hear, hear.) and the sooner we can get rid of them, the better.

465 **The Speaker:** Hon. Member for Michael.

**Mr Cannan:** Will the Minister give an assurance that, on completion of the Quarterbridge work, the whole of the energy of the Highways Department will be focused on repairing the highways throughout the Isle of Man which have been damaged by frost or other elements... and which are innumerable potholes and breakages in the road surface?

470

**The Speaker:** We are beginning to stray again.  
Mr Gawne.

**The Minister:** Gura mie eu, Loayreyder.

475

I am happy to stray into this particular area. I certainly will not give the assurance that the Hon. Member for Michael is seeking, but what I can say is we anticipate to have all the significant damage, particularly by way of potholes, repaired within the next two to three months. Beyond that, though, there is some quite significant undermining of a lot of the carriageway in the Island and we need to continue to do what we are doing, with the likes of Quarterbridge, and having significant repairs undertaken.

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We need to do that generally across highways infrastructure and it is clearly down to Members of Tynwald as to how much they are prepared to put into the highway repairs and highway maintenance, as to how much of that we will be able to achieve.

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**The Speaker:** Back to the Quarterbridge again, Mr Watterson.

**Mr Watterson:** Yes, thank you.

The Minister is accepting that the works are at a place that is entirely unsatisfactory for pedestrians to cross. Does he not accept that he is making the problem worse by encouraging people to cross there at a place that is dangerous, without a proper crossing?

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**The Speaker:** Mr Gawne.

**The Minister:** No, I think that is quite a nonsensical argument, in that people have to cross the road. There are many people in the Douglas area who need to cross somewhere and it is quite obvious that we need to make it as safe as we possibly can for them. That is the only obvious place to do it and I believe that we are being very responsible in ensuring that we introduce this particular safety scheme.

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**The Speaker:** Mr Malarkey.

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

In congratulating the Minister that he is going to remove the totally unsightly things that have been in the middle of the road at the Quarterbridge, and that the Quarterbridge is probably one of the first major roads, infrastructures, that you see coming from the airport, and the whole area has been an eyesore for years, can I have some reassurance that, when all this work is done, anything, everything, owned by the Department will be painted and generally that the whole area will be tidied up to make it a little bit more presentable than it has been for the last several years? With those bollards in the middle of the road and the railings not being painted, the general condition of the roundabout has been in poor condition.

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As this is the year of the Commonwealth Youth Games coming to the Island, let's make the Quarterbridge, one of the first things you see from the roundabout, a little bit more presentable than it has been over the past few years. Can I have some reassurance from the Minister that he will endeavour to do that?

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**The Speaker:** Minister.

**The Minister:** It must be election year, is it? *(Laughter and interjections)*

520

**Mr Cannan:** Yes, there is, in Middle. *(Interjections)*

**The Minister:** I am a bit concerned to hear that the Hon. Member for Douglas South believes that the Quarterbridge roundabout is the first bit of infrastructure that he sees on his trip to the airport. I hope that he is not driving, is all I can say.

525 I do take on board the points that the Hon. Member for Douglas South is making and, certainly, within what limited funds that are available to my Department, we will do our best to improve the overall look of all of the roads on the Island.

530 But going back to the point that was made, or the question that was asked, by the Hon. Member for Michael, what we actually have is quite severe damage to the foundations of many of the roads in the Isle of Man and that is going to take us quite a lot of time and effort and money to put right. We cannot, perhaps, spend as much time on going around cleaning up and tidying it, as perhaps we would like to if we are to maintain the basic roads infrastructure. So, certainly, we will do what we can, but we cannot do everything unless Tynwald is minded to double the budget for the Department, in which case I am quite sure... and I see Treasury Minister looking up at that point. But yes, clearly, we will do what we can.

## ENVIRONMENT, FOOD AND AGRICULTURE

### Energy from Waste Plant

#### Use of heat energy

1.7. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Environment, Food and Agriculture:

*What initiatives are currently being pursued to make profitable use of the heat energy being wasted by the Energy from Waste Plant?*

540 **The Speaker:** Question 7, Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I ask the Question standing in my name.

**The Speaker:** I call on the Minister for Environment, Food and Agriculture, Mr Shimmin.

545 **The Minister for Environment, Food and Agriculture (Mr Shimmin):** Thank you, Mr Speaker.

I am answering the Hon. Member's Question in my capacity as Chair of the Energy, Climate Change and Marine Spatial Planning Committee. As Members are aware, we commissioned AEA Technology to undertake a renewable energy study, in which they identified the Energy from Waste Plant as the most viable of all our thermal plants to provide a district heating scheme, the main reason being that it is the most ideally located and sized heat source, adjacent to potential users and could provide sustainable heat to the former Ballakinnish Nurseries site, potential Cooil Road Business Park and Spring Valley Industrial Estate at an economic cost. I am sure, therefore, that there are potential opportunities for attracting high-energy use business to this area if a district heating system was available.

555 Mr Speaker, the EfW is operated by SITA (Isle of Man) Ltd on behalf of the Department of Infrastructure. At the present time, I am not aware that they are pursuing any large-scale initiatives but are eager to work with the committee and colleagues in the Department of Economic Development to explore any potential economically viable opportunities that may arise.

560 On a smaller scale, I can advise that SITA have been investigating the financial and environmental feasibility of utilising excess heat from the plant's process for central heating within the EfW plant's buildings, namely the office block, control room, welfare facilities and the visitor centre. The existing boilers will remain, so they can automatically run during planned shutdowns and SITA estimates that approximately 60,000 litres of fuel oil per annum for central heating would be saved by making these changes and that comes to an estimated cost of £30,000. It is hoped that this scheme should be live by the end of February. Whilst the project is a small-scale package, it does demonstrate that a heat project is feasible and can be replicated on a much larger scale.

570 Finally, Mr Speaker, I would like to thank the Hon. Member for Onchan for raising the issue today, as it already begins to highlight the value of the AEA Report and the very important work that the Energy Committee do and will continue to undertake to ensure the Island has a bright and sustainable future.

**The Speaker:** Mr Karran, a supplementary.

575 **Mr Karran:** Vainstyr Loayreyder, thanking the Shirveishagh for his reply, I do hope that his  
Department will make sure that we prioritise on things, the likes of this, where there is an awful lot  
of waste heat not being used, and use the energy instead of looking at other ways, as far as these  
windmills and other things that I have a bit of a concern about their viability and cost. Can the  
580 Shirveishagh inform this House, have there been any negotiations if any proposed industrial site  
goes forward, as far as on the other side of Cooil Road, and maybe if there is the long-awaited  
bail hostel that is supposed to be located out that way, this could use part of the waste heat from  
such a proposal.

585 **The Speaker:** Mr Shimmin.

**The Minister:** I think the Hon. Member raises concerns about wind once again and he talks  
about the economics of it. He fails... or seems to gloss over the implications of what he is  
proposing with these central heating district schemes.

590 When you have a source of large amounts of waste heat potential, such as from the EfW and,  
to an extent, from the MEA power station and the like, all of the infrastructure costs to actually  
capture and circulate that into a district area are very considerable. Therefore you do not do this  
for individual buildings; you do this for large scale developments. Indeed, for something of the  
magnitude of the EfW, the costs of transmitting it would have to be borne by a significant number  
of users to make it economically viable, and it would hit into a far distance the costs involved that  
595 he argues about on wind generation.

The reality is that there are some real high energy use opportunities for the Isle of Man. They  
are the ones which we should be utilising the opportunity to centralise those to areas where we can  
recapture and use this energy. Some of that is for cooling in data centres and that is certainly the  
direction which Economic Development are looking at and I can reassure the House that the  
600 committee is trying to join up all of the relevant parties, to try and make sure we capitalise on  
these things, but we will not go into major capital investment, both on the site and with the  
reaching the infrastructure to a location to utilise the heat. That is a very expensive process and  
could only be done when there is sufficient capital interest within that area to make it worthwhile.

605 **The Speaker:** Mrs Cannell, Hon. Member.

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

610 Does the Minister recall when we had the debate over energy and before we actually voted to  
build the new Energy from Waste Plant, we did, a number of us did, call for a district heating  
system to be provided within the overall scheme to provide heating to the Pulrose houses. That  
was at a time when our economy was booming and we did have quite a bit of money. Does he  
agree with me that, in fact, we wasted a very good opportunity there to have done this?

615 My second supplementary, Mr Speaker, is in terms of SITA's proposal to utilise some of the  
energy for their own offices and their central heating, at savings: who will the savings be for? Will  
they be for SITA, or will they be for the taxpayer?

**The Speaker:** Mr Shimmin.

620 **The Minister:** With regard to the Answer to the first part of the question, I do vaguely recall  
the debate on the Energy from Waste Plant. Certainly I remember the issue about Pulrose housing  
as being one of the options, and certainly, in an ideal world, that may well have been the time to  
do it. Certainly the distance to be communicating the heat at that stage was pushing the limits,  
although that now has been easily resolved by new technology which allows you to be able to  
625 preserve the heat over a much longer distance. Government moved forward with the EfW for one  
purpose. It possibly was not known widely enough within Tynwald Court to realise the potential  
of forward thinking with regard to central heating schemes. I think we are wiser to that now, but  
we have got to deal with the situation as it is.

630 With regard to the energy savings, that is not clear in the information I have been provided  
with. I am actually acting on behalf of both the Department of Infrastructure and SITA. However,  
I will try and find that information out and circulate it to all Hon. Members.

**The Speaker:** Mr Karran, final supplementary.

635 **Mr Karran:** Thanking the Shirveishagh for his reply, will the Shirveishagh just explain to this House, obviously what we are looking for is being proactive, instead of reactive. If there is a proposal for a 50-acre development, as far as an industrial site fairly close to the site of the incinerator, can the Shirveishagh tell us, have there been any proposals, if it does come to fruition that there will be an opportunity there, in order to use the waste heat and anything that is in  
640 between that and the incinerator, so that we have that opportunity?

Finally, would the Shirveishagh not agree that, whilst he is quite right as far as the massive capital outlay for such things as district heating schemes, there are massive capital outlays for windmills and there are a lot of revenue liabilities with mechanisms wearing out, like gearboxes wearing out on a regular basis, that it is important that we make sure that where we have got these  
645 opportunities, we sort out the likes of the energy from waste plant or incinerator – whatever you want to call it – so we get these things finished off, as far as this opportunity?

**The Speaker:** Mr Shimmin.

650 **The Minister:** Thank you, Mr Speaker.

Not wishing to fall out with the Hon. Member, but for the last four-and-a-half years, my Department – through the officers and the Energy Initiatives Officer – the DTI as was, and others, have been working through all of Government Departments, introducing the very sort of measures he is talking about. The fact that I do not go on the radio on a regular basis committing  
655 Government to praise for all of the things we have done, that is my fault.

The reality is we have been dealing and spending an awful lot of time trying to resolve problems, rather than just talk about them. I have no idea where the Hon. Member gets his information or concern and prejudice against wind turbines, but I have reassured him on numerous occasions the economics of that will come back to the House before a determination is made, and  
660 we are not talking about anywhere near the same sort of level when he is talking about at the infrastructure required for some of the conversions of major thermal plants. Certainly I am aware that, without wanting to tread into the planning area with any potential developments in that area, yes, I have spoken previously to the owners of the site. I am aware that my Department, Economic Development and Infrastructure, are all frustrated that we cannot capture better that heat lost from  
665 these facilities and put them into something which is economic.

The reality is it is easy to say that the costs involved have got to be done at a scale that would justify that level of expenditure. We are the guardians of the taxpayers' money, and therefore ensuring that when we do come forward with something, it is economically going to be in our interests and not just an environmental solution. I would go for the latter as being a significant  
670 justification, but in these difficult economic times, we have got to make sure it both works economically and environmentally.

## EDUCATION AND CHILDREN

### Education reductions In schools; in St George's Court

1.8. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Education and Children:

*How much reduction has taken place in front line education in schools; and how much reduction has taken place in St George's Court in the administration of his Department?*

675 **The Speaker:** Question 8. Hon. Member, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I ask the Question standing in my name.

680 **The Speaker:** I call on the Minister for Education and Children, Mr Teare.

**The Minister for Education and Children (Mr Teare):** Thank you, Mr Speaker.

The Department of Education and Children, in line with all Departments of Government, has been asked to save money whilst accommodating inflationary factors such as nationally agreed pay increases, National Insurance costs and other price rises.

685 As the Department's main area of expenditure is salaries and wages – 70.8% – it is necessary  
for savings to be made on staffing. The Department presently employs 2,643 staff on a permanent  
and limited-term appointment basis and has a further 688 supply staff. Ninety-nine staff are  
employed in central services, which includes the family and mobile library, the youth service, the  
690 education improvement service, the peripatetic teaching team, services for children, corporate  
services, the Manx language service, English as an additional language service, finance, the music  
service and the Professional Development Centre, the base for 63 of our central services staff  
being the Department of Education and Children's head office, now at Hamilton House, but many  
spend a large amount of their time working in schools or, in the case of the youth officers, at youth  
clubs and on youth projects.

695 To date, there has been a reduction of 16 posts within central services, 10 of which were based  
in DEC's head office. Therefore, the Department's head office has had a staffing reduction of  
16%. There have been adjustments made in schools, mainly due to changing demographics, but  
every effort has been made to ensure as few teaching staff as possible are affected. A reduction in  
700 teaching posts has been made from 881 to 846, a reduction of 4%, but most of the savings have  
been made by natural wastage and discharging temporary contracts.

**The Speaker:** Mr Karran.

705 **Mr Karran:** I thank the Minister for his reply.

**The Speaker:** Hon. Members, that brings us to the end of Questions for Oral Answer.  
The two Questions for Written Answer and replies will be distributed.

## Questions for Written Answer

### CHIEF MINISTER

#### Government car parking spaces Value and number

2.1. The Hon. Member for Onchan (Mr Quirk) to ask the Chief Minister:

710 (a) *What the value is of a car parking space in the Government Office car park; and*  
(b) *how many spaces are in each Government Department?*

**Answer:** (a) For this part of the Question, it is assumed that the Hon. Member is referring to  
the car park which is located beneath the Registries and Courts of Justice.

715 The Government Valuer advises that the rental for a similar covered parking space in central  
Douglas would be between £1,200 and £1,300 per annum and that the market value for a one-off  
purchase of a single covered parking space in central Douglas would be in the region of £16,000  
(sixteen thousand pounds).

720 (b) It should be noted that Government Departments operate a complex and diverse estate; as  
such, there are many parking spaces for operational facilities, including police stations, health  
centres and plantations, for example. Data for these sites is not readily available and has not been  
included within the remit of this response. Spaces available to the public at Government-owned  
public car parks have also been excluded from the figure, except where they are rented for use by a  
Government Department.

725 This response focuses on parking spaces in central Douglas which are held by Departments for  
staff parking. Those figures are noted below:

	Department of Infrastructure	54
	Department of Economic Development	57
	Department of Education and Children	51
	Department of Home Affairs	33
730	Department of Environment, Food and Agriculture	1
	Department of Social Care / Department of Health	130 <sup>1</sup>

Department of Community, Culture and Leisure 17  
The Treasury 39

735 <sup>1</sup> It is not currently possible to identify an exact split between spaces allocated to DoH and DSC as many spaces are still allocated as belonging to the former DHSS rather than to an individual Department.

740 Car parking is also available in operational locations such as the Sea Terminal, Noble's Hospital and the National Sports Centre, where some spaces are shared with the public and controlled by way of permits. Due to the transitory usage of these spaces, it is difficult to provide an accurate picture of their use.

The above analysis of car parking spaces is likely to change in the near future due to a number of office moves taking place which will affect the current allocation of parking spaces.

### **Drink-driving Offenders' licence types**

2.2. The Hon. Member for Rushen (Mr Watterson) to ask the Minister for Home Affairs:

745 *In relation to drink driving offences committed during 2008, 2009 and 2010, how many were committed by individuals –*  
*(a) who held no driving licence;*  
*(b) who held a provisional driving licence; and*  
750 *(c) who held a full driving licence and had more than 2 years driving experience?*

**Answer:** (a) In relation to drink driving offences, the number committed by individuals who held no licence was as follows:

755                   2008: 6  
                      2009: 9  
                      2010: 4

(b) Specific data relating to individuals committing these offences who held a provisional licence is not held.

760 (c) Specific data relating to individuals committing these offences who held a full driving licence and had more than two years' driving experience is not held.

However, data is held on all licence holders and drink driving offences and this is as follows:

765                   2008: 143  
                      2009: 110  
                      2010: 91

## **Orders of the Day**

### **BILL FOR FIRST READING**

#### **Broadway Baptist Church Bill 2011**

3.1. Mr Anderson

**The Speaker:** Turning now to Item 3, Bill for First Reading, and I call on the Secretary of the House.

770 **The Secretary:** Mr Speaker, sir, Bill for First Reading, Broadway Baptist Church Bill 2011.  
Member in charge, Mr Anderson.

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**BILLS FOR SECOND READING**

**European Union (Amendment) Bill 2010**  
**Second Reading approved**

780 4.1. Mr Anderson to move:

*That the European Union (Amendment) Bill 2010 be read the second time.*

785 **The Speaker:** We turn to Item 4, Bills for Second Reading. The first of those is the European Union (Amendment) Bill, and I call on the Hon. Member for Glenfaba, Mr Anderson.

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

790 Although this is actually quite a straightforward Bill, I am aware that anything connected with the European Union seems to arouse very strong feelings in some people. I will therefore try to put the case that the two main aims of the Bill are necessary and beneficial, so that, hopefully, all Hon. Members will feel able to support the Second Reading.

795 Mr Speaker, whatever people may think of the EU, the one thing that we cannot do is ignore it. The EU exists and is very influential, both locally and globally. It is the Island's neighbour and main trading partner and the Isle of Man has a long-standing formal relationship with it. This relationship, which is usually just known as Protocol 3, creates certain international obligations for the Island in respect of the EU.

800 As in the United Kingdom, where the Isle of Man has accepted international treaty obligations, those obligations do not automatically apply as part of the law of the Island. They must be given effect through domestic legislation. The European Communities (Isle of Man) Act 1973 gives domestic effect to the obligations that have applied to the Island through Protocol 3, which came into operation when the UK became a member state. However, although Protocol 3 has remained entirely unchanged since 1973... the body which that relationship exists has obviously undergone considerable change. What began as the European Economic Community became the European Community, and then the European Union. The way the body works has changed. Its institutions have been reorganised and the number of the member states has increased significantly. The changes have not in any way extended the range of EU law that is applicable to the Island, by virtue of Protocol 3, but they have required amendments to the 1973 Act to ensure that it continues to accurately reflect the Island's obligations. For example, when a new country has joined the EU, it has been necessary to amend the 1973 Act to recognise that the Protocol 3 relationship then applies between the Island and that country, as well as those companies that were already member states.

815 In the same way, when the EU treaty has changed, the way the body works, or what it is called, the 1973 Act should be amended to reflect those changes. There have been a number of these amendments relating to accessions and institutional changes over the years. The first of the two main purposes of the Bill before the House today is to make another such amendment to the 1973 Act. The Treaty of Lisbon made a number of changes to the workings of the EU and, although those changes may have been significant to the Union and its member states, once again they resulted in no new EU law applying directly to the Island. The Isle of Man's formal relationship through Protocol 3 may now be with a body called the European Union, rather than the European Community, but it is exactly the same narrow slice of that body's law that continues to apply to the Island.

820 Of course, the EU has always had an indirect effect on the Island, whether because of our relationship with the UK or simply because the EU is a large and influential neighbour. Whether the Lisbon Treaty potentially increases those indirect effects is something that is outside the scope of the amendments to the 1973 Act as a result of the Treaty, which are only concerned with ensuring that the Island fully complies with its direct international obligations, as they currently exist.

825 The second main purpose of the Bill, which perhaps needs some explanation, relates to the use of ambulatory references. This legal term, which may sound somewhat threatening, simply means referring to something as amended from time to time. In the case of Orders made under the 1973

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Act to apply EU legislation that may not be directly applicable under Protocol 3, the use of these ambulatory references is nothing new. Until recently, when an Order has been made to apply EU sanctions to the Island, the EU instrument has been modified to refer to parts of it as amended from time to time.

835 I think most Hon. Members would agree that, for the sake of the Island's reputation, we should not just implement international sanction measures; we should also keep our implementation in line with amendments to those measures without delay. For example, an EU regulation may contain a list of persons whose financial assets should be frozen because of links to terrorism, and often that list will be based on the United Nations Sanctions Committee list. Without the ability to use a reference to EU regulations, as amended from time to time, there will inevitably be a significant delay between a person being added to the list or, equally importantly, removed from the list, and that change being reflected in the law of the Island.

840 However, some time ago, the Attorney General's Chambers advised it had concerns about the use of these references, because the 1973 Act did not contain an explicit power to allow for their use. This concern partly came to light because the UK had amended its European Communities Act 1972 to allow the use of ambulatory references as it considered that instruments made under the Act to implement EU legislation could not otherwise refer to it as amended from time to time. There are cases other than EU sanctions where the ability to use ambulatory references may also be beneficial, and that is something I would intend to explain in more detail at clauses stage, should the Bill pass its Second Reading today. However, I would just say that, except for the application of sanctions measures, Orders under the 1973 Act to apply EU legislation to the Island are made very infrequently and there is no intention that an ambulatory reference would be used every time. It would be considered on a case-by-case basis.

850 Mr Speaker, Hon. Members will recall that, except for EU sanctions, an Order made under the 1973 Act must be laid before Tynwald in draft at one sitting, and that draft must be moved for approval at a following sitting before the Order can be made. I believe that this procedure gives Hon. Members sufficient opportunity to consider whether they could support the inclusion of an ambulatory reference in any particular Order. As in the UK, an instrument which does not include an ambulatory reference will state on the front page that the relevant power has been used. Also, the intention going forward is that, where a piece of EU legislation has been applied to the Island with an Order under the 1973 Act that contains an ambulatory reference, any amending legislation would be included in a new section in the list of EU legislation that may be directly applicable under Protocol 3 which is laid before Tynwald.

855 Some Hon. Members may fear that a piece of EU legislation which has been applied to the Island by Order, which includes an ambulatory reference, might be transformed into something completely different that may no longer be in the Island's interest. Mr Speaker, this is very unlikely because, as with most legislatures, the EU only amends its laws so far before re-enacting and replacing them with a new piece of legislation. If you wanted that new legislation to be applied to the Island, a new Order under the 1973 Act would be required. Any amendments will be monitored, and if it did happen that the effect of a particular amendment was not in the Island's interest, the power to amend or revoke the Application Order ultimately rests with Tynwald.

860 Mr Speaker, I should mention that, in addition to providing a firm legal basis for ambulatory references to be used in future, the Bill also confirms the legal validity of those existing EU Sanctions Application Orders that include such references. As well as the two main purposes of the Bill that I have described, it also makes a clarifying amendment to the penalties provision in the 1973 Act, but it does not make any changes to the substance of the provision.

875 Finally, the Bill includes some consequential and minor amendments and repeals.

880 Mr Speaker, I beg to move that the European Union (Amendment) Bill be read for a second time.

**The Speaker:** Chief Minister.

**The Chief Minister:** I beg to second and reserve my remarks.

885 **The Speaker:** Hon. Member for Douglas East, Mr Robertshaw.

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

890 I will actually be voting against this Bill today. I am one of those who fears the insidious creep of the European Union in its impact upon parliamentary process and authority. That process continues everywhere.

We are not in the EU. I fully accept that but, just for a second, let's look at the situation in Westminster. Whilst the politicians pose and preen on the television and in Parliament about what they can and cannot do, and what they are in control of, the reality is that, quietly, directives and regulations and the like, pass by the back of the whole parliamentary process and, out of interest, in the first four and a half months, since the coalition in Westminster came to power, there have been 857 pieces of EU legislation, comprising 427 regulations, 32 directives and 396 pieces of legislation which have passed Parliament by.

Okay, we are not in that situation here, we are talking about ambulatory references but, nonetheless, we do have the opportunity, having noted from the Attorney General's Chambers that he is concerned about the authority and power that we currently have with regard to these references. To my mind, we should not be doing anything that bypasses parliament. I do not think, if we said no to this Bill, that the phones would stop ringing, that traffic would stop and the world would come to an end – quite the contrary. It would leave the authority with this parliament, which is where it should be. Let's give ourselves some time to test whether we are capable of dealing with these EU references and if, after a number of years, we decide we are wrong, then we should do something about it.

Here we have the opportunity. I think we should take it.

Thanks, Mr Speaker.

**The Speaker:** Hon. Member for Michael.

**Mr Cannan:** Having listened to the Hon. Member for Douglas East, I concur with his sentiments, because I am a Eurosceptic. On the other hand, there is reality. I recall in 1984 when the Single European Act came before this parliament, the House of Keys, I queried whether we should enact that legislation, and I was informed by the then Attorney General that really we had no option, and that, basically, it was a rubber stamping exercise. Even Mrs Thatcher regretted afterwards agreeing to the Single European Act, but of course, that was afterwards and after she was out of office.

The machinery of Brussels trundles forth. There is very little a small parliament like this can do about it. We are embroiled in the European Union – deeply embroiled through Protocol 3 and various other instruments that have passed by and, really, in my opinion, while I would like to vote against the Bill, the reality is that, as I was advised over 20 years ago, the Isle of Man has no option but to conform to it. Not to conform to it would cause major ripples. That, I believe, is why the Council of Ministers have brought forth this Bill, because they are well aware that, constitutionally, there is no advantage in opposing it, only causing trouble in opposing it... or not so much 'trouble', probably the wrong word – inconvenience – to our general economic wellbeing and the globalisation of the Isle of Man's trading.

**The Speaker:** Hon. Member for Onchan.

**Mr Karran:** Vainstyr Loayreyder, I am not against the principles of the European Union. I am quite sympathetic to the principles of having the aspects, as far as a common market and the idea of having European states working together – no problem with that. My concern with this Bill is I have actually asked a couple of people to read it and, to be honest with you, they find themselves in a very confused situation as far as this Bill is concerned. I do get rather tired in this House of people trying to be straight in this House and you end up getting more hassle for being straight, as far as what needs to be done in this House.

I personally feel that this Bill should be going to committee. I personally think that you need to be looking at... It is alright the Hon. Member, the mover... I know you have got to get these things and you have got to tick your boxes, but what we have to remember... What concerns me about this piece of legislation is, is it just more litigation, lawyers' feed, at great expense for the taxpayer of the Isle of Man? I think it is important that there is clarity and understanding in this House. There are great advantages, Vainstyr Loayreyder, in being a small jurisdiction. There are great advantages, but there are also great disadvantages, and this is one of the disadvantages, in my opinion, under the present political system, that I believe that what we should be doing is we should be referring this to a committee to take representation, because the one thing I do agree with, as far as the Member for East Douglas is concerned, is that we do not want to be held to hostage. We do not want to end up with a situation where we nod this through – 'tally-ho, we're all mates together' – and then we find that 'Oops, we didn't read that clause on this piece of legislation'. All things like European arrest warrants and all sorts of things that are completely out

of the consciousness of reality or even imagination when, in 1973, the original Agreement was signed.

955 The fact of the matter is we need to know that we are not allowing ourselves to be hostage to fortune at a later date, and I feel that if it does not go to a committee and it does not take representations from people outside this House, in order to argue what is fact and what is fiction, then I would have to go against it. I have no problems, I am delighted. I remember saying in this House many years ago, if I have to choose between you lot and a bunch of froggy judges looking after my Human Rights, with not a word of French, I would have you in every time –

960 **A Member:** You'd have us?

**Mr Karran:** – I would have the froggy judges every time, as far as that is concerned, (*Interjection by the Chief Minister*) and I stand by that. But the reality is that I do not want it because of being a Tory sceptic or being a pro-European; I want what is best for the Isle of Man.

965 I believe that we should not vote for this Bill at the present time. I do not think that we are well enough informed about this Bill. We have got to be looking, as far as this is concerned, three or four steps ahead. This is an enabling piece of legislation. Let's just make sure we do not enable ourselves to be more impotent and actually go backwards as far as our constitutional positions. I think also, Vainstyr Loayreyder, the problem that we have got is the fact that, when you look at this piece of legislation about ratifying, it is important that we realise that maybe our way forward is not to be in the EU but to try and get into the EEA. (*Interjection by Mr Cannan*) I think it is important that those issues need to be addressed, as well. If you have given up your legislative competence to the EU, then... We have blown many opportunities. We have made great opportunities, but we have blown many opportunities.

970 I think today, what we should be doing, whether you vote for the Second Reading is one thing, and I am tempted not to vote for the Second Reading because I know that we are not going to get it to a committee, but I think it should go to a committee. I think it should be fully investigated, because I see this piece of legislation as a piece of legislation for big bills with lawyers arguing over the definition of the primary legislation and I think that is why it should be going to a select committee. I am quite happy to propose it now, or further on, Vainstyr Loayreyder, if you want me to.

980 **The Speaker:** If I could give guidance on that point: Standing Order 4.10 makes specific reference to a committee. It reads as follows:

985 'After the motion for second reading has been carried, the clauses of the Bill may be referred to a Committee to consider and report.'

990 So in the event that the Second Reading carries, it is open to any Member to move reference to a committee if they wish.

At this point, can I just make reference to a further Standing Order 3.32(2), which says:

'No Member may use offensive words against the House, the Council or Tynwald, or in reference to any person.'

995 I was just a little concerned, Hon. Member, at your reference to judges. (**Several Members:** Hear, hear.) It may well have been meant in an ironical sense, but offence *could* be taken with that particular phrase. So I just draw that to your attention.

Hon. Member for Rushen, Mr Watterson.

1000 **Mr Watterson:** Thank you, Mr Speaker.

I rise as somebody who is as fervently against the EU as many other Members who have got up to speak in this debate, and if voting in favour of this Bill was a vote of confidence in the EU, I can assure you I would not be supporting it. But it is not and, as the Minister has outlined, this is about updating references and making things easier for us in the Isle of Man.

1005 I was one of those who, at the consultation stage, actually raised this issue about ambulatory references having unforeseen effects. If you have, for example, an EEC/EU directive that sets out a certain definition for an item or a piece of legislation and that is changed and updated, changed and updated, changed and updated, and if that is automatic, then there is the potential for that effect, and I think that was the issue that was raised by both Mr Karran and Mr Robertshaw in their submissions. That was the matter that I wrote in about and the response that I had from the Chief Secretary's Office on that I found perfectly satisfactory.

1015 The hon. mover may wish to circulate that response to Members who have shown an interest in ambulatory references today, just to clarify the point, to demonstrate the fact that this is not an open house, as far as the European Union is concerned, to just update its legislation that will automatically take effect in the Isle of Man. That might be of help to other Members ahead of clauses stage.

**The Speaker:** Hon. Member for Castletown, Chief Minister.

1020 **The Chief Minister:** Thank you, Mr Speaker.

I think it is unfortunate, as tends to happen, every time some Members see ‘European Union’ they go off on a tangent, and I would just like to really bring Members back to the reality of the situation. Clearly, the Isle of Man is not a member of the EU. We have a Protocol which enables us only to trade with the EU.

1025 The Hon. Member for Douglas East, Mr Robertshaw, made a number of points which I would like to comment on. He would vote against the Bill because he is concerned about encroachment of the EU on parliamentary powers, and then he went on at length to talk about what is happening in the UK. But that does not happen in the Isle of Man. The situation is totally different. The UK is a member of the EU and is therefore, under its association, obliged to apply directives and regulations, and we are not. The only area that the Isle of Man is obliged to apply directives and regulations is where it affects our Protocol, i.e. where we trade with the EU. That means, for example, our main trading partner – the United Kingdom – and Eire and mainland Europe. It is only in those areas that we have to apply directives and regulations if we wish to continue to trade. We could, of course, say we do not, and then we will lose most of our industries.

1030 Just to give an example, I was at a factory in the Isle of Man – GE Aviation – employing a substantial number of people. Ronaldsway Aircraft, they employ a substantial number of people. Just to name two. If we were not covered by the Protocol, those factories would not exist in the Isle of Man and there would be no employment in those areas, because for them to be able to manufacture and trade into the EU, we have to have that done under the Protocol. That is where we should not confuse what lots of people do, with the help sometimes of Hon. Members, that we have to apply EU and we have no say in it. Absolute rubbish, unless it is a matter... if we wish to safeguard manufacturing and certain trading aspects, like farming and fisheries, with the Isle of Man, then we have to apply those directives.

1035 To give another example, we have an incinerator. (**A Member:** Energy from Waste.) Some call it an Energy from Waste Plant, but it is an incinerator. We have an incinerator. We voluntarily – and I underline this, Mr Speaker, we *voluntarily* – adopted EU standards for the environment because we wanted the best safeguards for our people. That is different to being obliged to do it. We could have built a cheaper incinerator and we could have polluted our atmosphere and we could have affected the health of our people by not adopting those standards, and we could have maybe saved £10 million, or whatever, building it. But we did not. We made a responsible, conscious decision to adopt EU standards.

1040 So the Hon. Member for Douglas East talks about 857 pieces of EU legislation in the UK: yes. They were not here, though. We still have a pint of beer, we still have a pound of spuds, we have a fifth of a gill drink. We do not have to follow the UK, and we consciously do not because we do not believe that is where we want to go. One day, maybe Tynwald will – who knows – but we are not a member, and what this legislation... The reason for explaining that is because the Hon. Member for Onchan, Mr Karran, said as a member of the EU we have to follow. We are not in this position: our way forward is not to be in the EU. Well, we are not in the EU, for the reasons I have explained. We have people in our community who believe – and sometimes, I have to say, because some of our Hon. Members, colleagues, do not say, ‘No, we are not’ – that we have to adopt all EU directives and regulations, and the answer is we do not. What this legislation is doing is providing us with the very thing that Mr Robertshaw is concerned about, actually allowing Tynwald, our parliament, to say whether or not we apply what we have to apply, and if we do not want to then there are consequences, but if you look at the clauses – clause 4, and then you go to clause 8 – it makes it clear an Order would be made by the Council of Ministers, put before Tynwald, and then at the following sitting it can be annulled by Tynwald, if it so wishes. So who has the control? Our parliament. That is what you need to keep in mind. Keep focused on what the legislation is about. It is not about all the wider issues, and if we do not want to have an association with the EU through a Protocol, then let’s make that decision, but you know what the consequences will be: there will be no industries left in the Isle of Man. Then we will be back to spuds and herring and a population of about 20,000. That is the reality.

Let's be real about this, Mr Speaker. So this Bill ensures that Tynwald is – I emphasise, *is* – involved and determines what shall apply to the Isle of Man. The Government will bring it to Tynwald. It will then lay before Tynwald that change. Members will have an additional month to look at it, and if one Member of Tynwald says 'I don't agree with this', that Member can stand up and move a motion for those regulations to be annulled. If he gets the support of Tynwald in the majority, then it would be annulled. That is what we call democracy. The UK do not have that luxury, because they are full Members of the EU. Let us please keep it in real parity as to what this is about. This legislation is basically an administrative tool, to ensure that Tynwald does have an involvement, and that what we do works in a very practical way.

Therefore, I hope Hon. Members will support taking this Bill through, because it is an important measure that will make it easier, tied to our existing legislation, which is already in being, which is the Act going back to 1973.

Thank you, Mr Speaker.

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

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

I was interested in the mover's introduction because he said one thing, but then did not actually come back to answer his own question.

He started with the question of... Government is very aware that anything that involves the EU will get certain people very excited and agitated and exercised. What he did not say is what the Chief Minister has given the clearest answer on, which is why the Government believe the Isle of Man will benefit from the provisions of this Bill. We have not been told that. We have not had a presentation. We have not been given the advice that the Chief Minister has just very eloquently explained to the House. We have not had that, so I do think Government can hardly be surprised if the very opposition and interest that they anticipated and did nothing to head off and explain has raised its head, and good that it has.

Mr Robertshaw made some very clear points and I think Mr Watterson echoed them, and I would certainly echo them. If this were a vote of confidence in the EU, I would absolutely vote against it and, dare I say, I think the vast majority of people in the UK, who were not allowed a referendum, despite repeated promises, but also in the Isle of Man, would share that view. That is academic for today's debate, though. I do understand that, I do accept that, and this is really about administration. Does this Bill allow the administration of Government to afford trade to prosper without it having an adverse political detriment? Is that what this Bill has? I listened to the Chief Minister and that gave me that confidence, but it did not give me sufficient confidence to say that I am entirely relaxed about it.

I do hope that the Bill is referred to a scrutiny committee, because we do not scrutinise Bills to the degree that we should do. We do not have Bills presented to us – and this case is a classic – in anything like the degree that we should do so that we can better understand it before we come into this House, and I hope that that is a constructive message that the Government will hear.

I do not really know that there is anything more I can add to this. I will listen very carefully to the summing up. I am absolutely Eurosceptic; I make no apology for that. Anything which has even a hint of extending the undemocratic and, frankly, corrupt influence of the EU any further and has any detriment on the parliamentary sovereignty in *any* jurisdiction should be resisted as strongly as possible, but we are told that this is not the test here. I do not know. Maybe the mover can satisfy the House to that effect. Maybe it is quite as innocent and quite as innocuous as we are advised that it is, and quite as necessary as Mr Cannan, and I think probably rightly, said and not least coming from his Eurosceptic view. I took that comment very much to heart.

So I ask the mover to reflect on those observations. They are intended to be constructive. We have plenty of time before we come back from clauses for Government to arrange a presentation. We are not overloaded with those at the moment and I very much hope that would be the case. Without that comfort, I would certainly be minded to support this, the Member for Onchan's referral to a committee. It is not a large Bill. Maybe it does not have great implications, in which case it would not be a lengthy delay in the progress of the Bill. It would certainly have plenty of time to get through this House, and that would be a win-win situation, I would contend, Mr Speaker.

**The Speaker:** I call on the mover to reply, Mr Anderson.

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

1135 Some interesting contributions. I would like to just go through them and I thank the Chief Minister for actually answering quite a lot of the queries that came up during the debate. However, in relation to Mr Robertshaw, who fears the inclusive creep of the European Union, we have international obligations. If we want to continue to trade with our biggest neighbour, we have to make sure we abide by those obligations. This legislation is actually helping us to do that in a more effective way.

1140 I would say that it has been highlighted by the Attorney General's Chambers that our obligations... The way in which we are responding to those obligations at the moment is not satisfactory, and therefore that is why this legislation is needed. Maybe I did not make that clear enough for the benefit of people like Mr Gill later on.

1145 I would also point out to Members that, despite the huge amount of legislation that Mr Robertshaw quite rightly pointed out has come in in the UK, only a very narrow slice of that legislation actually applies to the Isle of Man through Protocol 3. I think I have answered the queries that he brought up.

1150 I thank Mr Cannan, who is, like me, a Eurosceptic. I am no fan of the European Union either, (A Member: Hear, hear.) but I can inform him that we have obligations, he knows we have obligations and this is a way of making sure our obligations are handled in a more efficient manner. I recognise that Mr Cannan is realistic. He has recognised, through the years, the relationship we have through Protocol 3 and I think he has taken on board that this Bill is something that actually helps us, rather than hinders us, in our relationship with the UK.

1155 In relation to the Hon. Member for Onchan, Mr Karran, who is not against the principles of the European Union, so I guess he is a little way different than some of us in that respect, he says some of his friends are confused and would like clarification. For any of his friends who are confused, maybe he could ask them what areas they are confused in and I will quite happily be able to give some clarification on those points of concern.

1160 What this does is actually protects our current system, actually helps our legislation. This is quite straightforward, believe it or not, and I think we are reading into it things that we should not actually be going anywhere near. It is straightforward legislation.

1165 The Attorney General's Chambers has highlighted that the way we deal with UK and EU legislation coming through the UK is not appropriate and that is why this legislation is coming through. There are safeguards, and I have already highlighted those safeguards in my opening remarks. The Chief Minister did reiterate those safeguards, that legislation has to be laid the month before and then anybody has an opportunity to pick that up.

1170 We are not going backwards with our position as far as the European Union is concerned. We are not changing our obligations in any way. We have those obligations. This simply makes sure that all those obligations are dealt with in a more appropriate manner.

1175 In relation to this short Bill, I see no advantage in actually sending this to committee. This is quite a short Bill. If anybody does have those concerns, we had appeared at consultation and some Hon. Members took the opportunity to write in and the Hon. Member, Mr Watterson, has already said, he had raised concerns about ambulatory references and he had a reply that satisfied him. I will give that undertaking that that reply will be copied to Hon. Members, to give Mr Watterson that comfort.

1180 I thank the Chief Minister for his explanation on our obligations under Protocol 3. I think he quite clearly explained the system as it has evolved over the years and our obligations to Protocol 3. I am sorry that I did not satisfy Mr Gill in my opening remarks, but we have taken on board bringing forward this legislation, because the Attorney General's Chambers said the way we do it at the present moment is lacking and we will be able to move these ambulatory references, for example, to make sure that we are able to put them as an example given of where there are international sanctions. We will be able to change those sanctions, put people on and off the list of those applying sanctions without as much hassle as we have done in the past.

1185 This is nothing to do with a vote of confidence in the European Union. If we had a vote of confidence in the European Union, I think it would have unanimous... against it. However, this is about our obligations and I do not think, Mr Speaker, there is a need for a committee on this Bill. It is a short Bill, it is quite straightforward. However if Hon. Members would like a presentation – and I can see one or two nodding – I will try and arrange that between the clauses stage. It will be a very short presentation, that is all I can say and, with that, I beg to move.

1190 **The Speaker:** Hon. Members, the motion is that the European Union (Amendment) Bill be read for the second time.

Those in favour, please say aye; against, no. The ayes have it.

*A division was called for and electronic voting resulted as follows:*

**FOR**

Mr Quirk  
Mr Earnshaw  
Mr Brown  
Mr Crookall  
Mr Anderson  
Mrs Craine  
Mr Quayle  
Mr Teare  
Mr Cannan  
Mr Cregeen  
Mr Houghton  
Mr Henderson  
Mr Malarkey  
Mr Corkish  
Mr Shimmin  
Mr Cretney  
Mr Watterson  
Mr Gawne  
Mr Gill  
The Speaker

**AGAINST**

Mr Karran  
Mr Robertshaw  
Mrs Cannell

**The Speaker:** With 20 votes for and 3 against, the motion carries.  
Mr Robertshaw.

1195 **Mr Robertshaw:** Thank you, Mr Speaker.

I rise to propose that it is sent to committee. I do so because, frankly, I was horrified by the Chief Minister's remarks – all this nonsense about scaring us all about what would happen if we voted against it. What nonsense!

1200 **The Chief Minister:** ...857 people...

1205 **Mr Robertshaw:** All I simply said was that it was a matter of parliamentary process that ambulatory references should go through the parliament. The difference between the two of us is simply that the Bill wants it to be decided outside of parliament and for us to have the opportunity to say no – and I do not get that. It is simple. Why are we not simply allowed to consider it on the floor of the House first?

1210 I just fear for parliamentary process; I fear the parliament itself should have more focus on a direct, hands-on basis with what is happening in the EU and regulations and ambulatory references and everything else. I think it is a healthy way to go about it and I just think we should have the opportunity to do so.

1215 One of the underlying points in the notes attached to the Bill refers to the fact that, actually, it was inconvenient that the House was not always available, that there were periods of recess where items could not be got through. Let us focus on that, just for one minute. Imagine if you are a businessman and you have a certain amount of work to get through and you had a number of staff and one person had four weeks' holiday a year – would you go to that person and rip that responsibility off them and say, you are not having it at all because you are on holiday four weeks a year? What? That is how –

1220 **The Speaker:** Hon. Member, the debate –

**Mr Robertshaw:** Am I out of order?

1225 **The Speaker:** No, you are not out of order. I simply draw to your attention that you are moving reference to a committee. We have had the Second Reading debate and I appreciate you are making your case, but you must confine your arguments to the case for a committee to be established.

1230 **Mr Robertshaw:** Thank you, Mr Speaker. I think I have actually done that already. The issue of parliament considering it first and keeping it in a proper format.  
Thank you, Mr Speaker.

**The Speaker:** Mr Gill.

**Mr Gill:** Thank you, sir.

1235 As I indicated, I am happy to second that. I did not understand the response from the mover, that he was opposed... He did not see the need, was the quote. The Minister did not see the need for this to go to a committee.

1240 I think the need is quite clear: it is for clarity. Let me rephrase that. The need is self-evident, in that we would all benefit from clarity about the absolute purpose of this Bill and the absolute ambit of the powers and what changes this Bill could bring about and what the actual impact of those would be. The Minister moved some of the way to say we will have a presentation but it will be a pretty short one. I appreciate his candour, but I think there are more questions than have been answered today in relation to what this Bill is, or is not, about, and if it is the basis of a short presentation, surely the committee will not be detained too long in exhausting their duty to ensure that the Bill is fully scrutinised, is fully reported on and that we make a vote with that clarity. I think, as Mr Robertshaw has outlined, that is entirely consistent.

1250 There is no detriment, that I can see, to Government to doing this. It is about openness. We are told that that is what Government is about. This is about transparency. That is why we are going to now have a presentation belatedly, but a committee could enhance that process. What would the detriment be? There would be a slight delay. Not a delay that would be terminal for the Bill. It is not about being knocked into the long grass. If it is so simple to understand, but we have not all understood it, that is the mechanism that will allow us to have that understanding. It will not be very time consuming. The Bill will not be lost. The Bill will be considered in a more informed, more full manner, and it will be transparency in action, so I think that, for all those reasons, a committee to scrutinise this and report back in short order is entirely appropriate and I hope that Government will support that.

**The Speaker:** The motion for reference to a committee has been duly proposed and seconded. Can I confirm with the mover, is this to be a committee of three Members?

1260 **Mr Robertshaw:** Yes, Mr Speaker.

**The Speaker:** Mr Anderson.

1265 **Mr Anderson:** Thank you, Mr Speaker.

Slightly disappointed with the reaction. Having given an undertaking that we would have a presentation, I cannot see, Mr Speaker, that a movement to a committee is going to change any views of the Hon. Members in this House today and therefore I cannot see that that would affect a change in the voting pattern.

1270 Obviously, the Hon. Members that have spoken have very clear views and they see these EU shadows creeping over us, which I do not believe are there. I have tried to give that reassurance in my closing remarks. I have given the assurance that we will have a presentation and, surely, with such a short Bill, any of those concerns can be raised and answered there. I see no need at all for having a committee on this Bill.

1275 **The Speaker:** Hon. Member, Mr Cannan.

**Mr Cannan:** Mr Speaker, I cannot see what would really be achieved by a committee of three Members.

1280 Three Members may sit and discuss the Bill and its clauses at length, but just three members. If the mover of the Bill has a presentation, 24 Members will be better informed (**Several Members:** Hear, hear.) and at less cost to the parliamentary administration. All these committees cost time and money (**Mrs Craine:** Hear, hear.) and if they are seriously important, I will support them. But, in this case, as I have already said, the issue of the European Union, there are those in favour and those against, but the economic wellbeing of the Island depends on us conforming to much of what the European Unions says. For instance, if they give directions that light bulbs should be of a certain size and we are making light bulbs of a certain size here, we have to conform with that if we wish to export them.

1290 As the Chief Minister said, the whole of our manufacturing industry, because it is export led, has to conform to EU regulations. Our Meat Plant, because we export meat, conforms to EU regulations. Whatever we wish for the Isle of Man to be less involved with Europe... we just cannot afford to. The wellbeing of our people and the people we represent is paramount.

**The Speaker:** Mr Robertshaw, reply, sir.

1295 **Mr Karran:** Mr –

**The Speaker:** Mr Karran.

1300 **Mr Karran:** Vainstyr Loayreyder, I think the situation that needs to be realised... we heard the mover say, in his summing up, as far as the... [*Inaudible*], 'Where are the things that are not there, as far as this piece of legislation is concerned?' I think the worry I have, and I think the previous speaker, the Hon. Member for Michael, says, 'Oh, we don't want to have more committees of three'... The point is, where are the international lawyers within this House, as far as international law? Let's be perfectly honest. We are lay people from different walks of life who have one common bond. We are the people's representatives, and it is important that, as the people's representatives, we make sure that we get the best advice. I have to say that he is right about select committees. Select committees need to be given more emphasis, as far as the support that they need as far as professional advice, to make sure that they are effective. So, if he is talking about three Members of Tynwald twiddling their thumbs and deciding unilaterally, without taking 1305 any advice on that, then he is right, you should not have a committee, but let's hope that we are in this slow, painful evolvement of trying to develop the audit on the executive.

I have to say that I can remember, on an issue many years ago, long before we heard the remarks from the Member for Rushen in Question Time, the situation over... we had a debate over the territorial sea, where the person who sat in your seat then, Sir Charles Kerruish, fought his 1315 corner well, as far as that we were agreeing on the territorial sea. To be honest with you, one was part of the executive function and we decided that we would support the Government's proposal on it, and I remember coming to become the new Member for Fisheries and then finding out what a legacy that we did by ignoring Sir Charles on that proposal, trying to sort out the problems of fisheries. There are a number of us who had those problems, as far as that piece of legislation is concerned. One of the things was that it has taken, since that period to date, since 2001, that we have tried to extract ourselves from being hostage to fortune, because we did not look at the implications of what we were agreeing to, back then.

I believe the House needs to be very careful with these things. You are right, the stakes are high. The Chief Minister is right about the issues of jobs. We do want accessibility into the EU 1325 and we need to make sure that that is not endangered. I totally agree with him on that, but we also need to make sure that, when we are agreeing to these pieces of legislation – and we talk about several pieces of legislation in here – we do not find ourselves allowing this parliamentary assembly to be impotent on aspects that were not thought of.

1330 I think, to be honest with this House, we should support the Hon. Member for East Douglas, as far as the proposal as far as a select committee is concerned, but it is important we do take the right advice.

We have got the Attorney General's department advice on this proposal. Well, I have to be honest with you, I would be more reassured if a select committee was to be set up and to take 1335 advice that there are not any hidden curves where we find ourselves being entrapped because we have agreed to these proposals.

I have to say, Vainstyr Loayreyder – and I know we have heard before when we were talking about the budgetary process and the view point, one from inside the tent and one from outside the tent – the reality is it needs to be from the viewpoint of what is best for the Island and I do feel that when we come to these proposals on these pieces of legislation, we must make sure we do not end 1340 up with a hostage of fortune.

I do feel that it would be the responsible way forward for the parliamentary assembly to allow this to go to a committee. I think it was disappointing that the mover of the Bill, or the Ard-shirveishagh, did not actually get up and say, 'If we don't have this done by this date, this is what will happen.' This is supposed to be about making the procedures easier. My concern is that that is what the line is, but what I think is important is that we know what we are reading, we know our limitations and we know the fact that we are not international lawyers. What I do not want to end up with is a situation where we find out later on, where we, more likely, want to go and maybe try and change our status to work more with Norway and the EEA that we find that, unfortunately, we have actually burned our bridges because we have allowed something just to be swept through on the euphoria of, you know, we are all mates... we are all independent, but we are all in the 1345 executive together. I think that is why we should give the Hon. Member for East Douglas an opportunity to have his select committee.

1350

1355 **The Speaker:** Mr Robertshaw to reply.

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

1360 It is a simple principle. It is the principle that the EU is profoundly important and impacts upon us all, and I, as a new Member, was shocked when I arrived here to find a lack of focus on the whole issue of EU and EU legislation. I just believe it is healthy, in principle, that the Hon. Members retain maximum focus and involvement in the whole process and that is why I am against the Bill and why I am for the principle of a select committee, Mr Speaker.

1365 **The Speaker:** Hon. Members, the motion is that the European Union (Amendment) Bill clauses be referred to a committee of this House of three Members, for consideration and report. Those in favour, please aye; against, no. The noes have it.

*A division was called for and electronic voting resulted as follows:*

<b>FOR</b>	<b>AGAINST</b>
Mr Karran	Mr Quirk
Mr Malarkey	Mr Earnshaw
Mr Robertshaw	Mr Brown
Mrs Cannell	Mr Crookall
Mr Gill	Mr Anderson
	Mrs Craine
	Mr Quayle
	Mr Teare
	Mr Cannan
	Mr Cregeen
	Mr Houghton
	Mr Henderson
	Mr Corkish
	Mr Shimmin
	Mr Cretney
	Mr Watterson
	Mr Gawne
	The Speaker

**The Speaker:** With 5 votes for and 18 against, the motion fails to carry.

### **Road Races (Amendment) Bill 2010 Second Reading approved**

4.2. Mr Gawne to move:

*That the Road Races (Amendment) Bill 2010 be read the second time.*

1370 **The Speaker:** Therefore, we turn to Item 4.2 on our Order Paper, the Road Races (Amendment) Bill. I call on the Hon. Member for Rushen, Mr Gawne, to move the Second Reading.

**Mr Gawne:** Gura mie eu, Loayreyder.

I am pleased to be able to promote this legislation on behalf of the Department of Infrastructure.

1375 The Road Races (Amendment) Bill 2011 contains a single clause, which will amend section 1(2) of the Road Races Act 1982 to allow racing on a Sunday, using non-mechanically propelled vehicles. Apart from two exceptions which, in limited circumstances, permit the TT and the Manx Grand Prix motorcycle races to be held on one Sunday only, the Road Races Act 1982, at present, prohibits the holding of races on roads on Sundays.

1380 The principal effect of the Bill will be to enable the Department to authorise races on roads to be held for non-motorised cycles during the next year's Commonwealth Youth Games on the Island, though the Bill will also facilitate the holding of other races with non-motorised vehicles, such as the soapbox derby, (**Mr Cretney:** Hear, hear.) on other appropriate occasions.

Hon. Members, since the First Reading of the Bill, I have received representation from certain religious and other bodies and their supporters, who have expressed concerns about the potential

1385 of Sunday road closures impacting on regular church services, and therefore I have agreed to an amendment to the Bill, which my hon. friend, Mr Watterson, will be bringing forward at the clauses stage.

1390 Having outlined the broad principles of the Bill, I hope that Hon. Members will now give it their full support. I beg to move that the Road Races (Amendment) Bill be read for a second time.

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

**Mr Quirk:** Happy to second, sir, and I reserve my remarks.

1395 **The Speaker:** Hon. Member, Mr Gill.

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

1400 I welcome the Bill. I think it is a little bit unfortunate, but at the same time healthy, that the concerns have been raised, which I do not think are legitimate and genuine concerns, from faith groups and members of different congregations, that they feel that this is somehow a challenge or a threat to their right to attend worship on a Sunday.

1405 I heard the mover, my colleague, Mr Gawne, talking about an amendment, but he did not give us any details about what that would actually try to effect. I think, from a letter he has kindly sent to me, it will be to address those concerns specifically, but perhaps a little bit more advice on what comfort that amendment is intended to give us, and give various people who have raised those concerns, would be welcome.

1410 Certainly from a constituency aspect, the effect of this Bill will be to close the loophole which the mover mentioned and the Attorney General's office had flagged up, in which the Soapbox Derby, which is a very popular and very beneficial event, not only for Port Erin but for many people across the Island and, indeed, visitors to the Island, who enjoy that very much... so that we can once again make that a regular event. It was unfortunate that it had to be cancelled because of that loophole, but the Minister, in moving this legislation, is absolutely fulfilling his commitment and promise at that time to bring this legislation forward. That is what this does. It also gives us the opportunity to have a cycle race in the Youth Games, which is very necessary.

1415 On those grounds, I entirely commend the Bill and commend the mover for bringing it forward, but I would again ask if he could just give us an idea, a bit more flesh on the bones, of what the amendment is proposing to achieve, sir.

1420 **The Speaker:** Hon. Member, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker, I will be very brief.

I welcome the willingness by the Minister to consider an amendment to give some certainty and some comfort to those who do have a concern who represent religion as a whole on the Island.

1425 I would merely ask him to consider whether it would be prudent to delay clauses to receive from the mover of the amendment, who will be drafting the amendment – who, of course is not the Minister; it will be somebody else (**Mr Watterson:** Me.) – to be able to circulate that amendment widely, so that the churches who are represented and have concerns may consider the same before it comes back to the House at clauses stage. I just ask him, does he consider that that may be prudent to do that?

1430 **The Speaker:** Hon. Member, Mr Watterson.

**Mr Watterson:** Thank you.

1435 Just in response to Mrs Cannell's comments, it is me that has moved the amendment. It is something that I have been working with the Minister on for a few weeks in order to try and reach an accommodation that we can all agree on, so that we are not setting ourselves up for a fight in this place.

1440 What the amendment will actually do is introduce a statutory three-month consultation period for faith groups to make representations if any Order is to be made to close a road alongside a church, and that is basically the substance of the amendment.

We have seen, and I completely concur with Mr Gill's comment that this is about... [*Inaudible*] the Commonwealth Youth Games and this is about the Box Car Derby. These are powers that are used very infrequently and, indeed, the TT and Grand Prix are already carved out of this legislation, as it is.

1445 For those who are concerned, I would say that the amendment was filed last night, even though  
that is a week earlier than required. Certainly, I am happy to have the amendment circulated and  
would hope that Members will look at the principle of the Bill today at Second Reading and  
concur that, in terms of allowing cycle racing for the Youth Games and for events such as the Box  
1450 Car Derby which, certainly, in the latter case, will not in any way affect people's ability to attend  
their religious services, that the principle of the Bill should be approved today and that Members  
should, therefore, vote in favour today and look at the amendment to see if it delivers what they  
want in terms of addressing their concerns.

Certainly, my concern was that people would not be able to attend church on a Sunday because  
of this Bill and that was, potentially, one of the unforeseen effects, but the impact of that would  
1455 have to be reliant on a Minister who did not take account of representations from religious groups.  
I wanted to strengthen that. I did not feel that that was an adequate provision and that is why I  
would ask Hon. Members to vote 'Yes' today, and look at the amendment to see if that provides  
the reassurances that they are looking for.

I would say thank you to the Minister for entering into that negotiation with me and I am  
1460 certainly a lot happier with it, now that we have reached the accommodation on the amendment.

**The Speaker:** Chief Minister.

**The Chief Minister:** Thank you, Mr Speaker.

1465 I think it is worth making the point that this Bill – and to quote from section 2 – will allow a  
road race on a Sunday in the case of vehicles that are not mechanically propelled. We are not  
talking about motorbikes racing at 100 miles an hour and cars racing at 90 miles an hour; we are  
talking about go-karts – carts, sorry, not even go-karts – carts that somebody pedals or a pushbike  
that somebody pedals or a running race, where they use their legs.

1470 I have to say, I will certainly be looking very closely at a system that would introduce three  
months' consultation before you introduce such a thing. I would just say I shall look at it very  
carefully, because talk about overkill! I do think we need to be careful what we do.

I think, yes, consultation with those who are involved, where churches may be affected on the  
route – and I am one who has, on three occasions, brought Private Members' Bills through here,  
1475 with consultation with the churches, who I have always found very accommodating. They have  
always endeavoured to accommodate the need of their community, i.e. the churches attending and  
the community generally, and it works both ways.

The other thing I would say, Mr Speaker, which I am sure, when we get a chance to look at the  
amendment – and I know the Minister will discuss that with us quite clearly, but it has been raised  
1480 now and I am giving my instant reaction – is that by the time this legislation gets through, if there  
is a three-month statutory consultation, you will not have time for the Commonwealth Youth  
Games. So, if we were talking about motorbike racing, if we were talking about car racing or  
wagons racing at 90, 100 or 180 miles an hour, I would say that is a different issue. We are talking  
about slow-moving vehicles, in most cases, and not only that, where in fact you have time trials,  
1485 which you actually can have on the highway on a Sunday – so it is not a race but it is virtually the  
same thing – what happens? We actually allow people to cross the road, in between, because you  
are not talking about vehicles doing 100 miles an hour. I do think there is some... we just need to  
get our minds right on what this is trying to do. This is not stopping people going to church. It is  
not trying to stop people going to church. It is trying to accommodate the leisure needs of the  
1490 people of the Isle of Man and the needs of the congregations who wish to go to their church.

So I would just say, one, to bring it back, that please be clear what this legislation is about;  
and, secondly, I just flag it up, I think a three-month consultation on whether or not – I will give an  
example – Port Erin promenade should be closed, which goes by a church in Church Road... Port  
Erin promenade, [Inaudible] ...promenade, should be closed and you have a three-month  
1495 consultation, when we can produce an extensive piece of legislation which has six weeks'  
consultation. Sorry, Mr Speaker, I think we need to discuss this, and it is not for today, because the  
Hon. Member has flagged it up, but I do think that is an issue that we need to discuss, certainly,  
with the Minister, and I know, from Government's point of view, we will endeavour, as the  
Minister has tried to, to see if we can accommodate both parties. I just think you need to be careful  
1500 what the timespan of doing that is, and make sure we do not end up with passing the legislation  
and then still not being able to accommodate the Youth Games. I think that would be most  
unfortunate. With that, Mr Speaker, I hope Members will support the Bill.

**The Speaker:** Mr Earnshaw.

1505

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

I would just like to add to the comments of the Chief Minister regarding the overkill and the three months' consultation.

1510 I do not think we should let our imaginations run away with themselves, regarding this. I think pictures are being painted in various places that there is great insensitivity, and there is some underlying plot, with Members of the House of Keys in introducing this legislation, to frustrate the holding of church services. None of that is going on, I am quite certain of that. It is not at all.

1515 I am confident that, if this becomes law, it will be used sparingly and considerately, but we have got a lot of aspects to continue. There are all sorts of sports going on, on the Isle of Man, on a Sunday. I think we should be mindful of that. This raises an opportunity, if needs be, and I think there is a need in certain circumstances – and we are looking at one here – where there is an underlying economic interest for the Isle of Man. Certainly, in the times we are in at the moment, I think we should keep that very much in mind.

1520 **The Speaker:** Mr Robertshaw.

**Mr Robertshaw:** Mr Speaker, thank you very much.

1525 I will support this this morning with enormous caution. I was not clear about the Chief Minister's comments about, 'Well, look, it's pedal bikes and the like, not motorbikes.' The issue here is road closures. As somebody who was in tourism for 35 years, relied hugely on the issue of road closures for a variety of sporting events and was glad that it was there, and is glad that it is there, I was also equally very mindful that we were testing the patience of the population as a whole, sometimes, with the amount of road closes that we actually have, and that we have to be very careful indeed how far we push this envelope. There is a sense that we just may be just pushing the envelope a little bit too far.

1530 Nothing I would ever want to do, I hope, would ever get in the way of the importance of the Commonwealth Games or other issues, but there are other matters here and I think we should approach this with enormous caution.

1535 Thank you, Mr Speaker.

**The Speaker:** Mr Anderson.

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

1540 Just a couple of comments, really, and speaking as a regular church worshipper, but also a regular bike rider as well, I can see both sides of the argument here. However, we must recognise that we are looking at the Commonwealth Youth Games cycling... [*Inaudible*], predominantly, with this legislation.

1545 I have concerns. I was interested to hear there was going to be an amendment proposed by the Hon. Member for Rushen, Mr Watterson, but I am very concerned that a three-month period would not help this Bill get through in time for that purpose. That is my concern. I was hoping it would be more focused on a one-off event, if you like. However, I look for comfort from the Minister when he sums up, for regular church worshippers, that any road closure would have full consultation and take into account the time for church services.

1550 I realise putting a cycling event on and closing roads is a major operation now for organisations, and it is very unlikely to happen very often on an annual basis. I recognise this would be primarily as a one-off, but I do look for comfort from the mover that any consultation would be widespread with the community, before any road closures are put in place and maybe the comfort that he does not foresee this being more than an annual event.

1555 **The Speaker:** Mr Quirk.

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

Just in a similar vein, I will be fairly short, really. I just support the Bill as it stands at the moment.

1560 My concern is, from the Hon. Member for Rushen, Mr Watterson, regarding the consultation, my short period in the Highways Department was that there was extensive consultation that took place when all sorts of events were on, whether they were the classic races, classic bikes or whatever. The organisations were held to account by the Department and made sure that the consultation actually went through.

1565 I would say that this particular Bill is needed. I am mindful of what the church groups have said, and I am sure that any of their concerns will be addressed from the Department itself, but my

1570 small concern – well, small to medium, really – is the consultation period. There is a fixed one that happens elsewhere. That is good. I think that is long enough, because otherwise consultation can extend forever and a day. Look at the times that many of the Members of the House say, ‘Can we have an extension to consultation?’ on some of the Bills.

**The Speaker:** Mr Karran.

1575 **Mr Karran:** Vainstyr Loayreyder, I would just like the mover to clarify. I thought that, primarily, this Bill was because of the issue that we have been doing stuff for years that we now find out that we have not been doing legally. I think we need to bring that back into the debate. I am always concerned about executive power, but I have to say that I do think the Chief Minister’s viewpoint on this is quite reasonable. **(The Chief Minister:** Oh!)

1580 We actually need to realise... and it is not about a joke; it is about having the consistency of putting the audit into this parliamentary assembly, supporting when people are right and not supporting them when they are wrong on the basis of the principle. But the issue that also I think we need to realise is the fact that we do need a diversified economy. We do need to be trying to look at ways of creating more opportunities to try and get tourism and people to the Island, so I think we need to balance this out. I do not see it being as disproportionate, as far as the circular of letters is concerned, and I will be supporting the Second Reading of this Bill on the basis that, 1585 basically, we are actually formalising what we have been doing for years, and I think that we need to realise what we are doing.

I would be absolutely horrified if we were allowing events that would stop a church from being able to function and, as much as I do not have an awful lot of faith in the mover, *(Interjection and laughter)* as far as the Minister for Infrastructure and the rest of my little friends that I think float around in Florida too often, the reality is that I think it is important that we realise that this is to try and formalise what has been going on for years. I think there has not been a problem for years of churches not being able to get to their parishioners – get to their churches – and I would hope that common sense will prevail. 1590

1595 **Several Members:** Hear, hear.

**Mrs Cannell:** Vote! Vote!

1600 **The Speaker:** Mr Gawne to reply.

**Mr Gawne:** Gura mie eu, Loayreyder.

1605 Just to put it on the record, I have never been to Florida, *(Laughter)* although I was pretty close to Disneyland in Paris. *(Interjections)*

What an interesting debate based on a quick-fix piece of legislation. Perhaps a little bit of the history might assist with this.

1610 A few years ago, maybe not quite that many... certainly between a year or two years ago, we were looking at one of the finer points of the legislation in relation, possibly, to the Commonwealth Games and the cycling event, but it was certainly a non-motorised event that we were holding, or was being proposed to be held on a Sunday and we were looking at the legislation. At the moment, regardless of what we do with this Bill, the Department has the power to close the highway under the Road Traffic Act – and I forget which one – for entertainment purposes. We have been closing roads on Sundays for events, exactly the same as we are describing here, for as long as whichever Road Traffic Act it is... it was 1985, was it – but since that time, and probably long before that as well; this is not something new. 1615

1620 Unfortunately, the new bit was when we were going through this, the Attorney General’s Chambers pointed out that there was actually a conflict between the Road Traffic Act, which we had been using to close the roads, and the Road Races Act, which clearly prohibits what we were trying to do. So, then, we go into these really intense debates, which lawyers love, about definitions as to what is a race and what isn’t a race. Well, if one vehicle travels down the hill on its own, non-mechanically propelled, and there is no prize at the end of it and there is no time kept, that is fine, that is entertainment; but, if two vehicles go down the hill and they get a prize for the fastest, then that is a race, so it cannot be classed as entertainment, it has to be classed as a race and you just think, goodness, gracious, can’t these fellas find something better to do? However, 1625 they cannot. We employ them to make sure that we get the legislation right and this is effectively why we have the Bill as described here.

1630 What we are doing is fixing something that we believe is a fault in the legislation – others may have different views – to allow us to do what we have always done without any – as far as I am aware – concern whatsoever from anybody whatsoever. So we are not about to force road closures across the whole of the Island on Sunday to either churchgoers, or non-churchgoers for that matter. All we are proposing to do is carry on doing what we have been doing for the last couple of decades.

1635 I am very grateful to my hon. friend, Mr Watterson, for sharing with me his ideas on proposed amendments to the Bill, to try and bring a bit more certainty, particularly to churchgoers, and it is fair to say that the version of the amendment that we have been working on perhaps needs a little bit more work, to actually get it right. That said, I think that there is no harm in clarifying in legislation what the Department expects from any road closure. If someone wants to close a road on a normal weekday, they are expected to carry out a number of tasks to give the Department confidence that the road closure is reasonable and acceptable to the Department and, indeed, to the public that we represent.

1640 The first thing they have to do is go out to some form of consultation to discuss with key stakeholders in the area, key users in the area, and the public generally, any issues relating to their proposed road closure. They then have to come back to the Department to a position paper or statement which clearly shows where the issues are likely to be and what they are proposing to do, to address the issues to minimise the disruption. They then have to have proper insurances and they have to be able to assure the Department that they are taking the road from us for that road closure period in a particular state and that they are happy that the road is in the right state for whatever it is that they wish to do with that road, during the period of the road closure.

1645 So this is not something that organisers would enter into lightly. They have to have some pretty solid and sound reasons for wanting to do it. It is not an easy thing to do. I believe the Department is already very rigorous in the way that it checks to ensure that there is minimal disruption.

1650 I do fully understand the concerns that are being expressed by people and I also understand why people may have looked at this, and suddenly thought, ‘Oh, heck, the nasty horrible Government is trying to spoil our Sundays and do all this sort of stuff!’

1655 We did have a consultation on this, a year or two ago. I forget which Department it was at the time – possibly the Department of Tourism and Leisure. There was a full consultation and various views were considered, various options considered but, as a result of that consultation, we ended up, rather than having road closures being allowed for road races for motorised purposes, which I think had been the original purposes of that legislation, we have ended up with this very tiny change, which allows us to continue doing what we have always done in the past, without any disruption or concern to people.

1660 So I hope, without having gone through specifically everyone’s points, I have answered the points and I beg to move.

1665 **The Speaker:** The motion is that the Road Races (Amendment) Bill be read for the second time.

Those in favour, say aye; against, no. The ayes have it. The ayes have it.

**Building Control (Amendment) Bill 2010**  
**Second Reading approved**

4.3. Mr Gawne to move:

*That the Building Control (Amendment) Bill 2010 be read the second time.*

1670 **The Speaker:** We turn now to the Building Control (Amendment) Bill. Again, Hon. Member for Rushen, Mr Gawne.

**Mr Gawne:** Gura mie eu, Loayreyder.

1675 I am very pleased to be able to bring forward this significant piece of legislation which, if supported, will allow the Department to assist people in significantly reducing their energy use and will improve the process by which action is taken against owners of ruinous or dilapidated properties.

The Building Control (Amendment) Bill 2011 contains a number of provisions which will amend various sections of the Building Control Act 1991. The main purpose of the Bill is to make

1680 buildings greener and safer by adding three new purposes for which building regulations may be made under the Building Control Act 1991. These are to further the protection of the environment, to facilitate sustainable development and to further the prevention and detection of crime. Currently, the Building Regulations do not adequately address such issues as the environmental impacts of building materials, energy and, indeed, water consumption. The new provisions will strengthen building regulations on new, extended and altered buildings to require sustainability and crime reduction measures to be applied as a matter of course.

1685 During the presentation to Hon. Members on 17th January this year, a number of Members expressed concerns about the provisions in clause 5 of the Bill. This clause introduces a new section 2A into the Act, empowering Building Regulations to include continuing requirements about fuel or power usage or omissions. This would mean that owners and occupiers of buildings would have to ensure that the building and equipment therein was regularly inspected, tested and maintained to the standards required with respect to the use of fuel and power and the control of emissions.

1690 These new provisions would, in effect, amount to a health check for buildings and equipment, requiring such things as records to be kept on heating and ventilation systems and the making of reports to a prescribed authority. Some Hon. Members were particularly concerned that it was the Department's intention that such measures would apply to all buildings, regardless of when they were erected or if building regulations applied at that time. Having listened to those concerns, I can advise Hon. Members that the Department has considered a number of options and will be looking to propose an amendment to Clause 5. The details of that amendment are still being worked up but, in essence, it will result in a reduced ability for the Department to make the Regulations that were of such concern.

1700 The other main provisions of the Bill are as follows. The Bill extends, in clause 7, the time limits under which prosecutions may be implemented and amends the period within which notices under section 18 of the Act, about removal of alteration of offending work, may be given.

1705 Clause 10 of the Bill amends section 22 of the Act to allow High Bailiff Orders for dangerous buildings to authorise local authorities to carry out remedial work, instead of owners. The current provision only allows the High Bailiff to make an Order against the owners. This clause also amends the section to increase the maximum penalty for contravention of such Orders from £1,000 to £5,000.

1710 Clause 11 amends section 24 of the Act to allow notices issued by local authorities, with regard to ruinous or dilapidated buildings to require demolition, in some cases, instead of giving the owner the election to repair.

1715 So having outlined the broad principles of the Bill, I hope that Hon. Members will now give it their full support and I beg to move that the Building Control (Amendment) Bill be read for a second time.

**The Speaker:** Mr Shimmin.

**Mr Shimmin:** I beg to second and reserve my remarks.

1720 **The Speaker:** Mr Robertshaw.

**Mr Robertshaw:** Mr Speaker, thank you very much.

1725 As the Minister will remember, I was quite vociferous in my concerns at the meeting and, I think, with justification. I am encouraged by his comments on clause 5, section 2A but, nonetheless, the reality is that this emanates from, would you believe, a new directive, in the first instance – shock horror – and I just refer Members to the circulars that they have got.

One of the comments that is made, addressed to the people of Northern Ireland who have suffered this already, states – and I think this is a fascinating phrase:

1730 'In the future it is quite likely that a financial penalty will be imposed on homeowners who live in homes with a low-energy rating.'

1735 You could read that any way you like. The important thing for me is very simple: this sort of development of building regulations encourages and enhances a variety of issues related to new properties but is not, in any shape or form, unreasonably retrospective. I do not want to find that my constituents end up finding that they have got all sorts of bills to pay because of retrospective legislation. I think is profoundly and utterly wrong. It is more than a bridge too far. It is just quite ridiculous.

1740 Somebody was telling me yesterday that they had asked for a boiler maintenance process, an  
 annual maintenance check of their boiler to take place, and the company that did the maintenance  
 had just been taken over by a UK organisation and that when the engineer came to maintain the  
 boiler, he also took it upon himself to look at the – it was an oil burning system – tank at the back  
 of the house. He was advised that, effectively, under Health and Safety regulations, that the oil  
 tank was too close to the house and should be moved. He was a bit taken aback by this and, on  
 1745 enquiring further, it transpired the company had been taken over by a UK organisation and the  
 company was applying UK legislation and it was discarded.

The point is... what I am trying to say is we have got to be very, very careful that regulations,  
 as they come in, do not start interfering, in a retrospective way, do not start being intrusive into  
 people's houses and their lives. Somewhere it talks about equipment therein, in clause 5, which the  
 1750 Minister says he has got some doubts about. He talks about the equipment therein being regularly  
 inspected and tested. How far do we want to go into people's lives? How far do we want to  
 intrude? How far do we want to regulate? Where does this end? When did we take over  
 responsibility for people's lives and be so dictatorial?

1755 So, for the moment, my position is simple: that unless I can see this Bill pull its horns in, I vote  
 against.

**The Speaker:** Mr Gill.

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

1760 I am intrigued by the comments from the mover, where he says clause 5 will be amended, 'so  
 it's okay, vote for the Bill because it will all be fixed'. [*Interruption*] If we consider clause 5, I  
 think I have to echo the sentiments of the previous speaker. I do apologise, I was not able to attend  
 the presentation.

1765 Nonetheless, on reading this, the scope for absolute intrusion into people's privacy, into  
 people's lives, into people's freedom to choose how they... the conditions in which they live, in  
 the normal course of things... Where a house is not habitable, where remedial work is required to  
 be done, that is one test. I entirely accept that, but clause 5... and I entirely accept the Minister's  
 personal commitment and political commitment to environmental causes. However, I think the  
 tendency that we see from this Government and the tendency that is reflected in this provision is to  
 1770 tell people how to run their lives: 'We will come into your house, we will make measures and then  
 that will be continuous, that will be ongoing.' I take issue with that on principle, because what  
 occurs in somebody's house... if I choose to have a loft which is not insulated, that costs me  
 money, that is a matter for me. The contrary argument is 'no, it isn't, because that's anti- the  
 environmental argument', but there is a balance that has to be struck somewhere.

1775 The argument that we are not hearing is that which absolutely enshrines people's privacy –  
 people's freedom to choose. The day that we say that making foolish choices or choices we  
 disagree with is wrong is a very sad day, because none of us are arbiters of what is absolutely right  
 and what is absolutely wrong, other than in some exceptional circumstances. This is not an  
 exceptional circumstance, in my opinion.

1780 That is my view, I am saying it openly. I entirely understand that the Minister will have a  
 different view. He is entirely open about that. But what does this clause potentially do? It is  
 intrusive. We have seen quite enough intrusive legislation pass through this House, sadly, in recent  
 years, and this is a further example. On the Bill before us, the Bill before us does have clause 5,  
 those provisions, and on that alone, I am afraid that being asked to vote for the Bill because it will  
 1785 look different when it comes to clauses stages, but without any absolute certainty – and maybe the  
 mover will be able to provide that in his summing up – without that, I feel I do have to say that I  
 cannot bring myself to vote to this for those reasons.

I do not know if that change of heart, with clause 5, the Department have drawn this together,  
 as a Bill... the Minister has presumably been intimately involved with that – what the change of  
 1790 heart is. Is it caused by an internal debate, dissension, by listening to people at the presentation?  
 What does that listening actually look like in reality? That is what we will hear, when the Minister  
 sums up.

1795 So I hope that that is as candid as I can be, as regards this, but as things stand and without that  
 comfort, I cannot bring myself to vote for this Bill, sir.

**The Speaker:** Mr Quirk.

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

1800 Just to add some comments to some of the previous speaker's there. Mr Robertshaw, the Member for Douglas East, mentioned about the scenario where someone actually had an appliance checked. I just wanted to put some balance to that particular scenario, where a person is actually asking a professional body to come in and certify something is actually safe. Part of those regulations, which are the OFTEC regulations, which I am fully *au fait*, regard that the engineer must examine certain... the flue, the CO<sub>2</sub> emissions from the boiler. They also have to examine whether there is a fire valve in place and all sorts of circumstances. They actually provide the person who they are doing the work for with a checklist and that they are an OFTEC registered installer, provide a tick sheet with – I suppose the best way to put it down is highlight it – it is not that it is Health and Safety, but safety concerns or potential dangers.

1810 I will give an example of that: I do not know whether the tank was either plastic or metal. Lots of the metal tanks are painted on the top, never on the bottom. So, therefore, they rust from within and if anybody has experienced –

**Mr Watterson:** A rusty bottom!

1815 **Mr Quirk:** – a couple of thousand gallons of heating oil dispersed through their property would be really concerned, because it is actually a nightmare to get rid of it, because it then penetrates into the garden and could not actually go down the drains. Surface water drains, I do not think it can actually go down into the main storm system or into some of the rivers which are by it.

1820 I also, by just commenting on this really, do have some concerns. The little concern I do have regarding where in the UK now they changed the home pack situation, where before you could particularly sell a house that you had to have this home pack. It is an implication on the house owner to have this done and I would not like to see that, in the future. I am led to believe – and I only had it confirmed this morning actually – that previous or other jurisdictions have ceased that particular method of doing this.

1825 The other issue I want to comment on, really, to do with the safety side, too, not only onto the gas side, but onto, say, the solid fuel side, which can be dangerous as well. Many people think of not having their flues checked and also swept, which can become an issue, because carbon monoxide is a killer and I would not like to say that we do not encourage people to actually have their appliances serviced.

1830 Just whipping over to the other fuel, as well as to do with gas.

**Mrs Cannell:** Oh, please don't.

1835 **Mr Quirk:** We do have regulations, Mrs Cannell, regarding the servicing of boilers as well and, purely and simply, if you remember, years ago, when there were several buildings in the UK – I am talking some time ago – in multiple occupation, because of a person who did some work on a particular boiler, the whole block of flats came down – in that particular point, killed somebody, or killed a couple of individuals. I would not like people not to be aware of those issues that you have got to do.

1840 I would not like to give the inference that everything is bad in this, as I do have some concerns and the Minister is definitely aware of the ones that I do have, but I would not like to see that, because of regulation that it is there that people would want to avoid getting their boiler serviced, especially like landlords which have property – and local authorities are the same – it is mandatory for those to have that service done and a certificate in front of a tenant. So the tenant has comfort to say that that boiler has been done and serviced properly.

1845 That is all I wish to comment at the present time and look forward to the amendment.

**The Speaker:** Mr Karran.

1850 **Mr Karran:** No.

**The Speaker:** Mr Cregeen.

1855 **Mr Cregeen:** Thank you, Mr Speaker.

I think, when we had a look at this Bill in the Department, it was probably one of the most lively debates that we had had in the Department because I think we raised concerns about this, as well, and I am looking forward to the amendment coming forward to change this, so I will support this for now.

1860 **The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I am concerned that we said that... We heard the Hon. Member for Rushen say about clause 5. I think there are a number of clauses. I think the aspirations of this Bill are very good, the aspirations of the ideal of getting the environmental things, they are wonderful, Vainstyr Loayreyder, but I have to say I do not have the confidence that we have got the problems we have got at the present time where, trying to get planning enforcement on what we are already supposed to have power for does not happen to the extent it should happen. That is not something that is just happening because the Hon. Member for Rushen is now the Minister. It has been a long-seated problem. The problem, that we have got a complete planning system that is way in need of change, is another issue that needs to be high on the priority list.

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1875 My concern is it is a bit like when the Hon. Member for Onchan raised the issue of the buyer's kit for the house purchase in the United Kingdom. Fantastic idea, lovely idea, and I think this is a lovely idea, what we are hearing here today from this legislation, but the reality is it was a farce. It was not worth a carrot. That was the problem. You paid several hundreds of pounds out for it in that case, and the reality was it was not worth the paper it was written on, but you had to have it because of law.

1880 So we tick another box, we create more bureaucracy and we actually do not resolve the real issues. The Member for Rushen told me how he has only been here for seven years and I have been here for 20-odd years. The fact of the matter is if you asked me, 20-odd years ago, it would be all about legislation. The reality is if we want to sort out Rachmanism, in the appalling way that so many of our citizens suffer, even though the wonderful increases in the wages and things like that we have seen in the last 20 years... The fact is it is about building more houses.

1885 The issue on employment legislation... We brought in all the employment legislation, but the fact is the best legislation, as far as employment law is concerned, is to have more employment opportunities (**A Member:** Hear, hear.) than jobs. That is the best way forward. My worry with this piece of legislation is the fact that, whilst it is very well-meaning and it will tick the boxes, just like we hear about how we are all going to go and get these windmills, to show that we are green, when the reality is that the MEA has got no money and it is not the way forward, what we must not allow this piece of legislation to become is yet more vanity over sanity and the fact that we will create more bureaucracy and more regulation: the problem is, it will not be implemented. What concerns me, at the present time: we will give the legislation in and it is making sure that the problem will be whether the legislation will be used on the basis of how it should be used, or will it be a matter of it will be picked up when it suits by officialdom and put down when it suits by officialdom?

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1900 I think the point is the Bill is well meaning. My concern is that the Hon. Member has only got concerns about clause 5. I think he needs to look at the Bill again, because it does give tremendous power. I want to see Rachmanism sorted out. I am embarrassed that we still have such horrendous accommodation: it really came home when we were canvassing in East Douglas. It is a nightmare! It makes out that, if anything, when people are saying about being too extreme, I am too 'establishment' as far as the housing situation is concerned.

1905 So, Vainstyr Loayreyder, I think the Minister needs to clarify that what we actually are voting for and signing up for, we are actually going to get, because I feel the danger of this piece of legislation, as well meaning as it is, is what we are signing up for and what we get are going to be two different things. I honestly think that all this will add to the bureaucracy and it will not actually do what he wants to do as well, Vainstyr Loayreyder. At the moment, I would almost certainly feel that I would have to vote against this piece of legislation.

1910 **The Speaker:** Mr Gawne to reply.

**Mr Gawne:** Gura mie eu, Loayreyder.

1915 I confess. I am an eco-warrior. I believe 95% of the world's scientists who say that we are destroying our planet. I believe all that, but that is not why we have got the Bill here. That is not why we are trying to do this, but it is a pretty bloomin' compelling reason, isn't it? It is a pretty important thing for us to actually want to take note of what is going to happen to our planet if we do not pull our bloomin' fingers out.

However, there are other really good and important reasons for supporting this piece of legislation, I would contend. And, yes, we have had a very lively debate in the Department about this and I happen to enjoy lively debates in my Department. It is one of the... Perhaps, when I go

1920 home of an evening, I might kick the cat (**Several Members:** Oh!) Apologies to the MSPCA if they are listening. Oh God, I shouldn't have said that, should I...

**A Member:** At least you are not running them over.

1925 **Mr Gawne:** Yes, maybe I get frustrated from time to time, but what a wonderful thing to have a Department where the Members are actively involved in making the policy and making the decisions. And, yes, (*Interjection*) I have been overruled. Well, I am not overruled, but yes, overruled, for want of a better word, by my Department members on this. They believe that we should pander to the views that have been expressed by others. I do not believe we should, but we are where we are, and we will be coming forward with an amendment which, hopefully, will be acceptable to people but, obviously, we will see that when we have decided exactly what that is going to look like, but it would be wrong of me to comment on that until we have made that decision.

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1935 So, yes, I fully understand and support the views of my Departmental members. I understand their reasons for that. I hope that they, though, understand the reasons for my concerns and I think it would be helpful and I apologise, I have got this on my little hand-held computer here... If I read out a little quote here with regard to the Stern Report. This is a report undertaken by very eminent gentlemen looking into climate change and looking into the potential damage. The Stern Report 2006 acknowledged the contribution recycling has on reducing climate change gas emissions, with long-term benefits to the global economies. Stern indicates that climate change presents a unique challenge for economics.

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1945 'It is the greatest and widest ranging market failure ever seen. Early worldwide political agreement is required to transform the way we do things. Energy efficiency could make an immediate positive impact, and that is where we need to be going with it.'

1950 So it is not just me saying this, it is not just an EU directive. This is the whole world that is saying this! Every country in the world, every mature democracy in the world, has legislation allowing their building control officers to make regulations which will allow them to assist people in radically improving the housing stock, which is something, again, where two of the Hon. Members who have been most critical of this Bill are two Members who have deep concerns about the state of the housing in the Isle of Man. We all have those concerns.

1955 So, I was struggling with this one. The Hon. Member for Onchan was suggesting that he does not want to see the terrible state of all these properties, but he does not want us to have more power. So, on the one hand, we recognise that we have got a problem, that we need to have better enforcement with regard to building control. We recognise that, particularly in relation to ruinous and derelict properties, we have problems in terms of how we enforce planning control – building control – but we are not to have more power, we are not to simplify the process, we are not to make it easier for people to use that process. Why on earth not? Surely to goodness, if we have got a problem that we are not able to deal with, that is exactly what we *should* be doing! That is a separate part of the legislation. That is not directly the energy use and sustainability part, but that is what we are doing with this Bill. We are dealing with that.

1960 Then, of course, we move on to the other bit. We cannot have a situation with legislation which retrospectively will cause costs to my constituents, I think the Hon. Member for Douglas East suggested. If we do not do anything – and bearing in mind what Stern has very clearly identified with regard to reducing energy use, if we do not do something, the costs to constituents of Mr Robertshaw, in Douglas East and others, living in sub-standard properties, are going to rocket. Fuel prices – look at fuel prices now, where are we in terms of the global economy? Is it booming? No, it is not. Where are fuel prices? Record levels.

1970 **Mr Watterson:** Not record levels.

1975 **Mr Gawne:** Okay, nearly record levels. Those blooming accountants, eh? (*Laughter*) They have crept up to almost the height they were at in the peak back in 2008, at the time and, potentially, the whole global financial crisis started and possibly that was down to energy prices. Massive levels of energy prices at a time when there is a general global downturn in economic productivity.

1980 So it is not about demand putting the price up, it is about supply. There is a big problem here and what we are saying, potentially, with this Bill, we think that Government has a role to play here in helping people to reduce the massive energy costs that they will be facing in the next five

1985 to ten years. It is not going to be immediate but, five years' time, you try going round telling your constituents, 'I voted against any proposals to try and support reduction in energy use in your properties.' Try telling them that and see what they say, because I do not think they will be very happy. I think that this is really important. The cost of a little bit of insulation is going to be extremely minimal, compared with the massive increase we are going to be facing in energy costs. We really need to get this sorted out.

1990 However, despite my impassioned rhetoric, I understand that there are Members in this Hon. House who do not agree with me, which is why, of course, my Department will bring forward an amendment which will limit the ability of the Department to actually introduce regulations.

1995 Again, the level of regulation we are looking at is very minimal. In terms of insulation, what we are saying is, if someone takes the roof off their house, if they need to have planning permission, building control permission, we would require them, when they put the roof back on, to have decent levels of insulation. That is what we are saying here. We are not saying everyone has got to take the roofs off their houses when they are *not* already insulated. We are not telling them to do any of that sort of thing.

2000 We are not forcing people to insulate their homes. All we are saying is that if you are undertaking any building works on your home, we will have the ability to introduce regulations, which will require you to at least replace the roof to modern standards, to replace the windows to modern standards, rather than have things which we know are going to leak energy and cause huge costs to householders. I do not think that is unreasonable.

2005 Others do seem to think it is unreasonable, others seem to prefer to allow you to identify problems, point fingers, say it is all the nasty, horrible Government's fault for not sorting it out, but when that nasty, horrible Government comes along with sensible proposals to try and deal with the problems our constituents are facing, we are then told, 'Ah, you cannot have all those powers to do things like this.'

2010 Then we get on to intrusiveness: the Chairman of the MEA talking to me about intrusiveness! I have just had some work done on my property. I know about intrusiveness. I know about the standards required. I know that the MEA requires any electrical work on my house to be up to a particular standard. They have to check to make sure that standard is met and I have to have certificates to prove to the MEA that these standards are met and that they are up to the appropriate standards. I have to do all that.

2015 I do not hear the Chairman of the MEA proposing to bring forward changes to the regulations which will allow property owners to significantly reduce their requirements and there is a degree of 'hypocriticalness' – what's the word? (**Mr Watterson:** Hypocrisy!) Hypocrisy, but 'hypocriticalismness' sounds better to me, from what the Hon. Member for Rushen is saying there. We have these standards already; they are imposed across society; we already have building control standards, which we have already heard many people do not believe are being properly enforced. We want stronger enforcement, better enforcement, so we want better, more intrusive stuff going on, but at the same time: 'Ooh, no, you cannot introduce legislation which allows intrusion, which actually might rectify some of the problems that we are currently facing!'

2020 I do struggle, sometimes, to understand how we can hold positions diametrically opposed one day: depending on who you are talking to you, you have got this position, next day, 'Oh, no, but I support this.' We need sometimes to get that grown-up politics, which is somewhere in the middle – maybe we have not got the balance right with this Bill. I am happy to acknowledge that may be the case.

2030 We will be discussing this further within the Department and we will bring forward an amendment, which hopefully will satisfy many people, but I do plead with Hon. Members to perhaps have a little bit more thought when they are considering the Bill when it comes to clauses, actually think a little bit beyond the immediate, think maybe what is the situation going to be like in two or three years' time. Are we going to be more concerned about imposing fairly modest requirements in relation to insulation of properties? Is that going to be the big issue, or is a massive increase in fuel prices going to be the issue? I would ask Members to reflect on that and I beg to move.

2035 **Mr Cannan:** A good little campaign speech.

**The Speaker:** The motion is that the Building Control (Amendment) Bill be read for the second time.

Those in favour, please say aye; against, no. The ayes have it.

*A division was called for and electronic voting resulted as follows:*

**FOR**

Mr Quirk  
Mr Earnshaw  
Mr Karran  
Mr Brown  
Mr Crookall  
Mr Anderson  
Mrs Craine  
Mr Quayle  
Mr Teare  
Mr Cregeen  
Mr Houghton  
Mr Henderson  
Mr Malarkey  
Mrs Cannell  
Mr Corkish  
Mr Shimmin  
Mr Cretney  
Mr Watterson  
Mr Gawne  
The Speaker

**AGAINST**

Mr Cannan  
Mr Robertshaw  
Mr Gill

2040 **The Speaker:** With 20 votes for and 3 votes against, the motion therefore carries.

**Breastfeeding Bill 2010**  
**Second Reading debate commenced**

4.4. Mr Watterson to move:

*That the Breastfeeding Bill 2010 be read the second time.*

**The Speaker:** We turn now to the Breastfeeding Bill and I call on the Hon. Member, Mr Watterson, to move.

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

2045 I rise today to move the Second Reading of the Breastfeeding Bill 2010. Due to the overwhelming support this Bill received from Hon. Members to date, I feel, and I hope, despite the House's feisty mood today, that I can be reasonably brief.

2050 The benefits of breastfeeding are well known and were put forward at the leave to introduce stage and I do not intend to repeat them. However, I am aware that many Hon. Members have received letters from some quarters and I would like to address the concerns that were raised in them.

2055 The first concern was the outlandish assertion that breastfeeding would be used as a form of protected protest. I would reassure Hon. Members that nothing in this Bill changes the law on public order or exhibitionism. If a person is causing a public nuisance through her actions, she will be guilty of an offence in law.

The second concern is that the legislation is not required. Hon. Members, I have had stories from ladies who have been asked to leave cafés, shopping centres and even churches for discreetly breastfeeding. If Government advice is 'breast is best', we should support those people who do the right thing by both mother and baby by feeding their children in this manner.

2060 I would ask you to join me in voting with the Bill today to say that this is normal practice and it is natural for a woman to breastfeed her baby and she should not be put through public shame for pursuing World Health Organisation and Government advice. That addresses the issues that were put forward in most of the correspondence that I have had.

2065 Mr Speaker, at that stage, I beg to move.

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

**Mr Anderson:** I am very happy to second and reserve my remarks.

2070 **The Speaker:** Mr Robertshaw.

**Mr Robertshaw:** I think I am having an attack of ‘againstism’ this morning, I do apologise! (Several Members: Hear, hear.)

2075 I could not agree more with *almost* everything that the Hon. Member for Rushen has stated. However, the one simple principle that I find I cannot swallow is that, effectively, we are trying to deal with something using criminal law, and that is wrong. I am perfectly happy to support everything in any way possible, as long as we do not use criminal law. We are using criminal law, generally, left, right and centre in ways that, if you went back 20 or 30 years, would simply not be the case.

2080 So I am afraid my ‘againstism’ this morning, Mr Speaker, remains.

**The Speaker:** Hon. Member for Douglas West, Mr Corkish.

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

2085 I, too, agree with part of what the Hon. Member, mover of this Bill, has said this morning and we all defend the right given to Hon. Members to bring forward a Private Member’s Bill, of which there have been a great many in this Hon. House, and in the main introduced for, and to the benefit of, our people. Each Member, then, is able to bring forward that which he believes to be of benefit and importance to the people and, indeed, Hon. Members.

2090 Mr Speaker, not for the first time have I queried in this place the question of various subjects being brought to our attention, the movers personally believing them to be an issue to our people. However, one way to make it an ‘issue’ is to raise it, say it long enough, loud enough, and it can be believed to be an ‘issue’.

2095 Mr Speaker, I have been contacted by many members of the public – constituents and non-constituents – amazed that this issue is taking up valuable legislative time by Members. That has become the issue: why are we wasting time on this? I have never been approached, or have heard from, anyone in the Island – or further afield, come to that – who have been upset, concerned, through witnessing the perfectly natural process of a mother breastfeeding a child. When was the last time that any Member here today witnessed a mother breastfeeding a child and were moved to demand her removal from the vicinity or, indeed, feel so moved to remove yourself from the scene?

2100 I would contend that most mothers are sensitive to this process and breastfeed in less than public areas, wherever possible, and indeed in the now many places that are set aside around our towns and villages in public places affording a modicum of privacy to them, not forgetting their own integrity and modesty.

2105 Mr Speaker, I believe that our people, whom we represent, hold sensible views on what is expected from their legislators. I accept that the Hon. Member is moved to bring this Bill, because of a force of opinion brought to him. Whilst this Bill could be construed, viewed, as perhaps being harmless, I am concerned that such efforts to legislate on this topic and the level of punishment through fines proposed is, quite frankly, over the top. The Bill, while agreeing with the Member for Douglas East, invokes criminal law. Surely, such introduction as shown in this Bill, is hardly necessary or, indeed, proportionate, and I and many others in this Island agree that criminal law should be applied as a very last resort within our civilised land. Surely, we have no desire to criminalise people with a matter such as this that could be less dramatically solved. How often have we heard that we are over-legislated – becoming a nanny state? (Laughter) Accepted!

2115 There is a healthy view abroad here in our Island that the introduction of this Bill is hardly a matter that requires legislation or legislative time given to it. The matter is not an issue, should not become an issue, so why make it an issue? Should I believe that it was a contentious matter, causing great public unrest and considerable discussion which demands our action, I would support it and welcome it, as we would all, but in the fervent belief, Mr Speaker, that our people are sensible, tolerant and understanding of this natural motherly function, which is accepted, and has been since time began, and because there is not a matter of undue concern, I cannot support the Hon. Member and his Bill, and will therefore not be supporting nor voting for its introduction.

2120 Had he been introducing legislation concerning dropping chewing gum on the pavements of our streets, using foul language in public areas, then I might have viewed the campaign more favourably. (Mr Watterson: Already offences.)

2125 Thank you, Mr Speaker.

**The Speaker:** Hon. Member for Middle, Mr Quayle.

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

I rise to support this Bill and I am grateful for the support I have had from some constituents, including a breastfeeding mother in particular from Braddan, who was making her views very clear about this particular issue and why it should be supported. She did refer me to a study in July 2135 2007 called 'Breastfeeding, Reasons for Stopping' study and that strongly recommended that the Isle of Man Government consider legislation to make it an offence to ban breastfeeding in public on the Island. The study also highlighted the fact that the Isle of Man has an extremely low rate of breastfeeding compared to the United Kingdom, which itself has one of the worst breastfeeding records in Europe. Some 59% of Manx women, I understand, feed their babies at birth, compared 2140 with 79% in the United Kingdom and only 16% of Manx women still feed at six months, compared to 21% in the United Kingdom.

Many women cite an anxiety of feeding in public as a reason for not breastfeeding their babies or for not continuing to breastfeed them. This particular constituent confirmed that she was never asked to stop breastfeeding and was happy, obviously, about that, but did remember her anxiety 2145 the first few times she was feeding her baby in places like cafés, as the thought of being asked to stop did worry her very much and she could very well understand why so many mothers found the thought of being asked to stop so embarrassing that they actually gave up breastfeeding.

So I think, for all the reasons I have mentioned and the support I have had from constituents, I am more than happy to support this Bill and congratulate the Member for Rushen, Mr Watterson, 2150 on bringing it forward.

**The Speaker:** Hon. Member for Ramsey, Mrs Craine.

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

I do think it is time for a change in attitudes (**A Member:** Hear, hear.) about breastfeeding. I have been surprised to hear some of the comments that we have had this morning.

I would say to the Hon. Member for Douglas East, Mr Robertshaw, that criminal law will not need to be used if common sense prevails (**A Member:** Hear, hear.) and the fact is that, in respect of the Hon. Member for Douglas West, Mr Corkish, it would seem that in fact this has become an issue because he has made it very clear in his remarks that it is an issue. In saying that this is a matter... that breastfeeding can take place discreetly to not cause embarrassment. Embarrassment 2160 to whom, the mother or the passer-by? I can tell you that I think it is a shame that we have, as has just been said, the situation where people are embarrassed to breastfeed their children, to the extent that... and I know from personal experience that it was a case of having to take a screaming baby, a screaming hungry baby to car parks, where my car might be, in order to be able to feed that child because I knew that if I stopped in a café or somewhere more comfortable that it would be frowned upon. Those days, surely to goodness, are past. Isn't it time that we respected the needs of the child in this? (**Two Members:** Hear, hear.) We should be looking towards being able to feed our children as and when they need feeding, wherever they need feeding, and that really is the bottom line about today.

I do not think that there is room in this matter for embarrassment of the general public to even be considered, because what we are talking about is a fundamental human right, (**A Member:** Hear, hear.) for that child to be fed and for the parent to carry out that function, whether it be by breast or by bottle, and I just find it instinctively distressing that comments of this nature should 2175 even be made.

I think it is very interesting that the Hon. Member for Middle, Mr Quayle, has come forward with such strong statistics that indicate very clearly in the Isle of Man we have such low levels of breastfeeding that it is, in fact, I believe, detrimental to the health of our children in the future. We have a situation where breastfeeding rates are the lowest in Europe and that is nothing to be proud about. (**A Member:** Hear, hear.) I just think that it is astonishing, and interesting, too, that those 2180 statistics came forward from a mother, a breastfeeding mother herself. I think it is now time that we realise that breastfeeding, both for the mother and for the child, is best for the health of both of those parties.

2185 **Mr Corkish:** That is not the argument. That wasn't my argument.

**Mrs Craine:** I am introducing it as an argument, if I may, and the point of that is that it is necessary to respect the fact that one thing takes place with the child when you are breastfeeding: it is important that we develop nurturing society (**A Member:** Yes.) which, unfortunately, seems 2190 to have disappeared.

I would say, at this point, that in reference not only to the child's health where it is proven that immunity is built up, it is also important for us to recognise that it is best for the mother and is known to reduce –

2195 **A Member:** Yes, it reduces cancer.

**Mrs Craine:** – levels of breast cancer in future.

2200 So all of those things, I think, combine for us here, now, to commit to this, to make it a situation where people are not embarrassed to carry out this function in public and that I think is the underlying factor to this Bill and I commend the Hon. Member for bringing it here today.

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

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

2205 Not to go over the ground that has been covered already, the concern I have surrounds the issue of criminalising the person, the café proprietor or whomsoever, asking that lady to leave with her child. I am not quite sure – and I will ask whether the Hon. Member could advise – because the first thing in a process of criminalisation is, there are two cases. One is that you are reported for summons. So, the Police are called and they come and 'book' you, is the common term. That is  
2210 where you are reported for a summons, and a summons for a summary jurisdiction court will arrive on your doorstep some weeks or months later, because you have been reported for summons. Or are you arrested and taken away. This is very heavy stuff.

2215 As I say, I understand the mood of the House here and what I would like to do is offer my assistance to the hon. mover, to see whether or not an amendment could be brought forward in order to seek, say, for instance, a police caution. So that person, rather than being arrested and taken away or reported for summons by a police officer, could be brought to a police station and given a formal caution by an inspector or above. That would be one way of dealing with it.

2220 Another way would be for an amendment to cover the issuing of a fixed penalty. That means that proprietor does not have a criminal record, but he has had a slap on the wrist of some sort of severity. That may be the way round dealing with this, Mr Speaker, and I would be more than willing to work with the Hon. Member, in order to bring an amendment to that area. I just have not got in front of me the total rate of the Bill – is it £2,500? – (**A Member:** Yes, £2,500.) and a conviction. So you have been convicted under the Criminal Law Act and, then, of course, being dealt with a fine and if you do not pay the fine, you go to prison etc. Fixed penalty, police caution,  
2225 one or two areas like that, in order to deter any of those particular people who wish to commit an offence under the Bill, from actually being criminalised. We all know – somebody mentioned earlier about if there was obscene language used, well, that person already comes under the Public Order Act for that.

2230 So this is where, quite often, when there is a kicking off out in the street, people are charged with various offences – plural – rather than a singular offence. Dealing with this particular issue here about this scenario painted by the hon. mover, I think perhaps there needs to be a more proportionate way forward on this, so that person, that errant person, if the Bill goes through and becomes law, is not made a criminal.

2235 **The Speaker:** Hon. Members, I have more Members indicating they wish to speak. I therefore propose to adjourn until 2.30. The first Member I will call is the Hon. Member, Mr Anderson.  
The House will now stand adjourned.

*The House adjourned at 1.01 p.m. and resumed its sitting at 2.30 p.m.*

**Breastfeeding Bill 2010**  
**Debate continued**  
**Second Reading approved**

2240 **The Speaker:** We resume with the Second Reading of the Breastfeeding Bill and, as I indicated, the first Member to speak will be the Hon. Member for Glenfaba, Mr Anderson.

**Mr Anderson:** Thank you, Mr Speaker and, firstly I would like to congratulate the Hon. Member on moving this Bill. The Health Service is very keen on promoting such legislation and in

fact, would have done so itself, had we not been very tight on legislation, the amount of legislation we can bring forward in this particular year. In fact, I think it was on our B list, rather than our A list.

I would just like to also thank, while I am on my feet, the Hon. Member for Middle for giving us some interesting statistics on breastfeeding, showing how the Isle of Man lags considerably well behind the UK, which itself is a very poor average compared with European standards. I think we had a very useful contribution from a mother's perspective, as well, before lunch and I thank Mrs Craine for the many interesting and relevant points she made.

The Isle of Man has, as I have said, amongst the lowest rates of breastfeeding in Europe. A local survey in 2009 showed that breastfeeding rates in the Isle of Man were about 60% at initiation, to 40% at six weeks and only 33% at three months. This contrasts poorly with Scandinavian rates of around 98% at initiation.

The World Health Organisation recommends that, when possible, infants should be exclusively fed on breast milk until they are six months of age. The health reasons for this advice are not contested. Increases on breastfeeding rates in the Isle of Man are mainly dependent on individual dedication and initiatives of health sector workers in this field and dedicated mothers, obviously. Without further support from Government and wider society, the Isle of Man could retain its place amongst the lowest rates of breastfeeding in Europe.

Young children need to be fed when they are hungry and this can mean mothers need to feed their young children frequently. Mothers should be allowed to breastfeed their babies in public spaces where children are permitted to be. This is not always the case and results in many mothers stopping breastfeeding early or not breastfeeding at all. We believe that this legislation would give out the right message to public bodies, businesses, public transport and to the public generally. In addition, bottle-feeding is permitted in some establishments where breastfeeding is prohibited, and this is an equality issue.

Mr Speaker, there are many statistics I could bring forward to support how we should be supporting breastfeeding in our community. However, I believe the House actually recognises this today and it is actually those who are opposing it on other grounds. However, I must highlight that mothers who are breastfeeding are more significantly likely than bottle-feeding mothers to experience problems in finding somewhere to feed their child. This then does become an equality issue and I believe it is a Human Rights issue.

That is why I think it is important we have legislation to give it that strength to make it an offence. I do not believe we will see many cases coming to court, because, I think, by sending out a clear message that this is something we should be supporting, it will help society to accept it and to recognise that we should not be stopping the right of the child from having access to its mother's milk. **(A Member: Hear, hear.)**

Therefore, I am very keen on this legislation; the Health Service are very keen on this legislation. We would have brought it forward ourselves in time. I congratulate the Hon. Member for moving it and I look forward to him getting the support of this House at this Reading.

**The Speaker:** Hon. Member for Malew and Santon, Mr Cregeen.

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

I wonder if the mover of the Bill could clarify a point for me, please, that on licensed premises a landlord is quite entitled to refuse anybody access to a public house without giving a reason, so how would his Bill impact on a landlord saying, 'Well, I'm sorry but you just can't come in here,' without having to give a reason? Will that person, the mother, be able to come forward and say, 'Well, you're in breach of this legislation,' but under the Licensing Act, they do not have to give a reason? This is one of the things that the licensing people will be bringing up.

One of the things that has happened in the past, I know, is my wife and myself took our two-year-old out to get a meal in a pub, and just because we ordered two meals and were going to give him something, the landlord actually said, 'Because you are not ordering a meal for the third person, the child, you can't stay in.' This is one of the things from landlords, because they were not buying a meal and this was another thing that they would quote about the licensing rules, that you must be having a meal in a pub. Just if you could clarify the point.

**The Speaker:** Hon. Member for Michael, Mr Cannan.

**Mr Cannan:** No, sir.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

2305 **Mr Karran:** Vainstyr Loayreyder, I find it quite strange today that we are having to have any sort of legislation at all on this subject. It should be regarded as natural and the way it should be.

I think it is important... the danger we have with the legislation and I thought the input from the Member for Ramsey was very good, very apt and really sums it up well, as far as the perception is concerned, as far as the mother that is wanting to breastfeed and I think the exceptionally sensible input from the Member for North Douglas, who surprised me, as far as his input, has hit it on the... it is about appropriateness and about balance and I think the problem is, just like getting breastfeeding to be acceptable, not just for the general public, but for the individual mothers. It is about the PR, it is about perception and you cannot always legislate for that.

2310  
2315 I totally agree with the Member for North Douglas, some sort of civil penalty, on-the-spot fine or whatever they can do, as far as... but criminalising people who should be seen as cranks, anyone that stops a mother from feeding her baby in a public place, it is not about criminalising them, they are cranks, and I think that is where we need to make it. I think we have got to create that social change and that does not come about by criminalising people, that comes about by people, what is acceptable, civilised treatment of other individuals within society. That is the sadness, that we need to spell...

2320 I think it is wrong to have the Treasury Minister and the other Ministers talking about this Bill is going to be our panacea, as far as somehow we are going to get all these people starting breastfeeding. The reality is that we have to look at why so many women do not breastfeed, and the reality is they cannot afford to because they are too busy having to pay mortgages and having to pay for second... It is something that cannot happen for a lot of women because of the social problems, as far as having to get back out to work in order to pay the mortgage or to pay the exorbitant rent of £600, £700, £800 a month. These are issues that need to be recognised, as far as the reason why we have such a low rate as far as breastfeeding is concerned, because in many of these European countries, the wife is not a necessity (*Laughter*) to keep a roof over your head.

2325  
2330 The reality is today... and that is to be fair. These are the social issues that need to be addressed within the Council of Ministers when we are talking about the issues of how we all recognise the importance of giving a baby that start in life, and it is one of the social problems. So I would not want people to think that, somehow, we are going to just usurp the breastfeed percentages overnight because of this piece of legislation. There are other key factors that need to be looked at and maybe the Treasury Minister needs to look at why there is the flexibility for women to be able to do breastfeeding. Do we need better social legislation as far as employment flexibility and other issues like that?

2335 I think that there should not be an argument over this Bill. I think it is wrong that we sometimes can actually over-react and actually give people, who I would see as antisocial behaviour, by saying to a nursing mother that you could not breastfeed in my establishment. I think I would not want to give them the status of a criminal. I would be wanting to give them the status of being somewhat a bit of a weirdo, to be honest with you, and I think it is important that one of the dangers we have got... and the tragedy is, Vainstyr Loayreyder, if we would have had the repeated calls that I have asked for for years on penal review, since 1992, we would maybe be in a more sensible way forward, about things being appropriate and proportionate and the problem that we have got to make sure is, that we do not actually... we want people criminalised for criminal things, not because they are a bit strange or they are a bit, you know.

2340  
2345 I think what we have to do... and, if anything comes from this Bill, I think what would be important is the fact that debating the issue, maybe we will get more people to think about it, but if you want to sort out breastfeeding rates within this Island, you are going to have to look at flexible employment, you will have to look at the issues that we have created and now a new generation where it is near-on impossible for most working parents to be able for one of them to be able to stay at home. That is the sort of issue if you want your breastfeeding rates brought up: these are other issues.

2350  
2355 The only other thing I would like to ask the mover is if he could just, on the proportion of this... he wants a £2,500 fine. I think it is important that he gives some idea of the sort of level of normal crime you would have to do, to get a £2,500 fine, because I think it is important that we do understand that, because the problem is, I think Mr Houghton, the Hon. Member for North Douglas is so right, this is the sensible way forward. We want to make sure that people are not criminalised because of their anti-social behaviour, but what we want them to be, is we want people to see that it is not acceptable practice to harass nursing mothers in public places and that is the way forward. I hope that the two of them will come up with a sensible amendment, because we want to make sure as many as possible... Do not give us the idea that somehow it is going to

2365 increase our numbers. We have to look at core issues of employment and housing, if we are to make it possible for more nursing mothers to be able to breastfeed.

**The Speaker:** I call on the mover to reply, Mr Watterson.

2370 **Mr Watterson:** The House is, indeed, in feisty mood today! I would like to thank everybody for their contributions, which have come as something of a surprise today. As all Members will know, this was out to consultation to all Members of the House for a month, and I believe that the only Members to reply were: Mr Crookall replied; Mr Shimmin replied; and Mrs Cannell replied. So the rest of it has come as quite a surprise to me today.

2375 I would thank Members for their comments, nonetheless, and I absolutely respect the fact that this is the place that we have the debate, not just in presentations. This is where provisions are made.

2380 As Members will know, I speak with something of a vested interest, as a father of a newborn baby, whose mother is actively taking to the challenge of breastfeeding. Certainly, the contact that I have had with midwives over the last few weeks has added to my knowledge of the subject, not just on a medical point, but also in terms of some of the social issues that people have experienced in actively trying to breastfeed their children around the Island. I have deliberately, in all the things I have said and the documents I have put out, not sought to name names in this. I have had specific instances of specific shops, specific places where people have been denied the right to feed their children, and because this is part of a process of changing attitudes, I have not wanted to go out and name and shame. I hope that, further down the line, it will not be necessary and that we will slowly start to change those attitudes.

2385 I would, firstly, like to thank David Anderson, Hon. Member for Garff, (**Several Members:** Glenfaba.) for seconding, and putting his weight, both as a Member of the House and as the Minister for the Department, behind this.

2390 Mr Robertshaw made a point about using criminal law, and I addressed that briefly in my opening remarks. This Bill is about the need to provide a protection and to support those who seek to breastfeed their children in public. We say that it is the right thing to do, but when push comes to shove, people out there in the wider world are still able to call the shots. I felt that that did not provide the necessary form of protection that people should be entitled to.

2395 Coming across and moving on to Mr Houghton's point, I am happy to look again at the penalty regime, which seems to be the main sticking point here, and if Members want to come to me on that, I am all ears and we can look at that again before clauses. I think the principle of the Bill is more important than the way that, perhaps, the penalty regime is structured. I do not want to lose sight of that. Of course, it would be open, under existing provisions, for an individual to be cautioned. It is not necessarily 'Go to jail, go directly to jail, do not pass Go, do not collect £200'; it is a fine only. It is a matter of summary jurisdiction, and people could be cautioned for it.

2400 The comments that I suppose I least associate myself with are those of my good friend and colleague in Douglas West, Mr Corkish, who said that this is not an issue. Well, it certainly is an issue for those people who have been on the receiving end of it. To have been effectively shamed out of a public place just for feeding a baby, I think is absolutely reprehensible. (**Mr Earnshaw:** Hear, hear.) This has happened and I would be more than happy, if the Hon. Member was interested, to send him those examples that I have had, both from members of the public who have written to me, as well as from midwives up at the Jane Crookall, who have given me examples of people who have suffered as a result of these outdated attitudes of perceived modesty and dignity that surround the notion of breastfeeding, which I find somewhat Victorian in outlook, I have to say. (**Mr Cretney:** Hear, hear.) I come back to the point about the law acting as a disincentive.

2410 It is not there to prevent or create embarrassment. As Mrs Craine rightly said, this is a normal and natural act. The ultimate level of fine would be determined by the courts but, as I have said, I am happy to hear what Members have said on that and if they want to come back to me, I am all ears.

2415 Mr Quayle, Member for Middle, recited some of the facts about breastfeeding rates, which I think were also in my speech for leave to introduce and I did not want to repeat again today, but it is worth reminding ourselves of the fact that breastfeeding is not well taken up on the Island. It does suffer from problems, not just of image, of reputation, and the somewhat Victorian values that I reflected, but other issues as well and some of those were highlighted by Mr Karran and I do accept some of them and I think that, whilst the system is not perfect, great steps have been taken. I think this is another one of those steps – and it is another step, rather than the panacea to cure all ills. Even things such as the extended maternity leave which have been brought forward in the life of this House, will act as an assistance to that cause.

2425 I would also echo the points that Mrs Craine made about criminal law; this criminal law is not needed if common sense prevails and that absolutely hits the nail on the head. Mr Karran referred to them as cranks, but if we are successful, in this place, of using this Bill and becoming an Act, of changing attitudes, then we have succeeded in making that commonsense practice normal and I would wholeheartedly support the comments which she made on that.

2430 I am trying not to go through everybody in too much detail, because some of the points came up a few times. Just to revert back to Mr Houghton, this does not create an arrestable offence; this does not create a period in custody and if Mr Houghton wants to come and discuss the finer details of an amendment to change the way from a penalty, a fixed penalty regime, we can discuss that and I am more than happy to.

2435 Mr Cregeen referred to the landlord's absolute right to deny entry to persons to their premises. If Mr Cregeen looks at clause 2(6), he will find it right there in black and white:

'This section does not limit the operation of section 35 of the Licensing Act 1995, expulsion of persons from licensed premises.'

2440

I hope that answers that question.

Mr Karran said something about a panacea and I think I have addressed most of Mr Karran's questions on the way through.

2445 So, really, I ask Members to support the Bill at Second Reading today, provide protection for those who do the natural and normal thing, the best thing for mother and baby, and that is to breastfeed as and when the child needs feeding. This is not something that should be driven underground or out of sight; this is something that should be supported on the Island.

2450 The penalty may seem harsh. I am happy to look at that, but it will take absolute stupidity and pigheadedness to appear in court as a result of this offence. Importantly, this Bill sends out a message that it is normal to breastfeed, it is natural to breastfeed, and we should support those who do so, and I ask Hon. Members to support Second Reading today.

**The Speaker:** Hon. Members, the motion is that the Second Reading of the Breastfeeding Bill be approved.

2455 Those in favour, say aye; against, no. The ayes have it.

*A division was called for and electronic voting resulted as follows:*

**FOR**

Mr Quirk  
Mr Earnshaw  
Mr Karran  
Mr Brown  
Mr Crookall  
Mr Anderson  
Mrs Craine  
Mr Quayle  
Mr Teare  
Mr Cannan  
Mr Cregeen  
Mr Houghton  
Mr Henderson  
Mr Malarkey  
Mr Shimmin  
Mr Cretney  
Mr Watterson  
Mr Gawne  
Mr Gill  
The Speaker

**AGAINST**

Mr Robertshaw  
Mrs Cannell  
Mr Corkish

**The Speaker:** Hon. Members, the motion carries –

**A Member:** Mrs Cannell! (*Interjections*)

2460 **Mrs Cannell:** Mr Speaker, I am ashamed to say that, since we have had electronic voting, I sincerely did press the wrong button.

**The Speaker:** We will take the vote again.

*A second vote was taken and electronic voting resulted as follows:*

<b>FOR</b>	<b>AGAINST</b>
Mr Quirk	Mr Robertshaw
Mr Earnshaw	Mr Corkish
Mr Brown	
Mr Crookall	
Mr Anderson	
Mrs Craine	
Mr Quayle	
Mr Teare	
Mr Cannan	
Mr Cregeen	
Mr Houghton	
Mr Henderson	
Mr Malarkey	
Mrs Cannell	
Mr Shimmin	
Mr Cretney	
Mr Watterson	
Mr Gawne	
Mr Gill	
The Speaker	

**The Speaker:** The motion carries, 20 votes for, 2 votes against.

#### **Personal Statement by Mr Gawne**

2465 **The Speaker:** At this point, Hon. Members, I call on the Hon. Member for Rushen, Mr Gawne.

**Mr Gawne:** Gura mie eu, Loayreyder.

2470 During the earlier debate on the Building Control Bill, I implied, perhaps, that Mr Gill had been hypocritical in his comments. I would like to withdraw those comments because I have no wish to cause offence to the Hon. Member and I wish to apologise for any offence caused.

**The Speaker:** Thank you, Mr Gawne. That is in accordance with making a personal explanation, which is in order.

#### **BILLS FOR CONSIDERATION OF CLAUSES**

##### **Anti-Terrorism and Crime (Amendment) Bill 2010 Consideration of clauses concluded**

5.1. Mr Malarkey to move.

2475 **The Speaker:** We turn now to Item 5 on the Order Paper, clauses for consideration. We start with the Anti-Terrorism and Crime (Amendment) Bill 2010 and at our last sitting we reached as far as clause 39, so we continue from clause 40.

I call on the Hon. Member for Douglas South, Mr Malarkey.

2480 **Mr Malarkey:** Thank you, Mr Speaker.

As you said, Mr Speaker, we got to, and included, clause 39 at the 21st December sitting. I will remind Members that the prime purpose of the Bill is to update the Anti-Terrorism and Crime Act 2003 to take account of developments in UK legislation and recommendations by representatives of the international community. With that, Mr Speaker, I will move on to clause 40.

2485 Clause 40 amends paragraph 1(g) of schedule 1 to the Act. In the list of activities constituting business in the regulated sector, this paragraph refers to money raised under the National Loans Act 1968, an Act of Parliament. This clause corrects an omission by adding 'the Isle of Man Loans Act 1974.'

2490 Mr Speaker, I beg to move that clause 40 do stand part of the Bill.

**The Speaker:** Mr Quirk.

**Mr Quirk:** I beg to second, sir.

2495 **The Speaker:** The motion is that clause 40 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 41.

2500 **Mr Malarkey:** Thank you, Mr Speaker.

Clause 41 makes various changes to schedule 2 to the Act, which sets out the detailed procedure to be followed in relation to the making of forfeiture orders. The changes provide for the charging orders and restraint orders to take account of the fact that the forfeiture may be made in relation to a conviction for any offence under the Act and makes changes consequent on the revised section 16 and inserts new sections 16A and 16B.

2505 Mr Speaker, I beg to move that clause 41 do stand part of the Bill.

**The Speaker:** Mr Earnshaw.

2510 **Mr Earnshaw:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

**The Speaker:** The motion is that clause 41 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 42.

2515 **Mr Malarkey:** Thank you, Mr Speaker.

Clause 42, offences where a terrorist connection is to be considered. Clause 42 inserts new schedule 2A, which sets out the offences where a terrorist connection is to be considered for the purpose of sentencing.

2520 I beg to move that this clause stand part of the Bill.

**The Speaker:** Mr Earnshaw.

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

2525 **The Speaker:** The motion is that clause 42 and schedule 1 stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it.  
Clause 43.

2530 **Mr Malarkey:** Thank you, Mr Speaker.

Clause 43 makes two principle amendments to schedule 3 to the Act, which gives details as to the forfeiture of terrorist cash.

Paragraph 3(1) of the schedule states an authorised officer, i.e. a constable, customs officer, immigration officer or some other person authorised by the Attorney General, may detain cash he or she reasonably suspects to be terrorist cash for a period of 48 hours.

2535 New subparagraph (1A) provides, in calculating the period of 48 hours, Saturday, Sunday, Christmas Day, Good Friday or a day that is a holiday under the Bank Holidays Act 1989, will be disregarded.

2540 Paragraph 7, which deals with the appeals against forfeiture orders, is substituted: an additional paragraph 7A is inserted. The substituted paragraph 7 is more succinct and slightly changed to enable a party to the proceedings to appeal either against the forfeiture order, or the decision of the court not to make a forfeiture order. The period within which an appeal must be lodged is made subject to inserted paragraph 7A.

2545 Inserted paragraph 7A permits an extended period for appealing against the forfeiture order, where the forfeiture is 'predicted' on the fact an organisation is proscribed, or an organisation is not proscribed but is of the same nature as the organisation that is proscribed, and is specified in the order made by the Secretary of State. Where an organisation is de-proscribed, and related organisations are de-proscribed by order accordingly, the period within which an appeal against a forfeiture order may be made is 30 days after the date the de-proscription order comes into force.

Mr Speaker, I beg to move that clause 43 do stand part of the Bill.

2550 **The Speaker:** Mr Earnshaw.

**Mr Earnshaw:** I beg to second, Mr Speaker and, just to be helpful, I think Mr Malarkey made reference to a word 'predicted' in part of that, it should have been 'predicated'. I hope he will forgive me for making that comment.

2555

**The Speaker:** Hon. Members, the motion is that clause 43 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 44.

2560

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

Clause 44 makes minor amendments to schedule 4 to the Act. Amendments are made to paragraph 1(1)(f) to include reference to the Isle of Man Loans Act 1974, as well as to the National Loans Act 1968 of Parliament and a new entry is inserted at 1(1)(i) in relation to businesses dealing with client money. Currently, paragraph 7(2)(b) only applies to proceedings under section 16, where a financial institution has been convicted of an offence under sections 7 – 10 of the Act.

2565

Paragraph 7(2)(b) is substituted, so a statement made by a financial institution may be used in evidence against it, where it has been convicted of an offence to which the forfeiture provisions of section 16, 16A or 16B apply. References in the schedule to the Deemster are changed to that of a judge of the High Court.

2570

Mr Speaker, I beg to move that clause 44 stand part of the Bill.

**The Speaker:** Mr Earnshaw.

2575

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

**The Speaker:** The motion is that clause 44 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

2580

Clause 45 and schedule 2, Mr Malarkey.

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

Clause 45 introduces new schedule 4A, which sets out the operation of the order to restrict the travel of persons subject to notification requirements set out in clause 12.

2585

I beg to move that this clause stand part of the Bill.

**The Speaker:** Mr Earnshaw.

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

2590

**The Speaker:** The motion is that clause 45 and schedule 2 stand part of the Bill. Those in favour, say aye; against no. The ayes have it. The ayes have it.

Clause 46.

2595

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

Clause 46 amends schedule 5 to the Act to enable an officer of at least the rank of chief inspector to apply for a warrant, which allows a constable to enter and search either more than one set of premises specified in the warrant or, if it is not reasonably practicable to specify all the premises, any premises the person specified owns or occupies.

2600

Paragraph 2A, inserted by subsection (6), is important because it provides a restriction on the powers of the warrant where the justice of the peace is not entirely satisfied a warrant is likely to be necessary. The justice of the peace may grant the warrant, if satisfied on other grounds specified in subparagraphs (5)(a), (b) and (d) of paragraph 1. However, the warrant will be exercisable only in respect of non-residential premises and must be executed within 24 hours of issue.

2605

Subsection (7) provides for reference in the schedule to 'Deemster' to be changed to 'judge of the High Court'. In subsection (13) of the clause, paragraph 14(5) of the schedule is amended, so the fine in respect of a penalty for obstructing a search is increased from £2,500 to £5,000.

Mr Speaker, I beg to move that clause 46 do stand part of the Bill.

2610

**The Speaker:** Mr Earnshaw.

**Mr Earnshaw:** Yes, thank you, Mr Speaker. I beg to second and reserve my remarks.

**The Speaker:** Mr Gill.

2615

**Mr Gill:** Thank you.

Could the mover, in advising us about the test of a residential and a business property to be liable for a search warrant, advise how would it be anticipated that the relevant authorities could determine that, in certain cases, or where, indeed, a business and a residential, living-above-the-shop situation might take place, how would that be overcome, sir?

2620

**The Speaker:** Mr Malarkey to reply.

2625

**Mr Malarkey:** Mr Speaker, it quite clearly states within the Bill that you do not get authorisation to enter any private living accommodation, so I would think that would be up to the officer as to whether he was entering somebody's place of residence or place of business. It quite clearly states within the Bill it does not have that authority to go into a place of residence.

With that, I beg to move, sir.

2630

**The Speaker:** The motion is that clause 46 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 47.

2635

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

Clause 47 makes amendments to schedule 6 to the Act on similar lines as that to clause 44 and corrects a typographical error in paragraph 8(1) and (3) of schedule 6, by substituting 'paragraph 1(4)' for 'paragraph 1(3)'.

I beg to move this clause stand part of the Bill.

2640

**The Speaker:** Mr Earnshaw.

**Mr Earnshaw:** I beg to second and reserve my remarks.

2645

**The Speaker:** The motion is that clause 47 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 48.

2650

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

Clause 48 amends schedule 8 to the Act. It deals with the treatment of a person detained under section 30 of the Act. This is arrest without warrant or schedule 7 ports control.

Paragraph 7 entitles a detained person to request to consult an advocate in private.

Paragraph 8 entitles an officer of at least the rank of chief inspector to delay the consultation for a period.

2655

However, paragraph 9 empowers the Chief Constable to direct that the detained person may only consult an advocate in the sight and hearing of a uniformed officer of at least the rank of inspector. The Chief Constable must be satisfied one or more serious consequences set out in paragraph 8(4) may occur. A few examples of those serious consequences include alerting some other person, thereby making it harder to prevent an act of terrorism being committed, interference with a witness, harm to a witness, destruction of evidence, the alerting of another suspect who may not yet have been apprehended etc.

2660

Paragraph 9(3) is substituted by subsection (3) of this clause to provide, where the detained person has benefited from his or her criminal conduct, a direction may be given by the Chief Constable, to ensure that the recovery of the value of the property constituting the benefits will not be hindered.

2665

Other amendments to paragraph 19 and 28 are made by subsections (4) to (8) of this clause and relate to the grounds for continuing detention, pending the analysis or examination of relevant evidence.

I beg to move that clause 48 stand part of the Bill, sir.

2670

**The Speaker:** Mr Earnshaw.

**Mr Earnshaw:** Yes, thank you, Mr Speaker. I beg to second and reserve my remarks.

**The Speaker:** The motion is that clause 48 stand...  
Mr Gill.

2675 **Mr Gill:** Mr Speaker, the provision that the mover describes, where the Chief Constable can direct that a conversation between an accused or suspected person and that person's advocate has to take place within the sight and earshot, the hearing, of a senior police officer, on the face of that, that sounds an extremely important movement away from the presumption of the appropriate privacy of a conversation, the sacrosanct privileged conversation between a person and their advocate.

2680 Indeed, Members will remember, not many years ago, we had the desperately worrying situation where listening devices were allegedly put in rooms in the Police Headquarters to overhear those very conversations, and I remember the then Chief Constable – and I think quite rightly – saying this was an absolute fundamental test of a civilised state, that we respected that relationship between an accused person, or a suspected person, and their lawyer.

2685 Yet now we are being told that the Chief Constable – not even a judicial officer, but an officer with, quite rightly and understandably, a vested interest in one side of the case, not in the administration of justice, but the administration of prosecution – will be empowered to direct that that presumption that we have always worked under is to be moved away from. I think the mover has to explain that very fully, and perhaps, if there is any precedent that he could direct us to – I am not aware of that, but if there is, perhaps he could advise us about that. Really, it is the principle of that fundamental change, which I think is quite, on the face of it, worrying, and I hope that the mover can respond fully, sir.

2690  
2695 **The Speaker:** Mr Malarkey to reply.

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

I think what we should not lose sight of here is what the name of the Bill is: it is an Anti-Terrorism and Crime Bill. (**A Member:** Hear, hear.) We are dealing here with terrorists (**Mr Watterson:** Suspected terrorists.) – suspected terrorists. It would be only at the rank of chief constable with this authorisation to have a senior officer present, only to protect the public, basically.

2700 That is the whole idea, that there could be some information passed on by that suspected terrorist to a lawyer, who may be a lawyer, may not be a lawyer, may be a friend, may be part of the organisation. It could be passing on codewords, it could be passing on any information to destroy vital information. We are talking about preventing a terrorism act, and this would only be used if the Chief Constable considered that information could be passed on that could cause harm to the public in any other way.

2705 So this is not under general crimes; we are talking about extreme circumstances here, where somebody may have been stopped at the ports, been followed, been suspected of being a terrorist, have not given sufficient answers to clarify the suspicions of the officers interviewing. The Chief Constable would then be informed of what evidence was against this person. This person would then be asking for a lawyer, and the Chief Constable would then be saying to an inspector, 'Well, you have to listen to make sure further information, or delicate information, or harmful information, is not being passed on.'

2710 So I do not think, Mr Speaker, in this instance, when we are talking about terrorism, we are talking about Human Rights, as much as we would be through normal day-to-day crime, sir.

2715  
2720 **The Speaker:** The motion is that clause 48 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it.

*A division was called for and electronic voting resulted as follows:*

<b>FOR</b>	<b>AGAINST</b>
Mr Quirk	Mr Robertshaw
Mr Earnshaw	Mr Corkish
Mr Brown	Mr Watterson
Mr Crookall	Mr Gill
Mrs Craine	
Mr Quayle	
Mr Teare	
Mr Cannan	
Mr Cregeen	
Mr Houghton	

Mr Henderson  
Mr Malarkey  
Mrs Cannell  
Mr Shimmin  
Mr Cretney  
Mr Gawne  
The Speaker

**The Speaker:** The motion carries, 17 for, 4 against.  
We turn to clause 49 and schedule 3. Mr Malarkey, please.

2725 **Mr Malarkey:** Thank you.  
Clause 49 inserts new schedule 8A into the Act. New schedule 8A deals with the seizure and forfeiture of terrorist publications.  
I beg to move this clause do stand part of the Bill.

2730 **The Speaker:** Mr Earnshaw.

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

2735 **The Speaker:** The motion is that clause 49 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 50.

**Mr Malarkey:** Thank you, Mr Speaker.  
Clause 50 substitutes paragraph 8(2) and 8(3) of schedule 9 to the Act, which relates to offences by bodies corporate etc. The purpose of this substitution is to provide much greater clarity in defining who is liable for offences by bodies corporate, unincorporated and partnerships.  
2740 I beg to move that this clause do stand part of the Bill.

**The Speaker:** Mr Earnshaw.

2745 **Mr Earnshaw:** I beg to second, Mr Speaker and reserve my remarks.

**The Speaker:** The motion is that clause 50 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
2750 Clause 51 and schedule 4.

**Mr Malarkey:** Thank you, Mr Speaker.  
Clause 51 introduces schedule 13A into the Act, which is set out in schedule 4. Schedule 13A sets out the Convention offences.  
2755 I beg to move that clause 51 do stand part of the Bill.

**The Speaker:** Mr Earnshaw.

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

2760 **The Speaker:** The motion is that clause 51 and schedule 4 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 52.

2765 **Mr Malarkey:** Mr Speaker, clause 52 says the maximum custodial sentence on summary conviction for the provisions set out in schedule 5 to the Bill is increased from six to 12 months.  
I beg to move that the clause stand part of the Bill.

**The Speaker:** Mr Earnshaw.

2770 **Mr Earnshaw:** I beg to second, Mr Speaker, and reserve my remarks.

**The Speaker:** The motion is that clause 52 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 53.

2775 **Mr Malarkey:** Mr Speaker, clause 53 sets out the dates when some changes made in the Act come into effect.

I beg to move that clause 53 do stand part of the Bill.

2780 **The Speaker:** Mr Earnshaw.

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

2785 **The Speaker:** The motion is that clause 53 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 54 I believe you would like to move with clauses 55 and 56 together.

**Mr Malarkey:** Yes, thank you, Mr Speaker.

2790 These clauses make minor consequential amendments to the Explosive Substances Act 1883, the Police Powers and Procedures Act 1998, and the Proceeds of Crime Act 2008 respectively.

Mr Speaker, I beg to move that clauses 54, 55 and 56 do stand part of the Bill.

**The Speaker:** Mr Earnshaw.

2795 **Mr Earnshaw:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

**The Speaker:** Turning to clause 54 first, those in favour, say aye; against, no. The ayes have it. The ayes have it.

That clause 55 stand part of the Bill: those in favour, say aye; against no. The ayes have it. The ayes have it.

2800 That clause 56 stand part of the Bill: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 57, Mr Malarkey, please.

2805 **Mr Malarkey:** Thank you, Mr Speaker.

Hon. Members will be aware that there is a Government amendment, or there are Government amendments, to this clause, which I do support. I propose to speak to the clause, as in the Bill, and then the Minister will move the amendment.

2810 Mr Speaker, when the Terrorism (Finance) Act 2009 was being examined at the clauses stage by the Legislative Council, an undertaking was given by the Department to amend section 19 as soon as a suitable opportunity arose. The amendment set out in subsection (2) and (3) of this clause, requires the Treasury to report annually on the exercise of its function under the Act, detailing either how it has exercised its functions, or it has not done so. Subsection (4) of this clause inserts a new part 3A into the Terrorism (Finance) Act 2009. After section 27, new section 27A provision is introduced in order to demonstrate the Island's commitment to international efforts to combat terrorism by all means, including providing specific powers to make code or codes for preventing and detecting terrorism finance. The powers are similar to those in section 157 of the Proceeds of Crime Act 2008 which give powers under the Act to make general codes to combat money laundering.

2820 Mr Speaker, I formally beg to move that clause 57 do stand part of the Bill.

**The Speaker:** Mr Quirk.

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

2825 **The Speaker:** I call on Mr Earnshaw.

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

I would like to apologise in advance for the complexity of this amendment, in the way that we are putting it over. We have made every effort to simplify things as far as possible.

2830 I will begin by saying at our sitting on 21st December 2010, when the debate on the clauses of this Bill commenced, I explained then to Hon. Members the background to the amendments in respect of substitute of clauses 25 and 26 of the terrorism Bill before us today. Since then, i.e. 21st December, the United Kingdom government has now enacted legislation in relation to terrorist asset-freezing. The UK Act, which is the Terrorist Asset-Freezing Act 2010, simplifies the appeals process procedure for those affected by financial restrictions imposed by Her Majesty's Treasury;

2835

provides Her Majesty's Treasury with the power to give interim – that is to say, 30-day – directions to businesses; provides for offences in connection with those who seek to get around directions given in relation to them or their businesses; and enables Her Majesty's Treasury to issue directions to subsidiaries of businesses.

2840 The purpose of these Government amendments, therefore, is to introduce these powers into the Terrorism (Finance) Act 2009 – that is our own Act here in the Isle of Man.

Mr Speaker, taking the amendments in turn, the marginal note on page 86 is changed to delete the word 'minor'.

2845 The second amendment, in line 25 of page 86, inserts provision for the definition of an 'interim direction'. After section 4 of the 2009 Act, a new section 4A is inserted, which sets out the conditions for giving an interim direction. These conditions, and the reasons for them, are similar to those I referred to in relation to the substitute clauses 25 and 26, regarding interim freezing orders.

2850 The next amendment, (1C), inserts a new section 10A after section 10 to provide for the imposition of a civil penalty by the enforcement authority for the circumvention by a person or business of a specific requirement in a direction given by the Treasury.

The next amendment, (1D), inserts, after section 13, a new section 13A, which provides for a criminal offence of intentionally participating in activities, knowing the purpose or effect is to circumvent a requirement of a direction.

2855 The insertion, at line 33 on page 86, numbered 3 on today's Order Paper, makes a small substitution in section 23 of the 2009 Act. This section provides, and potentially assists, a person affected by a financial restriction, such as a direction under the 2009 Act or a freezing order under the Act, to be able to appeal rather than having to appeal via a petition of dolence, which is the current process. The effect of the change is to simplify the mode of appeal to the High Court. It will be for the High Court to determine, through its own rules, the procedure by which a person may have their appeal heard.

2860 Mr Speaker, the final set of amendments, numbered 4 on our Order Paper today, inserts, after line 16 on page 88, subsection (4A) into the clause. In paragraph 3 of the schedule to the 2009 Act, provision is made to enable a direction to be given, imposing requirements on a person or a body corporate. The purpose of this amendment is to ensure the requirements applying to a body corporate apply also to any subsidiary of that body corporate.

2865 Mr Speaker, it is right and proper for this House to ask questions of Government as to the need for more legislation or regulation. In this case, the importance of these amendments is to ensure the Treasury and other enforcement agents have the necessary legal powers to deal with any who, at the expense of our reputation, seek to get around international law by exploiting gaps in our legislation. I believe the case is made for the Government amendments and I beg to move that they stand part of this clause 57.

2875 *1. Page 86, marginal note to clause 57, delete "minor".*

*2. line 25, insert –*

*"(1A) In section 3, after the definition of "financial restrictions proceedings" insert –  
" "interim direction" means a direction given under section 4A;"*

*(1B) After section 4 insert –*

*"Conditions for giving interim direction by Treasury*

2880 *4A. (1) The Treasury may give an interim direction to a person mentioned in paragraph 1 of the Schedule if either of the following conditions is met in relation to a country.*

*(2) The first condition is that the Treasury reasonably suspects that there is a risk that terrorist financing or money*

2885 *laundering activities are being carried on-*

*(a) in the country;*

*(b) by the government of the country; or*

*(c) by persons resident or incorporated in the country,*

*and that this poses a significant risk to the national interests of the Island.*

*(3) The second condition is that the Treasury reasonably suspects that-*

2890 *(a) the development or production of nuclear, radiological, biological or chemical weapons in the country; or*

*(b) the doing in the country of anything that facilitates the development or production of any such weapons,*

*poses a significant risk to the national interests of the Island.*

2895 *(4) The Treasury may not give more than one interim direction to the same person in relation to the same, or substantially the same, evidence.*

(5) *The Schedule has effect in relation to interim directions as it has effect in relation to directions save that in paragraph 9(3) the reference to “one year” is to be read as referring to “30 days”.*”.

2900

(1C) *After section 10 insert –*

*“Civil penalty: relevant person circumventing direction requirements*

*10A. (1) The enforcement authority may impose a penalty of such amount as it considers appropriate on a relevant person who has intentionally participated in activities knowing that the object or effect of them was (whether directly or indirectly) to circumvent a requirement of a direction imposed under Part 2 of the Schedule.*

2905

*(2) In subsection (1) “appropriate” means effective, proportionate and dissuasive.*

*(3) A person on whom a penalty is imposed under this section is not liable to be proceeded against for an offence under section 13A in respect of participation in the same activities.”.*

*(1D) After section 13 insert –*

2910

*“Offences: relevant person circumventing direction requirements*

*13A. (1) A relevant person who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly) to circumvent a requirement of a direction imposed under Part 2 of the Schedule commits an offence.*

*(2) A person guilty of an offence under this paragraph is liable-*

2915

*(a) on summary conviction, to a fine not exceeding £5,000;*

*(b) on conviction on indictment, to custody for a term not exceeding 2 years or a fine or both.*

*(3) A person who is convicted of an offence under this section is not liable to a penalty under section 10A in respect of participation in the same activities.”.*

*3. Page 86, line 33, insert –*

2920

*“(3A) In section 23 –*

*(a) for subsections (3) and (4) substitute –*

*“(3) On such an application the High Court may make such order as it considers appropriate.”;*

*(b) in subsection (5) delete “Without limiting the generality of subsection (4),”.*

2925

*4. Page 88, line 16, insert –*

*“(4A) In paragraph 3 of the Schedule –*

*(a) in sub-paragraph (1), after paragraph (c), insert –*

*“or*

*(d) a body corporate that is a subsidiary of a body corporate within paragraph (a) or (c)”;*

2930

*(b) after sub-paragraph (5) add –*

*“(6) In this paragraph “subsidiary” means a body corporate (whether or not incorporate under the Companies Acts 1931 to 2004) that is a subsidiary of another body corporate (whether or not incorporated under those Acts) and in determining whether one body corporate is a subsidiary of another the provisions of section 1 of the Companies Act 1974 shall apply with the necessary modifications.”.*

2935

**The Speaker:** I call Mr Teare.

2940

**Mr Teare:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

**The Speaker:** Mr Malarkey, do you wish to reply?

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

I am grateful for Minister Teare seconding the amendment on behalf of the Department.

2945

As a Member of the Department, I am aware of the reasons for the amendments put forward by the Minister. I would invite Hon. Members to support the clause, as amended.

With that, Mr Speaker, I beg to move that clause 57, as amended, do stand part of the Bill.

2950

**The Speaker:** To the amendment, those in favour of the amendment in the name of Mr Earnshaw, please say aye; against, no. The ayes have it. The ayes have it.

Clause 57, as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that brings us to the end of the clauses stage of that particular Bill.

**Debt Recovery and Enforcement Bill 2010**  
**Clauses considered**

5.2. Mr Houghton to move.

2955 **The Speaker:** We turn now to Item 5.2, Debt Recovery and Enforcement Bill, and I call on the Hon. Member for Douglas North, Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker.  
Clause 1 names the short title of this Bill as the Debt Recovery and Enforcement Act 2011.  
I beg to move clause 1 stand part of the Bill, sir.

2960 **The Speaker:** Mr Watterson.

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

2965 **The Speaker:** The motion is that clause 1 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 2, sir.

2970 **Mr Houghton:** Mr Speaker, clause 2 gives the Treasury powers to make an Appointed Day Order before commencement and to make appropriate provision as detailed in the clause.  
I beg to move clause 2 stand part of the Bill, sir.

**The Speaker:** Mr Watterson.

2975 **Mr Watterson:** I beg to second, sir, and reserve my remarks.

**The Speaker:** The motion is that clause 2 stand part of the Bill. Those in favour, say aye; against, no. The ayes have. The ayes have it.  
Clause 3.

2980 **Mr Houghton:** Thank you, Mr Speaker.  
Clause 3 sets out the relevant interpretations, as detailed in the Bill.  
I beg to move clause 3 stand part of the Bill, sir.

2985 **The Speaker:** Mr Watterson.

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

2990 **The Speaker:** The motion is that clause 3 stand part of the Bill. Those in favour, say aye; against, no. The ayes have. The ayes have it.  
Clause 4, Mr Houghton.

2995 **Mr Houghton:** Mr Speaker, clause 4 makes provision that any person carrying out debt collecting services must hold a licence. This clause also lists those persons who are exempt from holding a licence, in particular, a coroner, a creditor or an employee or relative of the creditor.  
I beg to move clause 4 stand part of the Bill, sir.

**The Speaker:** Mr Watterson.

3000 **Mr Watterson:** I beg to second, sir and reserve my remarks.

**The Speaker:** I call Mr Henderson.

3005 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder  
I wish to move an amendment to clause 4(2) and (3) in order to correct a technical matter.  
In respect of clause 4(2) I propose to include advocates who currently act in their normal course of business and are already licensed as advocates to progress legal proceedings and therefore need not be obliged to be registered as a licensed debt collector. Indeed, in clause 4(3) nominated individuals who are employees of companies who are creditors under the Bill, and

3010 pursue debt collection services for their employer, require to be exempted from holding a licence also.

I beg to move the amendments to clause 4 in my name, sir.

3015 **The Speaker:** Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker, I am happy to second.

**The Speaker:** Mr Houghton, do you wish to reply, sir?

3020 **Mr Houghton:** Yes I support this and it just puts right a couple of technical issues... [Inaudible] within the Bill, sir and I thank my hon. colleague, Mr Henderson, for moving it.

**The Speaker:** Dealing, then, with the amendment to clause 4 in the name of Mr Henderson, those in favour, please say aye; against no. The ayes have it. The ayes have it.

3025 Clause 4, as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 5, Mr Houghton.

**Mr Houghton:** Mr Speaker, clause 5 deals with applications for a licence to be made to the Chief Registrar.

3030 I beg to move clause 5 stand part of the Bill, sir.

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

3035 **The Speaker:** The motion is that clause 5 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 6.

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

3040 Clause 6 sets out the responsibilities of the Chief Registrar in the granting or refusal of a licence. Such responsibilities must ensure that an applicant is a fit and proper person to carry on debt collecting services and is able to hold an adequate level of insurance cover in respect of the range of debt collecting services offered by the applicant.

I beg to move clause 6 stand part of the Bill, sir.

3045 **The Speaker:** Mr Watterson.

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

3050 **The Speaker:** The motion is that – Mr Gill.

**Mr Gill:** Mr Speaker, the provisions, as I understand them here, put the power to grant a licence, to revoke it or to suspend it, solely with the Chief Registrar, and the duty is for a suspended licence to be reviewed on a regular basis.

3055 I think that flies in the face of natural justice, to a degree. That means that if the Chief Registrar has reached a decision and the person is dissatisfied, either with the administration of that decision or, indeed, with the reasons for that decision, they do not have any recourse to an additional appeal body. Could the mover confirm that that is the intention? If that is, why is that the case; and if it was not the intention, what provision does he propose to enter to allow for the natural justice of an appeal body to be identified and tasked and empowered with that necessary

3060 responsibility, sir?

**The Speaker:** Mr Houghton to reply.

3065 **Mr Houghton:** Thank you, Mr Speaker and I thank the Hon. Member for raising this excellent point that he raises.

If we look at the Chief Registrar and the position that that office holds, he also sits in the administration of all courts... including the High Court and the criminal courts... How this would actually be dealt with is a judicial officer would actually hear the cases on suspended licences, or any appeals on applications for licences in those particular cases. So the Chief Registrar would merely administer the case, but a judicial officer would hear those appeals.

3070

I hope that satisfies the Hon. Member, sir. I beg to move.

3075 **The Speaker:** The motion is that clause 6 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 7.

3080 **Mr Houghton:** Mr Speaker, clause 7 makes provision for the Treasury to publish a code of practice with respect to the conduct of licensed debt collectors which covers the suspension, revocation of a licence or to vary its conditions, and to the making of regulations about the retention and handling of regulations.

This clause also provides for a report on the enforcement of judgments to be laid before Tynwald each year.

Mr Speaker, I beg to move clause 7 stands part of the Bill, sir.

3085 **The Speaker:** Mr Watterson.

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

3090 **The Speaker:** I call on Mr Cregeen.

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

I beg to move two amendments on this clause:

3095 *1. Page 3, line 25, clause 7(2), for 'may', in both places where it occurs, substitute 'must'.*

This is to put a bit more enforcement into the code of practice and that the Registrar must take this into account.

Also:

3100 *2. Page 3, line 32, clause 7(3), for the first 'may' substitute 'must'.*

This is to make a better enforcement of it, rather than they 'can' do it if they feel like it.

3105 **The Speaker:** Mr Quirk.

**Mr Quirk:** I beg to second, sir, and reserve.

**The Speaker:** Mr Houghton to reply.

3110 **Mr Houghton:** Thank you, Mr Speaker.

I thank the Hon. Member for Malew and Santon for this helpful amendment in his name, sir. It just goes to really strengthen the Bill and I beg to move, sir.

3115 **The Speaker:** Mrs Craine.

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

When devising this Bill, the Hon. Member for Douglas North, Mr Houghton, did consult with both the Treasury and the General Registry, and I acknowledge that a number of amendments were made following the discussions, which is appreciated.

3120 This clause, however, and indeed later clauses in the Bill, places the onus on Treasury to devise and make the necessary regulation and governance framework in respect of a number of administrative and regulatory matters under which the provisions of this Bill will operate.

3125 Whilst this Bill, if it progresses successfully through the branches, will come into operation at the appropriate time by an Appointed Day Order by Treasury, I should like the House to note that there will be resource issues for both the Treasury and General Registry to address, in order to produce both the regulatory and governance framework and the processes and procedures for the Act to be successfully implemented. At this stage of the proceedings, I merely wish to bring this matter to the attention of Hon. Members to highlight the need for further secondary legislation, should the Bill be successful.

3130 **The Speaker:** Mr Houghton, do you wish to reply?

**Mr Houghton:** Yes, thank you, Mr Speaker.

3135 I thank the very helpful input from the Treasury Minister. That is quite correct, sir: the Bill, under the clauses now, enables certain provisions for, of course, secondary legislation to be approved by Tynwald, before an Appointed Day Order is in. The Hon. Minister is quite correct on that particular matter.

There is also this talk of this official receiver, who may come on line in due course, where the Treasury, by enabling provisions in the Bill will be able to transfer those functions, as the Department sees fit at that particular time. So I can only support that.

3140 And I can only leave the Treasury Minister with the offer of assistance in working on the secondary legislation at the appropriate time in the future.

I beg to move, sir.

**The Speaker:** My apologies to Mr Cregeen: I should have invited you, if you wished, to reply to the... Fine, thank you.

In that case, Hon. Members, dealing with clause 7, and the amendment first, in the name of Mr Cregeen, those in favour, say aye; against no. The ayes have it. The ayes have it.

Clause 7, then, as amended: those in favour, say aye; against no. The ayes have it. The ayes have it.

3150 We turn now to clause 8. Mr Houghton.

**Mr Houghton:** Mr Speaker, clause 8 provides a mechanism for a person aggrieved by a decision of the Chief Registrar to appeal to the Financial Services Tribunal. I beg to move clause 8 stand part of the Bill, sir.

3155

**The Speaker:** Mr Watterson.

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

3160 **The Speaker:** The motion is that clause 8 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 9. Mr Houghton.

**Mr Houghton:** Mr Speaker, clause 9 sets out criteria in respect of fees that licensed debt collectors may charge for the various services they would offer to a creditor. The level of such fees would be revised by the Treasury and published from time to time.

3165 I beg to move, therefore, that clause 9 stand part of the Bill, sir.

**The Speaker:** Mr Watterson.

3170

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

**The Speaker:** I call Mr Cregeen.

3175 **Mr Cregeen:** Thank you, Mr Speaker.

I beg to move an amendment on clause 9(1) for 'may' substitute, 'must'. This is to ensure that they actually publish the fees so that people know what they are going to be charged.

I beg to move:

3180 *Page 4, line 9, clause 9(1), for "may" substitute "must".*

**The Speaker:** Mr Quirk.

**Mr Quirk:** Happy enough to second, sir.

3185

**The Speaker:** Mr Houghton, do you wish to reply, sir?

**Mr Houghton:** Yes, thank you, I am quite happy to support the Hon. Member's amendment, sir. It strengthens the Bill, and I beg to move.

3190

**The Speaker:** Firstly, the amendment to clause 9 by Mr Cregeen: those in favour, say aye; against no. The ayes have it. The ayes have it.

Clause 9, as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 10.

3195

**Mr Houghton:** Mr Speaker, clause 10 gives a licensed debt collector powers to enforce executions in the same way as a Coroner.

This clause also provides for fees and expenses to be recovered from the execution debtor and allows for a debtor who makes arrangements to pay a creditor by instalments within seven days of the order for execution will not be liable for additional fees or expenses, as long as the execution debtor honours those instalments.

3200

I beg to move clause 10 stands part of the Bill, sir.

3205

**The Speaker:** Mr Watterson.

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

**The Speaker:** The motion is that clause 10 stands part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3210

Clause 11.

**Mr Houghton:** Mr Speaker, clause 11 makes provision for licensed debt collectors to enforce fixed penalties for the road traffic offences. Such fines are treated as civil debts and the arrangement, as set out in this clause, will authorise licensed debt collectors to pursue those debts in the same way as Coroners, which will undoubtedly improve the inflow of revenue to the Treasury.

3215

Therefore, Mr Speaker, I beg to move clause 11 stands part of the Bill, sir.

3220

**The Speaker:** Mr Watterson.

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

**The Speaker:** The motion is that clause 11 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3225

Clause 12, sir.

**Mr Houghton:** Mr Speaker, clause 12 makes provision for creditors assistance orders, for the purpose of obtaining information as to the whereabouts of an execution debtor, or for discovering, seizing and retaining the property, which a deposit-taking institution, specified in the application, holds on behalf of an execution debtor. Creditors assistance orders may only be granted by a judicial officer, upon receipt and consideration of an affidavit setting out the reasons for an application.

3230

Mr Speaker, I beg to move clause 12 stands part of the Bill, sir.

3235

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

**The Speaker:** The motion is that clause 12 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3240

Clause 13, Mr Houghton.

**Mr Houghton:** Mr Speaker, clause 13 makes provision for a judicial officer to issue a warrant for enforcing an execution permitting a licensed debt collector to enter premises to search and seize. Such powers would only be granted in exceptional circumstances and where the interests of justice significantly outweigh any detriment that the execution debtor may suffer as a result of it.

3245

Subsection (7) extends the protection from the seizure of property mentioned in paragraph 2 of schedule 1 of the Administration of Justice Act 1981, which is commonly referred to as 'tools in the trade'.

I beg to move clause 13 stand part of the Bill.

3250

**The Speaker:** Mr Watterson.

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

3255 **The Speaker:** Mr Gill.

**Mr Gill:** There are a few interesting words in there, sir. It would be 'exceptional' to utilise and where there is a 'significant outweighing' of the consideration to be made... They are very subjective terms. How can the mover comfort us that those terms actually have some guidance and some clear test already in place, to ensure that they are not made randomly, that there is some consistency, and that that consistency is based on a tried and tested criterion, sir?

**The Speaker:** Mr Houghton to reply.

3265 **Mr Houghton:** Thank you, Mr Speaker.

The Hon. Member's very helpful but important point he makes, and it is vitally important that this is obviously dealt with appropriately... So in the construction of the Bill, I took great care, and as the Bill sets out now, only a judicial officer can issue a warrant in certain circumstances, and that judicial officer would have to be satisfied that he was furnished with all the information and any reasons or otherwise, in order to make sure that, before he issues a warrant for this to take place, he – that judicial officer, a proper professional person who has the appropriate powers – issues that warrant and not before.

I hope that assists the Hon. Member, Mr Gill, because it is vitally important that this particular clause will only be enforced after a judicial officer has given due diligence to the application before him by affidavit. I cannot stress that enough, and I do hope that suits the Hon. Member, Mr Gill, sir.

I beg to move.

3275 **The Speaker:** The motion is that clause 13 stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it.  
3280 Clause 14.

**Mr Houghton:** Mr Speaker, clause 14 sets out the criteria where a disposal order is required by a licensed debt collector.

3285 Disposal orders can only be granted by a judicial officer and the Treasury will make appropriate regulations for a property which is the subject of a disposal order, with the balance of any moneys, after payment of debts and charges, being returned to the execution debtor.

Mr Speaker, I beg to move clause 14 stands part of the Bill, sir.

3290 **The Speaker:** Mr Watterson.

**Mr Watterson:** I beg to second and reserve my remarks.

**The Speaker:** Mr Cregeen.

3295 **Mr Cregeen:** Thank you, Mr Speaker.

I beg to move an amendment on 14(2) and substitute 'may' for 'must'. This is still firming up.

I would like to thank the mover of this Bill for his assistance when I spoke to him on this.

I beg to move the amendment standing in my name.

3300 *Page 7, line 18, clause 14(2), for 'may' substitute 'must'.*

**The Speaker:** Mr Quirk.

3305 **Mr Quirk:** I beg to second, sir.

**The Speaker:** Mr Houghton.

**Mr Houghton:** Likewise, sir, I thank the Hon. Member and I fully support his amendment, sir.

3310 **The Speaker:** Dealing with the amendment first, those in favour of the amendment in the name of Mr Cregeen, say aye; against, no. The ayes have it. The ayes have it.

Clause 14, as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 15, Mr Houghton.

3315 **Mr Houghton:** Mr Speaker, clause 15 makes provision for the priority of debts to be recorded in the Judgments Register established and maintained by the Chief Registrar.  
So therefore, Mr Speaker, I beg to move clause 15 stand part of the Bill, sir.

**The Speaker:** Mr Watterson.

3320 **Mr Watterson:** I beg to second, sir, and reserve my remarks.

**The Speaker:** The motion is that clause 15 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
3325 Clause 16.

**Mr Houghton:** Mr Speaker, clause 16 makes it an offence for any person who carries on debt collecting services without a licence.

3330 I beg to move clause 16 stand part of the Bill, sir.

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

**The Speaker:** Mr Gill.

3335 **Mr Gill:** Just very briefly, to wholeheartedly congratulate the mover on this provision. I know it is the essence, really, of the Bill. It is entirely appropriate and very much overdue, sadly, as many of us have direct experience, bitter experience, on behalf of our constituents and friends, that this is a serious matter.

3340 I entirely commend the mover for bringing, indeed this whole Bill, but this provision in particular forward, sir.

**The Speaker:** Mr Houghton.

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

3345 Just to add to that – and I thank the Hon. Member for making those points, because this is the clause that clears up rogue debt collecting on the Isle of Man – at the current time, yes, you should be registered with the OFT. This is bringing in licensed debt collectors who will be properly regulated, as the Bill sets out there so to do.

3350 As the Hon. Member for Rushen, Mr Gill, quite correctly points out, by bringing this in and when the Bill comes in, it outlaws the rogue, non-registered or non-licensed debt collector. It does it at the stroke of a pen and that is what I think everybody asks for.

I beg to move, sir.

**The Speaker:** The motion is clause 16 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
3355 Clause 17.

**Mr Houghton:** Mr Speaker, clause 17 makes it an offence for persons to obstruct or impersonate a licensed debt collector.

3360 I beg to move clause 17 stands part of the Bill, sir.

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

**The Speaker:** The motion is that clause 17 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
3365 Clause 18.

**Mr Houghton:** Mr Speaker, clause 18 provides penalties and supplementary provisions for persons who commit an offence under this Act.

3370 I beg to move clause 18 stands part of the Bill, sir.

**The Speaker:** Mr Watterson.

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

3375 **The Speaker:** The motion is that clause 18 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 19.

3380 **Mr Houghton:** Mr Speaker, clause 19 permits the transfer of functions of the Chief Registrar, as set out in this Bill. It is envisaged that an official receiver will be appointed by the Treasury in the near future and it would be appropriate for certain functions of the Chief Registrar to be transferred to the official receiver in due course.  
I beg to move that clause 19 stands part of the Bill, sir.

3385 **Mr Watterson:** I beg to second, sir, and reserve my remarks.

**The Speaker:** The motion is that clause 19 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 20.

3390 **Mr Houghton:** Mr Speaker, clause 20 provides that Regulations made under this Act must be laid before Tynwald.  
I beg to move clause 20 stand part of the Bill, sir.

3395 **The Speaker:** Mr Watterson.

**Mr Watterson:** I beg to second and reserve my remarks.

3400 **The Speaker:** Mr Cregeen.

**Mr Cregeen:** Thank you, Mr Speaker.  
I beg to move an amendment to this clause:

3405 *Page 8, line 35, clause 20  
after "Tynwald"  
insert "as soon as practicable after they are made, and if Tynwald at the sitting at which the regulations are laid or at the next following sitting resolves that they are to be annulled, they cease to have effect".*

3410 It is belt and braces. I know, in the past, the Treasury has actually approved and been unable to rescind them, but it is a belt and braces...

**The Speaker:** Mr Quirk.

3415 **Mr Quirk:** I second, sir.

**The Speaker:** Mr Houghton to reply.

3420 **Mr Houghton:** Yes, Mr Speaker, this is the amendment that I have odds with, with the Hon. Member, only in the fact that this amendment is purely a nebulous issue. The purpose that this clause deals with is that Regulations must be laid before Tynwald. It is quite clear to all Hon. Members, once a document is laid before Tynwald, any Member following that sitting can pick it up and move to have the Regulations, in this case, annulled and, of course, that would be by a vote of a sitting of Tynwald in the future. That is the ordinary Standing Orders, as we know them to be.

3425 What the Hon. Member is moving here is to have it fixed in legislation what is already a very, very important Standing Order that is well in existence in Tynwald. So it does not matter whether it goes into the Bill, but I do not see the point of it going into the Bill because it is a very, very important Standing Order, as it actually is, and that is the purpose.

3430 I would just ask Hon. Members of this Hon. House to oppose it, purely on those grounds. The Hon. Member has to have the point explained to him. He is quite keen to see it happen, but he, or any other Member, would not be denied under appropriate Standing Orders of Tynwald Court, sir

So I would ask people to not support the amendment in this case, but support the clause as it stands part of the Bill, sir.

3435 I beg to move.

**The Speaker:** I call Mrs Craine.

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

3440 I think the Hon. Member, the mover, has made the point, really, that this amendment does appear to be superfluous, because this is what is happening at the moment. It can be considered unnecessary, but the Treasury position is that we are content to accept the amendment. It really will not make an awful lot of difference whichever way it goes. So if that is any help to the hon. mover, I do not believe that it will influence the content of the clause as it stands.

3445 Thank you.

**The Speaker:** Mr Cregeen to reply.

3450 **Mr Cregeen:** I am very pleased with the Treasury Minister's comments. All it is is to make sure it is as soon as practical.

**The Speaker:** To reply to the debate, Mr Houghton.

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

3455 I can just leave it to Hon. Members as to which way, because it happens anyway, as such.

In my particular instance, I am not going to support it, because I just do not see the point of putting something into primary legislation that is well enshrined in the Standing Orders of Tynwald, sir.

I beg to move.

3460 **The Speaker:** Dealing, in that case, with clause 20 and the amendment in the name of Mr Cregeen, those in favour of the amendment, say aye; against, no. The noes have it. The noes have it.

Clause 20 then: those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 21, Mr Houghton.

3465

**Mr Houghton:** Mr Speaker, clause 21 makes transitional provision for any person carrying out debt collecting services at the time this Bill is enacted will be treated as holding a licence for 12 months. This provision will allow the continuity of debt collection services provided by debt collectors, currently registered by the Office of Fair Trading until they are appointed as licensed debt collectors under this Bill.

3470

I beg to move clause 21 stand part of the Bill.

**The Speaker:** Mr Watterson.

3475

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

**The Speaker:** The motion is that clause 21 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 22, Mr Houghton.

3480

**Mr Houghton:** Mr Speaker, clause 22 amends the Preferential Payment Act 1908.

Hon. Members will recall the Hon. Member for Rushen, Mr Watterson, was successful in amending my motion for leave to introduce this Bill in 2009 to allow him to insert this clause. I will leave it to the Hon. Member to make his case for the inclusion of this clause, Mr Speaker, and I therefore beg to move.

3485

**The Speaker:** I call Mr Crookall.

**Mr Corkish:** Sorry, Mr Speaker, I beg to second.

3490

**The Speaker:** Mr Corkish in that case.

Mrs Craine? Mr Watterson, you wish to speak?

**Mr Watterson:** No.

3495

**The Speaker:** Mrs Craine.

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

3500 Hon. Members, Mr Speaker, at the Second Reading of Mr Houghton's Private Member's Bill, I informed the House that I would be seeking at this stage to have clause 22 removed. This clause seeks to amend the Preferential Payment Act 1908, to the detriment of Government Statutory Boards and local authorities.

3505 Whilst several Hon. Members spoke at the Second Reading, citing cases of their constituents who had won court judgments in their favour but had been unable to recover any of the funds owing to them, and therefore seemed supportive of this particular clause, I would urge Members to consider the wider implications. As currently drafted, there is a significant risk that if only 50% of the money available is used to pay debts owing to the Government, then we could have the situation where the private creditor is paid out in full, but the Government receives only a very small proportion of what it is owed. The effect of this is that, inevitably, it is the taxpayer that will be left to make good the shortfall, or it may be that the loss in revenue has an effect on the services to the general public that we are working very hard to maintain now that the economic circumstances of the Island have changed. We must consider that, apart from relinquishing unpaid tax and VAT, the National Insurance Fund will also lose out.

3515 When the Hon. Mr Watterson sought leave to include this clause in Mr Houghton's Bill a year ago, he stated that it was not the intention to undermine the National Insurance system, which he said would be wrong. He said if firms go bust, the Government will still put the credit on their National Insurance accounts, even if the money has not been received to protect the individual worker, and that, I think, is an important safeguard.

3520 It is imperative, Mr Speaker, that the Isle of Man Government does not remove this safeguard from individual workers, and in order to continue this safeguard, the Isle of Man Government needs to protect its revenue. It cannot magnanimously give up an entitlement to revenue to find, in the future, that the funds no longer exist to grant the credits. These credits cost money and have to be paid for.

3525 In conclusion, Mr Speaker, the Treasury cannot support a measure that will further reduce the income of the Isle of Man Government and I urge Hon. Members to vote for the removal of this clause by opposing it.

**The Speaker:** Mr Malarkey.

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

3530 I have probably waited over 20 years for this moment in time, to be able to argue the employers' argument, business argument against Treasury and Government. I would remind...

3535 Certainly, my memories go back to the late 1980s, when businesses in the Isle of Man were struggling. Companies and hotels were going under, left, right and centre. I had business at that time, when places like the Grasmere and the Castle Mona, to name but a few, were going under, owing me thousands and thousands of pounds. I had VAT bills to pay – VAT that I never collected. I had National Insurance to pay for my employees, my side of it – money that I never collected. I had wages that I had paid to my employees – money that I never collected, because when the hammer came down at the auction, the Government, who had a darned sight more money than I had, took all their money, leaving those small businesses with *absolutely nothing*.

3540 We had an example, a couple of years ago, the 'International Business School' on Broadway, where the company had done extensive work when it went under. That man still had to pay his wages to those men who worked doing that work. That man still had to pay his National Insurance. He still had to pay his VAT, because until a company is actually officially wound up, you cannot even go back to the VAT Office and try and claim any of the VAT. You just have to pay it.

3545 So if your VAT is made up mainly of employees' wages, etc, you are being hit twice. You have paid the wages out. You have paid VAT on the wages on top of that, on top of the bill, and then suddenly the company goes under, and the Government comes along and says, 'Hang on, I want my VAT first. I want any tax owed by them next. I want any National Insurance owed and if there is anything left in the pot, you've had it. We do not care about you. You can go to the wall.'

3550 Who cares? Because Government certainly did not care in the 1980s. I know that, because I struggled and there are many other companies in this Island have struggled because of this. I am sorry it has taken us since 1908 to get to the stage today, where we can have a chance today for at least some fair balance back into the system again, because I think, all this Bill does, is only 50%. It is bringing Government in line with those employers and those businesses, which are going to the wall, because of the very fact that they are not entitled to get any of their money back.

3555 So I would urge Members today to support clause 22 in this Bill, because I believe, and certainly the employers and those who put their head on a block, who go out and earn the money

3560 for the Government... without them you would not have people employed, you would not be having VAT coming in because they are the people who go out, put their neck on the block, run businesses, take risks and then, when somebody else's business goes flat on their face, Government turns their back on them.

3565 So, Mr Speaker, I think this today – and I please urge people to support this clause today. It goes, as far as I am concerned, 50% of the way to at least supporting those who put their head on the block and go out there and try and earn and save them from going bankrupt, because someone else has gone bankrupt, when they have done absolutely nothing wrong. Somebody else goes bankrupt and your company could fold. Why? Because Government grabs absolutely everything.

3570 I think, in this day and age, the Government should think twice and let us just grab half of it and give these employers who are keeping these people off the dole, who are stopping people, the Government, from paying dole out or Jobseeker's Allowance out. It is a two-way coin, this, it has got two sides to it and I do not think Government should be grabbing everything and saying we want both sides of the coin.

This is a perfect opportunity to give employers in the Isle of Man some type of rights.

Thank you, Mr Speaker.

3575 **The Speaker:** Mr Watterson.

3580 **Mr Watterson:** I am just brought to my feet, really, by the comments of the Treasury Minister, who seemed to imply that, somehow, this clause removes the safeguard whereby, if a company goes under, the Government will credit their National Insurance account for their pension. That is not the case. That is not what this does. It does not do that, and I do not think the Treasury Minister meant to imply the same. If a company goes under and it does not have enough funds, the Government will still credit their pension accounts, and that is not changed by this.

3585 What it does change is the amount available to Government, available to set against that credit, (**Mrs Craine:** Yes.) and I will come to that in a little bit, but it does not remove the fact that, if a company goes under and there is not enough money, the Government will apply that credit. So a person's pension, in terms of state pension, will not be affected by this; the amount that the Government receives will. What we are talking about here is taking, for example, in a court judgment, a court order, where a business either goes under or has an administration order against it, it says actually Government will get half of that money and the other half will be set against private creditors, which is not, to me, an unreasonable stance. It still gives Government first chit on half the money.

3590 We found out in an Answer in January Tynwald just how much this is going to cost, in broad terms: £430,000, half of £860,000. The total amount of revenue collected by Coroners during the financial year 2009-10 – so it was taken last year – under instruction was £861,289. So next year, half of that money would go into the pot for Government. The other half would be going out to businesses.

3600 We heard from Mr Malarkey what that means, in real terms, to a business, and it can mean, especially in straitened economic times, the difference between a business staying up and going under and the difference between businesses' cashflow being adequate and being inadequate, and that should be far more of a concern to Government, in terms of looking at the long term, not just the short-termism of getting the cash in after you have bayoneted the wounded in the financial battle of keeping the company afloat. The difference, in terms of circumstances where the company is not being wound up but where there is a court order or an administration order, is a timing one because, currently, Government gets all of the first tranche of money, and when Government is completely paid off, everybody else can put in for the rest, to fight over the remnants.

3605 What I felt quite strongly about was that, actually, Government should have half and the rest of the unsecured creditors – the entire pool of unsecured creditors – should be able to fight for the other half. That is why it is down in the clause like that, so there is a timing difference for those where it is a court order. Currently, Government gets it up front, and everybody else at the end; whereas now we split that income stream in two, half for the creditors, half for the Government. That is the situation in the real world.

3615 What I wanted to really raise – and I think I raised this at the leave to introduce stage – is where this money is going. It is going to ordinary people, ordinary businesses. That money will come back round in the end, in tax, whether it is income tax in terms of the individual that is in receipt of that order; whether it is tax in the business system – the ARI system – if it is a business that wins against the judgment. So Government will get its money back in more ways than one. I

do not really accept the argument that we deprive the taxpayer of its share in these sorts of circumstances. It does go to ordinary people, who need the money.

3620 The case that I raised, that prompted me to put this clause in, is a case of a retired couple living in Rushen, who had a judgment set against a company, for a significant sum of money to them. It was £7,000. That company also has continual difficulties meeting its National Insurance and other Government debts. They have been waiting for three years, and I am sure they will be waiting a lot longer, because that company has to clear all the backlog, including any new debts that come along since – so if they did not pay last month’s NI, they have got to pay all that off – before this three-year-old debt even starts to get a look-in. That is where I think the inequality in the system is. (Mr Malarkey: Hear, hear.) Government can get a debt from yesterday straight away. In fact, even if Government’s debts were paid off completely and our constituents start getting their money back, at whatever rate they will get a month, and then something else happens that they become behind on any Government account, that account will then go straight to the top of the bill and our constituents have got to wait again.

3625

3630

I just think that is completely a disproportionate way to deal with the system. It is not equitable to the ordinary man on the street, to the ordinary company out there trying to make a living. Yes, I do appreciate that it is the taxpayers’ money, not Government’s money, but that is what we are talking about all the time in this place. So I do not feel that this balance is struck right in the 1908 Act. I think it is struck a lot more equitably in clause 22, the total cost to Government estimated in the January Written Answer being about £430,000 per annum to Government, and Government will get its money eventually.

3635

3640 So I hope that Members will stick with clause 22.

**The Speaker:** I call Mr Teare.

**Mr Teare:** Thank you very much, Mr Speaker, I do appreciate being permitted to contribute to this debate.

3645 With respect to the hon. gentleman who has just resumed his seat, I feel this clause is defective. As drafted...

Sorry, if I could just step back a bit. In terms of preferential creditors, employees are entitled, up to certain monetary levels, to be regarded as preferential creditors and to receive payments in respect of their debts, their own paid wages, their own paid salaries, in preference to Government, in fact. So are we saying here that they would be restricted to a maximum of 50%? No, that is not as it is drafted.

3650

**Mr Watterson:** Debts other than...

3655 **Mr Teare:** I think that Hon. Members should be very careful about giving consideration to this and if I could just go on as well, because I know there are other issues that concern me.

The Hon. Member for Rushen, Mr Watterson, has made great play that the individual’s NHI fund will be given credit for the funds which the Government plus the taxpayer has not received, but what he has failed to actually mention to the Hon. House – and I am sure he is fully aware of this, but it has probably slipped his memory – that 17% – or approximately 17% – of all National Health Insurance contributions received in cash, go into the Health Fund. So if that money does not come in cash, it affects what is available to the Health Fund.

3660

3665 **Mr Watterson:** £40,000 a year?

**Mr Teare:** So, about £40,000 a year.

Right, let me tell you what £40,000 will do this year: four hip operations, ten knee operations. So when Hon. Members, colleagues are complaining to the Hon. Member for... the Hon. Minister for Health, Mr Anderson, that the waiting lists are increasing, this is yet another drop in the pond... drop in the ocean and we need to reflect that.

3670

And this £430,000 lost, surely, as responsible individuals, when we are planning next year’s Budget, this must be top-sliced or taken off Government income, because it has got to be found from somewhere. We cannot say, ‘We are just ignoring this income,’ and then totally disregard the consequences of not receiving that income. Let us really have a reality check on this.

3675

I feel that Hon. Members may regret this. You may regret getting what you are asking for here. I would urge Hon. Members, whilst I have considerable sympathy with those who suffer in the event of a liquidation, I would urge Members to think twice.

3680 The other aspect which I would draw to Hon. Members' attention, as well, Government can nurse a business along in the knowledge that it does have a preferential standing if that business subsequently fails. One of the other issues here is if the Government does not have that to fall back on then, certainly, what I would do is, if I was in the Hon Treasury Minister's position, I would be inclined to exercise considerably less tolerance, considerably less discretion, because I can see Hon. Members standing on their feet and accusing her, while she has acted in good faith, of having lost money, of having thrown money away or being too tolerant.

3685 The other side of the coin is, too, once the VAT Office start to ask for the money, the NHI, ITIP people start asking for payment of an outstanding amount and the person who is on the receiving end of that request goes and speaks to us, as their elected representatives, we will then go back to the Treasury, say, 'Could you back off, please.' So let us be very careful here.

3690 In summary, Mr Speaker, I think that, whilst this is very well-intentioned, it says a lot, there are a lot of potholes here and we cannot fill all the potholes we have got already. (*Laughter*)

**The Speaker:** Mr Karran.

3695 **Mr Karran:** Vainstyr Loayreyder, I think it is interesting, the concept that we have heard from the Treasury Minister. I think it would be interesting, I just do not know whether it would end up being as detrimental as she thinks, yet I understand the figures.

3700 We have seen the figures from the Hon. Member's Question, but one of the problems that we do have is we do end up often having companies set up for Government work that then go bust. As I say, it has been a regular occurrence, admittedly not just lately, where a lot of people have lost a lot of money and I think that, if anything, there is that argument that, maybe, if there was that balance, there might be a bit more proportionality, as far as being more responsible as far as the Treasury is concerned, when giving out some of these contracts to companies, that are basically £2 companies. We have had them so often over the years and I think we need to just appraise that issue.

3705 We do not want to lose £400,000. I totally agree with the Minister for the Treasury. I do not want to see others losing money. We have got big problems, we need to have a hard Budget, because there are going to be harder ones after the next General Election, but I do think that the likes of the Hon. Member for Ayre is cherry picking about this. When we heard – he is not in the Chamber at the moment – the Minister this morning, telling us about our pretty white and red buffets around the Quarter Bridge being £30,000 and they are unsightly, well, I have to be honest with you, Vainstyr Loayreyder, I think I would rather have the unsightliness and see the £30,000 in the hip pocket of the Department sorting out the potholes, or sorting out Mr Teare's hip problems, as far as that is concerned.

3710 So I think the thing is, what we have got to get is to look at this issue and I do think that Government – I cannot argue at the moment – and maybe the procedures have improved in the last two years but, in the past, how many times have we seen Government prop up these firms, they go bust, they take the retailer... they take other businesses for long thousands. I reckon, I think the last time I had a complaint was about 18 months ago about that and I think it is an important issue that, maybe if we did not cushion you, you would be a little bit more responsible, as far as making sure that we do not end up with companies that are made of straw doing this practice which has happened far too often.

3725 The other thing is, which actually alarmed me – and I have got a Question down for the Chief Minister next week about it – this nursing businesses. We would pull the rug out that bit earlier, as far as nursing businesses are concerned, I have to be honest with you, Vainstyr Loayreyder... The point is, obviously we want to keep as many businesses afloat as possible, but what I think is equally irresponsible is if they are thinking, 'Well, their money is safe, mate, but we'll keep the business going for another six months' and it hacks up a load more debt, 'but our asset is safe', I am sorry, Vainstyr Loayreyder, that is also a practice that needs to stop. I think it is important that that sort of situation is not allowed to happen, where we end in the situation where we are alright, we are preferential creditors, and yet then we find other companies are saying... who can least afford it.

3730 So I have to say that, whilst I totally agree with the thing that we do not want to lost any income for Government, I think it is wrong for the Hon. Member for Ayre to be cherry picking about the issue of the £40,000, when we hear that we have not got visually aesthetic barriers at the Quarter Bridge, as far as the red and white barriers. It is about priorities, so I think Members need to think about that.

3735 There are some very good implications the other way, even though the Minister has a very valid point. We want to get as much money in as possible, I understand that, but the fact is it might

3740 actually help to alleviate other issues, where we have had, in the past, £2 companies getting  
million-pound jobs in Government – and, to be fair, whilst I have been a Member of a Department,  
I know when we were in the Health Services, it happened, but these practices need to be stopped,  
and I think if we all had to live in the real world, then that... and we certainly should not be saying  
that we would nurse a business on, knowing the fact that we're alright, Jack. You put the business  
3745 for another six months on. It has a trough of more debt. The debt is alright – we are covered. The  
other side is not covered. That is not the sort of responsible way that we should be going, as far as  
trying to make sure that we want enterprise to flourish on the Island, because confidence is  
important – I understand that issue, very important, about trying to keep businesses afloat – but I  
think that we need to make sure we have a proper vision, as far as would we prop up that business,  
that we know is not quite trading correctly, if we thought our money was not secure, and I think  
3750 that that issue...

So it might actually address one of the problems that I have had over many years, complaints  
about how the liquidation thing, where legitimate business does get absolutely hammered, often  
because the other problem, of course, is the costs of administration when these companies go into  
liquidation, which is another subject that needs to be addressed some other time.

3755

**The Speaker:** Mr Robertshaw.

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

I am sure that everybody sympathises and appreciates the position the Treasury Minister is in  
3760 and I recognise this, but I do wonder whether she is being quite sophisticated enough in the  
analysis, because there are two issues to look at. There is the one, the direct, straightforward one,  
that the Treasury wants to take the funds in it knows it should receive, but on the other hand, what  
is the position when a particular business implodes and the knock-on effect, the domino effect that  
can go right through a whole sector? In business, most debt exposure is business to business and  
3765 once you lose one business, you can lose an awful lot of others.

So I do beg the Treasury Minister to look at the implications, particularly in more difficult  
trading environments that we are quite likely to be moving into. What happens if the Treasury take  
the narrow view, as opposed to the advantage of taking a broader view? I hope, when the mover of  
the clause sums up, that he is able to tell us that wages are ring fenced.

3770

Thank you, Mr Speaker.

**The Speaker:** Mr Cregeen.

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

I think when the Treasury Minister got to her feet it might have been a bit more helpful if she  
3775 would have had figures of how much NI was owing at the moment, how much tax is owing at the  
moment and how much is actually owed to Government Departments, Water Authorities, local  
authorities. If we actually knew what the possible exposure to Government was...

Going on to Mr Malarkey's comments about the previous recessions. Now, the last few years  
3780 have been very good. What would be the percentage of income lost to Government if we were in  
those times again? Would it be, as the Member for Rushen says, £400,000? You could guarantee  
that if it starts a serious recession and things get tough, it is not going to be £400,000, it is going to  
be £1 million (*Interjection by Mrs Craine*) because the liability and the chances of... Exactly.

The thing is the likelihood of more companies going is going to increase the liability to  
3785 Government and, as somebody who worked through two recessions and had to go around  
knocking on doors asking for people to pay because things were tough, it is not easy; but, on the  
other hand, we have not got a possible scenario on what this is going to cost in services across the  
whole of Government, because it will have an impact, like the Treasury Minister said, that they  
will lose some income and it is very difficult on a £400,000... £40,000 figure, when times are  
3790 good to make a decision if things get a bit tight. (*Interjections*)

**The Speaker:** I call on the mover to reply.

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

This not being my particular clause, I want to be very careful on how I explain and point out  
3795 some various issues to Hon. Members, if you like, in an independent manner.

The Hon. Treasury Minister put a very good case and left a number of Members unsure as to  
which way I feel they should go. If this clause is unsuccessful today, I would ask the Hon.  
Minister, when she has got time, the other side of the Budget, to perhaps consider, as I think it was

3800 mentioned by Hon. Members, the in-depth issues of all this – I think the Hon. Member, Mr Robertshaw, pointed that out himself – to see whether, in today’s trading climate, we should be acting in the way that we are actually acting, as far as this and many other issues are concerned. We cannot talk about everything in its greatest depth, but I really do feel that this would be better handled by a much deeper understanding and consideration, with professional advice and a later report.

3805 The point I would like to make as far as... and we all understand what revenue is for the good of the Island and so on. In credit, where you have got work done and materials supplied, that is one argument that goes, of course. In a case of debt to Government, for especially National Insurance contributions, they are moneys that have been deducted by the employer at the time of the pay. So that money is the employee’s money, owing to the Government direct, and if you like, that is a separate tranche of money that is remitted to the Government on a monthly basis, by law, of course, to pay pensions and all those other costs. So when anybody really looks at this from the outside in, the requirement for that to be paid has to be a priority. It has to be, because that money is neither the employer’s and it has been taken out of the employees’ for remitting directly. So if you like, it is a separate stream. It is only a point for consideration by Hon. Members, before they go to vote on this particular issue. It is a vitally important point, because that is the reason for priorities.

3810 If I can say, further, on the priority of payments generally, anyway – it is taken care of under the Bill – there is an arrangement, of course, which we have already covered in the Bill for ‘first come, first served’. So the first come, first served currently is the Treasury – VAT, Customs and Income Tax – and we understand all of that. But then it is the next person through the door with this first claim, and so on down the line. So even if this clause was successfully voted upon this afternoon, that is not the answer to everything, because if you have got a company that has gone bust, and there are a load of creditors owed, depending on where those creditors sit in the hierarchical claiming regime – i.e. have they got their claim in to the High Court and got their execution before someone else? – that decides the position they take in when whatever is left of the pot is shared out. So there is no real answer to dealing with this on being fair in all occasions, because, quite often, each case is different. That is why the interminable argument has been there in legislation for the Treasury to have their hands on not necessarily also the company’s money, but the employees’ money, if we deal with just the National Insurance contribution argument. It is a profound argument for that very reason.

3820 The Hon. Member, Mr Watterson, asked me to point out, in clause 22, part of the argument that there were one or two misunderstandings that appeared, and in clause 22(2) where it says,

3825 ‘where debts are payable in accordance with the priority of creditors, half the money available to satisfy any other debts shall be paid to creditors, other than the Crown, a Department, a Statutory Board and a local authority.’

3830 That I am just pointing out, for the Hon. Member’s point is where the misunderstanding was that Government will get paid in other areas and in other ways, when it makes successful claims for execution, as far as the debts owed to all of those bodies that I have just read out.

3840 So, Mr Speaker, I leave it to Members, who, I am sure, have already made their mind up, as to how they wish to treat this and, anyway, I will still thank the Hon. Member, Mr Watterson for bringing this forward. It has been an excellent debate. It has directed minds and I leave it to Members to make their minds up.

3845 **The Speaker:** Hon. Members, the motion is that clause 22 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it.

*A division was called for –*

3850 **Mr Quirk:** Mr Speaker, sorry sir, just for clarification, did you say this was on the amendment?

**The Speaker:** There is no amendment. We are voting for or against clause 22.

*Electronic voting resulted as follows:*

<b>FOR</b>	<b>AGAINST</b>
Mr Quirk	Mr Earnshaw
Mr Karran	Mr Brown
Mr Crookall	Mr Anderson

Mr Cannan	Mrs Craine
Mr Cregeen	Mr Quayle
Mr Malarkey	Mr Teare
Mr Robertshaw	Mr Houghton
Mrs Cannell	Mr Shimmin
Mr Corkish	Mr Cretney
Mr Watterson	
Mr Gill	
The Speaker	

**The Speaker:** With 12 votes for, 9 votes against, the motion therefore carries.

3855 **Mrs Craine:** May I have a print-out, please, Mr Speaker?

**The Speaker:** A print-out will be arranged.  
We turn now to clause 23.

3860 **Mr Houghton:** Mr Speaker, clause 23 amends the Landlord and Tenants Act 1954 by introducing a new clause 16(a), which may permit a licensed debt collector to carry out an eviction if the High Court thinks fit to do so.

Therefore, Mr Speaker, I beg to move clause 23 stands part of the Bill, sir.

3865 **The Speaker:** Mr Watterson, are you seconding?

**Mr Watterson:** I beg to second, sir, and reserve my remarks, of course.

3870 **The Speaker:** The motion is that clause 23 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 24.

**Mr Houghton:** Mr Speaker, clause 24 repeals section 7(3) of the Moneylenders Act 1991.  
I therefore beg to move clause 24 stands part of the Bill, sir.

3875 **Mr Watterson:** I beg to second, sir, and reserve my remarks.

**The Speaker:** The motion is that clause 24 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 25.

3880 **Mr Houghton:** Mr Speaker, clause 25 makes an amendment to the High Court Act 1991 to include licensed debt collectors in its provisions.  
I beg to move that clause 25 do stand part of the Bill, sir.

3885 **Mr Watterson:** I beg to second, sir, and reserve my remarks.

**The Speaker:** The motion is that clause 25 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Finally, clause 26.

3890 **Mr Houghton:** Mr Speaker, clause 26 amends the Protection from Harassment Act 2000, to permit a Coroner or licensed debt collector who takes reasonable steps to recover a debt on behalf of a creditor... the course of conduct shall be presumed to be reasonable.

3895 I beg to move that clause 26 stand part of the Bill, sir.

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

3900 **The Speaker:** The motion is that clause 26 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
That brings us to the conclusion of the Debt Recovery and Enforcement Bill.

**Children and Young Persons (Amendment) Bill 2010**  
**Clauses considered**

5.3. Mr Quirk to move.

**The Speaker:** We turn now, finally, to the Children and Young Persons (Amendment) Bill, which is in the name of Hon. Member for Onchan, Mr Quirk, and I invite him to move clause 1.

3905 **Mr Quirk:** Thank you, Mr Speaker.  
Clause 1 is the short title of the Act, which is the Children and Young Persons (Amendment) Act –

**Mr Watterson and several Members:** Bill.

3910 **Mr Quirk:** Bill. Oh, sorry, Bill. (*Interjection and laughter*) ...Bill 2010.  
I therefore beg to move that clause 1 stand part of the Bill, sir.

**The Speaker:** Mr Watterson.

3915 **Mr Watterson:** I beg to second, sir, and reserve my remarks.

**The Speaker:** The motion is that clause 1 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

3920 Clause 2, Mr Quirk.

**Mr Quirk:** Clause 2, commencement, sir: section 1 states that the Act or (**Several Members:** Bill!) Bill – sorry – comes into operation on such a day or days as the Department may, by Order, appoint.

3925 Section (2) allows the consequential, incidental, transitional and transitory provisions so that the Department can make necessary adjustment in the light of the experience.

Section (3) states that the Department can consult with the Deemsters before bringing the Act into effect, so that such courts are able to be prepared for implementation. This Bill will come into effect when the Department and the Deemsters have the necessary preparation in place, sir.

3930 I beg to move that clause 2 stand part of the Bill.

**The Speaker:** Mr Malarkey.

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

3935 **The Speaker:** The motion is that clause 2 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Mr Quirk.

3940 **Mr Quirk:** Clause 3, sir, yes.

Clause 3 amends the Children and Young Persons Act 2001 in accordance with sections 4 and 5 and allows for the introduction of special guardianship. The Bill makes provision for the special guardianship order by amending the Children and Young Persons Act 2001, sir.

I beg to move that the clause standing be part of the Bill.

3945 **The Speaker:** Mr Malarkey.

**Mr Malarkey:** I second and reserve my remarks.

3950 **The Speaker:** The motion is that clause 3 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4, Mr Quirk.

3955 **Mr Quirk:** Clause 4, provisions about special guardians by amending section 17 of the Children and Young Persons Bill, commences the enforcement of certain residence orders.

Specifically, the Bill amends section 17 of the Children and Young Persons Act, which extends the existing powers to make residency orders and include special guardianship orders.

3960 Subclause 17A, special guardianship order: Clause 17A sets out who can apply to become a special guardian, notices that need to be given to the court and the requirements for the report to be prepared before the Department before the court. A report would set out all the information relevant to the child and ensure that everything has been taken into account and that the court has sufficient information to allow them to make a fully informed decision about the application for special guardianship orders. Such situations are often complex, with the possibility of conflicting views from those involved with the child.

3965 Subsection (1) defines a special guardianship order as one which appoints one or more individuals as a special guardianship to the child.

Subsection (2) sets out the qualification for a person to be considered as a special guardian, in that they must be over 18 years old and not the parent of the child.

3970 Subsection (3) states that the court may make special guardianship orders on receiving an application from a qualified person, as defined in subsection (2), or a person who has received the permission of the courts to make the application.

3975 Subsection (4) sets out the more detailed definition of those who are entitled to apply, in addition to the qualifications given to subsection (2). Those eligible are: any guardian of the child; anyone who has a residency order in respect of the child; anyone whom the child has lived with for three years; the child is subject to a residential order; anyone who has consented of the person or persons who is in favour of a residential order was made...; a foster parent with the child who has lived for at least a year, immediately prior to an application being made.

3980 Subsection (5) states that the special guardianship order may also be made by the court with regard to the child in family proceedings, whose welfare is in question; if any application has been made by qualifying persons; or if the court considers an order should be made, even though no-one has been made for the application.

Subsection (6) specifies that before the application of a special guardianship order can be made, three months' written notice must be given to the Department on the intention to make the application.

3985 Subsection (7) specifies that, following receipt of a notice of application, the Department must make enquiries into this matter and submit a report to the court for examination and suitability of the applicants and any other matters that are relevant.

Subsection (8) states that the court may also direct that the Department make such enquiries and submits a report to the court.

3990 Subsection (9) makes special provision for the Department to commission other suitably qualified persons to make enquiries, prepare a report in connection with any application for a special guardianship order.

Subsection (10) specifies that the court cannot make a special guardianship order unless it has received a report that covers the issues specified in subsection (7).

3995 Subsection (11) makes provision that when the court is deciding whether or not to allow for an individual to make an application for special guardianship, the court will consider the nature of the application connected with the child, any risk of disrupting the child's life, to that extent that it could cause harm to the child and, when the child is placed into foster care with the Department, the Department plans for the child and the wishes and feelings of the child's parents. If the applicant is the child, the court may be satisfied that the child properly understands the nature of the application.

4000 Mr Speaker, just regarding subsection 17B, 'special guardianship orders: making', clause 17B requires the court to consider whether or not the total order should be made or any existing contact orders be varied.

4005 Subsection (1) places the duty on the court, before making a special guardianship order, to consider: if the contact order should be made; if the order as previously made by the court should be changed or dispensed with; if a contact order that has previously been made is to continue; whether any enforcement order connected to the contact order should be terminated.

Subsection 17C, a special guardianship order has effect: 17C sets out the responsibility of the special guardian and the limitations on them in extreme circumstances.

4010 Subsection (1) specifies that, once a special guardianship order has been made by the court, the special guardian will exercise its moral duties and responsibilities of a parent towards the child, who is subject to that order and will be the only person to do so, unless there is another special guardian or any other order from the court.

4015 Subsection (2) qualifies this by stating that if there is a legal requirement for the consent of more than one person to be given to the agreement to something affecting the child or in a matter of consequence for adoption, then the special guardianship will not have sole authority.

4020 Subsections (3) and (4) are a further qualifying authority of a special guardianship, saying that they cannot change the child's surname or remove the child from the Island for more than 3 months without the written agreement of everybody who has parental responsibility or the agreement of the court.

Subsection (5) makes provision that, in the event of the death of a child who is subject to a special guardianship order, the special guardianship guardian must ensure that each parent or child who has parental responsibility and each guardian of a child is informed.

4025 Section 17D, a special guardianship order, variations and discharges: section 17D describes the process for changing or ending a special guardianship order.

Subsection (1) sets out that any of the following can apply to the court to change or dispense with an order: a special guardian; any parent or guardian of the child; anyone who has a residential order in respect of the child; anyone who has parental responsibility for the child just prior to the order being made; the child themselves or the Department.

4030 Subsection (2) makes further provision that the court, in family proceedings, may change or dispense with orders as it feels that is necessary to do so, even if there has not been any application under subsection (1).

4035 Subsections (3), (4) and (5) states that, in order to make the application for change or dispense with an order, the child's parent, guardian, or person who has a parental responsibility for the child before the application, must seek leave of the court. In the case of a child, the court must be certain that the child has a proper understanding of the situation. In the case of the person who has parental responsibility, prior to the making of the order, the court must satisfy itself that there has been a major change in the circumstances since the time that the order was made.

4040 Section 17E, 'special guardianship order: supplementary' – 17C sets out the court proceedings for changing and ending an order and stipulates that, in order to avoid delays, which are not in the best interest of the child, a timetable will be set out, as the following, and also states that the court can make changes to the order, so it can be time limited in order to achieve the particular purpose.

4045 Subsections (1) and (2) state that, in the court order proceedings relating to making change or dispensing with the special guardianship order or related issues, a timetable will be drawn up to avoid any delay, in that a direction will be made to see that the timetable is followed as far as is possible.

Subsection (3) states that the special guardianship order or variation to one can have provisions that are time limited.

4050 Subsection (4) states that the special guardianship order or variations to an order may contain directions as to the meaning or the implementation and imposing conditions on those directly involved with the order and makes other relevant provisions, as the courts may feel necessary. This mirrors the provisions within section 12(7) of the Children and Young Persons Act 2001, without section (d).

4055 Finally, subsection 17F, 'special guardianship: support services', says that the Department will continue to provide support for the special guardian or child, following an assessment. This support can include financial support. The purpose of this is to ensure that the child receives any help they need. If the special guardian would not otherwise be able to care for the child, financial support can be made available. The overall purpose is to ensure that the child's needs are met.

4060 In the absence of support, the placement could break down and the child be placed in care, which would possibly incur greater costs to the Department and, at least, inappropriate placement of the child.

Section (1) states that the Department will provide services to support the special guardianship order, which will include counselling, advice and information and other services that might assist.

4065 Subsection (2) gives power to the Department to make financial provision to support the special guardianship order.

Subsection (3) and (4) gives the powers to the Department to undertake an assessment of the needs for support of the services and the application of a child who is subject to a special guardianship order.

4070 Special guardianship order: the parents and another person who is defined by being connected to the special guardianship order.

Subsection (5) and (6) state that if the result of the assessment, the Department determines that the individual is in need of support, it must decide whether to provide the support and if it does not provide service support, it should be drawn up as a plan which is to be kept under review.

4075 Finally, subsections (7) and (8) state the Department may provide support via other parties that an assessment and needs of the provision can be carried out in parallel with another assessment under the Act.

I therefore beg to move that that section, sir, becomes part of the Act.

Can I just apologise for being so long.

4080 **Mr Malarkey:** Mr Speaker, I beg to second and reserve my remarks.

For clarification and for *Hansard*, I do believe the Member called section 17E section 17C. He did actually mean 17E at the time, Mr Speaker.

4085 **The Speaker:** I just make a comment, in order to be helpful. I just wonder the extent to which the mover has been well served in the draftsmanship of this particular Bill. Appreciating it is amending large pieces of existing legislation, just for ease of moving and ease of debate, we have got four or five major elements of legislation all within one clause. I simply make that comment.

4090 **Mr Quirk:** Mr Speaker, I have been well served by the Department, but obviously it is long and I wanted to give the Members a full explanation, sir.

**The Speaker:** Yes, fair enough, and you could well have said that in your winding up. I am simply making a comment at this stage.

4095 At this stage, now, we have amendments to clause 4 in the name of Mr Karran, so I invite Mr Karran to get the amendments onto the floor.

4100 **Mr Karran:** Vainstyr Loayreyder, I think the important thing is that, as the Hon. Member says, this is a semi-sort-of-Government Bill, anyway, even if it is a Private Member's Bill. The thing is that the situation is I think we totally support this Bill and totally support the aspirations of this Bill. The reason why I put these amendments down is because we have got to try and help them police themselves and to make it more transparent.

4105 I think it is important that you realise with, firstly, page 6, line 24, this is about putting the time limit in. We are talking about continuity, stability, talking about minimising disputes, as far as the guardianship being brought about. At the moment, under the present legislation, they can have it for as long as they like and there is nothing that we can do about it. It will concentrate the mind. They have to make a decision. What we want is continuity with this particular thing.

4110 The second part of the amendment is that, on page 7, line 25, it actually puts it into a timeframe. I think it is important. We have heard the brief for the hon. mover of the Bill about the issues of minimising disruption to the young people, and again, at page 7, line 32, what this does is minimise the disruption to the child involved. It concentrates the mind as far as the Department is concerned and it is all about putting down a timeframe as far as the issue.

4115 I like this Bill. Our constituent is in a position where she simply cannot afford to adopt the child. She needs the special guardianship. She is, to all intents and purposes, the parent, and has been for a long time, but she cannot afford to adopt the child. So there is little or no chance of her being able to have a judicial review or going to an advocate or anything like this, if the Department play quick and fast, like they do far too often, when it comes to childcare. This is about putting restraints on the Department. It is about putting the responsibility on the Department to make decisions, to keep people not on a bit of string – this is what this is about. If this Hon. House does not want this sort of proposal, then all we will be doing is adding to the problems we have already got with childcare at the present time.

4120 I believe that what I would not want to do is to throw the Bill out. This is about putting sensible amendments to the Bill, in order to make sure that people who are vulnerable get the service they can get. These people are coming for special guardianship orders, because they have not got the family lawyer, they have not got all the connections, and they need our support. I believe that if they are going down this process, then there needs to be a timeframe in order for the individuals who are applying for this special guardianship to be able to get that timeframe, so that we minimise the dispute, we do not have an axe over the head of the children.

I hope that common sense will prevail and this amendment will be supported:

4130 *Page 6, line 24, in the inserted section 17E(1)(a) of the Children and Young Persons Act 2001 after 'without delay' insert 'and in any event within 12 months'.*

*Page 7, line 25, in the inserted section 17F(5) of the Children and Young Persons Act 2001 omit 'decide whether to'.*

4135 *Page 7, line 32, in the inserted section 17F(6) of the Children and Young Persons Act 2001 after 'the Department shall' insert 'within 3 months'.*

**The Speaker:** Mrs Cannell.

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

4140 I am happy to second the amendment, which has just been moved by the Hon. Member for  
Onchan because, as the Bill is written, in terms of the first part on page 6, line 24, it does say  
'without delay' but it kind of leaves it open. So one person's 'delay' might be something like three  
months, another person's 'delay' might be a lot longer, so I think it is beneficial to insert after  
4145 'without delay' 'and in any event within 12 months', because I think that is a reasonable  
timeframe, even if an expert has to be called in, in order to assess the particular situation. I think  
12 months is a reasonable time and it should not run over that. I would ask Hon. Members to  
support that, because it is sensible.

Equally, the second part of the Hon. Member's amendment is sensible, as is the third part.  
4150 Again, he has inserted a three months period, 'the Department shall' and then insert 'within three  
months'. Again it is a reasonable timeframe and it does, in fact, put a light at the end of the tunnel  
on these matters which can be, at times, very stressful, very emotional. So I ask the House to  
support and I would also echo the words of Mr Speaker, in terms of how this is drafted. Just to  
make the point to the House and to Mr Speaker, this is not the first Bill to come before us that is  
4155 drafted in such a way that a Member has a convoluted moving process, just to move one particular  
clause. So I think possibly a word in the ear of the Attorney General's Chambers might prove to be  
beneficial.

**The Speaker:** Mr Earnshaw.

4160 **Mr Earnshaw:** Thank you, Mr Speaker.

I would like to say a few words on this and Mr Quirk, my colleague, went to considerable  
lengths in his speaking notes, which was some amusement to some people, but I do not think we  
should lose sight of the very worthy aim that lies behind this. It is a complex issue and it has been  
4165 carefully designed by Mr Quirk, in conjunction with the Attorney General's Chambers, and  
sponsored, I think by the DHSS in the first place, subsequently the Department's Social Services.  
It is complex and it is designed to protect the child and ensure the welfare and the wellbeing of the  
child.

The person in Onchan that Mr Karran refers to, unless it is a different person from the one I  
4170 know, who approached me, I think, in the first place, which was about 18 months ago, I do not  
think the question of affordability came into anything here. This was really a question of very  
much a loving arrangement and it was a question of enabling this person who was looking after  
this child to be able to do certain things, which they were not able to do at the moment because of  
the lack of legislation.

I cannot remember all the details of the conversations that we had at this length of time: I think  
4175 empowerment is a cruel word here, but it is probably an accurate word. It was really to seek  
powers to help this lady better protect the child, who was a blood relative of hers – who is a blood  
relative of hers – to look after that child a little bit better. So I do apologise to my hon. colleague,  
Mr Karran, if it is a different person, but I fancy it is the same person and I just wanted to clear it  
4180 up: as far as I recall, nothing whatever to do with affordability.

**The Speaker:** I call Mr Quayle.  
No. Mr Malarkey.

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

4185 Firstly, Mr Speaker, if it is helpful with regard to the help that the mover had from the Attorney  
General's Office, unfortunately, this morning the mover of the Bill did not have his speaking notes  
in front of him and he had a copy of mine. Unfortunately, mine have got the speaking notes in red.  
His are all in black and, unfortunately, he was not aware of the fact that the speaking notes had  
4190 been broken down. Hence the long introduction to the Bill, sir.

**Mr Quirk:** I wanted to give them all the information.

**Mr Malarkey:** With regard to the three amendments put forward by the Hon. Member for  
4195 Onchan, Mr Karran, the Department has looked at Mr Karran's amendments and is minded not to  
support them for the reasons I will now outline on each one.

Speaking to the first one, page 6, line 24, the Bill, as drafted, requires the court to deal with the  
matters without delay. It is not expected that any matter should take more than 12 months and so  
the amendment is not necessary and might create an expectation that 12 months is a reasonable  
period. I think what the Department here, Mr Speaker, is saying is if you then put a 12-month time

4200 period on, anyone dealing with the case might well think, ‘Well, okay, there’s no rush in this, I’ve got 12 months to get through it.’ So it could have a reversing effect, by putting a timescale of 12 months on it, rather than be helpful to the Bill. So the Department does not feel that the amendment is necessary. It is unnecessary and, really, unhelpful, to be perfectly honest, but the Department does not really think that a 12-month time period is necessary.

4205 With regard to page 7, line 25 – decide and discretion – as drafted, the Bill gives the Department the power to assess need for support services and decide whether or not to provide these. The effect of the proposed amendment would be to remove the Department’s discretion. If, on assessment, the Department determines it is in the best interest of child to provide support, then it is not likely that it will not do so. It is not in the Department’s interest to keep a child in care if they could be cared for by a special guardian. As a matter of principle, the Department does not feel that it would be appropriate to remove the Department’s discretion with regard to this, sir.

4210 With regard to page 7, line 32, and the three-month period, it is very similar to the 12-month period as in part 1 of his amendment, sir. The Bill, as drafted, requires that action is to be taken, in any event, with all convenient speed. Obviously, the circumstances of each individual child or young person may require that action be taken as soon as possible. Given this, it means that the amendment does not add anything to the Bill and could be seen as watering down the Department’s obligation by specifying a three-month acceptable period basically, again, saying that it will give anybody dealing with the case, ‘Well, I have got three months to deal with this, so there is no urgency with it.’ The Department’s view is that all cases regarding a child are dealt with as urgent and as speedily as possible, Mr Speaker, so as I say, Mr Speaker, the Department is not minded to go with any of these amendments, sir.

**The Speaker:** I call the Chief Minister.

4225 **The Chief Minister:** Thank you, Mr Speaker.

I just want to reflect a little bit on some of the comments that have been made in relation more to concern about the Bill and its presentation. I think we should remember it is a Private Member’s Bill and, clearly, with a Private Member’s Bill, the onus rests with the Member who is moving it. I think if there is a concern about that, maybe our Management and Members Standing Committee should look at how, maybe, advice can be given to Members when they are actually developing legislation and, in fact, bringing it forward.

4230 I just make that point to be helpful because I think it is a little bit unfair to actually have some criticism if there is a concern about presentation and legislation and, as we all know because we have all been there, it is not the easiest thing to take forward. Certainly, if you are dealing with it as a Department, of course, clearly you have all the support from the Department, as well as the legal draftsman. So somewhere in the middle it sounds that maybe there is a concern about the ... [Inaudible] but I do think, in fairness to Members, it is just worth making that point: it is a Private Member’s Bill.

4240 **The Speaker:** Mr Quayle.

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

I just wanted to contribute by saying, first of all, I appreciate the input from the Hon. Member for Onchan, Mr Karran, in his attempts to put forward what he considers are helpful amendments; but I do think, in terms of the first one, that if we run the risk of introducing the idea of a 12-month period, that could easily create the expectation that a 12-month period is acceptable which, in such sensitive situations as the Bill deals with, would in fact not be acceptable. That, certainly, I would be saying, as Minister for Social Care.

4250 The next amendment that he puts forward to clause 4 deals with page 7, line 25. I think it should be borne in mind that the Department would always wish to act in the best interests of children and young people. If an assessment recommends that support be provided, then we would wish to supply that support. I certainly do not feel that the Department should be restricted in being able to exercise discretion. I think it is very important for the Department to retain discretion to make a decision and, as we know, each case would be considered on its merits, and I would see it as only in exceptional circumstances that the Department would exercise such discretion.

4255 In terms of the third amendment, page 7, line 32, I think, as has already been pointed out, the Bill as it stands, I believe, is perfectly adequate. Introducing the notion of a three-month period, as envisaged for preparation of a plan, could actually create the impression that there could be up to three months for the preparation of the plan whereas, in actual fact, a plan should be drawn up as soon as possible and practicable and, in certain circumstances, may need to be drawn up within a

very short period of time. So, I would not want Members to think that by being lulled into perhaps supporting the amendments, they are actually making some beneficial changes. I would see them as counter-productive and against, really, what timescales we ought to be working towards.

4265 Thank you, Mr Speaker.

**The Speaker:** I call Mr Karran to reply.

4270 **Mr Karran:** Vainstyr Loayreyder, these amendments were done with the advice of people who have been involved in childcare for some considerable time. I have to say that I find the contributions an insult to some people's common sense, as far as the replies that we have had, as far as this is concerned, that 'within 12 months' on (a) would become...

4275 This is to try and concentrate the mind. I think we really need to start looking at childcare and the fact of how people are being dragged out for years, with childcare, not 12 months. I think it is absolutely shocking, and it just affects the credibility, as far as people outside wondering what is fact and what is fiction in this Hon. House. These amendments are put there to concentrate the mind. These amendments are to make sure that they have a timeframe that is a maximum, for them to make the decisions on this – not having people on a string who cannot fight back. I think it is absolutely crazy.

4280 It is just like the Chief Minister saying that this is purely a Private Member's Bill. It might be down as a Private Member's Bill, but it has the full support and the resources of the Department. Do not try and insult the intelligence of some of us in this House who want to keep our credibility, as far as what is fact and what is fiction. The reality is it is a good piece of legislation, and whether it comes from the Department or from a Private Members' Bill, we should support it, and I support it.

4285 Part of the problem is – I am sorry that maybe people speak differently to some Members – with special guardianships is the fact that the reason why we need this legislation is because people cannot afford to adopt, because they cannot afford the [*Inaudible*] payments that they have got, because they have got fixed incomes.

4290 Let's stop trying to turn black into white and let's start living in the real world. We know that childcare has got major problems. It has not just happened since Mr Quayle has become the Minister; it is something that has grown over the years.

4295 Hon. Members, if you do not like it because of where it comes from, then fair enough, but have the integrity to say that. Do not insult the intelligence of the people who I asked about this Bill, who work in the assessment of childcare, when they said that these things really need to be put into this Bill because of the fact there needs to be a timeline. By all means, vote against the Bill if you actually believe that, somehow, by putting in this thing that they have got to do it *within* 12 months... The reality is that things can drag on for years in childcare.

4300 The reality is these people who need this sort of legislation need to have some closure on this legislation, and I hope that this House will support the amendments. I would be mortified, Vainstyr Loayreyder, if I thought for one minute that my amendments were going to actually do the things that Minister Quayle and the Member of the Department, Mr Malarkey, the Hon. Member for South Douglas, are trying to make out. This is about putting some rick on his Department. I do not blame them not wanting to have these amendments, but I think it is important that Members realise that we are talking about a situation... Special guardianships is about the fact that you can go for adoption, but the problem is lots of people cannot afford to adopt, because of the way they end up widowed or they end up in a situation where they cannot afford to do it, and I think it is important to realise that, if we want these things, we have to put those nuts and bolts into the system.

4310 I hope Hon. Members will vote for this. These amendments are about putting some checks and balances, putting some time periods in. I do not blame the Department for not wanting them because, as I say, this is the only way these people are going to have that chance to put any sort of audit on them outside going to their MHKs, because they are not going to be able to go for a petition of dolence or go for an expensive consultation from one of our lawyers. So I do hope Hon. Members will support these amendments. These amendments are about putting a check on the power of the Social Services; they are not to do the proposed reactions that the Hon. Members for Middle and for South Douglas, Members of that Department... of this Bill, but I do think we should support this Bill, anyway.

4320 **The Speaker:** I call on Mr Quirk to reply to the debate.

**Mr Quirk:** Just a quick reply, Mr Speaker.

4325 I have taken examination with other parties about the amendments that were tabled by Mr Karran some time ago and I spoke to somebody recently, as well, regarding it again and I would ask Members not to support the amendment, not because it is just Mr Karran – I believe that it is proven to me that the amendments are not really helpful in this particular case.

4330 The Bill is robust enough at the end of the day. I do believe, unless I am talking at cross purposes, it is not to do with financial issues. Some people in the Island and elsewhere in other jurisdictions do not want to go for adoption, because of age, but sometimes, because we did not have a provision in the Isle of Man for a special guardianship, or there was not a method of doing that. It gives those people an option to take up that special guardianship. When that particular child or teenager becomes 18, they can make those decisions themselves then, and people require that.

So I ask Members not to support the amendments by the Member for Onchan.

4335 **The Speaker:** In respect of clause 4, we have three amendments tabled in the name of Mr Karran. I propose to vote on each one separately.

First of all, the amendment on page 6, line 24. Those in favour, please say aye; against, no. The ayes have it.

*A division was called for and electronic voting resulted as follows:*

<b>FOR</b>	<b>AGAINST</b>
Mr Karran	Mr Quirk
Mr Cannan	Mr Earnshaw
Mr Robertshaw	Mr Brown
Mrs Cannell	Mr Crookall
Mr Gill	Mr Anderson
	Mrs Craine
	Mr Quayle
	Mr Teare
	Mr Cregeen
	Mr Houghton
	Mr Henderson
	Mr Malarkey
	Mr Shimmin
	Mr Cretney
	Mr Watterson
	Mr Gawne
	The Speaker

**The Speaker:** The amendment fails to carry, 5 for, 17 against.

4340 The second amendment, page 7, line 25. Those in favour, say aye; against, no. The noes have it.

*A division was called for and electronic voting resulted as follows:*

<b>FOR</b>	<b>AGAINST</b>
Mr Karran	Mr Quirk
Mr Cannan	Mr Earnshaw
Mr Robertshaw	Mr Brown
Mrs Cannell	Mr Crookall
The Speaker	Mr Anderson
	Mrs Craine
	Mr Quayle
	Mr Teare
	Mr Cregeen
	Mr Houghton
	Mr Henderson
	Mr Malarkey
	Mr Shimmin
	Mr Cretney
	Mr Watterson
	Mr Gawne
	Mr Gill

**The Speaker:** With 5 votes for, 17 against, that amendment fails to carry.

Finally, page 7, line 32. Those in favour, say aye; against, no. The ayes have it.

*A division was called for and electronic voting resulted as follows:*

<b>FOR</b>	<b>AGAINST</b>
Mr Karran	Mr Quirk
Mr Cannan	Mr Earnshaw
Mr Robertshaw	Mr Brown
Mrs Cannell	Mr Crookall
Mr Watterson	Mr Anderson
Mr Gill	Mrs Craine
	Mr Quayle
	Mr Teare
	Mr Cregeen
	Mr Houghton
	Mr Henderson
	Mr Malarkey
	Mr Shimmin
	Mr Cretney
	Mr Gawne
	The Speaker

**The Speaker:** With 6 votes for, 16 against, that amendment fails to carry.  
Turning to clause 4, then. Those in favour of clause 4, say aye; against, no. The ayes have it.  
4345 The ayes have it.  
We turn to clause 5. Mr Quirk.

**Mr Quirk:** Thank you, Mr Speaker.  
4350 Clause 5 makes a series of minor and consequential amendments to the 2001 Act, which flow from the provisions inserted by clause 4. Just on that point, I would like to thank my seconder and the Department and the AG's office because it is not always – for me it is not always easy to pick things up and, at the end of the day, I took an independent view for the Bill they drafted and took time to examine it and I do thank the Members who are supporting it. It is not just with one particular people in the Island, there is a group of individuals that would have that option and  
4355 would be able to take that up, sir.  
Sorry, I beg to move that clause 5 stand part.

**Mr Malarkey:** I beg to second and reserve my remarks.

4360 **The Speaker:** Mr Quayle.

**Mr Quayle:** Thank you, Mr Speaker.  
As will be seen on the Order Paper, there is an amendment to clause 5 and a new clause there,  
4365 which I would wish to move and, with your leave, Mr Speaker, if I may, to move both together – the amendment and the new clause – as they are both very much interconnected and the consequence of one.

**The Speaker:** We will debate together and vote separately, clearly.

4370 **Mr Quayle:** Thank you very much indeed.  
The first, then, is a technical amendment and is a necessary consequence of the new clause, which is the more important of what is being put forward. The new clause expands the meaning of custody order for the purposes of part 1 of the Child Custody Act 1987. The effect of the new clause is to bring the treatment of an order in respect of special guardianship into line with other  
4375 custody orders, in terms of recognition and enforcement, both here on the Isle of Man and within the legal system of the constituent parts of the United Kingdom.

The new clause is necessary to ensure consistency between the 1987 Act and the Children and Young Persons Act 2001. Mr Speaker, the mover of the Bill is aware of these amendments standing in my name and I now wish to move them:  
4380

*Page 8: For the marginal note to clause 5 substitute “Consequential and minor amendments to Children and Young Persons Act 2001.”.  
That New Clause 5A be agreed in principle.*

4385 **The Speaker:** Mr Earnshaw.

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

4390 **The Speaker:** Mr Quirk, do you wish to reply?

**Mr Quirk:** No, sir. Just happy with the amendment to the clause.

**The Speaker:** In that case, dealing first with clause 5 and the amendment in the name of Mr Quayle, those in favour of the amendment say aye; against, no. The ayes have it. The ayes have it.

4395 Clause 5 then, as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.

The new clause, voting in principle first: those in favour, say aye; against, no. The ayes have it. The ayes have it.

4400 The clause, having been moved in detail – we will take it as having been moved in detail. Those in favour, say aye; against, no. The ayes have it. The ayes have it. That brings us to the end of the clauses stage of this Bill.

If I just say to the mover, to congratulate him on his moving of this Bill, and any remarks were not intended to reflect on the manner in which he moved the Bill. (**A Member:** Hear, hear.)

4405 Hon. Members, that concludes the business of the House today. The House will now stand adjourned until the next sitting, which will take place on 1st February in this Chamber.

Thank you very much.

*The House adjourned at 5.14 p.m.*