

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 12th May 1998
at 10.00 a.m.**

Present:

The Speaker (the Hon N Q Cringle) (Rushen); Mr L I Singer and Hon A R Bell (Ramsey); Hon R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Hon H Hannan (Peel); Mr W A Gilbey (Glenfaba); Mr S C Rodan (Garff); Hon D North (Middle); Hon R K Corkill (Onchan); Messrs J R Houghton and E A Crowe (Douglas North); Hon D C Cretney and Mr A C Duggan (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Messrs J P Shimmin and A F Downie (Douglas West); Hon J A Brown (Castletown); Hon D J Gelling (Malew and Santon); Sir Miles Walker CBE LLD (hc), and Mrs P M Crowe (Rushen); with Prof T StJ N Bates, Secretary of the House.

The Speaker took the prayers.

Apologies For Absence

The Speaker: Hon. members, the hon. member for Onchan, Mr Karran, is attending a parliamentary visit in the United Kingdom and therefore has leave of absence from his seat.

Membership Of Departments - Interviews - Question By Mr Cannan

The Speaker: We turn then to our order paper, hon. members, and I call first on the hon. member for Michael, the hon. member Mr Cannan.

Mr Cannan: Mr Speaker, I ask the Chief Minister:

Have you completed your interviews with each Member of the House of Keys and, if so, what are your conclusions?

The Speaker: I call upon the Chief Minister.

Mr Gelling: Mr Speaker, I assume that this question relates to the discussions I am having with members about the membership of departments, workloads, and general aspects of the present administration. Now, that being the case, I can say that I am proposing to meet all members of Tynwald and not just members of this House. I have now met most members but have not completed the exercise and I have therefore not reached any conclusions. Indeed I would not propose to draw any final conclusions until all elections flowing from the election to the Legislative Council have been completed.

Mr Cannan: In the interviews that you have had to date, Chief Minister, has there been expressed to you the unanimous confidence of your ministerial team?

Mr Gelling: At this time, Mr Speaker, I am not prepared, as I have said to every member who has come to my offices to speak with me, that I would be disclosing any of the information that they personally gave to me about their own workloads or in fact the workloads of anyone else within this House or another place. So therefore I am not, as I say at this time, in a position to say anything other than I am satisfied with the cabinet.

Mr Cannan: A final supplementary. The question I asked the hon. Chief Minister was not about the members' views on their workloads but whether they had complete confidence in his ministerial team.

Mr Gelling: I would have to say at this time that without a doubt the majority were, sir.

Commission On The Remuneration Of Members Of Tynwald - Welcome To Members

The Speaker: Hon. members, it was remiss of me but I have just noticed that in fact in our public gallery today, joining us, I see that we have the three members of our commission and we welcome the three members there who join us: John Leefe from Nova Scotia, Dr Lawrence Gonzi from Malta, and Demitrius Eliades from Cyprus. The three gentlemen, we welcome you very much and hope you enjoy your work and your stay on the Island with us.

Lisbon Tram 360 - Question By Mr Singer

The Speaker: I turn to question number 2 then and again I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg leave to ask the Minister for Tourism and Leisure:

- (1) *Has your department decided on the future of Lisbon tram 360; and*
- (2) *will it, as promised, be in service this season before the main events of Steam 125 begin?*

The Speaker: The Minister for Tourism and Leisure, the hon. member for South Douglas, Mr Cretney.

Mr Cretney: Thank you, Mr Speaker. The situation is as was outlined to the hon. member in my reply to his question in this House on 22nd April 1997. My department is considering options for the use of the ex-Lisbon 360 tramcar. These options include operating the tram in service or using the car as spares for the existing fleet. No final decision has yet been made.

I am not aware that any specific promises were made to run tramcar 360 in service during this year. I am sure the hon. member will be aware of the many events planned for Steam 125 during this year. Unfortunately we cannot do everything at once. This year we have brought back into service our oldest locomotive, dating back to 1873, the Sutherland. We have also introduced new attractions such as an electric tram on the steam railway and a new location for steam on the Manx Electric Railway between Fairy Cottage and Laxey. On top of that we are completely renovating diesel rail-cars 19 and 20.

Other non-rolling stock projects this year include the reopening of Port Erin Railway Museum, the structural renovation Port St Mary station, new carriage sheds at Douglas and Port Erin, and a new track layout at Derby Castle depot.

As I said in my previous reply in 1997, the use of the Lisbon 360 has to be placed in an order of priority against all the other things that need doing on the railway.

Mr Singer: Mr Speaker, is the minister aware that whilst an admitted cost of £24,000 was spent on purchasing Lisbon tram 360 plus four scrap motors which were originally bound

for Sóller in Majorca, Lisbon tram 305 was recently acquired by Bettws y Coed in Wales at a charge, including delivery, of £4,880? So is it not incumbent on the minister's department to get the 360 working so as to recover the outlay?

Mr Cretney: I was not aware of that particular transaction, Mr Speaker. I would reiterate that the decision to purchase the units was made before I was minister. However, I am convinced that the purchase was value for money and obviously the sooner we can see full value for money out of that purchase, the more happy I will be.

Mr Houghton: Mr Speaker, may I ask the minister, was the MER actually able to manoeuvre its effigy of this tram along the line without hitting the centre poles, and can the minister arrange an outing on this tram along the tramlines from Douglas to Ramsey for members of Tynwald when it is deemed fit and able and, if so, would we be required to wear crash helmets for the journey?

Mr Cretney: The decision in respect of this tramcar has not been decided yet.

Mr Singer: Mr Speaker, could I ask the minister? At the time that the tram was viewed and purchased in Lisbon then, were the officers present confident that there would be no problems in putting it into service on the Manx Electric Railway or was it partly their intention to use it just for bits and pieces?

Mr Cretney: As I indicated in April last year, Mr Speaker, either option was considered. I understand that with a change in the wheel alignment I am told it could be used. However, it is still considered that with the motors the purchase, for a cost of £23,000, was good value for money.

Mr Singer: A final supplementary, thank you, Mr Speaker. The director of public transport did say last year that the Lisbon tram 360 was being made ready for service. Can you tell me, in order to bring it into service have you any idea of what alterations need to be made to the tram and the poles and other items at the side of the track in order for the 360 to go into service from Douglas to Ramsey and at what estimated cost?

Mr Cretney: Mr Speaker, I imagine that that would be part of the conclusions which would be reached following a decision in relation to what will be done with the tramcar, or parts of it, into the future.

Mr Houghton: Mr Speaker, can the minister confirm that the purchase of this tram, together with the associated costs of its conveyance to the Island, and not forgetting the additional moneys spent on travel and accommodation to Portugal by his senior management team to purchase this lemon was a downright waste of taxpayer's money and does he not further agree that those responsible for this rather incredible error or judgement should be taken out of service like the tram was?

The Speaker: I feel, hon. minister, you have already answered the question but reply if you wish.

Mr Cretney: Mr Speaker, I do not feel it benefits anyone by the use of the language such as that which has been used by the hon. member for North Douglas on both this supplementary question and his previous one. The situation is my officers, who are professional officers, considered that the purchase of this tramcar, whether it is used in service

or whether the motors are used to supplement motors in other vehicles, was good value for money.

Bus Network - Question By Mr Singer

The Speaker: Order paper number 3, I call upon the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I beg leave to ask the Minister for Tourism and Leisure:

- (1) *When does the latest consultation period for the new bus network conclude;*
- (2) *do you agree with the public comment of the director of transport that the new proposals and timetable have been accepted by the general public;*
- (3) *has all public comment on the proposals to your department been acknowledged; and*
- (4) *will you indicate:*
 - (i) *the nature of the comments;*
 - (ii) *the categories of person from whom they were received; and*
 - (iii) *the extent to which they have been incorporated into new network proposals?*

The Speaker: Again I ask the Minister for Tourism and Leisure, the hon. member Mr Cretney, to reply.

Mr Cretney: Thank you, Mr Speaker. In reply to part (1), the consultation period for the new bus network was outlined in my letter attached to the consultation pack. It finished on 8th May. However, because of the number of enquiries still being received, it has been extended to 22nd May 1998.

In response to the second part, the director of public transport has made no public comment to the effect that the new proposals and timetables have been accepted by the general public.

In response to part (3), all letters received by my department have been or will be acknowledged. If the hon. member has knowledge of any letter that has not been acknowledged perhaps he could let the director of public transport know. If he does not want to do that, perhaps he would tell me.

In response to part (4)(i), and that question is, will I indicate the nature of the comments received, the nature of the comments received varies enormously. Many have contained positive comments and suggestions which we have been able to incorporate and introduce further improvements as a result.

Perhaps for the benefit of hon. members I could quote from several of the comments which have been received, for example Mr Heywood on behalf of the Kirk Michael Thursday Club: 'On behalf of myself and the Kirk Michael Thursday Club, I write to thank you for the Consultation Pack of your plans for the proposed new bus network. It is a fantastic proposal which deserves all the support and enthusiasm of the population of the Isle of Man. Obviously a tremendous amount of work has gone into the research and planning and the members of

the Kirk Michael Thursday Club look forward to the implementation of the timetable as soon as possible.' The Commissioners at Port Erin, sir. 'The commissioners have recently considered the proposals contained in the above and I am directed to wish you every success in their implementation. Members are generally pleased with the proposals so far as they affect Port Erin and believe the only way forward to prove the proposals is to get it operational as soon as possible.' And finally if I could, the commissioners of Ramsey, 'The Ramsey Town Commissioners have considered and noted the latest consultation pack for the planned new bus network as enclosed with your letter dated 23rd March, 1998. The Board look forward to the introduction of the revised services as soon as possible. Please note that the Board are grateful for your offer to meet with them but do not feel that there is any such need at this time.'

To continue, in response to the second part of the hon. member's question, this says will I indicate the categories of persons from whom they were received. The categories of persons are Isle of Man residents, some employers, local authorities and government organisations.

The final part, the extent to which they have been incorporated into the new network proposals - wherever possible and appropriate we will incorporate any comment received on the new bus network.

Yesterday I looked through the box file in relation to the comments which had been received. Some of them are minor adjustments which hopefully will be able to be incorporated. There has been a very positive response by the vast majority of people. There has been a limited number of people who do not believe there should be any change whatsoever but I think in the majority, without a doubt, people are supportive and want to see us get on with it.

Mr Singer: Mr Speaker, am I correct in understanding that whilst this consultation is proposed to be the last involving the general public not only has consultation with the unions not yet been concluded but it has not even commenced?

Mr Cretney: The opportunity, Mr Speaker, for consultation with the trades unions has been offered to them. They felt that they would not wish to participate until such time as the public consultation and the full package was available for them to properly consider.

Mr Singer: Does the minister recall the request from the people of Ramsey that no major changes should be made to the Ramsey skipper service which was working well and, if so, can he explain why this service has now been split into four parts and was this done from an origin and destination data survey on the route to demonstrate the need for the change?

Mr Cretney: My information, Mr Speaker, in relation to the Ramsey skipper service is the service which will be provided upon completion of the new bus network proposals will be far superior to that which existed previously.

Mrs Cannell: Mr Speaker, I thank the hon. minister for his reassurance that all is well with the new proposed bus network, but is he aware, for instance, that in my constituency one end of Victoria Road is going to be cut off from any bus service? Now, this is an area which has enjoyed a regular bus service for many, many years. Is he aware that my constituents in that part of Douglas are not going to have a service at all?

Mr Cretney: Mr Speaker, when I looked through the box file yesterday I saw a letter from two elderly people who live at the bottom of Victoria Road. I have obviously noted that and before any decisions are taken I will be taking that into full consideration.

The Speaker: The final supplementary, I think, the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker. If I may briefly revert to the Ramsey skipper, does the minister therefore feel that it is an improvement that people who now can stay on one bus to get all the way round Ramsey have to now perhaps change onto another bus, and can the minister indicate if he has a clearly specified date on which the new network is to commence in full operation and is he convinced that there will be no repeat of the infamous Wallasey experiment where a similar complete new network bus system was introduced in one major step and meltdown occurred within three days?

Mr Cretney: In respect of any Wallasey situation, I am sure the hon. member would know more about that than me. However, if he would like to indicate -

Mr Singer: How do you know that?

Mr Cretney: Well, you came from across there so perhaps you would like to indicate what went on.

Mr Singer: Not Wallasey.

Mr Cretney: In terms of the Ramsey skipper service, then I am confident, and my officers are confident, that the service which will be provided will meet the needs of those people from Ramsey who wish to use it.

Financial Advisers - Qualifications - Question By Mr Braidwood

The Speaker: Item 4 on our order paper, hon. members, I call upon the hon. member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I beg leave to ask the Chairman of the Financial Supervision Commission:

Is there any regulatory requirement for employed and self-employed financial advisers, giving advice to the public, to hold specified qualifications?

The Speaker: The Chairman of the Financial Supervision Commission, the hon. member for Glenfaba, Mr Gilbey.

Mr Gilbey: Mr Speaker, individuals and companies providing investment advice in or from the Isle of Man are required to hold a licence from the Financial Supervision Commission under the Investment Business Act 1991, subject to certain exclusions. For example, individuals and companies authorised by the Insurance Authority are not required to hold such a licence, as to do so would involve dual regulation.

Before granting a licence the Financial Supervision Commission must be satisfied that the applicant is fit and proper to provide the services proposed. When assessing such matters the commission applies three broad criteria. They are integrity, solvency, and competence. Thus all those licensed to provide financial advice are required to be competent to do so. There is of course much more to competence than simply holding a qualification. It extends to

adequate knowledge of the business, proper organisation of the business, experience, and the application of knowledge to practical situations.

In assessing competence the commission directs its attention primarily to three areas: training, experience, and performance. The commission does take into account the relevance of qualifications and expects its licence holders to seek such qualifications and employ qualified people in all key areas of the business.

The commission is currently undertaking a study of training and competence within the financial services sector and, whilst no firm conclusions have yet been drawn, the commission has been very gratified to see that by far the majority of its licence holders are encouraging staff to take professional and other relevant qualifications. This is evidenced in the large numbers of students who currently attend the Isle of Man College of Further Education for qualifications such as the financial planning certificate, the certificate in offshore administration, and the certificate of Chartered Institute of Bankers, et cetera.

In carrying out its study the commission is considering whether to introduce mandatory qualifications for those giving financial advice. A number of issues have arisen regarding this.

Firstly, as I have already mentioned, by far the majority of the commission's licence holders are already working towards these qualifications without the mandatory stick of regulation. It may not therefore be necessary to introduce a formal requirement.

Secondly, there are those within the financial service sector who have many years' experience and are highly competent in their field but do not necessarily hold a formal qualification. Indeed a formal qualification is not likely to add much to the competence levels of those individuals.

Thirdly, there is a wide variety of qualifications being promoted by different organisations at different levels and in different subjects. The commission is anxious that if mandatory qualifications were to be introduced, then the right qualifications should be chosen. For example, it might be necessary to introduce a qualification with an international aspect to it. To simply replicate the UK system could be actively misleading for people in the Isle of Man. Furthermore any competence requirements should be geared towards the activities undertaken by the Island's financial industry rather than being based on, say, the UK's industry which is very different to ours. This therefore is a very complex area and one which is currently being studied.

Finally, the Financial Supervision Commission promotes high standards of competence and indeed has on occasion required certain individuals within certain organisations to obtain specific qualifications. As can be seen, therefore, the Island can be confident that those giving financial advice are subject to regulatory requirements designed to ensure the highest standards of investor protection.

Mr Braidwood: I thank the Chairman of the Financial Supervision Commission for his protracted answer but basically the answer was no. Would the Chairman of the Financial Supervision Commission agree that it would be advisable for independent financial advisers to have the financial planning certificate, exam 3, which he has already mentioned can be obtained at the Isle of Man College, before giving financial advice as contained in the Investment Business Act 1991?

Mr Gilbey: Mr Speaker, the hon. member contradicts himself. First he rather sarcastically refers to a 'protracted reply' and then he does not seem to have listened to the whole of it. The fact is, as I have said very clearly, we are considering the position and it would not necessarily be right for everyone to have the single qualification that he mentions. There are various qualifications which are suitable in different circumstances. Indeed, as I have already mentioned, it may well be that we need a special qualification to cover the international aspects of our business which are not the same as a lot of the business in the adjacent isles, from which these qualifications spring.

Now, the Financial Supervision Commission have tried hard to find out what the problem is that has prompted the hon. member to ask these questions but despite our enquiring and enquiries by myself he has not told us, but what I would like to make clear is that if he has any particular complaint regarding any particular licence holder, the Financial Supervision Commission would be more than pleased to look at the details for him and, although they do not act as an ombudsman, if they believe that any licensee has behaved improperly they would certainly take this up. So I do hope that, as has been requested, he will tell us of any problem which has led to the posing of this question.

Mr Braidwood: Mr Speaker, I did listen intently to the answer, the comprehensive answer, by the Chairman of the Financial Supervision Commission when he talked about integrity, solvency, competence, but nothing against the competence, we are not saying the people who are listening to the independent financial advice have confidence. But would he confirm that there is no compensation scheme in place if complaints are received from clients who have been given bad advice and that the commission only has the power to arbitrate in such disputes or revoke the licence of the adviser?

Mr Gilbey: In fact, Mr Speaker, the Isle of Man is unique in having a banking compensation scheme which applies that if a bank becomes insolvent there will be protection for the small creditors, and I think we should take the opportunity to stress that the Isle of Man is one of the very few places in the world to have this. It is true it does not apply to mistakes or investment business, but again I think there are two sides to this. It has to be proved that a mistake has been made and that advice was wrong. Very often the wrong advice may be due to the person, who is the customer, telling the firm of circumstances which are not correct. It is only by looking at each individual case that you can tell if there has been an error or anything improper and until anyone has the details, the FSC has the details, one just cannot judge. But certainly if a licence holder was found to have done something wrong, the FSC would take this up with them and, although it has no power to make them pay compensation, as has been said, it could remove the licence and it could take other steps, and I have no doubt that if approached by the FSC because of something that was done wrong, the licence holder would voluntarily pay compensation, and indeed I can tell you of examples where this has been requested and where it has been done. But it is also difficult without knowing the details and I would stress to hon. members that if they think there is a problem, come to the FSC's officers and tell them the full details and the whole matter will be looked at.

The Speaker: Hon. member for Douglas East, now we are in danger of widening this question, so be careful with your supplementary, sir.

Mr Braidwood: I will, Mr Speaker. I will try to elaborate on one of the answers given by the Chairman of the Financial Supervision Commission when he talked about hopefully they

are introducing the exams or a similar qualification. Now, could he give an assurance that the requirement for the FPC 3 or a similar qualification will be introduced as soon as possible? This was introduced in the UK over a period of two years and I would rather see the policy introduced now than just seems to be encouraged by the Financial Supervision Commission which seems to be their policy at present.

Mr Gilbey: Mr Speaker, I must make it clear that although the hon. member might say 'hopefully', I did not say 'hopefully'. I said the matter was being looked into, particularly on three counts, and I would say that I believe personally very strongly that having qualifications is not the only proof of knowing things. I would say that very often in this day and age - and I am not referring to the financial sector but other places where there are qualifications - people with qualifications think they know everything but know a great deal less than people who have learnt by practical experience.

TT Course - Suzuki Contract - Clarification Of Previous Reply

The Speaker: Hon. members, now, before we turn to item 5 on our order paper the hon. member for Douglas South, Mr Cretney, has asked if he could make a statement to clarify an answer which he gave to a question at our last sitting. Now, standing orders, hon. members, make no direct provision for statements other than for personal explanations. However, I feel it would be appropriate when the hon. member has asked to make clarification of a reply to a question at last week's sitting and, with your consent and approval, hon. members, I propose at this stage to invite him so to do. Are you agreed?

Members: Agreed.

The Speaker: In that case I call upon the hon. member for Douglas South, Mr Cretney.

Mr Cretney: Yes, thank you very much, Mr Speaker, and thank you, hon. members. At the sitting of the House of Keys held on 5th May 1998 I answered a supplementary question from the hon. member for West Douglas, Mr Downie, relating in part to the position where an advertiser wished to place banners over the straw bales carrying the Suzuki logo. I advised the House: 'In terms of another advertiser wishing to place their banners or whatever over the bales, I do not think there is anything to prevent that.' With hindsight and in particular noting the way in which that has been interpreted, it may have been better if I had added that in relation to sites controlled by the department, the agreement does not allow for advertising banners to obscure the bales. In relation to sites in private ownership, the protective bales are present as a safety measure, with the much appreciated co-operation of the landowner. If the landowner wishes to sell advertising over these bales, this would be a private arrangement between the landowner and any advertiser. Suzuki understands this and it is indeed clarified in the contract.

I certainly did not intend to misrepresent the situation and hope that this additional statement removes any confusion.

The Speaker: Thank you, hon. member.

Election To The Legislative Council

The Speaker: We turn then to item 5 on our order paper, hon. members. It is the election of one person to serve as a Member of the Legislative Council for the period expiring on 28th February 2003. I call upon the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I am pleased to propose Alan Crowe, friend and colleague, for North Douglas for the remaining seat on the Legislative Council.

Alan is a conscientious and hardworking person, dedicated to working in politics for the benefit of the people of the Island. I believe that he is very suitable for the role and I would like to provide brief details of Alan's background and experience.

He was born and educated on the Island. After an initial career in teaching, he moved into the finance sector in 1968 where he joined the Isle of Man Bank. During the last 30 years he has held senior management positions in banking, merchant banking, international life assurance and corporate management, mainly in the Isle of Man, but with three years working in merchant banking in Australia and one year in Canada.

In 1995 he was successful in winning the North Douglas by-election and was re-elected at the general election in 1996. In my letter of nomination I give details of Alan's political activities since he came into politics, including his departmental and committee work.

In conclusion, I would ask that you support Alan's nomination on the basis of his political and business experience, his local background and commitment to the people of the Isle of Man, and I beg to move.

Mr Downie: Mr Speaker and hon. members, I rise to second my friend and colleague, Alan Crowe, the hon. member for North Douglas, who has been now nominated for the vacant position in the Legislative Council.

My colleague Mr Houghton has outlined the hon. member's experience and I would just like to commend to you his teamwork qualities and the dedication he has given to whatever role he has undertaken in the political forum. I believe that his nomination, if approved, will allow him to utilise his experience in the Legislative Council for the benefit of the Island and I trust that you will give him your full support today.

The Speaker: Hon. members, ballot papers have been forwarded to you, I understand. You have all had your ballot paper in your hand. They are, as in previous elections, made specifically for this election. Are you agreed, hon. members? Well, in that case can we complete your ballot papers and return them to the box? I call upon the hon. member for Michael, Mr Cannan, and the hon. member for Malew and Santon to act as tellers, please.

A ballot took place.

The Speaker: Hon. members, the result of the ballot is that Mr Crowe has received 19 votes. (**Several Members:** Hear, hear.) In this case, hon. members, I think it is fair to point out that there were 3 spoilt papers.

Hon. members, now that we have completed the election procedure that we actually started some weeks ago, to elect four persons to serve on the Legislative Council, I feel there are a number of questions that need to be asked. I am aware of criticism and comments that have been made that the House was being devalued in the eyes of the public. I am content that the election has been completed in accordance with standing orders. However, I am disturbed at the length of time which it has taken for us to reach a conclusion. I am also aware that the Chief Minister has commented at a press conference with regard to the voting being carried out orally and the hon. member for Castletown has also raised that particular point with

me. Hon. members, it is therefore my intention to have our Standing Orders Committee review the procedure in the light of the experience in the election that we have just completed.

Bill For First Reading

The Speaker: Hon. members, we now turn to item 6 on our order paper, the Sewerage Bill for first reading, and I call upon the learned Secretary.

The Secretary: The Sewerage Bill, Mr Brown.

Road Traffic Bill - Second Reading Approved

The Speaker: We therefore have reached item 7 on our order paper, hon. members. It is the Road Traffic Bill for second reading and I call upon the hon. member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Speaker. Drink-driving has long been a concern of the criminal law. As far back as 1864 it was an offence for the driver of a carriage to be in a state of intoxication when in charge thereof. Modern law on drinking and driving began with section 15 of the Road Traffic Act 1934 which made it an offence, punishable by a fine, imprisonment and/or disqualification, to drive or attempt to drive or to be in charge of a motor vehicle on a road or other public place while under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, or unfit to drive through drink and drugs for short.

The test was changed by the Road Traffic Act 1967 which was based on a UK Act of 1962, so that a person was taken to be unfit to drive if his ability to drive properly was for the time being impaired. The question of whether a driver was unfit to drive was a question of fact determined by medical evidence, and a police doctor would be called in to administer one or more well-known tests, such as requiring the driver to walk along a straight line. Eventually, with the growth in motor traffic and advances in technology, such crude tests became outdated and in the Road Safety Act 1967 Parliament introduced in Great Britain a new system based on three principles. New offences were introduced under which driving or being in charge with a blood alcohol level over a prescribed limit is itself an offence, without proof that the driver is unfit to drive. The blood alcohol level was to be determined by laboratory analysis of a specimen of blood or urine to be provided by the driver, with refusal to provide a specimen being an offence. And third, the police were given the power in certain circumstances to administer a roadside breath test with a breathalyser to indicate whether a driver was over the limit, though not the actual proportion of alcohol in his breath. To refuse a test was an offence and if the driver failed the test, he might be arrested so that a specimen of breath, blood or urine could be taken at a police station.

It is perhaps worth noting that the original offences of driving or being in charge while unfit through drink and drugs remain and are still the only sanction against driving or being in charge while under the influence of drugs.

The 1967 UK system had many teething troubles as drivers sought ways to avoid disqualification for being over the limit and the final loophole, the hip flask defence, was not filled until 1991.

The Isle of Man did not follow Great Britain in allowing the police to breathalyse a driver, that is, administer a roadside test, or in making it an offence simply to drive or be in charge over the limit, an offence itself. The Road Traffic Act 1985 did, however, provide a sort of

halfway house towards the latter reform in that the driver is deemed to be unfit to drive if he is shown to be over the limit by analysis of blood or urine, with provisions for a specimen of breath being added by the Road Traffic Act 1989.

Despite the fact that further amendments to Manx law took place in 1991 and 1996, the Isle of Man has never adopted the 1967 UK reforms in full. This Bill adopts the 1967 reforms with the latest amendments but with modifications and the basic scheme of the Bill is as follows. New offences of driving or being in charge of a vehicle whilst over the limit are created. The offences of driving or being in charge while unfit to drive through drink or drugs revert to their old form, that is, without any reference to blood or alcohol limit. The police are given the power to administer roadside breath tests in two cases: firstly following an accident and secondly where the driver is believed to have committed a specified offence. Currently those offences are dangerous, careless or inconsiderate driving, but additional offences may be added by order, subject to Tynwald approval. This precludes the necessity to come back to the House of Keys again to introduce primary legislation on any further extension. If a driver fails a test, he may be arrested, taken to a police station and required to give a specimen of breath, blood or urine for analysis.

I think it is worth emphasising at this point that the Bill allows the roadside test to be administered for a limited number of offences and that our proposed legislation is more restrictive in this regard than that which exists in the UK. This is a clear recognition of the concerns which have been expressed that the police should not be allowed to carry out random breath tests. Under this legislation they will be fairly restricted in what they can do. Equally, though, there needs to be the facility to extend their powers over a period of time. In effect this puts both the police and the public on probation. If the public do not respond to this legislation and we continue to experience an increase in drink driving offences, then the department will seek to extend the types of offence for which the roadside test can be administered and give consideration to reducing the legal limit from the current 80 millilitres.

This Bill differs from British legislation in certain respects. As already mentioned, the circumstances in which the police can breathalyse a driver are more limited. In practice, though not in strict law, the police in Britain can administer random breath tests. On the Island a roadside test can only be administered after an accident or if the driver is thought to have committed one of a limited number of moving offences, and I should point out that the police have been fully consulted on this and have made it quite clear that certainly at the present time they would not wish to have the power to administer random breath tests.

In Britain the mandatory period for disqualification for driving over the limit is normally 12 months. In this Bill mandatory periods of two and three years will also apply where the driver is significantly over the limit.

Finally, over-the-limit offences apply to driving or being in charge of a mechanically propelled vehicle. This is a wider class than that of motor vehicle found in British legislation and the types of vehicle caught by this broader definition include dumper trucks and other motorised vehicles which currently are not covered by the legislation and yet are vehicles which it is obviously desirable to cover.

This Bill is the first step towards introducing the breathalyser to give the police the opportunity to step up their campaign against what is now considered socially unacceptable:

the act of drinking and driving. It is limited, as I have said, to a number of specific offences and this has been done quite intentionally to give police the opportunity to prove to the public that they will not unduly harass the public with this new facility and, as I said earlier, it also puts the public on notice that if they respond to this limited legislation there will be no further extension of police powers, but if in fact the number of drink-driving offences continues to rise and the public do not respond to this challenge, then we will be looking once again at extending the range of offences which the police will be able to breathalyse for. I very much hope that the public will recognise the balance which we have tried to strike in this legislation and will respond positively to that challenge, and therefore, Mr Speaker, I beg to move.

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

Mr Downie: Mr Speaker, hon. members, if this legislation had been before me back in the previous House I would have probably hesitated at giving it my seal of approval. However, I am sorry to say that in the last five years the incidence of drink-driving and the horrendous accidents which have occurred on the Island and indeed the general deterioration in road users' behaviour has deteriorated to such an extent that I believe that the only way we can effectively start to control some of the problems which have arisen with drink-driving have to be linked to what really is a technical system of detection, and a very good deterrent in my opinion would be the breath test or the breathalyser.

I do, however, have to take exception with the mover. I think that he is, for want of a better reason, trying to be all things to all people. Unfortunately when you are dealing with drink drivers you cannot be all things to all people. There are rules and if people do not abide by the rules, particularly when they can be travelling at 80 or 90 or hundred miles an hour in a car on some occasions - or on a motorbike - the law has to have the means at its disposal to make sure that the situation can be properly controlled.

Now, the minister said that he did not want to give the Manx public the impression that the police were going to have the power to introduce random breath tests. I accept that, but I do not see anywhere in this Bill where a police constable, when he suspects a person can be drunk who, say, has been involved in a moving traffic offence, cannot be breathalysed. Another instance I would give: if I was sitting at the lights at Glencrutchery Road and I had had about six or seven pints one lunchtime and a fellow came and piled into the back of me, I was sitting there, I could be well over the limit but they would only breathalyse the fellow behind. *(Interjections)* That is my understanding of this. I have had a look at it and the minister can get back to me.

As far as I am concerned, if an accident occurs owing to the presence of a mechanically propelled vehicle on a road or other place, an accident has to occur. You cannot stop a fella doing 85 miles an hour and weaving all over the road on a motorbike: he has not had an accident. *(Interjections)* Well, where is it in the Bill? This is what I want the minister to explain to me, where all this is.

In section 5A here, section 5A(1): 'If a person - (a) drives or attempts to drive a mechanically propelled vehicle on a road or other public place, or (b) is in charge of a mechanically propelled vehicle on a road or other public place'. Now, does a public place also include areas where the public has access? Does this include supermarket car parks? Does it include shopping centres which are barriered off once a year so that the ownership and control

stays with the company who owns them? These are the areas that I think there needs to be a bit more explanation on.

Now, as far as I am concerned, if I was stopped tomorrow by a police officer on suspicion of driving under the influence of drink, I would far rather personally have a roadside check and if I am not over the limit be told, 'Sorry, sir, we've just checked you out. Things are fine. You're quite within your rights to drive', rather than have to traipse all the way, say, from Port Erin to the police station here in Douglas and blow into this intoximeter and take up about three or four hours of police time and my own time.

But the message I want to get through is that we are not going to tolerate in this House people driving over the limit with drink. I have no problem with a person having a social drink: fine. But leave the car, leave the motorbike at home. Go and have your drink, get your taxi, public transport, whatever you want to do; nominate a driver from the party. But we must send a positive signal out today, and depending on what the mover of the Bill has to say about the ways in which this breath test can be applied, if I am not happy with it, I will be seeking the support of other members of this House to put an amendment together to give this Bill a lot more strength with regard to the ability for a police officer to be able to use this breath test when there has been some sort of a moving traffic offence committed. Thank you, Mr Speaker.

Mr Duggan: Mr Speaker, the police already do have the power to stop vehicles at present. As the minister has touched upon about harassing the motorists, this was a cause of concern of mine at the meetings and I have been assured by the minister this would not be the case, and by the police, because you will get one or two police officers who are a bit over-enthusiastic, and I did want that assurance that the public would not be harassed by the police.

There are roughly about 55,000 vehicles on the Island, more than practically anywhere else in the world apart from Los Angeles, I believe.

Now, what Mr Downie touched upon was getting a taxi home, which I fully support, (*Laughter*) but the problem there is, as we have discussed at the meetings with the police, inadequate transport at holiday times, Christmas, New Year's Eve and at weekends. You cannot get taxis and the buses are reluctant to go out late at night because of possible drunks, so the drivers are a bit apprehensive. So what we really are looking at is you do not have the public transport. So we are a little cart-before-the-horse job with this Bill to that extent, so I think really speaking there needs to be a lot more public transport to deal with the people because people do try and order taxis and get transport home but there is just not enough public transport about. Thank you, sir.

Mr Houghton: Mr Speaker, I rise to support this Bill today which in my opinion gives an updated impetus on the future way this Island will address persons who are guilty of driving under the influence of drink or drugs.

Here is another occasion where I can call upon my previous experience to assist the hon. members with their evaluation of this Bill.

For as far back as anyone needs to go, it has always been an offence to drive under the influence. It is also an offence to ride a pedal cycle whilst drunk. Now, there is a difference

here between a situation regarding a person who may be drunk and a person who is driving under the influence of drink. I have dealt with both situations. A person who is drunk - and to elaborate, someone who has very little control of his faculties but who has managed to get into a vehicle and drive - clearly must be hammered by the law. However, those persons who are caught driving whilst over the limit and who are clearly under the influence must also be punished. It is for these reasons I welcome the introduction of mandatory periods of disqualification on a sliding scale basis, as is set out under clause 5 of this Bill.

I have witnessed somewhat of an evolutionary process with regard to the determination of an accused person as to the level of impairment at the time of his examination, following arrest. Previous to the installation of the intoximeter at police headquarters in 1990 it was the responsibility of the police surgeon to examine an accused person. A blood or urine sample was taken by the doctor for analysis at a later date. However, the doctor made the decision at the time of the examination as to whether he thought a person was fit to drive or not. This system was not always reliable. I have seen occasions whereby persons were declared fit to drive at the time of examination but whose alcohol reading later analysed was well over the prescribed UK limit, and on the other hand, other persons who were declared unfit and whose blood or urine sample was later analysed as under the limit. At that time an alcohol limit did not exist in Manx legislation.

When the intoximeter was installed, together with its supporting legislation, a valuable option was added to the list. An accused person could either give a blood or urine sample to a police surgeon or blow into the machine without the presence of the police surgeon. This is the situation now in operation. The intoximeter, which is capable of reading the level of micrograms of alcohol per 100 millilitres of breath, is an entirely accurate and proven way of determining whether a person is unfit to drive as defined in present legislation. However, for a person to be tested, they currently have to be brought to the police station under arrest. Now, it does not stop there. Firstly, a police officer in uniform, after stopping a driver, must form an opinion that a person may be under the influence or not. The person is arrested on suspicion of driving under the influence. His liberty is then taken away from him. Rightly so, if he is guilty, but what if he is not? He is conveyed in a police vehicle to police headquarters and formally booked in as a prisoner. These formalities include a body search and the confiscation of the accused person's money and other possessions. He is then documented in the charge room and taken into another room where he is invited to blow into the intoximeter. If the reading on the machine is above 35 micrograms per 100 millimetres of breath, he is formally charged with the offence. But if he blows under 35 micrograms, a rather red-faced and embarrassed custody sergeant begins to eat humble pie and the accused is shown off the premises with a high degree of speed and courtesy.

Now, if the breathalyser is introduced into this Island, then a person who is stopped by police can be compelled to blow into this device and only those who fail the roadside test are arrested. That surely must be a vast improvement on today's procedure.

It is not only a ridiculous and embarrassing situation when a police constable must make a guess as to whether someone may be guilty of this offence, but the time wasted at the police station and the individual who has been severely inconvenienced by losing his liberty when he was not guilty are unacceptable today. I might further add from experience that it is even more embarrassing when a police officer has stopped a vehicle containing, say, four passengers,

who are all conveyed to police headquarters because the vehicle has to be impounded, only to be reaccompanied by the innocent driver and set free, if that were the circumstance.

These are the reasons for the future use of the breathalyser and that is why I shall support its implementation. However, although there is an arrangement in the Bill whereby the usage of the device can be enhanced, I feel that without the immediate use of this device for persons who are stopped by police for what I cite as minor moving traffic offences the Bill has no real teeth. It is my opinion that almost all persons who are found guilty of driving under the influence are indeed picked up by police officers for moving traffic offences. If this Bill is enacted in its present form the use will be unnecessarily restricted. It seems a shame that an accident has to occur before a breath test can be implemented, and may I ask the minister to carefully consider the following scenario, which has been pre-empted somewhat by my colleague for West Douglas. Indeed what happens if both drivers are involved in the same road traffic accident but clearly only one was deemed to be at fault for the dangerous, careless or inconsiderate factor and the other driver also appeared to be concerned with drink? Do the police only breathalyse one driver rather than both? This scenario would make a fool out of the police and would undermine the integrity of this hon. House, just like the situation that has recently been amended whereby a driver who was prosecuted twice in a year for speeding faced a formal ban.

I must point out that I am not supporting the implementation of random breath tests but if the use is not extended, then the police will have to continue to convey drivers under arrest to police headquarters and on occasions from as far away as Ramsey or Port Erin, only to be released after blowing under the limit.

I should make it clear that a person who is breathalysed at the roadside and fails still has to be formally breath-tested, as the minister has made clear, by the intoximeter at police headquarters or be required, of course, to provide samples of blood or urine.

I would like the minister in his reply to state whether he would be willing to support the extended use of this device with the implementation of this Bill. The main offence already exists. The use of such a device in the future will provide for a convenient and less embarrassing situation for all parties at the side of the road.

May I also ask if the minister would clarify a technical point in 7B(2) which I see is at odds with 7B(1). Hereby it is in my opinion unfair to expect a constable to allow an accused person to be released from police custody whilst still under the influence, when a constable will only have a verbal assurance that the accused would not drive until sober. Would the minister not concur that the Bill should contain an order enabling the custody element to read that a person over the limit will remain in custody until his reading falls below the legal limit, following a subsequent breath-test analysis from the intoximeter? Thank you, sir.

Mr Singer: Mr Speaker, I find that the terms under which this Bill is laid out cause a quandary. I am convinced of the need to introduce roadside breath-testing as an urgent aid to the police and to deter drinking and driving. The roadside breath test, as has been said, has been in force for many years in the UK and there is much documented evidence as to its efficiency in reducing accidents and tragedies. I, however, have yet to be convinced that this Bill is being introduced here because it is felt it is needed on the Island, rather than it is being introduced because of the pressure that has been put on the department and the Council of

Ministers by the police, the public and some members of this hon. House, because we have to remember that this House has rejected a similar move before.

The original maximum alcohol blood limit was set in the UK at 80 milligrammes per 100 millilitres many years ago on its introduction. Since that time many countries and the UK, in the light of their experiences, are considering or already have reduced the maximum level to 50 milligrammes per 100 millilitres. It therefore seems difficult to explain why we are not seeking to incorporate their wide experience and research data into our law, rather than remain at what is now widely considered to be a high blood alcohol level, with a considerable risk of impairment of a driver's faculties and therefore judgment.

It does appear that the reduction to the lower level or banning drivers having any alcohol in their blood has been taken on scientific and other evidence built up over the years and I therefore listened with interest to the views of members of this hon. House as with this major proposed change in the law, now would perhaps seem the right time to decrease the permitted level of alcohol in the blood. Our aim surely is to ensure that people who are going to drink are deterred from driving their vehicles and the deterrent has to be such to prevent them taking a gamble, a gamble which might be very costly to them, their families and to innocent people. The odds have to be stacked against the drinking driver to make it not worthwhile.

Let me say here that I certainly have nothing against a person going out, having a few drinks and enjoying themselves. I also realise that, whatever is introduced in this Bill, there will always be a few very sad people who believe that they are above the law and those who will drink to such a level where they are not fit to drive and yet will do so. It is these high-stake gamblers that we have to get off the road by adopting methods that are as foolproof as possible.

We are all aware that the police do have the right to stop drivers they suspect are committing an offence and to order them to take a breath test. It is also no secret that motorists can be stopped in the UK and asked to take a breath test voluntarily. However, is it not sensible to ensure that the hands of the police are not tied and that they can take action at certain times, with agreed criteria, and can stop a motorist and undertake random testing? This could well be helpful in identifying a drunk driver who may at a particular time be apparently driving his car correctly but who may be over the limit so that his faculties are severely impaired, especially if an emergency occurs. The driver who is probably repeating the offence on regular occasions is more likely to be caught on a random test, as drink-driving is part of his usual antisocial behaviour.

Claims of the infringement of civil liberties are no doubt going to be raised, but I would then ask, whose liberties are being infringed: the civil liberties of the drunken driver or the civil liberties of his or her victim? Is any member of this House going to object if he or she is stopped by a policeman for a couple of minutes? That random check might mean a drunk driver being stopped and thus prevent someone else being maimed or killed. The only person who objects to being stopped is the one who is taking the risk. If he or she is confident, and drivers who are over the limit do feel good and confident, if that driver feels confident that alcohol does not affect him and knows that he can only be stopped for committing a relatively serious traffic offence, then the risk will be taken. There is no doubt about that. Compare that to a regular drinker who is aware that he could be stopped at random or who drives past a place where a random check is taking place: he is going to think, 'That could be me.'

The police of course would have to be well aware of their role in this. Their image and relationship with the general public would be under very close scrutiny and there would have to be an appeals procedure, totally without police involvement, which could investigate complaints, such as harassment or unwarranted targeting, and the powers to recommend any necessary action if the complaint was upheld.

In considering civil liberties, does anyone object to security measures at airports and having perhaps to have one's luggage searched in order that someone else may not lose their life? Of course not. Most people, despite the minor inconvenience, welcome these measures. So what, would I ask, can be the difference between that and occasionally being stopped and questioned by a polite policeman or policewoman? Let me point to the actions taken jointly by the highways department, the police and trading standards from last July until January of this year where random roadside safety checks were carried out on all types of vehicles. The results speak for themselves: 233 vehicles stopped, with a total of 527 defects being found. Many prosecutions followed for serious offences which made the vehicle a danger to the public, and these offences were aided and abetted by the drivers or owners of these vehicles who felt that they were above the law and were unlikely to be caught, and there have been no complaints from the public resenting being stopped for that short time and it has meant that dangerous vehicles have been removed from the public highway. I cannot see any difference between these examples and controlled random roadside breath tests to make the roads a safer place for the law-abiding citizen who is going about his normal business, whose life might be ruined by a selfish drunken driver.

If we are to introduce this Bill, then it has to have the desired effect. Therefore I think there are three questions I have to ask myself. Firstly, are we only intending to prevent inconvenience to a driver who no longer has to be taken to Douglas for a breath or urine test? Secondly, are we intending to deter the motorist who wishes to drink in his social activities from driving a vehicle in a state of intoxication which makes him a danger not only to himself but to other drivers and pedestrians? Many people on this Island and elsewhere, we know, are completely responsible and, as the member for West Douglas Mr Downie said, there is usually a person who is elected to drive who does not drink, or they use taxis or public transport or people walk to the local entertainment. It is, as usual, those irresponsible few.

I do take Mr Duggan's point as well that perhaps we do not have an adequate public transport service. I agree that perhaps we do need more taxis available, although the taxi-drivers obviously would not agree with that, or better public transport, but that still does not give anybody the excuse to drink and drive.

There is no doubt that drink-driving and accidents are directly related and therefore the final question I would ask myself is, what can I do to prevent drink-driving which is an awful, reprehensible and unforgivable crime against our society? Thank you, Mr Speaker.

Mr Quine: Mr Speaker, hon. members will be pleased to know I have forgotten my glasses. *(Laughter)*

I have listened to this debate with a great deal of interest and a certain amount of amusement. I have tried during the time I have been in this House to introduce legislation on the breathalyser on two occasions and the attitude within this House on both occasions was that it should not be touched with a 10-foot bargepole. I think we fell short by a considerable

margin in trying to introduce that legislation. So I find it encouraging to listen to today's debate where there would appear to be quite a change in the swing of opinion within this House. I find that quite encouraging.

I must also say on both the past occasions when I tried to introduce it, and indeed the hon. member for Onchan also tried to introduce it, one of the most vociferous opponents was the hon. member for Ramsey, Mr Bell. But in fairness to him I thank him for the fact that he has looked afresh at the facts and updated himself with the information relevant to this problem and supports this.

The reason I got to my feet primarily was that there seems to be a strong view within the House today that we should go all the way, if you wish, and go for random testing. Now, personally that creates no problem for myself, but I think this House would perhaps find it helpful to understand why. We have a Bill that does not go all the way and in part it flows from the fact, as I say, that we had more than two attempts, but at least two which I was directly involved in, trying to get the breathalyser introduced, where there was this strong voice of opinion against the breathalyser and certainly against random testing and therefore we have before us, if you wish, a move forward, not as complete as some members of this hon. House would wish. We have it related to specified offences and we have it related to of course the accident situation. Now, contrary to what one or two members have said, I do feel that that would represent meaningful legislation but perhaps I suppose what it is really geared to try to do is to bring with it public opinion on this issue, to try to get the public to lend their support to this concept and to move it forward.

So although I am sure when we get to the clauses stage I feel sure there will be amendments moved to perhaps strengthen it, I may not feel averse to supporting some of those amendments. I would not want members to seek to castigate the Bill that is before them because it has to be read in conjunction with the history to this matter, the strong views that have been passed in this hon. House in the not-too-distant past, strong opposition to this legislation, and therefore what is in this Bill would represent a significant measure, a significant enforcement facility, additional to what the police presently have and I believe it would be noticeable and the public generally would take cognisance of it.

I have argued before that to my way of thinking the breathalyser is a desirable development because, as I think one or two hon. members have said, getting dragged back to police stations does not make much sense to me. I think the breathalyser, as an aid to investigation which can eliminate that requirement in many circumstances, is a desirable event. So it does not create any problem for me at all.

But, as I say, my prime purpose for getting on my feet, was to try to explain the background to this. We tried previously to get the breathalyser in, there was strong opposition to it. I think, quite rightly, the department has taken cognisance of that opposition and tried to bring forward legislation which strikes a balance, meaningful legislation, but perhaps not going as far as some members would wish. But we can carry those debates forward when we get to the clauses stage. But this Bill, at this second stage reading, certainly deserves support and I will be doing just that. Thank you, sir.

Mrs Cannell: Mr Speaker, I shall just be very short in what I have to say. I will be supporting the Bill today and I am very pleased that the department has seen fit to actually

bring it forward this year. I appreciate the comments that have been made by the hon. member for Ayre in that it does have a long history and in fact on two, three occasions I seem to remember, a similar sort of provision laid down for members' consideration was rejected. I believe it is a step in the right direction. It perhaps does not address all of the issues which have been raised by members, but I believe that there is provision within the Bill, subject to Tynwald approval, for any order to be varied in the future and I welcome that.

I will be supporting the Bill, as I have said. I feel that the public will come with us. I also understand that there will be one or two, possibly more, amendments at the next stage and I will carefully consider those before indicating whether or not I wish to support. But I am very pleased with the minister today in having the courage to come forward himself (*Laughter and interjections*) to actually promote this Bill and if we can convince and give the confidence to this particular minister, who was very vehemently opposed to it in the past, then I think we can start to look hopefully to the future to some positive legislation coming through this House. Thank you.

Mr Corkill: Mr Speaker, I will be brief. I just want to add one point to the debate. I am a supporter of this Bill and all the reasons, I think, that have been covered during the debate in general principle I support, and I think it is right that we do not have a law before us which in fact will perhaps give the police the ability to be too zealous with regard to their approach to this situation.

In coming to my conclusion on this Bill I have done so in the absence of a certain amount of information. It is information that I think is probably the way forward and the truth, but I believe we have a shortage of data and statistical information with regard to the trends in road safety and at the end of the day this is a road safety issue in terms of accidents and injuries, deaths caused by alcohol and vehicles not mixing together. That is quite clear in my mind, drinking and driving is antisocial, it is dangerous, it is not acceptable, and I think it is true that people's attitudes have changed and developed in a more responsible manner over the years.

But as a legislator I am considering a Bill at the moment in absence, I believe, of thorough statistical information which I think would be useful to support the argument and I think perhaps if that availability of evidence is there, it would be useful to members to consider the fact that there may be certain underlying trends in road safety at the moment which are not perhaps related to the subject and we could just be looking at a road safety issue from one particular angle, whereas the overall might be useful to consider. I just wanted to add that to the debate.

Mr North: Mr Speaker, just an additional point. I support the Bill, but we are really only scratching the surface and I feel that regarding some of the legislation that is needed for this, the problem as I see it is not so much the people that will be caught under this, and hopefully there will be some, but those who are alcohol-dependent. Those are the problem and we are not addressing that in this Bill. If we can address some way in legislation those who are dependent on alcohol, then we would get somewhere and really the point I just wish to make is that if the medical profession would only co-operate fully, as far as the people of the Isle of Man are concerned, if they knew somebody was dependent on alcohol, and of course it is an industrial disease today and treated as such, then surely the medical profession should be, under legislation, allowed to take away somebody's licence, with no reason, just remove it for

medical reasons, and I just feel that we are ignoring the real aims that we could achieve in terms of preventing serious accidents by just tinkering with the problem.

Mr Rodan: Mr Speaker, I would like to support this legislation and reiterate some of the points of the hon. member for Onchan, Mr Corkill. I do not think there is any doubt that the drink-drive culture has, over the years, become more socially and morally unacceptable, and interestingly I think it is amongst younger people that it is socially unacceptable and there is perhaps a greater awareness than there is amongst middle aged or older people for whom, when they were young, society did not consider it nearly as unacceptable to drink and drive as it does today. But that unacceptability is not universal, which is why we need at some stage legislation.

Now, the key to tackling the drink-drive problem is deterrence and to an extent society itself, through its values, imposes its own moral deterrence on individuals and moral and social acceptability on individuals. But, as I say, it is not universal, so legislative deterrence is required and this is what we are doing today. So the question of deterrence can break down, I believe, into two areas: tougher penalties and enforcement. So what we should be asking is how does this Bill stand up to those two tests of penalty and enforcement?

As far as penalty is concerned, the Bill, and the minister has made reference to this, where there is more than 150 milligrams in 100 mls of blood, alcohol, unlike the UK we are proposing a two-year minimum disqualification rather than 12 months. So there are tougher penalties proposed in this legislation, and on the question of enforcement, roadside tests will undoubtedly make for more efficient deterrence and enforcement on the part of the police and of course it is more efficient for the innocent motorist, and one or two members have referred to that.

Members have referred to, and I think it was the hon. member Mr Singer, the question of why not 50 milligrams and why not random breath tests? I believe we are right to start this legislation at 80 milligrams. The minister will be aware that a majority of the European Union states have adopted a 50 milligram limit and indeed some countries have zero milligrams, absolutely no alcohol in the blood at all, but I am sure he is also aware that a recent House of Lords select committee on this subject has concluded that a reduction in the UK from 80 milligrams to 50 milligrams, their conclusion was, and I quote, it would make only marginal long-term difference to road safety, and one of the reasons they identified for this was that certainly the UK statistics - and this is why Mr Corkill is quite right to point to the importance of building up a base and a bank of statistics before we go down particular legislative routes - indicate that more than half of alcohol-related road deaths are caused by drivers who have more than 150 milligrams in their blood, and this select committee therefore pointed out the need for tougher penalties as having a greater deterrent effect than the reduction from 80 milligrams to 50 milligrams or the equivalent of a pint of beer or a glass of wine; we are at that sort of level.

We could go down the route of random tests, but I do not think this morning a case has been made for that to happen at this stage. It sounds a good idea, but before we go down such a route, and some would argue to the nanny state route, let us pause, let us pause to see how this legislation works, let us build up the statistical base from which we can draw conclusions as to the workability of the existing limits, the desirability of random tests before we introduce something that is arguably more draconian and, as Mr Corkill says, let us see the

emerging trends in road safety as a result of this legislation before we do random breath testing that, as Mr Quine the hon. member for Ayre, pointed out, in terms of public acceptability is at least questionable.

The Speaker: Hon. members, can I call upon the hon. minister, the hon. member for Ramsey, Mr Bell to reply?

Mr Bell: Thank you, Mr Speaker. I think the debate on this issue has gone very much along the lines which I expected. A number of members have highlighted the fact that perhaps the Bill does not go far enough in tackling this particular problem, particularly in the area of random testing, and have raised a number of other interesting points in relation to that. I would simply, in a general sense, to begin with like to stress that this is an honest attempt to find a balance between those people who are totally hostile to the idea of the breathalyser coming in and those who want to go to extremes where the police in effect will be sitting outside every pub waiting to pick off the drivers. Certainly in the past, as the hon. member for Ayre Mr Quine has said, there have been strong feelings on both sides in this argument and this is largely why the previous measures have failed when they have been brought forward to this particular House.

I have to say the hon. member again is absolutely right: in the past I have opposed the introduction of the breathalyser. At the time I certainly did not believe that public opinion on the Island was of a mind to see certainly random testing on the Island which I think was what was being proposed at that time.

I do believe, and our own departmental research has shown now, that a great majority of people on the Isle of Man do believe that the breathalyser should be brought in as a tool to aid the police. I think perhaps there is some difference of opinion still as to whether they fully support random testing. But this is an attempt to initially respond to those people who do believe that the breathalyser should be made available to the police. It is not only a measure to deter, we would hope, drinking and driving, but it also, as I think the hon. member for North Douglas Mr Houghton has said, will go some way to avoid the embarrassment which has occurred on a number of occasions where the police, quite rightly, have to use their own judgement as to whether someone is over the limit or not and then that person has to come all the way in to Douglas police station for testing. It ties up that individual, the driver's time for some considerable number of hours on occasions, it certainly ties up police time which could be better spent elsewhere and frequently at the end of it, if they are found to be under the limit, then they are sent on their way again. The breathalyser will provide an instant identification as to whether further investigations are needed and by and large this measure should prevent the sort of embarrassing cases which we have seen over the last two or three years in particular being repeated again.

Now, the hon. member for Douglas West, Mr Downie, is concerned again as to the extent to which the breathalyser can be used, and I would simply repeat what I said in my introductory address, that it is in two particular areas. It is where accidents occur and I am led to believe that both parties in an accident can be breathalysed - this is the assurance I have had from the legal draftsman - it also covers dangerous, careless and inconsiderate driving. So a large range of moving traffic offences will be brought in to the police ability to use a breathalyser. It does not cover every potential problem. For example, if someone is driving

with a rear light not working, the police will not be able to flag them down and breathalyse them. They will not be able to harass them on the road in that sense.

It may well be that experience in time will show that there is inconsistency in the Bill that we are proposing at the moment, but it is an honest attempt, as I said at the outset, to strike a balance between providing the police with a facility to aid them in their policy of deterring drinking and driving and reassuring the public that there will be no random testing. There is a facility within this Bill for amendments to the range of offences to be extended by order of Tynwald if in fact Tynwald feels that the measures are not working.

The hon. member has asked, what is a public place? Well, I can assure the hon. member that a road or a public place certainly covers footpaths and car parks as well as roads. So the areas that he has referred to can be covered in this Bill.

The hon. member for Douglas South, Mr Duggan, has touched on a point which is dear to my heart in relation to drinking and driving and that is the lack of public transport, certainly late on at night, and the shortage of taxis which occur at peak times at weekends and again at holiday times, most noticeable this year at New Year. I understand this is something the Department of Transport is looking at as part of their transport strategy and I would very much hope that between us all, over the next few months, we can actually develop a new approach to the provision of transport late on at night to make sure that we can do our very best to provide a standard of transport which would encourage drivers not to take their own vehicles and to get alternative methods of transport to get home at night.

I thank Mr Houghton again for his support. He, as we all know, is a strong supporter of the police and more powers to assist them in their difficult job. I think I covered most of the points that he has raised.

He did refer to one point, though, as to whether in fact an offender can be detained until he is sober and, I am sorry, I cannot just remember exactly which clause it is, but it is included in the Bill and when I get time to whip through it I will point it out to him later on, but that issue is addressed in the Bill and he will see in what context later on.

My colleague, Mr Singer, like Mr Downie, I think, feels that we are not going far enough on this and what is the reason for its introduction? We are responding to requests from the police for us to assist them, there is no question about that. We believe also from our research that public opinion now, as I said earlier, has moved to such an extent that they will now support the introduction of this measure, but as I say, we are developing this legislation with one eye on past experience, on past debates here, and the difficulties in getting such a facility approved by the House of Keys for the police use, and that is why, as I say, once again we have tried to take a sort of middle road on this to keep as many people reassured as possible.

The hon. member has stated that this will not tackle the high-stake gamblers who will continue to drink and drive and that we should consider bringing down the limit to 50 ml instead of the current 80. I would simply suggest, as the hon. member for Garff has also identified, that the high-stake gamblers will drink and drive whatever the limit we put on it and 50 will certainly not deter them from any limiting of that attitude. We have a hard core of socially irresponsible people in our community and they will continue to do that whatever limit we put on it and sadly ultimately the only deterrent will be when they are finally prosecuted and

removed from the roads or, as is happening more frequently, imprisoned for the reckless behaviour that they display.

The hon. member for Ramsey, though, does touch on one point which has been one of the guiding principles in my mind anyway from taking office at the Department of Home Affairs and that is whatever legislation we bring forward, whether it is the breathalyser or any other form of legislation to assist the police we have to recognise that there has to be public acceptance and public willingness to go along with that legislation. It is important that we manage to maintain a good working relationship and respect between the police and the public and I think if we lose that balance and the public perhaps lose their respect for the police or feel that they are being harassed by the police unnecessarily, once that good relationship goes, then it is going to become increasingly more difficult for the police to operate effectively on the Island and draw on public support from time to time when it needs it. That relationship is absolutely crucial in the fight against crime and lawlessness, and as I say, it has been my sincere attempt to try and continue to strike that balance that where there are new powers for the police there has to be continued reassurance for the public as well that those powers will not be abused and I would hope that the hon. House would recognise that and agree with me and with the department that that is an essential ingredient if we are going to toughen our stance against crime.

I thank Mr Quine, the hon. member for Ayre, for his support. He, as he rightly says, has been at the forefront of trying to bring in this facility now for a number of years and I have to say I was probably, as he says, one of the strongest opponents in the past. I am a bit concerned when I find myself on the same side as my member for Ayre.

Mr Brown: He will vote for you next, Edgar! (*Laughter*)

Mr Bell: There are a couple of weeks to go now until the clauses so I had better go and check it to make sure I have done the right thing. (*Laughter*) But I do thank the hon. member for his support. He has identified the difficulties that we have had in the past and that largely has governed our approach to the drafting of this legislation today. It is, as I say, trying to strike a balance between the two extremes. We may not have it exactly right but it is an honest attempt at this stage to try and achieve just that.

I do not know what I have done this morning. I forgot to check my stars in the paper before I came in but the hon. member for East Douglas is also supporting me and the Bill but to have support from two colleagues of such stature on a morning like this, I think I must have done something wrong with this Bill.

Mr Houghton: You better go and buy a lottery ticket, Allan! (*Laughter*)

Mr Bell: But I thank her for the support and I am glad that she recognises the urgency with which we have addressed the introduction of this legislation and she looks forward to positive legislation from the department in the future. I can only assure her that all legislation coming from the Department of Home Affairs is always positive and I look forward to her ongoing support.

The only other issue, I think, which quite rightly has been raised is the one of the lack of statistics, and I hold my hands up completely on this. We do not have in-depth statistics to back up our arguments. But for those members who have read the report which was brought

out in relation to road safety during the TT period, they will recognise that we found a similar problem at that stage and this is what hampered our deliberations on things like the speed limit because frankly government just does not have the depth of statistical information to actually accurately put forward a case on the scale that both the hon. member for Onchan and indeed the hon. member for Garff have suggested. They are absolutely right that the case would be strengthened obviously, with those statistics and I know there have been some positive moves certainly within the Department of Transport which is responsible for collating those, over the last year or two, to start to address that problem and put it on a firmer footing. The only statistics which I can draw on really to show that there has been an improvement when the breathalyser has been brought in is of course the statistics which are available in the UK, and we have recognised the changes which took place at that time, but it is an issue which needs to be addressed. It is being addressed. I am sure as time goes by as those statistics are collated and a clearer picture is built up, in future when these types of debates take place they will have a better information base to argue the case on.

There are two further points. The hon. member for Middle, Mr North, pleads for the need for treatment of alcoholics and restricting their ability to drive. I think that is a wider issue than just bringing in the breathalyser and certainly needs the involvement of the Department of Health and Social Security as well as perhaps our own department's interest and is an issue for debate in the future I think.

The hon. member for Garff has touched on the 50 ml limit in Europe. There are a number of countries in Europe now with a 50 ml limit - not all countries - and there are some with nil limits, zero limits. With the zero limits it is fraught with difficulties because a lot of drivers may have medication which have alcohol in them and they may get alcohol in their bloodstream from other indirect sources other than drinking and if we have a nil limit it would be very, very difficult to prove, it would be fraught with appeals and it would really clog up the whole system, I think, if we were to go down to that level. So whilst that might be the ideal, I think from a practical point of view it is just not workable.

The ability to reduce from the current 80 ml to 50 ml has been enhanced in this Bill in so far as in future we will not need to go back for primary legislation if it is felt that a change is required. It will simply need an order of Tynwald and approval by Tynwald for any change. But the UK have looked at this and as far as I understand it have discounted it for the time being and are not planning to bring in the 50 ml limit, which was discussed some months ago, certainly not for the foreseeable future, but obviously this is a weapon which we need to retain in our armoury, and as I said at the outset, the purpose of this Bill is in effect to put the police and the public on probation and if the public in particular respond to the steps we have taken now, then it may not be necessary to amend the legislation in the future, but of course if the number of drink-driving cases continue to grow and the new provisions are ignored, then the hon. House is quite at liberty then to consider further reductions in that level, which will obviously have severe restrictions on the social activity of a lot of people on the Island as a result. So the future of this legislation is very much in the hands of the public and how they respond to our balanced approach in this measure.

I hope I have covered all the points which have been raised. I know it is a contentious issue. It always has been. It probably always will be. We will never get a hundred per cent support for any particular measure that comes forward. I can only repeat that this is an honest

attempt at balance between two extreme views and I very much hope that the House can find it to support the Bill this morning.

The Speaker: Hon. members, the motion then is that the Road Traffic Bill be now read a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, that concludes our order paper this morning but I would just remind members that at 12.30 there is a reception in the members' room downstairs so that members will have the opportunity to meet the three members of the commission this morning, and as you were notified previously, it is the intent of the Chief Minister to have his regular monthly meeting on the second Tuesday at the conclusion of our business, and we understand that the health services have a presentation to members at lunchtime in the Millennium Room, and the Chief Minister's meeting will follow the conclusion of that at approximately half past two.

Can I say, hon. members, how good it is actually to see the hon. member for Ayre back in his seat this morning. (**Members:** Hear, hear.) It is nice to see him in quite robust health sitting in the seat there, and can I also say thank you to members for the support that actually has allowed the hon. member for Peel, Mrs Hannan, to join us earlier this morning, particularly at this difficult time in her family life. (**Members:** Hear, hear.)

Hon. members, that draws to a conclusion our business for this morning and the House will now adjourn and will sit next Tuesday, 19th May at 10.30 a.m. in Tynwald chamber.

The House adjourned at 11.48 a.m.