

**REPORT OF PROCEEDINGS OF
HOUSE OF KEYS**

**Douglas, Tuesday, 27th March 2001
at 10.00 a.m.**

Present:

The Speaker (Hon J D Q Cannan) (Michael); Mr L I Singer and Hon A R Bell (Ramsey); Mr R E Quine OBE (Ayre); Mrs H Hannan (Peel); Hon W A Gilbey (Glenfaba); Hon S C Rodan (Garff); Hon D North (Middle); Mr P Karran, Hon R K Corkill and Mr G T Cannell (Onchan); Messrs J R Houghton and R W Henderson (Douglas North); Hon D C Cretney (Douglas South); Mr R P Braidwood and Mrs B J Cannell (Douglas East); Mr J P Shimmin and Hon 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 and Mr J Rimington (Rushen); with Mr R B M Quayle, Acting Secretary of the House.

The Chaplain took the prayers.

Apologies for Absence

The Speaker: Hon. members, we turn to the order paper and I have apologies from the hon. member for South Douglas, Mr Duggan, who is indisposed.

Foot-and-Mouth Disease Restrictions — TT Races — Question by Mr Cannell

The Speaker: We will now move to the questions and I call upon the hon. member for Onchan, Mr Cannell, to ask the Chief Minister.

Mr Cannell: Thank you, Mr Speaker. I beg leave to ask the Chief Minister:

Under the present foot-and-mouth disease restrictions, at what point will your Council decide whether the TT races can go ahead?

The Speaker: The Chief Minister.

Mr Gelling: Yes, Mr Speaker, the whole issue of the potential implications of the foot-and-mouth crisis in the United Kingdom on the staging of the TT races is the subject of ongoing review between government departments. The government recognises the serious implications of such a decision and clearly will look to make that decision based upon the best advice available. The timing of that decision will, to a large extent, depend upon the advice that we do receive.

Now, the Department of Agriculture, Fisheries and Forestry and the Department of Tourism and Leisure are closely working together to provide that advice, and the TT organisers have indicated that the very latest date by which they need a decision is the end of April and at that stage, based on all the evidence available, we would make a value judgement whether the TT would go ahead as planned, be postponed or indeed be cancelled.

If at any stage we were before that cut-off date to reach a position, based on all the advice, and it was clear that, whatever further development, the TT could not possibly go ahead, we would obviously make an earlier decision, sir.

The Speaker: A supplementary, Mr Cannell.

Mr Cannell: Thank you, Mr Speaker. May I ask the hon. Chief Minister to comment that that would pose severe difficulties for all concerned, riders, spectators and the trade, and that many businesses face financial ruin, as fiddling while Rome burns, with only four weeks to the event, is still the decision of those who are advising the hon. Council of Ministers?

The Speaker: The Chief Minister to reply.

Mr Gelling: Yes, Mr Speaker, we can only deal with the advice we are given and if the hon. member is saying that cancelling the TT is the lesser of the evils I do not know is that in fact what

he is saying, that if we cancel the TT these people that are possibly facing ruin will not face ruin. It is a very, very difficult decision to make at a time when, if we were forced to make a decision yesterday, I would suggest that with the escalation of cases in the United Kingdom, probably the answer could have been no, but this morning we hear of some of the restrictions being lifted on areas in the Cumbria district, so therefore the picture is changing every day, so therefore I would think it would be a great shame for us to make an early decision on something that we would only be speculating on and we do not have the evidence on which to make that decision at this time.

The Speaker: Mr North, a supplementary.

Mr North: Mr Speaker, would the Chief Minister agree with me that if, sadly, the TT had to be cancelled the people who had booked on the airlines and the Steam Packet and had booked the hotels, most of those would probably still come for their annual holiday to the Isle of Man?

The Speaker: The Chief Minister to reply.

Mr Gelling: Yes, indeed, Mr Speaker, we do have evidence available to us that a lot of people of course book to come to the Isle of Man for that period. They have paid deposits and they will still come to the Isle of Man irrespective if the TT is on or not. So therefore they will be travelling to the Island as visitors to our Island and have to go through whatever specific regimes we might have in place at that time, depending on what is happening all around us.

I think it is a case that all around us there is crisis, but if it got to the Isle of Man we would be devastated, so obviously we are taking this extremely seriously but trying to be sensible and allow the Island to operate as normally as possible within those restrictions, sir.

The Speaker: Mr Cannell.

Mr Cannell: Yes, thank you, Mr Speaker, a further supplementary if I may. Notwithstanding the difficulties which would be faced by everyone concerned were the TT to be cancelled or indeed postponed, does not the Island owe it to its agricultural industry to do everything possible to preserve its ongoing livelihood which could vanish permanently rather than a temporary problem which might afflict the TT?

The Speaker: The Chief Minister to reply.

Mr Gelling: Yes, Mr Speaker, we are very conscious of the situation in respect of the agricultural people in this Island and the pedigree herds that have been built up on this Island for generations. These are the situations that we have to wrestle with. We have to balance those against the situation with regard to the Island and its economy and these things change, as I have already said, from day to day, so everything we are doing is to prevent the disease getting to the Isle of Man.

However, as I have already stated, this is changing in the adjacent isle and therefore if the restricted areas and the restrictions are lifted, this, in the next three months, could make a very, very big difference to the decision.

So therefore what I am saying is this, that we have been given the information that there is a meeting coming off next week between the organisers and the government department in the Island that is a joint partner in the races and therefore we wish to hear from them also what the situation is with respect to the TT, not just this year, but the following year and the following year after that. So therefore we have to balance these things and come up with a decision which is very difficult, I must say, at this time when we are still free of this dreadful disease.

The Speaker: A final supplementary, Mr Cannell.

Mr Cannell: So would the hon. Chief Minister therefore not concur with the statement made by his tourism minister that the TT goes ahead?

The Speaker: The Chief Minister to reply.

Mr Gelling: Mr Speaker, this is an ideal opportunity, I would suggest, to say that our Minister for Tourism made a statement to which I have listened very, very carefully, a very balanced and reasoned statement that was made. It was taken in soundbites by our local radio. The soundbites were played in a way that actually misled the people that heard it (**Members:** Hear, hear.) and I think that was very, very unfortunate, to say the least, sir.

Joey Dunlop Tribute Lap — Question by Mr Singer

The Speaker: Question number 2, 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) *Who was consulted in regard to the date of the proposed Joey Dunlop tribute lap during the TT;*
- (2) *what was the date preferred by those consulted; and*
- (3) *did you consult those groups, local authorities and commercial concerns for whom Mad Sunday is an important events day?*

The Speaker: The Minister for Tourism and Leisure.

Mr Cretney: Thank you, Mr Speaker. After many requests from visitors to the TT races my department has considered staging the Joey Dunlop lap of honour during TT 2001. We felt that it was important to ascertain the views of the general public of the Island in terms of both was it a good idea, and if so, When should it take place? We undertook that consultation by issuing a major press release and inviting everyone to write in, email or telephone the department. We received around 320 responses by various methods. We were very grateful to Isle of Man Newspapers who carried a full front-page article in the *Isle of Man Courier* and Manx Radio for their assistance in this regard.

As hon. members will be aware, there was a wide range of responses. Of those who expressed a preference 74 per cent were in favour of the option of staging the event on the middle Sunday. In addition a number of those who responded raised issues with regard to the alternative Saturday option which cast doubt on its viability.

With regard to part (3) of the question, as I indicated earlier we consulted everyone by means of extensive media coverage and afforded them the opportunity to write, telephone or email their responses to my office to collate.

The Speaker: Mr Singer, a supplementary.

Mr Singer: Thank you. Could I ask the hon. minister, did he give any consideration, though, to the previous decision that had been made in recent years that was to try and keep visitors off the TT circuit during Mad Sunday and that therefore organisations would be encouraged to hold events on that day and as these events have now become part of the TT calendar, expenses have been incurred in preparing for these events and now certainly the one in Ramsey on the Sunday, a major event, has been cancelled?

The Speaker: The minister to reply.

Mr Cretney: Yes, Mr Speaker, I did give very serious consideration to that. I also gave consideration to the views of those people who are coming to join with us. I made it clear that as far as I am concerned there are a number of events which are scheduled to go ahead on the Sunday, if we have the races, which should not be affected; it is for the organisers of them if they wish to put them on or not.

I would also say that in my opinion the running of a lap of honour for Joey Dunlop on the Mad Sunday may help prevent road traffic accidents.

The Speaker: A supplementary, Mr Singer.

Mr Singer: Thank you, Mr Speaker. Could I ask the hon. minister? Obviously some of the most important people to listen to their comments are the TT marshals and were the TT marshals in fact in favour of coming out on the Sunday or did they express a preference for continuing on the Saturday after the racing, and does the minister still think it is right that, whilst the Ramsey Commissioners and the sprint organisers oppose the Sunday because of, say, the commercial interest, the Ramsey Chamber of Trade were not asked to comment, and is he happy that one of the most important commercial days after Christmas has now been ruined by this decision and that Saturday would have been the better day all round?

The Speaker: The minister to reply to a series of questions.

Mr Cretney: Thank you, Mr Speaker. I agree a series of questions. If I can try and answer them all I will happily do so.

With regard to the TT marshals organisation, prior to Christmas the TT marshals organisation made it clear to us that they believed that it would be the wrong thing to run a further lap during TT 2001 for Joey Dunlop. After having received a copy of that correspondence I felt that was the end of things. What altered the situation was that a large number of people who visit motorcycle shows contacted both my department's stands and the Isle of Man police who were present at such shows saying that they wanted to have an opportunity to pay their respects in the same way that the fans at Manx Grand Prix had had that opportunity. They said that if we did not organise something there could be an ad hoc lap. Our considered opinion was that it was better to manage the situation rather than having an ad hoc lap. That is a view which is shared by the police.

With regard to the sprint organiser, the spring organiser has not contacted the department directly, but I contacted the sprint organiser via my department because I am conscious of the good work which has gone in via his organisation over a number of years and we are anxious to support him. Indeed we are putting on a new event in Ramsey during Manx Grand Prix this year in conjunction with him.

We have not been contacted to the best of my knowledge by Ramsey Chamber of Commerce, but they did have the opportunity, as so many others did. Ramsey Commissioners did contact us, as did the two hon. members who represent Ramsey in the House of Keys.

Department of Tourism and Leisure — Transport Division Appointments — Question by Mr Houghton

The Speaker: Question number 3, the hon. member for Douglas North, Mr Houghton.

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

- (1) *Has your department recently appointed three managers to senior positions in the transport division;*
- (2) *if so, are they existing members of staff, or work permit holders who have moved to the Island from the United Kingdom; and*
- (3) *what are these posts?*

The Speaker: The Minister for Tourism and Leisure to reply.

Mr Cretney: Yes, thank you, Mr Speaker. My department has not made any recent permanent senior management appointments in the transport division.

The Speaker: A supplementary, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. Can the minister explain therefore why a consultative agency known as Beamans was contracted to undertake a review of management and administration in the transport division when this particular responsibility was personally vested in the hands of the director of public transport so that his existing workforce would be reorganised in a way that these dedicated local employees would be offered senior management positions, and

also, why has his department employed a consultant from the UK who is currently working on an extended contract whilst reorganising the workforce in accordance with Beamans recommendations when this should be the prime responsibility and undertaking of the director? Does he not agree, sir?

The Speaker: That question, hon. minister, does not coincide with the question as printed, but you may reply.

Mr Cretney: Yes, again I am happy to respond in as careful a way as I can, Mr Speaker. I think it is important from time to time in any organisation to have a review of how things are going. It was quite clear from the independent review which was undertaken by Beamans that certain actions needed to be taken with regard to the management structure in the public transport division of my department. That is what is happening.

What we have presently is one person who has been taken on on a temporary contract for 12 weeks with a possibility for that being extended for a further 12 weeks.

There are three senior appointments which will be advertised openly. They have not been advertised as yet and they will be available to people both on and off the Island.

The Speaker: Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker, and I thank the hon. minister for his reply, so can he therefore categorically assure this House that none of his managers is being offered early retirement, redundancy or even demotion in their respective positions, sir?

The Speaker: The minister to reply.

Mr Cretney: I am not saying that at all, Mr Speaker. What I am saying is that the extensive review which I believe was necessary has indicated a number of weaknesses in the organisation. A number of members of staff have said that they would like to take the opportunity to exit the business. A number of others would like to be considered for appointments which will be soon advertised on an open basis.

The Speaker: A final supplementary, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. If I can finally press the hon. minister -

Mr Cretney: You don't impress me at all.

Mr Houghton: No, press the minister.

Mr Cretney: You do not have to press me.

Mr Houghton: Well, thank you.

The Speaker: Hon. member, just give your question.

Mr Houghton: Can he give categoric assurance then please, Mr Speaker, if I can ask the minister, that those early retirements, redundancies or demotions will not be sought by his department?

Mr Cretney: I think I have just answered, Mr Speaker, that I will not give any such assurance. There will be no such assurance given by me. What we have an obligation to do for the public of the Isle of Man is to ensure that the organisation runs in a far more efficient manner than it has done in the past.

Local Authority Rates — Change of Date — Question by Mr Singer

The Speaker: Question number 4, the hon. member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker, and I beg leave to ask the Minister for Local Government and the Environment:

- (1) *How long has your department been in consultation with the Department of Health and Social Security and the Treasury regarding the annual date for the fixing of local authority rates; and*
- (2) *what comments have you received from the larger authorities in relation to your proposed change of date?*

The Speaker: The Minister for Local Government to reply.

Mr Gilbey: Mr Speaker, in June 2000 the Department of Local Government and the Environment was asked to consider a request from the Department of Health and Social Security to supply the social security division with details of any changes in local authority rents effective from 1st April 2001 by 23rd February 2001. This was to provide the DHSS with a suitable timetable to implement any amendment to the housing benefit on 1st April.

The DHSS maintain that because this information is not at hand on the required date it has no alternative but to pay housing costs within benefits at the old rates and to pay arrears later, thus causing unnecessary duplication of work, additional administrative costs and inconvenience to the public.

The current situation is that in the case of local authority rates authorities have until 16th February to finalise their estimates. The burial rate is determined by church wardens of the parish who have under existing legislation until 1st March annually.

Another rate which impacts upon the setting of rents but which falls outside of the department's control is the water rate which is usually set in March.

In order to address the matters referred to, amending legislation would be required. It is understood that the Treasury has plans to introduce a new Rating and Valuation Bill in the 2001-2002 legislative programme and such a vehicle could be used to implement such legislation if this was deemed necessary.

In July 2000 the Council of Ministers agreed in principle to the department's proposal to introduce legislation to provide for the setting of local authority and burial rates to be brought forward to 31st December annually. However, the Council of Ministers agreed that the department should discuss the proposal with local authorities and church councils before progressing the matter further.

Since that time the department has consulted with the local authorities on the matter and received their views. It would appear from comments received that the majority of parish councils do not have a problem with the proposed change of date, whereas some of the larger authorities are of the opinion that the change would not be feasible from their point of view.

The Speaker: A supplementary, Mr Singer.

Mr Singer: Thank you, Mr Speaker. I thank the hon. minister for his answer. In view of the Department of Local Government's consultation letter to local authorities seeking their views on the bringing forward of the latest date by which to set the rate from February 16th to December 31st, can the hon. minister understand the astonishment and consternation of the local authorities when this so-called letter of consultation states, 'It is the department's intention that this should be incorporated into a Rating and Evaluation Bill which the Treasury propose to introduce in the 2001-2002 legislative programme.' Now, if the minister's department, from the letter, already appears to have made the decision, what is the point of a wasteful paper exercise of so-called consultation?

The Speaker: The minister to reply.

Mr Gilbey: Of course the hon. member has a copy of the letter, but he never quoted the penultimate paragraph of it which says quite clearly, 'Before taking these proposals forward we would appreciate your views and I shall be grateful if you would let me know the thoughts of your members by 28th February 2001.' The hon. member is also very well aware, because he has had

copies of the letters, that the Ramsey Commissioners then wrote in about this matter expressing some concerns. He also knows that the chief executive of the department replied to them and that they replied to the chief executive.

The Speaker: A final supplementary, Mr Singer.

Mr Singer: Well, in that case could the hon. minister tell me, as February 28th was the closing date, has the department taken note of the objections from the major local authorities who quite clearly would find it extremely difficult to come forward with a fixed rate by December 31st and if they cannot do that, then would he not agree that this would be to the disadvantage of the ratepayers, and is it not a fact also, minister, that the reason for trying to bring this forward, to the detriment of the local authorities, is the fact that the DHSS systems are antiquated and if they were up to standard there would be plenty of time for them to determine housing costs before April 1st, maintaining the present date?

The Speaker: The minister to reply.

Mr Gilbey: First of all I do not necessarily agree that the DHSS systems are antiquated. I would have thought all hon. members would want to have arrangements which meant the minimum work for all departments of government because we often express concern at the number of government employees, but the more work we provide to be done the more number of employees we will require.

Regarding the commissioners, certainly we take into account the comments and I read out the fact that it would appear from comments received that the majority of parish councils do not have a problem but that some of the larger authorities are of the opinion that a change would not be feasible from their point of view. Therefore we are well aware of the views of the Ramsey Commissioners and some others. This will now be considered by the estates and housing directorate of the Department of Local Government, which is headed by his hon. colleague, the member for Ayre, Mr Quine. After that it will be considered by the department and the department will then, if appropriate, make a recommendation to the Council of Ministers.

Sewerage Infrastructure — Agency Agreements — Question by Mr Singer

The Speaker: Question number 5, the hon. member for Ramsey, Mr Singer.

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

As the Department of Transport is taking over ownership of all sewerage infrastructure on 1st April 2001, are all agency agreements in place with the local authorities who are expected to maintain and manage the systems in their areas?

The Speaker: The Minister for Transport.

Mr Brown: Mr Speaker, under the Sewerage Act 1999 the ownership and responsibility for the Island's sewage system transfers to the Department of Transport on the date or dates as may be specified in the relevant order or orders. I can confirm that my department proposes to make the appropriate order to bring the Act into operation from 1st April 2001.

Section 2 of the Act provides that my department may enter into an agreement with a local authority to delegate any or all of its functions, except those under part 3 of the Act, to that local authority. My department has consulted with the relevant local authorities and we have agreed the principles of the basis of the delegations.

The delegation agreements will be put in place as soon as possible and we anticipate that they will all be in place in time to coincide with the coming into operation of the Act. If for any reason the delegation agreement between the department and the local authority is not in place by the time the Act becomes effective, then my department will, as provided for under the Act, take over all responsibility for the sewerage system.

I can advise that the discussions with all the local authorities have been very positive and I do not envisage any problems by implementing the Sewerage Act of 1999. Thank you, Mr Speaker.

The Speaker: A supplementary, Mr Singer.

Mr Singer: May I just thank the minister for those assurances.

Schools — Instructors — Question by Mrs Hannan

The Speaker: Question number 6, the hon. member for Peel, Mrs Hannan.

Mrs Hannan: Vainstyr Loayreyder, I beg leave to ask the Minister for Education:

- (1) *Is the employment of unqualified staff (instructors) in place of teachers the result of local financial management;*
- (2) *how many instructors have been employed in the last year; and*
- (3) *at which schools and what subjects do they teach?*

The Speaker: The Minister for Education.

Mr Rodan: Mr Speaker, I would respond to the hon. member for Peel by firstly saying what instructors are. Instructors are people with specific skills, perhaps a degree, but with no formal teacher qualification. They would be mostly found in situations where very specific skills are needed, for example, vocation areas like office business studies, instruction, design and technology, music instrumental tuition, for example.

Instructor posts are fully recognised under the teachers pay and conditions system and their use in schools is already accepted practice, even may I say during the time the hon. member was Minister for Education.

The teachers associations are kept up to date on all such instructor posts. They accept the use of instructors and are in full cognisance of instructors employed at any particular time.

But I would like to emphasise that while historically the Island schools have on occasion found it necessary to employ a member of the teaching staff on an instructor basis and therefore this is not new, it does not happen very often. It only occurs when no suitably qualified teacher is available and usually only arises when a very specific short-term vacancy cannot be filled. If a school has a vacancy where it is having difficulty in recruiting a fully trained teacher, then and only then is it acceptable for the school to consider the use of an instructor. This situation is therefore not the result and is nothing to do with the introduction of delegated financial management into secondary schools three years ago.

In relation to the second part of the question, by the last year I assume it is meant the current academic year September 2001 to date.

No instructors at all are being used in the Island's 35 primary schools. In the secondary schools there are just two posts which at present are being filled by instructors on a supply basis. There are a further two instructors in the music service on a one-year contract. There are also a very small number of persons on the department's secondary supply register who are available to schools only on an instructor basis who from time to time may be used to cover for short-term absences.

In answer to part (3), the posts concerned are temporary cover in English at St Ninian's High School and temporary cover in PE at Ballakermeen High School. The English instructor holds a classroom support qualification and is studying for an Open University English degree, with plans then to carry out a postgraduate certificate of education on the Island, thus becoming a fully qualified teacher. The PE instructor is a young graduate who is going into teacher training in September 2001, supported by the Department of Education. In both cases the instructors work closely with and are closely supervised by senior staff in their respective departments.

The two instructors in the music service are both music graduates and are teaching brass and woodwind respectively in our peripatetic capacity in the Island's schools.

Therefore, out of more than 700 teaching posts in our schools, we have two being temporarily covered on a supply basis and two on a short-term contract and the department is in any case looking to fill these posts by September 2001 with fully qualified teachers. The use of these individuals as instructors is certainly not a ploy to save money and I am sure this House would wish me to thank them indeed for their services and wish them well in the work they are doing for our children and indeed wish them well as they progress their professional careers. Thank you, Mr Speaker.

The Speaker: A supplementary, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. Could I ask the Minister for Education whether he sees this as something which will increase in the future, even if it is leading up to someone taking a teacher training course?

The Speaker: The minister to reply.

Mr Rodan: Mr Speaker, yes, I do not necessarily see the use of instructors being any more frequent than it is at present.

I would like to reiterate that the only one reason for the employment of any instructor is the lack of an available and suitably qualified teacher and while we have not been immune from the current recruitment and supply difficulties being felt in the teaching profession on the adjacent isle, the department and the Island's schools are working very hard to recruit qualified teaching staff against this difficult background, sir.

The Speaker: A final supplementary, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. Could I ask - the minister mentioned supporting a student through teacher training - how many students are supported by the Department of Education through teacher training, as in the UK now graduates going on to take teacher training courses are supported by that government?

The Speaker: The minister to reply.

Mr Rodan: Yes, Mr Speaker, the Island's schools currently support the teaching practice experience of some 30 to 40 student teachers in training over each year from Lancaster, Liverpool and the Open University training. It was my pleasure to meet with some of them during my school visits last week and I commend them for the work they are doing and I hope that many of them will wish to stay in the Island to help our schools on the completion of their training, sir.

Airports and Civil Aviation Bill — Second Reading Approved

The Speaker: That, hon. members, brings to a close today's Question Time and we move on now to item number 7 on our order paper, Airports and Civil Aviation Bill for second reading, hon. member for Castletown, Mr Brown.

Mr Brown: Thank you, Mr Speaker. The Airports and Civil Aviation (Amendment) Bill 2001 is a Bill that is promoted by my department, the Department of Transport, on behalf of government.

The Bill will amend the Airports and Civil Aviation Act 1987 and inserts a new section 11A into the Airports and Civil Aviation Act. The new section will enable the department to make application orders which apply European Community instruments dealing with civil aviation matters to the Isle of Man as part of Manx law. The powers are similar to those in force in relation to sea-fisheries and Customs and Excise.

Mr Speaker, I beg to move the second reading of the Airports and Civil Aviation (Amendment) Bill 2001.

The Speaker: Mrs Hannan.

Mrs Hannan: I beg to second and reserve my remarks.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like to ask the hon. member, is this an order instead of the United Kingdom Government trying to extend an order to the law of the Isle of Man?

The other issue that I would like to ask the hon. member, because I did not think he really went into the details of why this piece of legislation is here and maybe he would like to give more details as far as that is concerned, is the issue of whether we should be putting in primary law the fact that all air routes on the Island should be owned by the government of the Isle of Man rather than having the situation where they can be sold off and we could end up with a situation with no routes to specific airports that are prime routes that there are at the present time.

So what I would just like to ask is if the minister would just clarify why we are doing this piece of legislation, the reasons why. I am glad to see that it has to have the approval of Tynwald, what would be the implications if this piece of legislation was not put through today because I think this House should not be just nodding it through while it is something to do with Europe, so we just nod it through.

The second point is I would like to know the minister's viewpoint on the fact of whether the government should own the air slots of any final destinations as far as the Island is concerned and I would like to know what the views are. I am concerned that maybe we should bite that bullet because it would be of great concern if we were to lose the Heathrow slot simply by it becoming a commercial deal within the restructured Manx Airlines as with the present takeover.

The Speaker: The minister to reply.

Mr Brown: Yes, thank you, Mr Speaker. As far as the point the hon. member made about the UK Government extending laws to the Isle of Man, as he will be aware, the UK Government has no powers to extend laws to the Isle of Man without the agreement of the executive government unless of course they introduce specific legislation into their own Parliament and certainly by convention it has always been with the agreement of the Isle of Man executive government and on occasions, I think, even with Tynwald approval.

The reason why the legislation is here is quite straightforward and I thought I did explain it when I presented the second reading and I kept it brief because in fact the Bill is quite small and quite straightforward and I repeat what I said. What it does is it inserts a new section 11A in the Airports and Civil Aviation Act 1987. The new section will enable the department to make application orders which apply European Community instruments dealing with civil aviation matters to the Isle of Man as part of Manx law - quite straightforward. Aviation is being more and more controlled by European legislation as against domestic British legislation and at the moment we are restricted under the provisions of the present Act only to be able to enact the UK legislation.

At the end of the day it will be a matter for the department and ultimately Tynwald whether or not it does extend that legislation but this gives us a power in what is very complicated legislation which may change very quickly to enable us to enact that in terms of air safety, public safety in the Isle of Man.

The hon. member mentioned about government owning air slots in final destinations. As far as I am aware we have investigated this issue. A government cannot own air slots, it has to be an airline, and whilst I as minister and the executive government and I know hon. members, and I think echoed very much by the public, have considerable concern at the potential that we may at some stage have the Heathrow slots removed from the Island's use, we take a very strong view on that. Those slots have been available to the Isle of Man for a long, long time and we believe that in principle they are in fact slots available to the Isle of Man and really the airlines should respect that. However, we are in the commercial world and when you are in a commercial world such as this, whether it be an airline, Steam Packet, whether it be a bus company or any other business, a bank,

at the end of the day the people who own the company will make the determination on the way they wish to go forward. We may, and I have already made this statement public, be in a position to make a legal challenge and we are certainly undertaking preparatory work on that in case any moves are made with regard to the Heathrow slots. I beg to move.

The Speaker: Hon. members, the motion is that the Airports and Civil Aviation Bill be read a second time. All those in favour please say aye; against, no. The ayes have it. The ayes have it.

Committee on Standards and Privileges — Establishment of — Motion Carried

The Speaker: Item number 8, hon. member for Castletown, Mr Brown.

Mr Brown: Thank you, Mr Speaker, I beg to move:

That there shall be a standing committee of the House, called the Committee on Standards and Privileges, and that the Standing Orders Committee shall consider and report with recommendations to the House by no later than 26th June 2001 regarding the membership, powers and procedures to be adopted by the said committee.

I have for some time been concerned that the House does not have a standing committee to deal with matters relating to the standards and privileges in relation to the members of this House. At present if there is a matter relating to, for example, the privileges of a member, especially where a member is aggrieved, the only option open to the member is to formally raise the matter within the House. Even if a member was so minded to raise such an issue there are no formal procedures laid down as to how the matter can be dealt with and such a matter would, as we saw recently in another place, usually be referred to the Standing Orders Committee for consideration and report. I believe that this is an inappropriate way forward.

I believe our parliamentary system is deficient in this area and that a proper standing committee should be put in place and that we should request our Standing Orders Committee to consider a suitable structure and procedure for such a committee.

Such important matters as relate to the standards and privileges of the members of this House should be subject to a fair and formal structure and I envisage such a committee having powers to send for persons, papers and records even when the House is in recess. It should have the power to order the attendance of any member before the committee and to be able to require specific documents or records in the possession of the member relating to the committee's enquiries and they should be available to that committee. The committee should also, in my opinion, be able to provide advice to members relating to any codes of conduct and on any questions of propriety.

I believe that the setting up of such a committee would be of value to the House and its members and I therefore beg to move the motion standing in my name.

Mr Cretney: I am happy to second, sir.

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

Mr Quine: Yes, thank you, Mr Speaker. I can understand the principle which obviously lies behind the motion on the order paper, I can understand that, but I am a little concerned that it is somewhat untimely for this House at this point in the life of the House for to be coming forward with something such as this when we are virtually at the end of the House, and I am very conscious of course of the fact that very recently we took a decision to provide additional time for the Keys in order to deal with pressing legislative matters, so I am concerned with that although I recognise of course the hon. member's right to bring forward whatever motion he wishes whilst this House is sitting.

But a more fundamental matter or a more fundamental concern is that this motion as it is written, or as I read it, carries with it an assumption that a Committee on Standards and Privileges is required and then it goes on to say that we should look at what it should be doing. I think that is

getting us too far along the line myself. I would think we need to take a longer deeper look at this whole matter. I think what has been proposed, to me anyway, appears to be fashioned on what the UK committee of that same name does, and that makes interesting reading and I have got all the papers from the library here.

But just to demonstrate where there may be a deficiency in this respect, at least one demonstration, the Committee on Standards and Privileges in the UK also deals with members' interests. Now, we have a separate committee for members' interests. So this raises a couple of questions. It raises a question of whether are we going to leave in abeyance a separate committee to deal with members' interests. I suspect that as the motion is cast the answer would be yes because there is no suggestion that it should be absorbed by the proposed Committee on Standards and Privileges. So I think that is just one indication of why I think you need to look deeper into this, you need to look, I think, laterally before we set out on this exercise.

Another matter that concerns me, and this is purely a personal matter but I am sure it is shared by other members, is the word 'privileges'. I think the word 'privileges' carries the wrong connotation, it carries the wrong thought process for the public. I mean, 'privilege' seems to convey that somehow we are a race apart and we have some benefits that others do not have, and I certainly hope that is not the case. I think what we have, in order to enable us to represent our constituents' interests in a proper fashion, is there are certain rights and there are certain immunities and there are certain duties and for 'duties' you can read 'standards', and I think that is probably a better reflection of what we have rather than to deal with this in terms of 'privileges'.

So what I would suggest to this hon. House today is we need to take a more fundamental look at these rights and immunities, as I would call them, and these duties (standards). They all need to be looked at as a whole and then perhaps when we have a full understanding of those, what those rights, immunities, duties, standards are, then I think we would be in a position to perhaps take a more informed decision on what we need and in what form we need it.

The hon. member has set out the concept very clearly but he has not set out for us precisely what we are talking about when we talk about these privileges.

Now, the UK of course have recently carried out a joint study into these matters, a joint study in the sense that it involved both chambers in the UK Parliament, and they have come up with a total of 39 recommendations as I understand it, and some of those matters are pretty fundamental indeed, for example the question of whether these rights and immunities should be put into legislation, so before they are accepted they are a matter of public debate and they are a matter of public record.

Now, today we have not been made privy to that sort of background information which I believe we should have before us to take a decision on this matter. What are we talking about in specifics? I can read them all out to you if members wish but I am sure they do not wish me to do that and certainly it is not my place. The question is where should they be? Should they be in statute? Should they be in orders? Should some of them which are conventions be left as conventions? These are all issues, and as drawn out in the UK report on this, there are issues which they focus considerable intention and importance on, matters such as the formulation, matters such as the promulgation, the regulation, the discipline and penal powers, what they should be and who should be exercising them.

I think a further point that I would make here is that I am unhappy by the process which the motion, if supported by us, has adopted as the means for examining this matter. It is not a motion which says that we, looking at the business to be determined, should from our membership here decide that we shall have five people chosen to go and look at this. What is proposed is that an existing committee, one that was chosen at least four years ago - some have been on it much longer than that - should undertake this exercise for us. I am not happy with that scenario at all. I think it is a matter which, if we are going to address it, should be addressed by us looking at the

substance of the issues and deciding then in our normal democratic fashion who should look at that.

Now, I have no cross to bear as far as that is concerned, I have no complaint about that because I am on the Standing Orders Committee, so it is not a question of any benefit from my point of view, but I am just pointing this out to members. Members may not be happy, certainly in the light perhaps of some of our recent developments, to have an established committee, one that has been there for several years, looking into matters such as this.

I actually went in my thought process on this as far as to prepare an amendment to this motion but I have decided not to move it and the reason I am not going to move it is very simple. I think the first issue here is the one of whether we should, at this point in the life of this House, be taking this decision irrespective of what is going to happen after the general election with a new membership, and the second reason is that I believe that if we were to look into the matters that should be addressed in an exercise such as this, then it is wholly impractical for a select committee to report by June or indeed by October. I do not believe that that is possible.

The need for an exercise to look at these matters I do not think I would dispute because I think it is difficult for us as members sometimes to understand just what we are talking about when somebody trots out 'privileges' and I think if we have difficulty with that, then in this day and age that is not an acceptable position because the public should understand and therefore I believe there is an exercise to be done, but I would have been happier, given an appropriate time, given a time when this House could have had the lead-up to produce a proper exercise, to examine what I would have termed and indeed what is termed in the UK - it is not a phrase that I have selected, it has been used in the joint exercise in the UK Parliament - rights and immunities on the one hand and on the other hand to look at our duties and standards and see how they sit, should they sit together, then take a judgement on what they should be, what basis they should have, statutory or otherwise, and then how they should be promulgated. I think that would be a worthwhile exercise, but it is not one that can be done in the short period of time embraced in this motion and I cannot support this motion, for the reasons I think I have spelt out fairly clearly.

So I will not be supporting this motion and I am holding my hands up and saying now that I am not going to move my amendment, although perhaps that would have been helpful because I do not think it will allow for a proper exercise to be conducted.

So those are the only comments that I would wish to make. I recognise and I appreciate the initiative of the hon. member for Castletown in drawing this matter into the arena, I am perfectly happy with that, but I think it is at the wrong point in time, it is flawed in the sense that we would be imposing this exercise onto an established, long-term committee and that it is not broad enough in terms of what it should be looking at: it should look towards the duties and standards as well and look at these other matters such as the formulation or promulgation the regulation and the disciplinary matters on a broader base than is envisaged in this motion. Thank you, sir.

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

Mr Karran: Vainstyr Loayreyder, what is a privilege to the executive might be a right to the member of parliament, and I will not be supporting this proposal in front of us because what concerns me is the fact that I hear that I could be summonsed and have to attend a meeting that almost certainly the executive will have full control over, over the parliament of the Isle of Man, then I do not want to be party to that, and it is all right strutting and what-d'you-call-it around this room, but that is the problem that I see in this hon. House as far as the parliamentary situation at the present time. We have only got to see in a Bill in the House on item 12 where if you keep on the right side of the minister and the majority of the Council of Ministers there is no need for any Tynwald vote, but if you are chairman of a statutory board and you have not got a seat at the Council of Ministers you have got to come back for a vote.

I believe that this House needs to be very wary of going down the road of reviewing any ideas of privileges because privileges generally mean that they are an embarrassment to the executive government of the Isle of Man, that is what privileges mean, and the way that we all know in this House that you pay a price for your independence as far as that is concerned, a price that you have to pay and a price that few in this House are prepared to pay as it is without bringing in some other mechanism that can be used as a cosh to whip you into being part of the parliamentary system, and I think people just want to bear in mind what I say because you read the Bill in item 12 and that is what it is about, it is about control by the executive.

We have already seen the absurdity of how the parliamentary procedure has been almost certainly affected, maybe not rendered impotent as far as debate within this chamber, but it has severely curtailed the needs as far as good parliamentary debate in the clauses stage of the important part of the legislative process that you have to have now eight days' notice if you want to move an amendment, but you are all right if you have got the blessing of the executive because you can then get your suspension of standing orders, but I would have virtually no chance of being able to achieve that. Even if I was offering 10 years' extra life in this hon. House and trebling the wages I am sure there would still be eight or nine still against.

So I think this hon. House maybe at the moment might think, 'Well, things are all right and we could do with pulling a few, we could get out and we could be a bit more quick in this House and rubber-stamp a few more things through this House', but I think members should be very, very concerned that we must protect the individual member of parliament over the individual member of the executive because at the moment we are very fortunate. We have had gentlemen as our Chief Ministers, in the present Chief Minister and the previous Chief Minister, but that might not always be the case and this House may need the rights of the Member of Parliament to stand up to the executive.

So all I say to this hon. House is it just wants to be very careful. The point that the hon. member for Ayre brought up about bringing it in the dying stages of this House is a point, but the danger we have at the moment is we must make sure that we have the right checks and balances. We know the fundamental rights that will need an independent judiciary, and there is nobody in this House despairs of the judiciary at the moment, but it would be wrong for me to be able to sack them because they need to have their independence from the executive and from the parliament and so the position is as far as the executive and the parliament.

The danger is you have got a small parliamentary assembly here and the problem you have is you have got a very large executive percentage-wise of the parliamentary procedure and there are big dangers as far as this is concerned, and I would be very concerned before I allow a tiger to run off and then come back and tell me that I have to turn up at this meeting of some quasi kangaroo court, and I admit at the moment in the helm of the present Chief Minister we have not got any trouble and we have had no trouble in the past with the previous one -

Mrs Crowe: It is talking about members' interests, Peter.

Mr Karran: - but it is early days and I believe that what we have to do is remember that we could end up with somebody who ain't in that situation who would use the position and I believe that we must be very careful that what would not happen is that it would not be used as some sort of kangaroo court in order that we end up with a situation where we will be putting more lankets on individual members of this parliament.

The Speaker: The member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I think the two previous speakers complain a little too much. I do not think they actually understand what is being proposed. It might be in the latter stages of this House but I think it is very important for parliament and for its members to be responsible to parliament, and I think the previous member who was going on about executive and parliament, we are the parliament, we are all members of parliament, and I think what the mover is

suggesting with this is that we are all answerable to parliament, and I think that we should not forget that and for the member for Onchan to suggest otherwise I think is wrong. We only have to look to see what happens in other places. We could say, 'Oh yes, we're squeaky clean.' That is all the more reason why we should put something like this into place, to protect the privileges of the members of this House against the executive in certain situations, to protect individual rights. We have seen in recent times where the privileges of committees of this House have been interfered with. There has been no protection for those committees, surely a committee of the House, where a member can turn to ensure that the privileges that that member has, that the House has, are protected. Not only that, each individual is answerable to a committee of the House, and I think it is so important. I think that we should get on with it.

All I think the member is proposing is that it is sent to the Standing Orders Committee for the Standing Orders Committee to report. They might report and say there is no need to, that we can do all that is necessary under what is being proposed. Now, I might have got it wrong, so the mover can answer that when he is replying.

But I think the comments of the member for Onchan are slightly concerning, whereas I think he is suggesting that he should be chair of the Water Authority for ever and a day. He was chair of the Water Authority in 1990 when I was a member of the Water Authority. It is not his preserve and I think he was making out in his address before that it was his preserve and should not be interfered with by the executive. Now, if it is an executive post and part of the executive, then I feel the executive can put an influence on any of their committees, and surely that is what parliament will then debate, whether that is right or not.

But we have only seen, I think, the embarrassment, as the member for Onchan is suggesting, that has been caused in other places by people treating these sorts of committees or their inquiring agents with total disrespect, and therefore I think that members, if a committee was formed, should have the ability to summons people before the committee. I think that is quite right. It is quite proper to be a member of parliament and to be responsible to that parliament. We are also responsible to our constituents and if it is a majority of the House which agree to something like this, well then, that is down to democracy.

I will be supporting this referral to the Standing Orders Committee because I see that now is the time to do that. It might not be convenient with regard to an election, but I think that the Standing Orders Committee can report back to this hon. House and therefore I support the motion on the paper. Thank you, Vainstyr Loayreyder.

The Speaker: Sir Miles Walker.

Sir Miles Walker: Thank you, Mr Speaker. I think I am also supportive of this resolution and it seems to me to be a little bit like separating the parliament and the government and here it seems to me to make some sense to have a body responsible for putting standing orders into place, with the blessing of this House, and yet another body to make sure they are adhered to and that the processes are fulfilled.

It seems to me that 'privilege' is quite a good word. I believe that I have a privilege. I have a great privilege in representing my constituency (**A Member:** Hear, hear.) and I am sure that that is felt by the majority of members in this hon. House. In order to fulfil that privilege I need certain privileges and whether those privileges are then considered to be rights and responsibilities as far as behaviour in this hon. place and Tynwald is concerned I think is a matter of opinion, but to me it is a privilege to be able to get up and speak and speak my mind, or speak in favour of my constituents' minds from time to time, without fear of some sort of retribution. I think it is a great privilege and I do not shy away from that word.

I think the interesting two issues that have been raised during the debate are by the hon. member Mr Quine, the timing issue and the practicalities of it. I think as far as the timing issue is concerned it would be my view that there are some things that are better addressed towards the

end of an electoral period and it seems to me that this is probably one of those. After the election it may well be that there are a large number of new members all finding their feet and all trying to appreciate the responsibilities and the procedures and so on and it seems to me it might be quite useful for a new House to have a report in front of it on which to decide, because I rather guess the decisions will not be made this time, this side of a general election, even though as part of the resolution the hon. member says 'to report no later than 26th June' because I think that is probably impractical, a point again raised by the hon. member for Ayre.

I am also on the Standing Orders Committee and it is entirely a matter for members to decide whether or not we are the appropriate committee to consider this issue or whether it should be another committee of five members, but I think everybody understands how involved we all are at the moment with various responsibilities, including the member for Onchan, I would say a valued member of the executive, working terribly hard for his responsibility within the health services, fulfilling his role as chairman of the Water Authority and everything else he does. That hon. member, Mr Karran, is involved in the executive in quite as full a way as many of us are who he refers to from time to time rather disparagingly.

Mr Karran: My loyalty is to here, not to my promotion.

Sir Miles Walker: And I would consider, Mr Speaker, that my loyalties are here also.

I think this is worth considering. It is an issue that I do not believe has been considered in any depth, certainly since I have been a member of this hon. House. It is probably time it was. There is a need, I think, for some separation between the duties and responsibilities of the Standing Orders Committee and a body such as this, and I would rather guess if a member was concerned about an issue that could go in front of the standards and privileges committee if we had one, at the moment it would go to the Standing Orders Committee and I fear that that may be the wrong place for it.

So I think this exercise is worth carrying out. I would be surprised if we could meet the target date of 26th June, likely not, but I do think the groundwork should be done before the general election and then the new House of Keys would have some sort of detailed report on which they could then make up their minds. So I think I am going to support this resolution on the agenda paper. Thank you, sir.

The Speaker: Mr Houghton, the member for North Douglas.

Mr Houghton: Not me, sir, Mr Henderson.

The Speaker: Sorry Mr Henderson. I beg your pardon.

Mr Henderson: The ugly one, sir. Mr Speaker, an interesting resolution. I would ask the hon. member for Castletown if he could perhaps re-read the main points of his short speech out because, listening as I was and taking careful note, I would just like to hear the main points again for my own benefit because I am still not quite clear for the actual need of the committee he is proposing and I would certainly like him to quote. Well, when I say actual need, I got the semi-gist of what he is driving at but I would like to hear a little bit more and certainly I would like some examples quoted if he can, or if he can give me some possible scenarios, just to broaden it out a bit, so I know exactly where the hon. member is driving from. I felt the speech, as succinct as it was, might have gone over some of the more major points just a little too quickly for my liking.

I am concerned with the comments from the hon. member for Peel, Mrs Hannan, because I do not know whether I have got this right, but I am coming to a conclusion that in her particular viewpoint on this there is some sort of reasoning here to protect committees, which. . .

Mrs Hannan: Members.

Mr Henderson: Or members of committees, Mr Speaker, and I am very concerned to hear of this particular reason being thrown into the House now for this debate. There are various views

being established on who stands where in particular committees and in relation to recent happenings and the last thing I want to do is find myself voting for the particular further committee which is actually going to strengthen the position of possible other committees, whether they become totally unaccountable to anybody, and that is the last thing I want.

I am also concerned that hon. members should not feel pushed into voting for this particular motion at this time by the argument that we must get it done at the end of this House before we get the new House in because there may be a lot of new members and we should have the ground rules in place before they get up and running and started. I think if that is going to be the case, then it should be left for a new House to consider. That is my opinion on that.

But underlining all that are my own thoughts that if there is a need for this, then I think we should have an assessment first. Before we start going down the road of adopting another committee I think there should be an assessment of the need, and reasons then can be brought forward from that and then we can see whether we should actually vote on yet another committee.

As far as I am concerned I have seen the Standing Orders Committee in operation and I have seen some of the consequences where hon. members have been pulled into line and I was quite struck by the powers of that committee which are quite considerable. There is also the Speaker of the House of Keys and there is also the President of Tynwald to think about as well, who are all empowered, if they so wish, to make comment to individual members in their capacities, privately, if they so wish.

So I would urge hon. members to be cautious of this particular motion at this time. I think, if anything, I could go for an assessment to examine the need if necessary, but I cannot go the whole hog at the minute and just get this thing up and running. Thank you.

The Speaker: Mr Corkill, the member for Onchan.

Mr Corkill: Thank you, Mr Speaker. I will be brief. I feel inclined to support the motion before us and I would just like to make it clear to the House before the comments from some of the previous speakers surface that there may be some sort of block vote from the executive going on, as is often the case put forward on a number of issues, that in fact when this appeared on the agenda, on the order paper I asked the hon. member for Castletown what it was all about and he said to me, 'Well, you'll have to listen to what I say in the House of Keys', to which I said I would. So I have listened to the debate so far, and I think this House and another place has a big duty to scrutinise the executive and in some areas I think that is done pretty well. I think there are areas where they do not actually do a very good job, I have to say, not that I am inviting extra scrutiny from where I stand.

But I think there is also a duty of any House to scrutinise itself and scrutinise the conduct of members from time to time, to examine whether the standards and privileges, and that is what is in the motion before us, are being observed appropriately, and I do not have any trouble as a member of this House - as the hon. member for Rushen said, it is a privilege to represent a constituency. I feel as though it is my privilege to be in the House for the time that I am elected to be here. I hope that in my public service my standards are high and that I achieve my own goals, but those are goals set by myself and in a parliamentary setting there are goals of other people, standards of others which should be taken into account and what better way for those to be expressed than perhaps through a standing committee of the House.

With regard to parliamentary time left to this hon. House, I do not believe that the Standing Orders Committee is being that actively engaged in recent months with many difficult issues. The review of Standing Orders was done some time ago and I think that the June deadline is not an unachievable target with regard to some simple issues which is who should be the members? Well, I would like to put it on record that if the membership of this committee were all non-executive people I would not have a problem with that, but obviously that would be a matter for this House to determine when the time came to vote. Powers and procedures - there is a need to report back to this hon. House on the powers and procedures, what would be appropriate? In terms of the hon.

member for Onchan, my colleague, being worried about being summonsed, if that is too strong a power, then maybe we can talk about that when the Standing Orders Committee comes back. Certainly we are here as public servants and we have to be scrutinised and where that comes from is a complex procedure. The people scrutinise us every five years. That is fine. If people choose to stand each time at an election, they are up for public scrutiny. But there is a long period of five years when there is absolutely no harm, in my view, of self-scrutiny and I think on balance I am inclined to support the motion.

The Speaker: The member for West Douglas, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. I was interested by the speaker for Rushen, Sir Miles Walker, when he said that this had not been done in his time in the House. I think the time may be right. I think as the parliament of the Isle of Man matures, regarding things like this that have not been addressed previously I think it is probably appropriate that they are looked at and evaluated as to their probity and suitability.

The member for Ayre talked about other committees in existence. When I was chairman of the Declaration of Members' Interests, certainly it is one where I believe that body needs to be given a higher profile with regard to aspects of members' interests and possible conflict of interests. So I think there is room to go in this whole area about members.

I was concerned by the member for Peel's comments which made me feel that maybe there was an agenda here which was a little bit blatant (**Several Members:** Hear, hear.) and that the catalyst for this was something which had motivated the mover in the first instance. Certainly, as somebody who has been on the receiving end of an allegation from the member for Peel, I find it somewhat appropriate that we do look at areas where members hide behind a privilege and can say things without any evidence or substantiation and then thankfully at a later date apologies can be forthcoming, but that is one where the conduct of this House at times has embarrassed all of us and I think therefore there is scope to look at those issues.

The two main questions I would put to the mover. He is seen by many in this House as being one of the most Establishment-orientated members but I would also state that he is also one who has probably a higher level of understanding and clarity regarding the parliamentary role than many of us within this House. So I do believe that his motives are genuine, that this is looking at the parliamentary issue. As such I do need some clarification as to why he has decided to move this motion here in the House of Keys as opposed to the full parliament of the Isle of Man which I believe is Tynwald, and therefore whether this committee, were it to be established, would actually have any influence over other members of Tynwald not here represented.

The other final point I would make is the motion says, '...there shall be a standing committee'. Therefore if we support this, that motion then appears to commit that we will have it before the argument is fully debated. My concern would be that I would like the flexibility for this to be investigated further, I think the Standing Orders Committee would be appropriate, but by supporting this motion today, which I am minded to do, I would not feel that that committed me to saying that, yes, there will automatically follow that there will be a standing committee. If the report came back and the case was not clearly made, I would like to have the confidence that my vote against the report in June would supersede this motion and therefore a standing committee today is not guaranteed. I think that case is yet to be made.

The Speaker: Mr Downie.

Mr Downie: Yes, Mr Speaker, hon. members. I have no problem in supporting the principles enshrined in the motion before us today, in particular when you see the situation which exists in the United Kingdom at the present time, the Vaz inquiry and all these other issues which seem to take up a tremendous amount of time, and at the end of all these debates and discussions and appearances before various select committees they appear to be totally behaving like toothless tigers.

Now, I just want to pick up on one of the points that was raised by my hon. colleague Mr Shimmin. If we are going to have a standing committee, in my view it should be a standing committee of Tynwald because the same code of conduct and the same standards should apply right throughout the parliament and we should not just be picking out what goes on in this particular House.

I am also concerned that in voting for this today we are committing ourselves, as my hon. colleague says, that there shall be a standing committee. I would far rather see the situation where this issue could be dealt with by our present Standing Orders Committee and a recommendation come from them that there perhaps is a committee set up which embraces all the Houses and indeed at some stage involves the presiding officers, because there is at the moment a misunderstanding. I make no bones of it. The previous President, I was once hauled before him and given a ticking off for something and fortunately I learnt the error of my ways. Now, I am not sure whether that is done out of respect for a member's views or to point the member in the right direction, but it seems to me that there is not a proper mechanism at present to deal with some of these issues and I think that there needs to be some clarity.

But my particular point is that I would welcome the progression of this particular issue, but I must put my marker down that I think it is not one just for this House, it is an issue for the parliament as a whole and must also involve the presiding officers.

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. It has been very interesting listening to the contributions made by different political persuasions in the House today. I am a little concerned at the basis of the case which has been made for to consider this and I will just follow on from the previous two speakers in looking at the motion that is printed. It is asking that we approve that there shall be such a committee, there shall be, not there may be, after investigation, but there shall be. So first of all we are being asked to consider whether or not there shall be such a committee. If the motion is supported, then we are saying, 'Yes, there should be such a separate standing committee.'

Further to that, the Standing Orders Committee, a separate committee altogether, long established, as we have heard, should consider the membership, the powers and procedures. Now, this was described by the hon. member Mr Corkill, for Onchan, as to consider simple issues as the membership. Well, perhaps the membership is rather a simple matter to consider, but I would say that the powers and the procedures of such a new committee are not a simple issue at all, in fact they are quite a serious matter.

As Members of the House of Keys we stand for election and we know what we are standing for. There is legislation that conducts the procedures of our election and also, of course, we come in here and we take an oath before we commence our sittings. We are accountable to our electorate and our electorate must come first, in my view.

We have heard that there is no protection of a member, that we need protection of individual rights, that we are answerable to a committee of the House and we are answerable to the parliament and that there is nothing wrong for a member to be summonsed as a member to in my view, a 'disciplinary committee', because that is what I have heard today. It is a disciplinary committee. That is a very serious issue indeed because it brings into focus what is a privilege, and we all know under the parliamentary procedures both here and in the hon. Court of Tynwald that we are, when we are on our hind legs, covered by privilege, the same as an advocate or a lawyer is covered on his or her hind legs by privilege. That is to say that with what we say in here we are protected by privilege. There was a case a long, long time ago in the hon. Court of Tynwald where one member attempted to sue another for defamation of character because of what was said during a parliamentary debate that was held in Tynwald. It was a very long case, but it was a very long time ago.

Mr Speaker, I believe that you yourself as presiding officer and the President of Tynwald as presiding officer are those officers with the power to take a member to one side if they feel their behaviour is inappropriate. Equally they exercise the rules of debate under the standing orders in the two separate chambers, having two separate standing orders. There are procedures already laid down for if a member is inappropriately contributing to a debate or otherwise, to be exercised by the presiding officer. They are very clearly laid down in standing orders.

But let us surmise that such a committee is supported by hon. members here today, a disciplinary committee that is going to look at standards and privileges. Is it standards of debate? Standards of behaviour, no doubt, and privileges in terms of what is a privilege and you are not privileged to do this but you are privileged to do that. Assuming that it goes ahead and assuming it is enacted, what can that committee do if they find the behaviour or the rhetoric that we sometimes hear in this hon. place is inappropriate or has offended another member? What will they do? How can they exercise any kind of discipline? Well, one thing is for sure: they cannot throw the member out of office because only the people can do that. I suppose the worst possible scenario is they could suspend a member from going to meetings or coming to this hon. place. They can suspend a member for sitting in some many sessions of the Keys. But what else can this disciplinary committee do?

I think the hon. member for Onchan, Mr Karran, was right when he described it as a kangaroo court. I have seen this sort of exercise conducted at local authority level and it is indeed a kangaroo court when you have a committee of possibly three, four or five individuals hauling in one member to say, 'Your behaviour is inappropriate', and I take on board the other side of the argument that equally another member can go in and say, 'I want to make a complaint, I have a grievance that I wish you to hear.' But I would suggest that the system that we have in place at the moment has worked for a very long time and has worked well.

I would concur that perhaps the issue ought to be looked at in greater depth, but I do not believe it is a matter for this hon. House. I believe it is a matter for the parliament and it should also encompass Members of the Legislative Council, and also, as the hon. member for West Douglas said, it should also perhaps call into question the officers who serve us as members, possibly.

I would ask members today not to support this particular motion on the agenda. I would ask the hon. mover to perhaps consider putting a motion down to Tynwald where it can be truly tested from both branches, but I would also ask the hon. mover to give us a case scenario. He has already been asked for this. I would say give us a case scenario. He may perceive that we have had all sorts of pigeons flying in all directions here today during the debate, but what else are we to assume when we have had so very little information by way of it could address this situation, or it could or may address that situation? What really is in his heart, behind the motion here? I would like him to clarify that when he is summing up because I have not heard a case today, not a true case, and there is suspicion from some members that there is a hidden agenda. So I think it is duty-bound for the hon. mover to scupper that, put that to one side, clarify, wash it in public, the real reason behind the motion. Then perhaps he might draw more support than he thinks. Thank you.

The Speaker: Can I call upon the mover to reply? Mr Brown.

Mr Brown: Thank you, Mr Speaker, interesting debate, really. I was not sure how members would view the issue that is before us. I would make the point that as far as I am concerned this is an important issue and first and foremost what it is about is about the members of this House, as members of the legislature, as members elected by the people to serve in the House of Keys, the popularly elected branch of Tynwald Court, and I will come back to the point of why this motion is here before the House of Keys and I will try and explain that.

A number of members have said that they support and I thank them for the demonstration of their support. I do think it is an important subject.

Mr Quine said he understood the principles but it was untimely, at the end of the life of the House. I have to say that I do not think it is. There are certainly many issues that come up, either in this place or another, as the House gets to its close and the point that the House of Keys' last sitting is on 26th June 2001 is totally irrelevant. It is just an excuse to say we have not time. Three months? Haven't time?

There is plenty of information about how privileges committees of the Houses of Parliament work. The hon. member for Ayre mentioned that in his contribution, that he had the papers. So have I. So we are not trying to start something from nothing. In fact we are one of the few parliaments that do not have a privileges committee or a standing committee. Why not? Because we have developed and evolved with this feeling that in fact was demonstrated by a number of members here, that the presiding officers can deal with members is there is a member being naughty. I am sorry, the presiding officer cannot. The presiding officer has no powers to deal with them. He might call them in the room and have a word with them, as I might, as you might, but he has no powers to deal with them. He can reprimand them here in the House, but he still has no powers to do anything specific, because standing orders do not give the presiding officer those powers. The powers are with the House and the House itself has, under standing orders, an ability to raise a matter of privilege about the issue of the House or a matter relating to the House. But then if they do that, and let us say there was an issue that was wanting to be raised, it is likely that it would either be raised as a matter of privilege and therefore takes precedence over everything else that goes on, and you might say, 'Let's set a committee to look into this specific issue', and then you have an argument as to who is going to be on the committee. Isn't it much more sensible for the House of Keys to manage its affairs more professionally by setting up at the start of the life of a new House a standing committee which deals with these very issues? And maybe during that period it will never have a complaint.

Now, the hon. member for Ayre started to use the sensitive word of 'privileges' and the public issue of privileges. All very good to try and put off people thinking we are something special, we have privileges. Whether you like it or not, people who are elected to a legislature are given privileges with that position. Straightforward. You are given them because we could not do our job without them. We could not represent our constituents without them. The hon. member for Rushen, Sir Miles said, 'I have to have these privileges to carry out my responsibilities', and every member of this House has privileges. Do not get hung up on a word. It is quite straightforward. To do our job we have privileges that the ordinary member of the public does not have and if we did not, when we rang up a department of government they would say, 'I can't tell you', or 'I'm not going to tell you.' Or if you asked for certain services to be provided, the Clerk of Tynwald's department would say, 'No, because why should we?' So let us not get hung up on the word 'privileges'. I am just listening to the hon. member for Onchan, Mr Karran, who keeps saying, 'We have that problem now', I think it is, or something like that. Well, he would be able to complain to a privileges committee because at the moment he cannot complain to anyone except the executive. So by having a privileges committee he could actually write to them and say, 'I've been trying to get information from this department and they are ignoring my requests to receive this information', (*Mr Karran interjecting*) and the privileges committee might well embarrass the government, the executive government and the specific department, by providing a report to the floor of this House, which answers another question, which says quite clearly that the actions of that department of government were against the interests of the member representing his constituency. What better example can you have? (*Mr Karran interjecting*) Because at the moment all the hon. member for Onchan can do is sit there muttering, stand up here ranting about the executive, which he seems to have a hang-up on, considering he has been a member of the executive so long, and to be quite honest we know why he does it because it happens every time before the election, which is 'I'm not part of them', to try and kid his constituents. Well, that is fine, that is a matter for him. But at the end of the day he is a member of the executive.

Now, the hon. member for Ayre mentioned about the abuse of privileges and also why do we need it? He is not happy that Standing Orders should consider it. Well, I think it is appropriate. The Standing Orders Committee is there. It is a body set up already. It already understands standing orders, or at least is meant to. We are only asking them to formulate the basis of a Committee on Standards and Privileges of the House. I cannot see a more appropriate body to do it. I think they are absolutely the right one.

He expressed concern about the decision being at the end of the life of the House, and I do not think that is a problem because my view is that I have been seeing things going on and believe that the House has developed and it has been evolving, as we have had a change within executive government, to pressures being different on the members of the House and that evolvement of our different responsibilities, whether or not you are minister or not is irrelevant, as a member of the House, and especially those who are not ministers, which means that their job has slightly changed within the context of the nature of the House, and I believe as a member of the House in my own right, the Member of the House of Keys for Castletown, that I and you need to have the extra protection of being able to have a committee specifically there to protect your interests, or, if there has been abuse by a member, for that to be dealt with by that committee.

Three months is a concern: 'Why three months? It's not long enough.' I have already said I do not believe that is a problem. It is a matter of will. Departments of government are often asked to produce reports, quite comprehensive reports, within three months, six months and are criticised for not doing it. So what is three months to this subject? It is quite straightforward.

Now, Mr Karran - I would just like to cover a few bits on this. He mentioned about his concern that by doing this the Privileges would strengthen executive government. I just find that amazing. I have given an example already because of the point he raised while I was responding. But I have to say I just find it amazing because the whole gist of my motion here is in fact quite the opposite. Members know my views. Yes, I am minister. I am proud to be a minister serving the Isle of Man. But at the end of the day, I am also a very strong parliamentarian and will fight my corner in this House or elsewhere and I have been shown to do that, and the point that the hon. member for Onchan cannot respect anybody else, and that tells it all, the point that he just carries on, is part of the problem. I think it is unfortunate he takes the attitude he does, but that is a matter for him.

This is about protecting the individual members of the House.

Mr Karran: Rubbish!

Mr Brown: That is what is about -

Mr Karran: Rubbish!

Mr Brown: - and I have already explained part of the answer to the hon. member for Onchan.

He said in his contribution and I often wonder if he listens to what he says, because I did, we must have the right checks and the right balances. This is exactly what this is about. This is exactly bringing in checks and balances to protect and if necessary deal with members of the House individually or collectively, and the committee will be there and will have clearly laid down guidelines. I hope it will, which is why my motion is worded the way it is, to ensure that the committee knows exactly what its remit is, like other committees of parliament, whether it be in another place in Tynwald or here in the house. Quite straightforward.

Now, whether or not - a point raised by the hon. member for Ayre - the members' interests committee should be merged with this committee, well, I do not think that is a bad idea. It may well be right. But that would be a matter for the House. That is another situation. That is not a reason not to have a members' interests committee as a standing committee.

The hon. member for Onchan also said that he objected to giving a committee of this House the power to summons a member to attend before that committee and he inferred that that would be because it is executive. Again, this is a committee of the House, not a committee of the Council

of Ministers, and the point is that if a member has been accused of doing something, or a member has accused somebody of doing something, or a member has done something they should not have done, is not only right -

Mr Karran: But who is on the committee? Three ministers.

Mr Brown: - that a committee appointed by this House, elected by this House, should not have the power, when acting on behalf of the House, to summons a member, whoever it is? Absolutely right. It is normal parliamentary procedure. We can summons anybody we like to stand at the bar of the House and answer us. Why should not a member be open to the same scrutiny if necessary?

Mr Quine: That is the point.

Mr Brown: So why shouldn't we? And members seem to be scared, or some are, that they might be summonsed to a committee to answer for their actions. We are answerable for our actions.

Mr Karran: To the people, not to you.

Mr Brown: And the hon. member for East Douglas, Mrs Cannell, said, 'So what can they do?' I honestly wonder if members take any interest in parliamentary matters. What do they do? Just look at what happens in other countries. Such committees do a report to the House and those reports are made public and the public then knows whether or not there was any foundation to any accusation and whether or not the member whose name might have slighted was in fact innocent, and whether you believe it or not, there are things said by certain members sometimes - and have been for ever and a day, I suppose, certainly for many years in the House - about other members and if a member hears something about themselves and they can identify it, their only option is to raise it in this House on the floor as a matter of privilege. They cannot refer it to a committee for investigation in what I would say is an appropriate way and that is what is important. This is about protecting the members of the House, not about protecting the executive, quite the contrary.

I believe the time is right. I believe that we should not expect our presiding officer to act as the head teacher, if I may use that term, with respect. Our presiding officer has a role to do, whether it be yourself, sir, as Mr Speaker, or whether it be the President of Tynwald in another place, quite a specific role, and I do not believe it is appropriate for the presiding officer to be drawn into a matter of privilege, because the presiding officer then has to preside over the very House that is going to debate or may debate a report that is before the House about that member, and the Speaker's job is to make sure the House carries out its business properly.

Now, a number of hon. members asked why is it here, why isn't it in Tynwald? I have to say one of the things that has disappointed me a little bit about some of the contributions has been what seems to be to me a lack of understanding and recognition of the sovereignty of the House of Keys. Members really need to look at what the House of Keys is about. The House of Keys is a chamber in its own right. It is not answerable to Tynwald. The actions of a Member of the House of Keys are first and foremost answerable in this House, not in Tynwald, and if members do not recognise the sovereignty of the House of Keys, then the House of Keys has no future. Tynwald is Tynwald, but the House of Keys is the House of Keys. You are not elected to Tynwald. You are elected to the House of Keys. So the point is you must, when you start to consider any of these issues, start from the basis of the sovereignty of the House of Keys. The President of Tynwald cannot walk through that door without our permission. The Governor of the Isle of Man cannot walk through that door without our permission. The police cannot. Nobody can come through that door if we say they cannot come through that door. That is why if you do not recognise the sovereignty of your own House, then heaven help the Isle of Man.

I believe that what has been suggested is a practical way forward. The House is evolving. There are plenty of precedents for privileges, what is privilege, plenty within all sorts of parliaments, and the hon. member for Ayre said, 'Why are we doing this? Because other parliaments have such

things.' Well, my view is straightforward. First, I believe we should have such a committee and then I have said the Standing Orders Committee should look at what the membership should be, what powers that committee should have because ultimately that committee is answerable to this House, and what procedures it should adopt if in fact a matter is referred to them by a member or the House or whatever. I think it is straightforward and if the House of Keys Standing Orders Committee, if this is approved, ends up reporting back by June 26th, before or on that date, and has not completed everything, which I hope it will have done, but if it has not, well I hope it will at least make recommendations that will carry on, but I hope we would be in a position that after the next general election the House will be able to elect its first Standing Committee on Standards and Privileges. Mr Speaker, I beg to move.

The Speaker: Hon. members, the motion is as written on your order paper. Will all those in favour please say aye; against no. The ayes have it. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Brown, Cretney, Shimmin, Downie, Mrs Hannan, Messrs Corkill, Gelling and the Speaker - 14

Against: Messrs Quine, Henderson, Braidwood, Mrs Cannell, Messrs Singer, Bell, Karran and Cannell - 8

The Speaker: Hon. members, the motion carries, 14 votes in favour and 8 votes against.

Bills for First Reading

The Speaker: We will now progress to our legislative programme on the order paper and I call on the Secretary to lay papers.

The Acting Secretary: The Civil Jurisdiction Bill, Mrs Cannell; the Interception of Communications (No. 2) Bill, Mr Bell.

Online Gambling Regulation Bill — Council Amendments Agreed

The Speaker: Item 11, the Online Gambling Regulation Bill for consideration of Council amendments. The hon. member Mr Bell.

Mr Bell: Thank you, Mr Speaker. The amendments which have been passed by the Council are indeed fairly limited in their remit and in fact have been generated by my department as a result of one or two issues which have been raised since the Online Gambling Regulation Bill passed through this hon. House.

But very briefly, the Online Gambling Regulation Bill currently permits the department to prescribe activities that are excluded from the requirements of the Bill. In this connection the Department of Home Affairs recently identified activities concerning the provision of software to online casinos elsewhere in the world that it may be considered acceptable to exclude from the full regulatory requirements of the Bill. However, if these activities are to be excluded, there does need to be some form of control to ensure, for example, that no activity by the provider or the casino could be considered to be breaking international or other national laws. Therefore the proposed amendment to clause 3 would provide the department with the powers to attach such conditions as are required to any activity excluded from the regulatory requirements of the Bill to ensure the Isle of Man's reputation for probity is protected.

Clause 4 currently provides for the department to be provided with information to satisfy it that the applicant company is under the control of a person of integrity, its management is undertaken by persons of integrity and competence and that the company has adequate financial means.

It is, however, considered that these provisions could be improved by making it explicit that an applicant for a licence should be required to notify the department of the beneficial ownership of the share capital at the time of the application.

Clause 12 presently provides that the licence holder must inform the commissioners of any change in the beneficial ownership of more than 5 per cent of the relevant share capital in the holder. As with clause 4, this provision would be further improved by increasing the requirement to cover all share capital and not just relevant share capital.

Clause 17 provides that the High Court, on application by the gambling commissioners, may make an order requiring the disclosure of the beneficial ownership of a relevant share. It is considered that this should also apply to all share capital and not just the relevant share.

Finally, clause 25 provides definitions for certain terms contained within the Bill, including 'relevant share' and 'relevant share capital'. These are no longer required because of the amendments to clause 4, 12 and 17.

As I said, these items are really very straightforward amendments which have been generated initially by my department and moved in Council to strengthen the Bill on its passage towards Royal Assent. As I say, we fully support these measures, Mr Speaker, and I beg to move the Council amendments.

The Speaker: Mr Cannell.

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

The Speaker: Mr North.

Mr North: Mr Speaker, I would just like to thank the Minister for Home Affairs for acting so expeditiously in this matter, which will be of great benefit, certainly to the economy of the Isle of Man.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, whilst I have got no problems with the amendments, I was just interested with the likes of clause 12. More likely it would be difficult enough for the company to apply by the existing clause on any class of share capital on top of that to be able to keep control over the beneficial interests which would be held within that, because what you have is a situation where you have a labyrinth of companies that circumvent the globe three or four times through different jurisdictions, and whilst I am not against the piece of legislation or the amendments, I am just interested to know how do we actually find out? It would be very interesting to know how the commission, with its limited resources, and admittedly we have got rather a large FSC with a large amount of staff there now, the situation is how you would actually find out the likes of ordinary share, relevant share capital, never mind any class of share capital when it transfers from different ownerships.

Can he just clarify to this House what offence the company itself would be liable for as far as this is concerned, if it does not notify the commission because at the end of the day, with the way company formation is done, and admittedly we have seen some movement on one section we have had concerns in the past and in another place over non-resident companies.

I just feel that the legislation is well meaning and I will support the legislation, but I would like to know how he, as chairman of the Communications Commission and as minister of the Home Affairs Department, is going to have any sort of control over being able to keep his finger on the pulse regarding the share capital is concerned.

The Speaker: I call upon Mr Bell to respond.

Mr Bell: Thank you, Mr Speaker. Mr Speaker, can I thank Mr North, the hon. member for Middle, for his support. He is aware of one particular case which has arisen quite unexpectedly after the passage of the Bill through this hon. House and we wish to rectify that position as quickly as possible rather than what would have in fact closed down a company, quite a major company actually, operating from the Isle of Man which at the time of the drafting of the Bill we were unaware

of. But fortunately by this method we have been able to resolve the situation and hopefully everything now will be back on an even keel again.

The comments made by the hon. member for Onchan I suppose are relevant. First of all, in reverse order, I guess, if I could just explain to the hon. member, I may be chairman of the Communications Commission but the Communications Commission has got absolutely nothing to do with this legislation. We are talking about the gambling commissioners, the gambling control commissioners, on this. It is nothing to do with the Communications Commission.

He refers to the limited resources of the gambling commissioners but he has failed to perhaps remember the explanation which was given when the Bill was passing through this hon. place that it is our intention to significantly increase the resources to the gambling commissioners as a result of this legislation. They are currently on the way to being transferred directly into the control of the Department of Home Affairs, they will physically be in the department in the next few weeks, and as a result of the very sizeable licence fee which the successful applicants for online casinos will have to pay, together with the other licence fees, which are equally substantial, for international telephone betting, there will be a very substantial pool of funds made available directly by the applicants, which we intend to use to considerably strengthen the personnel resources of the gambling commissioners to be able to carry out just the sort of investigations that the hon. member is referring to.

It may well be that a company applying for an online casino licence is controlled, in the words of the hon. member for Onchan, by a labyrinth of international companies. The onus will be fairly and squarely on the applicant to prove to us precisely who the beneficial owner of the company is and unravel that labyrinth if needs be, if in fact they want to keep the licence and if we find that we have been misled because of this particular activity, then the licence itself will be in jeopardy. So there are quite severe penalties in fact if they do not comply with what we require.

The fundamental aim of this Bill, apart from the actual permitting of online casinos itself, is to protect the good name of the Isle of Man. That is absolutely fundamental and that is what the bulk of the legislation in fact refers to. It gives us the powers, in some cases perhaps draconian powers, to ensure that we know precisely who is operating this casino, that it does not fall into the hands of people we would not wish to be associated with and indeed that the online casino itself does not introduce or be involved in activities which in any way can harm the good name of the Isle of Man. The structure which we have in place may not ultimately be perfect, but we are doing our very best to put a structure in which will achieve those ends.

I would just finally remind the hon. member this is groundbreaking legislation internationally and therefore we are edging forward slowly with it. There may be problems further along the line on which we would need to have further amendments, but at the moment we are doing the best we can and I think my officers have done a good job in putting this legislation together and I am sure, as the hon. member for Middle has said, it will be of great benefit to the Isle of Man in years to come. I beg to move.

The Speaker: Hon. members, I intend to take a vote on each amendment to each clause. The amendment made by the Council to clause 3. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

The amendment to clause 4. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

The amendment to clause 12. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 17. Those in favour please say aye; against, no. The ayes have it.

Clause 25. Those in favour please say aye; against no. The ayes have it. That completes the consideration of the Council amendments to the Online Gambling Regulation Bill.

Statutory Boards (Amendment) Bill — Clauses Considered

The Speaker: We now move to item 12, Statutory Boards (Amendment) Bill for consideration of clauses, and I call upon the hon. member for Middle, Mr North.

Mr North: Thank you, Mr Speaker, and first of all could I thank hon. members for the support at the second reading.

As hon. members are aware, this Bill is basically to amend section 3 of the Statutory Board Act to alter the term of members of statutory boards from five years to two and a half years, and on clause 1 which brings that into play, I shall obviously listen to the debate and answer hon. members' questions as and when the clause has been debated. So I would just formally move, Mr Speaker, that clause 1 stand part of the Bill.

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

The Speaker: Mr Brown.

Mr Brown: Thank you, Mr Speaker. I beg to move the amendment standing in my name which is on the order paper:

Page 1 line 1, for clause 1 substitute —

“1. (1) For section 3 of the Statutory Boards Act 1987 substitute —

“Tenure of office of members of Statutory Boards

3. (1) A Tynwald member of a Statutory Board shall go out of office —

(a) on the expiration of a period of 2 years and 6 months beginning with the date on which the Keys were last dissolved;

(b) on the dissolution of the Keys; and

(c) if he ceases to be a member of Tynwald or of the Branch of which he was a member at the time of his appointment.

(2) A non-Tynwald member of a Statutory Board shall go out of office —

(a) on the expiration of 5 years beginning with the date on which he was appointed; and

(b) if he becomes a member of Tynwald.

(3) A member of a Statutory Board may be removed from office by a direction of the Council of Ministers.

(4) A member of a Statutory Board may at any time resign on giving to the Chief Minister notice in writing of his intention to do so.

(5) A retiring member of a Statutory Board shall be eligible to be re-appointed if he is otherwise qualified.

(6) Where a member of a Statutory Board goes out of office under subsection (1) or (2) he shall continue to be a member of the Board for all purposes (except that of filling the vacancy) until his successor is appointed.

(7) A casual vacancy in the members of a Statutory Board shall be filled as soon as may be in like manner and subject to the like conditions as the office vacated.

(8) In this section —

“Tynwald member”, in relation to a Statutory Board, means a person who, on being appointed a member of the Board, was a member of Tynwald;

“non-Tynwald member” means a person who on being so appointed was not such a member.”

(2) *In the Financial Supervision Commission Order 1983, after article 3 insert —*

“Tenure of office

Keys. **3A.** (1) *A member of the Commission shall go out of office on the dissolution of the*

(2) A member of the Commission who ceases to be a member of Tynwald or of the Branch of which he was a member at the time of his appointment shall go out of office as a member of the Commission.

(3) A member of the Commission, not being a member of Tynwald, who becomes a member of Tynwald shall go out of office as a member of the Commission.

(4) A member of the Commission may be removed from office by a resolution of Tynwald.

(5) If the Chief Minister is satisfied that a member of the Commission —

(a) has been absent from meetings of the Commission for a period longer than 3 consecutive months without the permission of the Commission; or

(b) has become bankrupt or made an arrangement with his creditors; or

(c) is incapacitated by physical or mental illness; or

(d) is otherwise unable or unfit to discharge his functions as a member;

the Chief Minister may declare his office as a member to be vacant, and shall notify the fact in such manner as he thinks fit.

(6) Where a member of the Commission goes out of office he shall continue to be a member of the Commission for all purposes (except that of filling the vacancy) until his successor is appointed.

(7) Section 3 of the Statutory Boards Act 1987 shall not apply to the Commission.”.

The main change as against the Bill as printed is in fact to ensure that a non-Tynwald member of a statutory board shall go out of office on the expiration of five years, beginning on the date on which he was appointed.

It was given some further consideration in consultation, I understand, with the statutory boards involved and it was felt prudent and that it would be helpful if the non-Tynwald members could stay for a period of five years, whereas normally the statutory members under the new provision would have been two years and six months. This will allow that a Tynwald member of a statutory board shall go out of office on two years and six months, beginning with the date on which the Keys was last dissolved, and therefore the chairman will be subject to review but the non-Tynwald members will in fact stay for the period of five years from when they were appointed. I beg to move that the amendment standing in my name as to clause 1 should go forward.

On top of that we have with regard to the Financial Supervision Commission Order in relation to the tenure of office there and it relates to members of the commission going out of office on the dissolution of the Keys and a member of the commission who ceases to be a member of Tynwald or the branches of which he was a member at the time of his appointment should go out of office as a member of the commission. This again is a tidying-up exercise and section 3 of the Statutory Boards Act 1987 shall not apply to the commission.

I therefore beg to move my amendment.

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

Mr Karran: I am very flattered, Vainstyr Loayreyder, that this piece of legislation has been brought forward but I think before we have the usual pantomime and distortion of the facts as far as this piece of legislation is concerned, I will not be a chairman of the Water Board after the next general election, so the situation is before we have the usual personal abuse that one has to put up with for saying what they believe to be right in this hon. House, that is the fact. So we are not talking about the chairman of the present Water Board in situ at the present time. This will not affect me, so let us get to the facts.

The fact of the matter is I have to say that I actually support the amendment, if I have to support anything in the first clause of this Bill, because it is far more sensible, as far as continuity is concerned, as far as the non-Tynwald members are concerned. So I have got no problem with that and I have no problem with the issues as far as the Financial Supervision Commission is concerned because that should be done.

But what does concern me, as in a previous item on this agenda when we were talking about the privileges situation and the committee and they are all who ain't presiding officers either ministers or non-ministers, what I see happening here today is the fact that the Water Board has had to go through a major restructuring programme, it has had to have major fights in the past as far as getting things done, the likes of sorting out the financial basis of the water authorities concerned, and I am concerned that what we will do with this piece of legislation is make it much more difficult for a chairman of a statutory board to get on with a long-term strategic plan that may not be what was in vogue as far as the executive is concerned. It is supposed to be a statutory board that is supposed to be part of government but has a situation of where they have a commercial responsibility as well. It is a very important balance.

I believe that this House, if it is to support anything, should support the amendment and not the knee-jerk reaction of the original proposal, and I know this has been around for a long time this Bill, from October 1998, but I see it as yet another item on this agenda of the executive clawing away at the situation. We all recognise that statutory boards are supposed to be sweeties for better and greater things as far as the executive system, and I think the hon. member for Rushen should be applauded as he said before. Yes, as a member of the executive as far as not being a member of the Council of Ministers is concerned, which is the real executive, the difference is the fact that I can vote how I want on a piece of legislation in this House, as a minister cannot unless he is prepared to give up the right to resign as a minister, and that is the difference between a member of parliament that is a minister and a member of parliament that is not a minister and the problem with this piece of legislation is that now a member, a chairman of a statutory board who is coming up to his two and a half year end of his what-d'you-call-it will maybe think a little bit more hard about voting against the executive role as far as the Council of Ministers is concerned.

This House can do what it wants. I just put it on record as far as I am concerned that I think that this House is going down a very danger precedent. We are in early days, when I listen to some of the members from Douglas. We have had two Chief Ministers since this legislation has come in on the Council of Ministers Bill and I believe that this House is wrong to rush ahead with changing this to make this more of an accountable political office to the Council of Ministers and to the Chief Minister. We have had two gentlemen as Chief Minister and it is not a problem, but that will not always be the case and what you are doing today is whittling away. Now, if you want to turn the chairmen of statutory boards, and I know my good friend across there will more likely stand up and say how I live in a different world to her as far as this is concerned -

Mrs Crowe: We know that, dear.

Mr Karran: And I do to, I hope I do as well because I certainly would not want to be associated with many, even though I would not question the hon. lady's integrity as far as her beliefs are concerned.

I am just concerned about this piece of legislation and this is where I find myself almost having to support this because of the bits about the Financial Supervision Commission. That is the

problem I find because there is another thing that has happened. Years ago I would have moved an amendment just to accept the fact that we accept the issue of the Financial Supervision Commission because I do think it is crazy if you can be bankrupt and still a member of the Financial Supervision Commission. It would be something of an anomaly and certainly would not reflect good financial propriety, but of course that has been changed now and I know that you more likely would not get the 16 votes to suspend standing order so that is out of the question.

But I think, hon. members, this hon. House needs to think seriously on this issue because what will happen will be it is of no effect to me and no matter how much abuse comes from certain members of this hon. House, these ministers, the issue is the fact that this Bill is about control from the executive and I believe that this House wants to think long and hard, because it is all right talking about the United Kingdom Parliament. The parliament has 600-odd people and how many are in the executive? You work out the percentage of how many are in the executive as far as who is in the cabinet in this House and how many are in the cabinet of the adjacent House and you are now trying to put the chairmen of the boards under more pressure to toe the line. As I say, it makes no difference to me. As far as I am concerned it will not make any difference because I have been there and I have laid down the foundation stone now of something that will not, hopefully, be another one of the blocks that we have seen produced by executive government as far as the taxpayer is concerned.

But I do think this House needs to think seriously why is this in front of us today? Why are we having to bring it down to two and a half years? Normally if there was a reshuffle, chairmen move up to ministers and you have a situation where there would be vacancies made. The issue is that I just feel that if we support this you are going to drag statutory chairmen into a position where they are going to be put under more pressure, and it is all right people talking about integrity and that. I listen to ministers often saying to me, 'If I wasn't a minister I wouldn't vote for this', and I am not naming names but I understand that situation. I am looking here as a member of parliament and all I am saying is that if this goes through the problem will be that it will be more difficult as far as strategically long term. We have seen the issue over IRIS, the issue of they were once wanting to put IRIS with the Water Authority. There was talk even at one time of creating a whole waste authority and putting the incinerator there. *(Mr North interjecting)* Yes, all the rubbish there. That is what I like from these people from the back here.

But at the end of the day I do think that this House will further imbalance the role of independent scrutiny in this House because it will make the statutory boards' chairmen harder as far as if they want to break from the executive they are going to find that very difficult, they are, and if they want to stand up and say, 'No, I'm not prepared to accept this crackpot scheme', then all they have to do is think, 'Oh well, we'll get somebody else to be chairman of the board, we'll get rid of him', with the situation.

The Speaker: The hon. member for Middle speaking to the amendment. Is that correct, sir?

Mr North: Yes, thank you, Mr Speaker, and can I just follow on from the last speaker. I understand some of his feelings on this and I was very interested to note that he regards it as being given sweeties, as chairman of one of the statutory boards, and as my hon. friend and colleague from Ayre has remarked, no wonder he is so sour: he has obviously never had a sweetie.

But just going back to the point that he makes and I agree there are two arguments to this, there are both sides, and the primary purpose of this Bill is to enable a future Chief Minister and Council of Ministers to shuffle Tynwald members and it is to expedite what is really part of government, and the hon. member for Onchan, the chairman of the Water Authority, I think said it is more difficult for any board to get on with its strategy, and I find that a little bit disheartening really when I know, and I hope he knows, just how much work the officers of the DTI, together with the officers of the Water Authority have put in over the last few years to actually help the Water Authority and the chairman in particular to get on with that strategy. We have been very much involved in

helping them proceed with that strategy and to compare this to the United Kingdom saying there are 600 there, how many are there in the UK cabinet, here is totally different because we do not have the party system, and is he saying that all ministers always agree on everything?

Mr Karran: They do in this House.

Mr North: I think the record shows that that is not true at all. So basically it is down to personalities to a certain extent in the post at the moment, and certainly the chairmen, the other political members of the other two statutory boards, I find certainly both are members of the Department of Trade and Industry and I do not think there has been any problem there, that they have been held back by getting on with their work at all and I would like to think that when they need help of the sponsoring department - that is really all we are because we do not really have any powers - we would work together as a part of government.

So this is just basically a reshuffling facility that I think will help with efficient government in the future, Mr Speaker.

The Speaker: Mr Shimmin, the member for West Douglas.

Mr Shimmin: Thank you, Mr Speaker. I am supportive of this Bill and also this amendment. It is one where I can understand the comments from the hon. member for Onchan and I certainly do not intend to rubbish him. I am new into the post. He has got a lot more experience and sees demons where maybe I do not.

I believe, as the previous speaker, the minister, has said, this is to do with efficient and good government. I certainly do not feel compelled to follow the party line on issues. However, as chairman of the Post Office I am aware that the Council of Ministers and the government do have a key role to play with regard to certain issues. That is why when necessary the Post Office will seek advice and guidance from the Council and I am appreciative of the role that they play in that.

I would just draw to the members' attention one more fundamental change which I think this amendment brings in, just so that members are aware of what they are voting upon, which is in sub-clause (3): 'A member of a Statutory Board may be removed from office by a direction of the Council of Ministers.' I would just like the mover of the amendment to clarify that that is actually a change whereas previously it was the support of Tynwald. Again it is one the members ought to be aware of. There are occasions when that will be beneficial, but members should be aware that that is in this amendment. Thank you, sir.

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

Mrs Cannell: Thank you, Mr Speaker. I am speaking to the amendment. I do not have a problem with the Bill as drafted at the moment but I do have a little bit of concern about the wording of this particular change to clause 1 and it is quite clear that a Tynwald member of a statutory board shall go out of office if one of three scenarios initially occurs.

I take on the point from the hon. minister for the DTI that of course it enables power to be able to have a change on a statutory board halfway through, a reshuffle halfway through. Nevertheless actually making it more concrete by putting it into legislation is a little curious, to say the least, because of course members who serve on government departments are not covered by the same opportunity of being able to be taken off halfway through a term of office, so there is no requirement there for a reshuffle of members on government departments after two and a half years, so why should there be a provision for a member of Tynwald who is actually on a statutory board? So I am a little bit curious about that.

Then of course still staying with this particular clause, looking at number (2), 'A non-Tynwald member of a Statutory Board shall go out of office' - again under certain conditions. If he becomes a member of Tynwald, well fine, clearly there will be a conflict there, and yet we have members of Tynwald, of course, on these statutory boards usually occupying the position of chairperson, but under (3) a member of a statutory board may be removed from office by a direction of the Council of

Ministers. Previous to this we had a debate on the privileges and the rights of members of the Keys in terms of this. Now, what I would ask the hon. mover of this amendment was that if this amendment were to carry and were to be attached to the Bill as drafted and went through all the hurdles and became law, then if such a member of a statutory board, being a non-Tynwald member, were to be removed by the direction of the Council of Ministers I take it he or she would not be able then to go to a committee set up to look at privileges because of course the privileges are only going to be for members of this place and another.

I have not seen a reason laid down here. It is just simply a member of a statutory board may be removed from office by a direction of the Council of Ministers. It just does not follow because on the next page when you look at tenure of office in terms of a member of the commission there are certain criteria set within 3A: he can be removed if he has not been attending meetings, or she can be removed, they can be removed if they have gone bankrupt, they can be removed if they have got a physical or mental illness if they are too ill to attend and they can be moved if they are unable or unfit to discharge functions as a member of the commission, but the same does not seem to apply to the tenure of office of members of statutory boards. So I wonder why there is a variation there. It is quite clear on the opposite page under 3A that there are certain criteria for the removal but under 3 as drafted there are not, and it also says of course, 'A member of a Statutory Board may at any time resign on giving to the Chief Minister notice in writing of his intention to do so.' It does not say how much notice is required, it does not say whether he can give a letter in today and say, 'I'm going today' or what. So I would have thought that obviously that is quite a good provision because it gives a let-out for the individual member who wants to come off but it does not go into detail.

'A retiring member of a statutory board shall be eligible to be re-appointed if he is otherwise qualified.' That is fine. What qualification would be required to be eligible for reappointment?

The thing that really concerns me, though, is under 3 (6): 'Where a member of a Statutory Board goes out of office under subsection (1) or (2)' - and this is in respect of a member of Tynwald - 'he shall continue to be a member of the Board for all purposes (except that of filling the vacancy) until his successor is appointed.' Now, I know why this is being moved at this time because I recall back in 1996 when this House dissolved there were all sorts of problems and also post-election there were problems where we had a chairperson of a statutory board who continued in that role, continued to be paid to hold that office until a reappointment was made and of course that then triggered off this settlement of payment if a member is suddenly out, a sort of redundancy package, if you like, that is what flowed in the early days of this House because of the consequences of what had happened to one individual, in fact there were two members who were fairly hard hit when they were not re-elected by the people.

But I think this is fundamentally wrong because if a member of Tynwald, a member of Tynwald being, say, for instance, a Member of the House of Keys, loses their seat, then this provision under 6 will enable that person to continue being a member of that statutory board, which is normally the chairmanship, until a successor is appointed and I think that is fundamentally wrong because you could have a situation where somebody who has in effect been rejected by the people as a member of Tynwald continuing in a role for which he or she ultimately has power, being chairperson of that statutory board, and also receiving remuneration from the public purse. I can hear all kinds of practical arguments - 'Oh well, it takes a while to reappoint somebody to that position' - but I would have thought it would have been more beneficial for a statutory board made up of a member of Tynwald and others to have in place a position where there is a deputy chairperson, for instance, or somebody who will fill in, somebody who is not or has been a member of Tynwald but somebody who could assume the role until an appointment is made. That to me would be more beneficial than allowing that individual member who had ceased to be a member of Tynwald continuing in a role until such time as it was practical to put somebody else in. I think that could be criticised by the public because obviously during that period of time it could last anything from, I would suggest, four to six or even a couple of months if there are problems with first of all the selection of the Council of Ministers and subsequently the selection of the

membership on the statutory board, members to departments. We have yet in the very near future to consider legislation on the ratification of the appointment of the Council of Ministers and that in itself could slow the process down in future in terms of reappointments in these positions, and so it concerns me that someone who is not accountable to the public can resume and can stay in that position on that statutory board until someone else is appointed.

So I am afraid, although I see some merit in 3A, I am a little bit concerned about 3, so I am unable, because of that, to support the amendment. Thank you.

The Speaker: Mr Quine.

Mr Quine: Thank you, Mr Speaker. Just some clarification here. It is my understanding that a member of a statutory board, as indeed dealing with these two specifics, the matter of statutory boards and the commission, is appointed by Tynwald and if I am wrong, I apologise, but that is my understanding, that they are Tynwald appointments, subject to Tynwald approval.

Now, with the commission, what is proposed there is perfectly understandable: 'A member of the Commission may be removed from office by a resolution of Tynwald.' So they are appointed by Tynwald and they can be removed by Tynwald. But when we come to the other statutory boards it would appear that the proposition is that, whereas they are going to be appointed by Tynwald, they can be removed by the Council of Ministers. That I do not find acceptable. I am afraid if that is the situation we are once again losing sight of this need for checks and balances because if an individual member of a statutory board is going to be put in a position where he can be, without any reasons given, just removed by the Council of Ministers, you are here today and gone tomorrow, without that matter being the subject of scrutiny by Tynwald, I find that an unacceptable position. So unless the minister can explain to me why that is essential, then I am afraid I could not support the amendment.

The Speaker: Can I call upon the mover of the amendment to respond? Mr Brown.

Mr Brown: Yes, thank you, Mr Speaker. I will endeavour to answer the main points that members raised and I thank them for their contribution and those for their support and endeavour to try and deal with it.

I would like to make it clear that this issue before us is not about the position of the Chairman of the Water Authority, it is about the position of the chairmen of any statutory board which are listed in schedule 1 I think it is of the Statutory Boards Act 1987, so what we are talking about here is not individuals, we are not dealing with individuals, we are not interested in the individuals, quite honestly. What we are interested in is reviewing the legislation which was brought in when there was major restructuring of government boards into departments and restructuring of the statutory boards to try and ensure that as far as possible in those very early days the legislation reflected the requirement of what was seen to be a better and more streamlined and efficient system of government.

I can remember it well when the Statutory Boards Act 1987 was brought in and this provision was brought forward that the chairmen of the statutory boards should stay for a period of five years and it was seen that that was a sensible, practical way forward and it can be argued that it is a sensible, practical way forward. But what it did do and what has been seen over a period of time is it has done a number of things. First it has denied a review of political chairmen, because that is what they are, most of them, political chairmen, and secondly it does mean that if you are in a position where someone is appointed at the start of the life of the House and you do want to make a change for whatever reason, then you have not an opportunity to review that position, and whilst the Council of Ministers may review it after two and half years if this amendment is successful, they may well reappoint the chairman for another period of two and a half years. That is not a problem.

Now, where does the two and half years come from? Well, under the old Boards of Tynwald Act 1951 I think it is, which was the provision that was in force until 1987, the Government Departments Act took it over, under that provision the provision was that people's positions on

those boards, which were all subject to appointment by Tynwald, were subject to review after two and half years and therefore they decided to try and break away from that and they in fact broke away from it with regard to the Statutory Boards Act but did not break away from it in the early days to the appointment of ministers. So the whole thing has been evolving and changing and, like any legislation, any provision, what government is endeavouring to do here is to bring in what it feels is a more practical and sensible situation.

Now then, clearly to do this it was seen as prudent to make it effective from after the election of the next House of Keys. No point in doing it mid-term because you would only put a date on it anyway and therefore it was brought through at that time. So this will, for example, affect the Office of Fair Trading, the Post Office Authority, the MEA and so on, so it will affect those different statutory boards.

It must be remembered that whether we like it or not we have a situation where the statutory boards and authorities are part of government, whether you like it or not they are part of government, they are protected by the government system, they are part of the government system. They can only do what they are allowed to do by statute, so therefore you cannot say government itself cannot at any stage have any input into what is going on because ultimately the Chief Minister, whoever the Chief Minister is, is ultimately responsible for the actions of that statutory board and therefore the Chief Minister and the Council of Ministers who have appointed them need to have the provision that is put into this amendment before you.

Now, one of the things that was identified was in fact to retain the non-Tynwald members to have a period of five years and the reason for that was to balance up again with the point where the Council of Ministers may remove a member of a statutory board from office by direction. What we are endeavouring to do is give the provision for whoever the next government is, the administration, to have the flexibility to do whatever they wish to do within the provisions of the legislation as laid down and we think, after our experience since 1987, that this is a proper way forward and provides more flexibility and a better provision than we have at the moment.

What has to be remembered is that under the present law the Council of Ministers already have the power to direct any statutory authority, so the point that the hon. member Mr Karran, the member for Onchan, raised to some degree is irrelevant because ultimately the Council of Ministers can direct a statutory board or authority to do something whether they like it or not. Now, then you have got the integrity of the members of that authority as to whether or not they feel their position is still tenable, but ultimately responsibility does lie back with the executive government.

I think it is also worth putting on record that since this Act came in and since the Council of Ministers came in I think, and I may be wrong but as far as I can see, the chairmen of statutory authorities and boards have had unstinting support from the Council of Ministers, whoever the ministers have been over the years, whether it be former Treasury ministers, whether it be former Trade and Industry ministers, Chief Ministers or whatever, who have provided substantial support and encouragement to the statutory authorities to enable them to carry out their functions and in fact have taken on board in some cases some very difficult political decisions in an endeavour to help the statutory authorities move forward and do what is in the best interests of the Island.

Now, as far as sub-clause (3) of the amendment is concerned, why is that removal there, I think I have explained it. It allows some flexibility in it, it does allow us to address if there are any problems, whereas if there were now there could be difficulties, so again it is giving the executive the flexibility.

Now, the hon. member for Ayre, Mr Quine, said, 'Oh well, that's all right, but the Council of Ministers could just do it and what can we do about it?' Well, there are a number of things ultimately. One is that the Chief Minister is answerable anyway and his ministers in Tynwald Court and in this House and therefore can be questioned. If it is that serious and any member is not content they can set up a select committee and investigate the whole issue anyway, and I have to say that if it is that serious I doubt that the Chief Minister and his ministers are going to take a

decision, because the inference is there, that spites a person because they have done something or said something that was not popular. The removal of anybody from a department or from a statutory board or authority is seen as a very serious issue. It is not taken lightly. It is not just taken because we do not like someone. It is taken because there is a very good reason for it to be taken and if you look at the history, very, very few occasions does that happen.

Now, the hon. member for East Douglas, Mrs Cannell, was questioning why reconsider after two and a half years? I think I have explained that.

I think I would also make the point that where she talks about members of departments do not have this provision, she is absolutely right, but there is a substantial difference. Members of departments are appointed and removed under the Government Departments Act 1987 and they can be removed just like that today, as can ministers, so there is no problem. If there is a problem with a member they can be removed immediately and the same applies with a minister. What we are saying is that this provision allows for at least some flexibility to be brought into the present legislation.

Now, the hon. member raised the issue about sub-clause (5) of this clause. Well, I can advise her that it is the same provision as in the existing Statutory Boards Act 1987, so that is just restating it.

As far as sub-clause (6) is concerned, with a slight change it is basically the same and it is again covered under the Act, and as far as the provision of where a member of a statutory board goes out of office and continues until a successor is appointed, those are normal provisions which apply to the ministers in departments, apply to statutory board chairmen, apply to members and so on.

What you have to remember is that under this new provision a member of a statutory board will be appointed from the time he is appointed for five years, so they might be appointed at different times, it does not mean they are all there for the same five-year period. It might be they are, but with people who become ill, decide to step down or whatever you end up getting some flexibility there of carry-over.

Now, the hon. member mentioned about the chairman being there and why do we not have a vice-chairman? Well, again, under the Statutory Boards Act 1987, schedule 2 it is quite clear and what it says in there, and I will just read it out, is - and it is a sub-heading, 'Vice-chairman' - 1. The Board shall elect one of its number to be vice-chairman of the Board - (a) at its first meeting after its election; and (b) on any casual vacancy arising in the office of vice-chairman.' So it is quite clear, it is already covered in statute: there is a proper position for a vice-chairman of any of these authorities. So it is not just 'Let's have a vice-chairman', it is actually statutorily laid down that there has to be a vice-chairman.

So I hope that has answered the questions. I think it is just really a matter of us over a period of time evaluating how this thing has developed and that these are changes which I think will be beneficial to everybody concerned. I beg to move.

The Speaker: Mr North to respond to the clause.

Mr North: Thank you, Mr Speaker, and first of all can I thank the hon. member for Castletown, Mr Brown, for taking this amendment, obviously which I totally support, as does my department, and the only point I think that really is at issue here is whether this is an efficient way forward, and to all those who are arguing against that, I do not have a problem with their argument except that I would say for the future efficient government the experience that has been gathered since 1986-87 indicates that this is a sensible way forward.

My hon. colleague for Ayre said that he felt that we were losing sight of checks and balances. I do not think that is the case. There is a lot of consideration and ability, as my hon. colleague has said, for the Council of Ministers to direct the statutory boards anyway and certainly there is the

check from Tynwald, and of course if things proceed according to plan, hopefully Tynwald will also have to approve the Council of Ministers after the next election, and of course I will not be here to see that but it certainly was in my manifesto. So I am delighted to have that check in.

But certainly I thank all those who are supporting this and would say this is basically to enable government to operate efficiently.

The Speaker: Hon. members, the motion is the amendment to clause 1 as in your order paper. All those in favour of the amendment please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Brown, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Bell, Corkill, Cannell, Gelling and the Speaker - 16

Against: Messrs Quine, Houghton, Henderson, Mrs Cannell, Messrs Singer and Karran - 6

The Speaker: Hon. members, the amendment carries, 16 votes in favour and 6 votes against.

I now put clause 1 as amended. All those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Brown, Houghton, Henderson, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Bell, Corkill, Cannell, Gelling and the Speaker - 20

Against: Messrs Singer and Karran - 2

The Speaker: Hon. members, the result is 20 votes in favour and 2 votes against that clause 1 as amended stand part of the Bill.

I now call upon the hon. member for Castletown, Mr Brown, to present the new clause, Gaelic broadcasting, in principle, hon. member.

Mr Brown: Thank you, Mr Speaker. The basic principle of this is to make a change to the Gaelic Broadcasting Committee which I believe is an improvement and will allow for the chairman not to be a member of the Communications Commission. I therefore propose that the new clause in principle be accepted:

Gaelic Broadcasting Committee

In section 12 of the Broadcasting Act 1993, for subsection (3) substitute -

‘(3) There is established a body called the Gaelic Broadcasting Committee (“the Committee”) consisting of a chairman and not less than 3 other members appointed by the Council of Ministers.’

Mr Gelling: I second, Mr Speaker, and reserve my remarks.

The Speaker: The motion is that the new clause be accepted in principle. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Mr Brown, present the clause.

Mr Brown: Thank you, Mr Speaker.

In section 12 of the Broadcasting Act 1993 I propose an amendment and replace subsection (3) with the following: ‘There is established a body called the Gaelic Broadcasting Committee (“the Committee”), consisting of a chairman and not less than 3 other members appointed by the Council of Ministers.’ The change here is that the chairman of the Gaelic Broadcasting Committee, if this change is accepted, will not have to be a member of the Communications Commission which the present legislation requires and therefore provides again more flexibility and enables

hopefully the right person to be put in the right position. I beg to move the amendment standing in my name.

The Speaker: The new clause?

Mr Brown: Sorry, the new clause, Mr Speaker.

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

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I have a little bit of concern about this in the fact that what we are changing is that the chairman shall be a member of the commission and in the new clause that the chairman does not have to be a member of the commission. My concern is that the fact that whilst it can be a bit of an impediment and it is highly unlikely that we would ever get somebody who has a reasonably sufficient knowledge of the language, it does put us in the position of slightly marginalising the Gaelic Broadcasting Committee.

I appreciate that this House has done a good job as far as this is concerned and by allowing this to go through in the 1993 Act but what I am concerned about is the fact that by accepting this amendment it means there is no direct link from the committee to the commission. It means that there is more chance of it being ignored and whilst I have to applaud Manx Radio that they have done wonders in recent times as far as promoting the language is concerned, it does mean that the committee does not have that link with the commission.

I would be interested to hear the Minister for Home Affairs as far as the reasoning behind this if that is not the case. I know that in the past he was a great supporter of all things Manx and that and still is, and the situation is what I would like to know from the minister is why this has been put forward, if not just to marginalise the situation of the Gaelic Broadcasting Committee because it will not have that direct link any more and it will not have a member of the committee as a member of the situation. I believe that that is not wrong, and all right, civil servants can communicate from one body to the other, but I am just a bit concerned and I would just like to know what the rationale is behind this. Is it because they see this as a bit of a pain and they want to just divorce it further from the commission itself?

The Speaker: Mr Bell, the member for Ramsey.

Mr Bell: Mr Speaker, I rise, naturally, to respond to the previous speaker and to make it absolutely clear there is no intention in this resolution to marginalise the Gaelic Broadcasting Committee.

For some reason it was felt appropriate in the past to attach the Gaelic Broadcasting Committee to the Communications Commission itself. My own practical experience of being Chairman of the Communications Commission for the last few years would indicate that it was a wholly inappropriate linkage in the first place and one which has brought absolutely no benefit whatsoever to the Gaelic Broadcasting Committee.

We have been fortunate in one respect over the last few years in so far as Deemster Callow has been the chairman of the Gaelic Broadcasting Committee and he, because of his legal background, has brought some benefit to the Communications Commission itself.

I think most hon. members now are aware that there are major changes taking place within the Communications Commission. We have consultants discussing the way ahead with business on the Isle of Man, with hon. members, with the public with the intention of splitting the Communications Commission of separating the regulatory powers of the commission from the technical management of the office and it is quite clear that in the new format, which is going to be dealing with major issues such as the future development of telecommunications internationally, with the development of a new licence perhaps for Manx Telecom or whoever that successor is, there is a requirement now for members of the commission to have a much broader view of the

telecommunications world than has existed previously. It is felt now that we want the positions on the Communications Commission to reflect that as much as possible and whilst we in no way denigrate the abilities of the chairman or any future chairman in fact of the Gaelic Broadcasting Committee, it is felt more appropriate we have that extra committee member on the Communications Commission being someone with experience of telecommunications rather than just on the very narrow base of the Manx Gaelic Broadcasting Committee.

The thought in this move also is really to be fair to future chairmen of the Gaelic Broadcasting Committee themselves who may, whilst being fluent Manx speakers and interested in the furtherance of Manx Gaelic, have absolutely no experience or indeed interest at all in telecommunications internationally and because of the present arrangement they are obliged, whether they like it or not, to be a member of the Communications Commission, so there is a two-way problem here.

This Bill coming forward now was felt to be an appropriate mechanism to separate the two groups permanently. It does not in any way diminish the influence the Gaelic Broadcasting Committee have: they will still carry on in exactly the same form they have had in the past. They will, if required, have access to the Communications Commission if they have concerns with the operation of Manx Radio. They will have the same rights as anyone else to contact us and we will be only too glad to take up any concerns that the committee raise with us.

So there are very good practical reasons for this separation at this particular time and I would urge hon. members to think forward now, think to the future, think to the challenge that is there to develop the telecommunications industry on the Island and to develop a strategy for its furtherance and realise that now is indeed an appropriate time to separate the Gaelic Broadcasting Committee from that enterprise but also recognising that in no way does it diminish the influence that the Gaelic Broadcasting Committee has on either the Communications Commission or indeed anywhere else in government.

The Speaker: Mr Brown to reply to the new clause.

Mr Brown: Yes, thank you, Mr Speaker. I can to some degree sympathise with the comments made by the hon. member for Onchan, Mr Karran, where he, I suppose the right way to say it, has mixed feelings about this issue as to whether or not it is the right way to go forward. I think there are a number of things I can say. One again is that it is really giving the opportunity to identify horses for courses and making sure that the chairman of the commission is there because the chairman has an interest as against the chairman who is there because the chairman just happens to be on the Communications Committee and may have no interest whatsoever in Gaelic broadcasting and in fact it is possible that you could have a chairman who is anti the provision of Gaelic broadcasting.

The only bit I would say and I would just refer to is the Broadcasting Act 1993 which of course this new clause amends and just a number of points there that I think are important and remember now that we are talking about all the members of the committee being non-members of the commission, so therefore they are classed as members and under clause 12(4) it states, 'Before appointing any member of the Committee the Council of Ministers shall consult the Commission and such persons having knowledge of Manx Gaelic as appear to the Council of Ministers to be appropriate.' It then goes on under sub-clause (6) - and I think these are important provisions and if they were not here I think the point the hon. member makes may have more validity - 'The functions of the Committee shall' - and that is the important word, 'shall' - 'be to promote, and advise the Commission and the Treasury on, the making and broadcasting of programmes in Manx Gaelic.' And then sub-clause (7) says, 'The Committee shall in each year report to the Council of Ministers on the work of the Committee during the previous year, and the report shall be laid before Tynwald.' Now to me they are very important provisions because if the scenario that the hon. member for Onchan refers to was to come into being, which is the situation where the commission is ignoring the committee, the Treasury are ignoring the committee, well of course when the committee does its annual report which is laid before Tynwald it can actually raise those

very issues and I am sure we will have members of the hon. House and certainly within Tynwald Court, such as Mr Karran, who will have an interest in this and if they find that the committee is being ignored, then they will raise those issues in the appropriate place.

So I think that with those safeguards this in itself is a step forward, again really improving on what is there at the moment, hopefully improving, and again do not forget: nothing is for ever. If it is found that this is a mistake and the House of Keys in the future decides we need to reverse it, well that is a decision for them, but the government at the moment believes on the information we have that this is a change that will benefit everybody. I beg to move the new clause.

The Speaker: Hon. members, the motion is the new clause, Gaelic Broadcasting Committee, stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it. Further new clause, Isle of Man Water Authority, Mr Brown.

Mr Brown: Yes, the new clause in principle, Mr Speaker, is that I am proposing that there should be an amendment to the Isle of Man Water Authority legislation under the Water Act 1991 which makes a change of membership. I therefore beg to move the principle of the new clause:

Isle of Man Water Authority

In section 1(2) of the Water Act 1991, for '2 other members' substitute 'not less than 2 and not more than 4 other members'.

Mr Gelling: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion is that the new clause, Isle of Man Water Authority, is accepted in principle. All those in favour please say aye; against, no. The ayes have it. The ayes have it. The new clause, Mr Brown.

Mr Brown: Yes, Mr Speaker, the amendment before hon. members, the new clause, is quite straightforward. It is again what we believe to be an appropriate change and it is that in section 1(2) of the Water Act 1991 where it states '2 other members' make a substitution of that which says 'not less than 2 and not more than 4 other members'. Again this allows some flexibility in the membership within the Isle of Man Water Authority and I believe that it is a beneficial change. I therefore beg to move.

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

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I have to say that I am fully supportive of this proposal. I think that the situation is that we need to look at the lay input on many other things as well as the Water Authority. I am glad that after consultation the mover of the Bill has arranged for this amendment to be put forward.

I am just a little bit concerned that with this proposal there was some consultation but when members of this House and the mover of this amendment talk about consultation and co-operation I have yet to officially see the original first amendment as far as this amendment is concerned.

I have no problems with this. I think it will be better. It gives the flexibility to have a broader Water Authority which means that you can take people from different walks of life, but I do say that I am glad to be consulted about this, but I think it is wrong when members of this hon. House try to make out that we get all this consultation and support when it just does not happen, as I say, on previous items on this Bill and on this agenda today where as a member for Health there has been no communication to me and that was as a member of a department of government, never mind as a chairman of a statutory board.

I will support this proposal. I do think that the flexibility should be put into the piece of legislation and obviously it will be up to the new Water Authority to decide, with consultation hopefully with the Council of Ministers, how many people will be on the Water Authority in the future, but I do hope there is consultation because there was not when it came to the original first clause

of this Bill, and there is another item on the Bill where I have had no consultation as a member of that department and I just think some members in this hon. House, as well meaning as they are, like the mover, need to live in the real world when it comes to these things.

The Speaker: Mr Brown to reply.

Mr Brown: I have nothing to add, Mr Speaker.

The Speaker: The motion is, hon. members, that the new clause, Isle of Man Water Authority, stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 2, sir.

Mr North: Thank you, Mr Speaker. Clause 2 enables the Act to come into operation on 1st January 2002 and I beg to move.

Mrs Crowe: Thank you, Mr Speaker, I beg to second.

The Speaker: The motion is, hon. members, that clause 2 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. That completes the clauses stage of the Statutory Boards (Amendment) Bill.

It is an appropriate time to adjourn for lunch and the House will now stand adjourned until twenty-five to three.

The House adjourned at 1.05 p.m.

Road Transport Bill — Consideration of Clauses Commenced

The Speaker: Hon. members, we now move to item number 13 on our agenda which is the Road Transport Bill for consideration of clauses, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder.

The Speaker: Clauses 1 and 2.

Mrs Hannan: Thank you. This deals with the Road Transport Licensing Committee and this clause sets up an independent Road Transport Licensing Committee which will be responsible for the regulation of commercial vehicle operations under this Bill. It will take over from the Road Traffic Commissioners.

Sub-clause (1) establishes the committee.

Sub-clause (2) sets out the constitution of the committee and will consist of five members, all appointed by the Council of Ministers subject to Tynwald approval.

Sub-clause (3) provides for members of the committee to hold office for five years but they may be removed during that term by the Council of Ministers.

Sub-clause (4) disqualifies a member of Tynwald, persons concerned in any business involving carriage of passengers or goods for membership of the committee.

Sub-clause (5) applies standard provisions of the Statutory Boards Act 1987 to the commissioners.

Sub-clause (6) imposes on the committee the responsibility for enforcing the Bill, and sub-clause (7) makes it clear that the committee is to be financed out of the general revenue. This clause comes into operation on 1st January 2002.

Clause 2. This enables the Department of Transport to make regulations governing the proceedings of the committee and allows the committee to be assisted by expert assessors.

Sub-clause (1) gives the department power to make regulations dealing with the procedural matters set out in (a) to (k) relating to the manner in which the committee is to reach decisions on applications and other matters under the Bill. The regulations will require Tynwald approval.

Sub-clause (2) provides that, subject to any such regulations, the committee are to determine their own procedure.

Sub-clause (3) allows the committee to be assisted by expert assessors where technical or financial questions arise in the proceedings.

Sub-clause (4) provides that assessors will be eligible for allowances in the same way as members of the committee. This clause also comes into operation on 1st January 2002.

Vainstyr Loayreyder, I beg to move that clauses 1 and 2 form part of the Road Transport Bill.

Mr Brown: I beg to second and reserve my remarks.

The Speaker: Before calling Mrs Cannell I want to make clear that while clauses 1 and 2 have been moved, I will vote separately clause 1 and clause 2. Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. My concern is in relation to clause 1 of the Bill in respect of the establishment of the Transport Licensing Committee. Members are fully aware of what the amendment contains and it reads: 'A person shall be disqualified for being appointed or being a member of the Committee if he is a member of the Council or Keys, he is or has at any time been in the service or employment of the Department in any capacity (including as a consultant or expert) in connection with the regulation of the transport of passengers or goods by road, or he has any financial interest in any trade or business involving the carriage of passengers or goods.'

Now, (b) in my amendment inserts a new provision within clause 1 and the reason this was felt to be appropriate was that it is paramount that this particular organisation that is set up through the Council of Ministers with approval of Tynwald, this committee is fair, impartial and unbiased. It seems to me that it would be an appropriate amendment to put in at this point in time.

It is an issue, a question mark over this that I did raise at one of our liaison meetings with the Department of Transport along with representatives of the taxi trade and the minister responded at one of those meetings that it was hoped that such a person would not actually be a member of this particular licensing committee, but hope is a wonderful thing. I think it would be prudent to insert this. I do not believe that it would preclude the committee from looking for expert advice because of course in clause 2 which is now being moved, subsection (3) of clause 2 provides that regulations may be made by the department for the committee for a number of things and under subsection (3) it says, 'In considering any technical or financial question which appears to it to arise in relation to the exercise of its functions under this Act, the Committee may be assisted by an assessor drawn from a panel of persons appointed for the purpose by the Department.' Now, that is quite an apt provision for them, it would come under the regulations, and so to my mind you would have an impartial membership on this committee, totally impartial, totally unbiased and it must be seen to be fair in this particular situation, but in addition to that of course they also have or would have the power, depending on the department bringing forward the necessary regulations, to draw in that expertise when they needed it, so if they needed a consultant who had expertise in licensing matters or anything that comes under this legislation they would be able to draw in that expertise. Equally if there is a financial question, again they can draw on the expertise to bring in that financial expertise in terms of anybody that would be appointed or drawn or listed on a panel of persons with such expertise that the department will put together.

I know members have had a number of letters, four in all I understand, to have come to them from the Isle of Man Taxi Owners Association and one has come from Castletown and Southern Taxi Association and the other is the Manx Taxi Federation and I want to make it absolutely clear at this point that the one submitted by the Isle of Man Taxi Owners Association, which is called the TOA, does not represent the Isle of Man view. So please, members, do not be fooled by the title. It is not an Isle of Man view, it is a view that constitutes less than 50 per cent of the taxi owners in Douglas only and so it is a very limited view and it is not representative of the Island view. The Island view of course is in support of this particular amendment because they are keen, thinking of

the Island's industries' interests, that such a committee will be totally impartial so that a fair representation will be on it, but it will be impartial.

Turning to the letter of the TOA dated 23rd March of course it said, 'It was felt that Mrs Cannell's amendment to clause 1 is unnecessarily restrictive and might deprive the committee of useful experience in the future. We do not support this amendment.' Well, clearly this limited organisation with a limited membership - but I have to say the membership have not been consulted, this was a committee that wrote this letter to hon. members, which constitutes five individuals, I am reliably informed, and it was not put to the membership of the Isle of Man Taxi Owners Association - have not read clause 2 or understood it because if they had done they would have noted that subsection (3) of clause 2 does provide a mechanism for employing the technical and financial expertise as and when it felt it required it.

So I would ask hon. members, with a degree of respect here, to please ignore this particular paragraph and indeed I will highlight other parts of their concern as we move on through the clauses, but I hope hon. members will support the amendment to clause 1 so that we can see and be seen to be putting together a fair and impartial committee to undertake these tasks. Thank you, I beg to move:

Page 2 line 1, for paragraphs (a) and (b) substitute -

- “(a) he is a member of the Council or the Keys,*
- (b) he is or has at any time been in the service or employment of the Department in any capacity (including as a consultant or expert) in connection with the regulation of the transport of passengers or goods by road, or*
- (c) he has any financial interest in any trade or business involving the carriage of passengers or goods.”*

The Speaker: Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I have no problem in seconding the amendment because I feel that my own view is that it strengthens the actual clause.

I know there is a difference of opinion between organisations, as my colleague for Douglas East, Mrs Cannell, has already stated. However, I do feel that it makes the committee more independent because they can call on expertise from the field of transport and it does not have to be a person who has been employed by the department and I would like to reiterate what Mrs Cannell said, particularly from the TOA that it is unnecessarily restrictive and might deprive the committee of useful experience. That committee can be brought in and I can see no harm in this amendment to the clause.

The Speaker: Anybody else? Mr Brown.

Mr Brown: Yes, thank you, Mr Speaker. I am somewhat taken aback by the comments of the seconder of this amendment, Mr Braidwood, the hon. member for East Douglas, considering he is Chairman of the Financial Supervision Commission, considering that all his members who are able to go on that body in fact are people who have an understanding of the business that is before them.

I would say regarding the amendment, whilst it sounds very plausible and very good, I would say to the hon. member for Douglas East, why is it that in her amendment she only excludes persons who have either been in the direct employment of the department or service of the department in any capacity, including consultant or expert? No amendment there to say if they happen to have been at some stage in the business of the taxi operations or in the business of trade in terms of carrying goods or passengers. As we are open on that side, why aren't we open on the other side? Why just purely restrict because somebody happens to have worked for the Department of Transport? You might have a very good chap who was the director of harbours. You

might have a very good administrator who worked in the airport or worked on highways. The point they have got ability and the point that maybe five years ago they worked for the Department of Transport is totally irrelevant. These people do have integrity and I think it is important to realise that ultimately it will be Tynwald's decision. So therefore the department is not free to appoint these people, in fact the department does not do anything, it is the Council of Ministers who will constitute this committee so that it is separate from the department, but ultimately it is Tynwald.

Now, if you are going to put an argument up front, put an argument up front that to use her words, is fair. The argument is not fair because you have just said because somebody happened to work for the Department of Transport or somebody provided consultancy for the Department of Transport or was an expert they cannot be considered. What absolute nonsense, absolute nonsense. It could be somebody who did a job one time 10 years ago for the department, who then suddenly is available, and I am sure that whoever the Council of Ministers are in the future they will take into account as appropriate the skills and the ability of those people that are offering themselves forward for the service of this Island through such a committee.

I think it is time that people kept in mind what this legislation does. Firstly, it is not just about taxis. Secondly, it is about carrying goods and other things. But also let us remember there are provisions in this legislation for appeals to the High Bailiff, so anything this committee does is subject to an appeal to the High Bailiff and I believe that we should just get on with the job.

I think the Bill as written is acceptable. I know there has been a question raised by the hon. member and she may come back on this about human rights. I have to say as far as I am concerned I am content that the clause as written is acceptable. The Attorney-Generals, as far as I am aware, are content because they are the ones who have drafted it up in conjunction with the department, and I believe that the change that is being put forward is just a matter of putting an argument for the sake of putting the argument and I hope hon. members will reject it.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like the mover to tell us the last time a member that has been put up for Tynwald was ever rejected by Tynwald as far as the issue is concerned, if you could tell us when the last time was that a Tynwald name went forward for any board that was rejected by Tynwald.

The Speaker: Mr Cannell.

Mr Cannell: Yes, thank you, Mr Speaker. I would like to speak in the same vein as the hon. minister because I do not see what on earth the past employment in the department has got to do with future recognition. I am quite content that it should be 'is in the service' because clearly that could be prejudicial, but I would like to support the minister in saying that it is very difficult to rule out a possible pool of people who may well be experts in the field and in fact the way I read this it could - I do not wish to cause a cheap laugh at this - actually include ex-department ministers because they would no longer then be a member of the Council or Keys but they certainly might be in the position of knowing a considerable amount about the regulations and the trade of the service that we are coming to be offering.

So 'is a member' is fine because clearly that could be complementary to the job he is already doing, but 'has at any time' in itself of course, as has been pointed out, could be any time between being an apprentice at the department involved in it at 16 years of age and contributing still at 80 years of age, if we are going to debar someone who may well be pretty good in the field completely from occupying any position of this nature. It seems as if it is going a little bit too far to me.

The Speaker: Mr Quine.

Mr Quine: Yes, just one point I think I would add to the debate on this point, sir. I think if we look at item (b) that is in the amendment it is much more narrowly based than has been suggested: 'he is or has at any time been in the service or employment of the Department in any

capacity. . . in connection with the regulation of the transport of passengers or goods by road'. It has to have been a prior commitment directly involved with the regulation. That is a much more narrowly based specification than suggested by the hon. member for Onchan.

But I would just come on to what I think is a more important point. I understand of course, I accept that we are talking about a licensing body and from that licensing body you have an appeal to the High Bailiff or Deputy High Bailiff, but of course in any such review the same principles will be applied, and if they were not by that appeal they could be by other judicial process, in terms of the fairness of the procedures as applied, and I would suggest that if a court was sitting, exercising a judicial review, where they were contesting a decision and it was part and parcel of that case that one or more of the members of the licensing authority had been connected with the department in this narrow context here there would be real cause for concern as to whether that decision would be upheld. There would be real cause for concern.

The prudent thing to do is to make sure that we preclude that being a basis for judicial review and in putting the legislation in place proscribe that by saying, 'This will not be taken into account', because after all there is no suggestion by the hon. mover and there is no suggestion by the minister that people could not be found out and beyond the specification in item (b) here who could perform these duties, so if that is the case, then I think the prudent course of action is to embody in legislation the safe parameters, not parameters which can be questioned.

The Speaker: Mr Henderson.

Mr Henderson: No, thank you, Mr Speaker.

The Speaker: I call on Mrs Cannell to reply.

Mrs Cannell: Thank you, Mr Speaker. I am most grateful for the hon. member for Ayre in his contribution because I believe that he has included a little bit more clarity to the intention of this particular amendment, and he is quite right because it is limiting only in terms of those who have been engaged or employed to do with the regulation of the transport of passengers or goods by road and so it is limited and so he is correct. I will give you the real reason, the honest reason, for putting in this amendment and this comes largely from discussions with the Attorney-General's Chambers in terms of comparable legislation, because this is what I was keen to look at, to see where there was comparable legislation in the UK or any other country in the world from which I might draw a little bit more knowledge and a little bit more foundation to try and rectify what my concerns were, and the discussions were in fact quite enlightening because the Attorney-General's Chambers said to me that this piece of legislation is largely home-grown. There is no comparable legislation anywhere else in the world which includes the licensing of not only taxis and minibuses and coaches and public transport and haulage altogether under the one piece of legislation: it does not exist.

The only part of this legislation which has been drawn in part from similar legislation is from the United Kingdom and it is in terms of the haulage requirements and restrictions laid down in the legislation. That is very similar to the UK legislation, not exact, similar, but the rest of it is largely home-grown and because it is home-grown of course the department have been provided with very good consultancy in terms of drafting the home-grown legislation that is before members today and it is for that reason that it was seen to be fitting to restrict the membership of the committee so it would not embrace the expertise that the department have engaged for this specific piece of legislation and this is where the amendment has come from. There is no hidden agenda here. It really is to enable the legislation to be solid in its foundation so that it will not be open to, as suggested by my hon. friend for Ayre, Mr Quine, judicial review. I beg to move, sir.

The Speaker: Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. This legislation is interesting legislation, and as the previous member has said, it is home-grown legislation and I do not think we should apologise for that. (**Mr North:** Hear, hear.) We are a parliament that introduces our own legislation.

It gives reading, it makes legislation statutory and therefore I make no apology for bringing forward this legislation.

The situation is that I think the comments that have been made have been made purely on the amendment moved by the member for Douglas East.

The legislation is written in quite a clear way that this is a Road Transport Licensing Committee, so it is there to license all road transport and it is involved in all of that. We do want people with expertise and I think what could happen with this legislation is we introduce the legislation and to get someone who has had absolutely no contact with the department of any nature over, well, for ever, we would probably have to bring in somebody from the UK to operate this legislation, to act on a committee, and therefore I think when we are looking at legislation, when we are looking at people here I think the comment really is that it has got to be impartial. It strengthens the clause by having this amendment. The comments in letters circulated have been Douglas - only comments, past employment. Past employment might go back 20 years, but somebody could go through all their past interests and be able to say, 'Well, that person cannot serve because the legislation quite clearly says that if this person has at any time been in the service of or employment of the department in any capacity, consultant or expert, in connection with the regulation of transport of passengers or goods by road.' It is all right saying 'by road', but all the areas of the department would be affected by that because all the Department of Transport actually relates to anything which travels by road, and then we are saying that anybody who has any financial interest in any trade or business involving the carriage of passengers or goods, and I come back to the comment made by the member for Castletown who suggested to the seconder, well, what happens with the Financial Supervision? What happens to other areas of advice where government gets? Government refers many areas of legislation to interested bodies because they are the people that know the ins and outs and can advise.

Now, section 2 actually says that we can have expert advice. That is fine, but only in certain circumstances. Surely we are not going to have a committee of five people with an expert brought in every time they sit. Why have a committee to do that? We should have some people who at least have a knowledge of the Island, not brought in from outside. Five members I think would be extremely costly.

I would hope that members will support the legislation as written and I would hope that members could be in a place to do that.

Could I just say that Mr Karran asked a question with regard to whether members had been rejected by Tynwald when they had been put up for election to various committees and I believe, yes, there has been rejection by Tynwald in the past. It has proved quite embarrassing to members, but that is what the legislation says and so people have been objected to and I think in some instances there was some concern over I think MEA membership whereby we would not actually get people to come forward to stand on that body and to serve the Island and they have to be people with an expertise in that particular area.

So I would hope that members will support the Bill as written and I beg to move clause 1 and 2 stand part of the Bill. Thank you, Vainstyr Loayreyder.

The Speaker: Right, hon. members, we now have the amendment as moved by Mrs Cannell to clause 1. All those in favour please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

For: Messrs Quine, Houghton, Henderson, Braidwood, Mrs Cannell, Mr Bell and the Speaker - 7

Against: Messrs Gilbey, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Brown, Cretney, Shimmin, Downie, Mrs Hannan, Messrs Bell, Corkill, Cannell and Gelling - 15

The Speaker: Hon. members, the amendment fails, 7 votes in favour, 15 votes against.

I now put the motion that clause 1 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Brown, Houghton, Henderson, Cretney, Braidwood, Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Corkill, Cannell, Gelling and the Speaker - 21

Against: Mrs Cannell - 1

The Speaker: Hon. members, 21 votes in favour, 1 vote against that clause 1 stand part of the Bill.

Clause 2. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 3, hon. member.

Mrs Hannan: Thank you, Vainstyr Loayreyder. This clause introduces a system of licensing and registration of operators for passenger and goods vehicles which the committee will run under part 2 of the Bill.

Sub-clause (1) requires the committee to maintain two registers, one of passenger vehicle operators and one of goods vehicle operators. Regulations will prescribe the form of the registers.

Sub-clause (2) provides the committee to grant licences for passenger vehicle operators and goods vehicle operators and requires it to keep lists of all licences. Regulations will prescribe the form of the lists.

Sub-clause (3) explains what is meant in the Bill by the terms 'registration' and 'registered' as a passenger or goods vehicle operator by reference to the registers kept under (1) above.

Sub-clause (4) requires the committee to keep registers and lists available for public inspection and to allow copies to be made at a reasonable fee.

This clause comes into operation on 1st January 2002 for the purpose of making regulations and on 1st April 2002 for all other purposes.

Vainstyr Loayreyder, I beg to move that clause 3 stand part of the Bill.

Mr Brown: I beg to second and reserve my remarks.

The President: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I would just like to ask the mover, when she said that they are going to come in 2002, when exactly is it proposed to bring them in at 2002, bearing in mind that members have yet to see and the regulations have yet to be determined and have yet to go out to public consultation, I would suggest, at least to those people who will be affected by such regulations, and bearing in mind that there is an amendment that we will consider later on to extend the transitional period to five years, is it prudent to still keep the provision of these regulations coming in for 2002?

The Speaker: Mrs Hannan to reply.

Mrs Hannan: Thank you, Vainstyr Loayreyder. This clause comes into force on 1st January 2002. This is for the purpose of making regulations and on 1st April 2002 for all purposes. Regulations will be brought in, interested bodies will be consulted with.

We have set ourselves a tight timetable on this particular issue but we feel it is right and proper. The legislation has been a long time in coming forward after long consultation with interested bodies. There is a need to bring in this legislation and to get it going for this particular date and therefore I can see no problem with January 2002, but of course if there are amendments moved that change that date, then obviously the department would bear all that in mind.

I would hope members can support this clause 3 which deals with registers and licences. I beg to move clause 3 stand part of the Bill.

The Speaker: Hon. members, the motion is that clause 3 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 4, 5 and 6, hon. member.

Mrs Hannan: Thank you, Vainstyr Loayreyder. This deals with passenger vehicles. This clause explains what is meant by the terms 'passenger vehicle' and 'commercial use', which are fundamental to the systems of regulation under the Bill so far as they apply to passenger vehicles.

Sub-clause (1) defines 'passenger vehicle' as a vehicle constructed or adapted to carry passengers. This will cover cars, minibuses, buses and coaches.

Sub-clause (2) explains what is meant by the commercial use of a passenger vehicle. It covers use on an adopted road, that is, highways maintainable at the public expense - (a) in connection with any business carrying passengers, for example taxi, bus or coach operation; (b) in connection with any other business of the operator or an associated company, that is a hotel or a construction business; this does not apply to cars; (c) otherwise for hire or reward but excluding bona fide car-sharing arrangements.

Sub-clause (3) adds an extra case where a vehicle is treated as being used commercially, that is, where it is standing and plying for hire in a road or other public place.

Sub-clause (4) excludes from commercial use the use of a car to carry passengers in connection with business other than a business of carrying passengers, for example the use of a firm's car to take clients to and from the airport.

Sub-clause (5) excludes from commercial use bona fide car-sharing arrangements. This covers (a) cars only; (b) any payment made by a passenger must be no more than a contribution towards the running expenses; and (c) the arrangement must have been made in advance.

Sub-clause (6) allows the court in any proceedings in which the exemption under (4) is claimed to take account of any official guidance and the running costs of vehicles.

Sub-clause (7) contains anti-avoidance provisions: (a) payments are deemed to fall within the term 'hire and reward' in (2)(c) above if they are made for carriage or for anything which includes carriage as a passenger and it does not matter to whom the payment is made, the carrier or the agent or the third party. The technical rules are disapplied under which services provided by a club to its members for payment do not count as commercial transactions. (b) Payments are treated as fares even though they cover other things - meals or accommodation on a tour, an excursion - and it does not matter by or to whom payment is made. (c) A payment is treated as made for carriage as a passenger even if no journey is taken, for example payment for a season ticket or carnet.

Sub-clause (8) makes it clear that payment covers any consideration in service or kind even if no money changes hands.

This clause also comes into force on 1st January 2002 for the purpose of making regulations and on 1st April 2002 for all other purposes.

Clause 5. This clause lays down the basis of the system of regulation of commercial passenger vehicle operation in part 2. It is illegal for any one to use a passenger vehicle commercially for the carriage of passengers unless he is either licensed or registered as a passenger vehicle operator.

Sub-clause (1) authorises a person to use a passenger vehicle commercially for the carriage of passengers in the following circumstances - (a) he can use any class of passenger vehicle for any commercial purpose if he is either (i) the holder of a passenger vehicle operator's licence, or (ii) registered in a special part of the register for passenger vehicle operations. So far as operations in the Isle of Man are concerned the operator's licence and registration in the special

part of the register are equivalent. (b) He can use a passenger vehicle, except one of a class prescribed by regulations, probably a large bus with 16 seats or over for a commercial purpose except one excluded in (2) below if he is registered in the register of passenger vehicle operators, to be registered otherwise than in the special part of the register and he requires only good repute.

Sub-clause (2) excludes from (1) (b) above a business involving the provision of a regular bus service and other types of business prescribed by regulations. The effect of this is that ordinary registration does not entitle an operator to run a regular bus service or possibly certain similar types of operation prescribed by regulations. To run bus services or similar prescribed services an operator must hold either an operator's licence or be registered in a special part of the register under (1)(a) above.

Sub-clause (3) makes it an offence to use a passenger vehicle commercially for the carriage of passengers without being authorised under (1) above, except in cases to be prescribed by regulations.

Sub-clause (4) makes it clear that a person cannot be both the holder of an operator's licence and registered as an operator and cannot hold more than one operator's licence.

This clause is to come into force on 1st January 2002 for the purpose of making regulations and on 1st April 2002 for all other purposes.

Clause 6. This clause enables the committee to exempt from regulation and licensing the use of a vehicle by a voluntary organisation for carrying passengers, even though they may make a payment which would be caught in the hire and reward in clause 4 (2)(c).

Sub-clause (1) enables the committee to issue an exemption certificate to a voluntary organisation on application.

Sub-clause (2) states the effect of an exemption certificate. The use of a vehicle by the organisation to carry passengers is not to be treated as commercial use simply because it is for reward or hire, provided that - (1) the vehicle is of a type specified in the certificate as a car or a minibus; (2) any conditions in the certificate are complied with; and (3) the use is incidental to an activity of an organisation.

Sub-clause (3) enables the committee to vary or cancel an exemption certificate.

Sub-clause (4) sets out the criteria to be applied by the committee in acting under (1) to (3) above. They must have regard in particular to passenger safety.

Sub-clause (5) provides for an exemption certificate to run for five years unless cancelled under (3).

Sub-clause (6) requires the committee to keep a list of current exemption certificates, the form of the list to be prescribed by the regulations under (2) above.

Sub-clause (7) defines 'voluntary organisation' as a charity or non-profit-making body, excluding a public authority.

This clause comes into effect on 1st January 2002 for the purpose of making regulations and on 1st April 2002 for all other purposes.

Vainstyr Loayreyder, I beg to move that clauses 4, 5 and 6 stand part of the Bill.

Mr Brown: I beg to second and reserve my remarks.

The Speaker: Mr Singer.

Mr Singer: Thank you. Could I just ask the hon. mover a matter of clarification under the voluntary organisations? There are some voluntary organisations who lend their vehicles out or they use their vehicles for the use of other charities. Can you just confirm for me that they will be exempted under this clause?

The Speaker: Mr Downie.

Mr Downie: I would just like to ask on the same clause 6, exemption for charities. I am sure hon. members are aware in the UK from time to time there are tragedies which occur on the motorways and after investigation it appears that the vehicle has belonged to an organisation or a scout troop or some other organisation similar to a charitable organisation and whilst I accept that there has to be some exemption perhaps from fees and other things, I still think that the drivers of these vehicles, voluntary though they may be, should be subject to some sort of scrutiny by the department and where possible, if they are getting on in years, I think it is important that they have some sort of a medical or provide a doctor's letter before coming exempt.

Whilst I have no problem whatsoever in granting exemption, I think we have to be careful that we do cover ourselves and we do not finish up with a situation where a tragedy could possibly be averted in the Island and I would just ask the member if she would take that on board when they are dealing with the regulations.

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. Going back to clause 5, I would merely ask the hon. mover if she could clarify for other hon. members who might be a little bit confused with all the differing descriptions of what constitutes a licence the difference between a section 25 licence and section 29 licence, for the benefit of hon. members. I would appreciate her clarifying the difference between a 25 and a 29. Thank you.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like the hon. mover to clarify because I was a bit disturbed by the hon. member for West Douglas' input, that somehow safety is different. The same criteria will be applied to these people who have minibuses and drive them for a charity as they will be for commercial or whatever. There will not be any question about the safety. It is just a matter of the regulation, as far as I am aware.

The Speaker: Mrs Crowe.

Mrs Crowe: Thank you, Mr Speaker. To the mover of the Bill I would just like to say that this one hon. member does certainly understand the difference between section 25 and 29 because I thought it was very clearly explained to us at the excellent presentation that the department put on.

The Speaker: Mr Quine.

Mr Quine: Mr Speaker, sir, I would just want to speak in support of clause 6. I think this is very important, particularly in respect of the outlying areas. I think we are all aware that with the best will in the world the public services, the buses services in the rural areas are, to say the least, few and far between and after 6 o'clock they are non-existent, and if we are going to provide at all for young people in terms of football clubs or whatever, we are going to have to continue to rely, as we do at the moment, on charities which pay for and make available minibuses to get these different categories around the country, and although I can appreciate that safety must always be the dominant consideration, I think it is important that we also apply whatever standard we are going to set with an application of some common sense and some recognition of what has happened and happened in a very acceptable fashion for many years now.

It may be that in relation to these charity minibuses there should be a minimum age or something set for the person that is going to drive them or something like that, but if you start tying them down to special categories of licence, then you are not going to be able to get the volunteers to drive the minibuses to get these people around the countryside. I would just ask the hon. mover to give me an assurance that certainly the department, and I can see the minister nodding in agreement there, see this as being an important aspect. It is an important accommodation that has to be met within this legislation.

The Speaker: Mrs Hannan to reply.

Mrs Hannan: Thank you, Vainstyr Loayreyder. This is an important part. This legislation relates really to hire and reward, but the clauses that have been discussed in relation to the moving of clauses 4, 5 and 6 have related generally to voluntary organisations and any exceptions, and I would make it quite clear that the exception has to be applied for. There are exceptions under the legislation, but they have to be applied for.

Standards for drivers are to be introduced and also, can I make it quite clear, minimum age as well. There was a move afoot recently to reduce the age for people driving buses and other standards of vehicles but it is something that the department has not supported, so there will be a minimum age which will be brought forward in regulations, and, yes, I would accept, and I think the department would, the very important part that voluntary and charitable minibuses raised by public subscription play in not just the countryside but also town areas as well, keeping youth clubs and those sorts of organisations going.

I think mention has been made of clause 25. Clause 25 relates to a regular bus service and clause 29 relates to ply for hire.

I think regarding all the other comments I have covered most of them.

With regard to medical conditions, yes, they will be looked at under this legislation, continue to be looked at by this legislation, and I think also standards of construction and use will also be looked at by this legislation. These minibuses that have been mentioned in the voluntary sector will be looked at to ensure that they are safe for use by the public. I think that is very important, especially where young people are involved.

I beg to move, Vainstyr Loayreyder, that clauses 4, 5 and 6 stand part of the Bill.

The Speaker: Hon. members, I am going to take the voting on each clause. Clause 4 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 5 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 6 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Clauses 7 and 8, please, Mrs Hannan.

Mrs Hannan: This relates to goods vehicles and it explains the terms 'goods vehicle' and 'commercial use' which are fundamental to the systems of regulation under the Bill so far as they apply to goods vehicles.

Sub-clause (1) defines 'goods vehicle' as a motor vehicle or a trailer constructed or adapted to carry goods, provided that its weight is above the figure to be prescribed by regulations. This will cover lorries, fixed and articulated, but not small vans.

Sub-clause (2) provides that no maximum weight under 7,500 kilograms, that is, 7.3 tons, can be prescribed by regulations under (1). Maximum weight is defined by clause 63 (2) as the maximum permitted laden weight or train weight in the case of an articulated vehicle, so the operation of vehicles under 7,500 kilograms maximum laden weight will always be outside this scheme of control. It is expected that a high figure will be prescribed initially and reduced later so that heavier lorries are brought under control first.

Sub-clause (2) explains what is meant by the commercial use of a goods vehicle. It covers the use on an adopted road, that is, a road maintainable at the public expense - (a) in connection with any business of carrying goods, for example haulage or construction business; (b) in connection with any business of the operator or an associated company, that is, construction business; and (c) otherwise for hire or reward. Note that regulations may make provision defining what is meant by hire and reward in particular cases.

This clause comes into force on 1st January for the purposes of making regulations and on 1st April 2002 for all other purposes.

Clause 8. This clause lays down the basis of the system of regulation of commercial goods vehicles operation in part 2. It is illegal for anyone to use a goods vehicle commercially for the carriage of goods unless he is either licensed or registered as a goods vehicle operator.

Sub-clause (1) authorises a person to use a goods vehicle commercially for the carriage of goods in the following circumstances - (a) he can use any class of goods vehicle for any commercial purpose if he is either (i) the holder of a goods vehicle operator's licence or (ii) registered in the special part of the register for goods vehicle operators. So far as operations in the Isle of Man are concerned, an operator's licence and registration in the special of the register are equivalent. They are designed for heavy goods vehicle operators who must fulfil special standards of safety and competence. (b) He can use a goods vehicle except one of the class prescribed by regulations, probably an HGV for his own purpose or an associated company's commercial purposes, if he is registered in the register of goods vehicle operators. To be registered other than in that special part of the register requires only good repute.

Sub-clause (2) makes it an offence to use a goods vehicle commercially for the carriage of goods without being authorised under (1) above except in the cases to be prescribed by regulations.

Sub-clause (2) makes it clear that a person cannot be both the holder of an operator's licence and registered as an operator and cannot hold more than one operator's licence.

This clause also comes into force on 1st January 2002 for the purpose of making regulations and on 1st April 2002 for all other purposes.

Thank you, Vainstyr Loayreyder, I beg to move that clauses 7 and 8 stand part of the Bill.

Mr Brown: I beg to second and reserve my remarks.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I wonder whether the minister could tell us as far as goods vehicles are concerned have there been any thoughts as far as any slow-moving vehicles, whether there are going to be any powers put into the legislation on the ability to take slow-moving vehicles off the road at peak times, especially with the ever-increasing congestion. I wonder whether her department has considered this and, whilst it is not may be totally appropriate in this clause, clause 8, one was thinking about putting some amendments down on the issue of ever more vehicles on the road. The last thing you need is slow-moving vehicles around the Quarterbridge at quarter to nine in the morning and I wondered whether there is any flexibility as far as that is concerned.

The Speaker: Mrs Hannan to reply.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I believe the member has been in correspondence with the Department of Transport regarding this. It is a very difficult situation. It has been considered by the department, but it is slightly impractical to tell people when they can and cannot travel, especially when they pay licence fees.

I think the best advice would be that if there was a really heavy load, all the organisations would be involved in the movement of that and they would obviously contact both the transport people and also the police to find the best time for travelling, but if it is just heavy goods vehicles moving may be from one building site to another I think we have to look at really people just being a bit more civil on the highway and maybe waiting till 10 o'clock or some such time before they move through congested areas.

But it is something that the department has considered, but with heavy loads I think we would look for everybody to work together.

I beg to move clauses 7 and 8 stand part of the Bill.

The Speaker: Hon. members, the motion is clause 7 and 8 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 9, clause 10, schedule 1, clauses 11 and 12, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. This relates to the application for registration or licence. This clause makes general provision with respect to applications for licences and registration under clauses 3 to 8.

Sub-clause (1) requires an application for a licence or registration to be made in the official form and to be accompanied by the appropriate fee. The fees will be prescribed under the Fees and Duties Act 1989, and it also requires an applicant to give further information if reasonably required.

Sub-clause (2) requires the application to specify the applicant's operating centre and the number and types of vehicles that the applicant proposes to use.

Again this clause comes into force on 1st January 2002 for the purposes of making regulations and on 1st April 2002 for all other purposes.

Clause 10 introduces schedule 1. This clause and schedule 1 set out the personal qualifications for the grant of an application for a licence or registration. For basic registration only good repute is required. For an operator's licence for the special registration for bus or HGV operators financial standing and professional competence are also required.

Sub-clause (1) requires all applicants to be of good repute.

Sub-clause (2) requires applicants for an operator's licence or for the special registration for bus or HGV operators to have appropriate financial standing and professional competence as well.

Sub-clause (3) introduces schedule 1 which explains these concepts in detail.

Paragraph 1 deals with good repute under (1) above and requires the committee to consider relevant convictions of the applicant and his staff or agents and, in the case of a company, of its directors, and also any other matters relevant to the applicants fitness to be licensed or registered. Convictions are relevant if they are for offences specified in regulations; (b) equivalent offences in the UK ; (c) serious offences and; (d) road transport offences.

Paragraph 2 requires the committee to treat an individual as not of good repute if he has more than one conviction for a serious offence or repeated convictions for road transport offences.

Paragraph 3 defines 'serious offence' as one for which the person was sentenced to over three months, a fine of over £2,500 or community service of over 60 hours.

Paragraph 4 defines 'road transport offence' as one in the Isle of Man or the United Kingdom relating to driver's hours, commercial vehicle weights, et cetera.

Paragraph 5 provides that a service offence anywhere is treated as an offence in the UK for the purpose of paragraph 1 to 4.

Paragraph 6 defines what is meant by 'appropriate financial standing', by references to the financial resources available to the applicant. Regulations may make further provision for this purpose.

Paragraph 7 is introductory.

Paragraph 8 makes it clear that only an individual may be treated as professionally competent so that a company must have a transport manager who is of good repute and professionally competent.

Paragraph 9 provides that where an individual applicant is not himself professionally competent he must have a transport manager who is of good repute and professionally competent.

Paragraph 10 covers the case where a sole transport manager dies, becomes incapable, leaves or ceases to be of good repute, that is, on conviction. The operator is to be allowed time, 18 months maximum, to find a replacement.

Paragraph 11 makes similar provision where a company has two or more transport managers.

Paragraph 12 applies paragraphs 1 to 5 to the requirement for a transport manager to be of good repute.

Paragraph 13 defines what is meant by 'professional competence' by reference to examination passes in the requisite skills or other recognised qualifications. The requisite skills are defined by reference to European Community standards relating to road passenger transport or road haulage, as appropriate. It is to be noted that for an operator's licence this covers part B, international operations, of the relevant standards.

Paragraph 14 requires a transport manager to be given an opportunity to make representations where his repute or competence is called in question before the committee.

Sub-paragraph (4) requires the committee to refuse an application unless it is satisfied that the proposed operating centre under clause 14 is suitable both generally and for the number and type of vehicles to be used.

Sub-clause (5) deals with a case where an operating centre is specified in an application by a passenger vehicle operator and is also used by another operator or as a goods vehicle operating centre. The committee has to take into account all the uses in deciding whether it is suitable.

Sub-clause (6) deals similarly with the case where an operating centre is specified in application by a goods vehicle operator and is also used by another operator or as a passenger vehicle operating centre.

Sub-clause (7) allows the committee, in determining an application, to take account any undertaking given by the applicant.

Sub-clause (8) requires the committee to grant an application if it is satisfied as to the matters in (1), (2) and (4). The application must not be granted if the applicant is under a disqualification.

This clause comes into force on 1st January 2002 for the purpose of making regulations and on 1st April 2002 for all other purposes.

Clause 11. This clause enables certain authorities and trade bodies and the public to object to any application for an operator's licence or registration.

Sub-clause (1) requires the committee to publish, in accordance with regulations notice of an application and to send copies to the department, the Department of Local Government and the Environment, the police, the local authority and any relevant trade body.

Sub-clause (2) enables the department, the police or trade body to object on the ground that the applicant's application is not of good repute or, where appropriate, that he or she has not appropriate financial standing or professional competence.

Sub-clause (3) enables any person to object to a proposed operating centre.

Sub-clause (4) requires an objection to be made in accordance with a procedure to be laid down in regulations.

Sub-clause (5) allows the committee, in an exceptional case, to consider an objection even though the procedure time limit has not been complied with.

This clause is to come into force on 1st January 2002 for the purpose of making regulations and on 1st April 2002 for all other purposes.

Clause 12. This clause provides for the duration of the operator's licence and registrations. Licences run for up to five years, registrations indefinitely.

Sub-clause (1) requires every operator's licence and register entry to specify the date it comes into force.

Sub-clause (2) provides for an operator's licence to run for such period as the committee thinks appropriate, which cannot exceed five years or any shorter period which the applicant has applied for.

Sub-clause (3) provides for registration to continue indefinitely unless it is revoked or terminated.

Sub-clause (4) enables an operator to apply for cancellation of his licence or registration. The committee must comply.

Sub-clause (5) provides that the committee need not cancel if it is contemplating disciplinary action under clause 18.

Sub-clause (6) provides for an individual's licence or registration to terminate on his death or the appointment of a receiver, but note that regulations under clause 55 (2) may enable the committee to direct that it shall not terminate but be treated as being held temporarily by another operator.

Sub-clause (7) provides that an operator's licence which expires while an application for its renewal is pending continues in force until the application is disposed of.

Sub-clause (8) gives effect to clause 5 (3) which affords the same person being both registered and a licence holder or holding more than one licence. The grant of an application for a passenger vehicle operator's licence or registration cancels any existing passenger vehicle operator's licence or registration.

Sub-clause (9) similarly provides that the grant of an application for a goods vehicle operator's licence or registration cancels any existing goods vehicle operators licence or registration.

This clause comes into force on 1st January 2002 for the purpose of making regulations and on 1st April 2002 for all other purposes.

Vainstyr Loayreyder, I beg to move that clauses 9, 10, schedule 1, clauses 11 and 12 stand part of the Bill.

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

The Speaker: Mr Singer.

Mr Singer: Thank you, Mr Speaker. Could I ask the hon. mover under section 11 which indicates to whom the prescribed notice of application should be sent, to the department and the Chief Constable? It says under (e), 'to such representative body or bodies as appear to the Committee to be appropriate.' Could the mover tell me what would be considered to be a representative body or bodies which would appear to be appropriate? I do notice it does not mention anything about publishing the application in the local media, yet under subsection (3) it does talk about any person may object to the registration, and if they do not see it in the local newspaper, how will they in fact know that there is this application in? Because, as we all know, there is a problem now and we want to prevent this problem in the future where an operator does not have enough room in the building they are operating from to actually park their vehicles, particularly with taxis, and therefore it causes a great amount of distress and nuisance to the local people living in that area when these vehicles are parked on the road outside their houses. So I wonder whether the mover could give me that information.

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. If I could start with comment on clause 11 and then go back to clause 10, as they have all been moved, we have had four clauses being moved together, with clause 11, in terms of the form of consultation, because what it prescribes is that the department, the Department of Local Government and the Environment, the police, a local authority or the local authority and such bodies as may be appropriate can actually formulate an objection.

In sub-clause (3), as stated by the previous speaker, any person may object to the registration. But of course it is not in any manner that they may object, in fact their objection is quite limiting because they can only object under clauses 10 (1) and (2) and 10 (4), and so if we turn back to clause 10, they can only object if they believe the person who is applying for the licence is not of good repute. They can only object if the person applying for the licence is thought not to have had the appropriate financial standing and they can only object if the operating centre of the applicant is thought to be unsuitable. So regarding the objection or the consultation and even the publishing of the application by someone for a licence they can only object in a limited way. It is in one of three ways: good repute, financial standing and where they are going to operate from, the base they are going to operate from.

So although 11 would tend to make us believe that there will be a form of consultation, it shall be published and it will be prescribed in a manner as the committee may from time to time or whatever, basically it really is not as thorough a consultation exercise as one might imagine. For instance, there is no provision within clauses 9, 10, 11, 12 or anywhere else in this legislation for a representative body, for instance, to have an input in terms of an objection to the limitation on licences issued or to the increase of licences issued. So, for example, if the committee wanted, for whatever reason, because they will be all-powerful under this legislation if the regs. come forward by the department, to grant or to look at the issue of licences in terms of if they decide they want to issue another 10 or 20 or even 50, they can without consultation to a representative body. They have to consult with the local authority in whose area they are thinking of granting the additional licences and also with the police, but there is no provision within this clause or any other clause for consulting with the trade, and let us not forget we are dealing with not only registered companies and fairly big businesses here but we are also dealing with individual operators, one-person operators, and so there is very little contained within these clauses that will benefit them.

Turning to clause 12, there is a presumption here in clause 12 that if an individual dies - subject to regulations under clause 55(2), an operator's licence held by an individual and the registration of an individual terminates if he dies - that is it, everything stops. Of course for a company, a registered company, there is a different provision and a registered company can carry on.

Now, the hon. mover did say in terms of haulage when she was talking about the haulage provision that it would be envisaged that if someone who had a licence for the operation of a haulage vehicle, a heavy goods vehicle, died, they would envisage 18 months for to determine what would happen with that particular business.

I am really seeking clarification from the hon. mover particularly in respect of clause 12. I need an assurance and the trade need an assurance, despite the fact that the minister wrote to the trade and made an attempt to try and explain the provisions of this. Everything will rest and rely upon the appropriate regulations coming forward. We cannot legislate and approve something which automatically presumes that if that one-person operator dies who holds one licence and one vehicle, everything will go with him because his whole family may be relying upon that income that is coming in. There has to be provision for keeping it running in the short to medium term to enable someone else in the family, a relative of some sort, to be able to apply and be considered for a licence so that business can continue, and really I am seeking from the hon. mover or the minister, as he has now joined us, an assurance that the regulations referred to in clause 55(2) will be honoured and will be brought together by the department at the same time as the introduction of other regulations. The trade are relying upon this and this is their biggest concern, to be honest

with you, that the presumption is and it is written and it is also written in clause 55, there is the presumption there that it says, when we get to that stage, when we get to clause 55, that the committee may, there may be regulation to soften the blow and bring in these other provisions.

I am merely seeking a commitment here from the hon. mover and/or the minister that they will bring up the regulations to bring in clause 55, particularly section 2, in terms of this clause 12, to soften this because this is the biggest bone of contention and the biggest concern for the trade. I hope hon. members will appreciate that, that if these regs do not come forward, this will affect the one-person operator in a very detrimental way, and I am sure hon. members would not want to do that and would not want one-person operators and their families to suffer as a consequence of this. Thank you, Mr Speaker.

The Speaker: If nobody else wishes to speak I call upon Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. With regard to the relevant bodies, this covers anyone who the committee would see as being relevant to bring these licences to the attention of. It would be difficult to write legislation and name every relevant body and therefore we have seen since the discussion of this legislation, since we have had this green form, there has been a different body formed to look at this legislation. So it could be all these bodies. It could be anyone else that is formed in the future to represent a collective body. So I think that is the reason why it is written in that particular way.

I take note of the comments made by the member for Ramsey with regard to vehicles parked on roads, too many vehicles, and this is what part of this legislation is about, so that somebody has somewhere to operate out of, that it is supervised by the road transport committee and these sorts of issues are looked at. That is again why a local authority would be consulted with and that is why the Department of Local Government would be consulted with. It might have planning ramifications.

Anyone who is existing would be seen to have grandfather rights within the reasonableness of it. But there are some goods people that have in the past operated within a 30-mile-an-hour area and legislation has been passed because it has caused concern for local people, so they have been asked to move out and to look for somewhere more suitable for parking vehicles. So the department is well aware of that when it comes to the bodies that would be consulted.

With regard to the other point that was made by the member for East Douglas, Mrs Cannell, with regard to a suitable centre, good repute and financial standing, yes, the public will be able to comment. This will be within the regulations which are brought forward.

The comment can be made when consultation takes place, as quite rightly on these particular issues. Representative bodies can comment. Specifically this relates to goods vehicles. But if you were looking for the operation of any of these areas within this legislation, you would be looking for need. This is what the committee would have to consider, they would have to consider the need. So, yes, representations can be made with regard to passenger carrying vehicles, but the committee would have to take into account the need and the need would have to be demonstrated.

In relation to clause 12 and someone who dies, it does quite clearly say in the legislation, subject to regulations and it is expected that regulations will be brought forward under clause 55 (2), but it does spell out that the operator's licence will carry on with the family or with someone else until it has actually been taken to the Road Traffic Commissioners because someone holding a licence would have to be of good repute and so that would need to be considered. It does not just pass on automatically and so it would need to look at that particular issue at that particular time.

Mrs Cannell, the member for Douglas East, states that this particular area is of great concern, but the legislation is straightforward with regard to the legislation in 55(2) and it is envisaged that this legislation will be brought forward.

Members have also had a letter which has been circulated, written by my department to the hon. secretary of the Isle of Man Taxi Owners Association which spells out the legislation in quite great detail. It was written by Mr Kyme from the Department of Transport on 12th February 2001, which spells out the legislation. It was deemed that it was a letter of comfort.

I would beg to move, Vainstyr Loayreyder that clauses 9, 10, schedule 1, and clauses 11 and 12 stand part of the Bill.

The Speaker: Hon. members, I intend to take the clauses and schedule separately. The motion is that clause 9 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 10 and schedule 1. All those in favour please say aye; against, no. The ayes have it.

Clause 11. All those in favour please say aye; against, no. The ayes have it.

Clause 12. All those in favour please say aye; against, no. The ayes have it. We now move on, hon. members, to clauses 13, 14, 15 and 16. Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. Could I make it clear that in taking these clauses together they do relate to each other and that is the reason why I am taking the clauses together, because these clauses, clauses 13 to 16, come under the contents of registers and licences.

This clause relates to matters to be included in an operator's licence or an entry in the register.

Sub-clause (1) requires a register entry to include the operator's name and address, his operating centre, the maximum number of vehicles permitted, any undertaking he has given, the date the registration comes into force and any other particulars required by regulations.

Sub-clause (2) similarly lists the matters to be included in an operator's licence, which also includes the date of expiry of the licence under clause 12.

Clause 14. This clause prohibits the use of an operating centre for any place other than that specified in the operator's licence or registration.

Sub-clause (1) prohibits the use of any place as an operating centre of a passenger vehicle unless it is specified in his passenger vehicle operator's registration or licence. Note that an operating centre can be changed under clause 17.

Sub-clause (2) makes similar provision for use of a place as an operating centre for a goods vehicle.

Sub-clause (3) makes it an offence to contravene (1) or (2). This offence can be committed by any person who uses premises to keep vehicles, not just an operator of the vehicles.

Clause 15. This clause provides for a licence or registration to limit the number of vehicles or vehicles of any class, or prohibit the use of vehicles of any class.

Sub-clause (1) requires a licence or registration to specify the maximum number of vehicles which can be used by the operator at any one time. It may also limit the number of vehicles of any class or prohibit the use of vehicles of any class.

Sub-clause (2) makes it an offence to breach a limit or prohibition under sub-clause (1).

Sub-clause (3) provides that this does not apply where the use by the operator is deemed to be use by another, that is, where one operator dies and his business is carried on temporarily by another.

Clause 16. This clause enables the committee to attach conditions to a registration or licence in cases which will be prescribed by regulations and also to grant a temporary dispensation from such a condition.

Sub-clause (1) enables the committee to attach conditions restricting or regulating the use of vehicles when granting an application for registration or a licence. Only conditions of a kind prescribed by regulations can be imposed.

Sub-clause (2) makes it an offence to breach a condition imposed under (1).

Sub-clause (3) enables the committee to dispense with a condition temporarily if it has become unduly onerous because of unforeseen circumstances.

Vainstyr Loayreyder, I beg to move that clauses 13, 14, 15 and 16 stand part of the Bill.

Mr Brown: I beg to second and reserve my remarks.

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. A point of clarification here in terms of the operating centre and it was a point that was raised again with the discussions held with the Department of Transport, but there is still a bit of a grey area here, and what I would ask the hon. mover is, what constitutes an operating centre?

Now, we all know, and it was mentioned on a previous clause, that there is concern when you get a big business that has a number of vehicles parked in and around it and might be situated right in the middle of a residential area and as consequence causes undue nuisance, noise and irritates the local community. Now, because operating centres are being brought in to be included in the secondary legislation, which is regulations, one presumably can do something in that scenario, which is all well and good, if it is causing a nuisance, but I would ask the hon. mover is again when you come to the one-person operator, of which there are more in the Island's taxi industry in the Isle of Man than there are companies, I would suggest, is their home where they normally keep their vehicle, bearing in mind there is only the one vehicle that is used for the business and as their own vehicle, is their driveway to their home or the roadway, the highway, outside of their home classed therefore under this as an operating centre? I would suggest that it should not be classed as an operating centre, but the wording under this primary legislation of course brings it all in under the one heading.

Now, again I am seeking some clarification in terms of will there be differentials specified in the secondary legislation which is coming in under regulations where the likes of a one-person operator's driveway - he has one vehicle, she has one vehicle - will not be classified as an operating centre and will the regs specify that? Is that the intention? Because I know the true intention is to regulate the big operator that is causing a nuisance, but we also have to acknowledge that this particular provision brings it all in under the one and I am merely again asking for some clarification that it is not intended that the one-person operator with the one vehicle, the one home, the one parking place outside of his/her home is not going to come over as being the operating centre, because I would suggest that if it does, then again I think it is unreasonable to assume that such a person's home is going to be open for inspection as an operating centre will be and is open to inspection, and that can also form part of the application for the licence in which to operate. The committee have to be satisfied that apart from having good repute, good financial standing and all the rest of it the operating centre where they are going to operate their business from is also conforming with the requirements that the committee, through the department, may lay down as secondary legislation coming in as the regulations, but I would suggest that it would be unreasonable and unfair to actually include the one-person operator's home to be open, first of all classed as an operating centre, but then to be subject to inspection by this committee. Thank you.

The Speaker: Mr Downie.

Mr Downie: Thank you, Mr Speaker. I am really on my feet to support these clauses and I just want to highlight to hon. members one particular problem that I have at the moment in my own constituency in West Douglas. I have a situation where I have a person who is a whole-time

employee of the Isle of Man Government and when he is not engaged on his duties, because he is not a civil servant, he manages to run a minibuss and three taxis from a private residence in part of my area. He is operating from a cul-de-sac, the road is continually being blocked by his vehicles, he now has an aerial on the top of his house and we know he is receiving calls from all sorts of other people, it is not a Douglas-based taxi business, but it does highlight the deficiency in the legislation thus far.

I have had repeated rounds of correspondence with Douglas Corporation and with other people and whereas I have no objection whatsoever to a one-person taxi business operating from a premises where there has been a historic pattern of trade, I do think that when you get numbers of vehicles and a minibuss as well in this sort of a circumstance this is where this legislation needs to be very, very properly considered and introduced.

I think the situation has got ridiculous and I am sure that a lot of the people who I represent will be only too pleased when this legislation comes in and I support this particular clause.

The Speaker: Mr Singer.

Mr Singer: Thank you. Just briefly, Mr Speaker, under clause 16 where the conditions of the registration of the licences are described here, I know that a registered operator can apply to have a condition varied, but if a new licence is granted can the operator at that time ask for reconsideration of perhaps some of the conditions if they feel at the granting that the conditions are too onerous, or have they just got to take it or leave it?

The Speaker: Mrs Hannan to reply.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I could make it quite clear that an operating centre is contained in interpretation clause 63 and it states, "operating centre", in relation to a vehicle, means the base or centre at which the vehicle is normally kept, and references to an operating centre of a registered operator or the holder of an operator's licence are references to any place which is an operating centre for vehicles used under his registration or operator's licence'.

Now, we have heard in relation to a one-person operator not causing a nuisance and could it be in their driveway, little effect on an area, and I think one of the reasons why the other part of the legislation was introduced was simply because if somebody applies, then they should have somewhere for their size where it can be clearly spelt out that they can operate without offending neighbours or whatever, and this is why the Department of Local Government, the police and the public and interested bodies can be consulted by the road transport committee looking at this, but an operating centre in a road or drive will be accepted and for a small operator of a taxi one person. But then you have the situation that was spelt out by Mr Downie, the member for Douglas West - and he is not the only one that has a situation such as this because I certainly know of others - where it might be a one person operator but they have a number of licences so they have a number of vehicles and they can cause people within the area a great deal of upset, moving in and out in the middle of the night and being parked up all day.

So there is this balance here which I think this legislation is trying to address. Really it depends on the situation at the particular time that this person is applying for a licence.

I do not think that a home would be opened up to inspection, but I think if somebody did have maybe a goods operating centre which they operated from their home because they had a huge area it would not mean that just because someone lived there they could not actually go on to inspect to make sure that it was a proper place to hold goods vehicles. So it is something that the committee would have to decide at that particular time.

I think Mr Downie has spelt out the situation and legislation and regulations will be introduced with regard to that.

I am not sure with regard to the point made by Mr Singer. I am not sure of the point that he was making. I will try and answer it later on if I can possibly.

Vainstyr Loayreyder, I beg to move that clauses 13, 14, 15 and 16 stand part of the Bill.

The Speaker: Hon. members, the motion is that clauses 13, 14, 15 and 16 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. I call upon Mrs Hannan for clauses 17, 18, 19 and 20.

Mrs Hannan: These clauses deal with the variation, revocation, et cetera of registration and licences. This clause provides for the variation of registrations and licences on the application of the operator.

Sub-clause (1) enables the committee, on application by the operator, to vary a registration or licence as regards the maximum number of vehicles. Clause 15, the operating centre, clause 14, the condition under clause 16 or the prohibition under clause 15 or an undertaking under clause 10 or to make a correction.

Sub-clause (2) requires an applicant to give the committee any information it reasonably requires for this purpose.

Sub-clause (3) allows the committee, in determining an application, to take into account an undertaking given by the applicant.

Sub-clause (4) applies the procedural provisions in clause 9 to 12 in applications for variations except so far as they are excluded by regulations.

Clause 18. This clause gives the committee powers to revoke or vary a registration or licence of its own motion in certain circumstances, subject to safeguards for operators.

Sub-clause (1) requires the committee to revoke a registration or licence if it is satisfied that the operator is no longer of good repute or, where appropriate, has not appropriate financial standing or professional competence.

Sub-clause (2) gives the committee additional powers on a ground in (3) below to revoke or suspend a registration or licence or to vary it as regards the maximum number of vehicles, the operating centre or conditions.

Sub-clause (3) specifies the grounds for action under (2): false or unfulfilled statements in an application, an unfulfilled undertaking, contravention of a condition, a prohibition on the use of a vehicle or related conviction, revocation of a service licence or a material change in the operator's circumstance.

Sub-clause (4) requires the committee to hold an inquiry before taking action under (1) or (2) if the operator so requests.

Sub-clause (5) enables to the committee to defer the effective date of action under (1) or (2) to enable the business to be transferred to another operator.

Sub-clause 6 provides that a suspended registration or licence remains in force but no vehicle may be used under it.

Sub-clause (7) enables the committee to cancel or vary a suspension.

Sub-clause (8) applies schedule 1 as to the meaning of 'good repute', 'appropriate financial standing' or 'professional competence' in relation to action under (1) above.

Sub-clause (9) enables the committee to correct any particulars in a registration or licence.

Clause 19. This clause enables the committee, when it revokes an operator's registration or licence under clause 18, to disqualify him and any director or partner for registration or licensing.

Sub-clause (1) gives the committee power, when it revokes an operator's registration or licence under clause 18, to disqualify the operator for being registered or holding a licence either indefinitely or for a specified period.

Sub-clause (2) states the effect of the disqualification under (1): (a) any other registration or operator's licence is suspended and (b) no new registration or licence may be granted.

Sub-clause (3) makes it an offence to apply for or obtain registration or an operator's licence when disqualified and any registration or licence obtained is void.

Sub-clause (4) enables the committee, when it imposes a disqualification under (1) on a person, to direct that the registration or licence of (a) any company of which he is a director or which he controls or any holding company of such a company or (b) any partner in a Road Transport Bill shall be liable to action under clause 17.

Sub-clause (5) enables the committee to impose a disqualification or make an order under (4), not only on the operator whose registration or licence is revoked, but also (a), if it is a company, on a director of it or (b), if he is an individual, on any partner of his in the road transport business.

Sub-clause (6) enables the committee to cancel a disqualification under (1) and any related direction under (4) or a direction under (4) by itself or to vary any such order or direction or both.

Sub-clause (7) makes it clear that a disqualification of a passenger vehicle operator may be either only in relation to passenger vehicle operators or in relation to both passenger and goods vehicle operations.

Sub-clause (8) similarly makes it clear that a disqualification of a goods vehicle operator may be either only in relation to goods vehicles operations or in relation to both goods and passenger vehicle operations.

Sub-clause (9) provides that a registration or licence suspended under (2) (a) above remains in force but no vehicle may be used under it.

Clause 20. This clause deals with any application for registration or an operator's licence and any registered or licensed operator to notify the committee of certain convictions, bankruptcies or change in a transport manager.

Sub-clause (1) requires an applicant for registration or an operator's licence to notify the committee of any relevant conviction of himself, any employee or agent or of any proposed transport manager.

Sub-clause (2) requires an operator to notify the committee of any relevant conviction of himself, of any officer, employee or agent of his. If the offence was committed in the course of the transport operation the notification must be given within 28 days of the conviction in the case of the operator or a transport manager, otherwise within 28 days of the time the operator comes to know about the conviction.

Sub-clause (3) requires an operator to notify the committee within 28 days if he becomes bankrupt or if a company goes into liquidation or has a receiver appointed in respect of his transport business or if there is any change in the transport manager of the business.

Sub-clause (4) gives the committee a general power when granting or varying a registration or operator's licence to require the operator to notify it of any change in specified circumstances which it took into account on that occasion.

Sub-clause (5) makes any failure to notify under this clause an offence.

Sub-clause (6) defines 'relevant conviction' in reference to the same criteria as those used in deciding whether an applicant is of good repute, for example a conviction in the Isle of Man or UK for an offence of a kind prescribed by regulations under schedule 1, paragraph 2 and (b) a serious offence and a road traffic offence.

Vainstyr Loayreyder, I beg to move that clauses 17, 18, 19 and 20 stand part of the bill.

Mr Brown: I beg to second and reserve my remarks.

The Speaker: Mr Karran.

Mr Karran: Mr Speaker, I would just like to ask on the likes of bankruptcy and liquidation. If there is an administrator put in to run an operation, will the committee allow for the situation for the operation to be able to be kept going, to be a viable concern, or does that mean that if it is bankrupt or it has gone into liquidation or it has gone into trusteeship - I have forgotten the arrangements now - automatically the licence is taken away?

The only other issue I would just like to ask the mover of the Bill about was just on the issue of will there be any legal representation as far as this committee is concerned? What sort of balance is put so that if somebody is trying to take the livelihood away of somebody, will there be any opportunity as far as representation is concerned? And if there is legal knowledge on the body that is doing the appeal, would they be entitled to legal aid or anything if they needed it, if they were not of the means to be able to fight as far as any objection as far as the licence is concerned?

The Speaker: Mrs Hannan to reply.

Mrs Hannan: I am afraid the member for Onchan has put me in a difficult situation. I would like to respond in detail to the points that he has made and could I come back at the third reading with that and clarify that.

As that was the only point raised, Mr Speaker, could I move that clauses 17, 18, 19 and 20 stand part of the Bill.

The Speaker: Hon. members, the motion is that clauses 17, 18, 19 and 20 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it. Clause 21.

Mrs Hannan: Vainstyr Loayreyder, clause 21 deals with appeals. This clause gives the right of appeal to the High Bailiff against decisions by the committee on application for or for variation of registration or operator's licences and against revocation, suspensions and disqualifications.

Note that the High Bailiff cannot review the committee's decisions on the merits. His powers are limited to errors in law, mistakes in fact and the unreasonable exercise of the committee's discretion.

Sub-clause (1) gives the applicant for registration of an operator's licence or for the variation of registration or a licence a right of appeal to the High Bailiff.

Sub-clause (2) gives an operator a similar right of appeal against a revocation, suspension or variation of a licence by the committee under clause 18 or his disqualification under clause 19 or any other action taken against him under clause 19.

Sub-clause (3) gives a person other than the operator who is disqualified or has taken action against him under clause 19, a director or partner of an operator, a similar right of appeal.

Sub-clause (4) gives an objector to the application a similar right of appeal against the grant of application.

Sub-clause (5) provides that where an operator's licence expires while an appeal against refusal of its renewal is pending the licence remains in force until the appeal is disposed of.

Sub-clause (6) provides that where a licensee appeals against the variation of registration or licence conditions the variation is suspended until the appeal is disposed of.

Sub-clause (7) provides that even where a suspension operates under (5) or (6) the committee or a court can still revoke or suspend the licence under clause 19.

Vainstyr Loayreyder, I beg to move that clause 21 stand part of the Bill.

Mr Brown: I beg to second and reserve my remarks.

Mrs Cannell: Thank you, Mr Speaker. Again we look at the situation in respect of appeals and as the hon. mover has stated, there is only one appeal and that is to the High Bailiff and it has to be, as the hon. mover said, an appeal based on whether there was an error in law, or the decision of the Licensing Committee was based on incorrect material fact, or that the committee exercised its discretion in an unreasonable manner. Now, in order to put your case, prepare your case for lodging an appeal to the High Bailiff you have to know, of course, whether you are going to lodge an appeal under (a), (b) or (c) of clause 60 which lays out the mechanism for the basis of appeal to the High Bailiff.

Now, in the clause as written, the rights of appeal, 21 of course, there is no provision here for enabling the applicant to know why it is he or she has been refused a licence or indeed whether or not there has been a revocation or a new condition or relaxing or whatever. For whatever reason that licence is refused or revoked, the person then has to make a decision on whether or not to make an appeal to the High Bailiff following the refusal, but of course if the person is not given an indication of why they have been refused, the reason for the refusal, how then can they prepare their case for appeal to the High Bailiff under (a), (b) or (c) of clause 60? That is the question and of course the answer is it would be very difficult, if the committee are not going to give the reason why they have made such a refusal or revocation of a licence, for the aggrieved applicant to know (a) does he have a right of appeal and (b), if so, how should he proceed? And so what I am proposing, hon. members, is that there is an amendment to clause 21:

Page 21 line 4, at the end insert -

“(4A) Where an appeal lies under subsection (1), (2), (3) or (4) against any decision of the Committee, any notice of the decision must include a statement of the Committee’s reasons for its decision.

I think it is reasonable that they should be given a reason. Now, it has come to my attention that the deemsters of late have been saying in the High Court that when such things arise a person should be given a reason for why a situation has happened when they are pursuing litigation in the courts. The deemsters in the Isle of Man have said they should be given a reason. All I am suggesting here is that it be written into the legislation that they are given a reason so then they can decide whether or not it is worth placing an appeal and whether or not they can fit in under the requirements of the basis of appeal under clause 60, subsection (5), erred in law, based its decision on incorrect material fact or exercised its discretion in an unreasonable manner.

I hope hon. members will support it. I think while we have got the opportunity to actually include this provision here, reasonable provision, that we should do so and particularly as it has been an expression of concern recently in the courts by the deemsters.

The Speaker: Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker. I beg to second the amendment and I want to explain the reason why. Comment was made on clause 1 with the FSC and I would like to explain the procedures which have been adopted by the FSC in the licensing of corporate services providers which has been agreed but with advice by the Attorney-General because of the concerns on human rights.

There is a Chinese wall set up between the executive and the licensing commission. The executive vet the applications, a letter is then sent by the chief executive to the applicant, granting or refusing a licence, but when the licence is refused it is explained why, the reason is given why. The applicant then can come back to the licensing for an oral hearing in front of the licensing of the commission and explain and after that he has an appeal to the Council of Ministers. But the reason is given why the licence has been refused and that is on the human rights and that is the procedure which has been adopted by the Financial Supervision Commission.

The Speaker: Mr Brown.

Mr Brown: Yes, thank you, Mr Speaker. The point that is raised by the hon. members for East Douglas are of course naturally important issues and I think we all accept that somebody who is having a licence revoked or refused should know the grounds under which the committee has made that decision and I would refer them to clause 18 and in there they will see that it clearly states grounds for any action undertaken by the committee with regard to revocation or whatever of a licence and also if you go to clause 19 you will see there again that where there is disqualification the committee has to make certain decisions.

Now, quite clearly the committee will have to advise the person why they have revoked their licence because the person needs to know, 'Why have you revoked my licence?', and those provisions are quite specific grounds as to the reasons, and as far as I understand, they are the only reasons why the committee can revoke their licences under this legislation or refuse.

Now, I would make the point that if the amendment is accepted as it is written, unfortunately what that will mean is that it will place a duty on the committee to state in every notice it gives of every licence et cetera the decision and its reasons, so when they approve they will have to say, 'We've approved this licence because we think you satisfy that condition', and that really is going to make a bit of a nonsense and certainly is going to provide a lot of bureaucracy for somebody to have to add to it, 'You have had your licence approved because you're a good chap', or something like that and therefore we need to be aware of that, and therefore, as I am sure hon. members would accept on most occasions that would be totally unnecessary.

We have not included in this legislation an appeal to the High Bailiff if then the person who has got the right of appeal does not then know what they have got to appeal against. Quite clearly they will have to know the basis of that decision.

The other thing is that it should also be remembered that the High Bailiff, when he receives an appeal against a decision of the committee, would, of necessity under his own procedures, require the committee to explain the reasons for their decision. So the committee has got to justify itself to the High Bailiff for a start. The individual has the right to argue against the decision of the committee and if you look at those clauses they have quite specific detail of what decisions the committee can make in terms of the generality of their decision.

So I think that the view that I would certainly take, because we did think about this very carefully, is that the provisions are there to protect those in the trade. The difficulty with the amendment is it will mean that we will have to spell out - when I say 'we', the committee - every time when it makes a decision what that decision is and the reasons why it is. So in other words they will not be able to just write to somebody and say, 'As of today's date the committee approved your licence.' They will have to say why they approved it, and that certainly, I am sure, is not the intent of the House and I hope it is not.

So I would err on the side of saying we believe the provisions are there to protect those in the trade as the Bill is written.

The Speaker: Mr Singer.

Mr Singer: I have listened to what the minister says and to clarify that, is he saying that when there is a refusal, automatically with that refusal will come the reasons for the refusal to that person so they will be quite clear, whether they appeal or not, what the reasons for refusal were?

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I think this House would be happier if the mover can actually spell out where it is in primary law as far as the decision by the committee for refusal, because I have to be honest with you, I had not thought of this and I cannot actually see where it is in primary law at the present time.

As far as the point that was brought up by the minister about the thing saying that in every case there would have to be an amendment, there would have to be a notice for the reasons why a decision was made, I would say that if he is right on that point and there is a slight inconsistency as far as the amendment by the hon. member for East Douglas, I think that we should allow it to go through, even allowing for that, even though I am not totally convinced that is the case, simply because I do feel that it is right that you should know why you are having your livelihood taken away from you. I think it is not unreasonable in this day and age and I think that the mover of the Bill, instead of just telling us it is in clause 18 or clause 19, I want to know which subsection because it does not jump out and hit me in the face at the present time. I am not sure which subsection it says and I just think before we just throw this amendment out we should know that.

The other issue I just would like to ask is the issue of representation at this body as far as this is concerned. Will there be legal representation? If there is legal representation at this body will it be on one side or the other? Will the situation be covered as far as legal aid is concerned?

I think the situation is that on health services the issue is that the individual can have somebody representing them there as far as that is concerned and we are talking about people's livelihoods and I do think that if you are taking somebody's livelihood away you should know why it is being taken away.

I understand the problem that we have, that we follow the UK which follows the US as far as litigious operations where everybody is trying to sue everybody else, but I do think we need to get it sorted out.

The Speaker: Mr Quine.

Mr Quine: Yes, sir, following on from the hon. member for Onchan, my concerns are somewhat similar to his. I do not see the position being as intimated to us by the Minister for Transport, the hon. member for Castletown. I can see that there is within at least clause 18 that he referred to matters identified, matters which can be considered to be grounds for revocation. I can find that and there is nothing unusual about that of course, but I do not see where there is a requirement prior to going to the appeal for the licensing authority to say, 'And in this case it is for these reasons that we are revoking it', and that is the crux of the matter. It is one thing to put down in legislation what possible grounds there may be for revoking or varying a licence et cetera, that is a basic requirement that lays the foundation, but what we are talking about and what, as I understand it, is reflected in this amendment is that the licensing authority say, 'And in this situation it is for this particular ground, based on these facts, that we are making this decision', and I cannot see that being spelt out in those terms within the references made a few moments ago by the hon. member for Castletown.

But the second point that I would make is I think it is fairly common knowledge for us now. In the last 12 months I think we have done about three pieces of legislation where we have had appeals of this nature and we have made this provision, so why should we be making an exception, assuming that there is not already provision there as intimated by the member for Castletown, in respect of this particular piece of legislation? If this is par for the course, then we should be sticking with it, and certainly it represents good practice for to say to a person, 'Yes, we are taking this decision which is going to impact on your licence. You have the right of appeal and these are the reasons and this is the evidence on which that is based', so that he can go forward and have that properly tested. That is a minimum requirement. So I believe on the information given to us so far that this amendment is essential.

The Speaker: Mrs Hannan, speaking to the amendment.

Mrs Hannan: Thank you, Vainstyr Loayreyder. I would just like to make it quite clear that clause 21 actually relates to specific areas where the registered operator or the holder of an operator's licence may appeal to the High Bailiff and it is under these particular areas of the legislation that these sections can be appealed upon and that is 18(1) is (2) or 19(1) or (4) in respect of

registration or licence, and a person in respect of whom an order has been made under section 19(1) may appeal to the High Bailiff against that order and against any direction given under section 19(4) when the order was made.

Now, it would be under these particular areas of the legislation and it spells it out quite clearly in section 18 and 19 that this is in actual fact the case. It actually says so in the legislation.

Mr Quine: Where?

Mrs Hannan: It says the registered operator or holder may appeal, but they would have to be told why they could appeal.

Mr Quine: It is not here.

Mrs Hannan: It does, it says that a registered operator or holder of an operator's licence may appeal to the High Bailiff against any order or direction given under 18(1) or (2) or 19(1) or (4) in respect of registration or licence. So they are going to get a refusal, if this is what they are appealing against, because an application for a variation of registration or an operator's licence may appeal to the High Bailiff against the refusal or, as the case may be, against the terms of the registration or licence or of the variation, and then it goes on in the next sub-clause, clause (2) which states, that it is 18(1) or (2) that would be spelt out on the application or 19(1) or (4) in respect of registration of a licence and then it goes on. I do not see by putting in another section which says that this information has to be given when it says the information has to be given, but if members want to put that in, do not let me stop you, but what I am telling you is that this legislation actually says that these are the appeals clearly set down. You can appeal against this and you can appeal against 18, subsection (1) or 18, subsection (2) or 19(1) or 19, subsection (4). Those are the areas which you can appeal. They are specific with regard to clause 21.

But that is what this amendment relates to: asking for this information. All I am saying is that this information lies there already. They are not going to get any other information because those are the areas that you can appeal on and I would hope that members will support the Bill as written.

The Speaker: Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. I was not intending to speak at all on this particular issue, but I have been listening to the various arguments that have been flying round the chamber on this particular matter of law and I tend to support, in this case, the amendment in that I am not convinced that the mover of the clauses has explicitly said where that principle is embodied.

Now, I accept by what has been said that it is implicit and that in the normal order of things these matters will come, but we are making primary law here and I believe it should be there and hence, sir, in this particular case I will support the amendment.

The Speaker: May I call on Mrs Cannell to respond.

Mrs Cannell: Thank you, Mr Speaker. I think we have to be clear. It has been stated by the hon. mover and also the hon. minister for the department that under clauses 18 and 19 there lie the explanations for the mechanisms to lodge an appeal. Well, let us look at clauses 18 and 19 which have already gone through. Clause 18 refers to clause 10(1) or (2), so we go back to clause 10(1) or (2). This deals with good repute and talks about appropriate financial standing and professional competence. Okay? So they can refuse if somebody is not of good repute or they can revoke a licence if someone is not of good repute, is not of appropriate financial standing and not professionally competent. That is under clause 10(1) or 10(2), and then the hon. mover and the minister talked about clause 19. But still staying with clause 18, that is the reason for the revocation. Those are the bases of the reasons. It goes on then to say it regulates them because it talks about without prejudice to subsection (1) the committee may, on any of the grounds specified, at any time by order revoke a registration, by order suspend a registration, direct the maximum number of vehicles or goods vehicles as may be or limit them, prohibit passenger vehicles or

goods, direct that a place cease to be specified as an operating centre, direct that any condition of the registration or licence be varied. Now, the committee can do all of those under clause 18. It can do all of those and may apply more than one of them to an applicant in the refusal. May apply one or more of them, but if the applicant does not know the reason for the refusal, and there is a number there under clause 18, then how can he know how to pitch his appeal?

Clause 19, which we dealt with, again we were told that the appeal mechanism, the reasons for appeal, the reason for refusal in order to lodge an appeal are in clause 19. So let us look at clause 19. Whereas under section 18, which we have just dealt with, the committee directs that a person's registration or operator's licence be revoked, the committee may order that he be disqualified either indefinitely or for such period as the committee thinks fit for being registered or holding or obtaining an operator's licence. So all it is saying is that they can vary, they can say, 'Well, we're taking this off you for ever and a day' or 'We're just going to take it off you for a year or a month or whatever.'

Staying with clause 19, I am still looking for the reasons for refusal. In staying with clause 19 we were told it is under subsection (4); this is on page 18. Subsection 4 says, 'Where the Committee makes an order under subsection (1)', which I have just read out to members, 'in respect of any person, it may direct that if that person, at any time or during such period as it may specify, is a director of, or holds a controlling interest in a company which is registered. . . company of which such a company is a subsidiary, or uses any passenger vehicles commercially in a partnership with a person who is registered or holds an operators licence. In other words if he does any of these while he is under the subject of revocation, then he has got problems, he is going to get into trouble.

There are hares running here. Clauses 18 and 19 do not provide the reasons for a refusal. That is why we are looking at an amendment. I do not know why we are getting such an anti. Perhaps it is because it is me that is moving the amendments today. (*Interjections*) I have tried with one and members saw fit to throw it out. Fine, that is the right of the House, Mr Speaker. We are now dealing with a perfectly reasonable amendment that is asking that the reason be given.

Now, the hon. minister for the department in setting his hares running this way and that way. He said 'Oh, we would be unreasonable because the committee would have to give a reason why they granted an application.' The amendment does not say that. The amendment says where an appeal lies under the relevant subsection, which is (1), (2), (3), (4) in clause 21, (1), (2), (3), (4) - quite easy to follow - against any decision of the committee, any notice of that decision must include a statement of the committee's reasons. This is in relation to where an appeal is being made, not where the granting of an application is being made. Please do not be misled by what is being said. Please support the amendment and let us bring some human rights application to this legislation. Thank you.

The Speaker: Mrs Hannan to respond.

Mrs Hannan: I am quite alarmed by the member's, who has just resumed her seat, comments about human rights. This legislation could not have been out to more consultation, it could not have been discussed more prior to getting here and the operation of it will also be in a similar way. There is a committee, a specialised committee that will look at this particular issue, granting licences. These are licences to operate on maintained roads, operating a business on a maintained road, a road which is paid for out of the public purse.

In relation to action under clause 18(2) which we have heard comment about, if you would like to look at 18(3) because 18(3) gives the ground for action under part 2, which is 18, subsection (2). The legislation is very straightforward with regard to what the appeal is about.

Of course if someone is in the position to appeal they have to know what they are appealing about, you do not just say, 'No, you're not having it.'

Mr Singer: What is wrong with the amendment then?

Mrs Hannan: No, it actually says in here, 'may appeal against any order or direction given under 18 and 19', and it is quite clear and 18(1) and 18(2) and (2), relates to subsection (3): 'The grounds for action under subsection (2) are that the registered operator or licence-holder' and so it goes on, statement of facts, knowledge was false. This all relates to the appeal that someone can make to the High Bailiff with regard to the actual clause itself, and you can tut as much as you like. I am on my feet and I will speak on this particular piece of legislation, otherwise you have not got an amendment.

The High Bailiff - anyone can be represented with legal representations before the High Bailiff and if you have not got the finance I am sure that legal aid can be made available.

Mrs Crowe: It is, yes.

Mrs Hannan: But you can call on expert assistance. You can be represented by a friend, anyone. *(Interjections)* You can be represented by an advocate. *(Interjections)* Do not be so. . .

The Speaker: Hon. members, the member for Peel is addressing the House.

Mrs Hannan: Thank you, Vainstyr Loayreyder. Can be represented by an advocate, so there are a number of areas that an applicant can be represented, can appear himself, call any expert witness and an advocate.

Many of the issues that have been discussed with this particular clause were discussed when we met the taxi people. The appeal is quite clearly spelt out in this legislation, but if people want to support the amendment because they feel happier with it being spelt out with sections (1), (2), (3) and (4) which only then relate to clause 18 and 19 then please free to do so. What I am saying is that it is superfluous. There is not a need for it: it is all there already. *(Interjections)* I am saying if you want to do that, you do it. It does not take anything away from the legislation, so you carry on. I beg to move clause 21.

The Speaker: Hon. members, we have before us clause 21 and to that we have the amendment in the name of the hon. member for East Douglas, Mrs Cannell. All those in favour of the amendment please say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

For: Messrs Gilbey, Quine, Rodan, North, Sir Miles Walker, Mrs Crowe, Messrs Rimington, Brown, Houghton, Henderson, Cretney, Braidwood, Mrs Cannell, Messrs Shimmin, Downie, Mrs Hannan, Messrs Singer, Bell, Karran, Corkill, Cannell, Gelling and the Speaker - 23

Against: None

The Speaker: Hon. members, the amendment carried, 22 votes in favour and 1 vote against. *(Interjections)* Hon. members, I am sorry for this confusion, the slip passed to me: 23 votes in favour and no votes against.

Hon. members, the motion is now that clause 21 as amended stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Hon. member Mrs Hannan, clauses 22, 23 and 24.

Mrs Hannan: Thank you, Vainstyr Loayreyder. This is supplemental. This clause requires an operator to display at his premises a certificate of his registration or a copy of his licence.

Sub-clause (1) requires the committee to issue a certificate of registration when granting an application for registration.

Sub-clause (2) requires an operator to display the certificate of registration or his operator's licence or a copy of it at each operating centre and at any other place where he carries on his transport business.

Sub-clause (3) makes contravention of (2) an offence.

Sub-clause (4) enables the committee to issue a duplicate certificate or licence in accordance with regulations and on payment of a prescribed fee.

Clause 23. This clause provides for the same issue and display on vehicles of operator's discs specifying the vehicle to be operated under registration or operator's licence or an exemption certificate.

Sub-clause (1) requires any vehicle being used commercially for the carriage of passengers or goods so that the registration or operator's licence is required to display an official operator's disc showing (a) the name of the operator, (b) particulars, for example serial numbers, office registration or operator's licence, (c) the class of vehicle where the registration or licence restricts the classes of vehicles which he is allowed to operate. Contravention of this is an offence.

Sub-clause (2) requires the committee to issue operator's discs on the grant of the registration or licence. It is to issue the maximum number authorised under clause 15 or a lesser number if the operator so requests.

Sub-clause (3) requires any vehicle being used by a voluntary organisation under an exemption certificate for the carriage of passengers to display an official operator's disc showing (a) particulars, for example serial number, certificate and (b) the name of the voluntary organisation. Contravention is an offence.

Sub-clause (4) requires the committee to issue operator's discs on the grant of an exemption certificate.

Sub-clause (5) requires the committee to issue additional discs if the registration or licence is varied to increase the number of vehicles permitted.

Sub-clause (6) requires the committee to issue additional discs if the operator has not previously been issued with his full complement of discs.

Sub-clause (7) requires the committee to issue new discs when they expire under regulations under (9)(a) above.

Sub-clause (8) provides for regulations made by the department, subject to Tynwald approval, to specify the form and content of discs, but there must be a different form for passengers and goods vehicles and for registrations, operator's licence and exemption certificates.

Sub-clause (9) provides for regulations to deal with other matters relating to discs, including their expiry, their custody and production, issue of replacements and their return on expiry, termination or registration of licences, or variation in the number of permitted vehicles and their voluntary return.

Sub-clause (10) makes the use of a vehicle without an operator's disc an offence, and sub-clause (11) enables regulations under (9) to make contravention an offence.

Clause 24. This clause gives the department power to make regulations dealing with miscellaneous matters under this part.

Sub-clause (1) gives the department powers to make regulations as regards (a) procedural matters in connection with registration, operators' licences and exemption certificates; (b) maintenance of the register of operators and inspection and copying of them; (c) maintenance of the list of operators' licences, exemption certificates and inspections and copying of them; (d) custody et cetera of operators' licences and certificates of registration; (e) notification to the committee of the vehicle used by operators; and (f) the refunding of fees in certain cases.

Sub-clause (2) enables regulations under (1) to make contravention an offence.

Vainstyr Loayreyder, I beg to move clauses 22, 23 and 24 stand part of the Bill.

Mr Brown: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion is that clauses 22, 23 and 24 stand part of the Bill. All those in favour please say aye; against, no. The ayes have it. The ayes have it. Hon. member for Peel, clauses 25, 26, 27 and 28.

Mrs Hannan: Thank you, Vainstyr Loayreyder. This relates to part 3, passenger transport licence for regular services. This clause requires a person running a regular bus service with a public passenger vehicle to hold a licence authorising him to do so. 'Regular service' is defined so as to exclude bona fide excursions and tours. The object of licensing is to ensure that where any regular service is provided it is a safe and reliable one.

'Public passenger vehicle' is a term used in this part to mean a passenger vehicle used commercially for the carriage of passengers within the meaning of part 2. A licence under this part is additional to registration or a licence as a passenger vehicle operator under part 2.

Sub-clause (1) requires any person running a regular service to hold a licence for the purpose issued by the committee.

Sub-clause (2) makes contravention an offence.

Sub-clause (3) defines 'regular service'. The criteria are (a) service for the carriage of passengers; (b) provided on more than one occasion; (c) separate fares; and (d) within predetermined limits, not necessarily a definite route with fixed bus stops. A variable route calling at various places on demand or picking up at any place en route is also covered but (e) an excursion is exempted. 'Excursion' is defined as a return trip where all the passengers are picked up at the start and dropped off at the end where the time spent anywhere en route is five hours or less. This is to exempt the genuine trip for visitors, while requiring an express bus service, for example taking office workers from Peel to Douglas in the morning and returning at night, to be licensed.

Clause 26. This clause sets out the procedure for applying for a licence for a regular service under clause 25 similar to that for applying for registration or an operator's licence under part 2.

Sub-clause (1) requires an application to be made in an official form with a statement setting out details of the service including fares, vehicles to be used and operating centre, the route and timetable and a fee. The applicant can be required to give further information.

Sub-clause (2) requires the committee to publish in addition with regulations notice of any application and to send copies to the department, Department of Local Government, the police, the local authority and any relevant trade body.

Sub-clause (3) provides for the notice to state that any person may make an objection or representation with respect to an application relating to the matters to be taken into account under clause 27 within a specified time.

Sub-clause (4) requires the committee to consider any objections or representations made under sub-clause (3).

Clause 27. This clause specifies the matters which the committee is to take into account in determining an application for a licence for a regular service. They are basically to ensure safety and reliability of service.

Sub-clause (1) requires a licence to be refused if the applicant is not registered or licensed as a passenger vehicle operator under part 2 or is disqualified under clause 19.

Sub-clause (2) requires a licence to be refused if the timetable provided shows that any speed limits will be exceeded.

Sub-clause (3) provides that apart from (1) and (2) a licence is to be refused if the committee considers it would be against the public interest having regard to the fact as listed in sub-clause (4) and any condition it could impose under sub-clause (5). For appeals against refusal see clause 34.

Sub-clause (4) lists the matters to be taken into account in considering an application. Note that existing services the need for new services the needs of the Island as a whole and the existence of subsidies are all relevant for this purpose. Note also that the department can give general directions for co-ordinating passenger transport, for example requiring through ticketing or coordinated timetables.

Sub-clause (5) enables the committee to impose conditions on the licence with respect to any of these matters.

Sub-clause (6) requires the committee to publish its decisions in accordance with regulations.

Sub-clause (7) makes it an offence to contravene a condition imposed under sub-clause (5).

Clause 28. This clause enables the committee to vary a licence altering the route or timetable or any conditions attached to the licence.

Sub-clause (1) enables the committee, on an application by the licensee, to vary a licence by altering the route or timetable or any condition attached to the licence.

Sub-clause (2) enables the committee of its own motion to vary a licence by altering any conditions attached to it. Note that an appeal lies against the decision of the committee under (1). See also clause 34.

Sub-clause (3) applies to applications made under sub-clause (1), the procedures under clause 26 and 27 for applications of licence.

Sub-clause (4) requires the committee to publish its decisions in accordance with regulations. That relates to clause 27.

Vainstyr Loayreyder, I beg to move that clauses 25, 26, 27 and 28 stand part of the Bill.

The Speaker: Mr Brown.

Mr Brown: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion is that clauses 25, 26, 27 and 28 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it. We now move on to clauses 29, 30, 31, 32, 33 and 34, the member for Peel.

Mrs Hannan: These clauses relate to licences to ply for hire.

Clause 29. This clause specifies the other kind of passenger service which requires a licence, a taxi service under which a taxi 'stands or plies for hire' but not a pre-booked service.

Sub-clause (1) requires any person using a public passenger vehicle to stand or ply for hire in a road or other public place to hold a licence for the purpose issued by the committee. For public passenger vehicle see clause 25. Stand or ply for hire covers any case where the vehicle is held out as available for hire in a road or public place. Note the standing or plying for hire counts as commercial use for the purposes of part 2.

Sub-clause (2) makes contravention of (1) above an offence. Note a temporary exemption for existing hackney carriage licence holders under schedule 2, paragraph 4.

Clause 30. This clause sets out the procedure for applying for a licence for a regular service under clause 25 similar to that for applying for registration or an operator's licence under part 2.

Sub-clause (1) requires the application to be made on an official form with a statement setting out details of service including fares, vehicles to be used, operating centre, the proposed area of operation, a fee to be prescribed under fees and duties. An applicant can be required to give further information.

Sub-clause (2) requires the committee to send copies to the department and the police. Public notice is not required.

Clause 31. This clause requires the committee to grant a licence for the ply for hire taxi service provided the applicant is a registered or licensed operator unless he has been disqualified under clause 33.

Sub-clause (1) requires the committee to grant a licence for the ply for hire taxi service provided the applicant is a registered or a licensed operator unless he has been disqualified under clause 33, in which case it is to refuse it.

Sub-clause (2) requires the committee to publish its decisions in accordance with regulations.

Clause 32. This clause provides for the duration of licences under clauses 25 and 29, referred to in the rest of this part as 'service licences'. They will normally run for five years.

Sub-clause (1) provides for a service licence to run for such period as the committee thinks appropriate which cannot exceed five years or the period which the applicant has applied for.

Sub-clause (2) enables the operator to apply for cancellation of his licence. The committee must comply but see (3) below.

Sub-clause (3) provides that the committee need not cancel under (2) if it is contemplating disciplinary action under clause 33.

Sub-clause (4) provides for an individual's licence to terminate on his death or the appointment of a receiver but note that regulations under clause 55 may enable the committee to direct that it shall not terminate but be treated as being held temporarily by another operator.

Sub-clause (5) provides that a licence which would otherwise expire will continue if an application to renew it is pending. The committee can still revoke or suspend it in clause 33.

Sub-clause (6) makes it clear that a licence for a regular service under clause 25 can always be granted for a special period or occasion.

Clause 33. This clause enables the committee to revoke or suspend for up to 12 months a licence for a bus or taxi service for breach of certain statutory requirements or, in the case of a bus service, for breach of a licence condition or failing to provide the service in accordance with the licence. The court is given similar powers in convicting a licensee of certain offences and both the committee and the court are given power to disqualify him from holding a licence for a stated period. A licence is also terminated if the licensee ceases to be registered or licensed under part 2.

Sub-clause (1) enables the committee to revoke a licence for a bus service or suspend it for up to 12 months for (a) a breach of a licence condition; (b) breach of certain statutory requirements - obligation to carry passengers, vehicle standards, regulations as to fares and meters, regulations as to marking of vehicles; or (c) failing to provide the service in accordance with the licence.

Sub-clause (2) enables the committee to revoke a licence for the ply for hire taxi service or suspend it for up to 12 months for breach of certain statutory requirements - obligation to carry passengers, vehicle standards, regulations as to fares and meters, regulations as to marking of vehicles.

Sub-clause (3) enables the court to revoke or suspend a service licence of either kind where it convicts a licensee of (a) running a bus or taxi service without a service licence or breach of condition of a bus service licence; and (b) breach of regulations as to fares and meters or marking of vehicles.

Sub-clause (4) enables the committee or a court, on revoking a licence or in a case where it could have revoked a licence but it had previously expired or been revoked, to disqualify the licensee or former licensee for a stated period.

Sub-clause (5) provides for a service licence to terminate automatically if the licensee ceases to be registered or licensed under part 2.

Sub-clause (6) makes it clear that a suspension under (1), (2) or (3) is for such period up to 12 months as the committee or the court thinks fit.

Sub-clause (7) requires the clerk of the court, where it takes action under this clause, to notify the committee and requires the committee to publish notice of the revocation, suspension or termination of the service licence in accordance with the regulations.

Clause 34. This clause gives the right of appeal to the High Bailiff against decisions by the committee on applications for or for variation of service licences and against revocation, suspension and disqualifications under clause 60. Note that the High Bailiff cannot review the committee's decisions on merits. His powers are limited to errors in law, mistakes in fact, and unreasonable exercise of the committee's discretion.

Sub-clause (1) gives the applicant for the service licence under clauses 25 and 29 or for variation of a licence for a bus service - clause 28 - a right of appeal to the High Bailiff if refusal of the application or any licence conditions in the case of a bus service.

Sub-clause (2) gives a licensee a similar right of appeal against a variation under clause 28 or a revocation or suspension or variation of a licence or a disqualification by the committee under clause 33.

Note that there is no appeal under this clause against a revocation, that is, by a court under clause 33. The Summary Jurisdiction Act 1989, section 103 gives the right of appeal against sentence.

Sub-clause (3) gives an objector to an application for a licence for a bus service - clause 26 - a similar right of appeal against the grant of the application.

Sub-clause (4) provides that where a licence expires while an appeal against refusal is pending, the licence remains in force until the appeal is disposed of.

Sub-clause (5) provides that where a licensee appeals against a variation of licence conditions - clause 28 - the variation is suspended until the appeal is disposed of.

Sub-clause (6) provides that even where a suspension operates under sub-clause (4) or (5) the committee or the court can still revoke or suspend the licence under clause 33.

Vainstyr Loayreyder, I beg to move clauses 29, 30, 31, 32, 33 and 34 stand part of the Bill.

The Speaker: Mr Brown.

Mr Brown: I beg to second and reserve my remarks.

The Speaker: Hon. members, the motion is that clauses 29, 30, 31, 32, 33 and 34 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it. Hon. member, clauses 35, 36, 37 and 38. I will be taking clause 39 separately.

Mrs Hannan: Thank you. This relates to the operation of public passenger vehicles. Clause 35. This clause enables regulations to be made under which the committee may prescribe maximum fares and require the use of taxi meters and the display of fare tables in connection with licensed bus and taxi services and also other passenger services prescribed by regulations, that is, pre-booked taxi services.

Sub-clause (1) is introductory. Regulations under this clause will apply to vehicles used under service licences, that is, buses or ply for hire taxi services, but may also apply to vehicles used for other services, for example pre-booked taxi services.

Sub-clause (2) enables the department to make regulations under which the committee may prescribe maximum fares and require the use of taxi meters and the display of fare tables in connection with services to which the regulations apply.

Sub-clause (3) makes contravention of the regulations an offence.

Clause 36 enables regulations to be made under which the committee may prescribe the marks, plates, documents which vehicles use on licensed bus and taxi services and also other passenger services prescribed by regulations, for example pre-booked taxi services, which are required to carry the regulations.

Sub-clause (1) is introductory. Regulations under this clause will apply to vehicles used under service licences, that is, buses or ply for hire taxi services, but also may apply to vehicles used for other services, pre-booked taxi services.

Sub-clause (2) enables the department to make regulations under which the committee may prescribe the markings of vehicles - taxi signs, operators names, address, licence plates or discs as used or authorised to be used in connection with the service to which the regulations apply; (b) requires vehicles to carry documents and markings prescribed under (a); (c) provides for the issue, custody, production et cetera of documents, plates et cetera by the committee or other authority.

Sub-clause (3) makes it clear that a vehicle which is sometimes used in connection with such a service can be required to carry a marking even when it is not used.

Sub-clause (4). Contravention of the regulations is an offence.

Clause 37. This clause makes it obligatory for a licensee under a service licence to carry any passengers who wish to travel, provided that any limits on numbers are not exceeded and they tender the proper the fare and otherwise behave themselves.

Sub-clause (1) makes it a condition of a licence for a bus service that any individual is entitled to be carried by a vehicle used to provide a service provided that there is room. This obligation is subject to (2) below and to regulations as to the passengers' conduct under clause 45 which cover behaviour, drunkenness. The sanctions for contravention of this condition is revocation or suspension of the licence and possibly disqualification under clause 33.

Note that the provision as to the exercise of the right may be made by regulations under clause 45.

Sub-clause (2) excludes (1) above in cases where a licence condition limits the class of passengers who may be carried, that is, school bus service.

Sub-clause (3) makes it a condition of a licence for a ply for hire taxi service that any individual is entitled to be carried in a vehicle used to provide the service provided that there is room, limits under clause 46 are not exceeded. This obligation is subject to regulations as to the passengers' conduct. The sanction for contravention of this condition is revocation or suspension of the licence and possibly disqualification under clause 33.

Clause 38. This clause enables regulations to be made under which vehicles used commercially for carrying passengers can be required to be tested if they do not comply with certain construction and use requirements or if they have been altered in certain ways and can be banned if they fail such a test. It replaces the PSV testing under the Road Traffic Act 1964 and hackney carriage testing under the Public Service Vehicles (Inspection) Act 1928.

Sub-clause (1) enables the department to make regulations under which public passenger vehicles, vehicles used commercially for the carrying of passengers, can be required to be tested if

they do not comply with certain construction and use requirements under the Road Traffic Act 1985 or if they have been altered in certain ways.

Sub-clause (2) enables the regulations to give an examiner power to ban the use of the vehicle for commercial purposes or for any class of commercial purposes if it fails a test under (1).

Sub-clause (3) requires the regulations to make provision for the re-testing of a vehicle banned under (2) and the lifting of the ban if it passes the test.

Sub-clause (4) enables the regulations to require an alteration of a vehicle to be notified to the department and to require a fee to be paid for a test. The fee will be prescribed under the Fees and Duties Act of 1989.

Sub-clause (5) enables the regulations to make a contravention or a breach of a ban under (2) an offence.

Sub-clause (6) requires the regulations to apply the appeals provision of the Road Traffic Act 1985, schedule 2 which relates to construction and use regulations in relation to examiners' decisions and bans and enables other provisions of that Act to be applied.

Sub-clause (7) contains definitions.

Vainstyr Loayreyder, I beg to move that clauses 35, 36, 37 and 38 stand part of the Bill.

Mr Brown: I beg to second and reserve my remarks.

The Speaker: Mr Singer.

Mr Singer: Could I ask the hon. mover? I think the only place I can ask is under clause 36, marking of vehicles. Will the committee be the body to decide whether in fact taxis can carry advertisements on the side or will that be up to the taxi themselves and if so, what controls will be applied by the committee?

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. On 36 again, obviously the committee will have the power under this particular clause, as I understand it, to actually regulate for how the vehicle is to be identified, the plates, the size, the marks or otherwise, carrying or displaying on vehicle of documents, signs, plates, marks, so I would say it includes advertising. But what I would like to ask is an assurance really that what is being sought here is regulation of what is existing and that the department is not by some mechanism here in the future looking towards uniformity. That is what I am looking for the hon. mover to reassure me on, that it is not uniformity that is the real desire here, in other words that the Isle of Man Department of Transport is thinking, 'Well, eventually we can phase out all the one-person operators, just go for the companies, encourage them and also encourage them at some point to go for the same type of vehicle', in other words like the London black cab, for instance, because that situation would not go down well in the Isle of Man, nor would it go down well with passengers because passengers like to have a choice. You can see passengers walking along the rank, they will look at all the varying and different types of vehicles and they will get in the one that they fancy having a ride in basically.

The one thing one can say about the black cabs is if you are travelling from, say, Douglas to Ramsey or to the Point of Ayre it will be a very uncomfortable ride for you because they are not very comfortable. They might be popular in London and other cities but they would not go down well here in the Isle of Man because we are, geographically speaking, a very hilly Island.

So all I am looking for really is an assurance from the hon. mover that the view behind this home-grown piece of legislation is not uniformity coming in at some point.

The common carrier obligation as specified in clause 37 I do accept. Looking at sub-clause (1) of clause 37 when it talks about the licence under section 25, of course we are talking about, if I am correct, buses. So there is an obligation on the bus to take a passenger if there is room for

him, but of course here there is not an obligation for the bus to stop, so although there might be space on the bus, he might fly past you. I would like to ask the hon. mover what if that did happen and there were plenty of seats available on a service vehicle, a bus, which was doing a regular service and it went past, as often happens with children who perhaps miss the school bus and then have to go and stand and wait for the scheduled bus to arrive, and often if the driver does not like the look of you he will go right past you. What I am asking really is - (*Interjections*) It does happen in the real world, I am afraid. It has happened to constituents of mine and it has also happened to my children when they have been attending school or attempting to attend school.

I take the theme throughout in terms of the common carrier obligation and also that they can refuse if of course the person is drunk and disorderly or dirty or whatever. There is provision there. But I am really looking for clarification that if there is room on a bus, fine, he has an obligation to carry, but in this clause there is no obligation for him to stop. Thank you.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like to ask the hon. mover when we talk about buses and that. We increasingly see the likes of the Buzz bus now and we see the arts bus and we used to have bus Caarjyn ny Gaelgey which is no longer with us. So long as these buses are not actually taking fare-paying passengers they are immune as far as this legislation is concerned, as far as the regulations of inspection are concerned and they are above being checked, even though a bus that has got failed brakes, whether it is taking fare-paying passengers or not, can be just as much of a danger as anything else.

The Speaker: May I call upon the mover to respond. Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. With regard to the standard of taxi, no assurance can be given on that. This would relate to the road transport committee which will be dealing with this in consultation with the Department of Transport at the time. Under this legislation the application of this legislation is the introduction of regulations and the introduction of regulations is after consultation and approval by Tynwald.

In relation to advertisements, I am sure that an application at least will be by regulation again, after consultation, and it will be up to the committee to decide whether there should be any further advertising and that would be in consultation with the department and also with the industry.

With regard to the licensing of buses that are not going anywhere, if they are carrying passengers I would have thought that they would have to apply under this legislation if they were carrying passengers. If it was a charity, obviously they would receive under this legislation, but even if they were travelling on the road they would come under the construction and use presumably because they are on the road, they are a vehicle of that particular size. So I think we have got to be very careful when we do have buses such as this that they are of a reasonable standard.

I do not think there were any other points raised under this particular section, Vainstyr Loayreyder, so I would move that -

Mrs Cannell: Uniformity of vehicles?

Mrs Hannan: That is up to the committee, the road transport committee, in consultation with the department in consultation with trade bodies. It would only be after that. I am giving no assurance whatsoever that there will not be uniformity of taxis in the future or of a different standard.

Vainstyr Loayreyder, I beg to move that clauses 35, 36, 37 and 38 stand part of the Bill.

The Speaker: Hon. members, the motion is that clauses 35, 36, 37 and 38 stand part of the Bill. Will all those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, the House will now adjourn until 2.30 p.m. tomorrow afternoon.

The House adjourned at 5.36 p.m.