



**LEGISLATIVE COUNCIL  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH**

**P R O C E E D I N G S**

**D A A L T Y N**

**(HANSARD)**

**Douglas, Tuesday, 27th June 2006**

## Present:

### The President of Tynwald (The Hon. N Q Cringle)

The Lord Bishop of Sodor and Man (The Rt. Rev. Graeme Knowles), The Attorney General (Mr W J H Corlett QC),  
Mr D Butt, Mrs. C M Christian, Mrs. P M Crowe, Hon. A F Downie, The Chief Minister (Hon. D J Gelling CBE),  
Mr E G Lowey, Mr L I Singer and Mr G H Waft,  
with Mrs M Cullen, Clerk of the Council.

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*The Council adjourned at 2.10 p.m.*

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## Legislative Council

*The Council met at 10.30 a.m.*

[MR PRESIDENT *in the Chair*]

### PRAYERS

*The Lord Bishop*

**A**s we pray for this Island and for this Legislative Council, so we pray for those members of our community who are veterans of any service in war. Today is Veterans' Day.

Let us pray for all who suffer as a result of war, for the injured and the disabled, for the mentally distressed, and for those whose faith in God and in man has been weakened or destroyed, for homeless and refugees, for those who are hungry, for those who have lost their livelihood and security, for those who mourn their dead, for those who have lost husband or wife, children or parents, and especially for those who have no hope in Christ to sustain them in their grief.

Almighty God, our heavenly Father, infinite in wisdom, love and power, have compassion on those for whom we pray, and help us to use all suffering in the cause of your Kingdom, through Him who gave Himself for us on the cross, even Jesus Christ, our Lord. Amen.

The grace of our Lord Jesus Christ and the love of God and the fellowship of the Holy Spirit be with us all ever more. Amen.

### Veterans' Day Statement by the President

**The President:** Hon. Members, it is right that we should remember Veterans' Day in our prayers. Today is a special day, as designated as Veterans' Day.

The Veterans' Agency said 27th June was chosen as it comes the day after the anniversary of the first investiture of the Victoria Cross, which happened in Hyde Park, London in 1857.

Chancellor Gordon Brown, who announced the annual event, said:

'The national Veterans' Day in June is designed to thank today's generation of ex-servicemen and women for their service to the country.'

I think it is right that that should be remembered and remarked upon, Hon. Members.

### Parish Walk Congratulations to Mr Butt

**The President:** Whilst doing that also, Hon. Members, can I pay, this morning, a particular tribute to our own particular veteran, Dudley Butt, (*Laughter*) on his journey around the parishes.

I indicated in Tynwald the week before last that I was reasonably confident that two of our Members would make the passage around the Parish Walk, and I am pleased and very proud indeed that Dudley and, in fact, David Cretny in the House of Keys made it as well.

But congratulations sincerely to Dudley for that. (**Members:** Hear, hear.) Some of us know what you go through, sir!

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

**The President:** Well done.

### Procedural

**The President:** Hon. Members, in relation to our Order Paper, the Questions are for Written Answer on your Order Paper this week. In fact, I understand that you have the copy of the Answers already circulated to you, on your desks.

## Questions for Written Answer

### CHIEF MINISTER

#### Ophthalmology and orthopaedic consultants Waiting lists

1.1. The Hon. Member (Mr Singer) to ask the Chief Minister:

(a) *What is the current waiting list to see the ophthalmology and orthopaedic consultants for –*

(i) *referrals from GP to consultation*

(ii) *from consultation to surgery*

(b) *How do these waiting lists compare to*

(i) *12 months ago*

(ii) *24 months ago?*

**Answer:** In answering the Hon. Member's Question it should be noted that in the timescale requested the Department can only provide retrospective waiting times i.e. the waiting times quoted are the time that the last person who received treatment waited to be seen.

The retrospective waiting time for the last patient who was treated should not be confused with the prospective waiting time i.e. the waiting time for a patient who is currently waiting. The prospective waiting time will vary depending on the increase or decrease in the staff and resources available whilst the patient is waiting. An increase in staff or resources available will reduce the prospective waiting time and a reduction in staff and resources will increase the waiting time.

The Department is not able to calculate prospective waiting times without a diversion of resources away from usual duties to manually interrogate each patient file. It has not been possible in the timescale available to divert sufficient resources to provide this information.

In the case of both ophthalmic and orthopaedic

services the prospective waiting time will be less than the retrospective waiting time as the staff and resources devoted to these services has recently been increased. A second ophthalmic surgeon was appointed in March 2006 and a third orthopaedic surgeon appointed in September 2005.

Due to the retrospective nature of the information any increase in staff or resources is not reflected in reduced waiting times until some time after additional resources have been made available.

(a) Current Waiting Times (as at 31st May 2006) (See Tables 1.1A and 1.1 B)

**Table 1.1A**

Referrals from GP to consultation		
	No. Patients Waiting	Waiting time for last patient who received treatment
Ophthalmology	813	current longest wait was 31 months
Orthopaedic Surgery	784	current longest wait was 13 months
Back Surgery *	227	current longest wait was 19 months

\* Please note back surgery is from 1st April 2006 a separate part of the speciality of orthopaedic surgery for statistical purposes

**Table 1.1B**

From consultation to surgery		
	No. Patients Waiting	Waiting time for last patient who received treatment
Ophthalmology	546	current longest wait was 15 months
Orthopaedic Surgery	344	current longest wait was 11 months

(b) How do these waiting lists compare to –

12 months ago – referrals from GP to consultation (See Tables 1.1C and 1.1D)

**Table 1.1C**

	No. Patients Waiting	Waiting time for last patient who received treatment
Ophthalmology	847	current longest wait was 20 months
Orthopaedic Surgery	1,171	current longest wait was 19 months

12 months ago – from consultation to surgery (See Table 1.1D)

**Table 1.1D**

	No. Patients Waiting	Waiting time for last patient who received treatment
Ophthalmology	374	current longest wait was 15 months
Orthopaedic Surgery	264	current longest wait was 18 months

24 months ago – referrals from GP to consultation (See Tables 1.1E and 1.1F)

**Table 1.1E**

	No. Patients Waiting	Waiting time for last patient who received treatment
Ophthalmology	410	current longest wait was 12 months
Orthopaedic Surgery	673	current longest wait was 10 months

24 months ago – from consultation to surgery (See Table 1.1F)

**Table 1.1F**

	No. Patients Waiting	Waiting time for last patient who received treatment
Ophthalmology	269	current longest wait was 12 months
Orthopaedic Surgery	442	current longest wait was 12 months

It is extremely important to note that in order to place the changes in waiting times in context, they must be considered along with the changes in activity. The changes in demand for both ophthalmology and orthopaedic services during the same period were:

#### Ophthalmology Activity

The Ophthalmology services saw a small decrease of 8.1% in the number of in-patients and a significant increase in both new out-patients, of 12.8%, and those returning for follow-up appointments, of 11.6%.

#### Orthopaedic Activity

There has been exceedingly strong increased demand for orthopaedic services. The number of patients being treated as in-patients has increased by 36.9%, the number of new out-patient appointments by 71.7% and the total number of out-patient appointments by 16.6%.

### Ophthalmology and orthopaedic operations NHS/private split

1.2. The Hon. Member (Mr Singer) to ask the Chief Minister:

(a) What is the agreed proportion of NHS to private operations, performed by the ophthalmology and orthopaedic consultants in NHS facilities?

(b) Are these consultants' performances in line with the agreed NHS/private split?

(c) please detail each consultant's performance in a table form, showing their NHS/private operations compared to the agreed figures in the two specialities identified in (a).

**Answer:** In response to part (a) of the Hon. Member's Question, the Department does not stipulate the proportion of time which should be spent on private work, as opposed to NHS work.

The Department agrees a job plan with each individual consultant which specifies the NHS work which they will carry out for the Department. Once they have completed this work, the consultant can, if they choose, provide services on a private basis.

The Department has no authority to place a limit on the private work carried out by a consultant, where this does not affect work contractually required for the Department. The limiting factor for private work is usually availability of theatre space as NHS work has priority.

Consequently the information requested in part (c) of the Question cannot be provided. The Department can, however, confirm that all the consultants fully meet the contractual requirements of their NHS job plans.

It is, however, possible to provide an indication of the number of theatre procedures carried out privately, compared with those carried out on behalf of the Department. (See Table 1.1A)

**Table 1.1A**

Financial Year	Total theatre procedures	% NHS	% Private
2005/06	9,939	90.4%	9.6%
2004/05	9,349	92.0%	8.0%

In considering these figures it should be noted that if a consultant reduced the amount of work carried out on a private basis this would not result in an increase in work for the Department. Work on a private basis is in addition to any work carried out under the NHS contract job plan. Thus, private and NHS work are not interchangeable.

## Orders of the Day

### Audit Bill

#### Keys amendment approved

2. Mr Waft to move:

*That the following amendment to the Audit Bill made by the House of Keys be agreed.*

*Clause 17, page 14, line 35, for '£50,000' substitute '£100,000'.*

**The President:** We, therefore, turn the page to the back of our Order Paper and turn to the Audit Bill. The Audit Bill is for consideration of a Keys amendment, which is printed on the Order Paper for you: on clause 17, page 14, line 35, for '£50,000' substitute '£100,000'.

Now, Mr Waft.

**Mr Waft:** Thank you, Mr President.

The House of Keys, in consideration of the Council amendments to this Bill, has made a further minor amendment. This is a consequential change required to clause 17, in section 5(3), which now reflects the revised

threshold of £100,000 as the upper value at which the audit exemption applies to charities, in order to be consistent with subclause 5(5).

Clause 17, in section 5(3), page 14, line 35 should now read... for '£50,000' substitute '£100,000.'

Mr President, I beg to move.

**Mrs Crowe:** I beg to second, Mr President.

**The President:** Mr Lowey.

**Mr Lowey:** Yes, Mr President.

Whilst supporting the resolution, I do think it is a little bit... I think we ought to get the record straight.

The Bill which was passed by the House of Keys, another place, the first time round, actually had £25,000. We doubled it to £50,000. So, it was our amendment which they have now doubled yet again. If there is another recognition of the role of this particular House, in recognising weaknesses in legislation that has come from the Keys, this is a classic, where they have thought we have not been strong enough.

But I do think it, really, is incumbent upon... when we are passing the Bill... The mover of the amendment of the Keys, saying that they were going from £50,000 to £100,000, omitted to say that it was £25,000 in the first instance, which had been approved by the House of Keys.

So, I just find it strange that... No wonder the people outside get confused about the role of the Legislative Council, when, even within Government, we do not recognise that we have spotted a weakness, rectified it and now it has been strengthened again by the Keys.

I support it, but I think we ought to make sure that what we are doing is... We have spotted the weakness, long before the House of Keys did.

**The President:** Mrs Christian.

**Mrs Christian:** I would just like some clarification, Mr President.

The amendment on the Order Paper is in respect of page 14, line 35. That is to do with charities, whereas the amendment we made was page 15, line 14.

**The President:** That is right, on the other side.

**Mrs Christian:** Yes. So it is a different amendment, isn't it?

**Mr Singer:** Yes. We missed that first one, didn't we, Mr Lowey?

**The President:** We are still in the same clause.

**Mr Lowey:** The principle is exactly the same. We actually amended it. They have gone and rectified it. I have no difficulty with that, and they have doubled it and strengthened it.

But the original weakness, when it came to us, was £25,000, and that is the point I am making.

**The President:** It has picked up in alteration in the same clause, which is clause 17.

Mr Waft, do you wish to reply, sir?

**Mr Waft:** I just beg to move.

**The President:** You just beg to move.

In that case, Hon. Members, the motion that I put to Council is that we do accept the Keys amendment, which is on clause 17, page 14, line 35, for '£50,000' substitute '£100,000.' Those in favour, please aye; against, no. The ayes have it. The ayes have it.

### **Road Traffic (Amendment) Bill** **First Reading approved**

3. Mrs Crowe to move:

*That the Road Traffic (Amendment) Bill be read for a first time.*

**The President:** In that case, Hon. Members, we move on to the Road Traffic (Amendment) Bill for First Reading, in the hands of the Hon. Member, Mrs Crowe.

**Mrs Crowe:** Thank you, Mr President.

I am pleased to be able to move this First Reading of the Road Traffic (Amendment) Bill, which is promoted by the Department of Transport and has passed its Third Reading in the House of Keys.

The Bill makes amendments to strengthen and supplement provisions in the following Acts: the Road Traffic Act 1985; the Road Traffic Regulation Act 1985; and the Licensing and Registration of Vehicles Act 1985, which are concerned with the licensing and regulation of vehicles, with the movement and stopping and waiting of motor vehicles and other road safety matters.

Mr President, the Department feels that this Bill will be a considerable help, not only to the regulators, but to the travelling residents on the Island.

I beg to move the First Reading of the Road Traffic (Amendment) Bill.

**Mr Singer:** I beg to second, Mr President, and reserve my remarks.

**The President:** The motion to Council, Hon. Members, is that the Road Traffic (Amendment) Bill 2006 be read for a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

### **Road Traffic (Amendment) Bill** **Standing Order 22(2) suspended** **to take Second Reading**

**The President:** Mrs Crowe.

**Mrs Crowe:** Mr President, I am sure you would be expecting for me to ask that we suspend Standing Orders, in order to expedite this Bill. I wondered if it would be possible for us to go straight on to our Second Reading and clauses.

I move:

*That Standing Order 22(2) be suspended to enable the Second Reading of this Bill to be taken.*

**Mr Singer:** I beg to second that.

**The President:** In that case, Hon. Members, I will put to Council that the Council progress to the Second Reading stage of the Road Traffic (Amendment) Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

### **Road Traffic (Amendment) Bill** **Second Reading approved**

**The President:** I invite Mrs Crowe to take the Second Reading of the Road Traffic (Amendment) Bill.

**Mrs Crowe:** Thank you, Mr President.

I am grateful to the Members. I think we can expedite this. There were not many serious contentious issues to be dealt with in the Keys.

Clause 1 –

**Mr Singer:** Second Reading.

**The President:** Before we can look at the clauses, you need the Second Reading.

**Mrs Crowe:** Oh, I am sorry, Mr President. My Second Reading is somewhere around.

This is the Second Reading of the Bill, which makes many amendments to the various Acts that I have already mentioned. There are: the taking of samples from drivers; the newly-qualified drivers; the payment for driving instruction; and regulations regarding driving instructors. There is the registration of vehicles, which has long been called for; and there are other licensing issues, such as the duration of licences and trade licences. There are parking charges, traffic signage and, of course, the interpretation of the Bill.

Mr President, I beg to move:

*That the Road Traffic (Amendment) Bill be now read a second time.*

**Mr Singer:** I beg to second, Mr President.

**The President:** Mr Lowey.

**Mr Lowey:** Could I ask the mover of the Bill, in the part dealing with registration of vehicles, the onus is being put on the person who has got the vehicle, is the onus now going off the Department and more onto the individual? Is this the aim of this legislation – or is it just a continuation of what we already have at the moment, because, otherwise, what is the point of altering it, if it is just keeping the same situation?

**Mrs Crowe:** Thank you, Mr President.

Yes, indeed, it is a continuation of the accountability and traceability of vehicles. I know, for one, that the Hon. Member has been concerned many times with abandoned vehicles, and the fact that they could not be traced to their last owner. Actually, this does mean that vehicles can be traced to their last owner.

So, even if one, in these times which, of course, always

horrify trading standards so much, when these very cheap vehicles are exchanged for a very small cost in local pubs, the owner is still the owner, even if he sold it, unless he complies with these new regulations. I think that is a very important part of this Bill.

**The President:** The motion, Hon. Members, that I put to Council is that the Road Traffic (Amendment) Bill be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

## **Road Traffic (Amendment) Bill**

### **Clauses considered**

**The President:** We move on, Hon. Members, to take the clause section. We deal with clause 1, Mrs Crowe.

**Mrs Crowe:** Thank you very much, Mr President, I am most grateful.

Clause 1 permits the taking of blood from incapacitated drivers for future consensual testing, therefore putting them in the same position, with respect to the testing for drug and alcohol levels, as drivers with capacity. The clause outlines the procedure to be followed.

Subclause (1) inserts a new section 7DA into the Road Traffic Act.

Subclause (2) provides that the medical practitioner in immediate charge of giving clinical care must be informed.

Subclause (3) provides that it shall be lawful for a medical practitioner who has received a request and, if the medical practitioner considers it fit, for a blood specimen to be taken from the person, irrespective of whether the patient consents, and to provide the sample to a constable.

Subclause (4) states that, if a blood sample is taken from a person in accordance with this section, then the blood specimen will not be laboratory tested unless the person has been informed that the blood sample was taken and has been required by a constable to give permission for a laboratory test of that specimen, and has given permission.

In subclause (5), a constable must, on requiring a person to give permission for a laboratory test of a blood specimen, warn the patient that a failure to give permission may render the person liable for prosecution.

Subclause (6): if the person, without reasonable excuse, fails to give permission for a laboratory test of a blood specimen under this provision, then the person is guilty of an offence.

Subclause (7) provides for the definition of a 'police medical practitioner'.

Subclause (2) amends section 6(4) of the Road Traffic Act 1985, so that the constable can decide whether the blood or urine specimen is to be taken and, in the case of a blood specimen, who is to take that specimen.

The next clause inserts (4A) into the section of the Road Traffic Act, and it enables the constable to decide that there will be no requirement to provide a blood specimen if the medical practitioner who is asked to take the specimen has the opinion that the specimen cannot and should not be taken for medical reasons, or that the registered healthcare professional who has been asked to take the specimen agrees, for medical reasons, that a specimen cannot and should not stand.

Subclause (4) expands the interpretation of sections 3A and 5 to 7D of the Road Traffic (Amendment) Act 1985 to include the definition of a registered healthcare practitioner.

Subclause (5) inserts the new subsection (2A) after section 7E of the Road Traffic (Amendment) Act.

Subclause (6) substitutes a new section 7E(4) of the Road Traffic Act.

Subclause (7) substitutes a new section 7A of the Road Traffic Act.

Subclause (8) inserts a new entry into the table that is shown in the schedule 6 of the Road Traffic (Amendment) Act, in respect of prosecution and punishment of offences.

Subclause (9) provides the consequential amendment to paragraph 11(3)(b) of part II of schedule 3 to the Road Traffic Act 1985.

Subclause (10) amends section 7C, which is the use of specimens in proceedings for an offence, of the Road Traffic Act 1985. It already refers to specimens of breath, blood and urine being provided by and provided the specimen, but in addition, the words 'taken from' or 'taken' or 'before the specimen was taken' are now included.

Additionally, subclause (10) substitutes a new subsection (4), which provides that a blood specimen will be disregarded unless the accused gave his or her consent for it to be taken, either in a police station by a medical practitioner or a registered healthcare professional or a medical practitioner elsewhere, or the blood specimen was taken from the accused by a medical practitioner under section 7DA, samples from drivers, and the accused later gave permission for that specimen to be laboratory tested.

Subclause (10) adds a new subsection (6) to section 7C of the Road Traffic Act 1985.

Subclause (11) gives the consequential amendment to section 7D of the Road Traffic Act 1985.

Mr President, I beg to move that quite substantial clause 1 in the Road Traffic (Amendment) Bill 2006.

**Mr Singer:** I beg to substantially second it.

**The President:** Mr Downie.

**Mr Downie:** Yes, Mr President. I wish to speak in favour of this clause. It is obvious that, for a number of years, a lot of drivers who have been involved with drink or drugs have actually escaped from justice. As I understand it, the Police Reform Act 2002 introduced a form of testing into the UK, which I understand has worked very successfully.

Lots of European countries do not have a problem in this particular area. I think, as part of the range of facilities available to the Police when they suspect that a person involved in a major accident, where there has been a loss of life or serious injury on the other side, there should really be provisions for taking blood.

Most of us are aware what happens when people go into hospital and they have been badly injured. The first thing the medics do is actually take a sample for cross-matching. I think what this piece of legislation does is actually provide proper provisions and safeguards, to make sure that there is a facility, when a person has been suspected of causing a big accident and it could have been related to alcohol or drug taking, there is something there to deal with it.

At the end of the day, it is all down to the discretion of the doctor. I think that is important, but we should try and do

our utmost to make sure that there are not people out there who are driving with excessive amounts of alcohol in the blood. There is no doubt about it, there have been a number of people over the years who have got off because it has been impossible to take a sample.

I think, with the technology that is available in this day and age, and how this is actually being progressed and we have got legislation available from other jurisdictions, we should be making this system available to our own law-enforcement agencies, here on the Isle of Man. I would support this clause.

**The President:** Mr Singer.

**Mr Singer:** Can I just add to that, supporting what Mr Downie said.

It does not have to be a major accident; it can be a minor accident, but that person can be totally incapable in the car and, where before, they could not take a blood sample, they can now take a blood sample, so they can be punished as necessary.

**The President:** Lord Bishop.

**The Lord Bishop:** Thank you, Mr President.

I think this is probably a question for the learned Attorney: on page 3, where it is made clear that the constable must warn the person from whom the blood has been taken, that they are liable to prosecution, and that they could very well be guilty of an offence, what offence is it that they are guilty of? How secure would such a prosecution be?

What I would not want us to do is to think we have got a foolhardy system and just push the slipping-through-the-net one knot further on. I think this is a much-needed bit of legislation. I was just hoping that it is as secure as it would appear to be, that having warned this person that they are liable to prosecution, such a prosecution would stick.

**The President:** Mr Waft.

**Mr Waft:** Yes, Mr President.

I am in favour of it, obviously, but it is just the... I would make a comment on the bottom of 3, with regard to the registered healthcare professional, when it says it means a person other than a medical practitioner who is a registered nurse or a registered member of a healthcare profession. That leaves it open, really.

There are different registered members of healthcare professions, such as physiotherapists, and I can think of two or three, but just to get it in order, as we all know, when we go to the hospital for bloods, there is a special department for taking bloods – the haematology department. There are nurses, people trained there, and they are certificated in the withdrawal of blood – I think they are called phlebotomists.

But to give it to anybody who is a member of a medical professional seems a bit risky. I would think it would be better to allow someone who is qualified in that sort of area of work to be able to do so.

It was just that the order is made by the Department. I take it, it is the Department of Home Affairs who are giving out this authority. So, just to be aware that there is a need to understand what you are doing in that area, rather than just any medical professional.

**The President:** Mrs Christian.

**Mrs Christian:** Thank you, Mr President.

Just to follow on the point made by the Hon. Member, Mr Waft, could the mover confirm that any such order would have to be approved by Tynwald and, therefore, there would be further sight of it. I am quite sure that Tynwald would not approve of physiotherapists or any unsuitable category of health professional being authorised to take blood samples.

I would just like to raise one other issue, Mr President. The principle, I am sure, is one which for years we have been frustrated by, the inability to take blood samples from people who may well have been impaired by alcohol or drugs, and have been involved in accidents, serious or otherwise. The clause does set out to provide some safeguards for that person.

First of all, we need the consent of a medical practitioner, and one would hope that we will get such consents, in circumstances which are not constrained by other than any really serious medical reason. We know that, in other areas, medical practitioners were, in the past, not prepared to fulfil what was the law of the Isle of Man, because of arguments on Human Rights grounds, so I am not quite sure to what extent there will be any overlap here.

Secondly, there is a requirement for the sample to be split into two, which I think is an absolutely essential protection for the accused, but my question is: who is going to hold these samples, until such time as the person concerned is fit to give consent? Will it be held by an independent laboratory? Will it be held by the police medical officer? Will it be held in the hospital? I think it is quite important that, where there are two samples taken, the one that belongs to the accused person is held by an independent party. I wonder what provision is made.

I do not see it in here but I could well have missed it. It is a long clause. I wonder if the mover can indicate how those samples are actually going to be managed.

**The President:** Mr Butt.

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

I broadly support this change, as well, to the 1985 Act.

A couple of points: I see the registered healthcare professional is raised at subsection (4). I would like to know, does that mean they can actually take the sample? Do they take that under the instruction of a medical practitioner, or can they take it separately, without the practitioner being aware?

Also, a minor typographical on... I think it is line 10 of page 2: there is a double 'that'. Thank you.

**The President:** Mr Lowey.

**Mr Lowey:** Again, like Mrs Christian and other Members, I want to support this because we have been frustrated over the past, but two things that...

It seems awfully complicated. I find it very hard, when reading it, to equate the constable... If you go to (c) on the top of page 2:

'it appears to that constable that A is or may be incapable (whether or not A has purported to do so) of giving a valid consent to the taking of a specimen of blood',

you would read that as much to say the constable has got complete charge of that, whether he takes a sample or not. Then you read further on, of course, it is not; it is a medical practitioner, and the practicalities of it...

The other thing that was said by the mover of the Bill, which confuses me a little, is that somehow people can get off by refusing to take a test but – I may be wrong – I believe that the law in the Isle of Man now is, if you refuse to take a test, you can be guilty of an offence by not taking a test. Therefore it is a catch-all.

If you do not take a test you are a guilty, and that has actually been proven. So, we have that catch-all, at the moment.

This is another area in which I want to strengthen the law. I want us to be quite clear, those that are impaired should not take drugs or drink – whichever impairs you. It does seem to me an awfully complicated clause 1. When we are making primary law, it should be clear and concise. This clause is anything but clear and concise and that worries me. It is a lawyers' charter.

**The President:** Picking up on Mr Lowey's point, Hon. Member – via Mr Attorney, perhaps you could think about it – is there a timescale written in somewhere, between the request being made and the medical practitioner being sought?

Now, Mr Attorney, I think, if you may, I think the Lord Bishop raised a question on page 3.

**The Attorney General:** Thank you, Mr President.

The point made by the Lord Bishop is that he is concerned that the prosecution must stick. In other words in relation to clause 7DA(5), at the top of page 3:

'A constable must, on requiring a person to give permission for the purposes of this section for a laboratory test of a specimen, warn that person that the failure to give the permission may render that person liable to prosecution.'

Mr President, we can see that, immediately following the subclause:

'A person who, without reasonable excuse, fails to permit a laboratory test of a specimen of blood taken from that person [...] is guilty of an offence.'

That, Mr President, is very similar to the existing law. In other words, we already have a provision, in section 5B of the principal Act, which basically states, Mr President, that if a person fails to provide a specimen of breath for a breath test, then he is guilty of an offence. Therefore, it is well established in our criminal law that there is no defence or no option available to someone to say simply, 'Well, I am not going to give you a specimen', because if they do fail to give that specimen, they are guilty of an offence, and they will be punished, as if they were driving under the influence of alcohol.

The same thing will apply here, Mr President. I feel quite sure that if a person fails to give the specimen, having been warned by the constable of the consequences, then he will be treated as if he were guilty of the principal offence.

**Mr Butt:** And, Mr President, the offence and the punishments are in the schedule as specified here.

**The President:** Mr Lowey.

**Mr Lowey:** I would like the Attorney's view on the complication and the long clause, and it being the lawyers' charter. I do not say that to embarrass my learned friend, I do not, really; but I know he knows what I mean.

To me, laymen should be able to pick the law up and say, 'I am guilty' or 'I am not guilty' or what a defence should be. This one: it taxes me and I have been going through these a long time.

**The Attorney General:** Mr President, it taxes me as well, I have to say, (*Laughter*) and I have found it extremely difficult to make my way through this clause.

Mr President, clearly the principal Bill is crying out for consolidation. This is a piece of legislation which has been amended and re-amended and supplemented, over the years. I feel quite sure that the Department will wish to bring forward, in due course, the consolidated legislation, to make it easier for us all.

But all I can say, Mr President, is that if you were to look at the equivalent piece of legislation in the UK, it, too, is complicated. It is not an easy set of circumstances, I am afraid, to deal with succinctly.

I hope it is not going to be a lawyers' charter, in the sense that only lawyers can understand it, but there we are.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, may I just ask one other question. I wonder whether the issue has been submitted to the Ethics Committee of Noble's Hospital.

Thank you.

**The President:** Right, Mrs Crowe to reply.

**Mrs Crowe:** Thank you, Mr President.

In no particular order, I would like to thank my colleagues, Mr Downie and Mr Singer, for their support.

In answer to Mr Waft's query, it was, of course, answered very ably by Mrs Christian, who did point out that the orders for these particular regulations have to be approved by Tynwald.

Mrs Christian's particular query about the ethics of blood specimens from incapacitated drivers has, indeed, received the approval of the British Medical Association (BMA) and has taken place for a long time in the United Kingdom. The problem was it was missing from our Bill.

I do take the point of the Attorney General about the consolidation. I do hope that new Departments, after a new administration, will look at all these Bills. This Bill is complicated by scheduling at least three other principal Acts into this clause, and it is quite a nonsense.

I do take the point that Mr Lowey has made. We should be looking, in the first year of a new administration, at consolidating not only this Bill but a number of other Bills, not only consolidating them but anglicising them, rather than legalising them.

I do believe that we need to get back to something that is far more simplistic. To actually have to go through this clause, you would have to refer to three separate principal Acts, and slot in and out, and it is a nonsense. But, at the present time, this particular Bill is actually trying to amend the pieces that are missing from that jigsaw puzzle, whereby those who could, indeed, be guilty of what could be a very big offence, at the moment, can, of course, get away with

it, because there is no way of taking that sample, unless a person is agreeable.

If you are incapacitated in hospital, even though you have had a major road traffic accident, at the present time, we have not got any law to suggest that a sample could be used.

There was the point of timescales and about the storage of the particular samples. It is my understanding that the timescales are in the original Act, because it applies to the original taking of blood, of course, which can happen at any time now, except for being incapacitated. Also, in the principal Act, there is the definition of how it is stored: one part is certainly given to the (*Interjection*) – yes, to the accused and the other is stored separately.

So, I hope that has answered all the queries.

**The President:** I feel Mrs Christian is going to come back on that. She is going to say, ‘What if the accused is not in a position to keep it?’ Mrs Christian.

**Mrs Christian:** Yes, that is exactly what I was going to say, Mr President.

**Mrs Crowe:** I think the accused, there would be a... I do not know if that is in the principal Act, but, presumably, the next of kin of the accused, whoever that might be, I would have thought would have been the person that would be most likely to be given the sample to be kept in safe keeping.

**The President:** I was just giving Mrs Christian a chance, because –

**Mrs Crowe:** Yes, I was just hoping that you would not, sir!

**Mrs Christian:** I think the hon. mover is guessing, Mr President!

**The President:** Mr Downie.

**Mr Downie:** I think, Mr President, I accept what the Hon. Mrs Christian is saying, but when a person does go into hospital, they have personal effects, they have money, jewellery. Someone has to accept responsibility for those items. I do not see a problem with the sample falling under the same category and, in fact, with the advancement of DNA, in this day and age, it would be very difficult to tamper with a particular sample or to switch it.

So, I think we have got to just rely on the technology that is available, at the present time. That could, of course, be covered by the regulations when they do come back to Tynwald, where there is an audit trail of where these samples actually finish up. I think, at the present time, when a person gives a sample in the normal way, that sample is split: he or his advocate takes one and then the other one is kept by the Police. So, there could be a provision made for this.

**The President:** You are doing well in defence. I am not sure that Mrs Christian is still happy. Mrs Christian.

**Mrs Christian:** Mr President, I just hope that the mover will take the issue back to her Department for consideration, because I do think that... I do not know whether it is important how the sample is stored for example, If that is critical, then it is no good handing it over with the personal

effects to someone who might take it home and put it on the mantelpiece or whatever!

So, I think, for fairness’ sake, it is an important issue which, if it is not addressed in the primary legislation, should at least be addressed in regulations, if that is permissible or possible under the Bill.

**The President:** Mrs Crowe, finally.

**Mrs Crowe:** I do actually feel certain that it is in the principal Act, Mr President, because, of course, this is only in addition to the normal taking of blood, which has taken place for many years and the storage of same samples. This is, of course, about an incapacitated person and I take the point that there must be some responsible way of that being stored in the proper conditions, by both parties, and I feel certain.

I will, hopefully, by the end of this, have...

**The President:** You will raise it with your Department?

**Mrs Crowe:** I certainly will, Mr President.

**The President:** In that case, Hon. Members, the motion that I put to Council is that clause 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We then move on to take the ‘Newly qualified drivers’ section, clause 2, Mrs Crowe.

**Mrs Crowe:** Thank you, Mr President.

Once again, this amends the schedule 3 to the Road Traffic Act in the extension of the probationary period from 12 to 24 months, from taking out a full driving licence, following the passing of the test of competence to drive. This provision is a strengthening tool for parents and newly qualified drivers. It is necessary to ensure that the newly qualified drivers have an opportunity to become more experienced in driving, before the probationary restrictions are lifted.

So in paragraph 6B, 12 months is substituted to 24 months, being that on time on which restrictions are placed on newly qualified drivers.

In paragraph 6B, subparagraph (1A) is added which provides that restrictions on newly qualified drivers, driving on a road, will be prescribed by regulations.

Subparagraph (3) amends the prescription of the distinguishing mark, the R-plate which may be different in different circumstances.

In (3A), it is inserted that regulations are to be made prescribing the distinguishing mark shall include or be accompanied by a plate or disc showing the maximum speed applicable.

Paragraph 6B(5) is to replace 12 months by 24 months as the period of probation following the return of a licence.

In paragraph 6B(6), again, it is to replace 12 with 24 months.

In paragraph 6C, it is substituted and requires that a qualified non-probationary driver of a vehicle that is displaying the distinguishing mark, the R-plate must not exceed the speed limit applicable to that probationary driver to whom the distinguishing mark applies, otherwise the person would be guilty of an offence.

After paragraph 6C, 6D is inserted, which provides that

the Department may make an order to apply restrictions on newly qualified drivers to any person who: is temporarily in the Island; or in the Island with the intention of becoming resident; or has become resident in the Island but the period prescribed for section 1(3) of the Act, the exchange of a non-Isle of Man driving licence for an Isle of Man driving licence, has not expired; and the person is the holder of a driving permit issued outside the Island.

Paragraph 6D provides that an order may be made under subparagraph (1) to modify the provisions of 6B and 6D(3) is without prejudice to power to make regulations under 1(3), in respect of driving licence provisions applying to temporary residents and those intending to reside on the Island.

Paragraph 6D(4) gives provision that an order made under 6D requires Tynwald approval to come into operation.

Subclause (2) provides that paragraph 6D shall not apply to those persons who have already passed a driving test, or are currently disqualified from driving before section 6D comes into operation.

Mr President, I beg to move that clause 2 stand part of the Bill.

**Mr Singer:** I beg to second, Mr President.

In seconding, I am very supportive of this, I think it is important. When one says 'newly qualified drivers' you immediately think of young people, but it is not only young people; it is people who have passed their test for the first time, or people who have been disqualified and have got their licence back.

I think it is important, for these newly qualified drivers, that we recognise that they have not got the skills either of controlling the car, nor observation, which they only pick up with experience. Therefore, I am fully supportive of this extension to 24 months. I think it is probably unfortunate on somebody who has just gone through 11 months, when it comes in, and has to go another 13 months. That is something that they will have to bear.

I did talk about this to the Department and, actually, had discussions with the Department, because I felt that, because the majority or a larger percentage of people in the 17 to 25 age groups actually have more, in proportion, accidents than other people, I also asked them if they would look at reducing the amount of alcohol to zero tolerance for these young people.

In fact, the Department did agree. I do not know if the Members are aware. It did have the support of the Police and the medical people, but there was not time to introduce it, in order to get this Bill through. Hopefully, they are going to look at that in the next Bill.

So, Mr President, I think this is a very laudable way of protecting not only the newly qualified driver, but the rest of the people on the road who are driving.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, it may be a laudable notion –

**Mr Lowey:** Where is the evidence?

**Mrs Christian:** – but the practicality of it seems to me to be questionable.

At the moment, we see 'R' drivers driving at quite considerably faster speeds than they are permitted to drive

at. You see people arguing, 'Well, it's not applicable to me, I have got a licence', so there is a useful provision in here which says, if you are driving an R-plated car then, whatever your qualification and experience, you stick to the limit.

*But it is not enforced!* I do not know whether I have ever seen anybody being prosecuted –

**Mr Singer:** Yes, I have.

**Mrs Christian:** – for exceeding the limit or not having their R-plate up.

I think it is more observed, or honoured, in the breach than in the observance, because young people have magnetic or stick-on labels which can be taken off in no time at all –

**Mr Singer:** They are breaking the law.

**Mrs Christian:** I just do not really, unless we can enforce it much more effectively, how effective this is going to be.

The theory is fine, and I think it may be a useful exercise for young people to be constrained in the speeds which they are supposed to drive for a period of two years. It might give them more practice, and it might be helpful. But if it is not monitored and effectively policed, it is not worth the paper it is written on.

I would just like from the mover some clarification on, at the bottom of page 7, 6D. What, in actual practical terms, is the difference between being temporarily in the Island and being in the Island with the intention of becoming resident? They seem to me to be, effectively, the same. Perhaps there is something I have not picked up on.

So, Mr President, I am not sure how I am going to vote on this, because I do think that, at the moment, the existing law is so frequently breached as to extend that it means very little.

**The President:** Mr Gelling.

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

I think on the point raised by Mr Singer, I was just a little concerned. I thought Mr Singer said that it would be very unfortunate for someone who had done 11 months and then found they were into two years, but in fact I think it is transitional that they will only do the 12 months –

**Mr Singer:** I thought I had read that – sorry –

**Mr Gelling:** That is how I understood: that the operation would be restricted to existing 12 months. They would not be compelled... That was the one point.

The other point, of course, it never ceases to amaze me how there has not been something introduced... As the Hon. Member has said, no matter how, if there is power under the bonnet and you have got an enthusiastic young person, they will take the opportunity to drive it. That is: the restriction of governors which we see on Indy car racing, to govern at maybe 200 miles an hour. I would not suggest that! But there are governors that can be sealed in a way that they cannot be tampered with.

I just wonder why, perhaps, manufacturers have never brought that in as being a way of being able to curb the newly qualified, so that in fact they cannot, on unrestricted roads, actually exceed a certain speed.

However, that was just in reply to the Hon. Member.

**The President:** Mr Lowey.

**Mr Lowey:** Yes, Mr President.

As someone who tried to bring in restrictions – and failed, by the way – for six months, to start with, I find we have got it for a year. I would have liked to hear some evidence. Evidence-based, it has been a success.

Why are we implying, why...? It may be a good idea. I tend to think it is a good idea to restrict for the year. But what is to say, what evidence have we got that 12 months is not enough?

I have not heard the mover suggest any evidence base for why they should do it, other than it seems a good idea. Well, if that was the case, do we apply it to motorcycles? Do we apply it to lorries? Do we apply it to public service vehicles (PSVs)? I am only asking the question.

I am asking the question, because I do not see many PSVs going round with restricted plates on. There is a restriction of 50 miles an hour on public service vehicles anyway – *allegedly*. How they would keep to the timetables would be a miracle, if they kept to 50 miles an hour, but that is another story. (*Laughter*)

I do not see any evidence and the mover certainly has not introduced any evidence to me, why we should extend it to two years, other than it is a good idea.

**The President:** Mr Downie.

**Mr Downie:** Right, Mr President.

Well, I am in support of this particular clause and I think that, if this is adopted as part of our legislation, I think the onus on us then is to have some liaison with the Police, and try and introduce a proper system of policing – not only when we are looking at this legislation. Any commercial vehicle on the Isle of Man, from a Ford Escort van... they are all restricted, at the present time and, in fact, you only have to look at the numbers of Government vehicles to see that the disc which is required by law, restricting their speed or indicating that the speed is restricted, is not applied any more.

So, we have a raft of legislation, at the present time, which for whatever reason is not being taken up by the Police.

**Mr Lowey:** So we extend it!

**Mr Downie:** Now, I understand where Mr Lowey is coming from, but I think what we are trying to do here is to introduce a regime which restricts younger or inexperienced drivers. It, actually, puts in place a system where they should not go above a certain speed.

In fact, other jurisdictions have taken this further, because if you have recently passed your test in some other countries, you either have to drive the vehicle yourself or you are only allowed to ever take with you one passenger. If you look at the logistics for accidents involving young people, it is normally when there are several of them in a vehicle, and one is driving erratically.

I am of the opinion, like some of the others, I think the 'R' means 'reckless', in my view – it should not be restricted. It has gone too much the other way. But I think we should support the principle of what is in here, and then come at it from the other end.

Now, Mr Gelling mentioned about putting governors

on vehicles. Well, there are a whole range of vehicles manufactured which are governed when they are sold. A lot of motorbikes are restricted, they are detuned – a lot of these small scooters and things – and they are available for young people to go out and pass their test on, gain their experience and then they can have the de-restriction taken out of them, so that they will perform at their normal speeds.

When you think a 125 motorcycle is capable of 115 miles an hour, you can understand why the manufacturers themselves have gone down the route, in having those restrictors fitted with them, when they are supplied.

Now, I think they are dealt with in the legislation. I think to deal with Mr Lowey's point, why we do not see R-plates on PSV vehicles, you have to have experience before you can apply for a PSV licence. You have to have had a licence for a certain period, so a young driver coming in would not be accepted. I think it is 21 the limit for a PSV licence, and then it is given, based on the amount of time that you have actually driven, as it were.

I think we are seeing things, in this particular section of the Bill, which are not really there. I would urge Members to support what is before you, and then what we should be doing, when the legislation gets its Assent, is setting up meetings with the Department, and the Police, and saying, 'Well, look, you've got all this legislation on the statute books, why is it not being enforced, and why are we continuing to see people breaking the law?'

**The President:** Mr Butt.

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

I would probably support this new clause, because anything is helpful. But I agree with Mrs Christian's comments that, as far as I am aware, I am not aware of anybody being prosecuted for an R-plate offence. Looking through the Chief Constable's Report, you cannot see any indication of that actually happening, so I wonder: is it actually effective in that regard? But anything would be useful.

I think we need to look at the insurance companies. They are the experts and they know where the risk is. They know the risk is... 23 and under is the main risk, and those are the people that we need to be looking at.

I think this Bill is, in a way, a missed opportunity. As Mr Downie says, there are lots of other measures than can be done: increased penalty points for young people; making sure they do not carry each other in the cars and encourage recklessness, which is a major factor. The engine size and the break horsepower of vehicles: I think there needs to be some legislation in the future which covers all these things, and many other ideas as well.

The people who know young teenagers – and I have got a daughter, myself, who drives – there are people on the Isle of Man, young people, who actually race cars against each other. They have cars modified to go quicker than normal. They race out at Marine Drive. They collect at the Bottleneck car park. They are well known for doing so, and I am afraid these are the people who are most at risk.

So, I would like to see some time, in the future, some proper legislation which deals particularly with young people, in the way they drive cars.

**Mr Lowey:** This will not deal with that.

**Mr Butt:** No.

**The President:** Hon. Member, Mr Waft.

**Mr Waft:** Yes, Mr President.

I have listened to what Members have mentioned in Council and have said. I am a bit concerned at the fact that it is creeping in: because the Police are not deemed to be, in some people's eyes, actually policing the roads, at the moment, we should perhaps think about, maybe, we should ease off on the legislation.

I do not think that is the case. If there are problems with the policing, certainly road traffic policing – and many people are concerned about the accidents that take place, from time to time – the Police should be well aware of what is happening on the roads, without third parties intervening. But, obviously, the concern is not getting back, or it is certainly not being looked at sufficiently, to appease some of the people that are involved.

With regard to the information that some Members are seeking to clarify, the situation with regard to R-plates, it would have been nice to have, for instance, the recovery garages – the likes of, particularly, one in Onchan... They go out and actually have to get the vehicle, fetch it back, look at it and deliver it either to the police station or their own garage, to try and find out what happened.

They would know how many vehicles they have which have R-plates on the back, and they would know what the ratio is. They would be able to give advice, I would have thought, to anyone who was thinking about legislation in future, to define exactly what is happening on the road rather than only, 'I heard something and somebody else heard something else, and so and so'. We need some verified evidence to justify legislation.

To say that the present legislation is not being adhered to is not an excuse for not bringing it forward. But I do take on board the point that we are not getting through somewhere along the road to, actually, seeing any future – that light at the end of the tunnel, if you like, for the legislation that we are putting through, because of the problems of enforcement. That has to be got through, and seriously got through. I think the message should go out from the Legislative Council that we are not happy with the situation.

**The President:** Mr Gelling.

**Mr Gelling:** Yes, I think just, in answer to the Hon. Member, he is quite right. It is not just the garage, but if you go to the compound up at the Testing Station at the Transport Division, and just look in the compound and see the cars that are in there: several have got R-plates on, and I think that does substantiate what you are saying.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, some may have R-plates on but some of them are not leaving their R-plates on. They are driving without R-plates on, (A Member: Yes.) well before the year is up.

**Mr Lowey:** It means nothing.

**Mrs Christian:** So, it is an extremely difficult thing to police, unless there is a positive way of checking out: 'Who has passed in the last year? Let us go and have a look at them.' And I do not think that...

**Mr Singer:** I think that is such a cynic's... very, very cynical, that. We can tell the Police now; we can say to the Police... I am a member of the Department – I will go and say, 'Look, there is concern that you are not, actually, monitoring our drivers. That seems to be the feeling within Legislative Council.'

But, when you look at the accident statistics – I mentioned it and Mr Butt has mentioned it – of the 18- to 23-year-olds, it is totally out of proportion to any other age group. The fact is due to speed.

I think everybody here must know somebody who has had a young person in an accident, probably a serious accident, because of speed. Now, to say, well, because it is not being monitored, then we should not have the R-plates, I think that is going in totally the wrong direction. You should have the R-plates. We should ask the Police, we should say to the Police, 'We need more concentration'.

The same argument would say, why have L-plates, because people drive around without L-plates? Why have any speed restrictions at all, on the roads through the villages, etc, because we know people exceed those limits? It is up to the Police. It is not up to us here to say, because the Police are not enforcing it, it is a bad law. What we have to say to the Police is that we believe you should be enforcing the law more strongly, and we do not see any results of that.

**The President:** Mr Lowey.

**Mr Lowey:** Yes, first of all, can I remind the Hon. Member who has just finished that, in his opening remarks in seconding the amendment, he said that it was not just applying to young people; it was to everybody. That is number one.

**Mr Singer:** But it is 90 per cent –

**Mr Lowey:** And I am not being cynical. I am not being cynical. I am being clinical in asking for some evidence based... Is it a good idea to have restriction?

Now, someone who, as I said, wanted to, actually, go...

**Mr Singer:** Use statistics.

**Mr Lowey:** But where are the statistics?

**Mr Singer:** Well, we can get you the statistics. I am telling you what the statistics are –

**Mr Lowey:** The statistics... Look, I know enough about young people and I know enough about insurances, that young people have to pay a lot more, and Mr Butt is absolutely right, they are the best statistics that are about.

But this is to restrict. We have a restriction on speed in the first year. Is it a success or is it not a success?

Now, if it is a success, fine. But no-one has produced any evidence to that effect, in saying why we should move forward. Until I am convinced that we have the evidence that a year or two years is going to improve matters, then why not make it five years, then we are all covered? We will slow them down for five years.

The logic is not with you, sir. The logic is with us who are questioning, where are the evidence-based reasons for altering the law?

**Mr Singer:** The logic is, if I may say, Mr President,

that any new driver, young or old, gets in car, we know, does not have full control of the car. We know they are not as observant. When you drive your car now, you are looking, without even knowing that you are looking. The fact is that there are young people in accidents. If we can give them that extra time to get used to the car, to the observation, etc, another 12 months, there is a chance, therefore, that their driving will have improved. They will be more confident and they do not need the R-plate.

**The President:** Well, I think we have had a little private argument on that side – (*Laughter*)

**Mrs Christian:** I am interested in that argument, Mr President, because I do think that, whilst we have said that the majority... It has been said that the majority of accidents are in the age group of 23 or 24. This is not targeted at any particular age group.

Indeed, has there been any indication of those who have just passed their test reducing the number of accidents, because they have had to display and drive within the R-plate restriction? With respect to the Hon. Member, I do not think any evidence has been presented to that effect.

If that has worked, there is, clearly, an argument for, maybe, extending it to older age groups, particularly that group of young people who are most involved in accidents. It would seem to me to have been crying out for that evidence to be supplied to argue the case for extending it. In theory, it works. In theory, it is sensible. Give them another year's slower driving and they will become more road savvy or whatever.

But, unless it is shown to have worked, it is hard to know whether the theory will make much difference.

**Mr Lowey:** We have safety officers coming out of our ears.

**The President:** I would like to think that the Hon. Member, Mrs Crowe, will have the last word on that particular point which has been raised in relation to clause 2. I am not sure I am quite there yet.

But just to throw another one in, Mrs Christian's first point was in relation to 'temporarily in the Island' or is resident (**Mrs Christian:** Yes.) 'with the intention of becoming resident'.

Something at the back of my mind says that, at one time, for example, hire cars were restricted unless you were 21 years of age. Is there a requirement similarly that if someone has...? Does that apply to someone who is temporarily resident on the Isle of Man, or is it 25 years on the Isle of Man? I am a little unsure.

So, perhaps Mrs Crowe... Mr Gelling, coming in.

**Mr Gelling:** I think someone mentioned insurance. I think that is the very point that hire cars now and insurance companies stipulate the age at which someone can hire a car, rather than the licence. I think it is something like 21 or it could be even higher.

**The President:** Mr Butt, I think.

**Mr Butt:** Just a general point, Mr President. Young people have always speeded and taken risks when they are driving. They always will, no matter what legislation we put forward. The only way to put an actual restriction on, these days, is the

cost of the insurance premium and, possibly, with legislation like this, an almost certainty that they will get caught. I am pretty sure that they do not think they are going to get caught, at the moment.

So, whatever we do, there will still be accidents. People will speed. I used to, and I am sure everybody else did in their day, and it will always happen.

**The President:** Mrs Crowe to wind up.

**Mrs Crowe:** Well, thank you very much, Mr President.

I, personally, would be absolutely delighted if every R-plate driver was able to take the R-plates off after three months and replace them with a plate that said 'IAM'. I do believe we teach our children to pass a driving test; we do not teach them how to drive. Any person who wants to drive should avail themselves of the excellent course provided by the Institute of Advanced Motorists. I do believe that that would have a significant effect, but we cannot make people do that, in legislation.

So, what we are saying in legislation is: 'You are restricted because we feel that you have been taught to pass a driving test, but you have not yet acquired the skills to drive as safely as you could do, had you either had experience with something like the Advanced Motorists, or built up experience over a number of years.'

So, I take the point entirely – and I am sure the Member for Home Affairs will take it back that we have never seen a prosecution, I do not believe, for an R-plate offence, but we do need to be saying to the Constabulary that we want to make sure that our young people are driving safely. We need an occasional check, to see.

I do believe that they are doing now more roadside checks, not only on the safety of the vehicles but on, in fact, whether everyone is complying with their licence restrictions. They had a sweep recently, I believe – in defence of the Police Force. They did have a sweep, and I do believe that it is something that is in their business planning, as it is now called.

So, whilst I do take the point that, sticking stickers on that say L-plate or R-plate is not satisfactory, I think the insurers have pointed out – and it has been done with consultation – that this particular timing, within 24 months of passing a test, is a time when there are a number of accidents.

I do believe it may help, in some small way, but it would be helped a great deal more if we could, indeed, ask the Police to take more effective action about checking all licence restrictions for all drivers.

Thank you, Mr President. I do hope that people will support the clause.

**The President:** The motion, Hon. Members, is that clause 2 do stand part of the Bill. 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:*

<b>FOR</b>	<b>AGAINST</b>
The Lord Bishop	Mr Lowey
Mr Waft	
Mr Singer	
Mr Butt	
Mrs Christian	
Mr Gelling	
Mrs Crowe	
Mr Downie	

**The President:** With 8 votes for and 1 against, Hon. Members, clause 2, therefore, carries.

We move on to clause 3, Mrs Crowe.

**Mrs Crowe:** Thank you, Mr President.

Clause 3 is about the payment of driving instruction and will enable the Department to ensure that only approved driving instructors can take payment for providing driving tuition.

It will remove the loophole in the present legislation, whereby learner drivers are being trained to drive by people who have failed to pass the approved driving instructor examination or re-examination, but act as if they were registered approved driving instructors, by providing driving tuition for payment. The public must be protected from this.

Mr President, I beg to move clause 3 stand as part of the Bill.

**Mr Singer:** I beg to second, Mr President, and reserve my remarks.

**The President:** The motion, Hon. Members, is that clause 3 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4, Mrs Crowe.

**Mrs Crowe:** Thank you, Mr President.

Clause 4 will permit the Department to regulate the quality of driving instructors.

Regulation will be made to specify those attributes which the Department considers disqualify a person from being fit and proper, in order to have their name entered onto or remaining on the register of approved driving instructors.

Furthermore, regulations will be made to include the requirement for police checks to be undertaken on prospective approved driving instructors.

Mr President, I beg to move clause 4 stand part of the Bill.

**Mr Singer:** I beg to second, Mr President, and reserve my remarks.

**The President:** Seconded by Mr Singer. Mr Lowey.

**Mr Lowey:** The Department will decide. Who in the Department will decide?

**Mrs Crowe:** Decide that they will be on the list? Yes. An approved driving instructor is approved by a testing instructor who tests all approved driving instructors regularly to make sure that they are fulfilling their competencies and then, once they have passed that test – the approved driving instructor's test – then they are entered on the register.

**Mr Lowey:** I understand that the regulations governing all this, and they will be submitted and what they have to do. But I just wanted to know who in the Department? Now, you are saying it will be somebody at the Testing Centre.

**Mrs Crowe:** It is the Senior Test Instructor that tests approved driving instructors in the competencies to not only teach, but their skills in driving, as well.

**Mr Singer:** They check them, as well. They check them regularly.

**The President:** In that case, Hon. Members, the motion that I put to Council is that clause 4 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We turn then to part 2, dealing with the vehicles. Clause 5.

**Mrs Crowe:** Thank you, Mr President.

Clause 5 is regarding the registration. An administrative system will be set up to enable the Department to reduce the incidence of motor vehicles on public roads, whose owners – that is, the registered keeper – cannot be readily determined or identified or found, to reduce the fraudulent use of, and to account for unlicensed vehicles, such as in the statutory off-road notifications of continuation of registration certificates, will be issued to the registered keepers of untaxed but registered vehicles that they do not intend to use on the public roads.

Both provisions are necessary to provide accountability and traceability of vehicles from the beginning to the end of life, which, otherwise, might be used fraudulently, as for car ringing or, indeed, abandoned vehicles.

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

**Mr Singer:** I beg to second, Mr President, and reserve my remarks.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, I think this, from the point of view of waste management, (**Mrs Crowe:** Exactly!) is a very useful measure. There have been so many problems with getting rid of old vehicles, because they could not establish who the current owner was.

Whether or not it is the current owner, it will be the registered owner who will have to carry the can for disposal issues. I do think, though, it will be important to make the public aware of the significance of this change (**Mr Lowey:** Absolutely.) because the practice has been that you get an old banger, it is going to go off road, you leave it there.

But somebody, at the end of the day, is going to have to dispose of these things, under the waste regimes of today.

**Mrs Crowe:** Exactly.

**The President:** The scrap value has done a good job.

**Mrs Christian:** The scrap value has been wonderful, in helping out to tidy up some, but not all, of the cars lying around the countryside. But, if the scrap value and the Chinese market begin to fade, then things could very well change and then, there will be a cost to people to dispose of their vehicles.

**The President:** Mr Downie.

**Mr Downie:** Yes, I support this clause, Mr President.

But I think there are still people who will slip the net, because what tends to happen in the Isle of Man, you get a group of people coming to do work in the construction industry, they buy a low cost car, and then, when their time is finished here, they leave it on Douglas Promenade, and just go off and disappear.

It is almost impossible to trace those people. I think that,

no matter how hard we try, there are still people who are going to miss the net.

What does tend to happen is, when the grass starts to grow out of the vehicle, there on Douglas Promenade or on some of the quiet streets, then they revert to the old system, where they put the notice on and, if it is not claimed, they remove it.

But, just to say that there will still be people who will cause problems in this area.

**Mr Lowey:** Amazing.

**The President:** Chief Minister.

**Mr Gelling:** Yes, I think in just picking up Mrs Christian's point that people should be informed, because there is another quite legitimate way that people, sometimes, they take the vehicle off the road to refurbish it or whatever and, of course, in times gone by, you would then just re-license it, again.

I have had a couple of instances, just recently whereby people have done that, gone back to license it and found that their registration number, because it happened to be a good one, has been sold on to other people. This is one that, I am quite sure, will have to be brought to the attention of the public because, if they do not inform the statutory authority that they are keeping the car, they have got it off road; however, they want to re-license it again in the future, they could have very great difficulties actually getting it back on the road.

**The President:** Mr Lowey.

**Mr Lowey:** The only point I was going to say is that I tend to agree with everything about getting rid of the older cars and what a problem it is. I know Mr Butt has got that particular baby, now, in his capable hands.

It is amazing to me how, until you start to move something, when Government move it, it suddenly becomes the most valuable object on this planet, although it had been abandoned – like some waif and stray – for months, causing embarrassment and annoyance to an awful lot of people, and a danger. Then, because you do something about it, they think that the Government is a soft touch for tidying it up.

I think we have to be firm and it has got to be, as is laid down here, the last registered owner who is the person, and then it stops.

**The President:** Mrs Crowe to reply.

**Mrs Crowe:** I felt that from the heart, from my dear colleague who spent time with me in DoLGE, and it was costing us a *fortune* to remove vehicles. In those days, the scrap metal value was not as it is now, and Mr Lowey's budget went out of the window, I think, within three months for his removal of end-of-life vehicles, as they are called.

I do believe that this is where, originally, the idea for this legislation came. It was from those days, but I do believe that it is important for people to take responsibilities for objects such as motor vehicles that they own and, if they are abandoned, on the promenade, with grass growing out, it will be the last owner of that car that is registered.

So, if he sold a cheap car to some labourer or wherever in a pub and did not register it, that person would then be accountable for that vehicle. Whereas, now, they are able to

say, 'Oh, I sold it to *a, b or c*', that cannot happen any more. They have to register that sale.

Also, I too have made the point in the Department that we need a great deal of publicity about these changes, because I think it is important. The point raised by my colleague, Mr Gelling, about the vehicles that are kept off-road, there is a special provision for those vehicles –

**Mr Downie:** Next clause.

**Mrs Crowe:** – to be registered, so we are moving ahead.

I think it is an excellent clause to be inserted in the Act and, hopefully, when the whole consolidated Bill comes together as one Bill, there may even be more that we can add to that.

Thank you very much, Mr President, and I hope that clause 5 will be supported by all.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, can we just have some clarification, please.

Presumably, if the car is brought in from outside the Island, and left on the promenade, when the building workers go, there is no way we can claim back from a UK registered owner.

**Mr Downie:** There are rules here where, if a vehicle is imported, after three months, it is supposed to be registered in the Isle of Man.

**Mr Singer:** Six months.

**Mr Downie:** Six months, is it?

**Mrs Christian:** But you can't really chase them.

**The President:** There we are. The point is made. (*Interjections*)

Hon. Members, this particular clause we will deal with is clause 5. Those in favour, Hon. Members, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6, Mrs Crowe – construction and use.

**Mrs Crowe:** Thank you, Mr President.

This is the construction and use penalties and the adding of an extra offence for using or causing to be used a vehicle in breach of the maintenance and use requirement relating solely to the vehicles carrying dangerous goods on the road.

It is just an addition to the construction and use penalties that are already in place.

Mr President, I beg to move that clause 6 stand part of the Bill.

**Mr Singer:** I beg to second, Mr President, and reserve my remarks.

**The President:** The motion to Council is that clause 6 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 7, Mrs Crowe, please.

**Mrs Crowe:** This clause will enable vehicle licences to

run from any date of the month. At present, annual vehicle licences are taken out for 12 months from the start of the month to the end of the 12 months.

Clause 7 will provide the public with better value for money, as licences will be issued and charged on a virtually daily basis, and the unused parts of vehicle licences will be refunded on that basis.

It will help, actually, us at the Post Office to have a far more even work flow, rather than everyone wanting a licence on the first day of the month. I do believe this is very useful and, because of the new technical systems we have in place now, it will not be difficult to administer at all.

**Mr Lowey:** You want to bet?

**Mrs Crowe:** No.

**The President:** Mr Singer.

**Mr Singer:** I beg to second, Mr President.

**The President:** The motion, Hon. Members, is that clause 7 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Clause 8.

**Mrs Crowe:** Thank you, Mr President.

This is regarding trade licences and the additional persons and organisations who will be entitled to use trade licences to move unregistered or unlicensed vehicles in their charge or custody on public roads.

At present, trade licences may only be granted to motor traders. A 'motor trader' means a manufacturer, repairer or dealer in vehicles. In practice, other kinds of businesses or organisations need to move unregistered or unlicensed vehicles which are in their charge or custody on public roads, and this involves them in inconvenience and expense that could be avoided, if they were granted trade licences.

This has been a deficiency in the previous Bill, once again.

Mr President, I beg to move that clause 8 stand part of the Bill.

**The President:** Mr Singer.

**Mr Singer:** I beg to second, Mr President, and reserve my remarks.

**The President:** Mr Downie.

**Mr Downie:** Yes, I would just like the hon. mover to clarify that, in granting authority for the Chief Constable to operate under the guise of having a trade plate, this is not going to lead to the introduction of tow-away zones in the Isle of Man and, also, the introduction of what we see in other countries, where cars are compounded and you have to go and pay £250 to get your vehicle out.

I am just a little bit concerned. I am sure the Hon. Member can deal with this issue. It seems to me strange that the Chief Constable is indicated in here whereas, at the present time, all of the work of the Police is subcontracted and is, actually, tendered for, on a regular basis, by some of the motor traders.

**The President:** Mr Waft.

**Mr Waft:** Just the definition of 'motor trader', Mr President. At (b) there, it says:

'a person carrying on a business concerned with the financing or insuring of motor vehicles'.

So, that includes insurance companies and banks I take it. They become motor traders, do they?

**Mr Lowey:** Why should they want to – ?

**The President:** Mr Gelling.

**Mr Gelling:** Yes, just following on that point, actually, there was always a great difficulty with the motor trader and, of course, it was only someone working for that motor trader that could use trade plates. This used to cause untold difficulties. I just wonder whether, on clause 8, in (c), it says:

'any other class of persons as is prescribed for the purpose of this definition'.

The other difficulty that was always there was the fact that, if you went along to a garage showroom or whatever and you, as the customer, would like to drive a certain vehicle, you could not, as a customer, drive that vehicle because you were not an employee of that particular trader.

I just wonder whether this, now, actually, makes that possible. I know lots of people went into demonstrating demonstration cars, and registered and licensed them, because of the possibility of being picked up with a customer driving the said vehicle, if they were, perhaps, going to pay £55,000 for. I just wonder whether that 'any other class of person as prescribed'... who, actually, would prescribe them? Does that mean that the trader or the licensed person now, under 'motor trader', has the authority to allow a customer to drive the vehicle?

**The President:** Mr Lowey.

**Mr Lowey:** The only point I was going to say, in reading the clause, and it has been pointed out by other Members and I will not recite it, but we have gone from a restriction to what I would call a de-regulation. Virtually anybody can get a plate now and, if that is the case, why? If it is a minor inconvenience that has been highlighted, then why have we not dealt with it in a minor way? Why are we dealing with it in such a major way?

**The President:** Mr Butt.

**Mr Butt:** Just a minor point, sir, I think another typographical, perhaps.

We have got 8(a) and 8(b) and then, I think, it has got, in (b), (a), (b) and (c) again. It should, perhaps, be (i), (ii) and (iii).

**The President:** We have got (a), (b) and (c) in (b) and we have got an (a), (b) and (c).

**Mrs Christian:** But, Mr President, it is section 20 –

**The President:** Section 20.

**Mrs Christian:** So there may not be a –

**The President:** We are dealing with section 20 of the Act.

**Mr Butt:** So, the Act might be that way. Yes.

**The President:** Mrs Crowe to reply.

**Mrs Crowe:** I think that, after all these queries, the message has surely gone out, loud and clear, about tidying up administration, in the first year of the new... tidying up legislation, as soon as...

Regarding what my hon. colleague, Mr Lowey, feels is the de-regulation of the motor trade and trade licences, it is not the case. In fact, it has been a considerable inconvenience to the likes of the Police to be unable to move a vehicle until... they have had to engage a motor trader with a trade licence plate to remove a vehicle which may be (a) in a dangerous position or (b) may have been part of an accident, or whatever it might be. At the present time, they have to find someone who has got a trade plate to be able to remove that.

Then, there was mention made of banks and the likes. At the present time, of course, something that is, perhaps, new to when the original Act, a lot of vehicles now are leased or financed by finance houses and they, when there needs to be some effort made to recover those vehicles –

**Mr Downie:** Some hatch-backs.

**Mrs Crowe:** (*Laughter*) – they have to, of course, then, once again, employ a motor trader who is trade licensed.

Now they will be able to employ a person with a trade licence. They will not be a motor trader, but they will be a person with a trade licence, able to remove a vehicle or indeed, I suppose, supply them, which is part (c) of the question.

**Mr Lowey:** That is not what it says.

**Mrs Crowe:** Well, that is certainly –

**Mr Lowey:** What the primary legislation says, with great respect to the mover, Mr President, a motor trader means:

‘(b) a person carrying on a business concerned with the financing or insuring of motor vehicles’.

It does not say anything about hiring somebody with a motor vehicle licence.

**Mrs Crowe:** No, at the *present time*. At the present time, these finance houses have to hire (**Mr Lowey:** Yes.) someone who is a motor trader who has trade plates, to remove vehicles, either repossess them or remove them or supply them.

So, what the trade is saying, the finance houses are saying, this is a very unwieldy way of dealing with any problems of supply or seizure, in fact that they have. So, they will be able to use trade plates or some person will be able to use trade plates to facilitate the removal of vehicles.

**The President:** Okay, Hon. Members, the motion that I put to Council is that clause 8 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Part 3, clause 9, Mrs Crowe.

**Mrs Crowe:** Thank you, Mr President.

Clause 9 is to provide for a nil initial charge for on-street parking. It is an error in the legislation that we have no nil initial charge; there is only an initial charge. So this is to be able to say there will be a nil charge.

Section 14A(2) of the Road Traffic Regulation Act is amended and will provide that the amount is either an ‘initial charge’ payable for an initial period and an amount as an ‘excess charge’, which is payable in addition to an initial charge, or an excess over an initial period; or an ‘overstay charge’ which is payable for a period in excess of an initial period, for which there is no charge; or an amount payable regardless of the period for which the vehicle is left.

It does say in my notes here there is one unchanged section of 14A, which kind of springs as a surprise. The amendments to section 14A and 38(1) of the Act are consequential to include references to an overstay charge.

Thank you, Mr President. I beg to move that clause 9 stand part of the Bill.

**The President:** Mr Singer.

**Mr Singer:** I beg to second, Mr President, and reserve my remarks.

**Mr Lowey:** Worthy of the Braaid Eisteddfod.

**The President:** The motion, Hon. Members is that clause –

**The Lord Bishop:** Mr President.

**The President:** The Lord Bishop.

**The Lord Bishop:** I would say just something about drafting.

At the bottom of page 13:

‘the word “either” is repealed’

is the most extraordinary statement. We have repealed the word ‘either’; what they actually mean is ‘delete’ it. We have not ‘repealed’ ‘either.’ (**The President:** True.) It is an extraordinary thing to put in primary legislation!

**Mr Lowey:** Repealing ‘either’.

**Mr Singer:** You either repeal it or –

**The Lord Bishop:** You cannot repeal a word. (*Interjection by Mr Butt*)

**Mrs Crowe:** Maybe it is ‘E-ther’ now!

**Mr Butt:** I say ‘E-ther’; you say ‘I-ther’!

**The Lord Bishop:** It is ‘I-ther’, yes! (*Laughter*)  
Just an observation, Mr President; I do not wish to do anything about it.

**The President:** You are not replacing ‘repeal’ with ‘delete?’

**The Lord Bishop:** No, I am not.

**The President:** Okay. Well, in that case, as we have noticed before, Hon. Members, a typographical error, on page 2, line whichever it was, where we had two 'thats' side by side. An interesting point raised there, in relation to the repeal.

**Mrs Crowe:** In the dictionary, as well.

**The President:** Hon. Members, the motion that I put to Council is that clause 9 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We reach part 4, 'Traffic Regulation'. Clause 10, Mrs Crowe, please.

**Mrs Crowe:** Thank you, Mr President.

This clause will give the Department proper enforceable powers to regulate temporary traffic sign, which include temporary traffic signs in connection with road works or filming. It would enable the Department to set acceptable use of such traffic signs and signals.

Section 15, once again of the Road Traffic Regulation Act is amended as follows. Subclause (1) removes inappropriate text from the actual definition of a traffic sign.

Subsection (4) provides that no traffic signs shall be placed in or near a highway unless authorised by the Department and in compliance with any regulations made under section 16.

Subsection (4A) provides that the placement of traffic signs under legislation by any Department, Statutory Board or local authority shall not override the authority of the Department and regulations made by it.

Subsection (4B) provides that a person who places a traffic sign without authority from the Department or in compliance with any regulations made under section 16 is guilty.

Subclause (2) amends schedule 4 to the Road Traffic Regulation Act 1985 by prescribing a penalty of £1,000 for the unauthorised placement of traffic signs.

Mr President, I beg to move clause 10 stand part of the Bill.

**The President:** Mr Singer.

**Mr Singer:** Can I second that and just comment that I think this is, also, one that needs quite a lot of publicity, so people realise that they just cannot put signs up. I know filming was mentioned. I have a particular interest in that; I think it is important that the companies who are filming are made aware of this, when they are signing any papers etc, so they are not caught out.

**The President:** Lord Bishop.

**The Lord Bishop:** Can I ask the mover: does this mean that, therefore, somebody who is having an event such as a fete or games, or something like that, cannot do it and...? (*Interjection by Mr Singer*) Are those clearly considered to be road signs, and therefore, the local organisation that puts up a series of four or five of them down a verge, will be guilty of an offence and will be prosecuted?

**Mr Singer:** It is a road sign.

**The President:** Mrs Christian.

**Mrs Christian:** I just wonder, Mr President, whether they are going to regulate the sort of signs one might see at the moment, where silage cutting is going on and there is a warning that –

**Mr Lowey:** 'Tractors are turning'.

**Mrs Christian:** – tractors are coming in and out? Or you have a cow sign, to say you are bringing your cows across the road? Are there going to be regulations controlling the use of those signs, in future, that we need to be made aware of?

**The President:** Chief Minister.

**Mr Gelling:** Can I just ask, perhaps, the mover could enlighten me, in the word 'traffic signs' does that include lights? If it does, does that mean that if lights are put up by someone digging in the road, which have not had permission from the Department, they can be ignored? (*Laughter*)

**Mrs Christian:** As you normally do!

**Mr Gelling:** The other is: I think it is most frustrating... I am just making a point here, which I would hope the mover will take back. The most frustrating thing for motorists is when the signs are up and nothing is happening. (**Mrs Crowe:** Exactly.) I can highlight one on the Poortown Road, a perfectly straight road, where there is a 20-miles-per-hour sign and nothing is happening. The Department themselves have been constructing a road up into the new Poortown Quarry, and it is most frustrating for people coming along there to drop to 20 miles an hour and there is nothing happening. There has not been anything happening for weeks.

What I am saying is, how do you expect motorists to take note of signs, when they are so silly, because there is nothing there and 20 miles per hour is walking pace?

**Mr Lowey:** Could I just add to the woe of the Member: inappropriate wording on signs. Perhaps the Department might like to take note that some of the hoardings which they have got up at the moment, you would need to stop, and it is like a J K Rowley novel, when you have to read what is already on these giant signs! That is one thing.

The second thing is, why is the Department so keen to regulate everything from the centre? What is the purpose behind this? There must be a reason for it, but are we over-egging the cake?

I always thought the Isle of Man was noted for what I would call 'no red tape and simplicity in life'. Here we seem to be, garnering into the centre – the oracle down the road. Do not do anything. Do not breathe. Do not... It has got to be the right colours; it has got to be the right size; the wording has got to be right, and we are telling you that. Why?

**The President:** Mr Waft.

**Mr Waft:** I do not think... people may remember the problem going out to Laxey, when the main road was closed because of a problem there. They were diverted down a smaller road and the residents in that area, obviously, had problems with speeding and there was a number of signs put down that road and, at the end, it said 'Thank you for slowing down, you are very nice people'!

But it was the fact that they had done that, that will immediately be an offence: I think, all they were trying to do was have some common sense with the driving that was going through a narrow road, after being diverted off a main road. They kept the same speed as if they were on the main road and, obviously, the signs were not there, there was no intention of putting them there, so that the residents had to do their own thing, as it were, for that period of time.

That will, obviously, stop them doing that.

**The President:** Mr Downie.

**Mr Downie:** Yes, Mr President, there is a couple of areas here that I do think the Department of Transport needs to have cognisance of.

There are a number of situations. I will give two examples. On the South Quay, at the present time, going out to the breakwater, there is a construction of new apartments taking place. I would say that nine times out of ten, the traffic lights are deficient. They are both showing red, and it has got to the stage now where people just do not take any notice of them any more. It is not unusual to see people waiting there for 10 minutes for these lights to change, and then somebody will get out of a vehicle and swing the traffic light away from the road.

Now, if we are going to have some regulation, I think the Department of Transport needs to be able to act in some of these cases. The other incident I want to relate, took place in Douglas on the Friday of Practice Week, where what happened was, they allowed the practices an extra 10 minutes, and there was a lot of traffic coming into town. There were people who had just arrived in the Island; people were trying to get about their business. The road was open from Glencrutchery Road, where it crosses over Ballanard Road, and vehicles could go as far as that, but up past the Grandstand and all the way back over the mountain, the road was closed.

So, the Police took it on themselves to close the promenade at nine o'clock, and the whole of the centre of Douglas was absolutely gridlocked.

Now, in accept of what we are trying to do here, I think there has to be a bit more common sense applied and there are many occasions when the Highway Authority puts a sign up on a road, 'road closed', and it could be for snow, ice or whatever, but it is there for a week. You often find that the Ramsey road is closed, the lights are on, 'road closed', and yet there is traffic moving over there.

So, I would think, if this goes through today, there needs to be an understanding in the Department of Transport that they have to accept some liability for this. Otherwise, I think, people, again, will just disregard what is happening, and there could be some terrible consequences somewhere, if someone thinks that traffic is one-way, and it perhaps is not, there will be somebody who suffers because of it.

**The President:** Mrs Christian.

**Mrs Christian:** Yes, thank you, Mr President.

I wonder if I could come back again, and ask the mover if there is a definition somewhere of what constitutes a traffic sign. I know, recently, legislation has been introduced on the planning side, with regard to signage, but I am not entirely clear what constitutes a traffic sign.

I can think, in my own parish, of some obscenely large

signage, which has been put up all over the place, which is by the highway, but is, possibly, not regarded as traffic signage. If it is not traffic signage, then it is, unfortunately, too late to be caught by the signage planning requirements –

**Mrs Crowe:** What a shame.

**Mrs Christian:** – but could the mover direct us to where the definition is of what a traffic sign is?

**The President:** Mrs Crowe.

**Mrs Crowe:** Thank you.

Just to begin with, Mr President, I think my hon. colleague, Mr Downie, actually highlighted two areas that, really, very well describe why the Department needs to have these centralised powers. In both of the incidents he described, even though the Highway Department is the authority, in both of those cases, they had no knowledge of what was happening, and that is because one was a private contractor and did not have to have the Department's by-your-leave for traffic signs or whatever, which puts this...

This is in this legislation that we are, hopefully, bringing in today, that people cannot just put traffic lights up and say, 'We are constructing a house so we want you to go...', to have one-way traffic. It has got to be done through the Department, who I am sure will try and be as helpful as possible in all of these cases.

Many people do have road closures and it is not only builders; it is other Statutory Boards. There is a case, I think it is Manx Telecom, in Onchan now, for months they have had road traffic signage there, which should have been down months ago. The road completely open, so I think it is important actually for there to be some centralisation of road traffic signs and traffic signals and their working.

In regard to the Bishop's query about the church fete and the local sports day, those would be advertisements and would, indeed, come under the legislation which I have a vague feeling, I, also, have the pleasure of going through. Those advertisements would have to be a particular size.

I do have sympathy with both Mrs Christian and Mr Lowey, regarding... I know they are my own Department's signs, but I, too, find them offensive. I just wonder if it does actually have a road safety message. But that is my personal view and not the view of the Department, as you full well know. (*Interjection by Mr Singer*)

So, Mr President, I beg to move clause 10, regarding traffic signs and signals. The query from Mrs Christian is: I do believe they are defined in the Road Traffic Regulations Act, the definition of traffic signs and traffic signals, and I would like to...

**The President:** Mr Attorney.

**The Attorney General:** I just wanted to add, Mr President, the Hon. Member is absolutely right, there is a definition of traffic signs in section 15 of the Road Traffic Regulation Act 1985.

**Mr Lowey:** And it is...? (*Laughter and interjections*)

**The President:** Mr Attorney.

**The Attorney General:** Shall I read it out, Mr President?

**(The President: Yes.)**

'In this Act, "traffic sign" means any object or device (whether fixed or portable) for conveying to traffic on roads, or any specified class of traffic, warnings, information, requirements, restrictions, or prohibitions of any description specified by regulations made by the Department or authorised by the Department and any line or mark on a road for so conveying such warnings, information, requirements, restrictions or prohibitions.'

**The President:** Well, we are much wiser. (*Laughter*)

**Mrs Crowe:** Well, thank you, Mr Attorney, for that helpful advice.

I do begin to feel that there are more experts around the horse shoe than, in fact, myself on this particular occasion!

Mr President, I beg to move clause 11 stand part of the Bill.

**The President:** Clause 10, we will do at the moment. So, Hon. Members, the motion I put to Council is that clause 10 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Now, clause 11, now.

**Mrs Crowe:** Thank you, Mr President.

This is to enable the Department to issue in a situation requiring urgent action, temporary emergency orders or emergency notices to restrict or prohibit traffic or any class of traffic on a highway, for any purpose in the public interest.

Section 3 of the Road Traffic Regulations Act 1985 is amended thus:

Subclause (1) empowers the Department by order to prohibit or restrict.

Paragraph (d) is for the avoiding of a build-up of a gridlock, or to allow a gridlock to diminish on the road; or (e) for the cordoning of areas of crime scenes by the police; or (f) for assisting public order or crowd control.

Subclause (3) already enables the Department to temporarily prohibit or restrict traffic for the likelihood of danger to the public, or serious damage to the highway. This provision is now extended to apply anywhere that it appears necessary.

Thank you, Mr President. I beg to move clause 11 stand part of the Bill.

**The President:** Mr Singer.

**Mr Singer:** I beg to second, Mr President.

**The President:** The motion, Hon. Members, is that clause 11 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

**Mrs Crowe:** Thank you, Mr President.

Clause 12 is regarding the exemptions for speed limits and, indeed, this means that civil defence vehicles will be added to the list of emergency vehicles exempted from speed limits during emergency situations.

Section 27 of the Road Traffic Regulation Act 1985 is amended to provide: for vehicles being used for civil defence or bomb disposal purposes, like those being used for the fire brigade, ambulance, police or coastguard purposes, will be

exempt from speed limits, if observance would be likely to hinder the vehicle in the course of its use or purpose.

Mr President, I beg to move clause 12 stand part of the Bill.

**Mr Singer:** I beg to second, Mr President.

**The President:** The motion, Hon. Members, is that clause 12 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Clause 13.

**Mrs Crowe:** Clause 13, Mr President, extends the exemptions for speed limits, including vehicles used for civil defence or bomb disposal purposes to other traffic regulation restrictions. This provision enables vehicles being used for civil defence or bomb disposal purposes, to extend the exemptions from speed limits and entering hatched areas or white lines, stop signals, red lights etc.

Mr President, I beg to move clause 13 stand part of the Bill.

**The President:** Mr Singer.

**Mr Singer:** I beg to second, Mr President.

**The President:** Mr Lowey.

**Mr Lowey:** Just one question: why? (*Interjections*)

**The President:** Mr Downie.

**Mr Downie:** I would just like to ask that, should an accident take place... We often see fire vehicles in the UK, police vehicles involved in chases and so on, where there has been serious accidents and loss of life. I would just like to ask the Member how they go about investigating these matters, particularly when somebody, for instance, has gone through a red light?

**The President:** Mrs Christian.

**Mrs Christian:** Yes, Mr President, having accepted clause 12, I know it follows on, Mr President, I am just concerned, in both, that, with regard to the civil defence aspect of it, that it has got to be in an emergency. (**Mrs Crowe:** Yes.) It does not say so, that is my only concern. Well, does it, somewhere else?

**Mr Lowey:** They are on the road.

**Mr Singer:** Speed limits for emergency vehicles.

**Mrs Christian:** It may in the earlier part –

**Mrs Crowe:** It does, in the clauses, say that it has got to be for emergencies.

**Mrs Christian:** Does it?

**The Attorney General:** Mr President.

**The President:** Yes, I think Mr Attorney can clear that point.

**The Attorney General:** Yes, Mr President, the Hon. Member is absolutely right. Section 27 is in the principal Act and provides that there is an exemption from speeding or complying with the speed limits, if the observance of those provisions would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion.

So, I think that is wide enough, Mr President, to make it clear that it is not every fire engine that can take advantage of the provisions –

**Mrs Crowe:** It is in emergency situations.

**The Attorney General:** It has to be an emergency.

**The President:** Mr Singer.

**Mr Singer:** I think, if I am right, Mr President, whilst the emergency vehicle can travel through traffic lights etc, at excessive speed, the driver still has to drive with due care and attention. That is when they can be prosecuted if they have not done that.

**The President:** Mrs Crowe to reply.

**Mrs Crowe:** I, too, queried this particular clause. All the drivers who are engaged in emergency driving are all advanced drivers. That includes the civil defence, because I know that the police and fire service etc all have advanced driving skills, but I was not so sure about the civil defence personnel.

But, apparently... I am assured that they do all have advanced driving skills.

**The President:** In that case, Hon. Members, the motion that I put to Council is that clause 13 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 14, part 5.

**Mrs Crowe:** Thank you, Mr President.

A most important clause, this clause means that children under 14 years of age will have to wear a seat belt in the rear of motor vehicles. It is a substitution, in section 25 of the Road Traffic Act of 1985, which is to be amended.

The amendments are that subclause (5) provides that, if a person without reasonable excuse drives a motor vehicle on a road when a child under 14 years of age is in the back seat and not wearing a seat belt, the motor vehicle driver will be guilty of an offence.

Otherwise, subclause (5) makes amendments which are consequential on the new subsection (5) and concludes by providing for the marking of seat belts, a procedure which guarantees their integrity.

Subclause (2) repeals section 4 of the Road Traffic (Amendment) Act which, if you like, is deficient in that particular legislation.

So, I think this is a most important clause in this Bill, but it does actually need to be read in conjunction with the principal Act. Standing alone as it does now, it does not make as much sense, as it really should do.

So, I hope you will be tolerant of that fact, but it is a very necessary addition to the Road Traffic Act 1985.

Mr President, I beg to move.

**Mr Singer:** I beg to second, Mr President.

Actually, Mr Waft just said to me, I thought that everybody had to wear seat belts in the rear of vehicles. The fact is I would have rather seen it, so that that became the law and not just children under 14, but every adult, because we have had cases only recently, where possible deaths were caused because somebody did not have a seat belt on, and they were in the back seat.

I think, perhaps, the mover might take it back to the Department that they could be looking at, in the next Amendment Bill, making it compulsory, for all people in the rear seats to wear seat belts.

**The President:** Mr Downie.

**Mr Downie:** Yes, I fully support this clause, Mr President. I think it is an act of lunacy to drive a vehicle, in this day and age, and allow children to be unprotected in the rear of it. What is even worse is young children actually standing up in the back of a car, which you do, sadly, see on a regular basis.

We are back to this issue, again, about policing and there is no doubt in my mind, you have only got to go for a walk along the Quarterbridge Road one day and you still see dozens of people on the telephone, dozens of people driving without seat belts. I think, what we really need to do is, at some stage, have some further dialogue with the Police and ask them what their intention is to do.

I just want to ask Mrs Crowe, there are a number of vehicles who are exempt from the seat belt laws. Mostly, these are in a historic category and vehicles that have not been designed to be easily fitted with seat belts, particularly in the rear. I would accept that there are so few of those on the road that, really, we, in my view, need not be targeting them.

But there again, if they are being used for that purpose, they should not be used for carrying young children in the back and unprotected. So, maybe, without altering the physical appearance and structure of the vehicle, there could be a rule made that they are not to carry young people, unless they are properly or adequately protected in some way.

**The President:** Lord Bishop.

**The Lord Bishop:** Thank you, Mr President.

In the explanatory notes, clause 14, there is a sentence which reads:

*'the effect of the amendments is the removal of the exemption of persons under 14 from wearing seat belts in the rear of a car if no seatbelts are fitted.'*

I find that a rather confusing sentence, because the children... whoever is in the back of a car cannot wear a seat belt anyway, because there is not one.

**Mrs Crowe:** Well, they cannot be in the car.

**The Lord Bishop:** So, is what that sentence actually is saying is that, if there is not a seat belt in the back of a car, the child may not be in the back of the car, anyway? Is that the interpretation of that sentence? If that is it, then I would certainly agree with that.

**Mr Lowey:** If there are exemptions, are there exemptions for antique cars?

**Mr Singer:** Why have you got one?

**Mr Lowey:** Yes, I have got one.

**The President:** You can wind up, Mrs Crowe. Mrs Christian, did you? No, right. Mrs Crowe, you can wind up now.

**Mrs Crowe:** I just thought I would be helpful. Perhaps I should have said in the first place, but at the current time, there are regulations made to require persons who are driving or riding in motor vehicles to wear seat belts. The regulations apply to different classes of vehicles and descriptions of persons etc.

But, unfortunately, in the existing enabling powers, children under 14 years of age were not required to wear a seat belt in the rear of a vehicle. It is a tidying-up exercise in the legislation, and the Department can then make regulations to require everybody.

But at the present time there is, and when I read the... I actually do not read the primary legislation as that, but the legislative advice has been that this does need clarifying. This is the reason for this amendment to the Act.

So, it is not about... It is just getting rid of this children under the age of 14 not required to wear seat belts – getting rid of the exemption – so that there is an equal playing field for the Department to make regulations for whomever.

**The Lord Bishop:** Right.

**Mrs Crowe:** Okay? I hope that is helpful and I hope you will support clause 14.

**The President:** Yes, in that case I think... Mrs Christian.

**Mrs Christian:** What is the definition of a car in these circumstances, Mr President? I have a Land Rover which has an area in the back you can sit in. It is not a car, but there are no seat belts in it. Does this mean I can no longer allow any children under 14 in the back? (*Interjections*)

**Mr Singer:** Or adults!

**The President:** Or adults, yes, quite right.

**Mrs Christian:** Or adults?

**The President:** Nobody is allowed in an automotive vehicle, unless they wear a seat belt, apart from the exception of the under 14's. Mr Attorney.

**Mr Butt:** It depends on the age of the car, too. If it is an antique car...

**The Attorney General:** Sorry, could I just go back to your comment there, Mr President, 'except under 14's.' The position at the moment, leaving aside this legislation, is that if there is no seat belt fitted in the rear of a car, you do not commit an offence if you allow a child to be in the back.

What this new legislation is saying is that you will commit an offence, if you allow a child under the age of 14 to be in the back of your car. It is therefore your duty to ensure that seat belts will be fitted, unless the regulations

make some exemption.

Now, in relation to the Land Rover – and I have got one too – the 'motor car' means a mechanically propelled vehicle, not being a motorcycle or an invalid carriage which is constructed itself to carry a load or passengers and the weight is under certain weights, and so on.

So a Land Rover is certainly, as I see it, a motor car because it is constructed if not to carry a load, it is constructed to carry passengers. If people put windows in, for example, in the back of a Land Rover, they often put seats in the back and that would be a motor car.

**The President:** And now they would have to fit –

**The Attorney General:** And now they have to have seat belts, unless the regulations make a contrary provision.

**Mrs Christian:** Can I clarify, is that if they travel on the high road or anywhere?

**The President:** We dealt with the public road, just a little earlier, did we not?

**Mrs Christian:** Is this applicable only on the road or is it on private land, as well?

**The Attorney General:** On a road.

**Mrs Christian:** On a road, right.

**The President:** Right, Mrs Crowe do you wish to add anything?

**Mrs Crowe:** No, I am delighted for the expertise.

**The President:** In that case, Hon. Members, the motion that I put to Council is that clause 14 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 15 Mrs Crowe.

**Mrs Crowe:** Thank you, Mr President.

Clause 15 just provides for the general interpretation of the whole Bill.

Clause 16, sir, provides for the citation and commencement of the Bill and it is not expected that this Bill will have any significant effect on public revenue expenditure or indeed personnel requirements.

**The President:** Mr Singer.

**Mr Singer:** I beg to second both clauses, Mr President.

**The President:** Mr Lowey.

**Mr Lowey:** But it will have an effect on people who use the roads and who have been affected by it in a big way, from signs to restrictions to, you name it. That is the point I am making. It may not have an effect on the Department, but it will have an effect on people.

**The President:** Mrs Crowe, do you wish to comment?

**Mrs Crowe:** I think on the whole – and I do take on board

Mr Lowey's comment about centralisation – I do believe that there are some cases where we have got grid lock in the whole of Douglas, because one arm did not know what the other arm was doing. If we have one authority that deals with road closures, then, hopefully, someone knows who to blame if there is that particular instance. **(Mr Lowey: Blame?)**

I do take on board the criticism about the Department, but I do believe this has been a genuine attempt to put in place safety regulations on the whole that are really essential for safe driving. I do hope that, very shortly, we will be able to move into the consolidation of not only this, but there are a number of Transport Bills and, indeed, other Departments that we keep adding to, bits by bits, and it really is making legislation totally unreadable for the general public. I do hope that that has been taken on board by those who are in power.

Mr President, would it be – ?

**The President:** You are begging to move, so Hon. Members, the motion which I put to Council is that clause 15 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Similarly, clause 16. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

### **Road Traffic (Amendment) Bill** **Standing Order 22(2) suspended** **to take Third Reading**

**The President:** Mrs Crowe.

**Mrs Crowe:** Mr President, I was just wondering, because there is rather a shortness of time, would it be possible for me to move the Third Reading of this particular Bill? I move:

*That Standing Order 22(2) be suspended to enable the Third Reading of this Bill to be taken.*

**Mr Singer:** I would second that, Mr President.

**Mrs Christian:** Mr President, could we hear the arguments why this has to go through in a single day, in this particular case?

**Mr Singer:** Certainly, Mr President, we have had comment. People have made comment, and I think there are comments going back to the Department. When the regulations come through, I am sure they will take note of those. But there have not actually been any amendments here today. I think we have only had one clause where we had one person voting against, so we are fairly unanimous on this.

I think it is important that this Bill does go forward and receives Royal Assent, as soon as possible. If it does not go forward today then, obviously, there are several months lost.

**The President:** Mr Downie.

**Mr Downie:** I do not have a problem moving this forward, but I would like an undertaking from the Member moving it that, at some stage, in the not-too-distant future, she will

ask the Department of Transport to arrange a presentation to Members about ongoing policy with signs.

Just to make a point, I am not aware we have any speed or traffic cameras in the Isle of Man, at the present time. There was one erected at Ballaugh, which, as I understand has been removed, but if you drive up York Road or Woodbourne Road this week, there are a whole new range of signs being erected there which either say 'traffic cameras in operation' or 'speed cameras in operation'. These things are about this size, with a picture of a camera in, and you expect to see the same thing on the motorways in the UK.

Now, what is happening here is: we talk about stealth tax in the UK; we are talking about stealth signage. Any time a new sign comes into the guide that the Department of Transport use, and they have got from the UK or Europe, we are just going around putting these signs up! This whole Island is becoming absolutely littered with them – **(Mrs Crowe: Littered.) (Mr Butt: Ugly.)**

It has got to the stage now where, as some Members have said, they do not mean anything any more and, in fact, if you are trying to observe the signs, you are not driving with due care and attention, you are going to have a crash!

Really, we need to bring some normality back into all this, and there needs to be a policy introduced by the Department, where we are not going to be totally –

**The President:** It is a slightly different tack, Mr Downie. The suggestion to the Council, at the moment, is that we suspend Standing Orders to take the Third Reading.

**Mr Downie:** I would go along with the legislation, Mr President. Let us move it along, but let us send a clear message out to the Department –

**The President:** If you go to Third Reading, sir, I will allow you to make that point. I want the position of whether or not we are going to Third Reading.

**Mr Downie:** I would be content to go along with the Third Reading.

**The President:** Mrs Christian wanted the case making, so Mrs Crowe.

**Mr Lowey:** No case.

**The President:** Mr Waft, first.

**Mr Waft:** Just one thing that I would be concerned about, if there is any delay, the main thrust of this Bill, as far as I am concerned, deals with road safety and the concerns that people have with regard to the conversations that I hear, from time to time, it is there is more and more concern about speed, more and more concern about young people in the back seat without safety belts on. If this legislation helps that in any way, it is justification for suspension of Standing Orders, Mr President.

**Mr Lowey:** Maybe but what is the practical reality, Mr President?

This Bill will not receive Royal Assent before the House rises for the summer recess. Therefore, it will not get Royal Assent until at least October, when it comes to Tynwald Court, if it comes to Tynwald Court then.

**Mr Singer:** If we do not take the Third Reading until October, then it will be several further months before it is –

**Mr Lowey:** Well, I do not know, when are we meeting next? I am looking at the practical terms. Are we meeting again? (**Mr Singer:** No.) Then there is a perfectly valid reason why we should take the Third Reading then.

That is the point I am making; I am trying to get the practicalities into place.

**The President:** No timetable. Council always could. Mrs Crowe.

**Mrs Crowe:** Yes, thank you, Mr President.

I, too, do not believe it is satisfactory, really, to take the three Readings at one sitting. We know we have been pushed into this on a number of occasions now, by the late delivery of legislation from the Keys.

So, I do understand the reasoning why people would want to delay it.

But as for a case to be made to expedite this legislation, I would say, to begin with, this is our final sitting, as I understand, of Legislative Council, and we would be delaying the Bill to October. I think none of us would be very happy, if there was one single accident where, perhaps, a child had not been belted very safely into the rear of a vehicle and was in an accident.

There is, also, of course the offences committed for people under the influence of alcohol or drugs who cannot be tested at this present time, if they are incapacitated.

I think there are a number of areas that do require this Bill to be expedited in terms of road safety. I would like to see that the Third Reading could be managed today, without too much objection.

**The President:** In that case, Hon. Members, the motion that I put to Council is that we suspend Standing Orders to allow the Road Traffic (Amendment) Bill 2006 be read for a third time this morning. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

### **Road Traffic (Amendment) Bill Third Reading approved**

**The President:** Mrs Crowe, Third Reading.

**Mrs Crowe:** Thank you, Mr President.

I do believe that this Bill will be beneficial to the public of the Isle of Man, as it strengthens and supplements provisions in most respects of road safety, the movement, stopping and waiting of motor vehicles, and the licensing and registration of motor vehicles.

For information, the Department has already prepared drafting notes for a second Bill which will require considerable consultation before it begins its passage through the legislative branches. This Bill, of course, will include many of the areas that we have already mentioned today.

I would like to thank all Hon. Members for their interest and assistance in scrutinising this Bill and, of course, I found it very interesting to listen to the wide ranging knowledge of Members of Council in this area.

Accordingly, Mr President, I beg to move:

*That the Road Traffic (Amendment) Bill 2006 be now read a third time and do pass.*

**Mr Singer:** I beg to second, Mr President.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, some elements of this I support wholeheartedly; others, as the mover will be aware, I sought further explanation on and I hope that might be forthcoming from the Department, notwithstanding the Third Reading.

Thirdly, I do hope that there will be some publicity (**Several Members:** Hear, hear.) for the elements of change in here, not only with regard to licensing but, for example, informing the public about driving instructors. Do the public at large know that they should be checking whether their driving instructor is actually properly licensed and that, if they are not, they do not have to pay them?

I think these are the things that will need some publicity, when the Bill is finally enacted.

**The President:** Mr Lowey.

**Mr Lowey:** Yes, very briefly, on similar lines. It is a bit like – and I hope the Lord Bishop will forgive me, I do not know whether we have curates now – the Curate's egg: good in parts.

It is about priorities and, if the Department was really keen... As far as I am concerned, they have a priority in lashing up signs, as opposed to educating people in road safety. Do we not have officers now employed to do just that? Their silence is deafening, where they should have high profiles.

Perhaps, if they were more high profile and less of what I would call the high profile to the issues that are being raised, we might be getting somewhere with it.

So, I would hope the mover would take that back to her Department.

**The President:** Mrs Crowe to reply.

**Mrs Crowe:** Thank you, Mr President.

Yes, I too would be very keen to make sure that there was plenty of advertisement for the public, by way of public information regarding, in particular, driving instructors, wearing of seat belts in the rear of vehicles, all of these things.

I do have some sympathy with my hon. colleague regarding the information regarding road safety, as against... I think we were told in a written answer at the last sitting of Tynwald, the 150 new signs that have gone up in the last two years. I do believe that there might be, perhaps, some other way of making people more aware of road safety than placing more and more signs, which I do believe people might begin to ignore.

So, perhaps, we will have some innovative road safety promotions that will pass on the information that we are all trying, I think, in this Bill, to achieve, which is younger drivers driving safely, having more education about driving, the regulation of the end of life vehicle restrictions. All of these are very important but unless the people know that

these things have been now put in place, and will become law, then there will be little or no effect to the Bill.

So, the Department must play its part in promoting all the aspects of the Bill that you have so kindly allowed to go through in three Readings today.

Thank you, Mr President.

**The President:** The motion I put to Council, Hon. Members, is that the Road Traffic (Amendment) Bill 2006 be read for a third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

### **Broadcasting (Amendment) Bill First Reading approved**

4. Mrs Crowe to move:

*That the Broadcasting (Amendment) Bill be read for a first time.*

**The President:** We turn, then, to the Broadcasting (Amendment) Bill 2006 and, again, it is for First Reading, in the hands of Mrs Crowe.

**Mrs Crowe:** Thank you, Mr President.

This Bill is actually promoted by the Department of Home Affairs and the object of the Bill is to develop the existing regulatory framework for the licensing of public service broadcasting in the Island, by making some amendments to the Broadcasting Act 1993.

Mr President, the Bill will be to implement reports on the corporate structure which had been approved in Tynwald Court in 2005.

I beg to move the First Reading of the Broadcasting (Amendment) Bill 2006.

**Mr Singer:** I will be pleased to second it, Mr President.

**The President:** Seconded by Mr Singer.

Hon. Members, the motion is that the Broadcasting (Amendment) Bill be read for a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

### **Broadcasting (Amendment) Bill Standing Order 22(2) suspended to take Second Reading**

**The President:** Mrs Crowe.

**Mrs Crowe:** Mr President, would the Hon. Members of Council be tolerant enough to hear the Second Reading and clauses stage, and perhaps even the Third Reading, which would take but a few moments?

**The President:** We will take it a step at a time, Mrs Crowe. I will allow you to make a case for the Second Reading.

**Mrs Crowe:** I think the only case I can make, Mr President, is that of time. I believe, if we are to return this Bill, or see it through its clauses, it will enable it to progress...

Yes, these are provisions that have been made. They have been approved by Tynwald, it was subject to the report, and I am not sure why the legislation which is so short was, in fact, so late in coming to the branches.

So, I hope we will be able to progress through it today. I move:

*That Standing Order 22(2) be suspended to enable the Second Reading of this Bill to be taken.*

**Mr Singer:** I will support that adequate case, Mr President.

**The President:** In that case, Hon. Members, I put to Council the Broadcasting (Amendment) Bill: that we suspend the Standing Orders to take that Bill for the Second Reading. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

### **Broadcasting (Amendment) Bill Second Reading approved**

**The President:** Mrs Crowe, Second Reading.

**Mrs Crowe:** Thank you, Mr President.

The main purpose of the Bill is to provide an improved regulatory framework for the licensing of the Island's national public service broadcaster and requires the Communications Commission to take into account the economic factors before licensing any new broadcasting service.

Of course, we have all been party to the consultation that this Bill undertook.

Clause 1 makes minor amendments to section 2 of the Act, subclauses (1), (2) and (5), and requires the Communications Commission to ensure that there is one public service broadcasting service on the Island.

Subclause (3) sets out matters to which the Commission shall have regard on licence applications.

Subclause (4) determines the duration of a public service broadcasting licence.

Subclause (6) defines the public service broadcasting service at subclause (7).

Mr President, I beg to move that clause 1 stand part of the Bill.

**Several Members:** We are taking the Second Reading.

**Mrs Crowe:** Oh, I am sorry. I am sorry, I am miles ahead.

**Mr Singer:** Would you like me to second that?

**The President:** We will bring you back, do not worry!

**Mrs Crowe:** Oh thank you.

We have all been party to the consultation, I think, of this particular Bill. It was prepared by the Manx Radio Working Group which was set up by the Council of Ministers in

response to the Tynwald resolution on Manx Radio. Indeed, we all heard the representations, I think, in another place, regarding some of these issues.

Mr President, I beg to move:

*That the Broadcasting (Amendment) Bill 2006 be now read a second time.*

**The President:** Mr Singer.

**Mr Singer:** I will second all of that, Mr President.

**The President:** The motion, Hon. Members –

**Mr Lowey:** No, could I just speak to the Second Reading.

**The President:** Mr Lowey.

**Mr Lowey:** I just hope, again: my concerns, when I voiced them in Tynwald Court were that this is not another way of allowing Manx Radio to be given extra money for providing services which they are already being paid for.

Of course the consultative committee would come up with this, because they are the ones that are directly affected. What worries me – and it does really worry me, concern me – is that they will get an extra vote for everything that they do. If they advertise local events, they want paying for it; if they do more for the Gaelic language, they will want paying extra for it.

It seems to me this is the thin edge of the wedge, they are going to come back, sooner or later. I know it will have to be approved by Tynwald, and that is the safeguard, but I do hope it is not being used as a Trojan horse, for more public funding, because we are spending £1 million on Manx Radio now. I think that is about enough for what we are getting from there.

I will not be popular for saying that, but I am going to say it, all the same.

**The President:** Mr Singer.

**Mr Singer:** The thing I felt it was not particularly that, the needs of this Bill, because as the Hon. Member has said, any increase in funding has to be approved by Tynwald.

I felt that one of the problems was that the Broadcasting Commission had almost declared UDI (unilateral declaration of independence), and they were ready to give out licences left, right and centre. They were saying, 'It is nothing to do with you', and they were giving conditions to stations, changing conditions to stations so they could let other stations come in.

I think that is something that also has to be regulated quite clearly, and I think that this Bill does give the balance of that now.

**The President:** Mr Downie.

**Mr Downie:** Yes, I have no problem supporting the basis of progressing the Broadcasting (Amendment) Bill, but there are some areas that do actually give me cause for concern.

First and foremost is that a licence may be granted for a period of 30 years which is a long time. Now, I can understand if an organisation like Manx Radio wants to

invest in its future, and they are acquiring equipment and so on, they are required to look at their budget over a long period of years.

But when you look at what is happening in the real world, a lot of broadcast providers are having to tender. Some countries are actually putting this whole thing out and they are providing a background as to what is required to be a national broadcaster and different elements are moving in and out of that.

Now, we are seeing that happening, at the present time, with the big national broadcaster in the UK, the BBC, because they are becoming more commercial. They are making far more programmes now, to be distributed by ITV and by Sky, and what they are doing is they are not just relying on the money that comes through now from the licence payer to fund the process; they are actively marketing themselves. They are in competition with other stations for football and a load of sport and so on. They are run on a very much more commercially minded basis.

Now my worry is the same as my hon. colleague, Mr Lowey's, that we are just here, we sign up to this and, every now and again, they come and demand more money from us. (**Mr Lowey:** Absolutely.) I think part of the way of dealing with this is to have perhaps a little bit more control, particularly on the finances.

I know what the next argument is going to be the setting up of local television. With the way that digital TV is working at the present time, it would be very easy to do that. It is already in being in the Channel Islands. They are already providing that system. But there is another price tag, and what we are paying, by way of nearly £1 million a year could be £3 million a year, 10 years from now.

So, I think in proceeding with this it is, in the terms of the last Bill, it is the green and amber together, rather than the green on its own.

**The President:** Mrs Crowe to reply.

**Mrs Crowe:** Thank you, Mr President.

My colleague, Mr Singer, who was querying the 'UDI' position of the Communications Commission: this Bill actually requires the Communications Commission to take into account other aspects when issuing licences. One of the major things they have to take into account is the economic factors. So, they have to take into account whether it would be damaging to one or whatever it might be. But that was never the case before.

So, now the Communications Commission are required to take into account economic factors when deciding on issuing a licence.

I suppose I have some sympathy with my colleague, Mr Downie, who is commenting about a 30-year licence, and the fact there is one public service broadcasting structure in Manx Radio. I suppose one would say that this does give a degree of security to Manx Radio. But I do not think it does give them, in his own thoughts, the green light for more funding. In fact, there are no aspects of funding mentioned in this Bill at all, and any funding for the likes of Manx Radio would have to go before Tynwald in a Tynwald motion.

This Bill... all, in fact, that it does is it requires the Communications Commission to take into account other areas, such as the economic factors, before licensing new broadcasting services, and, also, it does give Manx Radio the licensing term of 30 years, rather than 10 years.

I suppose, in reply to Mr Lowey's comments, yes, the working group did include the Chief Executive, the Managing Director of Manx Radio, but also, other Island broadcasters, I believe, did wish that this be introduced. So, the expansion from 10 to 30 years, it would seem, does not appear to have, perhaps, the difficulties that we think there might be around the table.

Mr President, I beg to move the Second Reading of the Broadcasting (Amendment) Bill 2006.

**The President:** Hon. Members, the motion is that the Broadcasting (Amendment) Bill 2006 be read a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

### Procedural

**The President:** Now, Hon. Members, I am in a cleft stick. The clock is at the top of the hour. It is one o'clock. The question is: do we continue with the clause stage or do we come back at 2.30 p.m?

**Mr Lowey:** Could I propose that we carry on until we complete the clause stage?

**Mr Downie:** I second that, Mr President.

**The President:** I am conscious, Hon. Members, that Mrs Crowe was also indicating, maybe, she would be seeking Third Reading.

If you are content, Hon. Members, I am content to move on.

**Mr Singer:** Unless, as an alternative, because I think that others have got maybe, like I have, appointments later in the afternoon, could we have a short break and come back earlier, if that suits Members? Quarter to two, maybe?

**The President:** Hon. Members, I am in your hands, particularly, on this. I do not know whether there is any... I have no notice of any seminars or anything during the lunch hour.

**Mrs Crowe:** I am quite willing, Mr President, to... Whichever way it suits everyone. I will either carry on now until quarter past one, which I am sure we would see it through –

**The President:** Hon. Members, I think Mr Singer's idea is sensible to myself. I do not know what others think, but –

**Mr Singer:** I think it is sensible.

**The President:** Maybe you would be content, Hon. Members, to return at, say, quarter to two?

**Mrs Crowe and Mrs Christian:** Yes.

**Mr Lowey:** We could have been finished by quarter to two.

**Mr Singer:** We do not know what discussion there is

going to be on the clauses.

**The President:** Hon. Members, we will take a break. We will return at quarter to two. Thank you, Hon. Members.

*The Council adjourned at 1.02 p.m.  
and resumed its sitting at 1.45 p.m.*

## Broadcasting (Amendment) Bill Consideration of clauses commenced and referred to committee

**The President:** Please be seated, Hon. Members.

Hon. Members, when we broke for lunch today, we had been discussing the Broadcasting (Amendment) Bill 2006. We had accepted the Second Reading stage.

So, we move on to the clause stage and I invite the Hon. Member to take clause 1. Mrs Crowe, please.

**Mrs Crowe:** Thank you, Mr President.

Clause 1 makes minor amendments to section 2 of the Act – subclauses (1), (2) and (5) – and requires the Communications Commission to ensure that there is one public service broadcasting service in the Island and sets out matters to which the Commission shall have regard on a licensing application. It determines the duration of a public service broadcasting licence and defines the public service broadcasting service. It sets out amendments to the Broadcasting Act 1993 to establish by statute the provisions of the service.

Mr President, I beg to move clause 1 stand part of the Bill.

**Mr Singer:** I beg to second, Mr President, and reserve my remarks.

**The President:** Hon. Members, the motion I put to Council is that clause 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2.

**Mrs Crowe:** Clause 2, Mr President, amends section 4 of the Act by providing that, in the case of a licence for a public service broadcasting service, the licence may include conditions enabling periodical reviews of the provision of service on the 10th and 20th anniversaries of the grant of that licence.

Mr President, I beg to move clause 2 stand part of the Bill.

**Mr Singer:** I beg to second, Mr President, and reserve my remarks.

**The President:** Mrs Christian.

**Mrs Christian:** Yes, Mr President.

It provides for reviews at that time, but the provision in the earlier clause is only that a licence *may* be granted for a period of up to 30 years. So, I presume that the ability of the Commission to review it is tied into the length of period of the licence, is it?

**Broadcasting (Amendment) Bill – Second Reading approved  
Procedural**

**Broadcasting (Amendment) Bill – Consideration of clauses commenced and referred to committee**

**The President:** It says the 10th and the 20th anniversary of the grant of the licence, so that is here –

**Mrs Christian:** If the licence happens to have been granted for 30 years, but it is a ‘may’; it is not an obligation to grant a licence for such a long period of time. I just wonder whether there should be any...

Well, I presume common sense would prevail and there would be a review earlier than that, perhaps, if it was a shorter licence, but then they would not have a statutory ability to review after five years, if it was a 15-year licence, or something like that. However, I am not going to seek to amend, but I just...

**The President:** Mr Attorney.

**The Attorney General:** Yes, Mr President.

I think the Hon. Member, Mrs Christian, makes a good point. If we go back to page 2 of the Bill, line 21:

‘In the case of a licence for the provision of a public service broadcasting service, a licence may be granted for a period of 30 years.’

It did occur to me, as we were discussing this, that of course that is open to at least two interpretations. The first interpretation would be that, if you grant a licence at all, it has to be for 30 years. The other interpretation is that you may grant a licence –

**The President:** For any period.

**Mr Butt:** Up to 30 years.

**The Attorney General:** – for a period of up to 30 years, but you do not have to.

It is not the most satisfactory wording, I have to say, but I did let it go because it seemed to me, Mr President, that this clause we are looking at now necessarily implies –

**Mr Lowey:** Yes, that is right.

**The Attorney General:** – that the licence, if granted at all, will be for 30 years.

**The President:** But it itself is permissive, and not mandatory.

**The Attorney General:** Indeed, absolutely. You do not have to grant any licence. That is the other way of looking at it: you do not have to grant any licence at all, for the provision of a public service broadcasting service.

**The Lord Bishop:** Mr President, in the explanatory notes, it reads:

‘The licence term for the public service broadcaster is extended from the current 10 years to 30 years’,

which would back the interpretation that it was for 30 years.

**The President:** Mr Lowey, I am sure, will be making a point, on hearing that. Mr Lowey.

**Mr Lowey:** Yes, indeed. This here implies that every

licence that we grant now will be for 30 years, because I am quite sure they will say, ‘Well, if you want to have a review, it has got to be at the 10th or the 20th anniversary.’ It does seem to me, however you read that, that reinforces the previous interpretation that it is for 30 years and will be for 30 years. I do not –

**The President:** I think, Mr Lowey... Apologies to cut across you again, but I thought you would be picking up the point that in fact the Lord Bishop was making the case that the explanatory notes say... I expected you to pick up on the thought that in fact it is what it says in the Act that is the important thing.

**Mr Lowey:** The Act, absolutely.

**The President:** Hon. Members, the Act is what is important.

**Mr Lowey:** And if you add those two together, they certainly reinforce one another, in that this is construed as a 30-year licence, automatic. I do not think that is what is implied at all. I just wonder whether an amendment would be in order, on this one to... On this section:

‘The licence may include conditions enabling the Commission to undertake a periodical review of the provisions. If a 30-year licence is granted, it should be on the 10th and 20th anniversary’.

Even that, I think, is circumscribing the ability of the Commission. It should be a review whenever the Commission feels there should be a review. I think that is the essence of that, in my view of this, but what we are doing is we are putting it as if everybody is going to get a 30-year licence, and I do not think we should.

**The President:** Whilst you are considering that position, Mr Lowey, I will come back to you on that, if you wish to have a look at that.

**Mr Lowey:** Yes, indeed, just for a form of words.

**The President:** Mr Singer.

**Mr Singer:** I read it that a licence may be granted, meaning it may not be granted, but if it was granted, it would be granted for 30 years with periodical reviews, or possible periodical reviews –

**The President:** That is an interpretation.

**Mr Singer:** Yes, I said that is how I read it: on the 10th and 20th anniversary. On the question I wanted to ask on those reviews: if it was a 30-year licence, does the review of the provision of a service mean that if it is not satisfactory after 10 years or 20 years, the licence can then be withdrawn, or is it just a comment on how they are getting on?

**The President:** Mrs Christian.

**Mrs Christian:** Yes, Mr President.

I think the wording there is interesting, in that it allows, in clause 2, for the Commission to put conditions in, which may include a periodical review. But if you are going to say you *may* do it, why define at which points? It would be far

better if they had an ability to review and say they may review at least – if they have not done it before – at the 10th year or 20th year; ‘against such criteria as the Commission may prescribe’, so I think *that* is clear. They will be able to set out against which criteria they are going to do the review.

But I am not entirely clear that that means that they can do anything other than say, ‘Buck your ideas up, you’re not meeting your requirements,’ but I suppose they have a power to revoke the licence, if they are not meeting the requirements.

All in all, the ‘mays’, and the specification of these anniversaries with a ‘may’ in front of them, make it a little bit unsatisfactory, in my view.

**The President:** Rather like a break clause in a lease, which, in this case, is permissive, as it is ‘may’.

Mr Downie, I appreciate you have not, but I just wonder whether you wish to pick up on the point which you made this morning, relevant to the –

**Mr Downie:** Well, I –

**The President:** I am sorry, if I could just try to get that which is in my mind across, here: the point you made this morning was relative to television, and I think we need to be cognisant of the fact that this Broadcasting (Amendment) Bill permits but one public service licence. We could not have one for the radio station and one for the television station and one for a modern digital communication 10 years down the road. It is for the one.

I thought that was a point which you were trying to make this morning. Maybe I was wrong and if you want to pick up on a separate –

**Mr Downie:** No, that is the point I was making, Mr President.

If television is to be required, we might be going to what is called voice-over IP and using the internet at some stage too, but this restricts that.

Whereas I do not want to unnecessarily hold up the process of this, I really think we should be looking at this in the round, and if we can make it more user-friendly, to stand us in good stead for a while, I think we should be taking the opportunity and not just tie ourselves down to broadcasting.

**The President:** Mr Attorney.

**The Attorney General:** I am sorry to, perhaps, make the position even more complex. I did not want to intervene in relation to the 30 years, because it seems fairly clear, Mr President, that the intention of the Bill is that, if a public service broadcasting licence is to be granted at all, it has to be for a period of 30 years. That seems to be the ordinary meaning of the clause.

If Hon. Members were anxious about that and they wanted, perhaps, to say that the licence may be granted for a period not exceeding 30 years, or something along those lines, then perhaps we will have to look at this revision clause very carefully – and I am aware, Mr President, that we have already passed clause 1.

Could I also say, Mr President, that section 7 of the principal Act, the 1993 Act, says that:

‘The Commission may vary a licence by a notice served on the licence holder if –’

– and this is the important point –

‘(a) in the case of a variation of the period of the licence, the licence holder consents’.

So, in other words, the licence holder has to consent if the period of the licence is to be varied and:

‘(b) in any other case, where the licence holder has been given a reasonable opportunity to make representations to the Commission about the variation.’

So, it does, I think, reinforce, Mr President, how important it is that, once a company or an individual has been given a licence, then if it is going to be for a long period of 30 years, you cannot vary that, without the consent.

**The President:** Now, Mr Butt.

**Mr Butt:** My interpretation of this Bill was that it is, really, a Bill for Manx Radio. It should really, perhaps, be the Manx Radio Bill, to give them comfort for 30 years.

**The President:** But it omits sound, in clause 1(1):

‘In subsection (2)(a), omit “sound”.’

It becomes one public service licence.

**Mr Butt:** It embraces too much and then maybe too little as well. It denies everything else that Mr Downie mentioned, as well.

**The President:** We are getting ourselves a little bit tangled, Hon. Members, and I am concerned that I may be tangling you, also. It is not my position to do that. Mr Lowey.

**Mr Lowey:** Again, can I just float the idea with my colleagues? I have got an amendment. If you take line 10:

‘... (1) of this section, the licence may include conditions enabling the Commission to undertake a periodical review of the provision of the service’,

I am suggesting, maybe, to Council to insert the words ‘at least’:

‘on the tenth and twentieth anniversary of the grant of that licence, against such criteria as the Commission may prescribe.’

Having listened to the Attorney General, the primary Act would say that you would have to consult with them and all the rest of it, and that they agreed. Then you could... But this one here seems to me to be giving the Commissioners the power, ultimately, to prescribe.

But if you just say 10 and 20 years, and do not have some sort of variation there, if something happened on year 8 – technology or whatever – it precludes... They would hide behind the fact that it is not the 10th year yet, and you cannot do it.

But if you have ‘at least’ in there, there is a variation there for interpretation by the people that that means you can have it on year 8, 9, 7, whatever.

**Mrs Crowe:** My point with that is I do not think you can

vary this licence without the consent of the licence holder, so it would not matter when they reviewed it.

**The President:** Hon. Members, I think we are... Mrs Christian, come on.

**Mrs Christian:** Mr President, I was just going to consider whether or not this should not go to a committee (**The President:** Yes.) for consideration, both against the existing legislation and the Report from which it has emerged, so that we have a properly set out development before us, so that we understand (a) what the implications are for the existing legislation and how that will read – I think it would be useful to see what the amended legislation says – and (b), indeed, if it is the implementation of the Tynwald Report, to review the arguments which were put out there for this change – not that we do not have a function in amending legislation. Notwithstanding that it has come out of a Tynwald Report, I think we still have a duty to amend if we think it is wrong.

I see some nods. Can I propose, Mr President, that this be referred to a committee of three people for a report in October or November, as the case may be. I move:

*That the Bill be referred to a committee of three Members to report in November 2006.*

**The President:** Chief Minister.

**Mr Gelling:** Yes, I would second that, Mr President.

The whole idea of trying to get this through today was speed of getting the legislation. If Members are not content – and they are not content – I can see no reason why we should be struggling.

I think it is regrettable that the gentleman from the Communications Commission who was here this morning, perhaps, is not here this afternoon, when there could be some very good reason why that is in, but, of course, we are at a loss to know perhaps why.

So, I would go along with that. I can see no point in trying to get this, or push it through, when Members are not content.

**The President:** Mrs Crowe.

**Mrs Crowe:** Anthony Hewitt, the Chairman of the Commission, was in fact here and did offer to come back this afternoon, but I did think that, perhaps, the two clauses that have not been commented upon in great detail in the House of Keys... that perhaps there was no need for that.

I do sense that this 30 years – from 10 to 30 years – is giving some concern around Council and, of course, especially now, with the notice that there would be no variance without any consent, which perhaps is making it even more trying.

I am happy, I suppose, for it to go to a committee. In fact, even if it was amended, it would be difficult to get it through, so it may as well have the full consideration of a committee. I do not suppose everything is going to come to a full stop, because this has not progressed today.

I shall get a black mark against my legislative dealings now.

**Mr Singer:** Another one.

**The President:** Any other Member wish to speak? In that case, Hon. Members, the proposal from Mrs Christian is that, in fact, this Bill be referred to a committee of three Members of the Legislative Council. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

In that case, Hon. Members, we require to appoint the committee.

**Mr Lowey:** Can I propose Mrs Crowe?

**Mr Gelling:** I second that, and I propose Mr Lowey.

**Mr Waft:** I second him.

**Mr Singer:** I move Mrs Christian.

**Mr Downie:** I second Mrs Christian.

**Mrs Crowe:** I propose Mr Butt.

**The Lord Bishop:** I second Mr Butt.

**The President:** The proposal is that we should have three. I have four names, Hon. Members.

**Mr Singer:** Can we change it to four? A further amendment to four?

**The President:** This is somewhat unexpected.

**Mr Butt:** I am content to let the other three carry on, with their expertise, Mr President.

**Mr Singer:** Who proposed Mr Butt? Can you withdraw the nomination for Mr Butt, whoever proposed Mr Butt?

**Mrs Crowe:** Sorry?

**Mr Singer:** Who proposed Mr Butt?

**The President:** Mr Butt is happy to withdraw if his nomination –

**Mrs Crowe:** I was just thinking about the workload Mrs Christian has, with planning etc, but she does not... You do not mind? (**Mrs Christian:** No.)

Okay then, I withdraw my nomination for Mr Butt. (*Laughter*)

**The President:** In that case, Hon. Members, with Mrs Crowe withdrawing the nomination of Mr Butt and Mr Butt happily concurring with that, there will be no need for us to go to an election, insofar as the Committee will consist of Mrs Crowe, Mrs Christian and Mr Lowey.

Now, Hon. Members, I think in particular you have got the period of years to consider, we have got the variance of the licence to consider, vis-à-vis the permissiveness of the licence holder, and the other query with regard to the one public service licence, does it cover television, digital, as Mr Downie covered this morning? I think those are the three principal points. Have I missed one?

**The Lord Bishop:** I think it might be covered, but the business of the drafting with the too many 'mays' in amongst

it all, I think that is really quite important.

**Mrs Crowe:** The first clause. Clause 1.

**The Lord Bishop:** Yes.

**The President:** Okay, Hon. Members, with having appointed the Committee then, we will hold the Broadcasting (Amendment) Bill until the Committee reports, hopefully in November next.

That concludes the business which I have before Council for today. The adjournment, of course, is to 5th July next, at Tynwald, St John's, and thereafter the sitting of Tynwald commencing on Tuesday, 11th July, Hon. Members.

#### **Tribute to the President on retirement from office**

**Mr Lowey:** Mr President, could I, on behalf of all my colleagues...

I know this will be your last sitting, presiding over the Legislative Council in your five-year term. I think we should place on record our appreciation of the way in which you have conducted the affairs of this Council, over the last five years.

I cannot add one iota to the knowledge of Mr Cringle, to any of my colleagues, other than to say his conduct in the chair has always been firm, but he has always been fair. He

has always encouraged people to take part in debates. He has encouraged constructive examination of difficult pieces of legislation.

He has always conducted himself in what I would call a manner which makes him a friend to Members, and he is always courteous, even when he is giving you a rebuke. And by gum, I have deserved some rebukes in five years! But he does it in a nice way.

I think that this Council has been extraordinarily lucky to have a man of his calibre in the chair. I would like to place on record our thanks to you, sir, for the way in which you have conducted our business over the last five years. It has been absolutely first class.

**Members:** Hear, hear.

**The President:** Well, thank you, Eddie, and thank you for the obituary!

**Mr Lowey:** No, it is not an obituary. It is not an obituary, young man!

**The President:** Hon. Members, thank you very much. I have to say, I enjoy the work of the Legislative Council – always did, always will – and it is just one of those things. Meeting adjourned and we can all go!

*The Council adjourned at 2.10 p.m.*