



**HOUSE OF KEYS
OFFICIAL REPORT**

**RECORTYS OIKOIL
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**PROCEEDINGS
DAALTYN
(HANSARD)**

Douglas, Wednesday, 24th May 2006

Present:

The Speaker (The Hon. J A Brown) (Castletown); Hon. D M Anderson (Glenfaba);
 Hon. A R Bell and Mrs A V Craine (Ramsey); Mr W E Teare (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel);
 Hon. S C Rodan (Garff); Mr R K Corkill and Mr A J Earnshaw (Onchan); Mr G M Quayle (Middle);
 Mr J R Houghton and Mr R W Henderson (Douglas North); Hon. D C Cretney and Mr A C Duggan (Douglas South);
 Hon. R P Braidwood and Mrs B J Cannell (Douglas East); Hon. J P Shimmin (Douglas West);
 Capt. A C Douglas (Malew and Santon); Hon. J Rimington, Mr Q B Gill and Hon. P A Gawne (Rushen);
 with Mr M Cornwell-Kelly, Secretary of the House

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The House adjourned at 5.27 p.m.

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House of Keys

The House met at 2.30 p.m.

PRAYERS

The Speaker

Orders of the Day

Companies Bill

Consideration of clauses concluded

The Speaker: Hon. Members, we continue with our reading of the Companies Bill. We continue from where we left off last night and start therefore with clauses 196 to 199. I call on the Hon. Member for Ramsey, Mr Bell.

Mr Bell: Thank you, Mr Speaker.

Clause 196 is concerned with the interpretation of part XIV.

Clause 197 deals with investigation orders. A member of a company may apply to the court for an order directing that investigation be made of the company or any of its associated companies. If it appears to the court that any company was formed for fraudulent or unlawful purposes, or that the person concerned with such a company was acting fraudulently or dishonestly, or that the business of the company is, or has been, carried on with the intent to defraud anyone, the court may order that such company be investigated by an inspector. The Registrar must be given notice of such an application and is entitled to be heard at the court hearing.

Clause 198 sets out the court's powers with regard to the making of an investigation order. The order shall fix the inspector's remuneration. It may replace the inspector and determine the period of notice to be given to any interested person. It may authorise the inspector to enter premises and examine and take copies of documents. It may require any person to produce documents or records.

It may authorise the inspector to conduct hearings and examine persons on oath, and it may require persons to attend a hearing and give evidence. It may give directions to the inspector. The inspector may be required to make an interim or final report to the court and to publish some or all of the reports. The inspector may be required to discontinue the investigation. The company may be required to pay some or all of the costs of the investigation.

Clause 199, Mr Speaker, states that the inspector has the powers set out in the order of appointment, which the inspector must produce upon the request of any interested party.

I beg to move, Mr Speaker, that clauses 196 to 199 inclusive stand part of the Bill.

The Speaker: Hon. Member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker. I beg to second

clauses 196 to 199, and reserve my remarks.

The Speaker: Hon. Members, the motion before the House is that clauses 196, 197, 198 and 199 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it, the ayes have it.

Clauses 200 to 202, Hon. Member.

Mr Bell: Thank you, Mr Speaker.

Clause 200 confirms that an application under part XIV shall be held in camera unless the court orders otherwise, and no person may publish anything in relation to proceedings under part XIV without court authorisation.

Clause 201 provides that no person is excused from giving evidence to, or filing documents with, an inspector on the grounds that such evidence tends to incriminate such person. However, the evidence may not be used in any proceedings against that person other than a prosecution for perjury in giving such evidence.

Clause 202 confers absolute privilege in oral or written statements or reports made by inspectors.

Mr Speaker, I beg to move that clauses 200, 201 and 202 stand part of the Bill.

The Speaker: Hon. Member for Onchan, Mr Earnshaw.

Mr Earnshaw: Yes, thank you, Mr Speaker. I beg to second clauses 200 to 202, and reserve my remarks.

The Speaker: Hon. Members, the motion before the House is that clauses 200, 201 and 202 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it, the ayes have it.

Clauses 203 to 207, Hon. Member.

Mr Bell: Mr Speaker, clause 203 states that a company may file a copy of its register of members for registration by the Registrar. If it has done so, the company must register any changes to the register within one month of such changes being made. A company may subsequently elect to cease registration.

Clause 204 makes provision for the optional registration with the Registrar of its register of directors. Where this has been done, any changes to the register must also be registered within one month of the changes being made.

Clause 205 deals with the role of the Registrar. The Treasury appoints the Registrar. The Registrar must be suitably experienced. The Registrar is responsible for the administration of the Bill.

Clause 206 provides that the Registrar shall maintain a register of companies incorporated or continued under the Bill. The register may be kept in such manner as the Registrar considers fit, including by electronic means. The information recorded must be capable of inspection and reproduction in legible and usable form. The Registrar may make regulations to provide for the keeping of the register, the filing of documents and the inspection of the register in electronic form.

Clause 207 stipulates that documents may be filed with the Registrar by such persons as the Registrar prescribes by regulations.

Mr Speaker, I beg to move that clauses 203 to 207 inclusive stand part of the Bill.

The Speaker: Hon. Member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker. I beg to second clauses 203 to 207, and reserve my remarks.

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

Mr Cannan: Hon. Members, clauses 203 and 204 allow a company to elect – to choose – to file a copy of the register of members and register of directors with the Companies Registry. What I am going to ask the Minister is this: please explain the logic behind this optional registration, because can the Minister justify not having this information always available to the public?

Surely in the age of transparency, the public can have the right to go to the Companies Registry to see who the directors are. It is wrong, fundamentally wrong, Mr Speaker, for the companies to choose whether they write the name J Bloggs, director, or withhold that name.

There is so much importance on this one issue, and people will complain. People will complain if they go and want to find out who the directors of company ABC are and find that there is no registration of the directors because company ABC decided, ‘Our secret, boys. We are not going to tell you who the directors are.’

This is not sensitive information, it cannot be sensitive information. The name of the directors of companies is fundamentally important, and unless the Minister is prepared to give an undertaking to change this at the Third Reading and say it is obligatory, I will vote against clauses 203 and 204.

The Speaker: Hon. Member for Peel, Mrs Hannan.

Mrs Hannan: I would support the previous speaker. I think it is important that we do have the directors’ names available for the public domain.

In relation to what has happened in the UK recently with regard to terrorist attacks and threatened terrorist attacks on shareholders, I do think that we should be able to do what they do in the UK whereby making shareholders... they can register with a trust and whatever so their names do not have to be in the public domain so that they can be attacked.

But with directors steering the company in one direction or another and finding out exactly what the company is doing or what the directors are doing, I think it is all-important that we do have the names of directors available for the public, and I hope the Minister will agree with that. I certainly agree with the previous speaker.

The Speaker: Hon. Member for Ramsey, Mr Bell, to reply.

Mr Bell: Thank you, Mr Speaker.

I take on board the comments made by the two previous speakers but I would state that a great deal of research has been carried out before drafting this Bill to ensure that the Bill, as far as possible, complies with international applied standards. We have, in fact, looked at a number of jurisdictions where this type of legislation operates and this limited filing requirement is something which is appropriate in many other competitor jurisdictions.

It does not alter the existing company structures; those companies which are filed under the existing legislation will remain as transparent as they always have been, but the New Manx Vehicle which we are putting together now is a reflection of what is happening in many of our competitor jurisdictions, in the sense there is a limited access to this information by the general public.

However, Mr Speaker, this information in its entirety will be held on file in the office of the registered agent of each company and the Attorney General, the FSC and bodies such as that will have access to that information should any serious enquiries take place questioning the validity of the company’s activities, and the name, of course, of the registered agent is on public file.

So there is a change, I accept that, Mr Speaker. There is a change from what we have been used to, but that information is available. It is on a more limited basis than it has been before, but should there be any enquiries, certainly of a criminal nature or of that type, the FSC and the Attorney General will have direct access to that information. And as I say, that information will at all times have to be held in the office of the registered agent, and that agent has to be on the Isle of Man, so that information will always be accessible.

So, Mr Speaker, I take on board the comments. This is a change with this new legislation, but it is intended to produce a modern product, one which reflects a growing trend across the globe and, in particular, with our competitor jurisdictions, and one which we believe is appropriate for this type of structure that we are putting together.

The Speaker: Hon. Members, I put before the House, then, the individual clauses on this occasion. First of all, I put that clause 203 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

FOR

Mr Anderson
Mr Teare
Mr Quayle
Mr Rimington
Mr Gawne
Mr Braidwood
Mr Shimmin
Mrs Hannan
Mr Bell
Mrs Craine
Mr Corkill
Mr Earnshaw
Capt. Douglas

AGAINST

Mr Cannan
Mr Gill
Mr Henderson
Mr Duggan
Mrs Cannell
The Speaker

The Speaker: Hon. Members, I should advise you that the Hon. Member for Onchan, Mr Karran, and the Hon. Member for Douglas West, Mr Delaney, have both been granted leave of absence from this afternoon.

Hon. Members the motion that clause 203 do stand part of the Bill carries with 13 votes for and 6 votes against.

I now put to you that clause 204 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

FOR

Mr Anderson
Mr Teare
Mr Quayle
Mr Rimington
Mr Braidwood
Mr Gawne
Mr Shimmin
Mr Bell
Mrs Craine
Mr Corkill
Mr Earnshaw
Capt. Douglas

AGAINST

Mr Cannan
Mr Gill
Mr Henderson
Mr Duggan
Mrs Cannell
Mrs Hannan
The Speaker

The Speaker: Hon. Members, the motion that clause 204 do stand part of the Bill carries, with 12 votes for and 7 votes against.

Hon. Members, I put to you that clause 205 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

That clause 206 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Finally, that clause 207 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Hon. Member for Ramsey, we go on to clauses 208 to 212, please.

Mr Bell: Thank you, Mr Speaker.

Clause 208 allows the Registrar to refuse to accept documents filed for registration if the document does not comply with the Bill or any regulations made under it. Acceptance may also be refused if the document has not been duly completed, contains any material error, is not legible, or is not accompanied by the correct fee.

Rejected documents are returned by the Registrar to the person submitting them and are deemed not to have been filed. A person aggrieved by the rejection of a document may appeal to the court within one month of rejection.

Clause 209 enables persons to inspect the documents kept by the Registrar under the Bill. Such persons may also require that certificates of incorporation, merger, consolidation, continuation, continuance, dissolution, re-registration or good standing, or copies or extracts of documents of which the Registrar has custody will be certified by the Registrar. Such documents and certified copies or extracts are conclusive evidence of the matters contained in them and are admissible in evidence in proceedings as if they were original documents.

Clause 210 enables the Registrar to issue certificates and other documents in such form as the Registrar prescribes.

Clause 211 deals with certificates of good standing. Upon request by any person, the Registrar must issue a certificate of good standing if the Registrar is satisfied that the company is on the register of companies and has paid all fees due and payable. The certificate must state whether there are documents on file relating to winding up or dissolution of the company or the appointment of a receiver, or if there are proceedings to strike the company's name off the Register.

Clause 212 states that the Registrar may make regulations to prescribe the fees, duties and penalties which are payable under the Bill. Payment of these form part of the general revenue of the Island.

Mr Speaker, I beg to move that clauses 208 to 212 inclusive stand part of the Bill.

The Speaker: Hon. Member for Onchan, Mr Earnshaw.

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

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

Mr Cannan: Mr Speaker, Members will see that clause 209 begins,

'A person may –

(a) inspect the documents kept by the Registrar pursuant to this Act;

but only the documents kept by the Registrar.

And I want to refer very briefly to clauses 203 and 204. I know they have been approved, but there is no clarity from the Treasury Minister as to how people, in the public interest, how Members of Tynwald, in the public interest, can go and find out who the directors of a company are.

I am concerned that Members of this House have approved a clause that prohibits that access. Unless the Treasury Minister will say –

The Speaker: Hon. Member, can I remind you Standing Orders do not allow you to reflect on a decision that has just been made by the House.

Mr Cannan: I beg your pardon, Mr Speaker, and I stand corrected, sir.

Can I move now to clause 211. The certificate of good standing replaces a certificate of fact for companies formed under the existing legislation. That is because the main reason in obtaining a certificate of good standing or a certificate of fact is not just to establish that the company exists and is up to date, but usually because the enquirer wishes to confirm who the officers of the company are and that they are able to sign documents on behalf of the company.

If it is optional to have directors' details on file, then this information will not be included in the certificate. The certificate would also need to include the name of the registered agent as this entity is able to sign on behalf of the company under the clauses referred to previously.

I suggest, Mr Speaker, that this clause causes confusion and should be completely redrafted, because certificates of good standing, or certificates of fact, cannot properly be obtained because you cannot get the names of the directors if a company does not wish to elect to give that information.

I seriously ask Members to pause and consider what is happening here. I seriously ask you. Clause 211, if you read it carefully, says exactly what I have said: you cannot obtain the necessary information because it is not held on public file, it is only held in the Attorney General's Office. And what good is that to anybody doing proper business activity?

Never mind Members of Tynwald, members between company and company doing business cannot find out who the directors are and get a certificate of good standing or fact. You cannot get these matters discovered.

I suppose that if you want discovery and a Member of Tynwald asked the Attorney General and he refused to give it, then you would have to go to court to get a certificate for discovery. Put it another way, a firm doing business out there wants to find out who the directors are of another company before they do business with them and they do not wish to

give it, they would have to get a certificate of discovery from the court.

Hon. Members, this Bill is serious legislation, and I mean serious legislation, for the finance sector. Clause 211 does not make sense and I suggest... I will be voting against it. I hope as many of you as possible will be voting against it, and then the Minister can either do it at the Third Reading or get a member of the Treasury to sort it out and put it in in the Legislative Council and it can come back for approval.

But at the moment, I suggest to Hon. Members it is just not good enough, just not good enough.

The Speaker: Hon. Member for Ayre, Mr Teare.

Mr Teare: Thank you, Mr Speaker.

Could I just clarify the issue of a certificate of good standing which has been raised by the previous speaker. This merely confirms that the company is in existence, has not been struck off and that its annual returns and all the paperwork which is necessary to be filed at the Registry has been filed and is up to date, sir.

In a previous life, I have had dealings with a BVI company which was incorporated under very similar legislation to that which is before this Hon. House today. I can tell you from personal experience that it was not a major impediment not being able to go to the Companies Registry to find out who the directors and shareholders etc were.

Anybody who wishes to enter into a commercial arrangement with a company would, in effect, do their homework and discuss what the principle is, because you are not, in effect, discussing a business transaction with a nameless individual. It is important that all of us, if we are going to do business, know our customer, and this gives us an opportunity to know our client before we undertake commercial transactions with them.

With that, sir, thank you very much.

The Speaker: Hon. Member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder.

I do believe that this is an issue that should be of great concern to us regarding what information is available in the public domain. The Member who has just resumed his seat said about commercial issues. Commercial issues are quite different if you are doing business on a one-to-one basis with someone. If you do not get that information, you are not going to do business.

But there are other reasons for having this sort of information. Was the company... it says here in clause 209 about mergers, about all of this... a person 'may'... You can sit and require all of this, but if you do not know the whole picture of a company, then it is a real problem.

I have been involved recently in tracking companies and those sorts of things, and if you have not got information, or if there is a difficulty getting information, not from a commercial point of view but from an investigatory point of view, you are impeded by some of this legislation, and I do think it should be of concern to us all that we need to be as open as we possibly can.

This is what we have talked about over time, about being open, about having all of this, and what we are doing now is we are closing down.

I will certainly be voting against if the Minister cannot satisfy me that all of the issues surrounding a company can

be made available to those people that wish to look at not just the commercial side of it, but was it struck off, who were the directors at any one time, what were they doing at any one time. These are the issues that I believe the public should know about, not everything happening behind closed doors. (**Mr Cannan:** Hear, hear.)

The Speaker: Hon. Member for Ramsey, Mr Bell, to reply.

Mr Bell: Thank you, Mr Speaker.

Again, I can understand where some of the comments are coming from on this. I would, first of all, thank my colleague for Ayre, Mr Teare, for his explanation from his own experience in this.

The information which is being referred to is in the hands of the registered agent, and will remain there for any serious investigations which take place, particularly initiated by the FSC and the Attorney General –

Mr Cannan: It is a serious matter.

Mr Bell: – but there may be less information in the public domain for those who simply are inquisitive as to what a company is about.

Those people who want to do business with a company, if they do not get the information they want, will not do business with that company. It is quite straightforward. This is an international business company we are setting up here. It is not intended for your corner shop operation; it is quite a specific type of business that we are trying to establish.

I think my hon. friend from Ayre mentioned his experience with the BVI. There are many thousands now of BVI companies being formed in the Isle of Man to carry on business which is managed in the Isle of Man, and that information is not in the public domain as it is, and that will not change. But the BVI model is one which is increasingly, for this particular type of business, becoming an international model.

There are restrictions of access in a whole raft of other jurisdictions and for the Isle of Man to compete for this type of business, we need to be able to provide the same sort of confidentiality, if it is required, as exists for our competitors.

The Hon. Member for Michael quite rightly makes comment that this is very serious for the financial sector. It is, and it should be remembered that the whole drive to bring in this particular piece of legislation has, in fact, come from the finance sector itself –

Mrs Hannan: Too true!

Mr Bell: It is recognised that there are a very limited number of new Manx companies being formed now under our existing legislation and that the Isle of Man is losing out considerably for the potential business which will flow from that. This business which in the past has come through the Isle of Man has gone to other jurisdictions, and will do so more in the future if we do not have a competitive vehicle.

Mr Speaker, the intent of this is not to cause confusion, as the Hon. Member for Michael has said. We are trying to be commercially astute whilst protecting the good name of the Isle of Man in the process.

This is why, in every case, the registered agent has to be appointed to be responsible for these companies, the registered

agent has to be on the Island, the registered office has to be on the Island, and this information has to be available for release, should serious enquiries be made about these companies by the Attorney General or the FSC. They are well supervised, Mr Speaker.

The concept in clause 211 is actually only dealing with the issue of certificates of good standing – which, I understand, are in place at the moment and are common practice – and, in fact, are exactly as they say. They certify that the company fully complies with the various requirements of the Registrar in terms of the information that is expected of them, that it is generally in good order, but it does not reveal, necessarily, the specific names of the directors or the shareholders. That is the only difference that exists there.

Mr Speaker, the Hon. Member for Michael, Mr Cannan, has again said that Treasury should inform Members. I could, actually, reverse that. I know the Hon. Member has been lobbied by an individual from within the finance industry and it might have been more helpful if the Hon. Member, or that particular individual, had come to Treasury before the Bill had got to this stage so we could explain exactly what is the thinking process that has gone into getting to where we are at the moment.

I would state, Mr Speaker, that there has been extensive consultation on the development of this Bill now for over two years, right across the industry: all sectors of the finance industry, with the FSC, with the Attorney General's Department. We have taken advice from QCs in London and commercial lawyers in London to ensure that the product that we have is both commercially competitive and fully complies with our international standing and reputation.

The assessments we have had from off Island, Mr Speaker, have been very positive in all areas and have been very supportive of what we are trying to do and, in fact, have suggested areas where we could, perhaps, improve on the legislation.

So, a very active consultation process has taken place on this. We have, obviously, been very conscious of the points which have been made by Hon. Members. The last thing we want to do, in any respect at all, bearing in mind the huge amount of work that has gone on over the last few years to enhance the Island's international reputation, is introduce something which will, in any way, diminish it. That is not the intention.

As I say, we believe, and we are assured, that the safeguards that we have put in by insisting that the registered agent has an active role to play in this... and the registered agents are much more pivotal, much more important, in this piece of legislation than they ever have been before with any others.

The key information will be available in their hands, should any serious enquiries be made. We believe the safeguards that we have put in will more than offset the perceived lack of transparency in one or two areas that might occur should certain decisions be taken by the company directors.

The one assurance I can give Hon. Members – and I have said this, I think, yesterday at Second Reading – is that this piece of legislation is a specific stand-alone piece of legislation. It will stand alongside our existing company legislation, so all the requirements of the existing legislation will remain. This is a separate entity as a stand-alone New Manx Vehicle.

It is our intention, as soon as this Bill... hopefully, if it does get the support of the branches and get Royal Assent, that we will be embarking on a thorough overhaul of all

company legislation, not just in relation to this particular type of exercise, over the next 12 months or so. There will be a thorough review of this legislation during that process to ensure that, if there are deficiencies thrown up in the light of experience, that will be rectified at an appropriate time in a Bill later on next year.

So, this is not the end to it, Mr Speaker; there is a great deal of work which will continue on from here and if, indeed, in the light of experience, flaws are discovered, then Treasury will be looking very closely at rectifying the situation.

I can only reassure Members that there has been extensive consultation on this. In any consultation process, Mr Speaker, there will always be one or two people whose views do not necessarily coincide with the majority – and this happens in any process; not just on companies legislation, but on any exercise. We have done our utmost, and I can assure Hon. Members there has been a huge amount of work. I have been involved in it as well in trying to bring the various parties together to achieve a consensus agreement as to the way forward.

The Bill before us today, Mr Speaker, is the result of that consensus. That consensus does cut across the entire financial services industry. But I do accept there may well be one or two people who still feel aggrieved that perhaps all their views have not necessarily been included in the Bill.

Mr Speaker, I do take on board the comments made. I hope that my explanation will go some way to alleviate the concerns of Members. I would ask Hon. Members, please, to support these clauses. The whole Bill is one integrated Bill and, if elements were to be rejected or amendments brought to it, it would totally distort the Bill and start to unravel the fundamentals of what we are trying to achieve.

That aim, Mr Speaker, is to enable the Isle of Man to become competitive again, to start to get back into the international market to fight for the sort of business which is going to many other countries, including the United Kingdom, at the moment, and which is costing the Isle of Man business and, obviously, revenues for Government in the process.

Mr Speaker, I think at this stage that is probably the best explanation I can give. I beg to move the relevant clauses.

The Speaker: Hon. Members, on this occasion, I will again put the clauses individually. I therefore put that clause 208 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

I now put that clause 209 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

FOR

Mr Anderson
Mr Teare
Mr Rodan
Mr Quayle
Mr Rimmington
Mr Gawne
Mr Houghton
Mr Cretney
Mr Braidwood
Mr Shimmin
Mr Bell
Mrs Craine
Mr Corkill
Mr Earnshaw
Capt. Douglas
The Speaker

AGAINST

Mr Cannan
Mr Gill
Mr Henderson
Mr Duggan
Mrs Cannell
Mrs Hannan

The Speaker: Hon. Members, the motion that clause 209 do stand part of the Bill carries, with 16 votes for and 6 votes against.

Now, Hon. Members, I put to you that clause 210 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

I put that clause 211 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

FOR	AGAINST
Mr Anderson	Mr Cannan
Mr Teare	Mr Gill
Mr Rodan	Mr Henderson
Mr Quayle	Mr Duggan
Mr Rimington	Mrs Cannell
Mr Gawne	Mrs Hannan
Mr Houghton	The Speaker
Mr Cretney	
Mr Braidwood	
Mr Shimmin	
Mr Bell	
Mrs Craine	
Mr Corkill	
Mr Earnshaw	
Capt. Douglas	

The Speaker: Hon. Members, the motion carries that clause 211 shall stand part of the Bill, with 15 votes for and 7 votes against.

I now finally put that clause 212 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Hon. Member, we will move on to clauses 213 to 216.

Mr Bell: Thank you, Mr Speaker.

Clause 213 provides that a company remains liable for all fees, duties and penalties, notwithstanding that such company has been struck off.

Clause 214 allows the Registrar to refuse to take action required by the Registrar under the Bill until all fees, duties and penalties have been paid.

Clause 215 contains the power of the Registrar, after consulting with Treasury, to make regulations, generally to give effect to the Bill and specifically in respect of anything required or permitted to be prescribed or provided for by the Bill.

Clause 216, Mr Speaker, enables the Registrar to prescribe templates and forms to be used where specified in the Bill.

Mr Speaker, I beg to move that clauses 213 to 216 inclusive stand part of the Bill.

The Speaker: Hon. Member for Onchan, Mr Earnshaw.

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

The Speaker: Can I just clarify, Hon. Members, that when the hon. mover moved clause 16 he was meaning 216.

Mr Bell: Sorry, Mr Speaker.

The Speaker: The motion before the House is that clauses 213 to 216 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 217 to 221, Hon. Member.

Mr Bell: Thank you, Mr Speaker.

Clause 217 enables a company to apply to court, by petition and affidavit, for a declaration on any question of interpretation of the Bill or the company's memorandum or articles.

Clause 218 is concerned with the interpretation of the Bill. It provides definitions for certain terms used in the Bill.

Clause 219 defines the terms 'company' and 'foreign company'.

Clause 220 sets out the meaning of the terms 'subsidiary' and 'holding company'.

Clause 221 focuses on the meaning of the term 'director'. The term includes any person occupying or acting in the position of director, by whatever name called. Persons who control the powers which otherwise fall to be exercised by the board of directors and persons in accordance with whose directions the board is accustomed to act are deemed to be directors under the Bill.

Mr Speaker, I beg to move that clauses 217 to 221 inclusive stand part of the Bill.

The Speaker: Hon. Member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you Mr Speaker. I beg to second clauses 217 to 221, and reserve my remarks.

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

Mr Cannan: Clause 217, Mr Speaker, is a general clause. I would just like to know, while it says that,

'A company may, without the necessity of joining any other party, apply to the Court, by petition supported by an affidavit, for a declaration on any question of interpretation of this Act or of the memorandum or articles of the company.'

does it apply to any individual who can apply to the court for information regarding the companies?

In particular, what has concerned me is that the Minister has said 'serious enquiry'. Would he like to define, in writing, at some time what a serious enquiry is, because I believe that this is entirely subjective?

Serious legislation requires serious answers. The Minister has said if there is a serious enquiry for a name of a director, you can get it; but what is serious?

Otherwise, as I say, under these miscellaneous provisions, can a person go to the court to obtain what I believe is a human right, the transparency of the business operating in the Isle of Man? I do not believe the excuse that it is British Virgin Islands legislation, therefore, what is good for the British Virgin Islands is good for the Isle of Man. That may not necessarily be true, Mr Speaker.

The Speaker: Hon. Member for Ramsey, Mr Bell, to reply.

Mr Bell: Mr Speaker, I will have to revert to the Hon.

Member, I think, at the Third Reading on this, but I do believe there is a provision in the Bill to enable a shareholder or member of the company to take such action. This is not intended for the normal man in the street to come along and take that sort of action.

I will have to get clarity on that point and come back at the Third Reading, Mr Speaker.

Mr Cannan: One point of clarification. The Minister has said that he is going to come back with this information. Could I say, the man in the street can buy a share and, therefore, immediately become a shareholder, and what I am seeking is that he then have the right to find out certain matters relating to company law within this Bill.

The Speaker: Minister, do you wish to respond to that clarification?

Mr Bell: The only further clarification I can give at this point is that I am advised that anyone in dispute with a company...

Mr Cannan: I am listening.

Mr Bell: ... with the Registrar can apply to the court on that matter. This clause before us is a general interpretation of the Bill for the company itself, but anyone in dispute with a company will be able to apply to the court on that particular matter.

That is the best information I have at this point, but I will get further clarification, if it is needed, to expand on that at the Third Reading.

The Speaker: Hon. Members, I therefore put clause 217 separately, that clause 217 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

I put that clauses 218 to 221 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clauses 222 to 224 and schedules 1 and 2, Hon. Member.

Mr Bell: Mr Speaker, clause 222 confirms that, except as expressly set out in the Bill, the provisions of the Companies Acts 1931 to 2004 do not apply to a company incorporated or continued under this Bill.

Clause 223 deals with offences. A person guilty of an offence under the Bill is liable on summary conviction to a fine not exceeding £5,000 or, on conviction on information, to an unlimited fine. Where offences are committed by bodies corporate, with the consent or connivance of a director, officer or registered agent of such a body corporate, or which are attributable to the neglect of such a person, that person, as well as the body corporate, is guilty of such an offence.

Clause 224 and schedules 1 and 2 state that the enactments specified in schedule 1 are amended in accordance with that schedule and the enactments specified in schedule 2 are repealed in accordance with that schedule.

An amendment is made to the Companies Act 1931 to allow companies incorporated under that enactment to re-register under this Bill.

The Corporate Service Providers Act 2000 is amended to deal with the role of registered agent.

Amendments to section 26 of the Companies Act 1992 and section 11 of the Financial Supervision Act 1998 are also made to reflect the existence of the new corporate vehicle.

The Prevention of Fraud (Investments) Act 1968 is repealed, as is part XII of the Companies Act 1931. The repealed provisions are no longer considered necessary, particularly in light of section 17A of the Investment Business Act 1991 which supersedes them.

Mr Speaker, I beg to move that clauses 222 to 224 inclusive and schedules 1 and 2 stand part of the Bill.

The Speaker: Hon. Member for Onchan, Mr Earnshaw.

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

The Speaker: Hon. Members, the motion before the House is that clauses 222, 223 and 224 and schedules 1 and 2 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Finally, Hon. Member, clause 225.

Mr Bell: Thank you Mr Speaker.

Clause 225 provides for the short title and the commencement of the Bill.

In moving this clause, could I just briefly explain to Members I do appreciate that this is a very complicated, very complex Bill and there are areas in it which clearly need good understanding of what, in fact, is purported. It is probably the biggest Bill we have had to deal with in the last five years, in terms of size and complexity, and it may well be that some of the points which I have tried to explain have not been as clear to one or two Members as Members may well be seeking.

At this stage, could I make a request to Members, if they feel that they still need further clarification of the answers I have given, if they could please come back to me in the next few days, I will ensure that greater clarification on whatever those specific issues might be will be in place in time for the Third Reading so that that explanation can be in *Hansard* for reference into the future.

I thank Hon. Members for their forbearance on this Bill. It has been a very, very difficult Bill to put together. It is a product of over two years' work and consultation with the industry. But I do believe that it will enable the Isle of Man to do what the industry is pushing very hard for at the moment, and that is to enable it to compete more effectively on the international market, which will ultimately bring new business into the Isle of Man and restore the Island's pre-eminent position which it used to hold in corporate activity.

Mr Speaker, with that plea to Members to please come back to me if you still need further clarification, I beg to move that clause 225 do stand part of the Bill.

The Speaker: Hon. Member for Onchan, Mr Earnshaw.

Mr Earnshaw: Mr Speaker, I would just like to second that, and I echo the comments of the Minister, Mr Bell.

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

Mr Cannan: I just want to refer to the comment of the

Minister when he said that he wished people would come and see him. The point is – and I feel very strongly on this – that it is sometimes very necessary that issues are debated in public for the sake of transparency – which I understand is a policy of this Government – and then the matters are recorded in *Hansard* and there cannot then be any dispute on it.

The Minister has handled the Bill well. There are matters on which I am not entirely satisfied, but he has given his answers, they are recorded, and that, I believe, is important. It has been seen to be debated in public and not just nodded through as if it had all been settled in private.

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

Mr Quayle: Thank you, Mr Speaker.

I should just like to express appreciation to all who have been involved in bringing this to this stage today. The Hon. Minister for Treasury will be aware of my contacts with Treasury, and indeed himself, on behalf of the Tynwald Standing Committee on Economic Initiatives and the report last year that went to that hon. place indicating that it was widely known that it would be welcome for this Bill to be enacted.

I therefore congratulate all involved in getting it to this stage.

The Speaker: Hon. Member for Ramsey, Mr Bell, to reply

Mr Bell: Thank you, Mr Speaker.

I thank the Hon. Member for Middle for his comments on this. I can confirm that he has raised this issue with me on a number of occasions. I think that is a reflection of the comments which have been made to him and to the Committee by the industry outside and their urgent belief that this was a very important piece of legislation that we needed to get through.

In answer to the Hon. Member for Michael, can I just clarify the intent of what I was saying. I fully appreciate that this Bill is such an important Bill that it is most important that it is seen to be debated in public. My comments were not in any way meant to limit that.

The comment I was making was that, had we perhaps had more detailed information in advance of the debate, I might have been in a position to give him the specific answer that he was looking for, because some of the issues he raises are technical and I would have been able to ensure that those answers were given accurately, with some confidence, so that they would appear in *Hansard*.

It is not in any way an attempt to try and limit transparency; it was actually an attempt to be helpful to the Hon. Member, and indeed other Members, so that I could be sure, then, of the answer I am giving.

I would repeat, Mr Speaker, if there are still any residual concerns that need to be clarified, please contact me and I will ensure that those are included in the Third Reading for clarification in *Hansard*.

The Speaker: Hon. Members, the motion before the House is that clause 225 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Road Traffic (Amendment) Bill Consideration of clauses commenced

5.2. Capt. Douglas to move.

The Speaker: Hon. Members, we move on to our next item, which is the Bill for consideration of its clauses, Item 2, the Road Traffic (Amendment) Bill. I call on the Hon. Member for Malew and Santon, Capt. Douglas. Clause 1, Hon. Member.

Capt. Douglas: Thank you, Mr Speaker.

It gives me great pleasure to be able to move the clauses stage reading of the Road Traffic (Amendment) Bill, which is promoted by the Department of Transport.

Turning to the clauses and part 1 of the Bill, clause 1 is samples from drivers. Clause 1 permits the taking of blood from incapacitated drivers for future consensual testing, therefore putting them in the same position with respect to testing of drug and alcohol levels as drivers with capacity. The clause outlines the procedure to be followed, and subclause (1) will insert a new section 7DA into the Road Traffic Act 1985.

I beg to move.

The Speaker: Hon. Member for Douglas North, Mr Houghton.

Mr Houghton: I beg to second, sir.

The Speaker: Hon. Member for Rushen, Mr Gill.

Mr Gill: Thank you, Mr Speaker.

I am entirely in agreement with the outcome that this clause seeks to achieve, which is to, effectively, as I understand it, close a loophole. It will allow people who feign or, indeed, people who are genuinely unable to give informed consent to be treated as suspected drink drivers, as opposed to those who are able to give that consent.

Quite clearly, this is unfair, and anecdotally we have probably all heard of occasions where people have actually evaded justice by feigning a lack of understanding to give that consent. So, I entirely agree – and I state that as openly as I can – that the effect of the clause is a positive one.

However, I have been in conversation with the Department – albeit belatedly owing to their staffing situation – and the Department accept, or the Director of Highways certainly would accept, that perhaps the consultation process that they have engaged in should have been more widespread, because this impacts on a very crucial concept about doctors engaging in practices which are potentially against the best interests of their patients. In this case, it is taking a sample to then be used subsequently against that patient.

I am grateful to the Department for issuing a guidance paper about such matters from the BMA, yet at the same time surprised that, having received that, and indeed having lifted this clause pretty much piecemeal from a Police Reform Bill in the UK, and then having gone through all that experience and presumably dotted all the i's and crossed all the t's of the concerns which I still have, they did not engage in a full consultation process to actually go about that in the most thorough manner.

That is a concern, and I think that concern... if I say the

initiative for this clause came, I believe, from the police, it did not come from the Department of Home Affairs, so it is a policy issue which the policymakers, the Department, as I understand, had no input into.

But perhaps even more worryingly, the BMA – who, of course, have to represent the interests of their members and their members' patients – had no input. The input from the medical side was one A & E doctor. It was supposed to be the hospital manager, but the hospital manager – as I will come to in a minute – had no knowledge of this. Certainly, his immediate reaction was the concern that I have put to the House about the best interests of the patients and not putting doctors in a position where they might be required to act against those best interests.

So, this is entirely with support for the principle of the clause, but unfortunately without confidence that the consultation means that, in real time, on a Friday or a Saturday night or whenever in an A & E room, the doctors will (a) have the complete confidence to engage with this law, and (b) will feel that, in doing so, they would be acting within the guidelines of their defence counsel and the ethical codes that they are all bound by.

What I propose is really... and I am conscious that there is another Road Traffic (Amendment) Bill to follow with similar matters in the not too distant future. Obviously, that will have to be in the next year because of the election being upon us, but in the normal course, at any other time in an administration, I do not think this thought I had would cause any great difficulties and that, really, is to make this an absolute watertight process. To do that, as you will see from the document I circulated, I would move:

That clause 1 of the Bill be referred to a Committee of three Members with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876 for consideration and consultation and report to the House at the sitting on 13th June 2006.

This is not a long-winded, convoluted occasion, and I would hope very much that the BMA and the Department of Home Affairs, and anybody who it is relevant to discuss this with, could bring the comfort that the House should seek at this juncture, because, unfortunately, the process that has underpinned this Bill in relation to this clause, in my view, does not bring that comfort.

It would be wrong, therefore, to pass a clause which might actually be unhelpful, and might actually heighten awareness of a loophole, and might actually have the effect of putting medical practitioners into an invidious position in which they feel that they cannot comply with these guidelines without further reassurance from their professional bodies. That reassurance should be given before we pass this as primary legislation, not afterwards.

That, I would say, Mr Speaker, is not just my opinion. If I can read, and pass into *Hansard*, if you wish, an e-mail which I received from Mr Paul Shields at the Hospital Manager's office. It is forwarded from Dr Clague, who, of course, is the BMA representative on the Island. Dr Clague's comment, and if I could read it in full, says:

'I would have thought they would be ill advised to hand over samples that have been taken for diagnostic purposes to the police without being in possession of either the patient's fully informed consent or a court order, but would always advise an individual practitioner to discuss the particular circumstances of any case with a representative from their defence society.'

So, they are not saying no, but they are certainly saying we do not think so. I think it would be a great shame for the intentions of this clause if we did not go through the process that I am suggesting to make it absolutely watertight, so that it will have the support and the wholehearted best practice application of those whom we are tasking under this legislation.

I hope somebody will second that. I hope it will receive not only the support of the House, but particularly of Ministers, because this impacts on the whole process of consultation and best practice in consultation and I hope Ministers will support that principle. I certainly hope that this House will and that we can refer it to the committee as I described, sir.

The Speaker: Hon. Member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder.

I rise to second the amendment that has been moved by the Member for Rushen.

I think there are a number of issues here. There are human rights issues. There are human rights issues of the patient, and I consider that is something that should be considered and has not been considered in this issue. There are human rights for other people as well. There are human rights for the doctor that we expect to take this. We could pass a law tomorrow to say that it is okay for a doctor to rule that somebody could have capital punishment, but that would not be right.

These are the sorts of issues where we are expecting healthcare professionals to do this, when really the responsibility... I know it is at the same time as something else – they are taking blood for something else – but I think it is an issue which we should be aware of. There are issues here that the first responsibility for the doctor or the healthcare professional is to treat that patient.

One of the things that I asked when we moved the Second Reading was if this person has done something – driven, crashed, whatever – why is it necessary to say whether they had been drinking or not? What they have done is they have crashed, they have possibly killed somebody. Why does it make a difference because they have been drinking or because they are under the influence of drugs?

They have done something which is against the law, and it does not matter for what reason they have caused that. That should be looked at and that should be considered. I can understand it if all they had been doing is speeding and you want to know the level so that you can get in there and prosecute, I think that is right; but if they have done something which is clearly against the law – maimed, killed, whatever – why does it matter if that person has been drinking or not? (*Interjection*)

Why does it? They have broken the law.

The Speaker: Hon. Member, can I remind you this is a debate about whether to send the clause to committee.

Mr Rodan: Aggravating factors.

Mrs Hannan: I thought it was about the actual bit itself.

The Speaker: It is about whether or not this clause should be referred to a committee, Hon. Member.

Mrs Hannan: Do I get the chance to come back when

it has been voted on to talk about the issues?

The Speaker: I think I am just really giving some caution that it is not debating the clause as such, it is debating whether or not this clause be referred to a committee. Naturally, Members will drift into the clause as part of their argument, but I think just be conscious of that. That is the point I am raising.

Mrs Hannan: Well, I would like guidance.

The Speaker: I am happy, Hon. Member, for you to go into the clause, but your component was very little on whether or not it should go to committee. I think that is the point I am raising.

Mrs Hannan: I am trying to demonstrate the difficulty with this legislation, and the mover has not explained why it is necessary to make that distinction between whether somebody is under the influence of drugs or alcohol when they have broken the law. I realise that the capacity of law to prosecute in certain terms is greater if they have been under the influence of alcohol and drugs, but I posed that question at the Second Reading and I just wonder why that has not been responded to in addressing this particular piece of legislation.

I do think the issue of human rights, the issue of responsibilities towards the patient by the doctor or healthcare professional, is important. I believe that that should be addressed. I certainly have not raised this issue with the Department of Transport as to who they have actually consulted with, but the mover of this amendment has.

My concern is from a principle. I believe absolutely in human rights. I believe absolutely that people should not drink and drive, but I believe that, from a human rights point of view, this particular issue should be investigated so that the House is satisfied that in introducing this legislation, it actually fits in with our other responsibilities.

What I do not want to see is this legislation being taken to court and being found against. It is our responsibility to make sure that legislation is compliant with human rights legislation before we actually get into a court situation. This, to my mind, is like something that we have fought against in the past to protect everyone involved, to allow the doctor or healthcare professional to get on with the work of treating a patient, and the other thing, so that society has an understanding of someone breaking the law.

I think this takes it just this little bit further – quite a distance further – and I would just like to satisfy myself with regard to a select committee, and I shall be supporting a select committee.

The reason that this does give me concern, Vainstyr Loayreyder, is that the person has actually committed that offence by the time we get to this; this is not prevention. The reason why I was questioning why does it make that difference, I think that is what we should be looking at. And this extension, I think that is what a select committee should also be looking at.

Thank you, Vainstyr Loayreyder.

The Speaker: Hon. Member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker.

I will be opposing the amendment for a few reasons. It has already been mentioned by the mover of the amendment, the Hon. Member for Rushen, Mr Gill, that he is, really, in favour of this clause. He did mention, right at the beginning, that there is a belief, in some cases, that in the past some people who have caused death by careless driving and have, unfortunately, been incapacitated to be able to give consent to a blood sample or a urine sample have not been able to do so; therefore, when they have recovered, they have been charged with a lesser offence than causing death by careless driving.

I think we have to realise that a part of this clause has been lifted from the Police Reform Act 2002, by the request of the Constabulary. The BMA, the British Medical Association, and the Association of Forensic Physicians have issued guidance notes to doctors on how to take blood specimens from incapacitated drivers.

Mr Gill: In the UK.

Mr Braidwood: In the UK, but it also applies... the doctors over here are part of the British Medical Association as well, Mr Speaker, and, therefore, they would go by these guidelines.

It also says in those guidelines:

‘Ethically, it is important to maintain a clear separation between the clinical care of patients who are receiving... and any forensic procedures.’

The BMA have agreed in 2001 that police surgeons should be legally empowered to take blood samples for testing for alcohol and drug levels, without consent from a driver without capacity, after a road traffic accident, and that testing should only occur later, with the consent of the driver.

It is not... and I think it was the Hon. Member for Rushen, Mr Gill, who said it was a quote from Mr Shields that the doctor who takes the blood sample... that should not be given for testing; but it is not the doctor who is in charge of the clinical care of the patient who takes that blood sample. It is normally taken by the police doctor or, if he is not available, another doctor who is not part of the clinical care. And, of course, that sample can be refused if, in the view of the doctor in charge of the patient’s care, taking the specimen would be prejudicial to the proper care and treatment of the patient.

The guidelines are there. It is not the medical practitioner who is in charge of the patient who takes the blood sample. I think the Hon. Member Mr Gill was getting the wrong end of the stick on this. Really, it is already there, the guidance is in place, through the British Medical Association, for doctors who are working in the Isle of Man.

If they follow those procedures, there should not be anything prejudicial to the patient. It is only when the patient recovers that he can give the consent for that blood sample to be analysed. If he does not give consent, then, of course, he can be charged for not giving consent to have that blood sample analysed.

Mr Speaker, I do believe that the Department have done everything possible. They have taken into consideration the guidelines of the BMA and the Association of Forensic Physicians in the UK, which apply over in the Island. Therefore, I do believe that there is no point in supporting the motion by the Hon. Member for Rushen.

The Speaker: Hon. Member for Douglas West, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker.

I will try not to repeat too much of what my ministerial colleague, Mr Braidwood, has said. However, I would draw Hon. Members' attention to page 2, clause 1(2)(a), where it does clarify that the requests:

'shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of A;'

In subclause (3) it talks about 'It shall be lawful...' and goes on to say 'if the practitioner thinks fit'. Therefore, there are two safeguards in there regarding medical care and the medical evaluation of whether it is suitable.

As the Hon. Member for East Douglas has just reported, too, in subclause (4) it explains that the individual from whom the sample would have been taken still will retain the ability to control whether or not that sample is sent away for laboratory evaluation. Therefore, the same rights that a member of the public who is not incapacitated has would still exist for that individual.

As much as I can understand the concerns about human rights, this element came to my attention whilst I was in charge of the Department of Transport and the human rights work both ways. Whether it was raised by an issue on the Island or off the Island I cannot recall at this time, but where an individual has avoided their liability for an offence because they were in a coma or incapacitated during the period of time when the sample could have been valid, this has meant that the injured parties, or possibly the deceased persons, have no legal recourse because that driver can only be charged with whatever is available to the police.

I think the differentiation between the examples that the Member for Peel gives is worthy of clarification. The number of people on the Island and elsewhere who are very concerned about charges of causing death by dangerous or careless driving... this is something which causes major harm and hurt to the people of the Island, because the individual involved has caused a loss of life, yet seems to get away with possibly a very minimal sentence.

The aggravating factor of that person being done for drink-driving makes it that the causal effect of that accident is perceived by the courts and the public to have been the nature of being drunk or under drug influence. If the individual can avoid detection on those grounds, because of this loophole, then he will be denying the authorities the ability to take a charge which is suitable for the offence.

If a scenario exists where an individual, whilst drunk, causes the death of another road user, possibly a pedestrian, no other witnesses in the area, the driver of the vehicle is incapacitated for 24 or 48 hours, there are no other witnesses to the cause of that, the only account of how that accident happened would be by the individual who had been in the car. Therefore, there is a requirement to evaluate whether or not the drunkenness was a contributory factor so that the person can stand a suitable charge. To say that the offence would already have been committed is the very point: will it be a charge which can be allocated to the drink and drugs involved in the offence, rather than just the outcome?

We have all seen individuals who have caused the death of others yet have appeared to get off with very low levels of punishment, and the issues regarding this... I do take some challenge with the hon. mover of the amendment, Mr Gill,

when he refers to this as being purely a police, rather than a policy, issue. As I have explained to the Hon. Member, during my time in the Department of Transport, I had meetings with the police and others regarding legislation and, at that stage, I made it quite clear that I do not see why individuals should avoid their responsibility (**Several Members:** Hear, hear.) in these situations.

Whether the police, directly or indirectly, took that as my support as the Minister for Transport and have transferred that to the support of the Minister for Home Affairs in my current position, as far as I am concerned, it is a policy that I support where individuals who have been in this situation should not have an opportunity of avoiding their legal responsibility.

I think the safeguards in this clause are already there. I think the Hon. Minister has explained the situation regarding the BMA, but also the fact that it would not be somebody forced to do something against any medical grounds, and so I will be opposing the amendment by Mr Gill and supporting the clause as written, sir.

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

Mrs Craine: Thank you, Mr Speaker.

I do not actually have an awful lot to add to the two previous speakers, save to say that the mover of the amendment, in his opening remarks, referred to doctors would be required to act against those best interests, and I would just repeat the fact, the best interests of whom? Certainly not, perhaps, the best interests of the victim.

To that end, I would also say that human rights work for all, and the victim and their families also have human rights. (**A Member:** Hear, hear.) It is our right to deliver to those people an accurate and fair case, and I believe that if there should be an incidence of death by dangerous driving, they have a right for the appropriate charge to be brought against that person, (**A Member:** Hear, hear.) against the perpetrator.

I know that is getting away from the actual amendment, or the proposal for this to go to committee, Mr Speaker. What I would say is that, unless there is the proof to show that appropriate consultation has not been made, then I would not support the amendment, and would say that I think that this is actually a piece of legislation that an awful lot of people on the Isle of Man see as long overdue and will welcome.

A Member: Hear, hear.

The Speaker: Hon. Member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

I also rise to oppose the amendment, and not to add any further to the excellent explanations given by both Ministers in this case.

Dealing just purely with the human rights issue on this matter, the fact that a lot of people are not necessarily under the influence of alcohol in this case, they can have a cocktail of many drugs. They could be on medication or suffering from psychiatric disorders where they are on medication for that and the medication is out of balance. That is what has knocked them incapacitated and caused the vehicle to crash etc.

In their interests, actually having the specimen taken

at the time, or shortly after, they arrive in hospital would, indeed, assist to defend them when circumstances come to law in the courts, the fact that there were other traces of medication where, as I say, the medication had been taken out of order. Diabetics, for instance. That would count that... the blood count on a diabetic if they were, indeed, having a hypo.

There are a number of issues which would be tracked there and then in the blood at the time the thing was taken which would exonerate them from actually drinking, in the case of somebody witnessing that driver being in a public house, yet he had not drunk enough alcohol to be over the limit but he actually took ill for some other medical reason.

That supports the human rights of the person whom the specimen was taken from whilst they were incapacitated.

The Speaker: Hon. Member for Rushen, Mr Gill, to reply.

Mr Gill: Yes, thank you, Mr Speaker.

I have to say, I think, deliberately or not – and you draw your own conclusions – the opposition to this seems to be very much, ‘Oh, you can’t oppose it because, if you do, you are supporting drink-drivers.’ Rubbish, complete rubbish. Every argument that is based on that premise is flawed automatically.

First of all, though, if I could begin by thanking Mrs Hannan for seconding and for her comments. I have little more to add but there are issues that she described here about human rights and about the proper process of legislation, and whether we bring legislation which is rounded and complete and watertight, or whether we bring it well-intentioned but it has not actually been double-checked with the people who will actually have to do the work, and it is not actually compliant with wider ethical and moral and practice issues. So, I do thank her for bringing those points.

Minister Braidwood, of course, opposed the amendment, and he was quite right to say that one of the reasons is because I had stated I agree with the intention of the clause. I do agree with the intention of the clause; I entirely support it. That does not take away anything that I have said; that supports it. I made that clear in my introductory remarks. I agree with the intention of this clause. Unfortunately – I will not repeat myself but I will conclude later by saying – that is not the point. But I agree with him, yes, the principle of this clause is one I agree with.

He also introduces – which is interesting for a Manx Minister – that we have done this in separate legislation, or it has been done in the UK, therefore, we just carry it over here. I would not have a big problem with that if all the relevant bodies who should have been consulted with and would have signed off to it if it was all as comfortable – and I believe it hopefully will be – if it had all been as straightforward as the Minister now says. He did not say it in the consultation process, but now he says it will be okay. We do not know that, and that is what I think he should reassure us of.

Then if I can turn to Minister Shimmin, and again I agree with the majority of what he said. He is in agreement with me. Yes, there are safeguards in this legislation, I agree. He has not made that up. He has not added something new. I agree with that. This closes a loophole and that is a good thing. I agree, entirely agree, that is a good thing. That excess drinking is an aggravating factor in road traffic offences. I

agree; we would all agree. That most appropriate charges should be laid in all cases and we should have evidence to support those charges. I agree; we would all agree. He is not saying something that I am arguing with, and it is disingenuous to suggest that I am.

The Minister agrees with the clauses. He makes no concern, or certainly within this forum he chooses to make no concern, about officers of one of his divisions making policy without reference to him. As a Department Member, I am less relaxed about that than, perhaps, some Ministers around here, but I cannot agree with that.

I cannot agree that you just ask one hotel manager, if you are the Tourism Minister, and because that is the answer you happen to want, you take that as representative of the hotel trade. Or you ask one farmer and you get the answer you want, so you say, well, that is the view of the agricultural society.

Mr Earnshaw: That is what we normally do!
(Laughter)

Mr Gill: I will say no more, but that is –

Mr Houghton: We do at the moment.

Mr Gawne: Speak for yourself.

Mr Gill: And then Mrs Craine, quite rightly, says about doctors acting in the best interests of whom? Doctors have an ethical and professional interest to do nothing which is harmful to the best interests of their patients, and there is obviously good reason for that. It does not mean I am disregarding the interests of patients, or the victims or their families; I am not.

What I am saying is the system that we should deploy, and that legislation should lead, should be the most robust and watertight and, unfortunately, this, in my view, has not brought that comfort. This House cannot vote for this clause without that comfort.

You may say, ‘Of course we can, they’ve done it in England.’ You may say, ‘Of course we can, because it will probably be okay.’ You may say, ‘Well, of course we can, because, if we don’t, we’ll be misrepresented as being light on drink-driving, we’re letting people off.’ None of those are fair arguments, Mr Speaker, none of them, and that is all we have had in opposition to this.

Mr Houghton, in his novel role of defending the interests of defendants and offenders... well, potential offenders –

Mr Houghton: That is better.

Mr Gill: It is a role I have not seen him in, and maybe it is a part of the reconstruction of the ‘new man’ for Douglas North. We will see.

All I am saying, Mr Speaker, is this is an excellent clause if we can vote for it with the comfort that it has the support and the agreement that it will be applied in the manner that we all want it to. Unfortunately, the Department have not been able to reassure us of that. The consultation process was with one doctor in A & E, and they have taken that as on behalf of the medical profession. It was with police sergeants, and that is supposedly on behalf of the police. I know they did try to speak with the Department and there was a communication breakdown, and these things happen,

but there is, unfortunately, no follow-on for that.

I know that this clause is entirely based on good intentions, but as I am sick of hearing, and my mother used to tell me, the road to hell is paved with good intentions. The worst thing we could have is to pass this clause and then, when it is tested, it is found to be wanting in some way, and we actually leave a loophole that, for the sake of referring this to a committee to bring that comfort to this House...

Then we can move it on the next possible occasion and we can unanimously support it and show our determination to apply equal resistance to drink-driving in all circumstances, where it has properly been researched and it has properly been assured that we can have that comfort. Then we can direct unanimously at that juncture. But to get there, we need to, in my view, put this to a committee to consider this, and to consider in short order; it will not take long.

But if I could conclude, the BMA on the Isle of Man – not the BMA in England, as we have heard referred to – you can ignore them, but you are ignoring a professional body who have a role in this. Their spokesperson, Dr Clague, his advice is:

'I would have thought that they would be ill advised to hand over samples that have been taken for diagnostic purposes to the police without being in possession of either the patient's fully informed consent or a court order, but would always advise an individual practitioner to discuss the particular circumstances of any case with a representative from their defence society.'

You cannot say that the BMA on the Island are comfortable with this; not on that basis. Let us make them comfortable. Let us make this a clause which we can be confident will actually do what it says on the tin, which is something we all want, and let us do that by referring it to this committee.

Mr Speaker, I beg to move.

The Speaker: Hon. Members, the motion before the House is that set out on the paper circulated in the name of the Hon. Member for Rushen, Mr Gill, therefore, I put that motion to the House. All those in favour, say aye; against, no. The noes have it, the noes have it.

We carry on with clause 1, Hon. Members.

Mr Gill: Was there a division called there, Mr Speaker?

The Speaker: A division was called after I had said the second no.

Members now can debate clause 1. Hon. Member for Malew and Santon, Members now debate clause 1.

Capt. Douglas: Sorry, I am replying to the debate –

The Speaker: Not yet, sir.

Capt. Douglas: I will carry on with the rest of the clause?

The Speaker: No, no. Wait to see if any Hon. Members now wish to debate the clause.

No? Then reply to clause 1, sir.

Capt. Douglas: Replying to clause 1, Mr Speaker, thank you.

When we took the Bill for its Second Reading, sir, there were a number of Members... and I think all but one have spoken today. That, obviously, caused me personally to research with some of our officers, one in particular, the very points that Mr Gill, in particular, has made today.

First of all, can I say, Mr Speaker, this is not a medical matter; it is a matter for enforcement. I know that people are talking about samples, but it is a matter for enforcement. Mr Gill, I think, was given a copy of the BMA leaflet, and I have to express my disappointment, because if you look at clause 4.4 on page 3, it quite clearly says:

'Legally the decision about whether a person has capacity to give consent to the forensic specimen being taken rests with the police constable. A doctor could not be charged with assault if he or she in good faith took a specimen without consent if the requesting police constable was satisfied that the relevant legal conditions were met.'

A little bit earlier on, right at the beginning, there is a comment, sir, and I quote:

'The police have no powers to take and test blood specimens that are taken as part of a patient's care in hospital.'

There are some basic principles in all this: that a blood specimen may be taken for future testing for alcohol or, as Mr Houghton has mentioned, drugs from a person who has been involved in an accident and is unable to give consent.

If we were to set the scene, sir, for clause 1 in total – and I will set the scene, sir, if I may – an incapacitated driver is under investigation by the police for committing a drink-driving offence. The police require to obtain a blood specimen from the patient for laboratory testing to confirm whether or not an offence has been committed.

What we are actually saying, as far as the constable is concerned, is where a drink- or drug-related driving offence is being investigated and a police constable requires a blood specimen, that specimen may be required where it appears to the constable that (1) the person has been involved in an accident related to the investigation, and (2) the person is or may be incapable of giving valid consent to the taking of a blood specimen and the person's incapacity is attributable to medical reasons.

Legally – and this is from the BMA – the doctor taking the specimen may do so irrespective of whether the person agrees. Ethically, however, the BMA and the AFP believe that doctors should not take these specimens if the patient refuses or resists. We are not saying, as Mr Braidwood has already said... It is not the role of the treating doctor to determine whether the patient has capacity to give consent, or to consider whether the specimen is lawful. His or her role is restricted to objecting where taking a specimen would be prejudicial to the proper care and treatment of that patient.

Looking through the BMA document... And I have to say here, too, Mr Speaker, we did try to consult Home Affairs in December. As Mr Shimmin has already alluded to, there have been conversations. It would be totally erroneous to say that we have not consulted with Home Affairs; we have done. Maybe we should have sat up burning the midnight oil, or whatever, but certainly there has been consultation.

I think when you read through the Bill, sir, you see that there are many protections built in to protect the rights of the person who is incapacitated through drink or drugs.

I think it might be worth just pointing out that when a doctor is looking at and understanding the request for his

consent, he has to take into account quite a number of things. He needs to understand what the request involves and why the specimen is being sought – and this, in all effect over here, would, in fact, be a police surgeon. He must understand any risks associated with the specimen being taken, must understand what would be the consequences of refusing to give consent, can retain the information for long enough to make an effective decision, and can weigh the information in the balance and can make a free choice.

So, there is a lot of, if you like, guidelines to doctors, but I repeat, the doctor cannot be held to be approving an illegal act if he takes such a specimen. It is probably most unlikely that, if the person was expected to recover within a short time, he would take the specimen without his consent anyway, sir.

It is something that people, the police, have guided our thoughts on to say that this is something that should be looked at, and I beg to move, sir.

The Speaker: Hon. Members, the motion –

Mr Gill: Just on a point of order, Eaghtyrane, for clarity, am I able to ask the mover if, when he says the Department of Home Affairs have been consulted, is this related to the police or the Department at the centre?

Capt. Douglas: I have a note here, sir, that we did contact Home Affairs directly, sir. Not the police, the Home Affairs.

The Speaker: Hon. Members, the motion before the House is that clause 1 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

FOR

Mr Teare
Mr Rodan
Mr Quayle
Mr Rimington
Mr Houghton
Mr Henderson
Mr Cretney
Mr Duggan
Mr Braidwood
Mr Shimmin
Mr Bell
Mrs Craine
Mr Corkill
Mr Earnshaw
Capt. Douglas
The Speaker

AGAINST

Mr Gill
Mrs Hannan

The Speaker: Hon. Members, the motion carries, with 16 votes for and 2 votes against.

Clause 2, Hon. Member for Malew and Santon.

Capt. Douglas: Not clause 2, sir, I believe the subclauses...

The Speaker: No, clause 2, sir.

Capt. Douglas: Clause 2 is newly qualified drivers, Mr Speaker, and it is really an extension of the probationary period from 12 months to 24 months from taking out a full driving

licence following passing the test of competence to drive.

We look upon this, sir, as a provision which is a strengthening tool for parents and newly qualified drivers, who are the most vulnerable. It is necessary to ensure that newly qualified drivers have more opportunities to become experienced in driving before the probation restrictions are lifted.

If you like, sir, it is newly qualified drivers, or those who have lost their licence... they might not be young people; they could be people who, for whatever reason, have lost their licence and so they become, once again, a newly qualified driver when they pass their test. They would be expected to understand that they have to wear the R-plates, if this goes through, sir, for 24 months.

Thank you.

The Speaker: Hon. Member for Douglas East, Mr Braidwood.

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

The Speaker: Hon. Member for Douglas South, Mr Duggan.

Mr Duggan: We do put restrictions, Mr Speaker, on these R-plated drivers who pass their tests, but with the ones I see going up and down, 'R' seems to be for racing: they go on like lunatics up and down Marine Drive at night. I have been in touch with the police and I have reported them umpteen times, but they go up and down Douglas Head road, and my constituents are up in arms about them. They are actually pulling up at the top of Douglas Head, throwing litter out and just making a general nuisance of themselves.

I am not against young drivers at all, sir, but believe me, they are causing a nuisance of themselves by speeding up and down and the R-plates do not seem to work whatsoever. You put restrictions on them and there seems to be no limit what speed they go to.

The Speaker: Hon. Member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

I would support the Hon. Member Mr Duggan in his contention in this issue, and I would support the clause for 24 months.

It is really just flagging up once again to the Department about the five-up R-plate drivers, where you have got two in the front, three in the back, and they are in a small vehicle, a small economically built vehicle that is not built for that.

As we know, vehicles of the size that general R-plate drivers, the kids, are driving around are really only two-door hatchbacks and really only designed for two people, surprisingly enough, not five, certainly not even four. Of course, we all are aware how a vehicle behaves quite differently at high speed than it does at low speed.

The purpose of me saying this here is that – and I have said this before in Questions, Mr Speaker, to the Department – would the Department consider bringing in a further Bill – just as a flagging-up measure – that for an R-plate driver, and for those ones who are young in age (anything up to, say, age 19 to 21), before they gain some sense, once they have passed the test and placed in R-plates,

they can have no more than one passenger with them at any one time unless one of those passengers is, say, above the age of 25 years?

This is simply because, if it is a youngster, the probationary driver, who is driving and there is an adult parent in there, or what have you, they will control the driving and the speed, because all I see going on the backs of skips or recovery vehicles are R-plated vehicles that have been driven far too fast and, as I say, quite often with five, or coming down Douglas Head road, as the Hon. Member has already told you, and so on.

I fully support this, but I am just flagging something up as a further improvement for the future, sir. Thank you.

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

Mrs Craine: Thank you, Mr Speaker.

I do not support this. I think that the difficulty that we have had, and continue to have, is one of enforcement. (**Several Members:** Hear, hear.) Whether you are going to make this 12 months, 24 months or three years, it is not worth the paper it is written on if we are not going to enforce it. (**A Member:** Hear, hear.)

I do think that there are some very good drivers, (**A Member:** Hear, hear.) some very good young drivers on the roads. I just do not think that it is a necessary move. I think it is rather draconian to suggest that they should have this extended to 24 months.

I know full well that some young people actually just take the R-plates off the minute they have passed their tests, so what I would say is, this is fine in theory, but in practice is not a measure that I can support. I just think that it is damning young people who are going through the same process of passing their tests as we have done, and I do think that it is unnecessarily restrictive because I do not see the worth in putting this restriction on.

The previous speaker has mentioned about bringing forward other restrictions, and I think that there are an awful lot of suggestions that many of us would have with regard to a further Road Traffic (Amendment) Bill. He mentioned one about having five in vehicles. I think it is not only young people who drive around with, perhaps, more people in the car than they should have. I think it is all of us who would say, well, if there are five seat belts in the car, then you would have five people in the car.

What I would say on that, Mr Speaker, is that I wonder what restrictions are placed on commercial vehicles, because only yesterday I passed a scaffolding vehicle going along the road that had four people in the front cab, obviously overloaded, and no restriction there. Whilst we are honing in on young people, we pass people every day who are on mobile telephones. I must pass five going over the Mountain Road to go home, every single morning and night, and it is not enforced.

There has to be a process of enforcement if we are going to make any headway on these things and this, really, at the present time, is not something that... as it is not going to be enforced, because it has not been enforced, it is not worth bringing forward.

The Speaker: Hon. Member for Douglas South, Mr Cretney.

Mr Cretney: I will be brief, because the points have

been raised by the last Member, really.

I would like to ask the Hon. Member who it is that is going to do the policing? Is it the same people who are doing the policing presently for the use of mobiles, or the people who are doing the policing of restrictions on the speed of heavy vehicles, which we see going along with 40 on the back of them, but it does not always happen, does it?

Can we have some kind of assurance that there is going to be more effective policing of existing laws (**A Member:** Hear, hear.) which are of concern?

At the same time, the other point I would like to have put over, if I can, is, in the period after a young person – it is a young person, in particular, I am talking about here – has passed their driving test and they do have the R-plates, has the Department, or are they intending to, put forward additional educational opportunities for the young people in the period whilst they are under R-plate restriction in terms of conditions on the road, like skid pans? Are we making any progress in terms of an on-going educational process until such time as they are competent on the road?

The Speaker: Hon. Member for Douglas West, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker.

I think, if we are all honest with ourselves, we have speed limits throughout the Island and they are a very blunt instrument, because driving at whatever the limit may be... 30 miles an hour in one set of conditions – daytime, fine weather, nobody around – 30 miles an hour might be appropriate. In difficult conditions – rain coming down, night-time – 30 miles an hour may be classed as dangerous. Therefore, we have a blunt instrument in our town areas of 30 miles an hour where, obviously, around schools and other areas a lesser speed would be more appropriate. (**A Member:** Hear, hear.)

This is a blunt instrument. This is something which does not take into account the majority of our sensible young people; yet I am still supportive of it. I am supportive of it until we can get some of the other measures in place, which the Hon. Member for South Douglas has raised in particular.

Ideally, the target would be that, were a young person to pass their test... They have two main flaws: one is inexperience, road sense, because they are not familiar with and experienced at driving on the roads; and secondly is judgement of and handling speed. Therefore, when a young person passes a test, by the time they have passed the test, it is unlikely that they have ever driven above 40 miles an hour, if indeed that speed. They are then free to go on the roads unsupervised and we restrict them to driving no more than 40 miles an hour in order to try and protect them whilst they are getting used to handling it.

The target must be the idea of giving education from appropriate instructors, which may mean that they can remove these R-plates prematurely, as you do with motorbikes, in order to evidence your skill, in order to be able to say, yes, you have got past that stage to the next level.

But the infrastructure is not there yet and the message going out, or that should be going out, loud and clear here – and with later clauses regarding seat belts – to the young people, to the new drivers and, importantly, to the parents is that this is the most vulnerable age that any young people will be in a vehicle.

The measures proposed by the Member for North Douglas regarding the number of people in a vehicle cause me concern, as a father of two children. Yes, there is an attraction for going out with a group of friends in a vehicle and, as parents, certainly we should be exhibiting a degree of influence over our children to ensure that they do not go out on the Marine Drive in a car with five people in it, that we are not unaware of where they are, because there is far more potential for harm to these young people by being in a vehicle than there is by some of the other antics that they might get up to on a Friday night. (A Member: Hear, hear.)

This is the most vulnerable area for the safety of our young people and the message, in my view, sent out with this clause is this is dangerous. The inexperience of drivers endangers themselves and others and we, as a body, are being asked to say we will put in a measure to highlight that to the young people, to the parents, to other road users.

If we can then supplement that in the future with a measure which says, once you have evidenced and experienced, with an instructor, driving at 50, 60 miles an hour, have proven yourself able to judge speed, both of your vehicle and others, then we will be able to make an amendment to this.

I think the most dangerous element is... the most dangerous manoeuvre any car driver normally does is overtaking and yet, with the mechanism of the test and the restrictions at the moment, it means that they get very little experience of doing that difficult manoeuvre. What we have got to do is concentrate on education, give opportunities for advanced training once they are post-test. But also, in the meantime, until we can do that, let us send out a message that this is a dangerous time and people need to be aware of their inexperience and the potential risk.

So, I will be supporting it, but I do not think there was ever an intention from the Department to ignore the valid comments that have been made by Hon. Members to date.

The Speaker: Hon. Member for Peel, Mrs Hannan.

Mrs Hannan: I wonder if I could ask the mover whether there has been consultation with the police in regard to this increase from 12 to 24 months, because if the police are asking for it, if the police are requesting it, if the police are going to police it, then that is a different thing altogether. I find so many times we pass legislation which the police want but, because it is something that is policy developed by Members because of their concern, it is not policed.

We have a number of road issues on which we pass legislation here and it is maybe implemented and it is maybe not. It is maybe an issue that is dealt with and maybe it is not. We have just had a speaker who has got up, after three-and-a-half years in the Department of Transport, saying now we have got this, we will be able to develop something else. Has road safety of young drivers not been an issue over that three-and-a-half years?

It certainly was during my time. The pressure that I came under over that time was in regard to them not passing their written test prior to going out on the road. There were all sorts of other issues coming through about looking at risks when they were driving and they had to pass that sort of test. Was that ever brought in? There are these sorts of issues.

Young people think they are not expendable, that they can do exactly what they want and it is not going to have any effect on them whatsoever. They have witnessed these adults driving around, they have witnessed these adults driving and

posing. Who does not pose, of all us lot, driving our cars? We have to have a big car. (A Member: No we don't.) We have to have something which is an extension of ourselves. Young people see that as well – (*Interjections*)

The Speaker: Hon. Members, you will have your chance.

Mrs Hannan: Young people see what we do, and we are supposed to be responsible adults, but we still pose in our vehicles as an extension of ourselves.

Mr Houghton: We do not do handbrake turns round corners, Hazel.

Mrs Hannan: We still pose, Mr Speaker, that is what I am saying, and I think until we take a long, hard look at how we drive and how other people perceive us driving and other adults driving, of course we are going to have young people who want to do all of the things which they perceive that adults have been able to do over the years.

Yes, there should be more education, there should be more controls, there should be all of these sorts of things. We should take them out on skid pads and all the rest of this so that they can cope with issues. How many times do we go round a corner and we skid and we end up facing the other way? Not very often, but when it does happen, how do you deal with it? You are supposed to drive into the skid. Not many of us would be able to do that.

There are all these sorts of issues, but I think all of us would want to see the situation improved whereby young people have more about them to deal with the issues, and I am not sure that 12 to 24 months is going to do that.

I would prefer to see a six-month probationary period where, after they have passed their test, they have to go through a number of issues, such as maybe driving at speed, such as on a speed track, such as all of these, driving at night, driving in serious conditions, and all the rest of that, then after that, they might be able to have this extension for six months. But I am not sure what 24 months is going to do.

We have got to try to break the psyche – and I believe most of the drivers have this psyche – about the vehicle being an extension of themselves. We have got to get around that, as opposed to extending for 24 months.

As Members have said, they just take off their Rs, their Rs are thrown in the back, and they can just drive. That will happen because, as Members have said, around here, if they have got Rs on, they should not be carrying any more than two people. If they want to carry their mates, the R comes off and they carry their mates.

Let us look at being more imaginative and not rest with the police, who do not police these issues such as seat belts and such as phones, and try to address it in some other way. The Department of Transport has a difficult job to do, but there are more things than just doing this. Without the police being on board absolutely, totally, then it is certainly not going to work. I only have to look in my area with yellow lines and that sort of thing; I just wonder why the public purse wastes money putting down yellow lines when nobody takes any notice of them.

Thank you, Vainstyr Loayreyder.

The Speaker: Hon. Member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker.

I will be brief. I just wanted, really, to associate myself with the remarks of the Hon. Member for Ramsey, Mrs Craine, who suggested that this is a tinkering-around clause, I think, and I am very much in tune with that.

We have strayed into speed issues with recent speakers. It is not really a speeding clause; it is not a speeding debate we are having here. I think we are all aware – and the Hon. Member for West Douglas, Mr Shimmin, referred to this – the speed issue, in my view, and a lot of other people's, relates to inappropriate speed, and that can change on a daily basis with weather conditions etc.

This clause is very much about R-plates and the extension from 12 months to 24 months. Will it make any difference? I do not think it will, so I think I will be joining several others in here and voting against this clause.

The Speaker: Hon. Member for Rushen, Mr Rimington.

Mr Rimington: Thank you, Mr Speaker.

Unlike the previous speaker, I will be supporting this clause. (*Interjection by Mr Cannan*) I think that this is a valid way to go in the concerns that we have had and the debate we have had about speed limits and consultations etc and trying to address these issues.

In my mind, the issue which has brought it to focus most strongly in recent years is the number of deaths of young people. (**Mr Shimmin:** Hear, hear.) We have been provided with statistics that deaths have remained fairly constant over the period of time, and that may well be; however, it is those deaths of young people that have really upset the public psyche and upset ourselves.

It motivated the activities of the Department of Transport in this direction, whatever you might think of those activities. That motivation has come from these areas, and this particular measure here is one that is trying to address that, because it is predominantly young people who are taking their driving test for the first time. Possibly, if there was a saving grace, somebody who is over 25 would, maybe, not have to go through that 24-month period. That could be considered at a future date.

In my opinion, it is... and I am not being disrespectful to young people in this regard. I know from my own personal experience of two young people, one who I would consider to be eminently sensible, never likely to go above the speed limits or do hazardous manoeuvres or whatever, and the other one cannot wait to put his foot down. I would be very pleased with this provision being in law to actually be a restraining influence, or potentially a restraining influence, on that.

I would further suggest... and the hon. Minister has sent out regulations for consultation on this, and I am afraid I did fail to respond. I actually started drafting something but never got to send it. On this particular area of newly qualified drivers, in terms of regulations, yes, let us look at whatever jurisdictions do in this respect and see if there are areas of innovation.

I certainly tapped into the New Zealand experience. They have particular measures there which, I am not saying could be lifted wholesale to the Isle of Man, the restrictions there, but do actually give food for thought in terms of restricting newly qualified drivers from taking passengers, or driving at certain times during the night, albeit with appropriate exceptions. There may be mileage in those areas which, I think, are worth looking at.

One particular provision that they put in there which, I think, is certainly worthy of incorporation, possibly into regulations, is the reduction in the permitted alcohol level from 80 milligrams, or whatever it is, down to 30 milligrams for newly qualified drivers, which means that anybody who is driving in the newly qualified status is, in effect, in danger of being prosecuted. You cannot have a zero limit because sometimes you can take a cough sweet, or whatever, and there is an element of alcohol in that.

There could be some mileage in looking at those provisions, but I support the clause as is.

The Speaker: Hon. Member for Douglas East, Mr Braidwood.

Mr Braidwood: Thank you, Mr Speaker.

Just following on from the last speaker, the Hon. Member for Rushen, Mr Rimington, when he says we know ourselves that the highest percentage of deaths of people under 25 occur by road accidents. That is why insurance companies, generally after 25, your premiums are reduced.

I would just like to follow on what the Hon. Member for Douglas South, Mr Cretney, said, that is there going to be any more education for when newly qualified drivers pass their test? I have been in discussions with the Deputy Chairman of the Institute of Advanced Motorists seeking his advice. In actual fact, they do run courses for young people. There is a reduction in the cost, and I think it is only about £75, and that could be for about six or seven lessons with an advanced driving instructor.

What the Department is looking at is, when a newly qualified person passes the test, they will receive a congratulations card, but there will also be a leaflet which will tell them that they can go on courses with the Institute of Advanced Motorists. There are other organisations on the Island as well who will take young people out to improve their driving techniques.

We are conscious of the need to educate people. We know it is not all down to speed and it is all education as well on the individual drivers. Again, I think what it sends out is a message: if we are increasing the R-plate to 24 months, it is because of the restriction on those younger people who have the most accidents.

I think, as well – and it has been mentioned – that the enforcement... we know that people take their R-plates off so they can drive around at any speed. It does come down to enforcement. I do believe – and there is another Road Traffic (Amendment) Bill coming through – that if people are caught who have taken their R-plates off, then they should be banned and have to take their test again. They have to be taught, even if there are draconian penalties brought in.

I will, of course, be supporting the clause, but rest assured that the Department is looking at improving the driving techniques for young people who pass the test by being in correspondence with those associations who will take them and try to teach them better techniques.

The Speaker: Hon. Member for Douglas North, Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder. Just a few very quick points, Vainstyr Loayreyder.

I think the Hon. Member for Peel was quite right with her ideas of being more innovative in how we tackle this particular

issue, but also, I fully support this because, at the end of the day, we need some teeth to fall back on, basically. If there is no back-up to what we are trying to do, whether it is innovative education or enhanced driving tests and ways that we do those, which I fully support and have always advocated... there needs to be some backbone in the background of it as well, otherwise the initiatives have a danger of failing.

I also have to support my colleague next to me, Mr Houghton, in his call for the Department to further examine passengers carried in our vehicles, especially under 25s and especially the use of the two-door hatch which is commonly used. It is cheap to buy; you can pick up a reasonable one for around £500. It may have five seat belts in, but it sure is not designed to cram five people in. Deadly dangerous, and that certainly needs to be looked at: the amount of people an R-driver can carry and what ages they are.

Gura mie eu, Vainstyr Loayreyder.

The Speaker: Hon. Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker. I shall be brief.

This particular clause talks about newly qualified drivers and I think the House must not be under the impression that all newly qualified drivers are young people. There are lots of newly qualified drivers who are actually getting on a bit. They can be equally as hazardous by driving too slow on a road and slowing down traffic too much. I would not like the focus of attention to be always on the youngsters.

Yes, we do have a problem here. We do have an organisation, they call themselves The Boy Racers. The Boy Racers have a meeting place in Douglas, (**A Member:** The Bottleneck.) and I know all about The Boy Racers and what they get up to. (**Another Member:** Douglas Head.) Of course, their pride and joy is their vehicle and they do their vehicles up and they have fancy exhaust systems put on, they have fabulous stereo systems put in and booster speakers in the boot, and all the rest of it. (*Interjections and laughter*)

Mr Speaker, I am the parent of two young boy... they were boy racers. They have actually got to the age now where they are beginning to mature and show a little bit more sensibility in terms of these things. I have been there, done it, seen how they do it and I know all of their friends that partake in the sport, and it is a sport.

Yes, education has got to come in but they have got to be further enticed to want to do it, not just, 'We will teach you better technique.' That is an insult to a boy racer because he thinks, because he has got one hand on the wheel and he can do bends and corners and all the rest of it at excessive speed, that he is driving rather well.

So, if we are going to encourage them to want to get better training, to be safer, to have more regard and a duty of care on the road, then there has got to be a whole new approach in how to deal with and speak to them and the language used to young people who are newly qualified drivers. I am afraid imposing all manner of archaic, as the Minister next to me described, restrictions is not the way to engender their participation and their eagerness to want to participate.

We need some young sorts, I would suggest to the Department. I do not know if the road safety committee is still sitting at the Department, I think they are, but what I would suggest is you get a youth road safety committee going so that you get the young people in there. That is how you start to give them more responsibility, get them involved in how to

make driving safer for everybody, and we might get a success story there. That is what you have got to do. You have got to engage with the young people themselves.

The one thing I am disappointed about with the Bill is that I would have liked it to have gone one stage further. I appreciate, as we just heard from the Minister of Transport, there is another Bill in the wings and it is coming, but we do not know what is going to be in it.

I would have liked us to have passed legislation by this House, before this House folds, to require that anybody who is driving a vehicle and has to display a tax disc also has to display an insurance certificate or proof that they are fully paid up and fully insured, because a lot of these things, when you see the result of an accident... Or you see the result, as often occurs in East Douglas, of where vehicles are damaged some time in the night. The owner gets up in the morning to find his vehicle outside his house, which he parked safe the night before, has been totally written off.

In one case fairly recently, there was another car that was actually stuck to my constituent's car, and that was the offending vehicle that had, in fact, caused all of the damage. The poor police officers were totally frustrated to discover that, although it was taxed, there was no valid insurance. The so-called registered owners had to be traced back three owners prior, so there had been no compulsion on new owners, or the first owner who sold it on, to register that that had been done.

As it worked out on this particular one, they were itinerant workers on building sites, so they had soon scarpred and, of course, left the vehicle there. As the constituent, the owner of the damaged vehicle, had only third party, he had no insurance cover with which to cover the cost of a replacement vehicle. Worse than that, they had just returned from holiday and still lying in the boot were two brand new bicycles belonging to his children that were also written off. He had no means with which to replace those.

That is just one very small story but there are lots of those stories, and it comes down, a lot of it, to the fact that the person has not got the appropriate insurance or has no insurance at all. I would like the Department to start working on how we can remedy that situation.

Mr Braidwood: Motor Insurance Database.

Mrs Cannell: Motor Insurance Database, the Minister has said. I would have liked the opportunity to have taken in this piece of legislation... to have moved that on a bit.

Overall, I will be supporting this. On its own, extending the time that you have to display your R-plate from 12 to 24 months will achieve little, unless we, or the Department, perhaps, takes note and does start to pull in the young sorts in terms of how they can make driving safer. I feel sure, if they thought that by participating in this, making things happen, that we were not going to get an all-Island speed limit, they might want to participate a little bit more to prevent that from happening in the Isle of Man.

The Speaker: Hon. Member for Malew and Santon to reply to the debate.

Capt. Douglas: Thank you, Mr Speaker.

May I just say, before I reply to Members' comments, that there are a number of amendments which I should mention within the new clause 2. They are, basically, where

we are moving words. In 6B(1) 12 months is substituted by 24 months. So, I would draw Members' attention to the fact that, by bringing in this new clause, it is changing some of the old parts of the Act.

If I may, sir, I would like to start with the R-plates. Mrs Cannell was actually the one person, I think, who latched on to the fact – and I think Mr Earnshaw did as well – we are talking about newly qualified drivers here. Yes, there are the 'grey Ls' and there are other people who are starting to learn to drive cars. A newly qualified driver is somebody who is taking their test. They may have taken their test 40 years ago and lost their licence, for whatever reason; they do become newly qualified drivers.

It is interesting, when we have been consulting, that the usual answer to the question, 'When did you last look at the highway code?', is quite remarkable. Most people say, 'When I took my test.' People imagine... I have had somebody say to me there are home-made signs at Windy Corner because they have got some yellow cardboard or something on the back. Well, they are not home-made signs, they are actually advisory signs. I am sure those we have got in this House realise that if they are in a triangle they are advisory. There is not a 40-mile-an-hour speed limit around Windy Corner; it is just advising people to go at 40 miles an hour.

I make that point because people do not always... they have not this afternoon picked up, truly, apart from one or two Members I have mentioned, about the R-plates. The idea of the R-plates is, really, to give people a little bit more experience; it is not to label them. Yes, we do know that people throw their R-plates and their L-plates into the tip, but I think... I have had a message from the Minister for Home Affairs and he actually has apologised that he did not quite get this message out during his speech.

We are, I suppose... A lot of the things you are seeing here today are as a consequence of the first consultation. Many of the things today that various Members have mentioned will find their way into the second Bill, and I am pleased about that and I thank Members for that contribution.

It is a fact that, with the Home Affairs, with the police, our partners... the Chief Constable was on the radio the other day saying that we have a good relationship, and I thank him for saying that. There has been a reorganisation within the police force and localised policing. You see it now round about the towns and the villages of our Island. I saw two this morning in my own village in Ballasalla. There is a joint purchase scheme, I think, for a mobile camera for detection.

I would like to say we are not in the business of either – I am sure I speak for Home Affairs; I am certainly speaking on behalf of the Minister in DoT – we are not out to criminalise people; what we are trying to do is to get people to understand that culture has got to change. It is no longer going to be kind of okay if somebody gets killed. It is not okay. It is not okay for every person in that family where they suffer a severe accident or, worse still, a death.

The police have also been tasked with a high level of enforcement of traffic offences, so already we are seeing the team starting to gel together through the road safety campaign. I thank Mrs Cannell for mentioning about the young people perhaps getting a seat on a new safety committee. We have already sent out an invite to a gentleman to join our road safety committee, and perhaps that is something that we should follow with enthusiasm, get a younger driver. I know my Minister is listening, so perhaps we will see something like that coming in.

Going down through from Mr Duggan, Mr Duggan is quite right, they are speeding. It almost seems that you get an R-plate on, you are okay. I see their eyes light up when they come through Ballasalla and turn left at the Old Bakery. They see a piece of empty road ahead of them and away they go. But all of this is to change a culture; it is to get people to understand that a car is, in fact, a weapon in the hands of an idiot.

Mr Houghton, I thank him. He made some good comments about enforcement, some of which I have touched on today. The further Bill will bring in some more improvements, largely along the lines with education to the fore again.

Mrs Craine, I thank you for your comments. You are talking about it being draconian. I do not think there is anything draconian about giving somebody a bit longer to learn to drive properly. I think if we go at it with a will, I am sure we can persuade people, when they have got R-plates on, they have got a serious responsibility to drive. 'R' for responsibility, I suppose. I just thought of that.

Mr Henderson: Nice one, Andrew.

Capt. Douglas: It is not just aimed at young people, it is everybody. Comment has been made about older folk driving. They are probably terrified when they are driving at 40 miles an hour and I just hope that they do not take the comments that have been made here, or maybe misinterpreted... we love them all but there is a way of driving sensibly, whether it is fast or slow.

There are existing laws, and I think there is a nice comment I have got here, 'Lack of enforcement is not an argument. It is just not an argument.' If lack of enforcement –

The Speaker: Can I just interrupt, Hon. Members. The background noise is tending to get rather loud, Hon. Members.

Capt. Douglas: Perhaps it is my voice going up.

Mr Earnshaw: We are getting revved up.

The Speaker: Continue, Hon. Member.

Capt. Douglas: If lack of enforcement guided our legislation, we would half what exists, we would only have half the laws, and I thank the former Chief Minister for that comment, it is very valid. We do not catch all drug pushers, do we? But we keep the law in place. So, it is no reason, if we do not stop people crashing speeding cars, to do away with it. I thank Mr Corkill for that one.

The Home Affairs – and I know this is close to the heart of Mr Gill in Home Affairs – and the fire service have been doing a tremendous job. They are going into the schools and they are showing the dangers of vehicle driving, and this is all part of a partnership. I went along to the fire station and they showed us the latest state-of-the-art equipment. It is fantastic, and they are very much partners.

I think also, again staying with Mr Shimmin, I did mention a bit earlier about the first consultation, and there has been a lot learnt here today. I am sure Mr Houghton, sitting behind me, will have made some notes about all this.

Mrs Hannan is rightly concerned – we have all been concerned – about the enforcement, and lots of people have said that. 'Save the trees.' I cannot see the point at all in going down to six months. That is the wrong way if we want all our

people to be around for a long time.

I take note of Mr Earnshaw's reasons for not supporting it, noting the speed situation, I think it was.

Mr Rimington, as ever, gave deep thoughts to his points he made, and I thank you for that. It is the deaths of young people; that is what motivates me. To think that, the other week, I should have been celebrating a 60th birthday with my brother, who was 23, and when there are other people on the Island who have got those sorts of thoughts, it is not very nice.

But it is very important that we look at other restrictions. I know he has not spoken today but one of the finest bits of consultation I personally have had... and I pay tribute to Mr Teare, he sent me a wadge of stuff. It must have been sitting on his computer for years, I think, but what it did... I have been wading through it and the best thing I have got out of it, I would have to say, is that all the countries around the world, they are all different.

You have got people driving in the States, in America, at 14 years of age – I am sure one of them drove me in Alaska last year – and it is hard to compare like with like. But what we are finding is we are on the right track, we are not alone in these problems. So, I thank Mr Teare for giving me a load of homework, but it is well worth it, and I do consider that part of the consultation process.

I think a reduction in alcohol, I think that came from...

Mr Shimmin: Me.

Capt. Douglas: Yes, it is you. I thank the Minister. We are looking at that. There are some difficulties but that, I hope, could very well be in the next Bill.

I thank the Minister. He is always good to come out with some good points, and he has been talking about education. We already educate motorcyclists. They go down to Port Soderick and they have some driving tuition before they are actually allowed to start driving, to learn to drive on the roads. I am quite sure that what we would like to see is getting people some help, if they do have accidents, where they are actually re-taught, if you like, to drive. That, I hope, is coming along fairly soon.

My good friend Mr Henderson, here, he is supporting Mrs Hannan's comments, but he actually went on to say that we need more teeth. I think what he is saying is, yes, it is okay, we can support some of the moves, but we have got to see the other members of our team, such as the police, supporting us.

The point was well made about second-hand cars with youngsters and passengers, perhaps, without seat belts. We have seen some terrible accidents already in the last two years, so that is why we hope that you will only be allowed to drive a car with the number of people in that there are seat belts for, and that would seem eminently sensible.

Mrs Cannell, I have mentioned her earlier on, but she mentions about the boy racers. Yes, their vehicles are their pride and joy, and long may that continue, but let us hope that they put some of their brains into thinking about not frightening people when they go up and down on the longtail racecourses which we know exist all around the Island. I would just ask them to spare a thought for, perhaps, older people, not giving them so many frights. But I think the good one that has come out –

Mr Henderson: They will turn their pride and joy into a coffin.

Capt. Douglas: Yes, pride and joy into a coffin, that is quite right. And you only get one coffin; you might get more than one car.

It is a good idea, and I thank Mrs Cannell, about talking a bit harder to the younger people, and that is a worthy suggestion. She also mentioned – and I am nearly finished on this, sir – the comments on insurance. The good news is, after what might seem (**A Member:** A long time!) forever and a day, we have actually now had an e-mail contact with the Motor Insurance Bureau and it now looks as if –

Mr Anderson: Read it out for us.

Capt. Douglas: – that is going well. What they are saying here, and I will not read it all as it is quite long –

Mr Cretney: Circulate it.

Mr Houghton: Circulate it.

A Member: We've known about that for some time.

Capt. Douglas: Yes, I am sure we can get that out to you, but the last few words here are:

'I am confident we will be able to reach a resolution shortly.'

For those who do not know, it means that, when you are away and you have a bump, they have got free access to your insurance details in England and our cars that are insured in the Isle of Man (I think there are 104 insurance companies operate in or on the Isle of Man) but we cannot do that here.

So, once we get that database up, a lot of the administration – which, I think, Mrs Craine mentioned in the last... Mr Teare may have mentioned it as well... It is great that we are getting somewhere at long last, and I acknowledge and salute one person in particular in our Department who has been, every day I think, trying to get these people to move.

With that, sir, I beg to move.

Several Members: Hear, hear.

The Speaker: Hon. Members, the motion before the House is that clause 2 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

FOR

Mr Anderson
Mr Teare
Mr Rodan
Mr Quayle
Mr Rimington
Mr Gill
Mr Gawne
Mr Houghton
Mr Henderson
Mr Cretney
Mr Duggan
Mr Braidwood
Mrs Cannell
Mr Shimmin
Mr Bell
Mr Corkill
Capt. Douglas
The Speaker

AGAINST

Mrs Craine
Mr Earnshaw

The Speaker: Hon. Members, the motion carries, with 18 votes for and 2 votes against.

Clause 3, Hon. Member.

Capt. Douglas: Thank you, Mr Speaker.

Clause 3 is entitled 'Payment for driving instruction' and clause 3 will enable the Department to ensure that only approved driving instructors can take payment for driving tuition. This will ensure that people giving driving instruction where reward or other benefit, for whatever express purpose, is received are required to be registered, just as if they were being explicitly paid for instruction.

Mr Houghton, Mr Gill and Mr Karran actually made comment on this and, I think I might have said the last time, it is to close a loophole whereby learner drivers have been trained to drive by people who have failed to pass the approved driving instructor (ADI) examination but act as if they are registered ADIs by providing driving tuition for payment.

In paragraph 3 of schedule 4 of the Road Traffic Act 1985, the following substitution would be made. In subparagraph (1) it requires that no paid instruction shall be given in driving instruction unless the name of the person giving the instruction is in the register of approved driving instructors (ADIs) or is the holder of a current licence granted under schedule 4 authorising the person to give such instruction.

Subparagraph (2) deals with the special case of the motor dealer, and what this means is that a dealer must not give courtesy instruction to a provisional licence holder, e.g. in a vehicle he is supplying or hoping to supply, unless he is a registered approved driving instructor or licensed training instructor. The dealer cannot otherwise let a learner driver drive during a trial drive, such as in the hope of supplying, as I have said, a car to that learner driver.

Subparagraph (5) requires, subject to subparagraphs (2) and (7), in subparagraph (1), instruction is paid instruction if instruction is given in return for money or money's worth provided by the person being instructed.

New subparagraph (7) means that where instruction is given for payment for the supply of a vehicle for instruction, vehicle expenses incurred in supplying or running the vehicle used for the instruction, or any instructor's expenses in respect of the instruction, if payment is given to the instructor, it will be paid instruction.

In subparagraph (8), instruction given as part of a commercial promotion will be classified as paid instruction.

It is not the intention to stop parents teaching kids, children or young people to drive at all, sir. These are clauses where, as I say, it is to remove the loophole whereby learner drivers are being trained to drive by people who have failed to pass the approved driving instructor examination but they act as if they are registered ADIs by providing driving tuition for payment.

I beg to move, sir.

The Speaker: Hon. Member for Douglas East, Mr Braidwood.

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

The Speaker: Hon. Member for Douglas North, Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker.

I have been in correspondence with my hon. colleague here and his Department, to which I am very grateful, but I would just like, for the purpose of *Hansard*, on this matter to clear up these two points once and for all.

As we can see in paragraph (7)(a):

'Instruction which is given by, or in pursuance of arrangements under which the consideration is provided (...whether directly or indirectly) for or in respect of –
(a) the supply of a vehicle for instruction;'

That could be that parent. I am not interested in somebody trying to provide instruction by the back door because he has failed his driver's certification and otherwise he would be a professional driving instructor. What I am looking at is subparagraph (7)(a):

'(a) the supply of a vehicle for the instruction;'

and if we go to page 9 –

'shall be deemed to be paid instruction.'

The supply of a vehicle for the instruction... shall be deemed to be paid instruction. It rings to me, still, that a parent or another person, and I am one of those, who provides their own vehicle for not a penny to that person to drive, teaches them for not a penny, it shall be deemed to be paid instruction.

I really would just like, for the purposes of this, for the Member moving this to state that a person, like a parent, who supplies a vehicle for instruction is not going to be in contravention of this paragraph, because I cannot read it as any other way. As I say, I am grateful for the advice that I have been given. As far as the Bill is laid out, if it can be given as a categorical no by the hon. mover.

The only other part I have is the fact that subparagraph (7)(b) says:

'any expense incurred in supplying or running the vehicle used for the instruction;'

What about fuel? Again, Mr Speaker, in my case, I provide the vehicle and the fuel for the person to learn to drive, and I am sure many others do. But what if you pulled up at the petrol station and the learner driver said, 'Here, I'll put the tiger in the tank.' (*Laughter*) 'I'll put the fuel in. I'll pay ten quid for the fuel that I've used for me to drive. Thank you very much, I'm getting free instruction, but I want to pay for the fuel.' That could be deemed to be paid instruction.

Can the Hon. Member state, in those two cases that I have laid out, that in this case they will not be deemed to be paid instruction? Otherwise, I think we are going a little bit over the top here (**A Member:** Hear, hear.) to stop an unauthorised instructor who is going by the back door (that the Department has known about). It could really bring harm by prosecuting people who are teaching, and who are capable of teaching, learner drivers to drive, who could be caught in this net, sir.

Thank you.

The Speaker: Hon. Member for Rushen, Mr Gill.

Mr Gill: Thank you, Mr Speaker.

Just further to those points under (7)(a), (b) and, indeed, (c). We have heard the two examples. Under (7)(c), a third

example might be that you are out instructing a learner driver in a vehicle. They have not paid for petrol, they have not paid you anything, but under (7)(c), 'any expense incurred by the instructor...', they say, 'Well, before we head home we'll stop and we'll get a bite to eat somewhere,' or whatever, would that be an expense?

I do not doubt that the Department's intention is that they would never prosecute, or the police would never prosecute, anybody for this. We will never know; we look for that reassurance. But what about the insurance implication? If you are engaged in this activity – and in the introduction the Member said it was not the intention to stop parents giving driving instruction – if under any of those points that the previous speaker has mentioned, or that example, or any other permutation of those, you engage in that and you quite genuinely state that, but you have an accident, does that mean that your insurance is void? Does that mean that you will be liable to some kind of charge for driving without appropriate insurance?

I am sure that the Department will have engaged in consultation with the –

The Fire Alarm sounded

The Speaker: Hon. Members, I adjourn the sitting.

*The House adjourned at 5.05 p.m.
and resumed its sitting at 5.22 p.m.*

Road Traffic (Amendment) Bill Consideration of clauses concluded

The Speaker: Hon. Members, after that slight break, we will continue. Mr Gill, do you want to continue where you were, sir?

Mr Gill: Yes, thank you, Mr Speaker.

Mr Cannan: We have forgotten what you said, sir.

Mr Gill: I think, Mr Speaker, I was up to the point of concluding by saying could the mover just bring us some reassurance and comfort about matters of insurance, about particularly (7)(a), (b) and (c)? I appreciate his comments that this is not aimed at parents offering instruction, but that is not what it says here, from my reading, and that gives me a concern.

I just wonder if the mover can categorically assure us that there are no insurance issues, there are no prosecution concerns about a parent who would like to, as we have heard the previous speaker say, engage in the entirely commendable activity of teaching their children, or other children or young people or, indeed, any other person to drive using their own car.

Obviously, I am not suggesting that will be an alternative to having professional paid instruction, but the two sometimes are complementary and I just want that system to be allowed to continue. (**Mr Houghton:** Hear, hear.) Maybe if the mover could quite clearly confirm that my concerns are unfounded, sir?

The Speaker: Hon. Member for Malew and Santon to reply.

Capt. Douglas: Thank you, Mr Speaker. I did think for a moment you were going to get me to go back to clause 1 again, sir, but anyway...

In the timely interval we have just had, sir, I had a chat with the DoT team. There is no intention here whatsoever – and I can make it clear for *Hansard* – to interfere with the usual facilities that parents and friends etc have had in teaching. This is merely to close a gap where there are people... We have excellent driving instructors who have taken their test, they are fully booted and spurred as far as teaching people to drive is concerned, sir, but this is for the rogues, the people who have not passed their ADI exams and they decide that they will still carry on earning a living and masquerading. That does not do much good to the people who have followed the system through and are properly qualified.

As Mr Gill has just said, there is no substitute, really, at some stage, for people using the ADIs, the proper driving schools, to teach the finer points to whoever it is. I confirm, also, for Mr Houghton.

So, this is not an anti-parent/uncle/aunt clause. It is merely to make sure that the right people, who earn a living from driving, make their living in the proper manner. It is not to take money or stop people... the thought-police coming along and catching people like Mr Houghton – perish the thought – teaching somebody –

Mr Earnshaw: Put him in the van!

Capt. Douglas: – to drive, which he has probably done for years. But I would also add that, of course, it is incumbent on everybody who is teaching somebody to drive to tell their own insurance companies that they are doing that. That still remains with the owner or the driver of the car.

I think I have answered the fears that have been indicated by the two Hon. Members, Mr Houghton and Mr Gill, and I beg to move, sir.

The Speaker: Hon. Members, the motion before the House is that clause 3 do stand part of the Bill. All those in favour, say aye; against, no. The ayes have it.

A division was called for and voting resulted as follows:

FOR	AGAINST
Mr Anderson	Mr Gill
Mr Cannan	
Mr Teare	
Mr Rodan	
Mr Quayle	
Mr Rimington	
Mr Gawne	
Mr Houghton	
Mr Cretney	
Mr Duggan	
Mr Braidwood	
Mrs Cannell	
Mr Shimmin	
Mrs Hannan	
Mr Bell	
Mrs Craine	
Mr Corkill	
Mr Earnshaw	
Capt. Douglas	
The Speaker	

The Speaker: Hon. Members, the motion carries, with 20 votes for and 1 vote against.

That the House do conclude its sittings for the Session 2005-06 on 27th June 2006 at one o'clock.

Members: Hear, hear. Agreed.

**Sitting of the House on 27th June 2006
Agreed to finish at 1.00 p.m.**

The Speaker: Hon. Members, I think that is an appropriate time to conclude the business before the House. Just before I adjourn the House, Hon. Members, I seek agreement from the House, as I do annually:

The Speaker: Thank you, Hon. Members. The House will now stand adjourned until Tuesday next, 30th May, at 10.00 a.m., here in our own House. Thank you, Hon. Members.

The House adjourned at 5.27 p.m.