

Road Traffic and Highways (Miscellaneous Amendments) Bill 2011
First Reading approved

3. Mr Callister to move:

That the Road Traffic and Highways (Miscellaneous Amendments) Bill 2011 be now read a first time.

The President: We go on, then, Hon. Members, to our third Item on the Order Paper, which is the Road Traffic and Highways (Miscellaneous Amendments) Bill.

This time it is Mr Callister, and again, it is a Bill down for First Reading.

Mr Callister: Thank you, Mr President.

This Bill, which is promoted on behalf of the Department of Infrastructure, is a far-reaching affair, which affects the law on road traffic and highways in various ways and it has evolved in part from proposals contained in the then Department of Transport Road Safety Initiative 2004.

I think Members will have now received a set of explanatory notes which are somewhat amended from the Green Paper simply to take into account the changes that have been made in the other place.

Of the Bill's principal provisions, the most weighty are those set out in part 2, dealing, as they do, with the amendment of the Road Traffic Act 1985. This part has three key themes. First, to deal with bad or irresponsible driving, whether it involves, for example, carelessness or danger, driving when prohibited from doing so, drink-driving, speeding, etc and to cater for the punishment of offenders in accordance with the Department's and, indeed, the general public's increased perception of the gravity of the offences involved. Thirdly, to provide, in the interests of justice, a wider range of alternative verdicts so that, in any given case, lesser offences may be created by the courts in the event that the principal offence is not proven.

Dealing with those themes in order: first of all, this part begins by creating new driving offences: causing serious bodily harm by dangerous driving; causing death or serious bodily harm, respectively, by careless or inconsiderate driving; and causing death by driving, while unlicensed, disqualified or uninsured. The principal purpose is to deter, by way of punishment, actions or omissions of a particularly injurious nature that, in the public mind, evoke disgust, extreme repugnance or horror. So deterrence, both specific and general, is a predominant factor, but there is an equally important purpose, namely retributive justice, which in its classical form embraces the idea that the amount of punishment should be proportionate to the amount of harm caused by an offence.

Despite criticism in recent years, the concept still remains a central pillar of criminal law. When the penalties for the new driving offences are compared with those for the existing offences, it is considered that they are proportionate and complementary. Hon. Members will, of course, be aware that the penalties are, in fact, maxima and that it will be for the good sense of the courts to determine, within prescribed limits, whatever penalties are appropriate in any given case. The provisions will provide the utmost flexibility, ranging from trying a case summarily, or on indictment, depending on the seriousness of the case, to imposing penalties, on conviction, that may involve a simple fine, custodial sentence or a combination of the two.

This part goes on to provide for the seizure of motor vehicles in cases where the persons in question are prohibited from driving them on roads. The underlying policy is based partly on the impropriety of permitting persons to retain possession of their vehicles when, for example, they are charged with driving while disqualified, or with committing a serious driving offence connected with drink or drugs, in case they should be tempted to re-offend before their cases are disposed of, partly on the risk to the safety of the public, if the vehicles are retained by the persons in question and partly on the desirability of providing a further deterrent to persons driving on roads when they are prohibited from doing so.

By virtue of regulations to be made under the provisions, it is intended that vehicles will be kept in storage until a court orders them to be released to the owner or otherwise disposed of. Where, for example, the court convicts a person of an offence to which the seizure relates and orders the vehicle to be sold, it is intended that the proceeds of the sale will be given to the owner, but minus the Police's expenses in seizing, storing and selling the vehicle.

Drink and, in certain cases, dangerous driving is further addressed by catering for increased minimum periods of disqualification, partly, as elsewhere, to deter unsafe driving and partly to remove unsafe drivers from roads. As Hon. Members will be aware, Mr President, this part does not, in the case of certain drink-drive offences, amend the present blood-alcohol limit of 80 mg in 100 ml of blood by lowering it to the level of 50 mg in 100 ml, which is operative in most European countries but not in the UK. The Department, however, proposes to keep this matter under review and will determine whether to promote primary legislation at a later date to introduce a lower limit.

Speeding is a problem. Accordingly, this part substitutes numbers 1 to 10 for the three penalty points. This is to enable a court to respond more flexibly in the light of the circumstances of a case and provide a greater

deterrent to excessive speeding. Marginal exceeding of speed limit would attract penalty points at the low end of the scale, grossly excessive speeding at the high end, with intermediate speeding in between.

As far as the second theme, the punishment of offenders, is concerned, this part provides for increased penalties by way of amending schedule 6 to the Act. In particular, the maximum custodial option is increased from 10 to 14 years, on conviction, of the offences of causing death by dangerous driving and causing death by careless driving when under the influence of drink or drugs.

These increases reflect partly the Department's and, indeed, the general public's increased perception of the gravity of the offences, and partly widespread concern at the very lenient sentences imposed by the judiciary, sentences which, even in the most serious cases, are invariably below the maximum. Raising the maximum penalties is seen as a way of raising the general level of sentences.

Excluding penalties for new offences and increasing penalties for certain existing offences, broadly in line with inflation: this part imposes increased penalties in the case of certain other offences, reflecting the Department's heightened perception of their gravity. For instance, in the case of driving a vehicle while holding a mobile telephone in the hand, the maximum penalty is increased from £1,000 to £2,500 and provision is made, firstly, for discretionary disqualification, obligatory endorsement and four penalty points; and secondly, for a court to order the mobile telephone to be forfeited. For instance, in the cases of failing to stop and report an accident, of making false statements and withholding material information, the custodial option, in the first case, is increased from three to nine months and, in the second, is set at three months for the first time.

If the Bill is enacted in its present form, it will enable the punishments in schedule 6 and in certain other Acts to be varied by Order, subject to Tynwald approval.

As to the third theme, the catering for a wider range of alternative verdicts, the provisions in this part are preceded by existing ones in the Act and in the Criminal Jurisdiction Act 1993. If the principal offence with which a person is charged is not proven, it is in the interests of justice, if there is a lesser charge or charges to answer, that they should also be considered. Safeguards for defendants answering lesser charges are provided by affording them the opportunity of cross-examining witnesses whose evidence has already been given, otherwise answering the charges and requiring the court to adjourn hearings when it considers that defendants will be prejudiced in their defence by reason of the new charge or charges.

Among matters of lesser weight, Mr President, addressed by this part, there are the Manx Highway Code, supplementary regulation of paid driving instruction, conduct of inquiries by persons independent of the Department and the stopping by the Department's examiners of vehicles on roads for testing when a constable in uniform is present.

Turning to the rest of the Bill, which involves a miscellany of lesser amendments – principally the Road Traffic Regulation Act 1985, the Highways Act 1986 and the Road Transport Act 2001 – the amendments to the 1985 Act include prohibitions on double parking and parking adjacent to dropped footways etc, facilitation of the use of the Island by the film industry, clarification and amendment of the provisions about the placing of traffic signs, and they go on to fine-tune certain provisions of traffic wardens, consequent on the transfer of responsibility from the Department of Home Affairs to the Department of Infrastructure, and to deregulate certain other provisions.

The amendments to the Highways Act deal in part with the recovery of the Department's expenses due to extraordinary traffic on highways, the creation of walkways by agreement, being rights of way on foot in developments, such as comprehensive shopping centres and blocks of flats, thereby better enabling access by the Police to maintain public order, and the deregulation of the temporary closure of highways for the purposes of entertainment, so that closure may be effected by direction of the Department instead of a Statutory Order.

The amendments conclude, first, by catering for the cutting of trees and other vegetation overhanging highways in a dangerous and obstructive way when such cutting has not been attended to by the owners or occupiers, together with the recovery from them of the Department's expenses in cases where the Department carries out the work itself. And, second, by providing for agreements capable of providing means of access to other facilities in connection with highways, being agreements mostly followed on from planning permissions, which, if they are implemented, require the works involved to be carried out. And, finally, by enabling the better reinstatement of highways or bridges by statutory undertakers in cases where such bodies have opened up highways to gain access to their apparatus.

Finally, the amendments to the Road Transport Act which deal at present with the registration of licensing public passenger vehicles by the Road Transport Licensing Committee, enable such registration or licensing to be refused, suspended or revoked by the committee on health grounds and regulations to be made requiring that when application for registration or licensing is made, it shall not be granted by the committee unless, in addition to the existing requirements, such requirements, as may be prescribed, are met.

During the Bill's passage in another place a small number of amendments were carried. First, in the driving offences, grievous bodily harm: 'serious' was substituted for 'grievous' on the grounds that the latter expression, in view of its connotation with wounding with intent, was thought to be inappropriate – 'grievous' was thought – because of its wounding with intent, that it was inappropriate.

Secondly, the offence of 'causing death by careless driving or inconsiderate driving' was inserted as one of the lesser alternative offences that may be considered by the courts in the event that the principal offence of 'causing death by careless driving while under the influence of drink or drugs' is not proven.

And, finally, a number of clauses were not moved, namely, clauses 38 and 56 on traffic wardens, because they had been superseded by the Transfer of Functions (Traffic Wardens) Order 2011, and also clauses 41, 45 and 52 on the topic of improvement lines, in view of concerns about their impact on affected persons.

All in all, Mr President, the Bill will make a material contribution to road safety, besides providing for other matters equally in the public interest.

I beg to move, Mr President, that the Road Traffic and Highways (Miscellaneous Amendments) Bill 2011 now be read for a first time.

The President: Mr Crowe.

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

The President: Mr Downie.

Mr Downie: Thank you, Mr President.

Could I, first of all, take this opportunity to thank the mover, Mr Callister, and the officers from the Department of Infrastructure for coming along yesterday and explaining in much more detail some of the issues regarding the Road Traffic and Highways (Miscellaneous Amendments) Bill. I thought it was very useful, and I am very supportive of the way the Department has looked at some of the new offences – causing death, causing serious bodily harm and so on. There is no doubt in my mind that our law in that particular area is severely wanting, and this particular section will deal with that, I think, quite adequately.

Where I have other reservations is later on in the Bill. We are looking at issues regarding increased penalties for driving with mobile phones, as was mentioned yesterday, and I would like the mover, for the next sitting, if he could come back and tell us how many offences have been to court and how many people have been prosecuted for speeding with R-plates, speeding in regulated commercial vehicles or whilst driving on the telephone because, in all honesty, Hon. Members, we are passing legislation but there is nothing being done to address the problem. For example, I was down at the Quarterbridge waiting to be picked up the other evening and in five or six minutes I counted 19 people on the telephone, driving through. There is absolutely nothing being done to tackle this problem, and the problem is getting worse and worse. If you want to drive on the telephone, you go and buy a Bluetooth or you buy a suitable set-up so that you are hands free. There is provision to do that and it is not expensive.

Also in the Bill there is the issue about drink-driving, which I am sure Mr Lowey will tell us, when he speaks on this, we are much more aware of these days but it is still a problem. It is still an issue. The message really is not getting across.

If you want the message to get across, you do what they have done in other jurisdictions, and you physically take that person's ability away to drive for several years. That is the only thing that is going to force them into... if they want to go for a drink, go for a drink, by all means, but leave the car at home and do not do any driving.

My understanding is that, in the UK now, if you are driving around in a car which is not taxed or insured, or there are other issues relating to it, it can be seized and crushed – destroyed. You would only have to do that two or three times in the Isle of Man, and you would find that there are many more people paying their road fund licence or their insurance. So let us get real!

I watched a programme on the TV, two or three weeks ago, which said that they thought that up to 20% of vehicles on the roads in the UK were not insured. I would love to know what the number is in the Isle of Man and as was said at the presentation yesterday, we either need to go in for this number plate, where all the information is available and easy to understand and be disseminated by the Police, or we need to be showing on the windscreen the receipt or the sticker to show that the insurance premium has been paid for that year.

I think the Isle of Man is a fairly affluent place, now, and there is no need for people to be driving round without insurance or road tax. We have seen all the old bangers go, the older vehicles that were in poor condition have gone off the roads, and I think we have got the balance about right. We do not have testing in here but, within the legislation, there are opportunities for the authorities to carry out spot checks to make sure that vehicles are being properly maintained. Some of you, when you go home from this place when it is dark, how many vehicles will you see on the roads with lights out? I frequently go out and I can count 15 or 20 people with one headlight. So, somewhere in the system either the Police or the group of people who are responsible for road safety are really not getting to grips with these matters.

As I support the Bill and I support road safety, and I support trying to do what we possibly can to reduce the number of accidents, it works both ways and there has got to be a much more serious approach taken. Even in my day, I was a hothead, a young man on a motorbike and fast cars and so on, but a policeman would pull you

over and he would give you a good talking to. Meet me halfway: find a policeman for me to even see on the road these days. I think that is part of the problem. It is all about education and it is about getting the message across. I think the Bill goes some way to deal with some of the issues that have been sadly wanting for some time.

The President: Mr Turner.

Mr Turner: Thank you, Mr President.

I echo the sentiments of Mr Downie with regard to the helpful presentation yesterday. I think that was very useful in preparation for today.

There are a number of very good provisions in this Bill.

As we see, it is a Miscellaneous Amendments Bill so it does incorporate all sorts of things. One of the things that the mover mentioned was speeding and I think speeding is something that will always be there. I think, though, that speed is often blamed for incidents where, quite often, faster speeds do not necessarily mean more dangerous driving. The corner at Brandish, for example, is a faster corner, but it is far safer to go round. You are not bottlenecking into that awful junction where it was very, very tight. You do go round it quicker, but a lot safer.

Mr Braidwood: Windy Corner

Mr Turner: And Windy Corner as well, and which I think Mr Braidwood may have been the Minister at the time – hence why he is pumping me!

Mr Braidwood: And Brandish! (*Laughter*)

Mr Turner: So he is obviously very proud of those projects.

I am conscious, though, that when the mover mentioned speeding that the frustration by a lot of motorists is the number of speed limits that appear unnecessary, where you go from 30 mph to 40 mph to 50 mph, to then derestricted, and you do not know whether you are coming or going. The Peel road is a prime example and it seems that, sometimes, the Department will bow to very minor pressure and put these limits in.

I am fully supportive of speed limits in places such as villages, residential areas and round schools. Instead of having the Police – and I know this is more for the Department of Home Affairs, but the Department can encourage them to do this, if they are going to be bringing in these offences, they do not need to be sitting up on roads where there is nothing going on; they need to be in the residential areas and around schools doing the enforcement. Quite often, they will go up... I know why they sit at the bottom of the likes of Hillberry: because they get them coming down the straight, but there are other areas where there is speeding through residential... and areas past schools. That is where they should be firstly concentrating their resources on enforcement. So if they are going to be bringing in stiffer penalties, then somebody whizzing out in the middle of nowhere, who is not really affecting anybody but themselves, is less of a priority than where there are pedestrians and schools and so forth. So I hope they will direct their resources. You will never, ever stop people speeding. It is something you will not be able to do.

Mobile phones, Mr Downie mentioned. Myself and Mr Braidwood were involved with something a couple years ago, and the Police were very reluctant to do anything about it. As for forfeiting mobile phones, I think it is a complete waste of time because you can get a free one – you can go to the garage and get a free phone at the garage. I just think that is a complete waste of time. Again, if there is a lack of enforcement policy, then we can legislate all we like.

I did mention to the mover at the presentation that I am sorry they did not take the opportunity to review the driving age. The suggestion I had when I was at the Department of Transport was that they allow people to gain a provisional at 16 but they are not eligible to go in for a test until 17. They were tinkering about with all sorts of ideas – you hold a provisional for a year and all of this sort of carry-on. I do think that a policy like that would be quite helpful, where... they may not get a year's driving, they may choose not to do so, but it would at least prevent under-17s from getting behind the wheel whilst they may be quite immature. That, sadly, was not taken up.

I think I heard the mover correctly when he said about forfeiture of vehicles and sale of vehicles, that the proceeds go back to the owner. I think there is a missed opportunity there where they should have said the proceeds will go to the Department for improving the roads. As the Hon. Member, Mr Downie, said, you would only need to do a couple of those for the message to get through. I think if something is seized, we have in other areas... I know if it is in serious crime where the proceeds of crime goes back to the Department for various measures. The Department, I think, should have written that power in so that, if the vehicle is seized and a court

decides that it is going to be sold, then that funding should go back to maintain the roads which, as we know, are in an appalling state.

Other provisions in here... I think another opportunity may have been to look at short-term bans for people, to give them a taster of what it is like without their driving licence. Whereas a long-term ban may have a very serious effect on their families and employment, a short-term ban, where they have to maybe use the bus for a couple of weeks, or a month or whatever, may well be quite a good deterrent for people for lesser offences to –

Mr Butt: They can do that.

Mr Turner: I am told they can do that – maybe they are not being used enough, then.

Moving on, I think the Highway Code... there is a provision in here to issue a Highway Code. This, of course, is not new, but I think some of the provisions may be added. Again, I think a higher cost of a provisional licence and issuing all applicants for a provisional licence with a copy of the Highway Code – it should come with your pack. If the Department is keen on promoting this, if you are expecting them to trail off to a newsagent's or whatever, to buy a copy... well, most people probably do, because they need to learn it for their test, but nevertheless, almost an induction pack, issuing a copy of the Highway Code and, indeed, charging for it – add the cost to the cost of a provisional licence... Often people say to me driving is not a right; it is a privilege. You have to earn that privilege by passing the competence to drive.

There are various other things, Mr President, that I will go through, during the clauses stage, but if I may just draw attention to page 41, where I think this is a very good provision. I think it is one we have talked about. In clause 43, it says:

'For section 38 substitute –
"... The Department may close any highway' –

Mr Braidwood: Mr President, clause 41 has been omitted.

The President: *Page 41* he is looking at.

Mr Braidwood: I thought he said 41.

Mr Turner: No, page 41 – where the Department may close a highway to facilitate entertainment, and entertainment includes festival, parade, display, exhibition, performance, amusement, game, sport, race or competition. So presumably now we have the ability to successfully close the highway for the Soap Box Derby and other such entertaining events, which we are, a number of us, convinced they had, anyway, including you, Mr President. I think that is a sensible provision for this and I look forward to more information as we go through the Bill.

I am broadly in support. There are a few things I may comment upon as we go through, and possibly may consider tabling amendments, but at the moment, Mr President, I support the First Reading.

The President: Mr Butt, Hon. Member.

Mr Butt: Thank you, sir.

I will just make a couple of comments and I have one query for the mover. I realise this is not a road safety Bill as such, but I think there are some missed opportunities here.

Actuaries, who work for insurance companies, are very well paid people and they know exactly where the causes of accidents come from. Basically, it is people under 23 and my research into accident figures has shown exactly the same. In nearly all the fatal accidents over many years in the Isle of Man, the majority have come from motorcyclists – by the nature of riding a motorbike, it is dangerous – and young people in cars, at a young age, who often go out with their friends at night and, like I probably did in my day, an element of showing off and speeding, and we have some really serious accidents. I spent five years as a scenes-of-crime photographer, photographing these accidents in the late 1960s, early 1970s, and saw some very horrendous sights, and they continue to this day. Most times, you will find it is young people in cars who are being irresponsible.

I think this Bill has missed the opportunity of doing some of the things they do in other jurisdictions. In New Zealand and other places they have such items as a curfew for young people of a certain age so they cannot go out at night with their friends in a car, or not allowing passengers to be in with them, so the element of showing off with a group of girls or mates disappears.

One proposal I put to the Minister was to increase the penalty points for young people to six penalty points so they have only got one chance before they get disqualified. On that point I have a query. The mover mentioned that you can have flexible penalty points for speeding, between one and 12. I did not find that in the Bill. Is it in this Bill? Does that mean the High Bailiff or whoever could actually give six penalty points instead

of three – or 10, if they wished to – to bring them nearer to disqualification? If that is the case and they can do it for speeding, they should do it for driving without due care and attention as well because it is the people who have the accidents, often young people, who need that shock to say it is not just three penalty points; it is seven or eight penalty points and ‘the next time you have an accident, you are off the road’. So can you confirm, is that in the Bill – for the mover – that you have flexible penalty points for speeding? Maybe they should be there for due care as well.

My other query is to do with the offence of causing death by careless driving. I know why that is there: because it is often very hard to prove dangerous driving. There is often a big grey area between driving without due care and dangerous driving, which is hard to prove. It is also there to satisfy, to a certain extent, the family of the deceased person, because they really feel aggrieved, sometimes, when there has been a death, but there has been no action taken of a serious nature. I would prefer to see causing death by careless driving being only an alternative to driving dangerously, as an alternative verdict for a court, rather than charging somebody with that offence, because... and then I come to the other offence of driving and causing serious harm.

I am concerned about that because you can have an accident, a minor bump at, say, Quarterbridge roundabout. Your action is careless. You have an accident. The occupant of the other car can be uninjured or, by pure chance, can hit their head against the windscreen, or it could be an older person who breaks their hip and they could have a serious injury. For the driver, it does not change their actions in any way whatsoever. Their method of driving is consistent, whichever happens. The degree of the injuries should not be a factor, really, as to what they should be prosecuted for. That is my view, because things can happen in accidents which are unforeseen – like a motorcyclist can come off at 80 miles an hour and walk off unscathed or he can fall off at 20 miles an hour and have broken his legs. But the actions of the person immediately before the accident do not change: the intent is no different; the level of carelessness is no different. I think it is wrong that the injury that is caused should be a factor to create a different charge. If there is a serious injury caused by dangerous driving, that... [*Inaudible*] That is my only query on that, Mr President.

Overall, I will support the Bill. Just to confirm that there are short-term bans. Mr Turner mentioned that. We used to, years ago, in TT week, disqualify bikers for seven days, sometimes eight days, so they had to wheel it onto the boat as well. (*Interjection*) Oh, they can, and sometimes they do disqualify for a month etc. That does happen.

As for the mention about drink-driving, the figures have stayed consistent over many years but I honestly believe drink-driving has reduced hugely in the Isle of Man over recent years. The numbers of people caught are the same but there is a lot less drink-driving going on. I know the Department does work hard to try to improve safety.

I do think there is a missed opportunity here to be imaginative in some areas, especially to do with the driving behaviour of young people. Thank you.

The President: Mrs Christian.

Mrs Christian: Mr President, many of the points I was going to raise have been covered and I think there are some elements of this which are good and others which are a bit concealed.

I think we have got to go through this quite carefully and understand what the interpretation of the measures is. To give an example: unauthorised placing of traffic signs, £1,000. What is the definition of a traffic sign? If I put a sign out saying I am moving cows on a road, or a triangle with a cow on it to warn the traffic that there may be movements of stock on the road, is that placing of a traffic sign, and is that something that is going to require me to ring the Department to report that I am going to put that sign on the road? I think that is overly bureaucratic myself.

So I do think that we need to understand just how far some of these one-line provisions extend. The fact that we have local events where we go to the police station and get a sign from them which we put out, saying ‘Police slow’ or whatever, is that the placing of a traffic sign, or is that something separate? Is that something that we have to have approval from the Police to put out?

I think some of this does need fairly careful scrutiny, although there are some very practical and sensible provisions in it.

The President: Mr Braidwood.

Mr Braidwood: A lot of the points have been covered. One was mentioned by Mr Downie on cars which are driven round and are not taxed or insured and he mentioned – and I know a few years ago we looked at this, about a chip in the number plate, so it would be registered that that vehicle was insured or not and over the last five years I know the Department has been trying to get access to the motor insurance database, which I do not think is through yet. In the UK the police can check immediately through the motor insurance database if that car is insured or not. Unfortunately, at the present time over here we can’t.

I know Mr Downie mentioned about having an insurance disc in the windscreen, such as the tax disc. At the present time I know they do that in the Republic of Ireland but, of course, over here it would be restricted to just the insurance companies who would be on the Island. A lot of people deal on the internet for insurance and, of course, they would not supply such a disc which would be in the windscreen. So really, I would be very interested to know, as well, how many cars? The probability, I think Mr Downie mentioned, about 20% of vehicles in the UK which are not taxed or insured and I would like to know those figures myself. It is the insurance, particularly, over here, that the number of vehicles which might be driving round and I am just wondering how long it is going to be before we get access to this motor insurance database.

The President: Mr Lowey.

Mr Lowey: As someone who could not get to the presentation yesterday, I am grateful to the Department for sending out details of the clauses in the Bill, which I found very helpful indeed. I think the general thrust of the Bill is to assist and help and, to that degree, I would support it. But, again, I think it has been very helpful to have people with their practical knowledge of work and, like my hon. colleague, Mr Butt, who has actually done it, seen it, I think their voice of experience is important and should be listened to.

I genuinely believe – and I can speak now as a Member of the Treasury who is dealing with it in the Rolls Office to try and get a co-ordinated attack on licensing, where we should be able with communications the way they are, with technology – that when you go to register a vehicle it should be instantly and easily, in my view... think, is there a fine wanted on that? Is there a problem with that car? So, in other words, I think the technology is now working in our favour and I do know that Departments are working close and are very close to getting a co-ordinated approach.

I, too, believe that there is no need whatsoever for anybody... and the displaying of the document is important. I do not care whether it is the insurance company that issues it or the licensing authority that issues it on behalf of, as long as we have got proof that it is, we should have an official thing there.

I have to say I am less than enamoured with the idea that somehow, by taking a car off people... Look, we have no success rate with getting rid of abandoned cars. You know, immediately... We have that power to confiscate those. It will lie there for months. Move it and put it in a compound and then you will get somebody shouting it is the most important vehicle that ever Jeremy Clarkson has not had the privilege of driving. As simple as that. So our record of enforcement is pretty poor, I have to say, on that, but I agree with my hon. friend, Mr Downie, when he says the real thing is taking the licence off people for whatever short time. I think it is an ideal time, where you do give a three months or... let us be more of a... but we are now wandering into what I would call the realms of the judiciary, whether the judiciary should do that, be more proactive, or is it a standard? All we can do, as legislators, is give them the tools and then it is up to them to operate.

I was disappointed with the mover when he sounded almost like an Old Testament prophet: hit'em hard and hit'em harder still. I think that was the tone that he started off. I know he reflects what I would call a popular mood in the general public, but then they do not know all the facts and figures usually, which the courts do. And the media love a good story, don't they, don't they just?

Again, I think we have to take the emotion out of it and get down to the practicalities. What is actually causing it, how can we prevent? We will never eliminate it ever totally, but what we can do is eliminate the causes and an appropriate punishment system, if that will assist and help. As far as I am concerned, I think the Bill does try that. We will look at it closely, as we take the clauses one by one.

The President: Mr Callister to reply, please.

Mr Callister: Thank you, Mr President.

First of all, I would like to thank Mr Crowe for seconding the Bill.

I refer, first of all, to Mr Downie, to also thank him for his support and the reference to the presentation, which I think was very helpful. It is a pity that others could not be there but, nevertheless, we will work our way through this in due course. In Mr Downie's comments about mobile phones, speeding vehicles with R-plates and so on, also the regulation of commercial vehicles... The mobile phone provisions that are within the Bill I think are very strong indeed and I think they probably should act more as a deterrent now, if this is passed.

The regulation of commercial vehicles is under way at the present time. They were supposed to, mostly anyway, travel at a speed of about 40 mph. I think 40 mph was the maximum. That is being looked at again. We are in the process of dealing with that now, so I cannot tell you what the new figure is at this stage. In some areas I would agree with Mr Downie. I think he came on wanting to be a bit stronger in some areas in this Bill, certainly, than we are intending to do but, of course, when you get down to most of these matters, where the enforcement is not being carried out, it is not the responsibility of the Department of Infrastructure.

The enforcement is a matter for the Police and that is where we do fall down. I do believe we fall down in that area. As far as the insurance of vehicles is concerned and knowing who is insured and who is not, I will come to that a bit later. That was something that Mr Downie also raised.

Mr Turner also found the presentation useful. Thank you for that. He referred to Brandish Corner and Windy Corner and speeding which, of course, some of these alterations do create a faster ride but, nevertheless, they have certainly reduced the number of accidents in those areas: the statistics are known for that. You do, of course... when some of these schemes are brought forward, there are objections from the public, saying 'Why are we wasting money on this?' but, in the end, it has been an investment worth having.

The speed limits, Mr Turner referred to as being too many of them and too varied. It is something I have some sympathy with, in fact, because you can go suddenly from a 30 to a freedom to drive at any speed and then find something else, somewhere else. There seem to be too many, but we are not dealing with speed limits in this Bill, as such. That is another matter for another day.

The system now outside schools seems to me to be working extremely well. It brought in some new technology and, as far as I can tell – certainly when I have been driving around – everyone actually stays within those limits of 20 miles, or whatever it is.

I know Mr Turner thinks that we should issue provisional licences at the age of 16, but not allow the test until 17. The Bill does not cover that and it was decided against. It could also bring some problems, I would think, because if you give somebody the opportunity at 16 to drive, who has not passed a test, it would be a temptation to get into that car and drive without accompaniment and so on, and always to find someone to drive with you at that time.

We come to the forfeiture of vehicles and Mr Turner believes that the sale of any such vehicles should go to the Department and not to the owner. I may have an answer to that in here in a moment, but I will come to that later. Short-term bans for lesser offences was also referred to. The pack which goes with the Highway Code – I do not know what people get with the Highway Code, but what we will do, as we now have a fortnight, before we go on to the Second Reading and clauses, we will go through all of these points that have been made, Mr President, and deal with them in detail. I think the Soapbox Derby will be safe, not necessarily because of this, but...

Mr Butt believes we had missed opportunities. This is an interesting situation and certainly on his knowledge of accident statistics, that the vast majority involve motorcyclists or under-23s. I bow to his knowledge and I know he has been studying this for a very long time and it may well be something to look at in the future for us; curfews, travelling, having no passengers and so on and incurring a different set of penalty points, but it is not included in this Bill and Mr Butt may or may not consider moving an amendment.

Mr Butt: Can I just comment, Mr President? I mentioned about the sliding penalty points for speeding. I have found that in the Bill at 21(1)(e)(ii).

Mr Callister: Yes, I have not come to that, Mr President.

Mr Butt: Part of my comment on that would be if it is just for speeding, it could be increased for due care as well. That is my thought.

The President: Continue, Mr Callister.

Mr Callister: Yes, thank you.

Also, on the driving offences and the degree of injury and it should not be a factor in the accident in relation to the driver, again we are trying to deal with that. Mr Butt did make that at the presentation, but I thank him for his support.

I think probably most of the points had been wrapped up by the time we got to Mrs Christian's comments but, nevertheless, moving cattle and traffic signs... I do think we need to very clearly give you the definition on that one, whether it is 'Police Slow' signs etc, and we will come back on that as well.

Mr Braidwood, on the matter of the untaxed, uninsured vehicles, and you refer to the motor insurance database in the UK, we are now in the process of having the creation of our own database on an IT system that has been set up and is not complete yet but we very soon will know which vehicles are and are not insured, and that will help greatly in that area. We also, in this Bill, Mr President, cover insurance taken with companies outside the Isle of Man and the UK. Some people have got vehicle insurances with European countries and organisations, so that is covered in the Bill.

Mr Braidwood: Mr President, just a query, there.

I can understand if you are setting up your own motor insurance database. Does that mean that people who obtain their insurance through the internet, with such as Admiral or whatever, that Admiral then inform the Isle of Man? Or how do you know that, apart from just the insurance companies on the Island?

Mr Callister: I think that is a question we will answer at a later stage, Mr President.

I thank Mr Lowey for his support, as well. He referred to the expertise that Mr Butt has and his experience in this area and this, I think, will be very valuable to us as we debate it.

He thinks there should be a co-ordinated attack on licensing. The thing at the present time, of course, is when you go to renew your licence, you have to produce evidence that you have insurance, but it has been discovered that people have been paying a monthly payment system and then cancelling their payments and therefore they are no longer insured. So that is just one of the areas that is a problem.

Also, Mr Lowey does not entirely agree with the removal of vehicles from owners and put in a compound. Well, we would have to identify a compound first, so I think we may be a bit premature on that and, of course, that is something that is coming forward in regulation as well, so the rules may change.

Mr Lowey also suggested that I said I was going to 'hit 'em hard' I think was his expression, although I do think that Mr Downie followed on by coming even harder on them in some ways.

The other matter that Mr Downie raised was that the courts understand all the facts and the cold act here and the wording of that does not actually get down to the full details of what happened in an accident and so on, and that is quite right. But we think that this Bill now will certainly assist the courts, certainly by allowing a graded system of offences.

Some of the other points that were raised, I have some notes. Money from the seizures would go towards fines and any costs first, and only the balance would go to the owner. The fines money, etc, or anything that is otherwise owed, would go to the Treasury. The differences between the UK Code and the Manx Highway Code is on a disc, issued to drivers undertaking theory tests when they go along for their practice material.

In relation to Mr Butt's comment, I think... the provisions with variable points for more or less serious speeding is in the advice, but not in the legislation.

Mr Butt: It is actually, I think.

Mr Callister: Oh, have you found it?

Mr Butt: It is in clause 21(1)... (*Interjections*) It is the table at the end of the Road Traffic Act. I have got one upstairs, I used to prosecute with –

Mr Callister: Well, we –

Mr Butt: If it only includes speeding, I think it might be –

The President: Right, we are making it a bit difficult for *Hansard*, across there, I think.

Mr Butt: Sorry, apologies.

The President: That was my problem.

Mr Butt: Yes, it was clause 21(1)(e)(ii) – that may only refer to speeding but it might include due care as well. I do not know, without the original Act.

Mr Callister: Alright, well, we will have that clarified as well, Mr President.

We have access to the database but Isle of Man insurance companies are not all registering, so at the moment we seem to find 30% uninsured, or 30% are not on the database. (*Interjection*) Sorry, Mr President, about... Again –

The President: Yes, I appreciate you are getting an answer from the Gallery.

Mr Callister: I think we will leave this again, to have clarification.

The President: Mr Callister, can I point out that, in fact, a provision is available to you, if you wish your officers to make... –

Mr Callister: Yes, I think, Mr President –

The President: – if that is necessary for the next stage of the Bill –

Mr Callister: When we reach the clauses stage.

The President: Continue, sir.

Mr Callister: I think at that point, Mr President, I will leave it at that.
I thank the Members for their support and move the First Reading, Mr President.

The President: In that case, Hon. Members, the motion I put to Council is that the Road Traffic and Highways (Miscellaneous Amendments) Bill 2011 be read for a first time.

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

That draws, actually, to a conclusion our Order Paper for today, Hon. Members, and the sitting of Tynwald Court will be our next performance on 17th May, and thereafter to 24th May, where we will continue with the legislation in this Council, Hon. Members.

Just out of interest, when dealing with this particular Bill – and, funnily enough, it cropped up in the Criminal Justice one, as well – as a matter, Mr Attorney, of legal drafting, and it is just one of these things, I think there are times when we do grow up and in this particular Bill you will see that, in clause 12(3), ‘the second condition is that a constable’ etc. It heads off fine with:

‘... a constable... after making such lawful enquiries as he or she considers...’

I wonder why, when we refer to a constable then later on, we have to say ‘as he or she considers appropriate’. A constable is a constable in my book and it does not matter whether it is a man or a woman, but we keep putting these words ‘he or she’ in all sorts of legislation. Mr Attorney General was actually referred to as ‘Mr Attorney General, he or she’ earlier, (*Laughter*) and I thought that Mr Attorney is Mr Attorney.

Thank you, Hon. Members.