



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

P R O C E E D I N G S

D A A L T Y N

HANSARD

Douglas, Tuesday, 13th March 2012

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Present:

The President of the Council (Hon. C M Christian)

The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson),
Mr R P Braidwood, Mr D M W Butt, Mr D A Callister,
Mr E A Crowe, Mr E G Lowey, Mr J R Turner and Mr T P Wild,
with Mr J King, Clerk of the Council.

Business Transacted

	<i>Page</i>
Leave of absence granted.....	71
Commonwealth Day Message 2012 from Her Majesty The Queen, Head of the Commonwealth.....	71
Written Answers and supplementary – Statement by the President.....	72
 Order of the Day	
2. Gambling Duty Bill 2012 – First Reading approved.....	72

The Council sat in private at 11.06 a.m.

Legislative Council

The Council met at 10.30 a.m.

[MADAM PRESIDENT *in the Chair*]

5 **The President:** Moghrey mie, Hon. Members.

Members: Moghrey mie.

The President: The Lord Bishop will lead us in prayers.

PRAYERS

The Lord Bishop

Leave of absence granted

10 **The President:** Hon. Members, I have given leave of absence to HM Attorney General, who is unwell and to Mr Downie who is on Government business.

Commonwealth Day Message 2012 from Her Majesty The Queen, Head of the Commonwealth

The President: Hon. Members, I would wish to read to you the Commonwealth Day message from Her Majesty the Queen, Head of the Commonwealth.

15 'One of the great benefits of today's technology-based world is the range of opportunities it offers to understand and appreciate how others live: we can see, hear, and enter into the experience of people in communities and circumstances far removed from our own.

A remarkable insight we gain from such windows on the world is that, however different outward appearances may be, we share a great deal in common. Our circumstances and surroundings may vary enormously, for example in the food we eat and the clothes we wear, but we share one humanity, and this draws us all together. The joys of celebration and sympathy of sadness may be expressed differently but they are felt in the same way the world over.

20 How we express our identities reveals both a rich diversity and many common threads. Through the creative genius of artists – whether they be writers, actors, film-makers, dancers, or musicians – we can see both the range of our cultures and the elements of our shared humanity.

25 'Connecting Cultures', our Commonwealth theme this year, encourages us to consider the special opportunities we have, as members of this unique gathering of nations, to celebrate an extraordinary cultural tapestry that reflects our many individual and collective identities. The Commonwealth treasures and respects this wealth of diversity.

30 Connecting cultures is more, however, than observing others and the ways in which they express themselves. This year, our Commonwealth focus seeks to explore how we can share and strengthen the bond of Commonwealth citizenship we already enjoy by using our cultural connections to help bring us even closer together, as family and friends across the globe.

To support this theme, a special song has been composed for the Commonwealth, Stronger as One. There are any number of ways in which that single piece of music alone can be played or sung anywhere in the Commonwealth. And by sharing the same music with our own personal interpretations and contributions, the wonderful human attribute of imagination is nourished, and we gain insights of understanding and appreciation of others.

35 The Commonwealth offers a pathway for this greater understanding and the opportunity to expand upon our shared experiences in a wider world. A world in which paths to mutual respect and common cause may also be explored and which can draw us together, stronger and better than before.
Elizabeth R.'

40 Hon. Members, some of you may wish to celebrate the Commonwealth in its diversity tonight at the Commonwealth Parliamentary Association function.

Mr Braidwood: Is there Chilean wine?

45 **The Lord Bishop:** It is very interesting. The song is called 'Stronger as One'. I wear a family crest as a wedding ring on here and it has '*Unione fortior*' which means stronger as one. I did not realise there was a song about it.

50 **The President:** You will have to learn it now!

Mr Braidwood: Madam President, is that from the Earl of Mar, is it? (*Laughter*)

55 **Mr Lowey:** Can I assume that it is not going to be compulsory to have to sing the song? (*Laughter*)

The President: No, but you need to find a copy of it first. We may get the choir going.

Written Answers and supplementary Statement by the President

The President: Hon. Members, there is another matter I just want to draw to your attention, please, before we move to the business of legislation. Last week, Mr Speaker made a Statement in the House of Keys about how we handle certain documents. I wish to make a similar Statement this morning because the arrangements apply equally to the Legislative Council.

60 There are two new developments of which Hon. Members should be aware. The first concerns the Answers to Written Questions. These will now be uploaded to the Tynwald website soon after distribution to Members, initially in the format in which they are sent to us by the Government Departments. This will mean that there will be no delay because of formatting complex tables and so on. The Answers will continue to be properly formatted as before for inclusion at a later date into the formal edited *Hansard*.

65 The second new development concerns letters which Departments send to Members conveying information which was promised during the Answers to Oral Questions. From now on, an appendix to *Hansard* will be created which will be populated with these letters. The letters will be made available via the Tynwald website as soon as possible so that a record will be made public. The current practice of putting such letters in the Library as deposited papers will continue unaffected.

We move now then, to Item 2 on our Order Paper –

75 **Mr Callister:** Madam President, I was going to ask a question on that.

As I have read it, the letters were going to be included in *Hansard*. Am I wrong in that assumption?

80 **The President:** There will be an appendix to *Hansard*.

Mr Callister: An appendix to *Hansard*. Right. Thank you very much.

Order of the Day

Gambling Duty Bill 2012 First Reading approved

2. Mr Braidwood to move:

85 *That the Gambling Duty Bill 2012 be now read a first time.*

The President: I now call on Mr Braidwood to take forward the Gambling Duty Bill 2012 for First Reading, please.

Mr Braidwood: Thank you, Madam President.

90 This Bill is being promoted by the Treasury with the intention of consolidating and updating the law relating to excise duties on gambling. The aims of the Bill include seeking to simplify administration, improve flexibility, enable the law to better cope with anticipated developments, both technological and other, and in doing so, ensure the continued health of an industry that has proven to be a singular success for the Island.

95 A single gambling duty will replace general betting duty paid by local bookmakers, online gambling duty and pool betting duty, which will be paid by pools promoters. It will not replace the lottery duty charged on sales of national lottery games. Neither will the new duty affect gaming machines, which are subject to licence fees levied by the Gambling Supervision Commission, land-based casinos or bingo. Since the advent of on-line gambling and the passing of the Online Gambling Regulation Act 2001, the gambling sector in the Island has developed considerably.

100 Experience showed that the original legislative structure governing gambling revenues was both unwieldy to use and difficult to adapt to constantly changing regimes. Not only was there insufficient flexibility under the 2001 Act to properly deal with developments, evolving technologies and industry trends in online gambling, but the interaction, or possible interaction, with other gambling revenue law has caused problems. One has to remember that much of the Island's gambling legislation still dates back to the 1960s and 1970s.

105 An example of a problem that did arise was when the question was asked: does online gambling that involved a pool of some sort automatically make it pool betting and so liable to a much higher duty rate and the resulting revenue shared with the UK, or was it primarily online gambling? Furthermore, did someone engaged in such gambling have to apply for both a licence and a permit from different offices, or just a licence, and did they have to comply with the additional requirements which attach to pool betting, such as funding an independent auditor to verify receipts and returns to customers?

110 Difficulties encountered have been addressed partly by legislative changes and partly by administrative decisions involving commonsense interpretations of the law in the light of how the industry now operates. In the case of pools involved in such gambling as poker, the law was amended to make clear that having such a pool of money did not, by itself, render a game liable to pool betting duty.

115 This Bill will replace a number of existing Acts and parts of other Acts. The replacement provisions are designed to be clearer and may be more easily adapted or added to as and when required.

120 The Bill also incorporates provisions to allow the exchange of information with authorities in other jurisdictions and for double duty relief. Both of these are permissive in nature, allowing for the Treasury to bring forward the necessary secondary legislation as and when required. The provisions allowing the exchange of information are, in part, designed to facilitate any bilateral or multilateral agreements and to thereby allow access or continued access to markets for Island operators. They also would be used to ensure transparency and control of the sector will comply with any requirements of international and supranational bodies such as the International Monetary Fund and the European Union.

130 The most recent revised recommendations issued by the Financial Action Task Force in February of this year have once again emphasised the increasing need for countries to facilitate co-operation and information exchange to prevent, detect and investigate criminal activity affecting their legitimate industries. The ability to exchange information will be vital in combating crime that could affect online gambling in particular, and to underpin the credibility and reputation of the Island's industry and the Isle of Man itself.

135 The facility to allow relief from duty where an operator has borne foreign duty on the same transactions is also considered to be important, as increasingly territories are looking to regulate their markets. Being able to allow the offset of foreign duties could prove vital in securing the continued success and viability of the industry in the Island. The Bill is not designed as a revenue-raising measure. The duty rates incorporated in the Bill are those currently applying. Whilst flexibility is the key to the Bill and Treasury will be able to make changes to definitions, exemptions etc by regulations, any change of duty rate would require prior approval by Tynwald before taking effect.

140 Madam President, the contents of this Bill have been widely consulted upon in the Island. Indeed, two separate public consultations on such a Bill have taken place in the last four years. Treasury consider the Bill to be an important support for the continued success of an already successful industry.

Madam President, I beg to move the First Reading of the Gambling Duty Bill 2012.

150 **Mr Lowey:** I beg to second and reserve my remarks.

The President: Hon. Member, Mr Callister.

Mr Callister: Thank you, Madam President.

155 I would just like to refer, if I may, first of all, to lotteries, particularly lotteries that we have had here in the Isle of Man.

We had, in 1979, the Millennium Lottery, which was a huge success. At that time, there was something similar to the Lottery Trust set up here. Shortly after that, there was an attempt made in Tynwald to have this lottery brought in on a permanent basis, which failed by 20 votes to 7, and the leading man who opposed that at the time was the Bishop, Vernon Nichols, and he continued that opposition, I think, until the time he left the Island.

160 Later on, we did get a full lottery for the Island, as we all know, which seemed to disintegrate a bit when the UK lottery came in and people would buy more tickets for that and less for ours.

165 We did, in fact, have an earlier lottery that I remember, which was called the... I think it was called the Isle of Man Hospitals Lottery, and it was run by a man called Fred Faragher. I am sure some Members will remember him. Some people called it 'Fred's Fiddle'. I think that was probably rather unkind. Whether it ever turned out to be proven, I do not know, but it did raise quite a lot of money for charity.

170 My question is – to the mover, who did move this in a very nice poker-faced way, I thought this morning – does a lottery operator, where the funds are basically, or largely for the benefit of a charity... Is there any means that lotteries such as that would attract a lower rate of duty? Could less duty be paid? Does this Bill give a provision for a benefit, say, for lotteries of that kind that would benefit charities?

175 Then, if I could mention horse racing... (**Mr Lowey:** Cheltenham?) No, I do not want to talk about Cheltenham; I want to talk about Belle Vue. I have got to do Mr Downie's job on the history today because he is not here.

180 Belle Vue, which is now the Isle of Man Sports Centre, both before and after the First World War had horseracing and I came across... There was a thing in one of the newspapers recently that in 1930 two jockeys were fined for crooked riding. This was recorded in the *Isle of Man Times*. Some years ago, I interviewed an old guy who used to, as a child, sit on the wall, watching this racing going on – this was after the First World War – and he said that the riders would go past on the corner and one of them would be saying to another one, 'Right, you go on now!' or 'Pull back!' because they were deciding who was going to win these races. It was all worked out beforehand. So that is quite interesting, I thought.

185 Then we had, of course, horseracing down at Great Meadow. I presume... I do not know if there were any bookies down there. There may have been.

Mr Crowe: Yes, there were.

190 **Mr Callister:** Oh, you gambled then, Mr Crowe! I never attended any of these things, but my question really is if horseracing came back to the Isle of Man, does it cover us for on-track gambling? Bookies presumably are on there. If there were bookies on, they would be paying duty, of course, wouldn't they, so that is... It might be an attraction. Apparently, it used to bring vast numbers of daytrippers to these Belle Vue events, apparently. Anyway, that is world history, or Isle of Man history.

195 It does not mention the word 'sweepstake' in here. I presume sweepstake is now a word that is a bit obsolete, but obviously is the same thing as 'lottery' anyway, but if Mr Lowey was intending to run a sweepstake, you are still not going to avoid paying duty on it.

200 The mover mentioned bingo, Madam President, and that is not included. He did not mention raffles, which raise money, of course, for church events and clubs and so on. I presume raffles are outside of the scope of this Bill.

Thank you, Madam President.

The President: The Hon. Member, Mr Turner.

205 **Mr Turner:** Thank you, Madam President.

We have had various pieces of legislation concerned with gambling over the past few years and I think the key to this particular piece of legislation is to enable flexibility in the ever-changing world, especially when it comes to the fact that a lot of the gaming now is online. There has always been that debate on whether we should ethically be involved in gambling here and whether

210 it is a good thing for the Isle of Man. The rest of the world, however, is going down the routes of
exploring avenues to raise revenue and of course the benefit that we have is that, if people have
access to well-regulated gambling, then they are less likely to start venturing down darker
avenues, where you end up in the unscrupulous gambling activities. At least with proper regulation
then we can make sure that people have a level of protection.

215 Of course, a lot of gambling – and this is something I have views on – one of the things I most
detest are these tea-time television gambling shows, Noel Edmonds, and of course, I sit there and
watch and you can actually see that a lot of it is driven by that bit of greed, which is a part of
human nature, which is probably programmed into humans at different levels, but of course, you
see people with that utter belief that they could win the big prize and they keep going and keep
220 going and sometimes you see them going and you know quite well that they are going to win the
50p, rather than the quarter of a million pounds. That is where a well-regulated industry comes in,
where, in past legislation we have had safeguards to ensure that people cannot start running up
huge debts, but gambling, undoubtedly, there is an element in belief in a level of greed and
gambling is just that, it is gambling.

225 We have embarked on a process of having a vibrant gaming industry and there are huge
benefits, I believe, to the Island and I will be supporting this Bill.

I think the interesting point that Mr Braidwood, the mover said, is that a lot of the framework
of this goes back to 2001 and before that to the 1960s and 1970s and of course, with the advent of
the internet, things have moved on considerably. It is important that, if we are to have a gaming
230 industry, we are able to modernise. I have said before in another debate here that, as soon as the
Isle of Man comes up with a good idea, somebody else has pinched it or has bettered it, so we
have to be able to adapt quickly. I think that, whilst sceptical as to whether we needed to form a
new Statutory Board in the Gambling Supervision Commission, that is now in place. I think we
need to make sure we give them the right legislation to be able to continue to develop this industry
and go forward.

235 So I support the principles behind this Bill and again it is important we balance that we are
competitive and well regulated, but we always should view legislation with caution, so we do not
regulate ourselves out of the market and other countries come in and produce a more attractive
place for businesses to exist.

240 Thank you, Madam President.

The President: The Hon. Member, Mr Crowe.

Mr Crowe: Thank you.

245 I will be supporting the Bill. From what Mr Braidwood says, it is really a tidying-up exercise
which will be easier to understand and simpler to administer.

I think, just on a comment, the gaming industry contributes about 8% of GDP. This obviously
helps the Manx economy – banks, CSPs, legal and accountancy firms, so it does bring money into
the economy – but like all broad-based economies as we are, there might be other competitors on
250 the horizon who are looking at this as a way of raising revenue. So I think whilst we have the
business, as long as we have it well regulated and well controlled and it is all properly
administered, then I think it is a good contributor to the Island.

I think it is also interesting to see that your raffles and individual tombolas are all exempted, or
will not pay duty, because I think sometimes you have a catch-all and sometimes you have the
255 unintended consequences of... something drops into that –

Mr Lowey: Was not intended.

Mr Crowe: – can cause difficulties.

260 I will be supporting the Bill, Madam President.

The President: The Hon. Member, Mr Wild.

Mr Wild: Madam President, thank you.

265 I think, subject to the satisfaction of any historical nuances and clarification of any diverse
gambling practices, in my view again, this is a practical Bill to consolidate the legislation to make
this fit for purpose and this supports a key economic sector.

So, in my view, I will be supporting the Bill.

270 **The President:** Hon. Member, Mr Lowey.

Mr Lowey: It would not be... in case I went down memory lane instead, but can I just remind Members, I opposed the setting up – long before I came in here into Tynwald – I opposed the setting up of a casino. That was the Methodist in me coming to the fore and then early events proved me right. There was a bit of a scandal. Why? Because it was not well regulated. We learned those lessons and put proper regulation in and that is why I think the success of the casino legislation in the Isle of Man is well regulated.

Can I just say the bait that was held out was we were going to have... Remember the Dockers? He was Chairman of BSA, he had a famous, or infamous, yacht called the *Shemara* and they were going to sail into Douglas Bay and they were going to come ashore, Lady Docker, drenched in diamonds and fur wraps. You see, there is nothing wrong with my mind; I can remember the picture very well! Never did turn out – but we did get 007 James Bond and Diana Dors. It went off with a splash, I remember that very well, I was very impressed, I was an impressionable young man then.

But I would like to thank the Members for looking at this Bill and at least three Members have already focused on the real thing of this Bill, which is dealing with the problems we have in the 21st century and we are dealing with it now and the whole essence of this is to get it well regulated. There are three... there are the providers, there are the users and there are the regulators. All have been mentioned in proper detail.

I think the providers have been consulted. We know what their needs are. We think we have provided the framework, with their assistance, to make it profitable, because we have no interest in running unprofitable enterprises. The users are protected to the full. Their cash is actually safeguarded in this jurisdiction, where it is not in others, and the regulators are very quick to react to pressures, as and when they arrive, and they are looked on as critical friends both by the users and the providers. So I think this legislation, which deals with duties, again getting the balance right, is a good piece of legislation.

Gambling will always bring out schools of thought that are emotive, not least in me. I will say this: that I think the Isle of Man has a reputation for safeguarding the users of gambling. It is as old as history. I know the Lord Bishop will remind me that even at the crucifixion there was gambling at the cross, so it goes back a long way. I do not think you will ever stop it, and then the other answer... You must pose the question, should it be regulated and should it be well regulated? The answer to that, I think, is a definite yes.

This Bill goes a long way to meeting those requirements. I would urge Members to support the Bill in the interests of the Isle of Man.

The President: The Lord Bishop.

The Lord Bishop: Thank you, Madam President.

I too will support the Bill. I am, frankly, not quite sure how one could really oppose it. I am not happy with large-scale gambling. I have serious hesitations about e-gaming. My own view about that kind of scale of gambling is that it is foolish, and I do think it raises ethical questions – ethical questions that do need to be answered sometimes, and just because something produces revenue that does not guarantee it as an ethical standard. I think that is probably accepted all round the room.

But we have said and we know that the Isle of Man does regulate the gambling as well as can be regulated for the sake of people. I think it is much more important that the people who are involved in it are the ones that are protected, more so than the finances, but both are protected by our system and I think I am very grateful for that. So my attitude, in the end, is ‘Well, if I think it is foolish, I might as well get people to pay for their foolishness,’ so I will support it.

The President: The Hon. Member, Mr Butt.

Mr Butt: Thank you, Madam President.

I am briefly going to speak to support this Bill and go a little bit further down Memory Lane than the others, as Memory Lane has been visited. I remember as a very young police cadet in 1964 – I was a CID cadet – we did the raid on the casino. Sergeant George Turnbull led the raid and I was there as a lackey to back them up. I could tell you lots of stories about what happened those few days, but I will not go into those.

Then, in later years we used to raid betting shops. We used to go in and arrest the staff for illegal betting. That was under the old Gaming and Betting Act of the early 1960s. Things have moved on considerably since then and I have been involved in recent years as an anti-money-laundering officer for an e-gaming company. When the e-gaming business started here first, there

335 were many attempts to have scams on these companies and regulation was not as it should have been, and I know in recent years those scams have more or less dried up. The companies themselves are responsible, but I think the more regulation we have, the better, because it is a dangerous industry. People can be defrauded, people can try and defraud other people. It does lead to sometimes criminal activity and the more regulation we have, the better.

The President: The mover to reply, please.

340 **Mr Braidwood:** Thank you, Madam President.

Can I thank all Members of the Council who have participated in the debate and can I say I think everyone has offered their support. We have had history lessons from Mr Callister regarding Belle Vue and the horse racing, and horse racing at Great Meadow.

345 Can I say that normally on such as lotteries, if you wanted to form your own lottery, you would go to the Gambling Supervision Commission so that you could set up your lottery there, such as the Hon. Member of Council also mentioned; there used to be the millennium lottery and then there was the other lottery which came in and, of course, the demise of that was when people in the Isle of Man were able to go to the National Lottery and spend their £1 to try to win a few millions instead of the £5,000, which I think was the top prize. I think the Hon. Member of Council on my right, Mr Turner, was very lucky when he was in his late teens to have won the
350 lottery, if I remember.

Mr Turner: I have still got a photograph of the ticket actually. *(Laughter)*

355 **Mr Braidwood:** So I do thank Mr Callister for his support. He did go on about bookmakers and I think the Hon. Member of Council, Mr Butt, was quite right. If I remember, years ago, when the race was on, people who had been in the bookmaker's had to come out of the bookmaker's shop while the race was in progress and then once the race was over, they were able to go back in to the shop and put their bet on the next horse.

360 I thank Mr Turner for his support. We have safeguards. There is consumer protection, and I would just like to just quote roughly here:

365 'Consumer protection is the primary regulatory objective of the Gambling Supervision Commission. The regulatory framework ensures that operators implement systems for their players to limit the amount of gameplay time or money the player can spend. Operators must also have procedures that can exclude players with gambling problems for fixed periods or indefinitely. It is also a regulatory requirement that all operators websites provide advice, support and resources to problem gamblers and to help those affected. Furthermore, each operator contributes annually to the Isle of Man Problem Gambling Fund. The proceeds of this fund are distributed between GamCare Isle of Man, the leading provider of information, advice, support and free counselling for the prevention and treatment of problem gambling, through its dedicated GamCare Isle of Man arm, and the GREaT Foundation, a United Kingdom based charity supporting problem gambling.'

370 So you can see the regulatory framework is already in place, and this ensures the consumer protection of people who want to gamble.

375 Mr Crowe I thank for his support, and as he quite rightly said, it is a significant proportion now, percentage of our GDP. It is a changing feast all the time. That is why we will be able to bring in changes by order, instead of going through the private legislation, because other countries are adapting legislation now and are introducing their own gaming legislation, and we have to be there if we have duties applied, as I said during the First Reading, so that duty can be put against
380 the duty we have here.

I thank Mr Wild for his support and also Mr Lowey, who mentioned the casino in 1961. I think it was the Americans and then it was Crockford's, and Sean Connery opened it, I think, in 1963 by riding a horse tram along the promenade to the new casino, because when it first opened in 1961 it was in the Castle Mona.

385 I would like to say, Madam President, I thank everyone once again for their support, particularly the Bishop. I think I have answered his questions on the ethical points. I beg to move.

The President: The motion before Council is that the Bill be now read a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

390 That concludes our business for this morning and we will now sit in private.

The Council sat in private at 11.06 a.m.