



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 8th May 2012

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Volume 129, No. 12

ISSN 1742-2272

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 A F Downie OBE, Mr E G Lowey, Mr J R Turner and Mr T P Wild,
with Mrs M Lambden, Third Clerk of Tynwald.

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The Council adjourned at 10.49 a.m..

Legislative Council

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The Council met at 10.30 a.m.

10

[MADAM PRESIDENT *in the Chair*]

15

The President: Moghrey mie, Hon. Members.

Members: Moghrey mie.

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

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PRAYERS

The Lord Bishop

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Leave of absence granted

The President: Her Majesty's Attorney General has leave of absence.

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Orders of the Day

35

Casino (Amendment) Bill 2012 Third Reading approved

1. Mr Lowey to move:

40

That the Casino (Amendment) Bill 2012 be now read a third time.

The President: We move to Item 1 on our Order Paper. I call on Mr Lowey to take the Third Reading of the Casino (Amendment) Bill 2012.

45

Mr Lowey: Thank you, Madam President.

Hon. Members, as I said at the First Reading, this Bill is promoted by the Treasury, on behalf of the Gambling Supervision Commission, to make provision for a more flexible regime for an Isle of Man casino licence holder that allows premises other than its own to be used for the purposes of gaming.

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The main purpose of the Bill is to amend the Casino Act 1986 by adding in an entirely new part which introduces temporary premises certificates. Such certificates will allow a casino to operate outside its traditional venue for a short period of time. Temporary premises certificates will allow an Isle of Man casino to host events which cannot be practically accommodated in their existing facilities – most likely large gambling tournaments which see the gathering of players in one place for the purpose of determining an overall winner. Such tournaments are commonplace in the world of gambling, apparently, and attract significant interest from the gambling community. A typical tournament consists of a series of rounds which are staged over a number of days, culminating in a final which may be televised.

55

The Bill also amends the Gaming, Betting and Lotteries Act and makes consequential amendments to the Gaming (Amendment) Act, the Value Added Tax Act and the Proceeds of Crime Act 2008 and the codes of that Act relating to money laundering and terrorist financing.

60

That is the Bill in a nutshell. I have tried to explain how the machinery will work, and if Hon.

65 Members will recall, there were two points of interest in both Bills that I took, so I will take the opportunity now, if I may, Madam President, to... on the two matters that were raised with me during the Second Reading and clauses, and that was a check on the side notes that I think my friend, Mr Turner, wanted. Was it Mr Turner? (**A Member:** Mr Callister.) Mr Callister on the side notes.

70 Having checked with the Attorney General's office, the side notes now are simply referred to at the bottom of the page or at the headings at the beginning of the clause. Apparently it is something to do with more people looking at the Acts on computer screens and it is for ease of use of the consumer of the Bills, that is why it is done, and apparently now they are even checking the Bills on telephones. So it is an administrative easement for the people who are using the Acts. It is there, but it is at the top and the bottom and not the side we have been used to in the past.

75 I thank Mr Callister for raising it because it is an omission that a lot of people, old people like me, who learned in the old way, find it strange when we refer to it.

80 The other query, and I think it was raised maybe in the other Act, but I will mention it now because it is of relevance. The Appointments Commission, who are independently set up to appoint people to the Gambling Commission, for example, do not have to have the approval of Tynwald because it is a bit like saying the terms of reference will be drawn up by the Gaming Commission and handed the independent panel. They will then select the people independently and you cannot have an independent Commission and then have the power to veto their decisions, but having said that, that is the reason why we moved to an independent Commission in the first place, to take it away from the appointment by the Council of Ministers to an independent Commission. So that is the reason for that.

85 So with those explanations, and with the purposes of the Bill spelt out for the Third Reading, I beg to move the Third Reading of the Casino (Amendment) Bill be read a third time.

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

90 **The President:** The Hon. Member, Mr Butt.

Mr Butt: Thank you, Madam President.

95 I would like to support the passage of this Bill. We have discussed the moral argument about the extension of casinos into temporary premises and I think really, when you look at it carefully, the moral argument on this was probably won or lost, depending on your point of view, in about 1962 when the casino was set up in the first place.

100 I think this Bill really is about premises, rather than the concept of gambling and merely an extension of where the gambling can take place. I think it is not a great change to what we already do at the moment, so I will support the Bill.

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

105 Just to build on Mr Butt's comments, of course, this will be available for existing licence holders, so it is not as if anybody can come along and have a gambling tournament next week. So it very much is to echo the words of the Hon. Member, Mr Butt, in that it enables the existing operators to hold more appropriate venues for such tournaments, and I support the provisions in this Bill.

110 **The President:** Mr Downie.

115 **Mr Downie:** Yes, Madam President, likewise I can support the Bill. I think it will give the gaming industry on the Isle of Man much more flexibility. It will enable us to promote larger events on the Isle of Man, attract people here for these tournaments, many of which are televised. It will raise our profile and I think the industry is very well regulated. I do not think we have anything to fear from that particular aspect of things.

120 I think that, as we are in the gaming industry, we have got to move with the times and we have got to allow provisions to enable large tournaments and events like this to happen on the Isle of Man, rather than see that business go somewhere else to another jurisdiction, where they have the facilities available.

So, I fully support the Third Reading of the Bill.

The President: Mr Wild.

Mr Wild: Madam President, thank you.

125 Just to add my own support to the comments already made by Hon. Members around the table, there are some moral concerns, which I think we all acknowledge, but on the basis this is, I think, modernising and practical legislation that evolves what we already have to make it competitive, it has my support.

130 Thank you.

The President: Mr Lowey to reply, please.

Mr Lowey: Thank you, Madam President.

135 I would like to thank Members for the interest that they have shown in this particular piece of legislation. As I pointed out, the other place seemed to nod it through without a vowel, a verb or an adjective being spoken about it. I think Hon. Members here have shown, first of all, their support for the purposes of the Bill and why it should go ahead in the way it is.

140 I would also like to re-echo those... that existing casino holders organise tournaments in other parts of the world already. They have already organised huge events, as I said, in South America, the Far East and in America, so they have the experience to do it. This enables them to put that experience to their home base here in the Isle of Man in new premises. I think it is a reasonable one. I do not guarantee. I am informed that at least one major international player wishes to do that, and once the legislation is in place I would look forward to seeing that put into place. I think Mr Butt put the argument and I think it is right that there is a moral argument about gambling. As I said at the First Reading, I, in 1962, was against the casino. However, I have changed my mind because of the regulation, the way we regulate gambling now. I think the Rubicon was crossed in 1962. I think our experience over that period of time has made us the effective force we are in international gaming on the Isle of Man. So to that extent, I think we are building on success. I commend Members for their interest shown in the Bill and I beg that the Bill do pass.

145
150 **The President:** The motion is that the Bill be read a third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

155

Partnership (Amendment) Bill 2012
Third Reading approved

160 2. Mr Braidwood to move:

That the Partnership (Amendment) Bill 2012 be now read a third time.

165 **The President:** Moving to Item 2, the Partnership (Amendment) Bill 2012. I call on Mr Braidwood to take the Third Reading, please.

Mr Braidwood: Thank you, Madam President.

170 Madam President, before I put the Partnership (Amendment) Bill 2012 in a nutshell, like the Casino (Amendment) Bill 2012, there was a query that was raised during the clauses stage regarding the accounting records and the time to preserve them of the Partnership Act 1909. I did clarify this and section 30 in the Partnership Act 1909, duty of partners to render accounts says:

'Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives.'

175 And that is it. So there is actually no time for those accounts which have to be preserved.

Madam President, the Partnership (Amendment) Bill is divided into four clauses.

The first clause provides the short title of the Act resulting from the Bill.

180 Clause 2 makes provisions for the automatic repeal of the resulting Act on the day after promulgation once the changes to the Partnership Act 1909 have taken effect.

The effect of clause 3 is to insert new section 48E into the Partnership Act 1909. This sets out additional accounting provisions that apply to limited partnerships.

The fourth clause inserts new additional accounting requirements for limited partnerships that are registered under the Partnership Act 1909. This includes the records that must be kept, clarification of where the records must be kept and the length of time for which they must be kept.

185 Madam President, again, in a nutshell, that is the Third Reading of the Partnership (Amendment) Bill 2012. I beg to move.

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

190 **The President:** The motion is that the Bill be read a third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

195 **Legal Aid (Amendment) Bill 2012**
Third Reading approved

3. Mr Lowey to move:

200 *That the Legal Aid (Amendment) Bill 2012 be now read a third time.*

The President: Item 3, the Legal Aid (Amendment) Bill 2012. Mr Lowey to take the Third Reading, please.

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

I previously outlined that the Legal Aid (Amendment) Bill will amend the Legal Aid Act 1986 by introducing statutory solutions which will enable the recommendations of the Legal Services Commission and the more recent recommendations of the Select Committees of Tynwald on Legal Aid in Family Matters to be progressed and implemented.

210 The primary objectives of the Bill are: to allow Legal Aid to be made available for mediation at the earliest possible stage of a dispute; the second is to provide for greater recovery of Legal Aid costs by way of contributions from the assisted persons; the third is to create a Legal Aid Appeals Tribunal; and the fourth is to reconstitute the existing Legal Aid Committee so that its membership is predominantly made up of non-lawyers and to extend its functions to include oversight of the Legal Aid Certifying Officer and Legal Aid administration.

215 I think that is the key to many of the queries that were raised at the First Reading stage about criminal Legal Aid. That will permit them to look at it and to bring up to date and improve criminal Legal Aid. I think it is right that the First Deemster, the Chairman of the Magistrates, Her Majesty's Attorney General and the President of the Isle of Man Law Society should not predominate on the thing. It is self-regulation and does offend international law, and so we are going for a majority of lay members on that Committee.

220 Madam President, following the introduction of this Bill, the General Registry will have discussions with such bodies as they consider relevant, will provide the Appointments Commission with persons specified. That is the point I was making in the earlier remarks about the independence of the selection procedures.

225 Madam President, having outlined the primary aims of the Bill and clarified the issues at the clauses stage and the issues previously raised during stage one, I beg to move that the Legal Aid (Amendment) Bill be read for a third time and do pass.

230 **Mr Braidwood:** I beg to second, Madam President and reserve my remarks.

The President: Mr Crowe.

235 **Mr Crowe:** Thank you, Madam President.

I think, as with all legislation, it must always be kept under review, and not to have change just for change's sake, but to bring in improvements, which help administration, because justice or family disputes or civil Legal Aid involves sometimes warring factions, shall we say, and I think, if this brings improvements to the process, and I think mediation is one example of bringing in Legal Aid for mediation practices. I think it should help the administration of civil Legal Aid and also help those people in dispute to help them resolve situations better. I think if the Bill, which is seeking to improve the situation, does that, we will have managed to achieve something worthwhile.

245 **The President:** Mr Lowey to respond, please.

250 **Mr Lowey:** Yes, can I thank the Hon. Member for his comments and he is absolutely right. I think we should always try, in passing legislation, to make it easier to adapt to changing needs and that is where primary legislation sometimes becomes a bit cumbersome, but under this particular Bill, I believe we have got enough. We can alter it by secondary legislation, by regulation, always subject to the approval of Tynwald, so there is proper scrutiny, but I think the framework has got to be right, but we can act quickly.

255 Can I also say the history elsewhere, especially on mediation, shows that it does work, that it is better for, much more importantly, the people who are using it, to try and resolve their problems and not wait – what was the Shakespearean play where the... was it *The Merchant of Venice* where they had a pound of flesh? (**Mr Braidwood:** Yes.) I think we have moved away from that and the mediation is so much better. It has been proven in the United Kingdom and throughout the British Isles that it does work and I think we are catching up with that now. I believe this piece of legislation is going to be effective, and that is what it is about. It has been a long time coming, I appreciate that, but having said that, it was worth waiting. If it is worth having, it is worth waiting for.

260 I beg to move.

The President: The motion is that the Bill be read a third time and do pass. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

265 That concludes our business, Hon. Members. Council will now adjourn to the sitting of Tynwald on 15th May and 22nd May, and thereafter to our own Chamber on 22nd May.

The Council adjourned at 10.49 a.m.