



# LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH

# PROCEEDINGS

DAALTYN

HANSARD

**Douglas, Tuesday, 14th June 2016**

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**Present:**

**The President of Tynwald (Hon. C M Christian OBE)**

The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson),  
The Acting Attorney General (Mr J L M Quinn),  
Mr D M Anderson, Mr M R Coleman, Mr C G Corkish MBE, Mr D C Cretney,  
Mr R W Henderson, Mr J R Turner and Mr T P Wild,  
with Mr J D C King, Clerk of the Council.

**Business transacted**

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# Legislative Council

*The Council met at 10.30 a.m.*

[MADAM PRESIDENT *in the Chair*]

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

**Members:** Moghrey mie, Madam President.

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

## **Congratulations to Madam President**

**The Lord Bishop:** Madam President, with your indulgence, the Members of the Legislative Council would like me, on behalf of us all, to congratulate you on the honour in the Queen's 90th Birthday Honours.

10 We are honoured, ourselves, to be part of this body of which you are the President and we are delighted at the honour that has been given to you.

**The President:** You are very kind. Thank you very much.

**Members:** Hear, hear.

## **PRAYERS**

*The Lord Bishop*

## **Leave of absence granted**

15 **The President:** Hon. Members, leave of absence was given to the Hon. Member Mr Crookall this morning.

## Order of the Day

### 1. Equality Bill 2016 – Third Reading approved

The Acting Attorney General to move:

*That the Equality Bill 2016 be read a third time.*

**The President:** We move to first business which is consideration of the Third Reading of the Equality Bill.

20 I call on Her Majesty's Acting Attorney General.

**The Acting Attorney General:** Thank you, Madam President.

25 The Equality Bill is a lengthy, highly detailed and important piece of social legislation. It will build upon, consolidate and replace the Island's existing legislation aimed at protecting people against unfair and unnecessary discrimination on a wide range of grounds, that is the following 'protected characteristics', as they are referred to in the Bill: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

30 Whilst some of these protected characteristics concern the protection of minority groups who may be particularly vulnerable to the discrimination, others are important to large sections of the Island's community.

35 This Bill will bring the Island's legislation into line with modern standards and expectations and it will enable the Island to comply more fully with its international obligations. However, whilst the principles of treating people equally and prohibiting unnecessary discrimination must be supported, I hope that Members will have seen, as we have worked our way through the Bill, that these principles cannot be expressed in a short and simple way in law.

40 Indeed, there are a range of circumstances where it is either not possible or not desirable for there to be blanket equality of treatment. These circumstances are dealt with in the Bill as exemptions from the usual non-discrimination obligations. This, together with the need to provide as much legal certainty as possible for all parties, is a main factor in the length of the Bill.

45 Madam President, I very much appreciate the interest that the Hon. Members of Council have shown in this Bill during its previous readings and I also appreciate their patience in dealing with the detail of the clauses. I believe that the idea of taking the clauses over a number of sittings in more manageable portions has set a precedent which this Council, and indeed the other place, may wish to consider taking advantage of in the future when there is lengthy and complex legislation on the table. I do not necessarily see this as an alternative to sending a Bill to a committee after Second Reading, but it is a useful additional option to have available to us.

50 At this point, Madam President, I would like to apologise for the extremely lengthy speech that I had to give on the issues dealt with in Schedule 21 of the Bill. In hindsight, if there was ever a case for splitting something into more manageable portions that was it! While schedules of any Bill are usually taken as a whole, I accept that this schedule should have been dealt with in a different way. I do, nonetheless, think it was important to put on record a detailed account of the important employment law amendments contained in that schedule.

55 It will, of course, be a matter for the next administration after September's General Election to decide if and when this Bill is picked up to be introduced into the House of Keys, but thought has already been given to how best the Bill might be taken forward in the other place.

I hope, though, that with the possible exception of Schedule 21, Hon. Members here have generally found the manner in which the Bill has been taken forward to be helpful, informative and constructive. I also hope that the extensive explanatory notes on this Bill, with their inclusion of

60 numerous examples, have been helpful as we have worked our way through the Bill's clauses and Schedules – although I should perhaps say in the interest of transparency that, in the same way the Bill itself is in the main based on the UK's Equality Act 2010, our explanatory notes in respect of the main equality provisions were largely adopted from the notes on the UK Act.

65 Madam President, I would like to thank Mr Coleman for acting as the seconder for this Bill, and to Mr Cretney for moving a number of Government amendments to make technical corrections to the Bill.

I would also like to thank Mr Anderson for putting forward his amendments and, although they were ultimately not supported by Council, I think it was useful for the issues raised by those amendments to be discussed.

70 On a related matter, Madam President, Hon. Members will be aware that the Marriage and Civil Partnership (Amendment) Bill is now awaiting Royal Assent. Assuming the Bill does in fact receive Royal Assent, I would just like to put on record the intention that similar amendments to those made by the Marriage (Same Sex Couples) Act 2013 to the Equality Act 2010 in Great Britain in respect of the solemnisation of same-sex marriages, will be made to our Equality Bill in due course.

75 Madam President, there are also a couple of points I would like to pick up from the concluding part of the clauses stage for the information of the Members of Council. I mentioned that the Employment Tribunal had not, to date, made a compensatory award of the maximum amount of £50,000 under section 144 of the Employment Act 2006. However, I have since become aware of the case of *John Kaytor Bean v the Jet Centre, trading as Private Jet Company*, where the Tribunal awarded the claimant a compensatory award of £59,247.76.

80 An award in excess of £50,000 was possible in that case because the limit does not apply where an unfair dismissal was for health and safety reasons or for making a protected disclosure, which is often called 'whistleblowing'. This case was reported in the media on 10th May 2016 – that is the same day as the conclusion of the clauses stage of the Bill.

85 The other point concerns the initial exclusion of Manx-registered ships and aircraft from the scope of the Bill. Although, as I stated at the clauses stage, the main purpose of the exclusion relates to Manx-registered vessels which may be sailing on the other side of the world with foreign crews, I should clarify that the exclusion applies *wherever* in the world a Manx aircraft or ship as defined in the Bill may be, including within the Island's territorial sea.

90 Clause 157 does, however, include a power for the Department of Economic Development to apply the provisions of the Bill to Manx ships and aircraft to such extent, subject to such modifications and in such circumstances as the Department may by order prescribe.

As that Department is responsible for both the Aircraft and Ship Registries, I am sure that it would give careful consideration to the implications of extending provisions of the Bill to Manx ships and aircraft in a range of circumstances.

95 Finally, Madam President, I would like to place on the record my acknowledgement of the sterling work of a number of officers who have, in my opinion, excelled themselves. (**A Member:** Hear, hear.) Hon. Members have, as I have mentioned, had the benefit of the extensive and detailed explanatory notes to what is this lengthy and detailed Bill. Although the Bill is closely based on the Equality Act 2010 that applies in Great Britain, Hon. Members will appreciate that to Manxify these provisions and to add provisions reflecting our own particular requirements has necessitated a great deal of analysis and therefore time – not only from the drafting resources of Chambers but also across Government.

105 I acknowledge the particular contributions of Anne Shimmin in the Cabinet Office, Jonathan Clague in the Department of Economic Development and Howard Connell, Legal Officer in Chambers. These officers, although supported by their respective fellow team members, have provided me with all the necessary support to enable me to present this Bill and the detailed explanations to you, Hon. Members, for your detailed consideration.

Madam President, I now beg to move that the Equality Bill be read for a third time.

110 **The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President. I beg to second and reserve my remarks.

115 **The President:** The Hon. Member, Mr Cretney.

**Mr Cretney:** Yes, Madam President, I would like to associate myself with the remarks of Her Majesty's Acting Attorney General in respect of the officers who also provided excellent service for me in terms of legislation I have recently brought through this place.

120 I also believe that this is a very important piece of social legislation which I hope, in the time leading up to the General Election, Members and prospective members of the House of Keys will embrace; and that it will be early introduced in the new session to the House of Keys because it is fundamentally, to me, an important piece of legislation. I thank the Hon. Member for taking it through this place in the manner in which he has.

125 **The President:** The Hon. Member, Mr Turner.

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

130 I, too, support the Bill that is before us. I think I should just pass comment on how helpful it has been – and this is on the process – to have broken the Bill down into different stages. And, unlike the other place which is more of a debating chamber, when we scrutinise the legislation we do act almost in a committee form; and certainly by taking the Bill through in the manner it has been progressed has enabled us to focus I think in more detail, whereas it would have been quite a colossal job to have taken it through in one go.

135 So I think, certainly, Her Majesty's Acting Attorney has hit the nail on the head by saying that this is a positive way of dealing with complex and lengthy legislation, and one that I hope we will consider in future when we get lengthy Bills.

It has been very helpful and I think – notwithstanding Mr Anderson's amendments were not supported – again it shows how Council can look at Bills, bring forward ideas, debate them sensibly and calmly, reach a conclusion and then move on.

140 I think it has been an interesting process. So I, too, support the Third Reading.

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

**Mr Henderson:** Gura mie eu, Eaghtyrane.

145 I am very pleased to support the passage of this legislation and it is a landmark point for the Isle of Man in moving this forward. I am very pleased that it is moving forward through the Legislative Council which shows, not only to the public of the Isle of Man but also to the world at large, our intention and our intent and our will to progress this and to meet our international obligations and standards.

150 One thing I would say, Eaghtyrane, as I did in some previous legislation, I would like us to arrive at a point one day, not too far in the future I hope, where we do not have to be worrying about discrimination, vindictiveness, spitefulness and all the other judgmental issues and so on – labelling and issues of that ilk – whereby everyone can live in a harmonious society in peace, free and without fear of discrimination or being labelled. I would hope that in future the press and the media will pick up on the same thing, where they have to make an issue of certain subjects.

I believe in time that should be transcended, where there is not any labelling and other issues that go with that, and we can get on as a society at a much better level of humanity.

Thank you.

160 **The President:** The Hon. Member, Mr Corkish.

**Mr Corkish:** Thank you, Madam President.

165 There are many good points, of course, worthy of inclusion in the legislation and it is to be welcomed. Overall it is landmark legislation and indeed there may follow many queries and arguments in the future to clarify some of the points contained therein. The Bill will surely pass but will contain sections that will present difficulties to many in our Island and indeed Members of Tynwald.

170 I welcome, as Chair of Tynwald Advisory Council on Disabilities, in particular the rights being afforded to members of our disabled community. It is a most comprehensive Bill and indeed a complex Bill, and I congratulate the Acting Attorney General for his delivery of its contents – and indeed his stamina in doing so.

So I can only hope, with everybody else, that this Bill and its contents will benefit this Island and its people.

175 **The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

180 Just to give the Bill my complete support. I think it brings the Island up to UK and international standards. It will impact, I think, different organisations in different ways because, certainly if you have had a background in a UK-parented organisation, you will find that a lot of this legislation is there anyway. It is, I guess, bringing the whole of the Island into complete alignment.

So I wish it well. And well done to the Acting Attorney General for taking what I would say is a very complex piece of legislation through; and to the officers.

185 **The President:** The Lord Bishop.

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

190 I, too, welcome the Bill in general. I have a hesitation which is that whenever one tries to create equality by legislation, one is bound to also create inequalities which in due course will need to be sorted out. But in general, and particularly with anybody who is disabled in mind, I welcome the Bill.

**The President:** The motion is that the Bill be read a third time and do pass. Those in favour, please say aye ...

195 I am sorry, I forgot to ask you to reply!

**The Acting Attorney General:** That is alright! (*Laughter*) Thank you, Madam President.

200 If I could make one brief statement to thank the Hon. Members for their sincere comments and consideration of this Bill and for their support; and really to join with the caution, in a sense, of the Hon. Member, Mr Corkish, and the Lord Bishop that there will be challenges to sections of this Bill as we go forward.

I am confident, as I am sure Members of Council are, that by adopting the same mature approach to the application of this Bill which this Council has adopted in its consideration of its provisions, those matters will be sorted out in time; but there will be some hard times ahead for certain sections of society as the principles of this Bill are unrolled or unravelled as time goes on.

205 And with that, Madam President, I do move the Third Reading of the Bill, and that it do pass.  
Thank you.

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

210 And in accordance with Standing Order 4.5(2) the Bill will be transmitted to the House of Keys on Monday 3rd October in order to ensure its continuance.

**A Member:** Hear, hear.

**2. Treasure Bill 2016 –  
Third Reading approved**

Mr Anderson to move:

*That the Treasure Bill 2016 be read a third time.*

215 **The President:** We turn now to Item 2, Hon. Members, and I call on the Hon. Member, Mr Anderson, to take the Third Reading of the Treasure Bill 2016.

**Mr Anderson:** Thank you, Madam President.

I would like to thank Hon. Members for their support of the Treasure Bill to date. As the Bill passed smoothly through the clauses stage last month I will be brief, as usual.

220 The catalyst for this Bill was the discovery of the Glenfaba Hoard of Viking silver in 2003. Hon. Members may recall that there were difficulties in deciding the reward to be paid as the legislation, the Treasure Trove Act 1586, was a little dated. *(Laughter)*

225 The Treasure Bill introduces modern legislation to determine whether or not found objects are treasure. It sets out the process for dealing with such finds and the determination of rewards for treasure which has been vested in the Treasury in trust for the Crown. It will provide a transparent and fair procedure for all interested parties to follow.

The Treasure Bill provides for Treasury to introduce a code of practice which will contain more detail and guidance; this will be introduced once this Bill, if passed, is enacted.

230 Madam President, I beg to move that the Treasure Bill 2016 be read for a third time.

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

**Mr Henderson:** Gura mie eu, Eaghtyrane. I beg to second and reserve my remarks.

235 **The President:** If no Member wishes to comment, Hon. Members, the motion is that the Treasure Bill be read for a third time and do pass. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

And again, in accordance with Standing Order 4.5(2), the Bill will be transmitted to the House of Keys on Monday 3rd October.

240 Hon. Members, that concludes business of the Council this morning. Council will now adjourn until Tynwald on 21st June.

*The Council adjourned at 10.53 a.m.*