



LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH

PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 8th May 2018

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Present:

The President of Tynwald (Hon. S C Rodan)

The Lord Bishop of Sodor and Man (The Rt Rev. P A Eagles),
The Attorney General (Mr J L M Quinn QC),
Miss T M August-Hanson, Mr D C Cretney, Mr R W Henderson,
Mrs M M Hendy, Mrs K A Lord-Brennan, Mrs J P Poole-Wilson and Mrs K Sharpe
with Mr J D C King, Clerk of the Council.

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Legislative Council

The Council met at 10.30 a.m.

[MR PRESIDENT *in the Chair*]

The President: Moghrey mie, Good morning, Hon. Members.

Members: Moghrey mie, Mr President.

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

PRAYERS

The Lord Bishop

Leave of absence granted

The President: Hon. Members, I have given leave of absence to the Hon. Member of Council, Mr Crookall, who is off Island on family business.

Order of the Day

1. Abortion Reform Bill 2018 – Statement by Mr Henderson

10 **The President:** One Item on our Order Paper, Abortion Reform Bill, and I call on the Hon. Member of Council, Mr Henderson, to make a statement.

Mr Henderson: Gura mie eu, Eaghtyrane.

15 I wish to make a statement with regard to the First Reading of the Abortion Reform Bill and to Hon. Members of this Chamber. I wish to inform this Chamber that I will not be moving the Abortion Reform Bill today for its First Reading, for reasons I will outline shortly.

The passage of this Bill has been a long and complicated process on its way through the various legislative stages in the House of Keys. It has now been amended multiple times and had many new clauses added to it and, specifically, it has had a new section added to it as well. As a consequence of
20 these complications, the resultant review and checking processes by the mover of the Bill, Dr Allinson, the legislative drafter and the Clerk to the House of Keys, it has been discovered that the version of the Bill for legislative review, as of late last week, was not correct.

Further, I require the following information and positive reassurances in that we have all the amendments and new clauses carried over on the revised version of the Bill that was made in the

25 Keys: concerns – and I need these to be allayed for myself to start with, Eaghtyrane – with regard to
the use of the definition of ‘health’ within the Bill, and also there is a point with regard to human
rights issues, there are still some interpretation issues with regard to that as to which is the right one
in relation to the Bill, and that is being checked out as we speak.

30 I also wish to know, from a legislative drafter’s perspective, that the Bill, as amended, and with
the new clauses, has been assessed for its functionality, workability and that no parts of it conflict
with any other part. In other words, it does what it is supposed to do; correctly written, with all the
amendments, new clauses and so on and it is functional and works correctly. I also have ongoing
enquiries that the Bill has been properly impact assessed so we are aware, as far as possible, that it
does not conflict with other legislation – although we have some reassurances on that, I have sought
35 further clarification – and that any parts within that may affect other legislation are correctly
cross-referenced, other legislation is amended or parts of legislation repealed and updated to reflect
any relevant parts of the Abortion Bill. We have a small repeal section at the end of the Bill, in the
closing provisions, but I want to ensure that everything has been checked, as far as possible, and
especially now the Bill has been heavily amended with new clauses added to it.

40 I also wish to double check with the legislative drafter that we have all the amendments and
clauses added to the Bill by the House of Keys within the Legislative Council version and that we are
reviewing the fully amended version of this Bill, including new clauses, and that it contains all the
new clauses inserted from the Keys readings, including all of the new associated text lines that go
with these amendments and new clauses. As of late last week, some of the text lines had not been
45 transposed into the Legislative Council version of the Bill i.e. the completed Bill from the House of
Keys.

Eaghtyrane, I remain uncertain, personally, that the Bill has within it everything that it should
have from its progression through the House of Keys and that it has all the correct inserted text to
go with that as well. Further, the Bill, as published on our BoardPad, as of yesterday, Eaghtyrane,
50 had the old explanatory memorandum, which was before the House of Keys prior to any
amendments or new clauses that were made to that Bill. In my view, the Legislative Council needs to
know the answers to these questions in advance of the commencement of any readings of this Bill.
Council needs the reassurances from me, as the mover, that we do indeed have a workable and
correct version for the legislative review, which is critical for the process we will be undertaking.

55 After due consideration of the current timescales, the fact Legislative Council did not receive a
revised copy of the above Bill formally until very late last week, and questions I have placed with
regard to the Bill and which I require to be answered, following on from that I am arranging a
meeting with the legislative drafter later this week to go through these issues piece by piece, then I
have to inform you, Eaghtyrane, that I will not be moving the Bill this week.

60 This decision is also based on some concerns raised by Legislative Council colleagues on the fact
that the revised version of the Bill has arrived somewhat late for a First Reading this week. Although
no one has objected to its First Reading today, to be fair to Council Members, I do have to take this
into account in my decision here. I have requested the Bill return to the Legislative Council Chamber
as a point of business as soon as practically possible thereafter, as I am keen to get on with the
65 progression of this Bill.

Eaghtyrane, in closing, I have to mention one further issue that has become apparent in the last
couple of weeks, which is an issue with regard to the timing of the Legislative Council reading of this
Bill and the point at which it will receive Royal Assent, and possibly an aspirational hopefulness from
some quarters that we could have this done quickly. I just wish to place on record that the
70 Legislative Council will not be pursuing this Bill quickly. We will do our job correctly and to the best
of our abilities. In any case, even if I were to move the First Reading of this Bill today, we could not
possibly then have the Second Reading until 22nd May, Third Reading 12th June, and then we would
require Ministry of Justice authorisation sometime in late July and that would move us to the signing
in Tynwald and the Royal Assent to October, at the earliest, and it would not receive promulgation
75 on Tynwald Hill until July of next year. I have questioned our Legislative Council Clerk on these

matters and he has provided his view of how it would timetable in and so I just wish to place that on record as well, Eaghtyrane, that in fact we could not get Royal Assent until at least October Tynwald.

So, having said that, Eaghtyrane, that is my Statement to the Legislative Council this morning.

80 **The President:** Thank you, Hon. Member.

Now, the Statement by Mr Henderson, this is not an opportunity for debate. However, questions are permitted to the maker of the Statement, if anyone wishes to pose a question to Mr Henderson.

Miss August-Hanson.

85 **Miss August-Hanson:** There were some suggestions that the promulgation on Tynwald Day could perhaps be done before time but, of course, the deadline has passed, has it not?

The President: Mr Henderson, I think you made that clear.

90 **Mr Henderson:** Yes, that is absolutely correct. Even if we were to move it today we could not get the promulgation on 5th July.

The President: Thank you. Any other questions?

Yes, Mrs Poole-Wilson.

95 **Mrs Poole-Wilson:** I do not know whether the hon. mover will know the answer to this – if you do not at this stage I understand – but I think in your Statement you referred to points being clarified with the Ministry of Justice. Do you know whether we are likely to have that clarification at the point we get the comprehensive Bill, with all of the amendments that the Keys have made, ready for our process, or whether that will be something that is running along in parallel with the process of us considering the Bill in Legislative Council? I just wondered if you have any knowledge about that please.

100 **Mr Henderson:** I am hoping to have that information by the time it comes back as First Reading but –

105 **The President:** Mr Attorney, would you wish to clarify?

The Attorney General: I can say that the draft Bill, in its current form, is with the Ministry of Justice for their review, but we will not get any formal feedback before the First Reading.

The reality is that they will let us have some initial comments but they will await the final Bill, as approved by LegCo, before actually expressing their final conclusions, so we are not going to have any extreme comfort from that.

115 The process is that if Legislative Council pass the Bill, with any amendments they may make, which then might be approved by the House of Keys, I then have to sign off on the issue of the human rights challenges that could be there, and it is only at that point in time that the Ministry of Justice will consider that.

I hope that helps.

120 **The President:** Thank you, Mr Attorney.

Miss August-Hanson.

Miss August-Hanson: Thank you, Mr President.

Would the Attorney General please outline what those human rights challenges are?

125

The President: Mr Attorney.

130 **The Attorney General:** Mr President, if I can leave that at the moment. Can we wait and see what the form of the Bill is and what questions the Members of Legislative Council may have on that? I have already expressed some views, which are known, but I do not know what Members of Legislative Council may be concerned about.

The President: Thank you.

135 If there are no further questions then, thank you Hon. Members, that concludes the Order Paper this morning.

The Council will now stand adjourned and will reconvene at 10.30 a.m. next Tuesday in Tynwald Court.

The Council adjourned at 10.43 a.m.