

**REPORT OF PROCEEDINGS OF  
LEGISLATIVE COUNCIL**

**Douglas, Tuesday, 14th November 2000  
at 10.30 a.m.**

Present:

The President (Hon N Q Cringle), the Attorney-General (Mr W J H Corlett QC), Hon Mrs C M Christian, Messrs E A Crowe, J R Kniveton, E G Lowey, Messrs J N Radcliffe and G H Waft, with Mr T A Bawden, Clerk of the Council.

*The Chaplain of the House of Keys took the prayers.*

**Apologies for Absence**

**The President:** This morning, hon members, we have apologies from Mr Delaney who is off the Island on departmental, government business, the Lord Bishop who is attending Synod, and Dr Mann who is still indisposed.

**Transfer of Funds from Nigeria — Treasury Advice — Question by Mr Crowe**

**The President:** So we turn then to our order paper and the question in the name of the hon. member Mr Crowe.

**Mr Crowe:** Mr President, I beg leave to ask a member of the Treasury:

*What advice does the Treasury give to residents of the Isle of Man who receive letters from residents of Nigeria requesting assistance to transfer funds out of Nigeria by using Isle of Man bank accounts?*

**The President:** The member of the Treasury, Mr Radcliffe, to reply.

**Mr Radcliffe:** Thank you, Mr President. I am obliged to the hon. member for bringing this question forward. It is one which is certainly of current interest.

Can I say, sir, that the Treasury would advise residents of the Isle of Man who receive letters from residents of Nigeria requesting assistance to transfer funds out of Nigeria by using Isle of Man bank accounts to ignore such letters and not, definitely not, reply to them. That is the advice that has been consistently given by both the Financial Supervision Commission and the police for several years.

It is understood that the main purpose of such letters - and I have a copy of one here which hon. members may or may not have seen, but it is asking for all sorts of details from a person - is to seek to solicit at some stage details of a person's bank account, for example the name of the bank where the account is held, the account name and number and a specimen signature for that person. Once in possession of such information it is possible that they will seek to perform a fraud against that person. For example, they may try to instruct the person's bank to transfer monies out of it to an account controlled by the resident in Nigeria. There is nothing that the Treasury can do to prevent these letters from Nigeria reaching Isle of Man residents.

The advice given is that, if any member of the public wishes, they may pass a copy of that letter they have received from Nigeria to the Financial Supervision Commission who batch these up from time to time and send them, with the Isle of Man resident's details suitably obliterated, to the Nigerian High Commission in London for information. The Nigerian authorities have a stated policy of clamping down on the issue of such letters.

It is understood at this moment that the number of such letters to the Isle of Man and to Isle of Man residents could be on the increase and therefore the Financial Supervision Commission has advised that a warning notice is to be placed in the local press.

So, Mr President, as I say, I am obliged to the hon. member for bringing this up and, not much representation from the media, but it is one which the media should bring to people's attention. If one receives these letters, send them to the FSC and they batch them up and send them to the Nigerian consulate in London.

**The President:** Mr Crowe.

**Mr Crowe:** Thank you, Mr President. I thank the hon. member Mr Radcliffe for the comprehensive reply and I think it is very important, and I hope the member would agree, that if people receive such letters they do not just discard them and put them in the bin, but they inform the authorities such as the Treasury, the FSC, the Insurance Authority, the police or the Office of Fair Trading so that action is taken properly rather than they just get binned and no action is taken.

**The President:** Mr Radcliffe.

**Mr Radcliffe:** Well, just to reply, I agree entirely, sir, with what the hon. member has said.

**The President:** Mr Kniveton.

**Mr Kniveton:** Can I ask Mr Radcliffe is he to send a copy of the script, his words there now, in addition to the notice that is going in the paper? Can he send those words to the press so that they can be immediately printed?

**Mr Radcliffe:** Mr President, I would be happy to furnish the media with a copy of the answer that I have already given here and underline the various points that I think are the most important in that answer.

**Mr Kniveton:** Thank you, Mr Radcliffe.

**The President:** Okay, hon. members, we turn then to item 2 on your order paper, which is a question for written answer, and I understand that that answer has already been circulated to members. If it is not in your hands it should be on your desks.

### **Courthouse — CCTV Equipment — Question by Mr Crowe for Written Answer**

#### **Question 1**

The hon. member, Mr Crowe, to ask a member of the Council of Ministers, Mrs Christian:

*Has the closed circuit television equipment in the old courthouse in Athol Street, Douglas, been used in the new courthouse? If not, is it being used elsewhere?*

#### **Answer**

The closed circuit television equipment in the old courthouse in Athol Street, Douglas has been used in the new courthouse at least once. On that occasion the equipment was found to be defective.

Enquiries were made regarding repair of the equipment. However, repair was found to be an uneconomic option and a new system was purchased.

The old CCTV equipment is out of date and will not be reused.

### **Contracts (Rights of Third Parties) Bill — First Reading Approved**

**The President:** Therefore we turn to the Contracts (Rights of Third Parties) Bill for first reading and I call on Her Majesty's Attorney-General.

**The Attorney-General:** Thank you, Mr President. It is important that the commercial law of the Island is kept up to date. Businessmen from other jurisdictions will be deterred from doing business in the Island if they are taken by surprise by some technical rule of Manx law. This is particularly important when those businessmen conclude contracts which are made in the Island or are governed by Manx law.

A basic principle of Manx and English common law is that, with a few exceptions, for example, certain contracts of insurance, only a party to a contract has the right to enforce its provisions even where a third party is expressly given rights under it or it is for his benefit. This principle, which is known as privity of contract, may operate to thwart the intentions of the parties and cause injustice and hardship to third parties. It has been criticised by the courts for many years in England and the Law Commission has recommended that it be abolished by statute.

Parliament in the United Kingdom has passed the Contracts (Rights of Third Parties) Act 1999 which amended the law of England and Wales and that of Northern Ireland to give a person the right in certain circumstances to enforce a contract to which he is not a party.

The injustice of the privity of contract rule can be well illustrated by a case in 1970 where a coal merchant transferred his business to his nephew, who promised him that he would, after the coal merchant's death, pay an annuity to the widow. The coal merchant died and the nephew refused to pay the annuity to the widow. Although the widow succeeded on other technical grounds, the House of Lords upheld the traditional rule that the widow, not being a party to the contract, was unable to enforce it. The central purpose of the Bill therefore is to enable a third party, such as the widow in the 1970 case, to acquire rights under a contract, if and to the extent that the parties to the contract intend that that should be so.

Mr President, I move that the Contracts (Rights of Third Parties) Bill be read a first time.

**Mr Radcliffe:** I beg to second, sir.

**The President:** Mr Radcliffe seconds. Mr Crowe.

**Mr Crowe:** Can I ask the mover of the Bill - I am happy to support this - is the motivation just to bring this into line with the UK or have there been any recent cases in the courts that have led this to come before the branches for discussion, and, Mr President, just on a specific point, clause 1(1)(b), again it is talking about the rights in the contract where 'the term purports to confer a benefit'. Is this likely to lead to some benefit to the deemsters who can interpret this or will it weaken it slightly? If the Attorney-General can just comment on how the courts might see the term 'purports' as being a benefit or a disadvantage.

**The President:** With no other member wishing to speak, Mr Attorney, will you reply?

**The Attorney-General:** Thank you very much, Mr President. I am not aware of any case in the Isle of Man which has brought about this change in the law. As I say, I think the prime move in the legislation has come from the United Kingdom. However, as I mentioned in my opening address, I think it is very important that we do try to keep abreast of developments which occur in commercial law and this amendment of the privity of contract rule is something that is very well known now to lawyers and, as I say, I think it would be very useful if our jurisdiction was the same as the United Kingdom in this respect, particularly where contracts are made very often by commercial businessmen who have their normal place of residence and operations in the United Kingdom. So, as I say, I am not aware that there is any particular move from the courts or from the deemsters to achieve this change. It really is a move that I as Attorney-General have brought to the attention of the Council of Ministers by way of law reform.

In so far as the specific question raised by the hon. member on clause 1(1)(b), certainly there could be occasions where the deemster will have to look at the contract, which could be in writing,

on the other hand it might just be something which is said verbally between parties, and the deemster will have to look at all the circumstances and construe the whole circumstances and see whether a third party might achieve a benefit under the contract.

**The President:** Okay, well, hon. members, before us is the Contracts (Rights of Third Parties) Bill for first reading. Will those in favour please say aye; and against, no. The ayes have it. So the Bill is read for its first time.

### **Betting Offices Bill — Second Reading Approved — Clauses Considered — Third Reading Approved**

**The President:** We move then to the Betting Offices Bill and this is a Bill which is for second reading and I call on the hon. member Mr Lowey.

**Mr Lowey:** Thank you, Mr President. Before I turn to the second reading may I thank members for their contributions at the first reading last week and there were three questions posed which I undertook to take advice on.

Firstly, my good friends Mr Crowe and Mr Delaney. Mr Delaney's query was 'Is there a ceiling to the stakes that can be bet?' and Mr Crowe's was 'What checks are there in place to prevent switching and regulation?', and if I can take the two questions virtually together, 'Is there a maximum limit for a bet?', the answer is no. The licence holder considers each bet according to the odds liabilities and then decides in each case whether to accept the bet and that leads us on to 'What checks are undertaken on a person wishing to place a bet over the telephone?' Before a new customer can place a bet they have to register as an account holder and this involves a variety of checks - providing credit card details, including photocopies of the front and back, providing name and address and proof of residential status in the form of a utility bill and an identity check by supplying a photocopy of their passport or driving licence - and once registration has been completed the customer is provided with a code number which they are then required to enter prior to placing a bet. Bets are never taken from persons who are not account holders.

Finally, the Lord Bishop posed the query, 'Is there more than one licensed betting shop?' For the telephones there can be satellites, so this Bill allows restricted betting office licence holders to operate out of more than one site. This does not affect the limitation on betting shop licence holders who are required to operate out of only one premise, in other words one shop. It makes sense for operators of betting shops to have one licence per shop, as each shop is entirely separate, but it does not make any sense to prohibit international telephone betting operators from operating out of more than one site, because it could prevent them from having more than one call centre. Although they may be sites, all of those things are connected to one central position, obviously for the allocation of the bets, for the odds and whether they are wanting to accept them or not. So although they may be operating in various areas of the Island they will all come into one main call centre.

Mr President, I hope that that has answered the queries of the three questions that I was unable to give a direct answer to last week.

This Bill had its first and second readings in the House of Keys in 1999, a long time ago, but as a result of concerns raised by the industry and developments in technology the clauses stage was delayed when the Department of Home Affairs consulted with the companies that are already operating out of the Island and those that wish to do so.

This Bill is promoted by the Department of Home affairs to provide different licences for the two distinct types of operators: the local betting shop and the international telephone operator. These licences are called, as I have said before, public licensed betting offices and restricted licensed betting offices.

The Bill also allows for the introduction of special regulations to be made for the conduct of restricted licensed betting offices.

In addition to the clauses in the original Bill and as a result of the consultation conducted during the year 2000, amendments were moved in the House of Keys which provide for a simplified licence application procedure, an appeals procedure in the event of a licence being refused, a continuation of those licences granted prior to the Bill coming into force, for those operating in the international telephone field until they would normally expire, the added benefit that restricted licence holders will be able to operate out of more than one site, as I have already explained in the last question, and, lastly, the removal of ceilings on the number of either licence that can be issued at one time. These amendments will ensure that restricted betting office licence holders are treated on the same equitable basis as public betting office licence holders.

Again finally, it does create employment opportunities in areas of the Island where there are more limited opportunities. These could be improved, and I only use the word 'could' be improved, by the relocation outside of the main conurbation to smaller call centres.

Mr President, I move that this Bill now be read a second time.

**Mr Kniveton:** I beg to second, Mr President.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, I certainly support the Bill. I think that the hon. mover has indicated that it does open up an opportunity for a different kind of business, a development of betting business. At the same time he has indicated, I think, that it will need very stringent monitoring and supervision to ensure that this business is not exploited by those who might seek to avoid any of the requirements of 'know your customer', and the hon. member has confirmed this morning that it will be necessary for people who wish to bet through the internet or by other means will have to be known by the betting office, and I think perhaps where people have a concern it would have been in that area and one can imagine that the Island could have been exploited as a money laundering venue if the detail of this were not sufficiently robust, but I am sure that everyone recognises the dangers of that and will be monitoring it closely and therefore I am happy to support the second reading.

**The President:** Mr Crowe.

**Mr Crowe:** Thank you, Mr President. Yes, I am again happy to support the second reading. Not in this Bill, but it would be interesting possibly if the mover could check on this as to the capital adequacy of the licensed bookmakers who may suffer a particularly bad run of betting against them and may find their capital is insufficient to meet the liabilities and I am just wondering are there any capital adequacy provisions for the offshore licensees who would be involved in this legislation?

**The President:** Mr Kniveton.

**Mr Kniveton:** Yes, thank you, Mr President. I must say that as a non-betting man, although not bigoted in this respect, I understand, I believe, the basis of this Bill.

As we are aware from Mr Lowey, a considerable consultancy period has taken place and the concerns raised from within the industry itself and also the development in technology have been noted.

Now, as a result the Bill now provides, as I see it, for a simplified licensing procedure, an appeals procedure and a continuation of those licences granted prior to this Bill coming into force. It results in restricted licence holders being able to operate from more than one premises and the

removal of maximum numbers and the number of either licence that can be issued at any one time.

So I will support this Bill. I believe it is quite sensible, it is quite reasonable and I must say that after reading this bill several times I have learned much about bookmaker's betting shops and so on which I did not know before. Thank you, Mr President.

**The President:** Mr Waft.

**Mr Waft:** Just one small thing, Mr President. I just wondered - perhaps the Attorney might know - with regard to the e-commerce legislation which was passed in relation to contracts between parties by electronic means and the fact that bookmaker's gambling debts are not recoverable by law. How does that affect gambling between two parties which are one in one jurisdiction and another in another?

**The President:** Now, Mr Attorney, would you like to pick up on that point before Mr Lowey is invited to respond?

**The Attorney-General:** Well, thank you, very much, Mr President. I think that one of the fundamental principles of the e-commerce legislation is that it does not affect the existing law in relation to such things as recovery of debts because of illegality or some other reason and therefore if a gambling debt were not recoverable, then it would not become recoverable by virtue of the passing of the e-commerce legislation or the fact that the transaction was governed by an internet transaction.

**The President:** Right, Mr Lowey to reply then to the second reading debate.

**Mr Lowey:** Thank you, Mr President. Can I first of all thank members for the interest that they have shown in this particular legislation.

Mrs Christian - she is right when she says this is another development, another facet of business and whether we like gambling or not it is a fact that telephone gambling is a business and it should be well regulated, and that is the point I was stressing last week. If we are to have this business, then there is only one thing and it is like other businesses: it is quality and it is well regulated.

The Isle of Man went down this route by having the first publicly owned casino and we made a mistake at the start of that: it was not regulated tightly enough. Since we got over the first hiccup I think the regulators on the Isle of Man have seen to it that the punters and the operators know exactly where their positions are and have handled it extremely well, so they are well versed and I am sure the Gaming Commissioners of the Isle of Man are the right people, in conjunction with the home affairs department, to be in charge of regulation. So whatever the thing is, we have to have it well regulated. This Bill has set out the framework for that to happen and to that extent is the context in which I will be and I am able to give it my support in moving it.

To Mr Crowe, again the capital of the people who apply for licences, these are the considerations of the Gaming Commissioners and the Home Affairs when they actually allocate the licence and I am quite sure that will be part of the background research that is done by the commissioners before they grant the licence.

I welcome Mr Kniveton's support and, like him, I think I have ever only been in one betting shop in my life.

**Mr Kniveton:** I have never been in.

**Mr Lowey:** You have never. Well, I went into one. I was on a committee in another place when I was a member of another place and we were introducing betting shops or reviewing betting

shops. There was a committee set up and I was on it and I went in. I have never been back, but I am sure again they run a well-regulated industry, restricted to the numbers in the past.

As for Mr Waft, I expected him to ask me did this Bill conform with human rights. Well, I was about to say to that that I am glad the Attorney has replied on e-commerce. All I can say on that is you are not forced to gamble.

But, seriously, this is an opportunity for the Isle of Man. We are already practising it, we are practising it now without what I would call the real safeguards, and everything that is included in this Bill will make it better. So when this Bill is passed it will be better for the punters, it will be better for the people who operate it, the bookmakers, and it will be better for the Isle of Man and the image of the Isle of Man. It is a quality product, well regulated and that is in keeping with every other sort of business that we operate from this Island.

I beg to move the second reading, Mr President.

**The President:** Okay, hon. members, the motion before us is that the Betting Offices Bill be now read for a second time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Now we move on to the clause stage and I invite Mr Lowey to take clause 1 and the schedule.

**Mr Lowey:** Can I beg that the House moves into committee to deal with the clauses?

**The President:** Yes, well, we are happy to continue and deal with it and complete. Clause 1 and schedule.

**Mr Lowey:** Thank you, Mr President. Clause 1 and part 1 of schedule 1. Clause 1 replaces section 15 of the 1988 Act which required a licensed bookmaker to hold a betting office licence for any premises where he takes bets, with a new section requiring a public betting office licence for premises where the bets are taken from punters in the Isle of Man or United Kingdom and a restricted betting office licence for premises where bets are taken from punters anywhere else in the world. It also introduces part 1 of schedule 1 which makes further amendments to the licensing system.

Sub-clause (1) substitutes a new section 15 in the 1988 Act. Section 15(1) restates the existing section 15(1) which requires a licensed bookmaker to hold a betting office licence. Section 15 provides that a betting office licence is to be either (a) a public betting office licence and again for bets for persons on premises, what is commonly called the public betting office, over-the-counter bets, and (b) a restricted betting office licence for bets with persons outside the Isle of Man or the United Kingdom, i.e. international telephone betting. Now, there is a new provision: that is the new provision.

Section 15(3) is an anti-avoidance device to prevent the holder of a public betting office licence taking bets from a person abroad by going through an agent in the Isle of Man or the UK or the holder of a restricted betting office licence taking bets from a person in the Isle of Man or the UK by going through an agent abroad. In those circumstances the bet is treated as laid by both the principal and the agent so that the licensee will be committing an offence. This is a new provision.

Section 15(4) makes it an offence for a licensed bookmaker to take a bet anywhere other than in a licensed betting office or (b) to take a bet from a person abroad at a public betting office or from a person in the Isle of Man or the UK at a restricted betting office.

Section 15(5) gives a bookmaker a defence against taking bets from a person with whom he is not allowed to deal, if he has taken all reasonable steps to ascertain the punter's whereabouts. Now, that is a new provision. There is a defence there where there was not before.

Sub-clause (2) introduces part 1 of the schedule which makes further amendments to the 1988 Act. Schedule 1, part 1 fills in the details of the new dual system of betting office licences.

Mr President, I beg leave to move clause 1 and schedule 1, part 1 stand part of the Bill.

**Mrs Christian:** I beg to second.

**The President:** Mrs Christian seconds.

**Mr Kniveton:** All I have got to say, Mr President -

**The President:** Mr Kniveton.

**Mr Kniveton:** - thank you, sir - is that I think it sets out quite clearly how we could or should see the future of betting shops. As I say, I have learned quite a lot reading this Bill. I think it is all very sensible and very practical and, yes, I have no problem with it. Thank you.

**The President:** Mr Crowe.

**Mr Crowe:** Mr President, could I just ask Mr Lowey, and I know it comes up later, if existing betting office licence holders will continue through the transitional rules, but are there any limitations on the numbers of people who will have, shall we say, a limited licence on the Isle of Man? Will you be restricting the number of licences or will it be unrestricted? I am not asking for one or anything, but I just thought that if there are presently 10 or whatever it is, do you keep to that or do you just have open sale of these things?

**The President:** Mr Lowey to reply.

**Mr Lowey:** Yes, could I thank Mr Kniveton for his support and the schedule gives the framework under which it operates.

To Mr Crowe, my belief is that it lifts the number. It will be controlled, obviously, by the home affairs department as to the exact number. At the moment of course we are restricted to the number of betting shops to 10. I think it is 10. Some of those licences have been taken over and only one person can hold, I think, a maximum of three of those 10. Some of them are being actually operated now as telephone betting premises. This will open up that to allow more than 10 to be promoted but it will be actually fixed by the Home Affairs as to the number with the Gaming Commissioners. So there could be more telephone betting operators than there are betting shops because of course that does not affect the people here on the Isle of Man. It is the number that the market will be able to sustain. So the answer to that is, yes, they are unrestricted to the numbers in which they can operate, subject, obviously, to the Home Affairs.

**The President:** Mrs Christian, you are a bit concerned?

**Mrs Christian:** My understanding, and maybe I misread it, was that they were restricted to 10. In the schedule I felt it said 10 public betting office licences and 10 restricted betting office licences. I am sorry to confuse the issue -

**Mr Lowey:** No not at all.

**Mrs Christian:** - but perhaps the hon. member can confirm that.

**The President:** A question has been raised and if there is confusion it is better to clear it at this stage.

**Mr Lowey:** Absolutely, yes. My belief, and let us get it clear, is that under the schedule it spells out quite clearly that for a public betting office there should be 10 betting offices. There can be only one particular person or one company can only have a maximum of three of those 10 licences. For the telephone operation you are only allowed to operate with one licence. There are 10 shops at the moment for the betting shops, that is the ordinary betting shops which we have

already, and the proposal is, I think, at the start anyway, to limit that to 10 telephone betting shops, but there is the power for the department to actually increase that number if the Gaming Commissioners consider it necessary in consultation with the Home Affairs. That is the way that I have read the Bill and interpret the Bill.

**The President:** I think, hon. members, and I am not sure that I could totally clear it, but in fact the schedule was amended and I think Mrs Christian's comments might have been taken from 2(1)(i) where it says 10 public betting office licences and 2(1)(ii) where it says 10 restricted betting office licences. That, my understanding is, was struck out in the Keys and you should have an amendment sheet.

**Mrs Christian:** I do apologise, Mr President. That was the way I was reading it from the original printed document.

**The President:** And on the printed green Bill which went to the Keys that wording which you read out was on the green paper. That was struck out and then the amendment was moved.

**Mr Lowey:** That is right, it is unrestricted, but obviously the Gaming Board have to have some leeway and that is the formula that is going to be used. The Home Affairs will be the deciding factor with the Gaming Commissioners.

**The President:** Okay, hon. members, with that explanation then the motion before us is that clause 1 and the first part of the schedule stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Then can we take clause 2, Mr Lowey, please.

**Mr Lowey:** Thank you, Mr President. This clause gives the Gaming Control Commissioners new powers to prescribe rules for the operation of restricted licensed betting offices.

Sub-clause (1) is introductory.

Sub-clause (2) restricts the existing rules for operating betting offices to public licensed betting offices.

Sub-clause (3) gives the commissioners, with the consent of the Council of Ministers, power to make regulations as to the conduct of restricted licensed betting offices including provision for the appointment and functions of an accountant to supervise their operation, and regulations will require Tynwald approval, so they are up front, and sub-clause (4) extends the defence of due diligence as in section 22(2) of the 1998 Act to cover offences against regulations under sub-clause (3) which I have just spelt out which gives the commissioners, with the consent, the power to put in new regulations.

Mr President, I beg to move clause 2 stand part of the Bill.

**The President:** Mr Kniveton.

**Mr Kniveton:** Yes, I am happy to second it, sir.

**The President:** The motion then, hon. members, is that clause 2 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. We take clause 3 and the other part of the schedule then, I think, hon. member Mr Lowey, and we will note also that at this stage we have a new number 4. Clause 3.

**Mr Lowey:** Clause 3, Mr President. This clause extends the power of a criminal court under the 1988 Act, section 18, to cancel a bookmaker's permit on his conviction for certain offences which at present covers (a) offences under part 2, betting, of the 1988 Act, and (b) any offence involving fraud, dishonesty or violence or causing actual bodily harm. Now this new amendment covers any offence carrying a custodial sentence. Once again this is a tightening up of the standards that could be applied against bookmakers.

I beg to move clause 3 stand part of the Bill.

**The President:** Mr Kniveton.

**Mr Kniveton:** Again I am happy to second that, sir.

**The President:** Mr Crowe, do you wish to make a comment?

**Mr Crowe:** Mr President, it is just what rights of appeal would a betting office owner have if his licence was cancelled or revoked? Are there provisions in this or other legislation that would allow the person to seek a remedy that he had acted irresponsibly? I am not clear if there is a right of appeal built into this legislation or any other legislation.

**Mr Lowey:** If the member will bear with me for a moment.

**The President:** Mr Lowey?

**Mr Lowey:** There is no special appeal against the decision of the Gaming Commissioners on this particular one. It will be taken as a statement, the court records will be taken as a statement that he is an unfit proper person to continue and there will be no appeal because the appeal would have been made against the original conviction and his record is up there and his licence is taken away automatically because of the conviction.

**Mr Crowe:** There would be breach of this Act and his licence is revoked. There is no appeal under this law.

**Mr Lowey:** No, because the appeal would have been held, if he wished to appeal against his conviction in the first place, against the original offence.

**Mr Crowe:** Oh, I see.

**Mr Lowey:** You cannot have a double appeal against another court's decision which has found him guilty.

**Mr Crowe:** Maybe we should ask our expert on human rights law.

**Mr Lowey:** Yes, I would have thought that was right.

**The President:** Mr Attorney.

**The Attorney-General:** Mr President, thank you. I have looked at section 18 of the Gaming, Betting and Lotteries Act 1988 and of course this clause 3 of our Bill amends that section. Section 18 makes it clear that if the holder of a bookmaker's permit is convicted of, and now we know, any offence punishable in the case of an adult with custody, the court by or before which he is convicted may, if the court thinks fit, order that the permit should be cancelled. So it is a discretionary power of the court to direct that the permit be cancelled. But there is a defence for the bookmaker under subsection (2) of section 18 which says that where a person is convicted by reason only of his being the holder of the permit his permit shall not be cancelled if he proves that the contravention for which he was convicted took place without his consent or connivance and that he exercised all due diligence to prevent it. So in other words if, for example, the holder of the permit was absent from the premises and his manager or manageress had wilfully committed the offence in breach of instructions which had been given by the holder of the permit it would be open to the holder of the permit to plead to the court, 'Well, this is what happened, it happened without my knowledge or consent: those are special circumstances which justify you not taking away my permit.'

**Mr Crowe:** Thank you.

**The President:** Hon. members, the motion before us then is that clause 3 stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it. Then we go to clause 4 where (4) was amended in another place. Mr Lowey.

**Mr Lowey:** Thank you, Mr President. Clause 4 and part 2 of schedule 1. This clause contains supplemental provisions.

Sub-clause (1) gives the Bill its short title.

Sub-clause (2) provides for the Bill to come into force on an appointed day.

Sub-clause (3) introduces part 2 of schedule 1 which makes consequential amendments.

Paragraph 5, section 11(1) prohibits the use of premises for betting with persons resorting to the premises, and section 11(2)(a) provides an exemption for a licensed betting office and this paragraph limits the exemption to a public licensed betting office.

Paragraph 6 inserts new definitions of 'betting office licence' and public betting office licence', and paragraph 7 requires Tynwald approval to an order of the Council of Ministers varying the maximum number of public or restricted betting offices under schedule 1, paragraph 1, and paragraph 8 is consequential on clause 1(1).

Sub-clause (4) provides that an existing betting office licence remains in force as a public betting office licence for the rest of its term, for example on 31st May after commencement, and sub-clause (5) defines the term 'the 1988 Act' used in this Bill.

Mr President, I beg to move clause 4 and part 2 of schedule 1 stand part of the Bill.

**Mr Kniveton:** I beg to second, sir, and reserve my remarks.

**The President:** Mr Crowe.

**Mr Crowe:** Just again I am happy to support clause 4, but I just if I may raise a query on the fees. Generally fees are put into secondary legislation. Is there any particular reason for putting the fees in the primary legislation, especially that there might be a need to revise the fees either upwards or downwards depending on the level of business it attracts?

**Mr Lowey:** It is a very good point that in this particular Bill to alter the fees you would have to alter the primary legislation which seems strange if you can alter it by an order in Tynwald under regulations.

Obviously the fees for this new type of betting which we were referring to are £25,000, which is substantial but it is to cover the cost of administration, and I have to say myself that if you are having accountants, and we will need accountants to oversee this, it will be an expensive business. As far as I am concerned it is right and proper that if we are doing a job, it has got to be done right and it is right and proper that those who are operating the business should have it, but it has been deemed advisable by the Home Affairs to put it into the licence.

I wish I could answer the hon. member as to why it has been different this time to others. I regret I cannot and therefore I must stick with the Bill and say that I beg to move that the clause stand part of the Bill. Sorry I cannot be more helpful than that.

**The President:** Hon. members, the motion then before the Court is that clause 4 and the second part of the schedule stand part of the Bill. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

**Mr Lowey:** Mr President, I know there has been a bit of confusion this morning and the Bill has been a long time in coming to the floor of the House. I am concerned from the industry's and the Island's point of view that we should be getting on and putting into place new regulations to

cover existing business and to that extent I think this legislation has had a great deal of co-operation with the industry. It has its support. There have been no adverse comments from the industry or the general public and I think that we should as a jurisdiction try and get this legislation and the regulations into place as quickly as possible and therefore I am going to test the indulgence of the Court to take the third reading this morning and suspend standing orders to do so if that meets with your permission, sir.

**The President:** Well, it is certainly within standing orders. I must say I am not the happiest, having heard the debate this morning, but never mind, it is in the members' hands. Mr Lowey is making a suggestion that we suspend standing orders to take the third reading. Anybody supporting that proposition? Mrs Christian.

**Mrs Christian:** I am willing to second just to test the water, if you would, Mr President, to see what the view of members is. I certainly perhaps ask for a bit of clarification if we do actually move to the third reading on the basis of the point that my hon. colleague Mr Crowe has raised, but if there is no intention to move an amendment at the third reading to any of these clauses, then I can see no reason for holding it up.

**The President:** Mr Radcliffe.

**Mr Radcliffe:** Mr President, I have been known in the past to oppose the second and third readings in the one day but I think there are occasions when there is a need to follow that course. Granted, as you have said, Mr President, there has been a bit of discussion on certain aspects of the Bill, but I think the queries raised have been answered satisfactorily and on this occasion, in the light of the fact that the Bill has been so long anyway in coming to us I feel inclined to support the third reading on this occasion and I would ask the hon. member in charge to remember that on some future occasion perhaps. *(Laughter)*

**The President:** Mr Waft.

**Mr Waft:** Mr President, I just think we should in fact perhaps legalise what is already happening by registering the bookmakers, as I understand it, legalising the situation and getting the framework of legality around it. I was a little bit concerned at the possibility of employing a full-time accountant to look after 10 shops which I thought was a bit over the top, but when I saw that it was £25,000 per shop and that there are 10 shops, that is quarter of a million a year and I think, despite the fact that accountants are rather well paid at the moment, we will not be reaching that sort of sum and it would be to the benefit of government if we did legalise the situation.

**Mr Crowe:** Yes, I am happy to support it, Mr President. It has been a long time in the process.

**The President:** Well, just to regularise the situation, hon. members then, Mr Lowey has proposed, and it has been seconded formally, that we should take the third reading of the Bill. I actually require five votes in favour to support the third reading. Will those in favour please say aye; against, no. I take it I have six votes in favour, so, Mr Lowey, you can continue with your third reading.

**Mr Lowey:** Thank you, Mr President. I really have not much more to add other than this, that, like most new enterprises for the Isle of Man, there are niche markets. We may not always like the idea of gambling but the realities are that people are and have been gambling for a very long time. I said in my second reading statement that if you are to have it, it is much better for it to be well regulated and operated in a proper, dignified way.

In this particular instance I believe we do have the professionalism and the expertise to curtail and to weed out the undesirables. There is a problem in this world of people laundering money and I am sure if you wanted a scenario it is well known that in gambling circles that has been used

in the past. We have managed to control that with the casino. I have no doubt the regulations that will be laid by the Gaming Commissioners will see to it that this is sifted out.

It is much, much better to have it regulated, and as my hon. friend said, the quicker we can get that done and in place and approved by Tynwald the better and therefore I beg that this Bill do be read a third time and do pass.

**The President:** Mr Kniveton.

**Mr Kniveton:** I will second that, sir, and I would just like to add, and as the hon. mover said, I have not got much more to say, but when we came to the question which Mr Waft raised regarding the accountant, do I see it that it is an accountant outside government and do I see it as a part-time job or a full-time job is the next question? That is all I have to say, sir.

**The President:** Mr Crowe.

**Mr Crowe:** Mr President, I would just again support the Bill. It was interesting and if I can have your forbearance to comment on Gordon Brown's speech to the Commons last Wednesday where he decided to axe betting tax in his pre-election budget next spring: 'In a move which is bound to delight millions of punters, the Chancellor plans to scrap the 9 per cent levy to help High Street bookies compete with growing competition from offshore and Internet-based companies. But bookmakers may be forced to pay a share of their profits to the Government, once plans to shake up the system have been finalised. The current duty, which covers off-course bets, includes a 6.75 per cent tax and 2.25 per cent racing levy'. So I think we have to be aware that the market that presently exists is going to be lessened and I think if we are in this business it has to be a quality-controlled business and I think the people have to have a good reputation, and I think the Bill as drafted covers the propriety of the people who are going to apply for these licences. So just a warning that the rosy hue may not be as rosy if onshore betting becomes more beneficial than offshore betting, shall we say.

**The President:** Mrs Christian.

**Mrs Christian:** Thank you, Mr President. I think the point that was raised at second reading, at the clauses stage, on the fees was an interesting one. However, we have before us in the schedule an amendment to the principal legislation and I wonder if I might seek the guidance of the learned Attorney on this. Is there in the primary legislation any reference to amending fees by order? I accept that we are dealing here with primary legislation and it may be that these figures are put in here because this is updating the principal piece of legislation, but it would be rather surprising if there was nothing in there to amend it by order. If there is not, I guess that is the wish of the department involved in this and presumably they would have suggested a different mechanism.

**Mr Crowe:** Is it possible even at this late stage to add something on the lines of 'or such fees as Tynwald may by order approve'.

**The President:** Not now. You could have done it. You would have delayed the third reading.

**Mr Crowe:** Right, okay.

**The Attorney-General:** In fact, Mr President, it would appear that under schedule 1 of the principal Act, paragraph 12 the Treasury may by order substitute such other fee as may be specified in the order.

**Mrs Christian:** Thank you.

**The Attorney-General:** So there is the power in the Treasury. I am sorry, gaming and betting are not my strong point.

**Mr Lowey:** Nor mine.

**The President:** Okay, Mr Lowey.

**Mr Lowey:** Thank you, Mr President. I do welcome the interest shown. This Bill went through in another place almost traditionally on the nod. I have to say that our job is to make sure that the legislation is workable and I commend the House for challenging on various points, not least the fees, so I think we can be satisfied with our scrutiny of this piece of legislation.

The accountant, if I come to Mr Crowe and whether the accountant is going to be part-time, or was it Mr Waft?

**Mr Kniveton:** Mr Kniveton.

**Mr Lowey:** Mr Kniveton it was. I am sorry. The accountant - obviously whether he is full-time or part-time will be a matter for the Gaming Commissioners to decide what the amount of work will be. I would like to see it full-time myself because I think you are making a statement there, and I agree with Mr Crowe that the market is changing all the time. Bearing in mind that these centres, the international telephone betting is outside even the UK, but again I take the point that the world is a changing place and we have to adapt and anticipate in some of these things. Where we score in the Isle of Man is in we sell our place as a place of stability. Business likes to operate in places where they are stable and they know where they are about and we are back to regulation again. People know what they are allowed, the punters know what they are permitted and they know it is going to be regulated, and I think that is where the Isle of Man scores as a destination. This Bill is making the framework into which that sort of business can operate. I hope it is successful and I know the Gaming Commissioners are experienced enough to carry out all the onerous tasks that this will place upon them and I beg to move that the Bill be read a third time and do pass.

**The President:** The motion before us is that the Bill be read for a third time. Will those in favour please say aye; against, no. The ayes have it. The ayes have it.

Hon. members, that draws to a conclusion the Legislative Council order paper for this morning. We will now adjourn to the sitting of Tynwald Court on Tuesday next, 21st November, at 10.30 and thereafter to the sitting of Council on Tuesday, 28th November, again commencing at 10.30 in the morning. Thank you, hon. members.

*The Council adjourned.*