



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

P R O C E E D I N G S

D A A L T Y N

(HANSARD)

Douglas, Tuesday, 29th January 2008

Present:**The Hon. President of the Council (The Hon. N Q Cringle, OBE)**

The Attorney General (Mr W J H Corlett QC),
 Mr D Butt, Mrs C M Christian, Mr E A Crowe, Mrs P M Crowe,
 Mr E G Lowey, Mr J R Turner and Mr G H Waft,
 with Mr J King, Clerk of the Council.

Business transacted

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The Council adjourned at 10.48 a.m.

Legislative Council

The Council met at 10.30 a.m.

[MR PRESIDENT *in the Chair*]

The President: Hon. Members, I call upon the Chaplain to lead us in prayers.

PRAYERS

The Chaplain of the House of Keys

Leave of absence granted

The President: This morning, Hon. Members, we have apologies from the Hon. Member, Mr Downie, who has leave of absence. He is away on Government business.

Order of the Day

Agricultural (Miscellaneous Provisions) Bill Third Reading approved

1. Mr Butt to move:

That the Agricultural (Miscellaneous Provisions) Bill be now read a third time and do pass.

The President: We have but the one Item for legislation on our Order Paper, which is the Agricultural (Miscellaneous Provisions) Bill. It is down for the Third Reading, Hon. Members, and I call on the Member in charge, Mr Butt.

Mr Butt: Thank you, Mr President.

Can I say that, in taking the Third Reading of this Bill, I will deal with some of the issues raised last week, at the Second Reading and the clauses stage. Having read the Wildlife Act 1990, I can clarify some elements.

Firstly, I will confirm, as I think the learned Attorney did, that the references in clause 3(a), which are sections 1(1) and (5), 3(1)(a), 9(1) and (4) and 12(1), which add the words ‘or recklessly’, do in fact refer to birds.

Also at 3(b), which refers to section 9 of the Wildlife Act 1990, there is the addition of ‘without reasonable excuse’ to that section of the Act. This states that an offence is committed if any person intentionally kills, injures or takes any wild animal included in schedule 5. The addition of ‘without reasonable excuse’ provides an element of defence to committing such an act.

Clause 3(b)(ii), which refers to the sea animals, adds a new section to the Wildlife Act – subsection (4A) – which refers to the intentionally or recklessly disturbing creatures of the sea which are listed in the Bill. I stated before, the

addition of ‘recklessly’ adds to and aids the prosecution of these offences.

In relation to clause 3(c), which refers to the compensation, where there was an attempt, in the meaning of the Bill, to change the payment of compensation from ‘shall’ to ‘may’, I think it is important to point out that when land is designated as an Area of Special Scientific Interest (ASSI), farmers enter into a management agreement, as to how to deal with and farm the ASSI. They are financially rewarded on an agreed basis for this.

Section 27(7) of the Wildlife Act provides for the Department to make payments for the management of land in accordance with the agreed management agreement. Those payments are in accordance with financial guidelines which were approved by Tynwald.

The compensation element in section 29(1), referred to at 3(c), refers to compensation to any person having an interest in the land who shows that the value of the interest is less than it would have been if the ASSI had not been designated.

So I need to make it clear, Mr President, that landowners are financially remunerated for managing an ASSI. It was the wish of the Department to have the option as to paying compensation for the other purposes.

Mr President, this Bill also repeals several Acts relating to the fishing and agricultural industries which were relevant early in the last century, but are no longer needed. In particular, as stated before, these refer to the kipper industry, and the weighing of beasts at markets.

It also provides that the Department may provide an experimental farm and, after the amendment of last week, that they ‘shall’ provide further education in agricultural and rural industries.

Just for information, Mr President, to date, there are no firm plans for the future of Knockaloe, and discussions are still ongoing. There is no intention to sell off land belonging to the Department, and it is expected that the land will still be farmed.

Finally, Mr President, the Bill also provides for an increase in the fines levied in contravention of the Destructive Imported Animals Act 1963 – fines which have not been increased since the introduction of that Act.

Mr President, I beg to move the Third Reading of the Agricultural (Miscellaneous Provisions) Bill 2007.

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

The President: Mrs Christian.

Mrs Christian: Mr President, I thank the hon. mover for his explanation of a number of issues – confirmation, perhaps, of the interpretation last week.

But I just ask some clarity, please, in relation to clause 3(c). The Hon. Member has indicated that *farmers* may be compensated; but there are other landowners who are not deemed to be farmers.

Perhaps I should declare an interest. If you have an equine enterprise, you are not a farmer, and you are not entitled to support from the Department of Agriculture. There are farmers who are certainly diversifying into that area, so where does their land sit at that point? Is it agricultural or is it not? (**Mrs Crowe:** Tourism.)

I just feel that covers *some* people who are compensated, but not everyone who might be affected by the use of their

land under an ASSI. It may be that, in some circumstances, the change in value is insignificant or minimal. If you have got scrubland somewhere, then it probably would not affect you at all, and presumably you would not then be able to claim very much by way of compensation.

But I do think that, whilst the Hon. Member may be answering in part my concerns, he certainly has not answered them in full.

The President: Mr Lowey.

Mr Lowey: I actually would like to thank the mover, because I do not think any Agricultural Bill that I have known of, in past years, has had quite as much scrutiny as this one! I think he has handled it and acquitted himself very well.

When he was talking, actually, that was the only thing that Mrs Christian has said, on (c): my view is 'so what?' So we pay for ASSIs – but there are other areas in which I can conceive that landowners could be compensated for improving their... For having it denied for improvement, they should be compensated.

So I still think, by weakening it, by not having 'may'... I do not know whether the mover was saying that the Department was accepting the amendment, or whether he would like us to... Well, in my view, if it is 'no', I would still stick to my guns, and have the word 'shall' and not 'may'.

But with that one... I think to have got through a Bill and just come down to one word in one clause, he has done mighty well!

The President: Mrs Christian.

Mrs Christian: Mr President, may I just clarify that I do not declare an interest in the sense that there is any ASSI on any land of mine! Simply that I am not in agriculture and have an interest in common with quite a number of other people in the Isle of Man, in relation to other uses of the land.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President.

I was just wanting to support the Bill, and I am glad to hear that Knockaloe will have a further use. We all know, in the First World War, it was a prisoner of war camp; later it became an experimental farm; and as agriculture changes, as people's habits change, things evolve. I am glad to hear that Knockaloe will have a future use, but not certain as to what it will actually be yet.

The President: Mrs Crowe.

Mrs Crowe: Well, I was interested, as I always am in these agricultural matters, to discover that farmers who have diversified, who are not, I suppose, what I would think of as having a little red tractor out and ploughing the land, are not really considered to be farmers. That came as a bit of a surprise to me, I must say.

I am interested in the fact that it was mentioned that farmers or farmland shall be compensated. I wonder: is compensation available in other areas of Government for someone who says...?

As we know now, a lot of farmers are going into tourism, because this is a profitable way forward for them. If perhaps they wanted to develop a tourist complex, and they could not

do so because part of that land was an ASSI, is compensation available for them? Indeed, is compensation available for any landowner?

Presumably, in other Bills, there must be compensation available for people who own land, who may be disadvantaged by having this Area of Special Scientific Interest badge placed upon them.

The President: Mr Waft.

Mr Waft: Yes, Mr President.

I just wondered, with regard to the changes in the farming policies in the Island, whether they are going to take into consideration the situation with the bird population and do an audit as to the effect of any changes which could affect the bird population on the Island.

Certainly, it has been a while now since the 1990 Wildlife Act came into being. I think perhaps it might be time to have an audit with the Group, to try and find out if there are any common goals which they can include in the farming policy with regard to that section.

The President: Mr Butt, before you reply, sir, I just... I am grateful for your section 27 response. I appreciate it is not the easiest bit to read, in relation to section 29, which we have reversed to 'shall'.

I was interested that you commented about the management agreement, at that stage. I think, if memory serves me right, the management agreements are referred to in section 30, which also has the word 'shall' in. (**Mr Butt:** Yes.)

Right, Mr Butt to reply.

Mr Butt: Thank you, sir.

Firstly, I apologise to Mrs Christian for using the word 'farmers'. I was drilling down too specifically, and actually imagining some situations which I am aware of. It should really refer to landowners generally. (**Mrs Crowe:** Ah, right.) So whoever the landowner is, they can form a management agreement. I believe there is one at Langness, for example, in the area there. (**Mrs Christian:** Okay.)

So the use of 'farmers' was me going down too far the line of personalising it, in effect. Any landowner is entitled to have a management agreement and to be paid for that, by the agreed guidelines.

Mrs Christian also mentioned having a personal interest. I hope she does work towards perhaps having an ASSI on her land, if she can manage her land suitably for that! That would be a good point.

Mrs Christian: I don't think there is anything there to protect! (*Interjection by Mrs Crowe*)

Mr Butt: The point I was trying to make, by mentioning the management agreement, was to confirm that landowners who do have an ASSI do receive some compensation in the form of the management agreement. The compensation in section 29(1) is for if the value of the land becomes less because there is an ASSI imposed upon them.

Mr Waft made a point about the bird population. I can tell him that the Department actually partly finances the Manx Bird Atlas Group, who have a good handle on exactly what is happening with the bird population. It is an ongoing issue which both the Department and the Bird Atlas Group are

looking at, to ensure that our bird population is as healthy as possible.

Mrs Crowe, again, talks about the diversification and compensation required. Again, section 29 as it now stands with 'shall' will be able to give compensation to people, if the value of the land is reduced, if there is an ASSI there.

Mrs Crowe: To all landowners.

Mr Butt: To all landowners, yes.

I thank Mr Crowe for his support. I, too, hope that Knockaloe will continue to be farmland. I am reasonably sure it will be. There may be some change of use of the buildings in the area, for other purposes, but the land will still remain land.

I think, Mr President, that covers most of the points raised, so I beg to move.

The President: In that case, Hon. Members, the motion I put to Council is that the Agricultural (Miscellaneous Provisions) Bill 2007 be read for a third time. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Hon. Members, that brings us to the conclusion of our Order Paper for today.

Procedural

The President: I have a concern in relation to next week's sitting, Hon. Members. The Keys Order Paper today has but the Collective Investment Schemes Bill for Second Reading, and the Income Tax (Pensions) Bill – the clauses stage of this Bill. It has 19 clauses and today is the start of the clauses stage.

Hon. Members, it is possible that the Keys may suspend Standing Orders and complete their consideration of the Income Tax (Pensions) Bill. If they do not, Hon. Members, we have a clean desk, at the moment, and we will have no legislation on our Order Paper for next week.

In that case, Hon. Members, the question that I put to the Council is whether or not there is any point in us calling Council together for possible Questions, next week, or shall I notify you, depending on what the Keys do with their legislation today?

If we have no legislation to put before Council, Hon.

Members, I would propose not to sit, with your agreement. (**A Member:** Agreed.)

Mrs Crowe?

Mrs Crowe: It was a question related to that matter, actually, Mr President.

I wondered if the Clerk had written to the Chief Minister regarding the place where Bills can start. (**The President:** No.)

The main reason I ask that is: it was interesting to see that the Chief Minister, when he was speaking to the Private Member's Bill proposal for Legislative Council, was making the point that Bills could start in either of the legislative branches of Tynwald. It quite surprised me that he made that point.

The President: Just to clarify that: yes, our Clerk has a letter in draft form, which is sitting on my desk, Hon. Members. I appreciate it still sits on my desk.

I had a meeting with the Chief Minister this morning. It was just unfortunate, this morning, that we were not able to progress that matter; but it will be progressed.

I cannot say anything further on that.

Mr Waft.

Mr Waft: I think that the matter referred to by the Hon. Member, Mrs Crowe, was the fact he was just stating the situation as it is – no encouragement to actually start any here; (**Mrs Crowe:** No, no!) just the situation that they *could*.

Mrs Crowe: Yes, it was just surprising that we were discussing the same thing at the same time that he was mentioning it in another place!

The President: Hon. Members, with that then, if anything happens, of course, we would call a sitting, but it appears as if there will be no sitting next week, at this stage.

Hon. Members, that concludes the business before Council. Now, those Members on our Standing Orders Committee – Mr President, Mr Attorney, Mrs Christian and Mr Lowey – perhaps we can have our meeting on the Council Standing Orders.

Thank you, Hon. Members.

The Council adjourned at 10.48 a.m.