



HOUSE OF KEYS

Y Chiare as Feed

VOTES AND PROCEEDINGS

Reaghyssyn as daaltyn

DOUGLAS
TUESDAY 30th MAY 2000
at 10.00 am

PRESENT: Mr Speaker and 19 Members, Mr Duggan, Mr Quine and Mr Singer being absent with leave and there being a vacancy in the constituency of Rushen.

BILLS FOR FIRST READING

MISUSE OF DRUGS (CANNABIS) BILL

Mr Karran

CONSTITUTION BILL

Mr Cannell

Motion made - that, in accordance with Standing Order 37(2), the House resolves that the motion at item 14 on the Order Paper be considered immediately after the lunch adjournment.

Mrs Cannell

House divided.
Motion lost.

HUMAN RIGHTS BILL

Motion made – that the Bill be now read a third time.

Mr Brown

House divided.
Motion carried.

PROTECTION FROM HARASSMENT BILL

Clauses considered.

Motion made – that Clause 1 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 2 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 3 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 4 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 5 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 6 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 7 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 8 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Standing Order 158 be suspended to enable the Protection from Harassment Bill to be read a third time at this sitting.

Mr Bell

Motion carried.

Motion made – that the Bill be now read a third time.

Mr Bell

Motion carried.

CRIMINAL JUSTICE BILL

Clauses further considered.

Motion made – that Clause 21 stand part of the Bill.

Mr Bell

Amendment moved –

Page 16, lines 11 to 15; omit the new subsection (4) inserted into the Theft Act 1981 and re-number the new subsection (5) as subsection (4).

Mr Shimmin

Motion carried.

Clause 21 as amended carried.

Motion made – that Clause 22 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 23 stand part of the Bill.

Mr Bell

Amendment moved –

Page 18, line 28; for “and (3)” substitute “to (4)”.

Mr Shimmin

Amendment carried.

Clause 23 as amended carried.

Motion made – that Clause 24 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 25 and Schedule 4 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 26 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 27 stand part of the Bill.

Mr Bell

Amendment moved –

Page 21, line 27; after “Environment,” insert “the Department of Education,”.

Mr Rodan

Amendment carried.

Clause 27 as amended carried.

Motion made – that Clause 28 and Schedule 5 stand part of the Bill.

Mr Bell

Amendment moved –

Page 57; in paragraph 1(3)(a), for “other community order” substitute “community service order, probation order, combination order, attendance centre order or supervision order”.

Mr Shimmin

Amendment carried.
Clause 28 and Schedule 5 as amended carried.

Mr Speaker announced the death of Miss Katherine E Cowin, former Member of the House. The House stood in silent tribute.

Motion made – that Clause 29 and Schedule 6 stand part of the Bill.

Mr Bell

Amendment moved –

Page 21, line 33; for subsection (4A) substitute –

“(4A) Without prejudice to the generality of subsections (3) and (4), a probation order may in addition –

(a) require the person to remain for periods specified in the order at a place so specified, and paragraphs 1(3) to (8) and 2 of Schedule 5 to the Criminal Justice Act 2000 and rules made under paragraph 5 of that Schedule shall apply to such requirements as they apply to a curfew order;

(b) include the requirements which are authorised by Schedule 1A.”

Mr Shimmin

Amendment carried.

Clause 29 and Schedule 6 as amended carried.

Motion made – that Clause 30 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 31 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 32 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 33 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 34 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 35 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Clause 36 and Schedule 7 stand part of the Bill.

	Mr Bell
Amendment moved –	
<i>Page 63; in paragraph 2(2), for “subsection” substitute “sub-paragraph”.</i>	
<i>Page 63; in paragraph 2(3), for “section” substitute “paragraph”.</i>	
<i>Page 64; in paragraph 2(10), for “section” substitute “paragraph”.</i>	
<i>Page 65; in paragraph 4(1)(b), for “section” substitute “paragraph”.</i>	
<i>Page 66; in paragraph 4(2), for “section” substitute “paragraph”.</i>	
<i>Page 66; in paragraph 4(4), for “3” substitute “(2)(b)”.</i>	
<i>Page 66; in paragraph 4(7), after “attendance” insert “centre”.</i>	
	Mr Shimmin
Motion carried.	
Clause 36 and Schedule 7 as amended carried.	
Motion made – that Clause 37 stand part of the Bill.	
	Mr Bell
Motion carried.	
Motion made – that Clause 38 stand part of the Bill.	
	Mr Bell
Motion carried.	
Motion made – that Clause 39 stand part of the Bill.	
	Mr Bell
Amendment moved –	
<i>Page 27, line 32; for “prison” substitute “an institution”.</i>	
	Mr Shimmin
Clause 39 as amended carried.	
Motion carried.	
Motion made – that Clause 40 stand part of the Bill.	
	Mr Bell
Motion carried.	
Motion made – that Clause 41 stand part of the Bill.	
	Mr Bell
Motion carried.	
Motion made – that Clause 42 stand part of the Bill.	
	Mr Bell
Motion carried.	
Motion made – that Clause 43 stand part of the Bill.	
	Mr Bell
Motion carried.	

Motion made – that Clause 44 stand part of the Bill.	Mr Bell
Motion carried.	
Motion made – that Clause 45 stand part of the Bill.	Mr Bell
Motion carried.	
Motion made – that Clause 46 stand part of the Bill.	Mr Bell
Motion carried.	
Motion made – that Clause 47 stand part of the Bill.	Mr Bell
Motion carried.	
Motion made – that Clause 48 stand part of the Bill.	Mr Bell
Motion carried.	
Motion made – that Clause 49 stand part of the Bill.	Mr Bell
Motion carried.	
Motion made – that Clause 50 stand part of the Bill.	Mr Bell
Motion carried.	
Motion made – that Clause 51 stand part of the Bill.	Mr Bell
Motion carried.	
Motion made – that Clause 52 stand part of the Bill.	Mr Bell
Motion carried.	
Motion made – that Clause 53 stand part of the Bill.	Mr Bell
Motion carried.	
Motion made – that Clause 54 stand part of the Bill.	Mr Bell
Motion carried.	
Motion made – that Clause 55 stand part of the Bill.	Mr Bell
House divided.	
Motion carried.	
Motion made – that Clause 56 stand part of the Bill.	Mr Bell

Motion carried.

Motion made – that the following new clause be agreed in principle.

NEW CLAUSE (It is suggested that the new clause be inserted after clause 5)

“Unnatural acts: reduction in age of consent [c.6]

[] In the Sexual Offences Act 1992, in section 9 (unnatural offences) –

- (a) in subsection (1)(a) (offence of buggery) for “21” substitute “18”;*
- (b) in subsection (4)(a) (offence of gross indecency) for “21” substitute “18”.*

Mr Karran

House divided.

Motion carried.

Motion made – that the new clause stand part of the Bill.

Mr Karran

House divided.

Motion carried.

Motion made – that the following new clause be agreed in principle.

NEW CLAUSE (It is suggested that the new clause be inserted after clause 23)

“Restriction on use of information obtained contrary to s. 9A of Theft Act 1981.

[] After section 9A of the Theft Act 1981 insert –

“9B. (1) Information which is obtained by means of a surveillance device installed in contravention of section 9A shall not be disclosed by the person who first obtains the information or any person obtaining the information directly or indirectly from him without the consent of the person to whom the information relates.

Restriction on use of information obtained contrary to s. 9A

(2) Subsection (1) is subject to section 9C.

(3) Subsection (1) does not apply in respect of information which has been disclosed to the public in any circumstances in which or for any purpose for which disclosure is not precluded by this section.

(4) Any person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to custody for a term not exceeding 6 months or a fine not exceeding £5,000, or both.

(5) *In proceedings against a person for an offence under subsection (4) it is a defence for him to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.*

9C. (1) *Section 9B does not preclude the disclosure of information –*

Exceptions from restrictions on disclosure

- (a) *with a view to the investigation of crime or the institution of or otherwise for the purposes of criminal proceedings in the Island;*
- (b) *with a view to the institution of or otherwise for the purposes of any civil proceedings in the Island; or*
- (c) *by order of a court in the Island.*

(2) *Section 9B does not preclude the disclosure of information to –*

- (a) *the Attorney General or any officer in the Attorney General's Chambers;*
- (b) *the Financial Supervision Commission or any officer or servant of the Commission; or*
- (c) *the Insurance and Pensions Authority or any officer or servant of the Authority; or*
- (d) *a constable.*

(3) *The Department of Home Affairs may by order amend subsections (1) and (2).*

(4) *An order under subsection (3) shall not come into operation unless it is approved by Tynwald."*

Mr Karran

House divided.

Motion lost.

Motion made – that the following new clause be agreed in principle.

NEW CLAUSE (It is suggested that the new clause be inserted after clause 42)

"Sentence of "weekend custody".

[] Schedule [] (which makes provision for the imposition of weekend custody on offenders) shall have effect.

NEW SCHEDULE

WEEKEND CUSTODY ORDERS

Weekend custody orders

1. (1) *Where a person is convicted by or before a court of an offence punishable with custody (not being an offence the sentence for which is fixed by law) the court may order him to attend at an institution where he will be detained in custody for such number of hours on Fridays, Saturdays and Sundays as may be specified in the order.*

(2) *The court shall not make an order under this paragraph (in this Schedule referred to as a “weekend custody order”) unless –*

- (a) *it has been notified by the Department of Home Affairs that arrangements are in place at an institution for the reception of persons who are subject to weekend custody orders and such notice has not been withdrawn; and*
- (b) *the court is satisfied that the institution to be specified in it is reasonably accessible to the person concerned, having regard to his age, the means of access available to him and any other circumstances.*

(3) *A “weekend custody order” may specify different periods for different days, but –*

- (a) *the aggregate number of hours shall not exceed 336; and*
- (b) *shall not include any time after 6 pm on any Sunday nor any time before 6 pm on any Friday; and*
- (c) *shall, as far as is practicable, be such as to avoid any interference with the times, if any, at which the person who is the subject of the order normally works or attends school or other educational establishment.*

(4) *A weekend custody order shall –*

- (a) *specify the times at which an offender shall be required to attend at the institution;*
- (b) *the institution at which the offender is required to attend.*

(5) *For the purposes of sub-paragraph (1), the reference to an offence punishable with custody shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders.*

Breaches of weekend custody orders

2. (1) *Where a weekend custody order is in force and it appears on complaint to a justice that the offender has failed to attend in accordance with the order, the justice may –*

- (a) issue a summons requiring the offender to appear at the place and time specified in the summons before a court of summary jurisdiction; or*
- (b) if the information is in writing and substantiated on oath, may issue a warrant for the offender's arrest requiring him to be brought before such a court.*

(2) If it is proved to the satisfaction of the court of summary jurisdiction before which an offender appears or is brought under this paragraph that he has failed without reasonable excuse to attend in accordance with the order, that court may, without prejudice to the continuation of the order, impose on him a fine not exceeding £2,500 or –

- (a) if the weekend custody order was made by a court of summary jurisdiction, may deal with him, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made;*
- (b) if the order was made by the Court of General Gaol Delivery, may commit him in custody or release him on bail until he can be brought or appear before that Court.*

(3) A fine imposed under sub-paragraph (2) shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.

(4) A court of summary jurisdiction which deals with an offender's case under sub-paragraph (2)(b) shall send to the Court of General Gaol Delivery a certificate signed by a justice of the peace giving particulars of the offender's failure to attend or, as the case may be, the breach of the rules which he has committed, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible as evidence of the failure or the breach before the Court of General Gaol Delivery.

(5) Where by virtue of sub-paragraph (2)(b) the offender is brought or appears before the Court of General Gaol Delivery and it is proved to the satisfaction of the court that he has failed without reasonable excuse to attend as mentioned in sub-paragraph (1)(a), that court may deal with him, for the offence in respect of which the order was made, in any manner in which it could have dealt with him for that offence if it had not made the order.

(6) In dealing with an offender under sub-paragraph (2)(a) or (5), the court concerned –

- (a) shall take into account the extent to which the offender has complied with the requirements of the weekend custody order; and
- (b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence.

(7) Where a court deals with an offender under sub-paragraph (2)(a) or (5), it shall revoke the weekend custody order if it is still in force.

(8) In proceedings before the Court of General Gaol Delivery under this paragraph, any question whether there has been a failure to attend or a breach of the rules shall be determined by the court and not by the verdict of a jury.

(9) Where a weekend custody order has been made on appeal, for the purposes of this paragraph it shall be deemed –

- (a) if it was made on an appeal brought from a court of summary jurisdiction, to have been made by that court;
- (b) if it was made on an appeal brought from the Court of General Gaol Delivery, to have been made by that Court,

and, in relation to a weekend custody order made on appeal, sub-paragraph (2)(a) shall have effect as if the words “if the order had not been made” were omitted and sub-paragraph (5) shall have effect as if the words “if it had not made the order” were omitted.”.

Mr Karran

House divided.

Motion lost.

Motion made – that the following new clause be agreed in principle.

NEW CLAUSE (It is suggested that the new clause be inserted after clause 7)

“Causing another to be infected by disease. [IV p.160]

[] After section 35 of the Criminal Code 1872 insert –

“35.A Whosoever shall, by any means whatsoever, unlawfully and maliciously cause another person to be infected by any disease shall be guilty of a misdemeanour and being convicted thereof shall be liable to imprisonment for a term not exceeding 5 years.”.

Causing another to be infected with disease.

Mr Karran

House divided.

Motion lost.

Motion made – that Clause 57 stand part of the Bill.

Mr Bell

Motion carried.

Motion made – that Standing Order 14(2) be suspended to enable the remaining items on the Order Paper to be considered.

Mr Brown

Item 14 was withdrawn by leave of the House.
House divided.
Motion carried.

Item 12 was withdrawn by leave of the House.

APPOINTMENT OF A MEMBER TO THE COURT OF THE UNIVERSITY OF LIVERPOOL

Mr Braidwood was nominated, seconded and appointed.

The House rose at 5.37 pm

Mrs M Cullen
Acting Secretary of the House

The House adjourned to the sitting of Tynwald commencing on 20th June 2000 and thereafter to 27th June 2000