



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

PROCEEDINGS

DAALTYN

(HANSARD)

Douglas, Tuesday, 23rd November 2010

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The Council sat in private at 10.59 a.m.

Present:

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

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

Legislative Council

The Council met at 10.30 a.m.

[MR SPEAKER *in the Chair*]

PRAYERS

The Chaplain of the House of Keys

Leave of absence granted

The President: This morning, Hon. Members, as indicated, we have apologies in from the Lord Bishop and also we have leave of absence for Mr Downie who, as I understand it, is on Government business this morning.

Welcome to *Hansard* reporters from the British Irish Parliamentary Reporters' Association

5 **The President:** In Legislative Council we have but the one Bill to deal with this morning, the Civil Partnership Bill 2010, but before we do, or before I ask Mr Lowey to take the Third Reading of that particular measure, perhaps I could welcome, formally, to our Visitors' Gallery this morning the two members from the *Hansard* Clerks' Division, here on the Island dealing with the British Irish Parliamentary Assembly yesterday.

10 I trust you will be well looked after and enjoy watching our *Hansard* clerks in their work and particularly, I think, our Voice Recognition System of the parliamentary *Hansard* recording. So welcome to our assembly this morning.

Orders of the Day

Civil Partnership Bill Third Reading approved

1. Mr Lowey to move:

15 *That the Civil Partnership Bill be read a third time.*

The President: Mr Lowey, the Third Reading, sir, of your Bill, the Civil Partnership Bill.

Mr Lowey: Thank you, Mr President.

20 Before I move the Civil Partnership Bill to be read for a third time, I would just like to refer to a couple of... I will use the word 'loose ends and carryovers' from the clauses stage where queries were made. The typographical error spotted by your good self, sir – and I thank you for it – at clause 78, the missing (5), will be corrected on the white version of the Bill and I thank you, sir, for that because I had not picked it up, and so I am grateful for that.

25 During the moving of several clauses, in particular clause 31(9), which related to offences relating to the recording of civil partnerships, the specified time limit of three years was queried by Council. That was: what is the rationale for the specified time limit of three years within which a prosecution may be brought for offences? There are also several other instances where a three-year time limit has been specified in the Bill.

30 I have been advised that a specified time limit mirrors the United Kingdom Civil Partnership
Act. The exact rationale for this time period is unknown. However, the three-year limit is found in
the original UK Marriage Act 1949. It is also found in section 52(4) of the Manx Marriage Act
1984. Presumably, that was kept in to keep us in line with the UK, and that really is the
35 corresponding time limit remains unchanged in the UK Act and is there for the working model for
the Isle of Man legislation, and so the rationale, which we said was to try and keep in step with the
UK on this, is the reason for that.

Mr President, I would like to thank my hon. colleagues for their contribution during the debate
on this Bill. I believe the general attitude and overall manner in which we have conducted our
affairs on this particular piece of legislation brings credit to Council. Furthermore, I would also
40 like to thank hon. colleagues for their patience with this Bill, which has taken a considerable time,
due to various reasons, to get to this stage of the proceedings. I have also taken on board the
concerns of Members about other groups who are not covered, or have recourse, in this particular
piece of legislation. I did say to Members that I would write to the Chief Minister. I have already
written to the Chief Minister, expressing the concerns of Members and the reasons. I have to say
45 the Chief Minister has already responded to me and has referred the letter to the Social Issues
Committee of his Council to take up in the future any of those concerns that can be
accommodated.

Mr President, the general principle that we are considering today is straightforward: Should the
rights of a sizeable minority group of Manx citizens be properly catered for? Should same-sex
50 couples who live together in an enduring and loving relationship be entitled to receive similar
treatment in benefits as that of a married couple?

Mr President, much of this Bill is about replicating the rights and responsibilities of a married
couple. I would like to reiterate to hon. colleagues: a civil partnership is not the same as a civil
marriage ceremony and is not gay marriage by another name. The marriage model has been used
only as a framework for civil partnership legislation, because it is a tried and tested model. It is a
55 model that is generally well understood and it provides all the appropriate legal rights and
remedies. I cannot predict how social attitudes on the Island will evolve in the future – neither can
anybody else – and what impact this may have on the evolution of civil partnership legislation.
Regardless of what some of my colleagues may think and say to the contrary, this is the present
position with this Bill and will be, unless Tynwald Court decides otherwise in the future.

Mr President, the purpose of the Civil Partnership Bill is to allow same-sex couples to make a
formal legal commitment to each other. At present, they have little or no means of gaining legal
recognition for their relationship and, as a result, suffer from a range of disadvantages in their
everyday lives, not only during the relationship but also on the break up of that relationship or the
60 death of a partner. The unavailability of legal rights can lead to difficulties in a variety of
circumstances which I have spelt out in previous Readings. For example, when a relationship ends,
in matters relating to property, matters relating to intestacy legislation, following bereavement, and
so on. The Civil Partnership Bill will address many of these issues and provide rights and
responsibilities for those same-sex couples who form a civil partnership.

Mr President, same-sex couples in an enduring and loving relationship must not be treated as
70 second-class citizens and ought to be provided with the opportunity to be able to publicly commit
their relationship in the eyes of the law, without prejudice and bigotry. Every person in our
community of whatever persuasion, Mr President, has to have that right to enjoy their life, the
right to establish relationships with whomever they please and to have that relationship recognised
and respected by the law.

I hope Council will give this Bill its unanimous support and, in that, I believe we will achieve
75 something that will put paid to one of the longest and last remaining negative perceptions often
associated with the Island – that is, seen through the eyes of people on the outside.

I am proud to move this Bill, and to be associated with this progressive legislation, which takes
our political maturity to a new level. This Bill is a positive step in the right direction for the Island,
80 I believe, as it continues to flourish as a caring, inclusive, and forward looking society – a very
different Island to what it was 30 years ago.

Mr President, my opening remarks at the First Reading of this Bill were when I was invited to
take it. I read it. I supported it because it was just and it was right. It was not because of our
international Human Rights legislation obligations. It was simply right and just.

85 Mr President, I beg to move the Civil Partnership Bill be read for a third time.

The President: Mr Braidwood.

Mr Braidwood: Mr President, thank you.

90 I am very happy to second the Third Reading of the Civil Partnership Bill. I would also like to concur with the sentiments which have been admirably expressed by the mover of the Bill, Mr Lowey.

The President: Mr Callister.

95

Mr Callister: Thank you, Mr President.

I must say that, in relation to this Bill, I received, I think, one telephone call. I have had, I think, two letters – it may have been three. So it is not something that, seemingly, has become a main big public issue, and for that reason – and several others with conversations I have had, strangely enough, mostly with women rather than men – the view is that this Bill, or what the Bill contains – the provisions within the Bill – are right to provide.

100 Nevertheless, it is a matter of regret to me that we did not examine the French legislation in some depth. It is a matter of regret to me that the large majority of Members here were not prepared to remove schedule 1 from the Bill, but that is history now. But I think we should take note of some of the comments of the Lord Bishop, Mr President, in that it may not end here. In his view, there will be more Bills in relation to same-sex couples coming forward.

I would point out two statements made by the mover of the Bill in the House of Keys at the Third Reading stage. The Hon. Member for Ramsey, Mr Bell, said, firstly, it heralds the dawn of a new era; and, secondly, it will put paid to one of the last remaining negative perceptions often associated with the Isle of Man. If you look at those, certainly you could say the dawn of a new era is some old hackneyed phrase, but it infers that there is more to come after the dawn. The other statement, ‘one of the last negative perceptions’ also indicates to me that we have not finished here. I would make it clear that I would not be supporting a Bill that comes forward to further change same-sex partnerships.

110 The other thing I do look forward to and I was very pleased to hear the mover talk about this morning, the possibility of a Bill coming forward to put right the injustice that I believe is done in this Bill to certain members of the public – the persons identified in schedule 1.

115 But with that, Mr President, I will certainly now support the Third Reading.

120 **The President:** Mr Butt.

Mr Butt: Thank you, sir.

I just pick up the words of the mover when he said this helps people who have an enduring and loving relationship. Although we have skirted around the word ‘marriage’ quite often, during these debates, I think for the people concerned directly, who will enter into these partnerships, it will be for them a personal major commitment in their lives – a thing which they obviously want to do, the same as heterosexual couples do. I think for the people concerned, it will be an important step. I do not think it is the dawn of a new era, in that it leads to further things. This is a Civil Partnership Bill which will be the next day, in effect. I think this will be how it will endure into the future.

130 I, too, have had two or three letters from people who have objected to it, but generally no major opposition. Most of them objected to it on Christian principles, and quoted sections of the Bible in relation to that. I am sure their views are firmly and honestly held, and I have no problem with that. But I would point out that many, many Christians have been involved in civil partnerships in the UK and other areas. People with firm Christian beliefs have entered into these partnerships.

135 It has been suggested that this is the wrong way to go, that it is immoral and that it will cause a breakdown in society, even. I know from my experience, over many years, of sexual abuse and the way that sex is treated by various parties, that the fact that people of the same sex are living together will not make any difference to the world at all. The sky will not cave in. I think matters will carry on exactly as they were before. I think this will be a welcome move forward for the Isle of Man and will give equality to everybody in our community.

140 **The President:** Mrs Christian.

145

Mrs Christian: Mr President, I would just like to endorse the very balanced points made by the Hon. Member, Mr Butt. I think that, whether or not we have this legislation, there are clearly people in our community in same-sex relationships who will live together with an emotional bond, and what we are doing here – however people argue about the use of the word ‘marriage’ and define it – is essentially giving them the same civil structure as a marriage.

150

155 The Church issues have been raised with most of us, I imagine. Even the Church itself has
turmoil going on in relation to homosexual issues. I think that whether we put this structure in
place for this group of people or not, those relationships are there and they will prevail in any case.
So why should we not give them the supporting structure of a Bill which irons out those
difficulties, which the mover has indicated can occur if there is not a legal framework for
determining various matters?

160 With regard to other people in the community, I think it is not unreasonable that we take a step
forward and look towards, perhaps, a further development of another provision. I do believe that
that can be quite complicated, both in terms of pension issues and many other things because I
think it might impinge on quite a wide element of our community and it needs to be looked at
fairly carefully. But in terms of this particular measure, there may be a new dawn.

165 I think it will be a quiet dawn. I do not think there is going to be a lot of trumpeting about this
and, as has been said, there has not been a huge amount of reaction from the public. I think they
want us just to get on with it, to enable these couples to formally declare their relationships,
formally accept civil responsibilities to one another, and I think that the Third Reading should
certainly be supported.

The President: Mr Lowey to reply, then.

170 **Mr Lowey:** Thank you, Mr President.

I would, first of all, thank everybody and, in particular, my seconder for his continued support
from day one. I appreciate that very much indeed.

I do appreciate very much the Council's view on this, and there are various points of view,
legitimate points of view, and they have been expressed in a very reasoned and proper way.

175 To my friend, Mr Callister – and I am not being supercilious or talking down; he is my friend –
Mr Callister hints that he would not be in favour of any new legislation. As I said, I am trying to
be honest and say, as far as I am concerned, that is not on the horizon.

180 Mr Callister did say that the mover in another place mentioned the dawn of a new era,
implying that something else would be following. I would put it this way: it is certainly the end of
an old era, and a lot of us would remember the old era of fear and repercussions that were really
not in anybody's interests – certainly not the Isle of Man or individuals. So I am pleased that this
Bill will bring an end, I hope, to that era.

185 I do not agree with his view that this particular legislation actually makes anybody else worse
off. I accept totally the arguments and the illustrations that he gave at Second Reading and clauses
stage regarding other disadvantaged groups within society. I share those. That is why I wrote to
the Chief Minister – and to be fair to the Chief Minister, who has had a pretty hectic time recently,
he did take the trouble to write back and say that he thanked me for the letter and the concerns, and
he was referring that to his Social Issues Committee for their consideration. I have given, again, an
undertaking that if we do not hear anything much about it, I will certainly be asking, where is it,
what is it?

190 Having said that, I did look into some of the problems and talked it over with certain officials,
regarding... It is not an easy answer to get to them, but just because it is difficult should not stop
us addressing it and looking to see if we can make life easier for those disadvantaged groups. I
thank the Hon. Member for that.

195 To Mr Butt, I welcome his support and, welcoming that this is a step forward, I take it only as
that. It is a step forward. I think it is right and it is just, and to Mrs Christian, she is absolutely right
that it is right that we should recognise... How can it be wrong to have a society that is caring for
one another, that is happy with itself, a caring, inclusive society? I thought that is what we were
aiming at. I know that is what we are aiming at and I believe this Bill will go some way to
achieving that.

200 Only time will tell. The Bishop is not here and, if he was, I would say the same thing to him,
that only time will tell. I believe we have seen major strides in the last... I use the words 30 years.
We have certainly made a change in attitudes in 15 years, and I think Mr Callister – as a man who
has been in public life, engaging public feeling over that length of time in his previous existence as
a journalist – will certainly know that the climate out there has certainly changed. Life does
change. Sometimes we tend to think it is always for the worse, sometimes it is for the better, but
only time will tell. But I do believe that this Bill is an important piece of social legislation and I
welcome it.

210 Mr President, I would like to take this opportunity, on two fronts, before finally, formally
asking Council to agree to it... I would like to thank the Attorney General's office, Mr Connell in
particular, for dealing with this legislation. It has been a mammoth task, it has not been an easy

215 task, and to his professionalism I would add that of a young gentleman who is sitting in the
Gallery who has been my right hand and help, and that is Mr Ian Gilmore. In an era where civil
servants do take a lot of stick, that somehow they are greedy, grasping – a bit like politicians,
really... Having said all of that, Ian Gilmore is what I would call a credit to the Civil Service. He
has worked that extra mile, that extra hour, in servicing me in this particular thing, and I would
like to put on public record my thanks to Mr Gilmore for the work that he has undertaken with this
particular complex piece of legislation.

220 Mr President, I do beg to move that the Civil Partnership Bill be read the third time and do
pass.

The President: The motion, Hon. Members, that I put to the Legislative Council is that the
Civil Partnership Bill 2010 be read for a third time. Those in favour, please say aye; against, no.
The ayes have it. The ayes have it.

225 The Civil Partnership Bill having completed its passage, then, within our assembly, Hon.
Members, that is the only legislation on our Order Paper for today.

Sitting on 21st December
Council sitting agreed

The President: Hon. Members, it appears, in fact, that the current position is that we may very
well have a First Reading of the Sewerage (Amendment) Bill for 30th November and then,
depending on how they progress with legislation in the other assembly, Hon. Members, we will be
faced with quite a flutter of Bills all coming through at the one time.

230 So it looks as if we will have six or seven First Readings to come through very quickly in the
first week of December – which leads me to the query, Hon. Members, which has been raised with
me as to whether or not we should sit on the 21st December. It is down as a sitting day. In the last
year or two, the way that legislation has worked, we have not sat on the run in to Christmas.
Nevertheless, Hon. Members, it would appear as if the weight of legislation is flowing so that we
will be at Second Reading and clauses stages at that particular time.

235 Hon. Members, if we do sit on that day – and I understand that there may be a query raised as
to whether we should sit on that day or not – I think, at this stage, in order that I can give some sort
of lead to Council, I think I would probably restrict our sitting on that date to a morning only, to
allow people either to be leaving or in fact doing other things. But I am in your hands, Hon.
Members, whether any Member wishes to comment on that or not.

Mr Lowey.

245 **Mr Lowey:** Having seen the Order Paper of another place and the amount of amendments that
are being proposed to one particular piece of legislation, I do not think they will get anywhere near
getting any legislation through today, which will put us back even further, I would suggest.

The President: Well, I do not know and we have to take that as –

250 **Mr Lowey:** As and when. Yes.

The President: – and when it happens, at the present time.
Mr Callister.

255 **Mr Callister:** Yes, I am prepared to sit morning or all day, Mr President, as required.

The President: Mr Crowe.

260 **Mr Crowe:** Similarly, Mr President.

Mrs Christian: The same, Mr President.

Mr Lowey: I am the same, sir.

265 **The President:** In that case, Hon. Members, that clears the air very well. Depending on the business, then, we can sit. So that people know, the 21st will be a sitting day. Okay, Hon. Members, thank you very much.

 We will adjourn to 30th November next, and currently we will sit in private to deal with the Summary of Proceedings.

270 Thank you.

The Council sat in private at 10.59 a.m.