



Northern Ireland  
Assembly

Committee for Justice

# OFFICIAL REPORT (Hansard)

Criminal Justice Bill: Committee Consideration

22 November 2012

# NORTHERN IRELAND ASSEMBLY

## Committee for Justice

### Criminal Justice Bill: Committee Consideration

22 November 2012

**Members present for all or part of the proceedings:**

Mr Paul Givan (Chairperson)  
Mr Raymond McCartney (Deputy Chairperson)  
Mr Stewart Dickson  
Mr Alex Easton  
Mr Seán Lynch  
Mr Alban Maginness  
Ms Rosaleen McCorley

**The Chairperson:** We move to further consideration of matters relating to the Criminal Justice Bill. Members have a paper summarising the Committee's initial deliberations, on 8 November, on the sex offender and human trafficking provisions of the Bill.

The Department will provide the draft wording of three amendments that it intends to bring forward in relation to the sex offender provisions. The Committee will consider those further when they are available. No other issues have been highlighted in regard to the sex offender provisions. Therefore, no further discussion will be scheduled on that part of the Bill prior to the formal clause-by-clause stage, when the Committee will be asked whether it agrees with each clause.

We went through this in the previous mandate, and a lot of views were aired then. I know that my party aired views on it. I will repeat that this is something that we are not doing by choice. I do not think that a lot of people are doing it by choice, but it is to comply with the court ruling on it. I think that, since we opposed it in the previous mandate, a number of changes have come through that are to the benefit of the Bill and will strengthen it from our perspective. In that respect, it was worthwhile that we did not support it, but, nevertheless, we are where we are.

We agreed that there were a number of issues to discuss in regard to the human trafficking provisions. They include the PSNI recommendation to use the term "human trafficking" consistently in the Bill, the possibility of including a provision to introduce a minimum term of imprisonment for human trafficking offences, whether human trafficking victims should automatically qualify for special measures that are available to witnesses, and the proposed approach to a national rapporteur. Those issues will be scheduled for detailed discussion at the extra meeting that will be held on Monday 3 December or Tuesday 4 December. We will need definitive views at that point, prior to the 6 December meeting.

The Department has provided further information on three issues that officials had agreed to come back to the Committee on. That correspondence, which has been tabled today, will be included in the papers for the extra Bill meeting to provide members with an opportunity to consider the information.

At our meeting on 8 November, we were to consider the table that was provided by the Department on its compliance with the European directive on human trafficking and to indicate any issues that we wished to discuss further. Members also agreed to consider the range of issues that were raised in the evidence received on the Bill that are included in the draft Bill that Lord Morrow has recently consulted on. However, the Department has indicated that it does not intend to include them in primary legislation, and we are asked to identify any that we wish to examine further.

We have had a fair amount of evidence from groups about where they feel that the Bill could be strengthened. They have highlighted aspects of Lord Morrow's Bill that they feel that we should seek to include in the Bill. I am content that we collate all the views that people brought forward that highlight Lord Morrow's Bill and acknowledge that the private Member's Bill coming forward will ultimately come to this Committee. We would consider it at that stage. I think that there is a fair amount of agreement on quite a large number of aspects of it. We can proceed to support it through that route. I am going to put that as the approach to deal with that element of evidence. We will deal with that, and we will note it. I think that, on its approach to considering that private Member's Bill, the Committee is agreed on 90% of it, but we will take our definitive view when that comes forward. We will support the changes that are coming from the Department in this Bill. We just need to be careful not to say that we have received evidence and that we are parking it without having any sort of sympathy towards it or expressing the view that we will positively take that forward in Lord Morrow's Bill when it comes to the Committee. Are members content to take that approach?

*Members indicated assent.*

**The Chairperson:** There was also the proposal from Ian McCrea to include an amendment about firearms. I previously indicated that we would look at that issue when we have the conclusion of the consultation around the whole firearms issue and the fees. The Department's response opposes what the amendment seeks to achieve. Nevertheless, if members are content, we will park that proposal at this stage and come back to that when the consultation on the firearms issue is due to come to the Committee, which is around February or March. Are members content with that approach?

*Members indicated assent.*

**The Chairperson:** An additional amendment has been proposed by the Department in relation to the registered intermediaries schemes. At its meeting on 11 October, the Committee considered a proposal by the Department to bring forward an amendment to the Criminal Justice Bill to make additional legislative provision in relation to the registered intermediaries scheme and agreed to request the wording of the proposed amendment to allow full consideration of the matter. The Department has now provided the wording of the provision. It is at annex D of tab 3. If members are content with the proposed departmental amendment, we will note it.

*Members indicated assent.*

**The Chairperson:** OK? That is noted.

So, we will pencil in the rest of the issues that are outstanding for the additional meeting on either Monday 3 December or Tuesday 4 December 2012. At that point, we will need to have definitive views on those issues. We will undertake formal clause-by-clause scrutiny on 6 December, if members are content with that.

*Members indicated assent.*

**The Chairperson:** Last week, I mentioned the proposed amendment to abolish the offence of scandalising the court. The Committee Clerk has taken forward a piece of work in respect of that, and the Clerk of Bills is present. The paper sets out how the draft amendment would look. There was the issue of whether it would be within the scope of the Bill for the Committee to do that. I invite the Clerk of Bills to speak to us on it.

**The Clerk of Bills:** Thank you, Chair. The short amendment is very simple and straightforward. I hope that it would be fine. Committee members will, of course, remember that I briefed you on the scope of the Bill to the effect that it is a widely scoped Criminal Justice Bill. There is just one little thing to flag up. I did a bit of initial research, and it appears that the offence of scandalising the court lies somewhere between criminal law and administration of justice. So, although this is a widely scoped Bill in the field of criminal justice, I could not guarantee that the offence of scandalising the court is

entirely a criminal justice matter. It derives from criminal contempt of court, but it does not involve a prosecutorial or police investigation or other machinery of justice that would be associated with criminal justice. So, I just want to exercise that wee word of caution. I think that it should be OK, but I am looking into that with regard to the scope of the Bill.

It is a very simple amendment. It simply states that the common law offence is abolished. On the back of the page, for information, I have put Lord Pannick's amendment, which was to be moved in committee in the Lords. As you will recall, of course, that one was withdrawn pending a consultation. You can see that the format is very similar. You will also note that it was being moved in the context of a Crime and Courts Bill. That is the key distinguishing feature. That Bill is dealing with the administration of justice. That is all, Chair, unless anyone has any questions.

**The Chairperson:** OK. Thank you.

**Mr A Maginness:** I have one small point. You say "scandalising the court", as opposed to "scandalising the judiciary". Why are you making that distinction?

**The Clerk of Bills:** I understand that that is the correct term. I have just done a wee bit of initial research. This was a Back Bench —

**Mr A Maginness:** Well, the Lords have got it wrong. I am sure that Lord Lester is inexperienced in these matters. *[Laughter.]*

**The Clerk of Bills:** I am at a loss for words. I took advice. That appears to be what is recommended in our jurisdiction, let us say.

**The Chairperson:** OK, members. As the Minister indicated, as a rule of thumb, we prefer not to have legislative consent motions if we are able to put it through our own legislation. In this circumstance, we can. Therefore, it was not necessary to have a legislative consent motion because we have a vehicle to do it, and that avoids the Department's having to go through different protocols. Unless members tell me that we absolutely do not want to do it, I propose that this is a Committee amendment that we would table at Consideration Stage.

**Mr A Maginness:** Agreed.

**Mr McCartney:** Will evidence be provided?

**The Chairperson:** If members want, we can provide the responses to the consultation that took place in England and Wales in respect of all this, and on which our Attorney General made a submission. You are probably not surprised to hear that. *[Laughter.]* That would provide members with some background on how it was arrived at there.

**Mr McCartney:** When he appears before the Committee, would that be an appropriate occasion to bring it up and to ask him for his expressed view?

**The Chairperson:** If you feel that it would be helpful. I do not think that my view will agree with his view, but members are —

**Mr McCartney:** It would help with scrutiny. An amendment is put in front of us, and we are asked to say yes or no without hearing about it. With the other legislation, at least some sort of commentary comes with it. It might be best to give him that opportunity.

**Mr Dickson:** I have a brief question; it has maybe been answered. The proposed amendment in the House of Lords includes Northern Ireland in its sentence. Will that be removed?

**The Chairperson:** My understanding is that that was put in and the letter was then sent to our Minister. Therefore, I anticipate that Northern Ireland will be withdrawn from it. They needed a legislative consent motion to put it in. They obviously could not do that, otherwise we would not need to.

If members are content, we will supply the consultation exercise that took place in England and Wales. At this stage, are members minded to proceed with tabling the amendment?

*Members indicated assent.*

**The Chairperson:** If we need more advice on that, we can get it from other stakeholders and, if necessary, consider it as an issue at our additional meeting. Thank you, members.