



**Northern Ireland
Assembly**

COMMITTEE FOR JUSTICE

**OFFICIAL REPORT
(Hansard)**

**London Olympic Games and
Paralympic Games (Amendment) Bill:
Legislative Consent Motion**

16 June 2011

NORTHERN IRELAND ASSEMBLY

COMMITTEE FOR JUSTICE

**London Olympic Games and
Paralympic Games (Amendment) Bill:
Legislative Consent Motion**

16 June 2011

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)

Mr Raymond McCartney (Deputy Chairperson)

Mr Sydney Anderson

Mr Stewart Dickson

Mr Colum Eastwood

Mr Seán Lynch

Ms Jennifer McCann

Mr Basil McCrea

Mr Alban Maginness

Mr Peter Weir

Mr Jim Wells

Witnesses:

Mr Tom Haire)

Mr Gareth Johnston) Department of Justice

Mr David Mercer)

The Chairperson:

Gareth Johnston has remained with us. I welcome Tom Haire, head of the criminal law branch in the Department of Justice (DOJ) and David Mercer of its justice strategy division. The evidence session will be recorded by Hansard. Gareth, do you want to take over at this point?

Mr Gareth Johnston (Department of Justice):

The Department for Culture, Media and Sport (DCMS) in London is proposing to raise the penalty for touting of Olympic and Paralympic tickets in England and Wales, and a request has come from it asking that, to maintain the integrity of its effort to address ticket touting in that specific context, we do the same. Offences and penalties in Northern Ireland are, of course, transferred matters and fall to the Department of Justice. Although the Department of Culture, Arts and Leisure (DCAL) clearly has an interest in the benefits that the Olympics will bring to the United Kingdom, and to Northern Ireland itself, it has no central policy interest in the games' organisation, so DOJ is taking the lead on the issue. However, the Minister of Culture, Arts and Leisure is aware of our proposed approach.

The ticket-touting offence is contained in the London Olympic Games and Paralympic Games Act 2006. The offence currently carries a summary-only penalty of a level 5 fine, the maximum for which is £5,000. The Home Office expressed concerns to the Department for Culture, Media and Sport about the low deterrent potential of that amount. The proposal is to increase the maximum penalty to £20,000. If the level here is lower, there is a concern that that could encourage criminals to tout tickets in Northern Ireland and a travelling of criminals from England, Wales and Scotland to operate here.

I want to address two questions. The first is whether the penalty in Northern Ireland should be increased. We believe, for a number of reasons, that it should be. First, the offence is already in place, and it was put in place UK-wide before the devolution of justice powers. The Scots will be seeking a legislative consent motion to increase the penalty. Secondly, we feel that it makes sense that the penalty remain the same, UK-wide. Thirdly, the touting offence is in a very different context from the one proposed in the recent Justice Bill. That offence, and I am conscious that the Committee did not agree with it, was aimed at dealing with segregated football matches. This offence is very much aimed at tackling organised crime through a larger financial deterrent. The Metropolitan Police has advised that there is considerable evidence that serious and organised criminals are lining up to treat Olympic ticket sales as a lucrative source of income. DCMS is keen to demonstrate that criminals are not welcome during the Olympic Games and the Paralympic Games. There is also evidence of a risk of counterfeit tickets being sold in this way.

The second question is whether we should go down the route of putting a legislative consent motion to the Assembly. That would allow DCMS to include Northern Ireland in its Bill. The alternative would be to create our own Assembly Bill, with all the implications for time and effort that that would involve. There is an important time dimension to this. The Olympic tickets have already gone on sale, and, as a result, there would not really be enough time between now and the games to make the changes for the period in which such inappropriate sales might take place. We propose to the Committee that the legislative consent motion is the easier and better way in which to deal with this.

I emphasise that the touting offence covers only sales in a public place or at a profit. It in no way stops the legitimate transfer of tickets at face value. Friends, family and colleagues, and even Committee members who may have been successful in obtaining tickets, can happily pass those on at face value. Indeed, for those who have spares, the London Organising Committee of the Olympic and Paralympic Games (LOCOG) is setting up a website exchange system for those who want to sell on their tickets legitimately.

The Minister is minded to bring a legislative consent motion to the Assembly. However, as ever, he is keen to know the views of the Committee.

Mr Wells:

That is all very laudable, until I log on and see that I can get a ticket for the opening ceremony, closing ceremony and the 100 m final if I pay £32,000 to the organising committee, which is quite clearly —

Mr Weir:

Have you got a spare one?

Mr Wells:

The organising committee is quite clearly condemning touting but can, in fact, spot a market opportunity itself. For £250,000, you can buy 10 tickets for you and your friends to enjoy all the prime events at the Olympics. It strikes me as a bit rare that, having gone out and beaten its chest

and claimed to be whiter than white, the committee is now condemning those who might acquire a few tickets and sell them on to a friend at a few pounds profit.

Secondly, in the age of the Internet, the legislation is an anachronism. I can go on to an Internet site from Germany, Russia or even the States and buy any number of tickets at any price, and to do so would be totally legitimate because those sites are not covered by the legislation. I see the difficulty that we are in: if do not go down the route of accepting DCMS's recommendation, the touts will simply move from another part of the United Kingdom to Northern Ireland and trade away happily. However, I am not awfully happy with that principle, because the world and his dog will be touting tickets, and the one part of the world where that cannot happen is the United Kingdom. I would have no objection to someone offering me a ticket for £200 to see a Northern Ireland athlete or boxer, for instance, in an Olympic final. I think that that is perfectly legitimate, even if the face value is £40. I do not think that there is anything wrong with it. Why should we go down the same route, apart from the fact that we are stuck with it? Should we not at least say to the authorities that this is nonsense?

Mr Johnston:

Chairman, we are in an odd position, because the 2006 Act and the London Olympic Games and Paralympic Games (Amendment) Bill are juxtaposed. The 2006 Act is already on the statute book. However, if it were coming through now, the Assembly would have to be involved, because the legislation deals with offences and penalties. The Governments in England, Wales and Scotland have already decided what way they are going to go.

As I think Mr Wells hinted at, in many ways, it comes down to consistency. I hear all that is being said, but I am not here to represent LOCOG. Next time around, all the issues could be dealt with rather differently, and the sorts of points being made could be expressed by the Assembly, because it now has a role in making such legislation. We are just in a very odd place because of the timing of the legislation and the devolution of justice powers.

Mr Wells:

Am I right in thinking that there is nothing in the legislation to stop me from going on to a foreign website on the Internet and buying tickets at inflated prices from that source?

Mr Johnston:

I encourage you to take legal advice before you do that. *[Laughter.]* That involves some very difficult questions about where the transaction was conducted, and it probably depends on the website. However, I would not be surprised if there were loopholes.

Mr Wells:

Very few people in Northern Ireland have obtained tickets. A huge number of disappointed people are waiting on the second ballot to try to get something. This huge sporting event could bypass the vast bulk of the community because they simply cannot get through the door.

Mr Weir:

Except for the extensive TV coverage of it.

Mr Wells:

I think that many of us see this as a once-in-a-lifetime opportunity to attend the Olympics and would love to go. Certainly, anybody with whom I have been dealing has either got nothing at all or something for the first round of the trampolining, which is perhaps not the hottest ticket in town. *[Laughter.]*

Mr Weir:

I gather that the prices for that tend to go up and down. *[Laughter.]*

Mr Wells:

I do not know anybody who got tickets for the athletics, boxing, swimming, diving and such things. It is disappointment all round. My family got next to nothing, so, if you have any spare tickets, I will buy them off you at face value.

It is just a pity that the normal market rules do not apply, whereby people can buy tickets for an event if they want to pay a tenner or £15 above the market rate, given that that is perfectly acceptable for every other sporting event except the Olympics and soccer. It has been made illegal for those specific examples, but LOCOG is doing exactly the same thing itself.

Mr McCartney:

I have a number of questions. During the previous mandate, Members were uncomfortable with legislative consent motions. We are legislators, so we think that we should be here to make legislation, not rubber-stamp it. How many people have been convicted of ticket touting in England in the past 12 months?

Mr Johnston:

The figures relate to football ticket touting, which comes under separate legislation. I do not think that the regime under the 2006 Act is in operation yet, because the tickets have only just been sold. I could certainly find that out and get back to the Committee. As I say, the figures are not for this regime but a different one.

Mr McCartney:

It is about the problem and how it is tackled. A general point that was made throughout the debates on the Justice Bill is that if legislation is going to be made, it should be practical. If ticket touting is a problem, figures would be available to say that the law, as it stands, is tackling it. The media was full of speculation about the prices of tickets that were available on the black market for the European Champions League final at Wembley. How many people were arrested and convicted or are facing charges for that? Some legislation looks very attractive on paper yet is not practical, nor are there any outcomes from it.

There is an idea that, simply because the fine here will be lower, there will be an exodus from England to the North. If we adopt the legislation, people can go to Donegal, which does not represent any great shift in travel plans for people who want to tout tickets. We have reservations about two principles: the legislative consent motion in the first instance; and whether this is a practical piece of legislation.

Mr Johnston:

I am conscious of the reservations about the legislative consent motion. It is not something that we turn to lightly. In many ways, if we were to go with separate legislation for this, which, I have to admit, is not the top priority for the Department of Justice, we would be wasting a lot of time in

the Department and in the Assembly. That is why we have come with the legislative consent motion proposal as well as to discuss ticketing issues. The assessment of the extent of the problem is based not on ticket touting in other spheres, be they the Commonwealth Games or football or anything else, but on specific intelligence gathered by the Metropolitan Police about organised crime gangs' intentions to tout Olympic tickets because of the high value and the level of public interest in the Olympics. There is also a real risk of counterfeit tickets entering the stream through ticket touting.

Mr McCartney:

Counterfeiting would be illegal in other terms anyway. This is not about a £20,000 fine for being caught counterfeiting. Counterfeiting is a different problem and will be tackled by a different piece of law.

Mr Johnston:

Ticket touting is how counterfeit tickets feed their way into the system, because they do not come through the official websites. The assessment is based on specific intelligence that the Metropolitan Police has.

Mr Eastwood:

I have no principled objection to tackling this problem, or perceived problem, in the light of intelligence. However, I find it slightly strange that we are discussing a Bill that just deals with the Olympics. If ticket touting is an issue, surely it should be dealt with in the round. As has been mentioned already, there are different types of ticket touting, some of which are more serious than others, but if we are going to deal with the issue, it should be done properly and across the board. To bring in a piece of legislation simply because of the Olympics strikes me as quite strange. If it solves a problem, I am open to supporting it, but it seems a bit odd.

Mr Johnston:

We had discussions on the wider question around football in the course of deliberations on the Justice Bill, and the Department made proposals for a ticket-touting offence. The Committee was concerned about that, as were the sports bodies. In the end, we got a commitment from the Irish Football Association (IFA) that it would put in place a voluntary arrangement — a code of

practice — that would cover the problem that we had identified, which was around segregated matches. As a result, we withdrew the proposal from the legislation. Yes, there is a broader context. At this stage, the Department is not proposing to introduce any other legislative proposals on ticket touting. I am not sure that the need has been identified.

Mr Weir:

In the wider context, it strikes me that something will be done with the legislative consent motion. It would be a nonsense to go for a separate piece of legislation, which would be a complete waste of time. I note that the legislative consent motion is being supported by DOJ and DCAL. I suspect that we do not have a great deal of choice over whether we pass the motion. I agree with many of the remarks that Mr Wells and Mr McCartney made. I assume that the person who is potentially convicted of the offence and fined £20,000 is the person who has done the selling rather than the buying. Is that correct?

Mr Johnston:

Yes.

Mr Weir:

On the question of how enforceable that is, there is a pertinent point to be made about the level of convictions that have taken place for touting generally. It should be said that you can sell to a colleague, providing that you do so a face value, but, evidentially, it would be difficult to prove how much money had changed hands in certain circumstances.

It also strikes me that someone could sell tickets legally or legitimately. For example, Mr McCartney said that someone could go across the border to Donegal — he did not quite put it that way, to be fair — to sell a ticket. *[Laughter.]* I am pleased that you are not accusing anyone on the Committee of being a tout. Someone might take offence at that.

Mr B McCrea:

Pass that spade down here.

Mr Weir:

Given that people can go to Donegal, Paris or wherever and sell a ticket, I can see criminal gangs — or anyone — being able to make a fortune out of ticket touting. It strikes me that, if you are creating a deterrent, you may actually be creating it for the person who is selling the ticket on at a profit of a few quid to someone whom they know. Criminal gangs could make hundreds of thousands of pounds out of this. Therefore, they might use the Internet, in which case it would be difficult to get a conviction, or set up some sort of office. They might set up an office in Dublin or Paris instead of in Belfast or Birmingham. It strikes me that the people who will probably not be deterred and will find it relatively easy to get over the barriers are the people who are ticket touting in a major criminal way and making a large amount of money from it. That is more of a comment than anything.

I accept that we have to play our part, and I accept the position of both Departments that are involved. We will support the legislative consent motion, albeit with a certain level of reluctance. There is a large element of nonsense in the process, because it seems to me that it is so easy to evade. In particular, those who are in the best position to evade the legislation are the big-time operators who are more likely to be the criminals, rather than people who have a ticket that they do not particularly want and from which they are looking to make a little bit of a profit. That person probably will be deterred, but, if the purpose of the legislation is stop major criminality, I do not see how it will place any real and proper constraint on that. That is more of a comment than a question.

The Chairperson:

No one else has indicated a wish to ask a question, so thank you very much.

Mr Wells:

On the issue that Mr McCartney raised, there is nothing to stop anyone walking across the humpback bridge from Strabane to set up a booth in Lifford, from where he can sell tickets to Northern Ireland people at whatever price he likes.

Mr Johnston:

Unless the South decides to introduce its own legislation.

Mr Wells:

There is no indication of any other European country doing that, so, as Peter said, the obvious route for a gang to take is to set up a little booth across the border and sell tickets in euro.

Mr Weir:

Gangs in the south of England could go across on the cross-channel ferry to do that.

Mr David Mercer (Department of Justice):

It is partly as a matter of prestige that the Government in London are saying that they really ought to introduce this legislation. There is an offence already, so the Government are saying that they might as well put in place what legislation they can to deter those who would be deterred.

Mr Johnston:

There is something in saying that criminals are not welcome at the games in the United Kingdom. Perhaps the best that I can offer is to say that we are keen to adopt the legislative consent motion to assist DCMS, and I could pass the transcript of the Committee's remarks to DCMS so that it is aware that you have expressed fundamental concerns about it, while not wanting to fall out of place with what the other jurisdictions are doing.

Mr Dickson:

People might have concerns about other legislative consent motions that exist in perpetuity, but at least this one will be over in 2012, because it cannot be an offence once the Olympics is over.

Mr Weir:

It would be a fairly gullible punter who bought tickets after the Olympics was over.

The Chairperson:

Thank you.