



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

PROCEEDINGS

DAALTYN

(HANSARD)

Douglas, Tuesday, 23rd October 2007

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

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 12.05 p.m.

Legislative Council

The Council met at 10.30 a.m.

[MR PRESIDENT *in the Chair*]

The President: Hon. Members, in the absence of a Bishop, I call upon the Chaplain of the Keys to lead us in prayers.

PRAYERS

The Chaplain of the House of Keys

Almighty God, humbly acknowledging our need for thy guidance in all things and laying aside all private and personal interests, we beseech thee to grant that we may conduct the affairs of this Legislative Council and of our Island to the glory of thy holy name, the maintenance of true religion and justice, the honour of the Queen and the public welfare, peace and tranquillity of the Isle of Man, through Jesus Christ, our Lord.

Members: Amen.

Questions for Oral Answer

CHIEF MINISTER

Commonwealth Youth Games 2011 on Island Plans and arrangements

1.1. The Hon. Member (Mr Lowey) to ask the Chief Minister:

- (a) *When will the Government make public the plans for the Commonwealth Youth Games to be held on the Island in 2011;*
- (b) *what progress has been made in agreeing with Douglas Town Council plans for the refurbishment of the Bowl Complex; and*
- (c) *are all the infrastructure, financial and other arrangements in place for this potential world class event to be held on the Island?*

The President: Hon. Members, we turn to our Order Paper this morning and I call upon the Hon. Member, Mr Lowey.

Mr Lowey: Thank you, Mr President. I beg leave to ask the Question standing in my name.

The President: As I understand it, the Answer is in the hands of Mrs Crowe. Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

In regard to part (a) of the Question, a decision to support an Isle of Man bid to stage the Commonwealth Youth Games was taken by the former Council of Ministers. That bid was, at the second attempt, successful and the Commonwealth Games Federation awarded the Island Games for 2011. These Games will take place in the September of 2011.

At the time the Games were awarded, the Department of Tourism and Leisure made a public announcement regarding the award of the Games and did receive considerable publicity.

The organisation of the 2011 Games will be undertaken by a partnership comprising the Department of Tourism and Leisure, the Isle of Man Sports Council and the Isle of Man Commonwealth Games Association. These three parties have formed a supervisory committee to oversee the organisation of the Games and, in turn, appointed an organising committee to undertake the practical organisation of the Games.

The Committee has been working for over a year to progress the Games. One of the responsibilities of the Organising Committee will be to generate publicity which will enhance the profile of the Games and, through the Games, the Isle of Man, across all the Commonwealth of nations.

The next focus of the Commonwealth Youth Games will be the 2008 event which is to be hosted in India and in the build-up to and during those Games, we will be building our marketing for our event.

As regards the second section of the Question, it is hoped that the rugby event which will form part of the 2011 Commonwealth Youth Games can take place in a refurbished Bowl under floodlamps and that national stadium for soccer will be part of the Games legacy. Discussions between the Department of Tourism and Leisure, the Sports Council and the owners of the Bowl, which are Douglas Corporation, are ongoing and all parties are hopeful of a positive outcome.

In regard to the third part of the Question, obviously with almost four years before the event, not everything is in place but the Organising Committee, under the chairmanship of Geoff Karran, is making good progress and is well on track to deliver a world class event.

In terms of the infrastructure required to run the Games, the Island has everything needed to meet the required standard for each sport. However, the Department of Tourism and Leisure has identified three items, such as the refurbishment of the Bowl, which would enhance the Games and which they are very anxious to progress.

In terms of finance, prior to agreeing to support an Isle of Man bid, the Council of Ministers was aware that the cost of staging the Games would be about £1 million and has agreed to underwrite to that level of cost, whilst recognising the obvious potential for part of this sum to be met through commercial sponsorship.

The commitment is recognised by the new Council which will ensure that the funding is made available.

In framing the Question, the Hon. Member refers to the 'potential' world class event. I believe that the Games will be a *genuinely* world class event which will enable the Island to project itself on the international stage. We can all remember the enormous pride and profile which flowed from the 2001 Island Games and this is a similar opportunity which the Department and its partners will embrace.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

I thank the Hon. Member for her reply on behalf of the Chief Minister.

Could I ask her would she not agree that annual progress reports of the development of this very important event would be better than silence after the initial launch? An annual progress report should be forthcoming.

Could she also confirm that the build-up to a world class event cannot be left until the last minute?

When I am talking of the development of the Bowl for the rugby sevens which will take place there, that is a very 1950s venue at the moment. She would agree with me that these venues do not operate overnight. It will take at least three years to get that up to scratch, the playing surface, into a world class condition.

The President: Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

I will report to the Chief Minister that my hon. colleague desires that there are development reports issued regularly and I would agree that that would be quite useful. I am sure that the Department of Tourism must have reports regularly about the development of these venues.

As regards the 1950s type of football arena at the Bowl, my hon. colleague of course has far more knowledge of that than myself but I am sure his remarks will not go unrecorded.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President.

I would agree that it should be a world class event. The question I would like to raise with the Hon. Member is: I understand that there will be about 1,000 competitors and about 200 officials coming to this; are there accommodation plans being sorted out well in advance for this number of people?

Mrs Crowe: I believe that the Department of Tourism and Leisure is well aware of the numbers of visitors that are likely to arrive. They are planning and I believe that arrangements will be in place to accommodate all the visitors that desire to attend the Games.

The President: Mr Crowe.

Mr Crowe: Are there any special new buildings to be built for this?

Mrs Crowe: It is not my understanding that there are any accommodation venues to be built for this particular event.

The President: Mr Lowey.

Mr Lowey: The date, I am sure the Hon. Member will be aware, was picked for September to make sure that it did maximise... Would the Member not agree that the real potential for displaying the Isle of Man is because of it is being the year before the Olympic Games in London? The numbers are limited to the spectators and supporters that can come, it is limited to 1,000 to allow smaller jurisdictions to host these things.

Secondly, the fact that it is before the Olympics and most sportsmen now are 'old' at 18. Many of these athletes who will appear in the Isle of Man will be appearing in London the year after, so it has got a greater potential than norm.

The President: Is there a question there, Mr Lowey? *(Laughter)*

Mr Lowey: There is: would the Member agree?

Mrs Crowe: I would agree, and it would be nice to think that the Isle of Man could be utilised as a training venue for Olympic Games athletes who perhaps wish to have a little bit of respite from the noise and dirt of London, and stay on our lovely Island whilst they are training.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President.

Could I ask the Hon. Member, Mrs Crowe, just for clarification on the refurbishment of the Bowl Complex, is it the playing surface or is it the stands? Is it everything to do with this at the Bowl – a complete refurbishment of playing field and grandstands?

Mrs Crowe: Yes, I do believe that, as my hon. colleague, Mr Lowey, mentioned, it is a rather outdated venue. I think there needs to be refurbishment of the whole area and I think that is what is being looked at, at the present time.

Grass football/rugby facilities, Ballafletcher, Braddan Timescale

1.2. The Hon. Member (Mr Lowey) to ask the Chief Minister:

What is the planned timescale for the long overdue sports development of grass football and rugby facilities at Ballafletcher, Braddan?

The President: We move on to Question 2. Mr Lowey.

Mr Lowey: Thank you, Mr President. I beg leave to ask the Question standing in my name.

The President: Again, Mrs Crowe to answer, please.

Mrs Crowe: Mr President, I can confirm that the Department of Tourism and Leisure is currently progressing the project with a view to commencement on site in 2009. The progression of the project will of course require formal approval of Tynwald, which will be sought late in 2008 or early 2009.

The President: Mr Lowey.

Mr Lowey: Would the Member agree that Ballafletcher was supposed to be a Millennium project? So here we are, nine years on into the next millennium and we are talking about developing these long awaited and needed facilities. Would she not agree that nine years is far too long to wait for the ideas to be brought to fruition?

The President: Mrs Crowe.

Mrs Crowe: Yes, I would agree, Mr President, of course that nine years is too long, but during the course of that time, other projects did appear on the horizon.

However, I do know that when I spent some time in the Department of Tourism, with Mr Lowey as a colleague there, that he continuously, at least for two years that I was there, requested that these leases and the like be signed and progressed. I do find it difficult now, looking at this, to see that we are actually still not quite there.

The President: Mr Butt.

Mr Butt: Thank you, Mr President.

With the demise of the Summerland playing areas and the playing areas in private ownership at Mount Murray, and with the fact that the NSC's sports halls and AstroTurf pitch are fully booked all the time these days, can you ascertain if the Department has any plans to increase any playing areas for people to play five-a-side and other sporting events, in addition to what the NSC provide?

The President: Mrs Crowe.

Mrs Crowe: I would presume that the Ballafletcher site could be utilised for other than just football. But I have two authorities on the game, sitting opposite me as colleagues in Council, so I do not believe that there are any other venues at the present time under discussion for five-a-side sites.

I certainly can ask that the Department circulate information to you, with regard to your worries about the lack of facilities.

The President: Mr Butt, do you want to come back on indoor facilities, sir?

Mr Butt: Yes please. Could you ascertain from the Department then, apart from the grass pitches at Ballafletcher, which are the plans there I believe, there is a need for indoor sports halls, more than at the NSC, in the Douglas area.

Mrs Crowe: I am sorry, I really missed the word 'indoor', I think, out of your question.

Mr Butt: Indoor or outdoor playing surfaces for small football, yes.

Mrs Crowe: Okay, yes I know that that request has been made to the Department before, and I know that there are a number of areas where these facilities are really quite badly needed.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President.

My understanding is that the Ballafletcher pitches will accommodate Corinthians and Douglas Royal Football Club, Vagabonds Rugby Club and there will be availability of cricket pitches as well, but it is all outdoor pitches.

The question I would ask is that 2009 seems to be some time away before a financial vote is given on this in Tynwald. Can I ask, has the Department of Tourism approached Treasury for financial approval for this development of the pitches there?

The President: Mrs Crowe.

Mrs Crowe: I would have thought that Treasury, Mr President, would be fully aware of what the proposals are in costing terms, which are in excess of £2 million. So I would have thought that there had been some initial discussions with Treasury regarding this.

I understand what the Hon. Member is suggesting about the fact that it is going to be perhaps 2009 before the vote comes to Tynwald, which may appear to be rather untimely. I will make those concerns known to the Department of Tourism.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

In view of the diminution of the facilities, as has been outlined by my colleagues, is there any possibility of the likes of Summerland being utilised and has that been thought of?

The President: Mrs Crowe.

Mrs Crowe: Summerland? I am sorry – (**Mr Waft:** Site.) Oh, the Summerland site – well, I do not think that, at the present time, is in the focus of the Department of Tourism. Of course, that would be a major project, and I am not sure that would actually be ready in time for 2011.

But I will mention it, once again, to the Department of Tourism and maybe we might have some Council of Ministers' joint thinking on perhaps utilising many of the sports halls that are around in the lovely refurbished schools that we have got on the Island.

The President: Mr Lowey.

Mr Lowey: Would the Member not agree that, because of the timescale for these pitches at Ballafletcher, the relevance of my Question about the Bowl is *more* relevant, because of the timescale it has taken to develop this?

It gives me concern that although we have only got just over three years to go for the development of the Bowl, it seems to me that we do take an awful long time to deal with matters, even though they are pressing.

Mrs Crowe: My supplementary information is that the Ballafletcher site *should* be ready in August 2010. I do understand my hon. colleague's concern that that is creeping very close to the date, September 2011, when we need everything to be ready for the Games. But I am sure that all the concerns of Council will be recorded and taken back to the Council of Ministers for their information.

Leave of absence granted

The President: Hon. Members, we will move on then to Item 2 on the Order Paper, which is the Presiding Officers Bill. Before I do go through onto the clauses stage of that particular measure, can I just put on the record that in fact the Hon. Member, Mr Downie, is absent this morning and will remain absent. He is actually in the States on Government business, Hon. Members, so has permission to be absent.

Orders of the Day

Presiding Officers Bill

Clauses considered

2. Mr Lowey to move.

The President: We are dealing then with the Presiding Officers Bill. It is for clauses stage and it is in the hands of Mr Lowey. Clause 1.

Mr Lowey: Thank you, Mr President.

Mr President, as I explained to Hon. Members at the First and Second Reading, the purpose of the Presiding Officers Bill is to implement the recommendations contained in the Management and Members' Standards Committee's Second Report of the session 2006-07.

Clause 1 deals with the appointment of acting Speaker. Clause 1 inserts two new subsections, (1A) and (1B), in section 9 of the Representation of the People Act 1995.

Subsection (1A) provides that when the House of Keys meets to elect a new Speaker of the House, the Keys will appoint one of their Members as acting Speaker to preside over the election debate.

Subsection (1B) provides that the office of acting Speaker terminates automatically upon the election of the Speaker.

It is as simple as that, the acting Speaker acts for the election of the Speaker. I beg to move clause 1 stand part of the Bill.

Mr Waft: I beg to second and reserve my remarks.

The President: Seconded by Mr Waft.

Hon. Members, I put to you clause 1. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2, Mr Lowey.

Mr Lowey: Clause 2, Mr President, is the election of the Deputy Speaker.

Clause 2 further amends the Representation of the People Act 1995 by inserting a new section 9A. This new section 9A does three things.

Firstly, it provides that when the House of Keys first assembles following the election of the Speaker or on the vacation of the office of Deputy Speaker, the House will elect a Deputy Speaker whose role is to deputise for the Speaker when the Speaker is not present at a sitting of the Keys.

Secondly, the clause provides that the office of Deputy Speaker becomes vacant when one of the following occurs: the Deputy Speaker dies, obviously; resigns; his or her seat becomes vacant under section 6; the Deputy Speaker is removed from office by a vote of the House of Keys; or when the House is dissolved. Finally, the clause provides that the duty of the Deputy Speaker is to deputise in the absence of the Speaker and assume the power of the Speaker when the Speaker is absent from the Island or is not present at any sitting of the Keys.

Mr President, I beg to move that clause 2 stand part of the Bill.

The President: Mr Waft.

Mr Waft: I beg to second and reserve my remarks.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President.

Yes, I think this is to just regularise the situation that at present. The Management and Members' Standards Committee of the House of Keys made reference that it was not possible under present legislation to have a Deputy Speaker, so it is purely tidying up the law to make sure that a Deputy Speaker can be appointed.

Just on a minor point, under section 9A(1)(a), it talks about the Members of the Keys on their first assembling following the election of a Speaker. Well, until this legislation is enacted, they cannot actually meet to appoint a Deputy Speaker, so technically it should be the first available –

The President: Sorry, Mr Crowe, could you just go over that again, please. You said on 9A(1)(a) –

Mr Crowe: Where it says, 'On their first assembly following the election of the Speaker': really, until this Act is enacted, it can only be the first available meeting of the Keys. It is only a minor point, it is not going to effect the law so I am not wishing to...

It is on the top of page 2.

Mrs Crowe: Yes.

The President: I am just trying to fit in your thought process, sorry –

Mrs Crowe: 'On the first available'.

Mr Crowe: It is only a comment; I am not wishing to change anything.

The President: Mr Lowey, reply sir.

Mr Lowey: My only comment on that, in the next clause –

The President: Hold on, Mr Lowey. Mrs Christian.

Mrs Christian: Whilst accepting that this has come out of a report and this is what they want to do, it seems rather rigid to me, that they are going to immediately appoint a Deputy Speaker rather than waiting for – I think as sometimes happened in the past – an appointment to be made actually when the Speaker indicated he was not going to be there, or was not there for reasons which the House was made aware of.

You could have a situation now where you have appointed a permanent Deputy Speaker who might not be available when the Speaker is away –

Mrs Crowe: That is right.

Mrs Christian: – so you then have still got to go to the appointment of another person to preside.

So it seems a little bit rigid to me, but if this is the result of a report that they presumably have given sufficient consideration to, I will not oppose it. But I have a view that it might on occasion prove to be somewhat rigid.

The President: Mrs Crowe.

Mrs Crowe: I would also like to support my hon. colleague, Mrs Christian's views. I do think that, on occasions, this will now cause difficulty, if there is something like a parliamentary visit that maybe two persons might want to be on that they are interested in or are in that particular role and on other occasions. So I do think there was some flexibility when a Deputy Speaker could be elected as required.

But, as you say, it has come to us from the Keys and I am quite happy to support it, if this is what they want.

The President: Mr Lowey to reply this time.

Mr Lowey: I can understand the reasoning of my colleagues, but all that would happen then is they would refer it back. They would appoint somebody. It happens so irregularly, there is... I think when we appoint presiding officers – I do not wish to be flippant – they are usually pretty fit persons because their absence is very limited.

Having said that, the Keys Standing Committee believe that this is the way they would prefer to have it. They wanted a permanent Deputy and my job is to present it in a workmanlike way – and I am pleased my colleagues are not going to oppose it.

Coming to my hon. friend, Mr Crowe's point, regarding the election – it happens after the election of the Speaker – there are clauses later on in this Bill which actually say, notwithstanding anything that has been enacted before that is contrary to this Bill, that does not invalidate the position. So it has been addressed in other clauses of the Bill, which I will point out when we get there.

The President: Hon. Members, the motion I put to Council is that clause 2 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Mr Lowey.

Mr Lowey: Thank you, Mr President.

Clause 3 deals with the disqualifications for Speaker, acting Speaker and Deputy Speaker.

Clause 3 inserts a further new section, 9B, in the Representation of the People Act 1995 which provides that the Speaker, the Deputy Speaker and acting Speaker are not eligible for nomination or appointment as Chief Minister or as a Minister. The Speaker is not eligible for nomination or appointment as a member of a Department or Statutory Board, but the Deputy Speaker and acting Speaker are so eligible. This reflects the recommendations in the Report.

The Chief Minister and a Minister is each required to go out of office if he or she is elected to Speaker, Deputy Speaker or acting Speaker in circumstances which infringe the provisions that have been above.

A member of a Department or Statutory Board is required to go out of office if he or she is elected as Speaker. A nomination, appointment or election made before this Bill is passed is not invalidated by reason only that the person nominated, appointed or elected was statutorily disqualified at the time of the appointment.

Mr President, I beg to move that clause 3 stand part of the Bill.

The President: Mr Waft.

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

The President: Mr Crowe.

Mr Crowe: Mr President, I would assume that, although it is silent in the clause, a Chairman of a Board would be treated as a member of the Board.

Mr Lowey: Yes.

The President: Mrs Christian.

Mrs Christian: Mr President, this seems to me like belt and braces where acting Speakers are concerned. As we note in the first clause, the acting Speaker is appointed only to preside over the election of the Speaker and that office terminates automatically upon the election of the Speaker. So it is hard to envisage a situation where, in the middle of an election for the Speaker, somehow an election is taking place for Chief Ministers or Ministers. I can only imagine that might occur if, for some reason, there was an adjournment. But it does seem to me very tight drafting for a situation that it is hard to see happening.

The other point about it is that, where an acting Speaker clearly expresses, by being proposed as an acting Speaker, that they have no wish to be the Speaker – well, they may have a wish to be the Deputy, I do not know, but they certainly have no wish to be the Speaker – why they should be excluded, on a very short appointment, from being appointed as a Chief Minister or a Minister, I do not quite understand – unless the requirement would be that, having been appointed acting Speaker and the election not concluded for the Speaker, they would then have to stand down if they wished to be nominated. It seems very convoluted, but I can see that it perhaps is belt and braces, in terms of having some sort of definition of who can be nominated.

I can understand why, having perhaps just been elected as Speaker and the nomination then for elections for Chief Minister then taking place, we would not wish to see them jumping from one job to another. However, if something happens mid-term, can the mover confirm that it would be necessary for the Speaker or Deputy Speaker to resign, should they wish to be nominated for these other posts?

I take it that subclause (6) is to cover a transitional arrangement. I wonder if the Member would confirm, please.

The President: Mr Turner.

Mr Turner: Mr President, my point was similar to that of the Hon. Member of Council, Mrs Christian. It was more clarification on this post of acting Speaker, eligible for nomination and whether, for that short period, they would be disqualified from then holding the posts as detailed here.

Also with this, in the case of the Speaker and a Deputy Speaker being absent, they would have to nominate somebody to that post. Would they be classed as an acting Speaker and, if so, would they have to draw from non-Ministers' positions from the Keys?

The President: Mrs Crowe.

Mrs Crowe: That was precisely the point, I think, that Mr Turner has just made. I was nodding in agreement.

The President: Mr Waft.

Mr Waft: On the previous clause, Mr President, we did discuss the problems when the Deputy Speaker and the Speaker are, perhaps, off Island. Now the acting Speaker has appeared. I presume it is only for that interim period when they are both off the Island.

Mrs Crowe: No.

Mrs Christian: No, it is not.

The President: No, definitively not.

Mr Waft: Then that carries on through the year.

Mrs Crowe: No, only for one day – well for one...

The President: Could we just have, Mr Lowey, clarification on that point before anybody else joins in. The acting Speaker is appointed for one job only. It is for the election of Speaker.

There are two points there really: that is his only duty, once the Speaker is appointed, he is out of office. There is no acting Speaker.

And picking up on Mrs Christian, what disbars a person nominated as acting Speaker, to hold the election of the Speaker, being nominated as Speaker?

Mr Lowey: I think if we go back to the Report. The Report is quite clear that it is that the presiding officers should not hold a governmental job.

In the United Kingdom... I think where the Keys may have... Mrs Christian has put it in the right context: it is belt and braces – but another piece of string. They are trying to cover every eventuality.

All I can say to that is, simply, if you have a written constitution, you have to cover every eventuality. I do not think we have a written constitution any more than the United Kingdom has. They have simply got over it by saying they will not be holding an office of profit. In effect, the Speaker is above it and the Deputy Speaker is above it, by making that particular person the Chairman of Ways and Means, which is an office of profit and, therefore, they cannot be.

In the Isle of Man, we are dealing with this position, which has just recently arrived. I cannot see why there should be a difficulty – only if people want to make it a difficulty.

I am having difficulty in answering this in the definitive, but I do believe that the Deputy Speaker is a permanent position. If he is maybe off the Island, you then do not elect an acting Speaker; you elect a *deputy* Deputy Speaker, and that is the way that would be construed. Therefore, as a Deputy Speaker, you would not be eligible.

I know I have not made myself abundantly clear, but I do believe the Bill is designed to make it quite clear that certain rules will apply.

The President: Mr Butt.

Mr Butt: Mr President, at the last election for the current Speaker, the acting Speaker was in fact a Minister. So I

presume the mover can confirm that, in future, when the election takes place, there will have to be care taken to ensure the acting Speaker at that time is not actually a Minister.

Mr Lowey: Yes, Ministers carry on their job until their successors are appointed. Yes, indeed. The whole essence of this Bill is to make sure that Ministers are not presiding officers.

The President: I am not sure that that is actually –

Mrs Crowe: Clause 3.

The President: Sorry, but I am not sure that that is actually right, because it says once you are appointed acting Speaker, you cannot be appointed Minister.

Mr Lowey: Indeed. You can be a Minister –

Mrs Crowe: Can you clarify – ?

Mr Lowey: Yes, you can be a Minister and appointed acting Speaker for that one-off performance.

The President: Mrs Crowe.

Mrs Crowe: That was, I think, the clarification I was looking for. The acting Speaker can be a member of a Department, Statutory Board Chairman, member of a Statutory Board or a Minister. Is that in 9B(3)?

Mr Butt: Not a Minister.

The President: Mrs Christian.

Mrs Christian: I think, Mr President, we just need to accept that the Act is silent on that issue.

Mrs Crowe: Yes.

Mr Lowey: It is.

Mrs Christian: I am not sure whether the original Act... This Act is silent on that issue. It does not say who can be an acting Speaker –

The President: It does not.

Mrs Christian: – and one presumes that there is no restriction on who can be an acting Speaker.

Mrs Crowe: But they are eligible for nomination.

Mrs Christian: There is an assumption that they do not wish to be nominated as Speaker. I think the point Mr President was asking earlier was is that simply an assumption? There is nothing to say that they cannot be nominated.

The President: Following a general election, the first duty that the House of Keys does, on the return from a general election, at its first sitting, is to elect a Speaker. Under this particular piece of legislation, they will appoint an acting Speaker to conduct that election. That acting Speaker will

carry out that duty and that duty only. Mr Butt.

Mr Butt: Yes, Mr President, but clause 9B(4) says that if the person is elected as an acting Speaker, he or she shall go out of office as Chief Minister or Minister, as the case may be. So, even if it is only for a five minute duration for that one task, acting Speaker...

Mr Waft: Through you, Mr President, we have not got round the problem of the Speaker, if the Deputy Speaker is off the Island and a meeting needs to be called...

Mrs Crowe: No, that is the deputy.

The President: Mr Attorney.

The Attorney General: Mr President, can I just deal first of all with the acting Speaker.

Mr Lowey: Within clause 1.

The Attorney General: Clause 1: the role of the acting Speaker, as Hon. Members and, indeed, your good self, sir, have pointed out, is very, very limited. He or she has a role to preside over an election of the Speaker. That is, as you have said, sir, the first item of business that the Keys have to engage in after the election.

The interesting point it seems to me, Mr President, is, first of all, can the acting Speaker ever put himself up for election as the Speaker? That is not mentioned explicitly in this Bill nor, I think, in the original Representation of the People Act.

But it must follow, surely, that if you are in charge of an election of a Speaker, you yourself cannot possibly put yourself forward as a proposed appointee. It has not been stated expressly but it must follow, I think, under any rules of natural justice and so on. That is the question of whether the acting Speaker can be elected as a Speaker.

The interesting thing it seems to me then, Mr President, is: can a Deputy Speaker who is not available to preside in the absence of the Speaker...? If the Deputy Speaker is absent or ill, who presides? The answer to that, I think, must be that it rather depends who is available.

If the Speaker knows, for example, that he or she is going to be absent on a CPA conference or something, he or she can appoint someone to act in his or her absence, if the Deputy Speaker is also not available. You have got a Speaker; you have got a Deputy Speaker in place; the Speaker knows that the Deputy Speaker is not available and the Speaker himself is going to be away – then he can appoint someone else, it seems to me, as a deputy.

Mrs Crowe: Can I just ask Mr Attorney General, whilst he so carefully explained that in, perhaps, a rather vexatious manner, is if the Speaker then appointed either a Minister or the Chief Minister to be deputy whilst he was away, they would have to resign their office? (*Interjections*)

The Attorney General: It says, I think, Mr President, in clause 9B(1)...

Mrs Crowe: That is the election, though.

Mrs Christian: No, it is not.

Mrs Crowe: Oh.

The Attorney General: It is actually under section 7 of the Council of Ministers Act, which is not dealt with here. The Council of Ministers Acts says that if the Chief Minister, a Minister or a member of a Department or Statutory Board is elected to be President of Tynwald or Speaker, he shall go out of office as Chief Minister, Minister or member, as the case may be.

So, you cannot have a situation where a Chief Minister or Minister is elected as a presiding officer.

Mr Waft: Through you, Mr President.

The President: Mr Waft.

Mr Waft: We still have not got round what I mentioned earlier about electing Speaker. They are there for the election but, subsequently, if the Speaker or the Deputy are off the Island, they have to have an acting Speaker to conduct the business.

Mr Lowey: Not an acting, a Deputy.

The President: Mr Attorney.

The Attorney General: I think what we have to do is steer clear of using the words 'acting Speaker' in that situation. The acting Speaker under the legislation has a very limited role. I think that the troubling aspect, perhaps, of the Bill is that, albeit that the acting Speaker has such a limited role and that item of business is going to be dealt with first on the agenda, he or she is permanently barred from being a Minister or Chief Minister. I think that is the troubling aspect of this proposed legislation.

Mr Lowey: Absolutely.

The President: Mr Turner.

Mr Turner: Is that the actual intention of this? It seems rather restrictive that somebody who presides for what could be quarter of an hour is barred from holding any office.

Mrs Christian: Only for that quarter of an hour.

Mrs Crowe: Yes, but the trouble that that would cause... Governor in Council. (*Interjection by Mr Butt*)

Mr Turner: It reads that, during the term, they will not be able to be appointed a Minister.

Mr Lowey: It does not mean that. Only for quarter of an hour.

The President: Hon. Members, we are getting at cross purposes – we should not talk across each other. My understanding is that it does not debar him for the whole of the five-year term; it is just for that particular period.

The Attorney General: That is right, sir. Ironically, it says in clause 1, in (1B):

'The office of acting Speaker terminates automatically upon the election of the Speaker'.

So, once the acting Speaker has performed his or her role of presiding over the election of the Speaker, that office – the office of acting Speaker – comes to an end. I suppose you could argue, from that – it does not say it expressly, but you could argue – that since the office of acting Speaker is at an end, the person who was the acting Speaker could put himself forward for Chief Minister or Minister.

The President: I think that is plain and that is clear in relation to the position immediately following a general election. Where it becomes a bit muddled, I think, in Members' minds is when there would be a Speaker, for one reason or another, leaving the position half-way through, and an acting Speaker having to be appointed at that stage to cause an election.

Mrs Crowe: Mr President, I suppose my one query is that the Ministers actually remain in place during an election, don't they? So when the Court reassembles, when the House of Keys reassembles, the Ministers are already appointed. They are in place until they are replaced.

So, that was the point I was making: that the Ministers are already actually there when they are looking to appoint an acting Speaker. So what they are doing is narrowing the field, in effect, so that none of the Ministers or Chief Minister that are in place could be elected to that position, and that is an election.

But in clause 9B(4), it says if the Minister is *appointed* to be... Now, who makes the appointment, rather than being elected? The point I was trying to make before is if Mr Speaker has the power to appoint a Deputy Speaker, in my little mindset, he could actually appoint the Chief Minister, who would then have to resign.

The President: Mr Butt.

Mr Butt: Sir, for avoidance of doubt, I would imagine the procedure would be to avoid, for that quarter of an hour, shall we say, the Member who is acting Speaker... the House would have to make sure the person who does the acting role is not a Minister. That would avoid all doubt.

Mrs Crowe: That's right.

Mr Butt: They would need to be aware of that, because the way that 9B(4) reads, it does seem that, for that quarter of an hour, the person has to go out of office if he is a Minister.

The President: Mrs Christian.

Mrs Christian: Mr President, I think it is entirely proper that a Minister does not preside over the election of the presiding officer in the other place. Government should not be involved directly in that parliamentary (**Mr Lowey:** Parliament.) process, other than as voters for the appointment of the presiding officer there.

I think that is made clear in clause 3, in 9B(4) whenever that election takes place. Whether it is mid-term or the first election, it is clear from this that the intention is that the acting Speaker should not be a Minister or the Chief Minister, depending whether it is at the beginning of the session or part way through. And I think it is entirely proper.

So, I do not see any difficulty with that. I just do think

that it is, as we have said before, belt and braces to refer to the acting Speaker in these clauses because the period of office of an acting Speaker is so very short and limited. It seems difficult to envisage it clashing with the election of a Chief Minister or a Minister.

The President: Mr Waft.

Mr Waft: We still have not got through the problem of half-way through the term, the Speaker and the Deputy Speaker are off the Island, who or what becomes of the person who takes the position of the officer in charge of the Keys at that time? If the Deputy is off the Island, he is appointed Deputy. The acting Speaker can only act for the period of the election. So, who is this guy who comes along and has to fill in for the two of them?

The President: Mr Lowey, you will have to come into this. Mrs Crowe.

Mrs Crowe: That is the deputy Deputy Speaker, presumably.

I just wondered if the Attorney General could help me: on 9B(4), who has the power of appointment? I understand all about the Chief Minister being elected and Ministers not being in that role. I fully agree with what Mrs Christian says. But if the Speaker actually has power of appointment, I just wonder who and if he were to appoint the Chief Minister, then the Chief Minister could resign.

The President: Mr Attorney.

The Attorney General: Mr President, it seems to me to be pretty clear that the Chief Minister or a Minister is not capable or eligible of being elected as Speaker, acting Speaker or Deputy Speaker – elected or appointed. That is what the legislation says, the Bill says at 9B(4).

Mrs Crowe: He would have to resign.

The Attorney General: If they want to act in that administrative role as acting Speaker or Deputy Speaker, etc, they have to go out of office.

Mrs Christian: Could we ask for further clarification about the use of the word 'appointed' there? Is that a part of the process after being elected? Is the Speaker then appointed formally or is that a separate process and, as Mrs Crowe says, who has the power to appoint a Speaker, acting Speaker or Deputy Speaker?

The President: It would normally be the Keys.

The Attorney General: Mr President, when we look at the Representation of the People Act, section 9, Speakers are elected. Ministers can be appointed. They are appointed by the Governor.

So, I think that is probably the reason why we have the words 'elected or appointed'. If you are a Minister, you are appointed. If you are the Speaker, you are elected.

Mrs Christian: But is the use of the word...? Sorry, Mr President, just for clarity, there seems no point in having the word 'appointed' there in relation to Speakers.

The President: We are referring, I think, to clause 9B(4):

‘If the Chief Minister or a Minister is elected or appointed to be Speaker...’

We are clear that the only people who can appoint a Speaker actually *elect* a Speaker – and Mrs Christian is saying, maybe, the word ‘appointed’ in that context is superfluous.

Mr Turner.

Mr Turner: Mr President, I am not sure: I feel the word ‘appointed’ could relate to acting Speaker, as in clause 1, in (1A), it says the Keys shall *appoint* an acting Speaker.

The President: I accept that, sir, but also in clause 3, in 9B(4), it refers to ‘appointed to be Speaker’.

The Attorney General: I think, Mr President, Mr Turner has hit the nail on the head. If we look at the Speaker, under section 9 of the Representation of the People Act, a Speaker is elected. When we look at clause 1 of this Bill, an acting Speaker is appointed. So, it is entirely right, as Mr Turner has pointed out, that if we talk about Chief Minister or Minister being elected or appointed to be Speaker or acting Speaker, that is entirely right.

The President: Okay, Mr Lowey, do you wish to wind this one up, sir?

Mr Lowey: It is interesting, isn’t it? If I was in one of my more difficult modes, I would say: what would happen if the Speaker was off the Island and the Deputy Speaker was off the Island and the deputy Deputy Speaker was off the Island? That goes on to another...

The reality is, as I said at the start, the appointment of a Deputy Speaker is a rare event indeed. I think you can count on one hand, in 10 years, the number of times it has happened, but I understand the reasoning for this.

Can I just make a point that was made – and it has been forgotten really, but it has not to be forgotten – made by Mr Crowe, my hon. colleague, about the chairmanship of a Statutory Board. Under the Bill, the Deputy Speaker is eligible for nomination and appointment as a member of a Statutory Board. Clause 3: under the Statutory Boards Act 1987, ‘member’ includes the Chairman. Furthermore, there is no requirement for a member of a Statutory Board to go out of office if he or she is elected as Deputy Speaker. So, it is quite clear for the Member, it means the Chairman.

Can I then come back to what I would call some of the problems that we have got...? They are not problems; they are legitimate concerns of Hon. Members, and I am very grateful to the Attorney General for taking us through the minefield.

I do think it comes back to what Mrs Christian said at the very start of this debate that, perhaps, it is belt and braces and a piece of string. I think the principle enshrined in the Report, though, is quite clear and the House of Keys have expressed their wish. The machinery to put that into operation is what we have got before us, and I would move clause 3 stand part of the Bill.

The President: The motion that I put to Council is that clause 3 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4, Mr Lowey.

Mr Lowey: Thank you, Mr President.

Clause 4 deals with the disqualifications for President and Deputy President of Tynwald. Clause 4 inserts a new section 5A in the Constitution Act 1990. These provisions essentially cover the same matters as the previous clause, but in relation to the office of President and Deputy President of Tynwald.

The clause provides that the President of Tynwald and the Deputy President of Tynwald are not eligible for nomination or appointment as Chief Minister or as a Minister. The President of Tynwald is not eligible for nomination or appointment as a member of a Department or Statutory Board, but the Deputy President of Tynwald is so eligible – unless, as at present, the Deputy is the Speaker and, under the Act, he cannot be.

The Chief Minister and a Minister is required to go out of office if he or she is elected as President of Tynwald or Deputy President of Tynwald in circumstances which infringe the provisions above. A member of a Department or Statutory is required to go out of office if he or she is elected as President of Tynwald. That is quite clear too.

A nomination, appointment or election made before the Bill is passed is not invalidated by reason only that the person nominated, appointed or elected was statutorily disqualified at the time. This is, again, a saving grace subclause.

Mr President, I beg to move that clause 4 stand part of the Bill.

The President: Mr Waft.

Mr Waft: I beg to second and reserve my remarks.

The President: Mrs Christian.

Mrs Christian: I just feel that there a little bit of inconsistency in treatment here of whether people have to resign before being nominated for various posts or not. I can fully understand that the President of Tynwald is there as a presiding officer and if that person wishes to seek nomination as Chief Minister or a Minister, it is probably appropriate that they resign.

Now, perhaps I am not well enough briefed about the election of the Deputy President of Tynwald. I am not aware and correct me, please, what is the position of Deputy? Are they merely elected at the time when the President is not there? I am not aware that we have a permanent Deputy. Oh, we do? Right. Well, I will be interested to hear that when the Hon. Member replies.

If the Deputy President is, in fact, the Speaker of the House, then I can see that there would be a reason for them both to resign before being nominated as Chief Minister or Minister, and perhaps that explanation will satisfy me in relation now to supporting the Bill.

But it does say that the Deputy President of Tynwald is eligible for nomination and appointment as a member of a Department or Statutory Board. I am not sure whether that is consistent in relation to their role in Government.

In clause 3, in 9B(5), it says that if a Department or Statutory Board member is elected to be Speaker, they go out of office as member of that Board and yet, in this clause, we are saying that they can be nominated without resigning their post.

Mrs Crowe: Eligible for appointment.

The President: Let Mrs Christian finish.

Mrs Christian: It does seem a little bit inconsistent if they are appointed. If they can be appointed as a member of a Statutory Board whilst being Deputy President and if the Deputy President is the Speaker, that seems inconsistent with their ability to be Speaker and a member of a Statutory Board as set out in the previous clause.

The President: Mrs Crowe.

Mrs Crowe: But it would not... My reading of this is that actually it does not have to be Mr Speaker who is the Deputy President. The Deputy President... sorry, am I wrong?

The President: We are waiting for you to finish, Mrs Crowe!

Mrs Crowe: The Deputy President of Tynwald is eligible to be a member of a Department or a Statutory Board.

The President: That is what it says, yes.

Mrs Crowe: Yes.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President, yes.

I may be wrong, but I think this is to cover a situation if the President is absent, the Deputy President is absent – i.e. the Speaker, who is the present Deputy. If Tynwald sat and there was no presiding officer, the Members as a body could vote for a Deputy on that day. They could say, ‘We nominate Mr X or Mrs Y to be the Deputy President.’

The President: I think, Hon. Members, again I will ask Mr Attorney to clarify this one.

The Attorney General: Mr President, thankfully, the answer is in the Constitution Act, the existing section 5. If I may, could I just read it through, because I think it will answer our questions.

Section 5 provides that:

‘(1) Tynwald shall from time to time by resolution elect a member of the Keys or an elected member of the Legislative Council to be Deputy President of Tynwald.

(2) Sections 2(2) and 3(1) and (3) apply in relation to the office of Deputy President of Tynwald as they apply in relation to the office of President of Tynwald.

(3) If the President of Tynwald is absent or unable to act, any of his functions (other than under section 4(2)) may be exercised by the Deputy President of Tynwald.

(4) If both the President of Tynwald and the Deputy President of Tynwald are absent or unable to act, any of the functions of the President of Tynwald (other than under section 4(2)) may be exercised by a member of Tynwald appointed by Tynwald to act in his place.

(5) If the President of Tynwald is absent from any meeting of the Legislative Council, the members of the Council present shall appoint one of their number to preside thereat.’

Insofar as Deputy Presidents of Tynwald, section 5 of the Constitution Act makes it clear what happens. If we have not got our President, the Deputy President presides; if we have got neither the President nor the Deputy President, then the functions are exercised by a Member of Tynwald appointed by Tynwald to act.

The President: Mr Waft.

Mr Waft: It is just that we have got this same problem as has been probably copied from previous ones about if the Chief Minister or Minister is elected or appointed. Now you cannot be appointed, you have to be elected to these jobs. There are no appointments made, they are elected. So the appointment part of it is superfluous, I would have thought.

The President: Mr Butt.

Mr Butt: Two things, I think from the last point made that it does actually say in the Act that they can be appointed by Tynwald so...

I was going to ask a question of the mover: is the Deputy President always automatically the Speaker? Is that in legislation or could the Deputy President be any Member of Tynwald?

The President: Mr Lowey might clear that one up.

Mr Lowey: Yes indeed. Well just for the record, we do have: in Tynwald on Tuesday, 16th January of this year, at Item 22, was the election of a Deputy President of Tynwald in accordance with section 5(1) of the Constitution Act. Mr Speaker was nominated, seconded and elected.

Mr Butt: So it could be anybody?

Mr Lowey: It could be anybody, yes, it could be any Member of Tynwald.

Mrs Crowe: Mr President, could I just clarify: so the Deputy President of Tynwald could in fact be anyone who is a member of a Department or a Statutory Board? (**Mr Lowey:** Yes.) So we are trying to take Government out in clause 3 and in clause 4...

Mr Lowey: I do think it is clear for Members that parliament and the... not ‘establishment’ – (**Mr Crowe:** Executive?) executive – I thank you, Hon. Member; I was struggling for the word! – are two distinct bodies. As it is quite clearly stated, there is clear delineation of responsibilities. Parliament is one thing –

Mrs Crowe: Well, not in clause –

Mr Lowey: Well, with the greatest respect, I think practice proves that parliament is holding the executive to account.

But back to regulation: can you be the regulator and regulated at the same time? I think this Report virtually says no, that they should not be, and I think common practice makes that essential.

The problem with the Isle of Man, again, where the pressures apply is because of the size of our legislature. We are small and therefore it is very difficult at times to keep them separate, and I accept that. I do believe that this legislation is a little bit too rigid, as the hon. mover has said, but this is what has been produced and I am producing it here –

The President: Mr Lowey, you are actually the

hon. mover, and before you complete your reply: Mrs Christian.

Mrs Christian: I would just like perhaps if we could clarify this issue about the Deputy President in relation to the previous clause. I think we now have it clear, in that there is no definition that the Deputy President should be the Speaker. The Deputy President can be –

Mr Lowey: It can be anybody.

Mrs Christian: – a Member of Tynwald, who can be a Department or Statutory Board member, but not a Minister or the Chief Minister.

However, if the Deputy President of Tynwald was the Speaker, that person would automatically, under clause 3, not be a member of a Department or Statutory Board. I think we have eventually clarified the differences –

Mr Lowey: Teased it out.

Mrs Christian: – between those two issues. I wonder if the mover would confirm that, please.

The President: Finally, Mr Lowey to wind up.

Mr Lowey: I would very much... The role of this Council is to go through the complex and the difficult. I think Mrs Christian once again has, if I may say so, cut the Gordian knot, on this particular issue. She is absolutely right in her explanation of her reading of the clause – as I see it, anyway.

I will do no more, I think, than just formally move clause 4 stand part of the Bill.

The President: In which case, Hon. Members, I put to Council that clause 4 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

Mr Lowey: Clause 5 deals with repeals. Clause 5 repeals section 7 of the Council of Ministers Act 1990 which contained provisions dealing with the disqualification of the President and Speaker from holding the position of Chief Minister and Minister. Section 7 is superseded by the provisions in this Bill.

Mr President, I beg to move that clause 5 stand part of the Bill.

Mr Waft: I beg to second and reserve my remarks.

The President: Seconded by Mr Waft.

Hon. Members, I put to you that clause 5 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

Mr Lowey: Clause 6 deals with consequential amendments.

Clause 6 and the schedule make the following consequential amendments: firstly, a new definition of ‘Speaker’, which includes an acting Speaker and the Deputy Speaker, is inserted in the Tynwald Proceedings Act 1876;

and secondly the same definition of Speaker is also inserted in the Interpretation Act 1976.

Mr President, I beg to move that clause 6 and the schedule stand part of this Bill.

The President: Mr Waft.

Mr Waft: I beg to second, Mr President.

The President: Again, Hon. Members, I put to the Council that clause 6 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

The short title, clause 7.

Mr Lowey: Thank you, Mr President.

Clause 7 provides the short title for the Bill and the Bill will come into operation when it is passed.

Mr President, I beg to move that clause 7 stands part of this Bill, sir.

The President: Mr Waft.

Mr Waft: I beg to second, Mr President.

The President: Again, Hon. Members, those in favour of clause 7, please say aye; against, no. The ayes have it. The ayes have it.

Presiding Officers Bill

Standing Order 22(2) suspended to take Third Reading

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President. Do I formally have to move the suspension of Standing Orders?

The President: If you wish to continue, sir, you have.

Mr Lowey: I will then formally move:

That Standing Order 22(2) be suspended to enable the Third Reading of this Bill to be taken.

Mrs Christian: Mr President, can I ask the hon. mover to indicate why it is necessary to have a Third Reading today?

Mr Lowey: There is no specific reason to pursue it, other than to say that this Bill started its life – and I will get the date, when this was referred – 23rd January 2007. So we have had 10 months of... This Bill has consequences not for the general public but for ourselves. Indirectly, our conduct of our affairs is a matter of public interest, of course, but it does not have an effect directly on the general public. Therefore, I think, as the House of Keys – as this is mainly dealing with their affairs – have clearly indicated in their voting that they require this legislation to give them comfort, there is a need for us to deal with it as expeditiously as we can.

The President: We have not actually had the suspension of Standing Orders seconded yet, Hon. Members –

Mr Waft: I would second that, Mr President, in view of the fact that it is –

The President: Mr Waft is prepared to second that we suspend Standing Orders. Mrs Crowe.

Mrs Crowe: I would rather like to oppose the suspension of Standing Orders. I am sorry about that, but it was just the appointment of the Deputy President of Tynwald... My reading of the Bill at present would mean – and I would refer to my hon. colleague just because he is absent... Could my hon. colleague in Council, Member of Treasury, be appointed to be Deputy President of Tynwald and hold that office? (**Several Members:** Yes.) I am correct? Right.

The President: Mr Crowe.

Mr Crowe: I think that we have thrashed out all the key issues. We have examined in detail the acting Speaker, the Deputy Speaker, the Speaker, the Deputy President of Tynwald –

Mrs Crowe: The deputy Deputy Speaker!

Mr Crowe: – the opportunity when neither or either are available. I would support the suspension, because I think we could be seen to be holding up the promotion or the appointment or a vote for a Deputy Speaker, Mr President.

The President: In timetabling, we have a sitting two consecutive weeks after here.
Hon. Members –

Mrs Christian: I am happy to suspend now.

The President: Mrs Christian.

Mrs Christian: Yes, it is being moved that we suspend Standing Orders. I am grateful to the Hon. Member for his explanation of why he thinks they should be suspended, and I accept his point that it does not affect the wider public.

The President: Hon. Members, I put to you then that the Council suspend Standing Orders to allow the Third Reading to take place. Those in favour, please say aye; against, no. Hon. Members, the ayes have it. The ayes have it.

Presiding Officers Bill Third Reading approved

The President: In that case, Mr Lowey, you can continue to your Third Reading, sir.

Mr Lowey: Thank you, Mr President.

There is a long speech prepared for me, but I do not propose to use it! I am just going to use the title of the Bill. This Bill is simple. It is:

*to amend the Representation of the People Act 1995, the Constitution Act 1990 and the Council of Ministers Act 1990 so as to provide for the appointment of an acting Speaker and the election of the Deputy Speaker and to enable the Deputy President of Tynwald, the Deputy

Speaker and an acting Speaker to be members of Departments and Statutory Boards; and for connected purposes.*

That is what it is about. It is about making it clear.

I think this started when a former Member who was acting Speaker for a number of years, who did it with distinction I may add, in my view, was then challenged about her eligibility to hold that position. I believe that it was an effort to try and rectify that, that this particular piece of legislation has been recommended.

I believe in attempting to do that, some of us may think it is a bit too rigid. However the Keys in their wisdom have decided that this is the format in which they would want it, and I would put it forward in that spirit, that let us give it...

I am sure there is no piece of legislation that is so perfect that it will not be found wanting in the future. Having said that, I think this is a gallant attempt to meet those requirements.

I beg to move:

That this Bill be now read a third time and do pass.

The President: Mr Waft.

Mr Waft: I beg to second, Mr President.

I think we have given this Bill a very good airing, considering the number of clauses that have been moved. Nevertheless, there have been items within it which do countermand some of the meaning of the Bill. I think we have talked about them in detail, so I think we have come up with a conclusion with that.

I would support the Third Reading.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President.

May I draw Members' attention to the bottom of page 3, subsection (6), 'nomination etc... shall be invalid...' I think what we have in the Bill is a blanket almost indemnity for any previous appointments that may not have been strictly correct under the previous law, which is covered absolutely, so that it wipes out any doubt from anybody's mind that no previous appointment was invalid by reason of a possible omission.

That is the only point, Mr President.

The President: Mrs Christian.

Mrs Christian: Mr President, I will support the Third Reading, I think we have perhaps addressed ourselves to the issue of the position when two... the Speaker and the Deputy are missing. I am quite sure that the other place will use the procedures that they have used in the past, when they did not have a statutory provision defining what they should do, and under Standing Orders, I am sure they will find a way to make an appropriate appointment.

So, if this is their wish, Mr President, to have this strictly rigid statutory formula, so be it.

The President: Mr Lowey, do you wish to reply?

Mr Lowey: First of all, I would like to thank Mr Waft for seconding the Bill. I am grateful for that, sir, I really

am; and to Mr Crowe, I think it is retrospective and it is for clarity's sake that it is right that it should be put in; to Mrs Christian, for once again teasing out the answers to very complex questions, there is none better; and to all my colleagues who have contributed. It is nice to see that every Member of this Council has contributed to this debate and I thank them for their support.

I beg to move that the Bill be read a third time and do pass.

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

Onchan District (Amendment) Bill Second Reading approved

3. Mr Butt to move:

That the Onchan District (Amendment) Bill be now read a second time.

The President: We turn then, Hon. Members, to the Onchan District (Amendment) Bill, this time in the hands of the Hon. Member, Mr Butt, for Second Reading.

Mr Butt: Thank you, Mr President.

The Onchan District (Amendment) Bill is a Private Member's Bill and is a Bill designed to finally amalgamate the rural and urban wards of the District of Onchan.

The Bill has three clauses and has two main purposes. The first purpose is to amalgamate the urban and rural wards of the Onchan District; and the second purpose is to reduce the number of Commissioners from nine down to seven.

To achieve this, in the Bill, there are repeals of some sections of the Onchan District Act 1986 and the Bill substitutes new clauses into that Act.

The Onchan Commissioners and the rural commissioners of Onchan District have been in discussion for some time about the merits of amalgamating the wards and reducing the number of Commissioners to seven. There is a letter that was received from the Commissioners to the mover of the Bill in another place, where they expressed the unanimous support for that amalgamation and reduction of members.

That was in May of this year, Mr President, and following that agreement, the way was paved to receive this Bill through the other place. I can add that the Bill has the support of the Department of Local Government and the Environment. They have examined it.

Mr President, I beg to move the Second Reading of the Onchan District (Amendment) Act 2007.

The President: Mrs Crowe.

Mrs Crowe: I am delighted to second, Mr President.

The President: Hon. Member, Mr Crowe.

Mr Crowe: Thank you, Mr President.

I think this should be supported. Could I just check that the harmonisation of the rural and urban rate has taken place

or is currently taking place over a set period? That was the query.

Mr Butt: Yes, the –

The President: That was the query. Does any other Member wish to speak to the Second Reading? Mr Waft.

Mr Waft: Just that I was Chairman for a few years of Onchan Commissioners and to get the rural and the village together took some time. Nevertheless it was a voluntary agreement between both parties.

The move to 10 Members I thought was a mistake at the time. We always had nine, with three going out for election every year. That has finished and they are all in for four years, and there is no fearing for an election each year. Nevertheless, I thought that was a mistake, but I am certainly in favour of reducing the number to seven, as has been mooted.

The President: Mr Butt to reply.

Mr Butt: Thank you, Mr President.

In response to Mr Crowe, Member of the Council, the harmonisation of the rates between the two areas started in 2006 and will be complete in 2010. At that stage, there will be equality in the rating for residents of the former rural and village wards.

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

Onchan District (Amendment) Bill Clauses considered

The President: Clause 1, Mr Butt, sir.

Mr Butt: Mr President, clause 1 of the Bill sets out the objectives of the Bill and these are: to amend the Onchan District Act 1986, firstly to allow the amalgamation of the urban and rural wards of the District of Onchan; and secondly to reduce the number of Commissioners to seven.

The Bill also enables the Commissioners of Onchan to make schemes under section 9(2) of the Local Government Act 1985. That section, Mr President, allows the Commissioners to make schemes for the division of a district into wards; an alteration of the number of boundaries and the number of wards; the abolition of wards; the alteration of the number of members of the local authority and the holding of a fresh election of members of the authority, following any such division or alteration or abolition. The Department of Local Government and the Environment may then make an order for any of those schemes that are put forward by the Commissioners.

Mr President, I beg leave to move clause 1 of the Act stand part of the Bill.

The President: Mrs Crowe.

Mrs Crowe: Thank you, Mr President. I am delighted to second and reserve my remarks.

The President: Mr Crowe.

Mr Crowe: Mr President, can I just check that the nine existing members will continue in office until the next election, when numbers are reduced to seven? So the existing members will stay in office, even when the Bill receives Royal Assent. You would not drop off two in the middle of a term or anything like that – that is really the query.

The President: Mrs Christian.

Mrs Christian: Mr President, with being out of touch with legislation for a little while, I wonder if it is normal to have a clause which sets out the object, when the object is set out in the long title of the Bill. I wonder whether this is an innovation or what the thinking is in having such a clause.

The President: It does specify the number, that is the difference I thought. Mr Waft.

Mr Waft: Mr President, the amalgamation of the Onchan and rural wards did actually take place some time ago. What happened, as a result of it, was there was a separation of the rates and the rural commissioners were separated from the village commissioners.

Now they are amalgamating them altogether and having the Onchan District Commissioners. Hopefully, with the move from nine, everybody will be under the same title as it were, including the rates and the provision of being able to appoint people of the Commissioners as Commissioners, not as rural as village commissioners.

The President: Mrs Christian.

Mrs Christian: Mr President, if I may, I perfectly well understand what the object is; I just wonder why it is here in a clause.

The President: Twice, yes, superfluous are the words, 'it is the object of'. It should be, 'this Act is to amend'.

Mrs Christian: Well, even so, indeed it does amend it in the clauses. Why have that clause at all? That is my question.

The President: Mr Lowey.

Mr Lowey: My only point is that hearing the mover of the Bill say that the Commissioners will be able to change the numbers and the ward boundaries and... Are they not subject to an overview by the Local Government Department? In other words, the idea that they can – I will not use the word 'manipulate', but for debating purposes – restructure as and when. That is always subject to the overview. I know you say the local government board may do this or may do that, but it is an overview by the Local Government Department.

The President: Mr Butt to reply.

Mr Butt: Mr President, in response to Mr Crowe's comment, I believe the next elections are due next April, when I think at that time there will be the automatic reduction of the numbers from nine to seven. (**Mr Crowe:** Thank you.)

In response to Mrs Christian's comment on clause 1, I too found little substance in that, apart from just being information. It has been picked up by other people as well.

In response to Mr Lowey's question, section 9(2) of the Local Government Act actually says that the Commissioners can make schemes, put forward schemes for these changes etc, but they have to be approved by the Local Government Department and it cannot be done without their agreement. All they can do is put forward schemes.

Thank you.

The President: Hon. Members, the motion that I put to Council is that clause 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2.

Mr Butt: Mr President, clause 2 amends section 1(2) of the Onchan District Act 1986. That stated that the Onchan District shall be divided into two wards, urban and rural, which comprised the village district of Onchan and the parish district of Onchan. At clause 2(1)(a), that section 1(2) of the Onchan District Act 1986 is repealed.

At clause 2(1)(b), that substitutes section 2 of the Onchan District Act 1986 and the substitution reduces the number of Commissioners down to seven.

Clause 2(1)(c) repeals section 3 of the Onchan District Act 1986, which established the Rural Committee. That Committee was tasked, from time to time, with considering matters affecting the rural ward and making recommendations to the Commissioners.

Clause 2(1)(d) amends section 4(1) of the Onchan District Act 1986 and substitutes the phrase, 'general rate levied by the Commissioners in accordance with section 353 of the 1916 Act' with, 'district rate levied by the Commissioners in accordance with section 11(1) of the Local Government Act 2006.'

Also, section 4(1) of the Onchan District Act 1986 is amended with the words, 'the rural ward' being substituted with the words, 'the parish district of Onchan, as it existed immediately before the 1st April 1986.'

Part of the clause 2(1)(e): section 7 of the Onchan District Act 1986 which refers to sub-wards of the urban ward is substituted with 'Subsections (2) to (6) of section 9 of the Local Government Act 1985 shall apply to Onchan district'.

Those subsections (2) to (6), Mr President, again refer to the division into wards; the alteration of the number of wards; alteration of boundaries; abolition of wards; the abolition of numbers of members of authorities and the matter of holding fresh elections; and of submitting schemes to the Department of Local Government.

Clause 2(1)(f), section 8 of the Onchan District Act 1986, the interpretation section, contains definitions relating to the rural ward and the Rural Committee and these are repealed.

Clause 2(2) makes minor amendments to the Local Government Act (Miscellaneous Provisions) Act 2003, which affect schedule 2 of the Onchan District Act 1986 which relates to the Rural Committee only, and the election and number of members. That is repealed.

Mr President, I beg leave to move that clause 2 stand part of the Bill.

The President: Mrs Crowe.

Mrs Crowe: I beg to second and reserve my remarks.

The President: Mr Lowey.

Mr Lowey: I think this particular clause has seen the consummation of the marriage between the rural and the village Commissioners. As I have said before, it is much better for a marriage to take place by consenting partners than a shotgun being held to their heads. It may have taken a little time, but the end result is the same, and it is by consent.

Perhaps the analogy is a little bit over the top, but I think it is germane.

The President: Mrs Crowe.

Mrs Crowe: Perhaps as the one who was seen holding the shotgun, (*Laughter*) I am just delighted to see that the Act is finally here!

I am also most grateful to my colleague, Mrs Christian, in her first clause for not moving an amendment to delete the information clause that was superfluous!

Thank you, Mr President.

The President: Mr Butt, do you wish to reply?

Mr Butt: Yes, sir, just to confirm as Mr Lowey says, I believe there were long disputes and arguments and debates over many years – even to the last minute. I believe in May there were still some doubts being expressed, but they were finally resolved with the unanimous support by the Onchan Commissioners for this Bill.

Onchan Commissioners have always been a leading local authority and it is good to see that they are possibly leading the way in this regard as well.

The President: Again, Hon. Members, the motion that I put to Council is that clause 2 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

The President: Clause 3.

Mr Butt: Mr President, clause 3 is the short title and commencements, and cites the Bill as the Onchan District (Amendment) Act 2007. It will come in force on such days as the Department of Local Government and the Environment appoints.

Mr President, I beg to move that clause 3 stand part of the Bill.

The President: Mrs Crowe.

Mrs Crowe: I am pleased to second and reserve my remarks.

The President: The motion I put to Council is that clause 3 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Onchan District (Amendment) Bill Standing Order 22(2) suspended to take Third Reading

Mr Butt: Mr President, I am not sure how the legislative timetable is at the moment, but I would formally ask permission to move:

That Standing Order 22(2) be suspended to enable the Third Reading of this Bill to be taken.

The President: Mr Crowe.

Mr Crowe: No, I would leave it for my hon. colleague who was involved with local government.

The President: Mrs Crowe.

Mrs Crowe: Well, I am pleased to support the suspension of Standing Orders.

The President: In that case, Hon. Members, I formally put to Council that we suspend Standing Orders, in order to allow that this Onchan District (Amendment) Bill 2007 to be read for a third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Onchan District (Amendment) Bill Third Reading approved

The President: Mr Butt, Third Reading, sir.

Mr Butt: Thank you, Mr President.

I would just like to thank Members regarding suspension of Standing Orders for this.

The Third Reading, Mr President, as previously outlined, this Bill amalgamates the urban ward and the rural ward of the Onchan District into one authority. It also reduces the number of Commissioners from nine to seven and incorporates amendments, substitution and repeals of parts of the Onchan District Act 1986, which in effect remove the rural committee and the rural ward from the district.

This was a move generally favoured by the Onchan Commissioners, although as I said before, there has been some debate and division amongst the Commissioners, before agreement was finally achieved.

Similar reductions of numbers of commissioners have happened at Laxey and other authorities, and this amalgamation is perhaps a step towards some rationalisation of local government. It is a small Bill, but I think the affect is going to be quite significant for the ratepayers of the Onchan District.

From April 2006, as I mentioned to Mr Crowe previously, there has been a gradual change in the rates of the rural and urban ratepayers, until in 2010 there will be equality of rates for all residents of the wards now combined by this Bill.

The Bill has been supported by the Department of Local Government and the Environment. It is hoped that

the Commissioners will be able to provide equal service to all residents in the District of Onchan and that the newly constituted Commissioners will continue to look after the different needs of those living in the rural areas.

Mr President, I beg to move:

That this Bill be now read a third time and do pass.

The President: Mrs Crowe.

Mrs Crowe: I am pleased to second. I am delighted to see the Bill has made such progress. There were a few little blips, but I do believe that this is the way forward for local authorities.

The President: Mr Waft.

Mr Waft: Thank you, Mr President.

The Onchan Commissioners have completed what they set out to do, at the end of the day, and have an amalgamated authority, which is what recent members have been asking for.

The debate has gone on for many years, with regard to amalgamating local authorities. Onchan has shown the way. It has taken some time even for Onchan to do so, but at least there is a template there now for others to follow.

The problems did arise after the amalgamation of the Onchan and rural ward, with the separation that happened, at that time, inasmuch as the rural area and the village district had separate committees. Now those committees are joined together and they are streamlining, I think that is what we all need to see in other authorities.

I would certainly support the Third Reading, sir.

The President: Mr Butt, I do not know whether you wish to reply.

Mr Butt: Yes, Mr President.

I thank every Member for their support and the swift progress of this Bill today – in particular, Mr Waft who has got his knowledge of the real circumstances and the history of the amalgamation.

I am grateful for his comments and would confirm his view that Onchan is a progressive area and have moved forward properly, hopefully to rationalise local government for the future.

The President: Hon. Members, I put to Council that the Onchan District (Amendment) 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 draws to a conclusion the business before Council on our Order Paper, this morning.

Farewell to Mrs Cullen

The President: Can I just make one final, final, final comment, that in fact I am aware that Mrs Cullen is sitting behind me here and would hope... I may have said farewell to Mrs Cullen before; nevertheless, can I just pass the comment, Hon. Members, that I personally am sorry to see Marilyn go. She has been a wonderful help, as far as I have been concerned. She has been a wonderful servant to the Legislative Council, I think, during her terms of office, and we just put on the record, yet again, my thanks to Mrs Cullen.

The adjournment, Hon. Members, is to 30th October next.

The Council adjourned at 12.05 p.m.