

Law Officers Bill 2013
Second Reading approved

2.2. Mr Bell to move:

That the Law Officers Bill 2013 be read the second time.

The Speaker: We turn now to the Second Reading. Chief Minister.

The Chief Minister (Mr Bell): Thank you, Mr Speaker and can I thank Members for agreeing to this unusual procedure.

Mr Speaker, the circumstances giving rise to the need for this Bill are well known to all Hon. Members and indeed, a presentation has been given to them recently to explain the background to this. So for obvious reasons, I do not propose to comment on them any further. Suffice to say, this Bill seeks to address the situation where Her Majesty's Attorney General is precluded from discharging his functions and to provide an alternative mechanism for their discharge.

There have been ongoing discussions between the Chief Secretary's Office, the Ministry of Justice and Buckingham Palace to deal with the gap created by the current unavailability of the Attorney General. Arising from these discussions, Her Majesty the Queen has agreed that she will make a temporary appointment for 12 months of an Acting Attorney General to discharge the Attorney General's functions. The changes to Acts of Tynwald are required to put beyond any doubt the Acting Attorney General's power to act.

This Bill deals with this in two ways. First, it amends the definition of the Attorney General in section 3 of the Interpretation Act 1976. That has the effect that when Her Majesty appoints an acting Attorney General for the Island, that officer will be able to discharge all the Attorney General's statutory functions in relation to the conduct of prosecutions, dealing with other litigation and advising Government.

Secondly, and perhaps of more direct relevance to Hon. Members, the Bill also amends section 7 of the Isle of Man Constitution Act 1919 to permit either the Attorney General, or the Acting Attorney General, but not both, to attend Tynwald and the Legislative Council.

Mr Speaker, given the urgent need to address the current unavailability of the Attorney General, I beg to move the Second Reading of this Bill.

The Speaker: Mr Teare.

Mr Teare: Thank you, Mr Speaker.

I beg to second that the Second Reading of this Bill be taken and reserve my remarks.

The Speaker: Mr Karran, Hon. Member.

Mr Karran: Vainstyr Loayreyder, I have no problems with supporting the Second Reading of this Bill. I am glad to see that... From my concerns of 4th December 2012 in the House of Keys about the legal basis for the proposed role of an acting Attorney General, I was told there was no need for a legal basis is required, as far as the role of an Acting Attorney General. I am glad to see that we have seen what is the right way to go about, as far as a modern functioning democracy is concerned. That is why the parliamentary role should come in, as far as making sure that things are done on this Island.

The one issue that I have with this Bill, and one issue that I am deeply concerned about this Bill, is we have seen under confidentiality the executive summary, as far as the independent Report of the Attorney General's Chambers. I think that, as far as the executive is concerned, they need to be applauded for us getting... or whoever actually initiated that proposal needs to be applauded, as far as that issue is concerned.

But I am concerned in this Bill that there is a fundamental flaw and I think sometimes, you have to have somebody from outside the cosiness. There are great advantages, as far as the Isle of Man is concerned, from being a small jurisdiction, and there are great disadvantages, as far as being a small jurisdiction. We need to see that Report through, if the executive summary is anything to go by, it would be really interesting to see the full extent of that Report, as far as the AG's department is concerned.

Hon. Members, I will support the Second Reading of this Bill, but I will be moving an amendment to actually give a broader base as far as who should be able to be an Attorney General. It grieves me greatly that we might end up with somebody who has got 10 years' experience in the role of being a member of the Manx Bar, but the Manx Bar has not served this Island very well, as far as the general public is concerned. I feel that there needs to be the flexibility put into this legislation, that what we need is somebody who is going to do it on the basis of it will not be in any way embarrassed or compromised, with them being part of a cosy arrangement we have had with the legal profession in the past.

We need to see this review of the Attorney General's Chambers sorted out, without fear or favour, and that is why I will be supporting the Second Reading of this Bill, but I think we need to make sure we follow... and I am disappointed that an Acting Attorney General, in particular, in those sort of circumstances, that we need that flexibility for the future and I hope Hon. Members will consider my amendment when it comes down.

I have no problem supporting this legislation. I am glad to see that, from 4th December there has been a mindset, as far as putting it down for primary legislation in the Isle of Man, and that is why I hope that we will see the flexibility in what I am looking for.

The Speaker: Hon. Member for Douglas North, Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker.

I am also very happy to support this Bill through its passage, all the way through, today. I do welcome it, not for the occasion that has been brought upon it, but I do welcome it because I do feel that, in this day and age, somebody carrying such an extremely important role for the Isle of Man should have a deputy sitting alongside them, for illness and other rare occasions.

I do invite the Chief Minister to also consider *his* position in Government, that really *he* should have a deputy, and anyone else who has an important role. I do in the Water Authority – I have a deputy, and so on – and Members are deputised for their Ministers, when Ministers are absent themselves.

So it is for that very point that I welcome this anyhow, and of course I would welcome any comments the Chief Minister may have in his summing up, in respect of obviously maintaining this now in law through into perpetuity, and any other comments that I have made this morning.

Thank you.

The Speaker: I call on the Chief Minister to reply.

The Chief Minister: Thank you, Mr Speaker.

As Members well know, we always bow to the superior wisdom of Mr Karran on these matters, and I thank him for the comments he has made on that.

Mr Karran: It is in *Hansard*.

The Chief Minister: Mr Speaker, whatever comments were made in December, the purpose of this Bill is to give absolute clarity to the position of the Acting Attorney General to make absolutely sure there can be no legal challenge to his possession and to his decision-making during the 12 months, or whatever period it is that the office continues for. That is the reason for bringing through the Bill today: it is to give clarity. Regardless of what previous interpretation there might be on it, we want to be sure that there cannot be any legal challenge at any time in the future.

His comments about the review of the Attorney General's Chambers... I initiated the review. It was one of the first things I did after taking over as Chief Minister, because of the very serious concern I had about certain operations within that Department. Members have had the executive summary of that Report, and I can give Members a categoric assurance I have asked for every item, every recommendation within that Report to be implemented as soon as possible. So I can give the Hon. Member the absolute assurance that that will take place.

I would just remind the Hon. Member that this proposal for an Acting Attorney General is only for 12 months. Many of the issues he is talking about have longer-term implications. This is a short-term action we are taking to fill the hiatus that we are facing at the moment, so I hope he will bear that in mind and put it in that context.

Mr Houghton – I thank him again for his support. One of the recommendations, as he well knows, within the review of the Attorney General's Chambers, was actually to introduce a Deputy Attorney General to help to share that workload. We are working on that. There will be a Bill later on this year. I am not quite sure what the timeframe of that is at the moment, but there will be a Bill before this Hon. House which will enable us to debate exactly that point, and it will recommend the introduction of a Deputy Attorney General to help out at that time. The nature, I think, and the workload of the Attorney General's department has changed a lot over the years and it is vitally important, I think, that we do review that situation.

As a deputy Chief Minister, I already have 31 deputies sitting in Tynwald – I do not know if I need another one! (*Laughter*)

With that, Mr Speaker, I beg to move.

The Speaker: Hon. Members, I put the question that the Law Officers Bill be read for the second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.