

**Law Officers Bill 2013**  
**Clauses considered**

**The President:** We move to clauses.

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

Madam President, can I seek your indulgence: I would like to take clauses 1 and 2 obviously together, and clause 5 for practical reasons. I think they all interlock, so with your permission I would take clauses 1 and 2 and clause 5, if you like, out of sync.

**The President:** Yes, that is acceptable.

**Mr Lowey:** Is that acceptable to the House?

**Several Members:** Yes, it is.

**The President:** I will move them separately, if you would like to...

**Mr Lowey:** Thank you.

Madam President, clauses 1, 2 and 5 are all essentially formal.

Clause 1 will provide the resulting Act with its short title.

Clause 2 empowers the Council of Ministers to make one or more Orders, bringing the Act into operation and to make transitional provision in connection with commencement.

Clause 5 provides for the repeal of the Isle of Man (Constitution) (Amendment) Act 1975, which is spent, and also provides for the Act resulting from the present Bill to expire on the day immediately following its promulgation or, if it is not fully enforced then, on the day after the last provision comes into operation.

Madam President, I beg to move that clauses 1, 2 and 5 stand part of the Bill.

**Mr Braidwood:** I beg to second, Madam President, and reserve my remarks.

**The President:** Right, I think I will move them together. The motion is that clauses 1, 2 and 5 do stand part of the Bill.

Oh, I have not asked if anyone wishes to speak to those! They are very mechanical.

If there is no comment, I will put it to you that clauses 1, 2 and 5 do stand part of the Bill. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Now we move to the substance: clause 3.

**Mr Lowey:** Clause 3: this contains the amendment to the Interpretation Act 1976, so as to include within the definition of the Attorney General a person whom Her Majesty has appointed as Acting Attorney General by a warrant under the Royal Sign Manual – for Hon. Members, that is Her Majesty's official signature.

The amendment has the effect that references to the Attorney General in any Act of Tynwald will be read as including the Acting Attorney General, thus putting that officer's power to act in the stead of the Attorney General beyond doubt.

The final amendment in clause 3 also makes it clear that the amendment of the definition of the Attorney General does not limit the scope of any existing delegation of the Attorney General's powers or functions.

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

**Mr Braidwood:** I beg to second, Madam President, and reserve my remarks.

**The President:** Hon. Member, Mr Downie.

**Mr Downie:** I just want to clarify a technical point, really. In clause 2, the commencement:

'This Act, other than section 1 and this section, comes into operation on such day or days as the Council of Ministers may by order appoint.'

Could the mover perhaps explain what the situation is when a Deemster comes into being? Is he appointed by the Privy Council? Obviously, the deputy Attorney General will have his warrants.

But it is just to clarify the situation, because it seems that we are saying that the deputy Attorney General can operate under the auspices of the Council of Ministers, and yet other law officers and officers of the Crown may have a slightly different route.

I do not think the Council of Ministers has the power to say when Deemsters can operate from – just a point that I have picked up reading this.

**The President:** Mr Lowey, I think our adviser would like to comment. Are you content for her to respond?

**Mr Lowey:** I would very much... I am very fortunate to have people at the bar.

**The President:** For the purposes of *Hansard*, can you state who you are and –

**Ms Fletcher:** I am Della Fletcher, Director of External Relations.

Just in order, Madam President, to assist with Mr Downie's question, the process in respect of the appointment of Deemsters and indeed in respect of the Attorney General, you are quite right, does not require anything from the Council of Ministers or indeed any body other than Her Majesty.

This is simply under the signature of the Council of Ministers because it is a piece of legislation, and because we have had to change. So if you consider it to be an amendment to the Constitution Act, for example, perhaps is the best example I can give, which will allow that to take effect and the Bill will come into effect when we have the approval of the Privy Council.

But normally, you are quite right, the Deemsters and the Attorney General are appointed simply by Her Majesty, under warrant or letters patent, and it comes into effect from that time.

**Mr Lowey and Mr Downie:** Thank you.

**The President:** Could we also clarify that this is not a *deputy* Attorney General?

**Ms Fletcher:** Yes, I am happy to do that for you, Madam President.

**Mr Lowey:** Using the 'shorthand'.

**Mr Downie:** And the Bishop.

**The Lord Bishop:** And the Bishop too.

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Thank you, Madam President.

I think whilst we have talked about an Acting Attorney General, it does not say it in the words... by Her Majesty the Queen, letters patent, can appoint whom she wishes in whichever title she wishes, I should imagine. So again, it is semantics, shall we say, but I think what we are trying to achieve is the right –

**Mr Lowey:** We are trying to appoint an Attorney General to give us legal advice, sitting in that chair.

**Mr Crowe:** Right, I see.

**Mr Lowey:** Now, whether you want to call him an 'acting' one or... There is bound to be a Latin name for it! We could do with an Attorney General here this afternoon to tell us, to advise on that particular point! But I do take your point, that it is and the point that has been raised, I think is clarity itself.

**The President:** I think the mover has replied, unless any further Member wishes to speak. Did you wish to speak, Mr Wild?

**Mr Wild:** No, thank you, Madam President.

**The President:** Right. The motion is, then, that clause 3 do stand part of the Bill. Those in favour, please say; against, no. The ayes have it. The ayes have it.  
Clause 4.

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

We come finally to clause 4. This amends section 7(a)(1) of the Isle of Man Constitution Amendment Act 1919. The effect of the amendment to this subparagraph is to permit either the Attorney General or the – pardon

the expression – the Acting Attorney General to attend meetings of Tynwald and the Legislative Council. As I said before, it is not both of them attending; it is either one or the other that will be here.

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

**Mr Braidwood:** I beg to second, Madam President, and reserve my remarks.

**The President:** The Hon. Member, Mr Callister.

**Mr Callister:** Yes, just a point I would just like to have cleared up, Madam President, where in clause 4 it says:

‘... (i) the Attorney General, or  
(ii) a person exercising the functions of the Attorney General by virtue of a warrant...’

does that always mean it would be a person from the Attorney General’s office, or could it be another?

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** I think the clarity of this is that the person who is appointed under this Bill will be the Attorney General (**Mr Lowey:** Yes, indeed.) – not the acting and not the deputy – because he is authorised by the Queen under the warrant she signs. So the wording in this is ‘the Attorney General, or the person exercising those functions’, which is what this Bill does. I think that is –

**Mr Callister:** But not necessarily a person therefore from the Attorney General’s office?

**Several Members:** No.

**Mr Braidwood:** A Manx advocate of 10 years’ standing.

**The President:** One assumes that the Acting Attorney General will be functioning from the Attorney General’s office.

If there is no further comment, the mover to reply.

**Mr Lowey:** I thank both Members for raising an interesting point. I think it has been answered, if you like, by Mr Butt, in the sense that it would be the person whom the Queen has signified it would be. Whether that is somebody in the office, the reality, the practicality is that it more than likely would be – but it does not *have* to be. That is not written into the law, but it does not have to be.

With that, I would move that clause 4 stand part of the Bill.

**The President:** The motion is 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.