

**2. Law Officers Bill 2014 –
Debate resumed –
Second Reading approved**

The President: Hon. Members, that brings us to the end of the business on the Order Paper; however, I understand that following our adjournment of the Law Officers Bill at our last sitting the conditions of that adjournment have been met and if you are satisfied that that is the case, we can proceed with consideration of that Bill, Hon. Members. Is that agreed? (**Members:** Agreed.) The confidential document which Members required had been circulated. However, I do not think the Clerk was aware so it has not appeared on the Order Paper.

We will continue then with the Law Officers Bill. The adjournment was moved by the Hon. Member, Mr Braidwood, so I invite him to continue the debate.

Mr Braidwood: Thank you, Madam President.

Madam President, I do thank the Chief Minister for circulating the redacted version of the full Wooler Report. What I did find extraordinary, Madam President, was that there was either an over-zealous officer in the Chief Minister's Office, or the Attorney General's Chambers, because in actual fact some of the redacted wording of the full Wooler Report was in the executive summary which had already been circulated.

So there are quite a few points in the executive summary which we could read and which were redacted enough in the Wooler Report which was circulated to Members.

Madam President, I have looked through the executive summary, the full Wooler Report as well, and some of the redactions – and I know Hon. Members know the people involved. However, I am quite happy for the Second Reading to progress and also the clauses stage, and I will make some of my views known then, Madam President.

The President: Does any Hon. Member wish to speak?

In that case the motion before Council is that this Bill be read a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

**Law Officers Bill 2014 –
Clauses considered**

The President: We turn now to the clauses, Hon. Members.
Clause 1.

The Acting Attorney General: Madam President, with your permission I will speak to clauses 1 and 2 at the same time. Both are formal: clause 1 providing for the short title of the resulting Act; clause 2 for the commencement of the Act.

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

Mr Butt: I beg to second, Madam President.

The President: The motion is that clauses 1 and 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.

The Acting Attorney General: Madam President, the effect of clause 3 of the Bill is to amend section 3(1) of the Interpretation Act 1976 to provide an extended meaning for the expression

'Attorney General' so that, in addition to the holder of that office, it will include HM Solicitor General when that other officer is appointed, and also any person discharging the functions of HM Attorney General in pursuance of a warrant under Her Majesty's Royal Sign Manual.

For the sake of clarity it is anticipated that there will only be two persons entitled to discharge the Attorney General's functions in this way at any one time.

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

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

The President: The Hon. Member, Mr Downie.

Mr Downie: Yes, thank you, Madam President.

I think we know in this Chamber what pressures that the Attorney General's office is under, and there will be times when unforeseen circumstances or illness requires the office to provide a substitute – and I think really that is what the nub of this Bill is all about.

I think the way that the Attorney General's office has actually gone about it is admirable, and we are actually seeing the duties and the responsibilities set out here and the way everything will actually function, should the Bill become law.

So I am very supportive of this.

The President: Do you wish to reply, sir?

The Acting Attorney General: No, Madam President, thank you.

The President: The motion 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.

The Acting Attorney General: Madam President, clause 4 deals specifically with the role of the Law Officers in relation to Tynwald and the Council. In contrast with the general rule of interpretation created by the amendments made in clause 3, the Solicitor General or an Acting Attorney General will be permitted to deputise for the Attorney General in those bodies *only* with the consent of the President.

Rather than amending section 7 of the Isle of Man Constitution Amendment Act 1919, the draft replaces the whole of that section of the 1919 Act. This is because the existing structure was becoming far too complex in drafting terms. The replacement permitted the substitution of the propositions in a more logical order.

Subsections (1) to (3) therefore articulate the existing rules in that section but in a more appropriate order; the key provisions in relation to the new Crown Officer are subsections (4) to (6).

Subsection (4) disapplies the general rule of interpretation mentioned above, but then provides that subsection (5) applies if the office of the Attorney General is vacant or the Attorney General is unable for any reason to attend the sitting of Tynwald or the Council.

Subsection (5) then provides that if it is applied, the President has a discretion whether to authorise the Solicitor General or an Acting Attorney General to attend the sitting.

Subsection (6) then provides that a person attending in pursuance of subsection (5) has the same rights and privileges in relation to that sitting as the Attorney General would have had if he had attended.

For the sake of the record, subsection (7) rearticulates a provision contained in the 1919 Act. It prevents any argument that the substitution of section (7) of that Act by this Bill might entitle any

of the officers formally entitled to attend Tynwald i.e. the Deemsters, the Clerk of the Rolls, the Archdeacon and the Vicar General, to do so again.

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

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

The President: The Hon. Member, Mr Crowe.

Mr Crowe: Thank you, Madam President.

Yes, this seems to be an eminently suitable provision to allow a Solicitor General to attend Tynwald in place of the Attorney General. I should imagine in practice the Attorney General will attend Tynwald and Legislative Council as the main person, and the Solicitor General will only attend if for any reason the Attorney General will not be able to attend, but he will have the equivalent rights... I would imagine, Mr Attorney?

The President: The Hon. Member, Mr Coleman.

Mr Coleman: Thank you, Madam President.

In the hiatus period since we last spoke on this matter, I took the opportunity of contacting the Acting Attorney General for an explanation as to where the role would fit within the Wooler organogram that was provided – I think it was on page 38.

I think that it is more than just the deputisation within the Attorney General's office, and I stand to be corrected by the Acting Attorney General here. But it is also the Solicitor General will take a more 'management of the chambers' role under the Attorney General where, if you read Wooler, I think it is the administration and the management which is in many cases found to be lacking.

So, again, I am fully in favour of this particular very important clause 4, and will be supporting it.

Thank you, Madam President.

The President: The Attorney General to reply.

The Acting Attorney General: Yes, Madam President, I thank both Mr Crowe and Mr Coleman for their support, and if I could just speak by way of clarification.

The intention is, as Mr Crowe has alluded to, that Her Majesty's Solicitor General would be of equal rank and share powers with an Attorney General, so they have equal rights as far as their office is concerned.

As Mr Coleman has indicated, he kindly contacted me following the last sitting and I was able to explain to him the difference between Mr Wooler's organogram and that of what is being proposed now.

Mr Wooler in his recommendations and his Report did look to there being a need for an Assistant Attorney General, with very much the role of being an assistant in management terms, as Mr Coleman has referred to, as being what is required following his review. However, the view was taken that what was actually needed was somebody a bit more than that: it was that somebody was not just simply there to *assist*, but there really to share the duties of the Attorney General in acting as the Solicitor General, and in all cases other than when attending Tynwald and/or Legislative Council the Solicitor General would be automatically able to deputise for the Attorney General – so that is why the distinction was drawn.

I hope that is of some assistance to Members.

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.

Clause 5.

The Acting Attorney General: Madam President, clause 5, as the explanatory memorandum accompanying the Bill makes clear, refers to one of the changes flowing from Mr Wooler's recommendations, which is the abolition of the post of Government Advocate.

Subsections (1), (3) and (4) of clause 5 therefore make consequential amendments to delete statutory references to that post.

Subsection (2) of that clause amends the Interpretation Act 1976 to abolish the Chief Minister's power to appoint a person to discharge the Attorney's functions; with the appointment of a Solicitor General that power becomes unnecessary.

Finally subsection (5) of clause 5 makes it explicit that the Solicitor General is in the same position insofar as pension entitlement is concerned as the Attorney General.

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

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

Mr Braidwood: Madam President, it was just if we look even on the memorandum, the post of Government Advocate will be abolished as part of the restructuring of Chambers recommended by the Wooler Report, but when we look at the proposed structure, the Government Advocate is still in the structure.

I am just wondering if the Acting Attorney General would be able to clarify please?

The President: Mover to reply.

The Acting Attorney General: Yes, Madam President.

I thank Mr Braidwood for his question: the answer is very simply that the current post-holder Government Advocate is in a protected position, so the structure at the moment has to reflect that protected position until such time as the legislation is in place. So it is simply for publication purposes.

The President: The motion is 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.

Law Officers Bill 2014 – Standing Order 4.3(2) suspended to take Third Reading

The President: Now, Mr Acting Attorney, do you wish to seek to suspend Standing Orders?

The Acting Attorney General: If I may, Madam President.

Madam President, as Members of Council are aware, the progress of the Law Officers Bill 2014 has been delayed. I ask Members to consider that it is in the interests of the Island to now move forward and consider suspension of Standing Orders to enable the Third Reading of the Bill to be taken today.

The difficulties that the Island has faced with the absence of the Attorney General necessitating my own appointment as Acting Attorney General, and then the temporary term of my own appointment in turn having to be extended, and the void created by the delay in dealing with that extension process has proved, if nothing else, that Mr Wooler was right in identifying the urgent need for the Island to have its own second Crown Officer.

Madam President, I would move the suspension of Standing Orders to enable the Third Reading of the Law Officers Bill 2014 to be taken today.

That Standing Order 4.3(2) be suspended to allow the Third Reading of this Bill to be taken today.

Mr Butt: I second that, Madam President.

The President: The motion is that Standing Orders be suspended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Law Officers Bill 2014 – Third Reading approved

The Acting Attorney General to move:

That the Law Officers Bill 2014 be read a third time and do pass.

The President: We will proceed with the Third Reading.

The Acting Attorney General: Thank you, Madam President.

The Law Officers Bill 2014 creates the office of Her Majesty's Solicitor General for the Island. It amends the definition of the Attorney General in the Interpretation Act 1976, so that the expression 'the Attorney General' will include Her Majesty's Solicitor General for the Island, and a person discharging the functions of the Attorney General under a warrant under the Royal Sign Manual which is currently the position of the Acting Attorney General.

The Bill provides a mechanism by which if the office of the Attorney General is vacant or the holder of that office is unable to attend a sitting of Tynwald or a sitting of Council, then you, Madam President, may authorise the Solicitor General or a person discharging the functions of the Attorney General under her Majesty's Royal Sign Manual to attend in his stead.

The Bill also abolishes the role of Government Advocate.

Madam President, I beg to move that this Bill be now read a third time.

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

The President: The Hon. Member, Mr Crowe

Mr Crowe: Thank you, Madam President.

Yes, while supporting the Third Reading could the Acting Attorney General just give Council a provisional timetable as to how he would see this going forward in legislation terms and the appointment of a person. What timeframe are we looking at here, Madam President?

The President: The Hon. Member, Mr Butt.

Mr Butt: Thank you, Madam President.

I will support the Third Reading of this Bill. I think we have all seen over the last two years some evidence when the Attorney General has not been present in either this Council or in Tynwald, where there has been some uncertainty on occasions and some confusion occasionally. It is important that we have an Attorney General sitting with us as often as possible.

I would like to comment on the abolition of the post of Government Advocate. I am not sure how ancient that post is, but it certainly has had some interesting incumbents over the years – in recent years, that I have known personally. We mentioned at the previous Reading I think, it is a historic post that it no longer exists, but I do hope the Attorney General's Chambers has as interesting characters in the future fulfilling the new role. *(Laughter)*

The President: The Acting Attorney General to reply

The Acting Attorney General: Yes, Madam President, if I thank both Mr Crowe and Mr Butt for their words of support, and I will not rise to the bait, Mr Butt, with talking about previous Government Advocates – and I am sure we can both think of many examples of the true characters that were there. I can only make the general comment that I hope the Manx Bar *in general* provides us with the characters which we deserve here on the Island going forward. **(A Member:** Hear, hear.)

As far as the progress of the appointment of a Solicitor General is concerned, Mr Crowe, I cannot speak to the legislative timeframe because it has been somewhat delayed for reasons which we are well aware. The intention, I can say, is to progress as soon as possible. The basic work of preparing the job description and everything else is on the way, and it is certainly hoped that the recruitment process can start in the very near future and to await hopefully, as in my own case, the legislation to catch up. So we do recognise from the point of view of Chambers the urgent need to progress with this as soon as possible.

The President: The motion is that the Bill be read a third time and do pass. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members that concludes our business for this morning; Council will now adjourn until Tuesday 13th May.