

3.1. Law Officers Bill 2014 – Second Reading approved

Mr Watterson to move:

That the Law Officers Bill 2014 be read a second time.

The Speaker: Therefore we move to Item 3, which is Bill for Second Reading. The Law Officers Bill, in the hands of the Hon. Member for Rushen, Mr Watterson and I call on Mr Watterson.

Mr Watterson: Thank you, Mr Speaker.

This Bill seeks to make further provision about the discharge of the functions of the Attorney General and for connected purposes. It follows on from the Law Officers Act 2013, which in effect then created the role of Her Majesty's Acting Attorney General.

The Law Officers Bill 2014 aims to create the office of Her Majesty's Solicitor General for the Island and addresses certain details as a consequence of the creation of what will become a second distinct Crown Officer for the Island.

This step is proposed following the recommendations made following a report on the operation of the Attorney General's Chambers conducted by Stephen Wooler CB, formerly Her Majesty's Chief Inspector of the Crown Prosecution Service in the United Kingdom. His report, which became known as the Wooler Report, was published in July 2012 and was circulated to Hon. Members during this Bill's passage through another place. The Report recommended that as this is the case in all other jurisdictions of the British Isles, there should be a second Crown Officer in the Island capable of supporting the whole range of duties of the Attorney General.

I have made mention of the Law Officers Act 2013, which as I have explained, in effect created the role of the Acting Attorney General, as under the provisions of that Act, Mr John Quinn was appointed under Her Majesty's Royal Sign Manual to act as Attorney General in the absence from office of the current Attorney General. His appointment is limited and temporary to that extent, and upon the Attorney General returning to office, he immediately steps down.

The creation of the second Crown Office of Her Majesty's Solicitor General would ensure going forward that there are two separate Crown Officers and so provide support for any absence of either postholder.

Mr Speaker, this Bill has no other purpose than to create the office of Solicitor General and I beg to move that it be read a second time.

The Speaker: Hon. Member for Douglas East, Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.
I beg to second.

The Speaker: Hon. Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

Can I first of all comment that it is disappointing *again* to find in the explanatory memorandum attached to the Green Bill, at clause 9, the description 'manpower and financial implications'. This is the last sitting of the House of Keys for this legislative year, and it is disappointing to see that the Department again does not acknowledge equality in this place or in its laws for the land – bearing in mind that law officers, presiding officers, attorneys general can be both male and female (*Laughter*) (**Mr Watterson:** Or female.) in other jurisdictions. So it is disappointing to see that in such an important Bill.

The only other question, apart from expressing my disappointment at this stage of the legislative term: can I ask the Minister what the financial implications are. As he is struggling, and he has demonstrated this morning, he is struggling and his Divisions are struggling greatly in trying to deliver emergency services due to budget constraints, where and how is he going to find the additional costs for this particular post, or is it picked up from somewhere else?

Thank you.

The Speaker: Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I think that we all appreciate that we have come a long way in the last couple of decades, as far as recognising normal principles that are obvious in other jurisdictions that have more of a proper democracy than we have ever had, and as a senior member of this legislature, I am glad to see this Bill here today. I think that we should applaud this Bill and we should applaud the fact that these actions have been taken, which I believe has made the issue as far as the long battle to get separation of power, as far as the different sections, to be realised by many within this House and outside.

I think it is an important factor that I support the Bill, but what I am concerned about the Bill is that because it is not going anywhere until October of this year, one of the things I want to do after the Second Reading stage is to move it to a committee so it can take evidence over the summer recess, to come back to this House.

I believe that this Bill is something that some of us have been arguing about from the prosecution side for a long time. One of the battles that some of us older Members, of having kids being told, 'Take a caution – it means nothing', and all this sort of nonsense. I believe that this Bill is an act of maturity and trying to put in the good systems of government... and I have no problem with this Bill coming through the clauses and the Third Reading, but what I do have a problem with, Vainstyr Loayreyder, is the fact that I think this is maybe the opportunity that we should be doing to look at this Bill, as a Law Officers Bill, and bring up other issues that affect Law Officers, as far as this Island is concerned.

I feel that one of the things that a select committee could be looking at is the role of the Attorney General, and whether the Attorney General should be in this House and not in the Upper House. The constitutional changes that have taken place over 30 years from the Governor being almost like a feudal lord in this land, with the back-up of the British military... It has changed and what I feel is that this Bill needs to go to committee, because I think, whilst sorting this principle out about separating the prosecutions, which has been a big problem with a lot of people...

When I first stood to be a Member of this House in 1981, the major issue then was birching. Most people were on about the issue of the human rights and the birching issue. The issue that got me really wound up was the postcode justice. The fact is that this Bill helps to make this process more independent.

What I would like to see is this Bill going to committee over the summer to take on other aspects that this Bill could actually become a much broader Bill coming back from committee and look at the issue of the likes of the Attorney General.

We are changing the Attorney General's role, and the Attorney General's role should be changed so that it should be in this House. This should be the people who are making the primary legislation, and some of us have been very concerned over the years about that role being seen as less important.

So I would hope that the mover might consider the issue of whether we should send this Bill to committee with it having to report by September, or the end of September, with any recommendations on this Bill and to broaden it, because the role of the Attorney General now has changed. The role of the Legislative Council has changed from the days of when it was just purely Whitehall cronyism, who controlled that with the Governor, to it now being a revising

Chamber. I think that committee could look into that aspect, as far as this is concerned. *(Interjection)*

I think that Members need to look back at the issue that I raised with the last Law Officers Bill, where I had tried to move amendments to give more flexibility, so that you could have had somebody who was not a member of the Manx Bar acting as an acting Attorney General. I think that that was an own goal by this House, by not taking on that proposal.

So I will support the Second Reading of the Bill, but I believe that this Bill needs to be broadened out so that we would look at the issue of the role of the Attorney General, whether the Attorney General needs to be put into this House, as changing the roles of the Attorney General with prosecutions, so that he comes down here.

It would also give the opportunity, because it is great to see the issue of no matter what people say today, things are much more just, much fairer than they have ever been in here, and I say that as a proud Manxman. But I do feel that it would give an opportunity to see whether we can broaden this Bill, so that we can actually look at the prosecutions system – not to politicise them, but to actually broaden and maybe give a better infrastructure – as I think it would take more than just one officer to make the differences that need to be done.

So I will support the Second Reading of this Bill. I have to say that as far as whether it is 'manpower' or 'personpower', I know as a sad old bachelor that 'womenpower' is much more important than 'manpower', as far as the issue is concerned! *(Interjection)*

So I do hope that Members will consider sending it to committee and putting people on it on a serious basis, who will look at it seriously, that it will not be just rubberstamped, because we have only got to look at the 2013 Law Officers Bill. It was an own goal when you did support both on that issue, and I think there are people in this House who could do that.

I hope that Hon. Members will support that. I will support the Second Reading of this Bill, but I do think there is an opportunity there for this Bill, to give it real meaning, real teeth, and the real changes that we need as far as our Law Officers are concerned.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Two very brief points about clause 4. The first one is, a bit like Mr Karran, the Member for Onchan, has hinted at, I note how easy it is to change the constitution of the Isle of Man, the 1919 Isle of Man Constitution Act, and I wondered if the Minister bringing this Bill could actually comment on whether I am right to note how easy it is actually to change the constitution.

And the second point is, I wonder whether the Minister could comment on whether I am correct to understand that what we have got here is we have got somebody and an alternative to that role, and if so, is that a valuable precedent for other areas of Government and public service?

The Speaker: Hon. Member for Douglas South, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

Just really to say that I support what my colleague, Mr Karran said. I think it is eminently sensible for it to go to a committee over the summer where it can be looked at in more detail, particularly the element of the Attorney General sitting in Keys, rather than Legislative Council. As Mr Karran has rightly pointed out, when that position was originally made there, he sat with Government. That is no longer the case. His rightful position, I believe, is down here with Government, with us.

So I am more than happy to support a committee.

The Speaker: I call on the mover to reply, Mr Watterson.

Mr Watterson: Thank you, Mr Speaker.

The first thing I think to mention, in response to Mrs Cannell's comments, is that this is not Department of Home Affairs Bill. I am moving it on behalf of the Council of Ministers in the House of Keys. As you can see by looking on the back cover of the Bill, the owner of the Bill, the Member sponsoring the Bill is Her Majesty's Acting Attorney General. Of course, that person is then responsible for the explanatory memorandum and the wording of it. I can only apologise if that has caused offence.

In terms of the financial implications of the Bill, there are none certainly to the Department of Home Affairs, and indeed there should be none to the Attorney General's Chambers, because this is part of a package to restructure the Attorney General's Chambers. Indeed, it is the intention, subject to the passage of this Bill, to complete that over the summer.

Mr Karran, I agree it is important. In terms of moving it to a committee, I do not necessarily see the advantages of that. I think the only suggestion that has come forward is whether the Attorney General should sit in the House of Keys or in the Legislative Council, and I would suggest that that might be better consulted upon, wider and debated at another time, rather than just by moving this Bill to a committee.

It will have no impact on prosecutions. Along the comments that the Hon. Member made about the way that prosecutions function, this Bill will have no impact on anyway, and I would be loath to support the move to a committee, on the basis that this will delay the implementation of the Wooler Review, which I think the Hon. Member for Onchan did recognise was, to use his words, an act of maturity in the good systems of Government.

With regard to Mr Thomas's comments, the constitution is not subject to special provision on the Isle of Man. That is a common feature of many Westminster systems of government, which we are connected to – although not a model that we follow because, of course, our parliament is older. So a Bill going through Tynwald is the normal way and the way that the constitution has always evolved on the Isle of Man.

In terms of deputies to be recruited and the principles for other public servants, there is certain provision for that in the Interpretation Act. If he wants further details on that, I am happy to talk to him.

So I think that covers all the points. Mrs Beecroft also covered the referral to a committee, and I think I have covered that point.

So I beg to move.

Mrs Cannell: Mr Speaker, will the Minister give way?

Mr Watterson: With pleasure.

The Speaker: Mrs Cannell.

Mrs Cannell: He was just about to wind up, Mr Speaker, and I did ask some very important questions which he has not included in his response and that is the costs of this, and where the costs are going to be found.

A Member: He's just answered that.

Mrs Cannell: It has not been answered. It has not been answered properly. We have not been given a sum of money.

The Minister has given way. I have given him the opportunity to further clarify it for the House. It is important because everything is recorded and it goes on the public record.

Thank you, Mr Speaker.

The Speaker: Minister.

Mr Watterson: Yes, when the *Hansard* is read back, I think you will find that I did say that the financial implications... There were no additional financial implications of this. It was part of a package of measures in terms of the reorganisation of the Attorney General's Chambers. So there is no new money for this post. It is about the reorganising of the staff and structures within the Attorney General's Chambers.

With that, sir, I beg to move.

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