

## 5.1. Law Officers Bill 2014 – Clauses considered

Mr Watterson to move.

**The Speaker:** We turn now to Item 5, consideration of clauses of the Law Officers Bill, and I call on the mover, Mr Watterson, who will be moving clauses 1 and 2 together.

**Mr Watterson:** Mr Speaker, thank you for your permission on that. 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 and clause 2 for the commencement of the Act.

I beg to move that clauses 1 and 2 stand part of the Bill.

**The Speaker:** Mr Quirk.

**Mr Quirk:** I beg to second, Mr Speaker.

**The Speaker:** Mr Karran.

**Mr Karran:** Vainstyr Loayreyder whilst not speaking against the clauses of this Bill, as far as clauses 1 and 2 are concerned, I still think that the mover managed to create a great shame that we could not have got this Bill and these clauses to committee, because it was a lost opportunity there, in order that we could have maybe made this Bill much more effective, as far as the access for justice in the Island is concerned.

What I am concerned about is that when we look at these clauses, as far as this Bill is concerned, everyone recognises that we need external independent audit, and that issue is something that I have always fought to support. But one of the things that concerns me about these clauses and the other clauses – and I do intend to keep quiet after this – is the fact that even when it comes down to issues like a ‘solicitor general’, we do not have solicitors in this Island; we have advocates in this Island. Even that has not had the scrutiny of what is supposed to be a Bill which is part of an independent judicial system.

I feel once again we have shot ourselves in the foot. We have not taken on board the opportunity. We had a summer recess there where there could have been a select committee over the summer recess, going through this Bill. This Bill will be nodded through today. Whilst I cannot see anything that is detrimental in this Bill, I think there are opportunities: there could have been other things maybe put into this Bill, but unfortunately, once again, CoMin has used their block vote in the parliamentary process and we have ended up, I believe, with primary legislation, and the process of considering of primary legislation has been made much worse for the case.

So as far as I am concerned, I just think that it is important that somebody puts that down on record, as one of the longer serving Members of this parliament.

**The Speaker:** I call on the mover to reply.

**Mr Watterson:** Mr Speaker, I appreciate that the Member’s comments do not relate directly to clauses 1 and 2. All I can say is that the House determined not to move this to a committee, not the Council of Ministers.

There is no Department line on this. This is a Bill being promoted by Her Majesty’s Attorney General so of course, the only collective responsibility is that of the Council of Ministers who are in a minority here. So it was a decision of the House.

The Member also referred a number times to a missed opportunity. Well, when declining to take this on through its stages in the summer so we could have appointed somebody during the summer,

the mover indicated that he wanted to bring amendments to this Bill, and that was one of the main reasons why people decided it was not appropriate to move it forward. Here we are three months later and there are no amendments to the Bill. So a missed opportunity maybe, but it is a missed target of the Hon. Member's own making, I am afraid, on that point.

The Member also made reference to the point that there was no scrutiny as to why we are having a solicitor general, when we do not have solicitors. It might not have been scrutinised in this Chamber up till now, but it has certainly been scrutinised by me. It is a question I asked of the Acting Attorney General and his Chambers, when this Bill was put before me to move and the simple answer was that I would have preferred an advocate general, and it really did come down to the fact that you could use either, it was easier in the acronyms (Interjection by Mr Karran) and I did not see that I had any particularly strong reasons to object to that. That was my opinion, that is why that it is being moved in the form that it is.

So I hope that is of assistance to the Hon. Member, and I therefore beg to move that clauses 1 and 2 stand part of the Bill.

**The Speaker:** I put the question that clauses 1 and 2 do stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Mr Watterson.

**Mr Watterson:** Mr Speaker, I mentioned the effect of clause 3 briefly in my remarks at Second Reading. This clause amends 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 Her Majesty's Solicitor General, when that officer is appointed, and also any person discharging the functions of Her Majesty's 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's functions in this way at any one time.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** I beg to second, Mr Speaker, and reserve my remarks.

**The Speaker:** I put the question 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 Watterson:** Mr Speaker, clause 4 deals specifically with the role of the law officers in relation to Tynwald and Council

In contrast with the general rule of interpretation created by the amendment made by clause 3, the Solicitor General or an Acting Attorney General would 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 in the 1919 Act. This is because the existing structure is becoming far too complex in drafting terms. 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 a sitting of Tynwald or Council.

Subsection (5) then provides that if it applies, 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 that officer 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 in any way entitle any of the officers formerly entitled to attend Tynwald – i.e. the Deemsters, the Clerk of the Rolls, the Archdeacon or the Vicar-General – to do so again.

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

**The Speaker:** Mr Henderson.

**Mr Quirk:** Sorry, I beg to second, Mr Speaker.

**The Speaker:** Mr Quirk seconded. Mr Henderson, did you wish to speak?

**Mr Henderson:** I was going to second it... *[Inaudible]*

**Mr Watterson:** Thank you.

**Mr Quirk:** I was watching the papers coming in!

**The Speaker:** In that case, I put the question 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, sir.

**Mr Watterson:** As the explanatory memorandum that accompanies the Bill makes clear, one of the changes flowing from Mr Wooler's recommendation is the abolition of the post of Government Advocate. Subsections (1), (3) and (4) of the clause 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.

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

**The Speaker:** Mr Quirk.

**Mr Quirk:** I beg to second, Mr Speaker.

**The Speaker:** I put the motion that clause 5 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that brings us to the end of Item 5.