

3.1. Police (Amendment) Bill 2015 – Second Reading approved

Mr Watterson to move:

That the Police (Amendment) Bill 2015 be read a second time.

The Speaker: We turn to Item 3, Bills for Second Reading, starting with the Police (Amendment) Bill 2015, and I call on the mover, the Hon. Member for Rushen, Mr Watterson.

Mr Watterson: Mr Speaker, the purpose of the Bill is to address three matters: firstly to clarify the law so that it is clear a serving Chief Constable may be reappointed by the Department for a further term of office without having to go through the full advertisement, selection and interview process associated with initial appointments.

Secondly, to enable the Department to contract out functions of the Constabulary currently performed by police officers: the aim is to get best value for money and to free up police officers to perform their key frontline policing roles. In the event these provisions are approved by Hon. Members and enacted, it is considered less likely key frontline policing functions will have to be either discontinued or re-modelled.

In order for functions to be contracted out and staff designated to perform contracted functions, the Department must make an Order and seek the approval of Tynwald. Schedule 1 to the Bill will insert a new schedule 2A into the Police Powers and Procedures Act 1998, and will enable the Chief Constable to designate suitably qualified and trained contracted persons to perform any or all of the functions specified in an order approved by Tynwald.

Contracted staff may be given such powers that a police officer would have, as are necessary to enable that member of staff to perform a particular contracted function. The schedule sets out in further detail in relation to the matter, including powers of, complaints in relation to and offences against contracted staff.

Mr Speaker, it is considered that the jailer functions of the custody suite are immediately the most suitable functions to be contracted out and could free up up to six constables, and so potentially avoid further reductions in the number of police officers available for front-line policing. However, let me assure Hon. Members that when a member of the public calls the Police, they will always get the Police.

The third matter is in respect of police complaints. These amendments do two key things: firstly, they seek to address international and human rights requirements that incidents where death or serious injury occurs following contact with the Police should be properly investigated.

The provisions in the schedule also empower the Chief Constable to refer other serious matters that may be specified in regulations for investigation. If the Police Complaints Commissioner considers a specified matter should be referred but the Chief Constable does not refer the matter, then the Commissioner may direct the Chief Constable to do so.

Secondly, the way that police performance and conduct is addressed has been changed. Bad conduct is no longer dealt with by means of disciplinary 'charges' being laid out, but by referring an officer to disciplinary 'proceedings', under the Police Conduct Regulations. Where a police officer is not performing or has been the subject of a complaint or a matter has been referred for investigation and it is evident an officer's performance is in question, then that officer may be referred to disciplinary action under the Police Performance Regulations.

As the legislation in schedule 1 to the Police Act currently refers to disciplinary charges, the Bill's purpose is therefore to change those references so that they now provide for matters concerning an officer to be referred to disciplinary proceedings.

Mr Speaker, I have outlined the principles behind this short Bill and its main features, and I beg to move that the Police (Amendment) Bill be read a second time.

The Speaker: Hon. Member, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg to second and reserve my remarks.

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

Mr Houghton: Thank you, Mr Speaker.

As the Minister rightly states, there are three matters or subjects in this Amendment Bill. As he states, one is the appointment of the Chief Constable; one is the police complaints issue as the Minister has just explained; and then the third one, which is the contracting out functions set out in the Bill.

Now, I have no issues with the Chief Constable's appointment procedures as in primary legislation, or anything to do with the police complaints. But Hon. Members, I have very, very serious issues with that of contracting out functions.

Now, if I can just clear to one side the issues do with one of the easiest targets for the Department of Home Affairs, which I would reasonably allow and support: that of the custody operations being privatised. I would understand and support that and indeed, Mr Speaker, if in this Bill it showed that we want to privatise the custody functions, for the reasons that have been given and stated that in the Bill, then I would be comfortable with that, quite comfortable with that in the primary legislation.

To assist Hon. Members' understanding of that, the reasons why I would support an issue to do with this in primary legislation is of course, under the Police Powers and Procedures Act, there are arrangements in that Act where sergeants must control and operate under functions set out in a previous Act, in respect of the functions required in a custody unit. So, that is fine and I would be fine about part of the legislative changes in that.

But, no! The Bills goes much wider than that and this is the serious issue that I would ask Hon. Members to look at. This Bill allows for *any core police function* to be privatised in the future.

Mr Watterson: With Tynwald approval.

Mr Houghton: With Tynwald approval.

But, the Hon. Member, quite rightly, may decide a comment there and that helps me enormously to point out what the issues are there. If this Hon. House and then Tynwald approves this Bill and it is enacted, it shows that this House supported that, at some point and time in the future, *any core police activity* could be privatised, because that was the will of the House, if it approves this Bill. That is the main point of that. Yes, Tynwald would approve secondary legislation, as set out clearly in the Bill.

But I would just like to go through one or two issues in the Bill, Mr Speaker, just so that Hon. Members have a clear thought of where I am coming from on this. If I turn to page 6, section 4: Police powers for contracted staff, at subsection (1):

This section has effect for the purpose of enabling the Department to enter into a contract

– which is what the Minister is saying –

for the supply by that person of services in assistance of the police force.

Right, okay.

The Department may by order provide for conferring or imposing powers and duties specified in the order, being powers and duties of a member of the police force, on persons, not being members of the police force ...

So, what we are doing is, in just that section alone, appointing with the secondary legislation in order – if it goes through – an officer, a private person, a private contractor, whichever one you want to word, a private person, to carry out the functions of a police officer. Now, if it said ‘custody suite’, fine, like I have already said. But it does not; it covers the wider core functions.

And it goes on to say, in subsection (3):

An order under this section shall specify —
(a) the functions which may be assigned ...

It goes on to go on about the title of its contracted staff, etc. It goes on about really setting contracted people into the core issue of being a constable. So, what we have got is cheap policing; half-priced policing. *Very serious*. It is going too far, Mr Speaker.

Subsection (4):

An order under this section may under subsection (3)(a) specify functions which, apart from the order, would be reserved to a member of the police force.

I will just go on to point out, Mr Speaker, because the proof of this pudding, for the want of a better word, is in the first Schedule: Schedule 1 of this Bill. And section 2 of Schedule 1: Powers and duties of contracted staff.

(1) A contracted person authorised or required to do anything by virtue of a designation —

Contracted to do *anything* by virtue of a designation. So a non-police officer can do anything. (**Mr Watterson: No.**) As it states. (**Mr Watterson: No.**) It states!

Mr Watterson: It has to be specified in the Order.

Mr Houghton: The Order follows the will of this Hon. House.

Mr Watterson: That is right.

Mr Houghton: That is the serious issue of this matter. We are supporting doing away with policing as we know it, to private security people doing policing work.

In subsection (2), Mr Speaker, and if I can ask Hon. Members who are following this, in subsection (2), half way down through that clause it goes on about:

... any person exercising that power in reliance on that designation shall have the same entitlement as a constable to use reasonable force.

So, what we are saying is, ‘We are going to send security officials out to disruptions and fights and things like this —

Mr Watterson: No, we are not.

Mr Houghton: — to deal with that. That is what it says.

Mr Watterson: It is not what it says.

Mr Houghton: Mr Speaker, I go on to say, because this is the point I am going to get to in a minute, Mr Speaker, which hopefully should disturb Hon. Members. Subsection (3):

Where any power exercisable by any person in reliance on his or her designation under this section includes power to use force to enter any premises, that power shall not be exercisable by that person except —
(a) in the company, and under the supervision, of a constable;

Now, what this means, Hon. Members, is – and this is always very serious – when the Police have to raid someone’s property, they have to have a warrant. It is as simple as that: they have to have a warrant in order to do that. It is a very serious matter: breaking into a person’s home, which is his castle. Very serious, core, bottom-line, serious issue, but it is giving you a hint that they are going to have these security persons, these contracted staff, to have the powers to go into, to break into premises, exercising a warrant.

Now, Hon. Members, this was not envisaged in this Bill. We all thought this Bill was to do with non-core policing. This is core policing right to the root of it.

Now, the Minister, in his defence, may say, ‘Yes but, Mr Houghton, you did read out subsection (3)(a)’ of what I have just read out, which includes the power of the force to enter any premises, that power shall not be exercisable by that person except he is in the company or under the supervision of a constable. Now then, that constable could be two days in service. He could be a police officer just arrived, a probationer, and he is going out with a bunch of security men to exercise a warrant and break into someone’s house. I am sorry, Mr Speaker!

I went to raids on properties, as a special constable, but I was only very much in the background, because (a) of my knowledge, I was a special constable and (b) it was a serious matter, so you had senior police officers, usually senior detectives who were carrying out that warrant to enter those premises. Senior detectives and officers and those detectives have to be supported by uniform: constables, etc. Not a bunch of security men, breaking into someone’s house, up in the sticks, with a PC that has only got a couple of days, two or three days’ thing in it. And, even if they have a constable, that is wrong. It is so serious, it should have been a sergeant or above.

So, it is flawed and it is very serious and we must remember, if we give the go-ahead for this Bill to go forward in its present format, what we are saying to the Department is, ‘Yes, we agree with those functions.’ And especially when I am pointing it out now and making it quite clear.

Now that is very serious, Mr Speaker. That alone really should kill this Bill off and then he can take his other matters out of the Bill and put them in something else that is more appropriate.

Mr Speaker, it goes on about further functions, but I think on that most serious point, I have made my point as far as Hon. Members are concerned.

Now, Mr Speaker, I am going to be voting against this Bill, yet I support those other two matters that I made clear, that are nothing to do with contracted persons. I will ask Hon. Members to vote against this Bill. Please hear what I am saying. I have a little bit of experience in this area to properly advise you. The matter for the Minister, who does not have that experience, who has not got the experience of policing work. Only a senior police officer must do these functions, head up these functions. Only a *senior* police officer and that is the underlying issue here.

There are one or two other things of lesser importance in the Bill, but which do make my blood boil on issues and that is, this document refers to the police force. ‘Police force’, Hon. Members, is a slang word for the Isle of Man Constabulary. The *Isle of Man Constabulary* is the police force. Now, when we are talking about police force as a throw-away slang remark, that is fine, but not in primary legislation and it goes on about ‘police force’, ‘police force’, ‘police force’!

I would ask the Minister if he would like to advise me as to who drafted this Bill, because we know that certain Government Bills, same in my Department, are being drafted outside the Isle of Man by people who do not really understand or have never heard of the Isle of Man Constabulary.

So it should, every section here, when it goes on about ‘police forces’ should say ... I might be nit-picking but, if I am nit-picking, I will nit-pick on something else. This Bill has not been properly proof-read. Why is that, Mr Houghton? I can take Members to the top of page 11, subsection (5), last couple of lines, going on about:

... a power exercisable by a contracted person –

Mr Watterson: Where are you?

Mr Houghton: –

in reliance on his or her designation shall exercisable only by a person wearing such uniform as may be —

There is a typo there.

Mr Speaker, I have read the Bill, because I have had to. It something, okay, I have an interest in, because what I do have an interest in, in policing, is the protection of all people on our Isle of Man. The Chief Constable is head of security on that and we are reducing his abilities by bringing this Bill in and he has been made to, no doubt, support it and so on. But there is a typo in the Bill. What is going on here? Do people not read what they move in this hon. place? It is easy to miss out but I am sorry what is happening more and more is people are not doing their jobs. Sitting and reading and going through that legislation.

Mr Speaker, I remember ... I have very great respect for the Hon. Madam President. When she was the Minister of Health and Social Security, all those years ago, when we did legislation and we had a Mental Health Bill at that time, we went through for hours and hours at the Department, *line by line* – and the Hon. Mr Karran was there, as a Member for Health at that time. We went through *line by line* until everybody was absolutely happy. And we found little errors, we altered them, because we all sat there, in the Department, doing just that: legislation.

I wonder whether this Bill has been gone through line by line –

Mr Watterson: It certainly has.

Mr Houghton: – in the Department of Home Affairs, because the Minister has got some very good support in there. One of those is a very able body, Mr Thomas, who picks anything up and he is excellent at his homework. I have to give him that and he catches people out; me also and I thank him for that, because we are all here to help each other. Not just catching someone out; it is to say, ‘Mr Houghton, just read that again. Top and tail this.’ ‘Thank you, very much, Chris. Thank you, for your advice.’ And that is what has not happened in this Bill, because when we are going on about ‘police forces’ and missing things out on typos, I then wonder, has there been any real thought on the functions that you, the Department, wish to change and bring forward on this Island?

This is very seriously flawed legislation, Mr Speaker. I cannot make it any clearer than that.

It attacks or, if you like, it says in it that it intends, by Tynwald regulation later, to interfere with *core police functions*. Do we want a second class police force here? I do not think so. (**A Member:** Constabulary.) Wouldn’t that do us some massive reputational damage, Mr Bell? Wouldn’t that, Mr Speaker? *Reputational* damage. A bunch of hillbilly cops. That is what will happen within 10 years of this going through. I am telling you. *So serious*.

The Speaker: Now, Mr Houghton, you may consider that you have made your points with great force and candour – (*Laughter*)

Mr Houghton: And I am very grateful, Mr Speaker. Perhaps, I am a little bit impassioned, but I do read ... Mr Speaker, whatever any Members thinks about me –

Mr Karran: He has a right to say what he wants –

The Speaker: Hon. Member, of course Members will be given *full rights* (**Mr Karran:** Good.) by the Chair and the Chair does not require reminding of that right (**A Member:** Hear, hear.) of Members to speak.

Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

I am nearly finished and you are right and perhaps I am impassioned and so on, because I can see what is going to happen, because what happens in these issues is, ‘The Act says this’ – when you

look at the Act and 'The Act says we may do it.' So they come along and do it, because it was the will of Tynwald, when Tynwald approved the Act, etc. to go through on that.

So, Mr Speaker, I am almost finished. I ask people to vote against this, but I know it will probably go through. I am asking you to vote against it. I am not politicking; I am not playing with politics. What I am doing is I am telling you what damage you are going to cause to the protection and everything else of this Island, Mr Speaker.

If this Bill gets its Second Reading today, then I will be moving to see if we this Hon. House will send it to a committee to deal with the points. I am sure points that other Hon. Members may make about the Bill as well, that I have not picked up.

But, Mr Speaker, if this Bill goes through all its legislative Branches and becomes an Act, I am going to go up to Police Headquarters at Glencrutchery Road –

Mr Quayle: Don't say that.

Mr Houghton: And I am going to put a 'For Sale' sign on the big sign at Glencrutchery Road.

A Member: You need planning.

Mr Houghton: 'Police Station for Sale'. *(Interjections)*

Mr Watterson: We will take this as an admission.

The Speaker: The Hon. Member for Ramsey, Mr Singer.

Mr Singer: Thank you, Speaker. I will be brief.

The position of Chief Constable is one of high visibility in the community and needs the confidence of the community. Therefore, the appointment of the Chief Constable is open and transparent. I think that the proposal in this Bill does not offer that openness and transparency in the reappointment of the Chief Constable, which I think is also very important and very necessary, because what we are doing here now is that the Minister of the Department goes to the Council of Ministers and says, 'I want to reappoint the Chief Constable' and if the Council of Ministers says, 'Yes', that is it. I do not believe that should be the position and so I oppose that particular part of the Bill.

The other question I would ask the Minister, if he could answer: we have here quoted 'further fixed terms'. There is no definition here of 'fixed terms'. Would I be right in assuming that it is still the five years or could it be for any length of time? *(Interjection by Mr Watterson)*

Thank you, Mr Speaker.

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

Mr Quirk: Thank you, Mr Speaker.

First of all, if I could say, regarding, I will be supporting the Bill.

I also want to thank the Minister and the Department Members, including Mr Coleman, never mind Mr ... (**Mr Thomas:** Thomas!) the Member for West Douglas, for the presentation that was given to Members. We had a full and frank – and the public may not know this, that is why I mention it, Mr Speaker, to previous speakers there – exchange of views in the Barrool Suite and it is a public record. And I do thank the Minister for that and his Members who support those.

I just support an issue to, if you want the word, 'corporatise' or some of the issues regarding the custody suite. I feel quite comfortable with that now, regarding that. I can also feel quite comfortable if we looked at parking controllers and traffic wardens. Because what I would not want to see is highly trained officers – and they are highly trained officers; Mr Houghton has already said

that – going round the streets, trying to put tickets on cars, which never happens, but the public demand that. So, I see that is part of a scenario there where a contractor can come out, do the parking side of it and undertake the traffic warden thing, as long as it is a warranted person for those particular things, for fixed penalties and so forth.

I would rather have our highly experienced officers who are now, it is not just a bobby on the beat any more, now, it is forensic ... There are all sorts of issues that take place, now: complicated financial crime that takes place as well. Being aware of those and liaising with industry itself – that is the banking industry, never mind insurance and so forth. Things may happen as a jurisdiction. I do not see us becoming, like the Member for North Douglas said, a hillbilly establishment. I cannot see that, to tell you the truth. And certainly the police force is not for sale; it is not to be privatised. I am sure the Minister is not giving that view.

But I would seek comfort in that Tynwald can endorse and we know in this House too that we are given openness and transparency to discuss issues. There is nothing hidden. I would ask the mover of the Bill, who is the Minister, to say that I am almost sure, from my memory, we were told that the Police Federation were happy with the Bill that was moving forward. For the benefit of the public too and Manx Radio, the public broadcast, amongst others, is that the Chief Constable was there –

A Member: It is not broadcast.

Mr Quirk: Oh, it is not broadcast. But I am sure there is somebody there listening anyway. But the Chief Constable was there and he was frank and open and honest to Members as well. And I would ask Members really to support the Bill. The Members have scrutinised it. The Member has already said, Mr Coleman ... I respect that individual there. He scrutinises the Bills totally, although he is an MLC and I respect the position that they do.

Mr Thomas is the same. The Minister, he may be an accountant by heart, but he is still the Minister and he does scrutinise stuff and he talks to Members.

Mr Karran: He is a mate.

Mr Quirk: He is not a mate.

Mr Watterson: Ahh! *(Laughter)*

Mr Quirk: Can I clarify that, Mr Speaker? *(Laughter)*

The Speaker: Do not feel you have to! *(Laughter)*

Mr Quirk: He is not a mate in parliamentary terms. **(Several Members: Ohh!)** He may be a mate in other scenarios. **(Several Members: Ahh!)** *(Interjection)* But, in parliamentary terms, he may be a Minister, he may be a back-bencher in the future. I do not think he will be. *(Interjections and laughter)* I think he is down for better things.

A Member: Maybe so lucky.

Mr Malarkey: Stop digging, David! *(Laughter)*

Mr Quirk: At the end of the day, I have loads of mates. *(Laughter)* But they may be, Mr Speaker, not all in here. *(Interjection)*

The Speaker: Thank you for the information. *(Laughter)* I am sure that was ...
The Hon. Member for Douglas South, Mrs Beecroft.

Mr Watterson: Follow that. *(Laughter)*

Mrs Beecroft: Unfortunately, I probably do not have as many friends as Mr Quirk! *(Laughter)*

Mr Karran: It involves how he does his job right.

Mrs Beecroft: Oh, dear. Anyway, yes, back to ...

I do not have, obviously, the experience that the Member for Douglas North, Mr Houghton, has in the day-to-day activities of the police force. I look forward to Minister's response to the comments and questions that he has made.

One I do have though was that he said that the Bill constitutes privatisation of certain areas. Now, I could be misreading it and I hope the Minister will comment on it later on. It actually says 'contracted'. Now to me that is a big difference to privatisation. Privatisation is where ownership passes into private hands and it cannot be rescinded. 'Contracted out', which is what this says, you can set out terms and conditions of contracts and, if people do not fulfil those terms, you can cancel them. They are for a fixed period; you can rescind them. You have all sorts of powers within those contracts. And it is up to how you produce those contracts as to what powers you have and for how long they last etc. But you are not giving ownership away, as you are with privatisation.

So, I would just like a comment on that, just for my benefit, that I am reading it correctly. And so I look forward to hearing the comment on the other stuff.

Thank you.

Mr Watterson: You summarised it perfectly.

The Speaker: The Hon. Member for Malew and Santon.

Mr Cregeen: Thank you, Mr Speaker.

I refer to my friend and colleague, so it covers both areas. *(Laughter)*

Just on a point from my hon. colleague from Douglas North, Mr Houghton, on section 2(3)(b), a part of this.

Mr Watterson: Do you want give a page number, please?

Mr Cregeen: On page 10.

On the position where Mr Houghton is saying that a contracted out member of staff could enter premises if they were accompanied by a constable. Whereas, (3)(b) is an 'except':

for the purpose of saving life or limb or preventing serious damage to property.

So you could actually, without the use of a constable *(Interjection)* or in that case they can. But, if he could just clarify the position that it is the property that he enters that they are saving life or limb, not as in, I suppose, in a possible anti-terrorism type role. It may not affect that property, but it may be somebody else's property or life or limb elsewhere. Just a bit of clarity on that, if he may.

Mr Watterson: Sure. No problem.

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

Mr Hall: Thank you, Mr Speaker.

Just a couple of points: Mr Singer, regarding the appointment of the Chief Constable. That is something that I have been concerned about and I have had discussions with the Minister, but in the UK my understanding – and I stand to be corrected – is that in the UK a Police Commissioner can

only extend the appointment of a Chief Constable up to a maximum of three years. It is something that I am a little bit uncomfortable with, and I know the Minister and I have ... He put his point across of why he is putting this clause in, the precise meaning that it actually be put forward, but I still do feel that there should be a bit more clarity on it. Again, I do stand to be corrected, but my understanding is that in the UK the Chief Constable's position, his fixed term, can only be extended up to a maximum of three years. And I still do feel that really, on balance, that does need some sort of amendment or some workings done on it. I think that would be much better. But if the Minister can comment on why he is putting this clause in, the way that it is.

Then we turn to the bit about outsourcing and I am somewhat cautious about outsourcing police services to private companies. I think we all do have to be very, very careful going down this route, because policing, the model, is very much underpinned by the concept of consent and that means that policing should promote public respect, approval and willing co-operation and, certainly, it is the public who will hold the Police to account for providing the services. But then moving and using the private sector for some aspects of policing, it can and does raise very significant and very important questions about issues such as accountability, public consent where the liberty and protection of the public is at stake and also a risk management. I think that the public trust and confidence for the communities the Police serve is vital for the effective policing, whether this is by the Police or through some sort of a partnership arrangement.

So, those are some issues that I see: there is the one hand here we are going down the way, outsourcing to private companies and that raises those points which I have just raised. Then, my other point is with regard to the appointment of the Chief Constable, which I still feel that it needs to have some sort of a definite ... to do with the action – not the term itself, the original term, but when it comes to the extension of that particular fixed term.

But, if the Minister perhaps could comment on that. So, at the moment, I am in two frames of mind, whether I am going to support it or whether I am not.

I think I will leave my comments at that, Mr Speaker. Thank you.

The Speaker: Hon. Member, Mr Karran.

Mr Karran: Vainstyr Loayreyder, my concerns with this Bill were on a number of fronts.

I have to say that I do not generally agree with much that the Hon. Member for North Douglas says. I find him more of a situation where he does not understand the argument that we are promoting to try and get good governance in this Island. But, in this case, he has got experience and I think in this case he should be worthy of listening to, because it is an important issue.

We have seen so many factors, as far as the economy of the Isle of Man being turned caustic by bad governance over the last 10 or 15 years, and the last thing we need is law and order to end up on that list with ridiculous freight charges, energy costs, monopolies (*Interjection*) on so many factors that affect the economy in the Isle of Man. Law and order affects the economy of the Isle of Man. Law and order has been a major, major factor as far as the location for many a business and new resident in the Island. Because, at the end of the day, Vainstyr Loayreyder, we might have got to the end of a Dutch auction as far as tax is concerned with wealthy people, but the fact that your wife and your kids are safe is a major factor. So this Bill is not just about policing. It is about that important factor of law and order.

Now, I find myself in the ridiculous situation: when I came into this House, I would have been upset if I was not the Antichrist to the police force, a police force that I grew up with where there were burglary cartels, where it was postcode justice. I would have been the first one to attack the police force as far as that is concerned. In 30 years I have seen a rapid change, as far as the police force is concerned and I believe that the danger we have now, Vainstyr Loayreyder, is that we are in danger of destroying the Isle of Man Constabulary. (**Mr Houghton:** Hear, hear.)

As a former Member of the Home Affairs Department, meeting after meeting, I was concerned about the issues of us needing to make a stand with the Treasury Minister, with the Treasury, in that

they know the price of everything and the value of nothing. Law and order is something that we have to value.

Now, as far as the Hon. Member for North Douglas is concerned, we have fought bitterly in the past about the past Isle of Man Constabulary of my teenagehood, as far as this Island is concerned – *and* as a youth worker *and* as a person who was involved with politics for civil rights' reasons and wanting the same sort of parity with the United Kingdom. But I have to say that I find myself on his side of the equation. If this Bill is not to be thrown out, it needs to go to a committee. If people, the likes of the Hon. Member, have got drafting issues, and myself – because I am dyslexic – can find drafting difficulties, then we have serious procedural problem as far as this piece of legislation is concerned. We need that clarifying by the Shirveishagh son Cooishyn Sthie in the replies, as far as this Bill is concerned, because I did not notice that and I am generally quite finicky as far as legislation is concerned.

As a Member, over the brief times I have been in charge in executive power, not just with Education, but on the Water Authority, I have found myself in a very uncomfortable position, putting the Chairman of the Water Authority on a five-year contract, to allow the local mafia within the corridors of power to undermine and destroy that. I would be the first one to support fixed-term contracts at the top of the Civil Service, because if ever there has been a case where people should be sacked, then there is a case for fixed-term contracts at the top of Government.

But the Chief Constable is a very, very precious appointment. We must not allow it to become politicised. We must make sure that we have a system that is robust in order to protect his operational freedom, as far as that is concerned. And to be fair to the Hon. Member for Rushen, the Minister, I have to say in my time there were many things that I might not have agreed with the Minister, but one thing I would say is he did recognise the importance of the independence of the police force. It is so important as far as that is concerned.

So, I think that needs a lot of scrutiny as far as what we are doing, as far as controlling the Chief Constable is concerned. (**A Member:** Hear, hear.) And remember, I lost the appointment of being a Minister in 1993, because I wanted to sack the Chief Constable at the time, over what was going on in the police force.

So I understand the issue as far as trying to create an independent appointment, as far as the Chief Constable is concerned. If ever there is one where we need to be more tapered, as far as that is concerned, that is the one post we do. Maybe we need to put fixed contracts on other Chief Executives (**A Member:** Yes.) as far as that is concerned, and my attempt was overturned by Government as far as the reappointment of the Chief Executive of the time – not because of his ability.

I think that we laughed about the Hon. Member for North Douglas as far as putting the 'For Sale' sign over the Headquarters. Well, let us be honest about it: we had the pantomime over Port Erin, which was never done on the right basis. We had an even bigger pantomime on the lower Douglas one, where we ended up with the situation where we paid £1 million.

You new Members need to realise this, when you are getting tickled under the chin by the executive and the club. We paid £1 million to refurbish the lower Douglas police station from an office development to a police station, *on a lease – not on ownership, on a lease, (Interjection)* Hon. Members – for £1 million to turn from an office development into a police station and there was not a brick on the site.

Mr Houghton: That is right and now we're moving that.

Mr Karran: That is why you new Members, the problems you have got at the present time are because of that. So do not laugh at the Hon. Member. We are already on the verge of getting rid of one of the Chief Minister's white elephants: the lower Douglas police station, (**Mr Houghton:** Yes.) where it was designed on the most bizarre positions. So do not worry and do not be so flippant

about the Hon. Member, because I will defend the Member, even when I do not think he is right all the time. When he is right, he should be supported. So, I would be concerned about that.

I was going to bring a few points up that I was concerned about, that I was considering putting some amendments to this Bill. One of the things that I am concerned about is the issue of minimum staffing and whether we need to put something in primary law, as far as the police force needing some sort of minimum staffing, as far as the Isle of Man Constabulary is concerned. Because I have to say that from my years when we were totally the Antichrist of the old guard, the old Isle of Man Constabulary, I feel that we have a social, moral and legal obligation to protect our staff, our citizens who are police officers. I believe that something needs to be put in as far as that is concerned and maybe the criteria, as far as the health and safety legislation is concerned. We are putting these people on front-line services with virtually no back-up.

So, I am tempted to see whether to put some amendments to this Bill on that basis, because I am concerned that ... I understand we are in hard times and let us be honest about it, I should not have a voice in here, because you have been warned enough that it is coming, as I say, if you carried on the way you have carried on. But I feel that the police force is a special case and needs to be made sure, because law and order is a cornerstone of everything else, as far as this Island is concerned.

I would be interested to know whether the Shirveishagh Cooishyn Sthie, the Minister of the Department, would be interested in a parliamentary committee, so that it could take evidence from not just serving officers ... Because I do get rather annoyed at times. I had somebody yesterday who has been mentioned, saying, 'Oh, I am off to talk to the staff.' Do you honestly think staff can talk to Members of the House of Keys (**Mr Houghton:** Yes, absolutely.) when their staff are about, when their job is on the line? That has been part of the cancer of the whole system of government that has given us the fiascos that we have got to deal with now and the next House will have to deal with. So, I would be interested in the mover's viewpoint on a committee.

I would also hope that we will not end up with the problem that the Hon. Member for North Douglas – who is not a fully paid up member, but is in there most of the time – will actually have the courtesy of having the issues that he raises replied to in this debate. This is a parliamentary assembly, a parliament that is supposed to hold the executive to account.

I had others issues that I was going to raise, but I think I have raised enough issues at the present time, because I welcome the opportunity of the clauses and hopefully we will get some other issues that need to be ring-fenced because, believe me, law and order is so important as far as the economy is concerned. It is the backbone of everything as far as that is concerned.

I understand the difficulties the hon. mover has: with the cuts coming ever more, as far as privatisation is concerned. But I am concerned that, whilst my good friend, the Hon. Member for South Douglas, the leader of the Liberal Party, is concerned, this is not privatisation. The danger that we have, Vainstyr Loayreyder, is the danger of the continuity and the experience and knowledge, as far as how we go about it.

And the other thing that the mover might consider is maybe some sort of select committee in another place – if he does not want to do it with this Bill – on the whole issue of policing, because I believe, Vainstyr Loayreyder, one of the things that has been destroyed within the Isle of Man Constabulary is that part of being a policeman was being part of a vocation.

A Member: It still is.

Mr Karran: I believe that is something that has been destroyed at the present time; that vocation now is not there, the same. There is not that engagement with the public. The Police have lost contact with the general public. They might have social media, but that is not the general public. Most of us are not great with that.

So, Hon. Members, I will await the response of the Hon. Member, the mover of the Bill, before whether I vote against, allowing for the experience of the Hon. Member for North Douglas, whether to vote with this Bill or not.

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

Mr Hall: Thank you, Mr Speaker.

I appreciate you allowing me to put to the House my declared interest, which I should have done at the start of my particular contribution to this debate, and that is my wife is a current serving police officer. Sir, to the House.

The Speaker: Thank you, Hon. Member. I am sure the House appreciates that intervention. I call on the mover to reply. Hon. Member, Mr Watterson.

Mr Watterson: Thank you, Mr Speaker.

I hope Members will bear with me, given the number of comments made. I appreciate that I did say in my opening remarks that this Bill covers three relatively simple issues. Well, just because the issues are simple does not mean that the things that flow from them are either simple or easy and these are things that we have certainly considered and wrestled with in the Department.

Just to start with Mr Houghton's point. Mr Houghton and I have worked together on previous Select Committees and other bodies, where I would certainly think that I have got a reasonable reputation for an eye for detail, as indeed has the Attorney General's Chambers, as have my Department Members, as have my legislative officers. And all of them have missed the fact that on page 11 the word 'be' is missing in the sentence on line 3: 'his or her designation shall exercisable' – of course, 'shall *be* exercisable'. (*Interjection by Mr Houghton*) So yes, we have all missed that one. It is a fair cop. (*Laughter*) But that is the only one I am aware of. There are a lot of people have seen this and gone through it with a fine-tooth comb and that has been missed.

With regard to a lot of his other comments, I am not sure whether he is accidentally or wilfully misinterpreting the provisions of the Bill and, in dealing with the point about contracting out, I just skip forward to the contribution made by Mrs Beecroft who gave it a fantastic and, what is more important, brief, summary between the difference between privatisation and contracting out. I am absolutely happy to stand by her definition of that. That is exactly what is envisaged. It is not about passing over ownership. It is about working under the supervision of other police officers. It is about maintaining control over the staff. There is provision in here about ensuring that even the disciplinary regulations will be set out so that there is very tight control on those people who are contracted to provide these services. So, I would absolutely concur with the points made by Mrs Beecroft in her contribution. Also there are safeguards in here.

Now, the Hon. Member for North Douglas made great play about the fact that this means that any contracted person could do anything at any time to anyone – and that is just not the case!

Mr Houghton: No, I didn't say that.

Mr Watterson: Well, I think that was the impression you tried to leave Members of the House with. I would like to just go through a few of the safeguards that are in here, to make sure that Hon. Members are aware of what we are and are not trying to do.

Certainly custody is the one that we foresee as being workable. Now, I have seen this done in Lincolnshire to great effect, where you have private contractors working under the supervision of a custody officer, who is a police officer. And they have sufficient powers in order to do that custody role, but it is overseen by a police officer, at either sergeant or inspector level, depending on the requirements of the legislation, which does not change elsewhere.

What you have seen here is there is quite a lot of detail set out here about what needs to be included in an Order to Tynwald, setting out: what services are going to be contracted out; how it is going to be worked; what powers people are going to be having; what job titles they are going to be having, even. To get down to that level of detail, so that Hon. Members are left in absolutely no doubt as to what is being contracted and what is not and what their permission is being sought for

and what they are signing up to. So this is not a *carte blanche*. It will be a very detailed provision, so that people know exactly what they are signing up to.

One of the things that has not been mentioned yet and I would be wrong if I did not: actually this is an opportunity for stability and specialisation in custody. Those who have had experience in this will realise that –

A Member: In custody?

Mr Watterson: In custody. *(Laughter)* In terms of policing and seeing the Police at work and, certainly, if Hon. Members have not had the opportunity yet to spend some time with the Constabulary and maybe go out with them on a shift or for a few hours, I would certainly be happy to try and facilitate that.

Mr Houghton: I was there on Friday night – in custody. *(Laughter)*

Mr Watterson: And you are here, so that is nice. *(Laughter)*

But one of the things that we know is that officers do rotate through the Constabulary, doing different jobs. They will be in neighbourhood policing, then they may move into some specialist areas. And custody is one of those specialisms that constables may move into and then they move out again. So, they may spend two or three years in that role, but actually this is a real opportunity for contracted staff to specialise in that.

And, yes, I am not going to deny that one of the motivations behind this is to save money. Police officers are highly trained, highly specialist and are not a cheap resource. So the more that they are out on the streets and doing the neighbourhood engagement, doing the visits to schools and nursing homes and other things, that I know they actually really enjoy doing, the less time that they are in having to do what you might consider back office function, like police custody. I do not see that there is a reason not to have that contracted out and I am delighted to see that the Hon. Member for North Douglas thinks that as well.

Now there was a point made by the Hon. Member about reasonable force, but this is already a provision that is set out in common law, about being able to use reasonable force. If any one of you are walking down Strand Street today and saw somebody bursting out of a shop and the shopkeeper chasing after them saying, 'Stop thief!' and you tackle that person to the floor, having reasonable suspicion that that person was a burglar, then that reasonable force is perfectly allowable to you as a common citizen in helping to enforce the law. So, we just need to make sure that those common law rights are not in any way interrupted by the legislation that we impose.

I think Mr Cregeen also made a comment about – on page 10 and (3)(b) – the common law power of preservation of life and property. Well, that is the same. These are existing common law powers that already exist for you, me and anybody else to make sure that we are able to assist in the preservation of law and order.

Now, the Hon. Member for North Douglas also made great play about the fact that you can have these, what he liked to call 'private security staff', banging on doors, exercising warrants. Well, that is not the case. *(Interjection by Mr Houghton)* Firstly, I have said that any contracted out individual is going to have to be subject to an Order approved by Tynwald, for what functions they are and are not allowed to do. But also, I will remind Members that there is provision in another piece of legislation, supported by the Hon. Member for North Douglas: the Criminal Justice, Police Powers and Other Amendments Act, which allowed specialists to go in with constables in order to exercise warrants. Now, the reasons that are foreseen around that are certainly around financial crime and taking in accountants and forensic examiners like that. So, these people may end up working for, shall we say, the Financial Investigation Unit, the Financial Crime Unit and they will not necessarily be police officers, but they will accompany police officers –

Mr Houghton: Yes, a different interpretation.

The Minister: But these are ... *(Interjection by Mr Houghton)* That is certainly, in terms of having private security staff, as he calls it, breaking the door down to exercise a warrant, not what this Act provides for. *(Interjection by Mr Houghton)* Not what it provides for at all.

Mr Houghton: It is.

Mr Watterson: It is not.

Moving on to the appointment of the Chief Constable – I am just making sure I have covered over the points there – about openness and transparency. Well, as the Hon. Member for Onchan, Mr Hall, did say, there is precedent for having additional time in the UK. Now I have not researched what UK officers, different constabularies and different forces around the world have for reappointment terms for Chief Constables. I want something that works for us. What I am very conscious about is that I did not particularly want the Minister for Home Affairs, whoever that might be at the time, having their hands tied by legislation. If you have somebody who is perfectly capable of the job, who is well respected and who does carry the confidence of Tynwald and the general public, why should we then set an artificial limit in legislation, when we have somebody who is capable of the job and has that great track record.

Now, of course, the Minister at the time will of course be accountable to this place and Tynwald for any decision that is made there. So, they can be held accountable and it does give flexibility in terms of the length of any future term, for the same reason.

Now, I appreciate that some people feel that it should be time capped and that is something that I will consider and discuss further with Members ahead of clauses stage, if people feel that there should be some sort of legislative **(A Member:** Hear, hear.) maximum, and I am happy to discuss that with Members. But I would not see any one term being longer than five years and certainly that would be my initial consideration on that. Those points were made by Mr Singer and Mr Hall.

I think the other thing is that this is also about clarifying the legislation at the moment. There is a certain amount of uncertainty over what the law does and does not allow. Members will appreciate that in the past the Chief Constables' contract has been renewed for a second five-year term, but this is just to provide, perhaps, more certainty within the Police Act, just to what can and cannot be done. But I do not, certainly, consider that Members are wrong in being cautious. This is something that is important and it is something that we do need to get right.

Mr Quirk talked about traffic wardens and parking controllers, and I do not necessarily see that these provisions need to be used for that, in terms of contracting out. There are separate legislative mechanisms for appointing parking controllers and traffic wardens. So, I do not necessarily see that this would need to be the avenue used there. But I do thank him for his support. **(Mr Quirk:** Friendship.) And friendship. *(Laughter)*

I am just going down ... I think, finally, some of the points that I may not have covered from Mr Karran. I could not agree with him more: that law and order is an important issue for this Island and one of the cornerstones of our economic prosperity. This will, if custody goes ahead and Members approve it in this Bill and the Order that would come to Tynwald and allow that to happen, free up officers to move out of the custody suite and go and do frontline policing. It is exactly what I think he wants. So it is just a matter of making sure that the appropriate governance is there; the appropriate mechanisms are there, to make sure that it is a robust system, that provides both the appropriate powers for people doing this work in a contracted out environment, but also the appropriate responsibilities as well and that is also set out in the Bill. **(A Member:** Moderation.)

I cannot think of any precedent over setting in legislation a minimum number of police officers, but I do, if Hon. Members are not aware, have a legal obligation under the Police Act 1993, to provide the Island with an effective and efficient police force. That is a legislative duty that I have *(Interjection)* and in doing that, I have had four years in that role and I have been responsible for

working with the Chief Constable about reductions in the budgets of policing. I make no bones about it. You cannot expect the same level of policing with 211 officers as you have with 248. Things have changed; things continue to change. I have also said that I believe that the number of 211 officers, to do what we do in the way that we do it, is an irreducible minimum. So, I have gone on record and said and been quite clear about where I think the future of policing is and I do not think it is any smaller than it is at present.

I think we also saw a bit of bluster about, do I believe that staff tell me and police officers tell me straight the way it is? Well, absolutely I do. I have been in a number of face-to-face meetings, both with the Senior Command Team, with groups of officers and I have had Q&A sessions with them several times over the years. I have been out on patrols with individual officers, without senior officers present and I do get it as it is. And certainly I would like to think that Hon. Members have felt that, when the Chief Constable has turned up and delivered his annual report to you, he has told it as it is as well. He has told Members of Tynwald and members of the public exactly where the strains are, but also the areas that he is very proud of and I am proud of the officers that work for the community as a whole, in keeping our Island safe.

So, these three points that this Bill addresses ... I welcome the fact that Members take the time to look at this seriously; that they have given it the scrutiny that it deserves. I would like to think that I have answered any Members' questions. I am obviously absolutely happy to help answer any other questions that may arise between now and the next stage of the Bill.

I am keen to reassure you that I certainly take policing seriously and that I do believe that the safeguards are in the Bill for contracting out.

I also think that we should not tie the hands of future Ministers for Home Affairs if they have a great Chief Constable working for them, to enable them to reappoint that person. That is my view. I accept that others in this House may have different views.

I do ask Hon. Members to support this Bill and continue the dialogue on it. So with that I beg, sir, to move.

The Speaker: Hon. Members, the Second Reading of the Police (Amendment) Bill has been moved. Those in favour, please say aye; against, no. The ayes have it.

A division was called for and electronic voting resulted as follows:

FOR

Mrs Beecroft
Mr Bell
Mr Boot
Mr Cannan
Mr Cregeen
Mr Harmer
Mr Karran
Mr Malarkey
Mr Quayle
Mr Quirk
Mr Robertshaw
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
Mr Teare
The Speaker
Mr Thomas
Mr Watterson

AGAINST

Mr Hall
Mr Houghton

The Speaker: With 19 votes for, 2 votes against, the motion therefore carries.