



# LEGISLATIVE COUNCIL OFFICIAL REPORT

RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH

# PROCEEDINGS

DAALTYN

HANSARD

**Douglas, Tuesday, 15th April 2014**

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**Present:**

**The President of Tynwald (Hon. C M Christian)**

The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson),  
The Acting Attorney General (Mr J L M Quinn),  
Mr R P Braidwood, Mr D M W Butt, Mr M R Coleman, Mr C G Corkish MBE,  
Mr E A Crowe, Mr A F Downie and Mr J R Turner  
with Mrs E M Lambden, Third Clerk of Tynwald.

**Business transacted**

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## Legislative Council

*The Council met at 10.30 a.m.*

[MADAM PRESIDENT *in the Chair*]

**The President:** Moghrey mie, Hon. Members.

**Members:** Moghrey mie, Madam President.

5 **The President:** The Lord Bishop will lead us in prayer.

### PRAYERS

*The Lord Bishop*

### Leave of absence granted

**The President:** Hon. Members, the Hon. Member, Mr Wild, is indisposed this morning and will not be joining us.

### Welcome to the Acting Attorney General

**The President:** We welcome back Her Majesty's Acting Attorney General to this Chamber. As I announced in Tynwald last week, he has been appointed for another year.

## Order of the Day

### 1. Health Care Professionals Bill 2014 – Third Reading approved

Mr Butt to move:

*That the Health Care Professionals Bill 2014 be read a third time and do pass.*

10 **The President:** We turn to Item 1, Hon. Members, the Health Care Professionals Bill 2014 for Third Reading.

I call on Mr Butt.

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

15 I am glad to be able to move the Third Reading of the Health Care Professionals Bill. I would like to thank Members for their contributions and questions during the previous readings and the clauses stages, and I hope those questions have been dealt with to their satisfaction.

The main purposes of the Bill are to prescribe the manner in which certain health care professionals are required to be registered and, most importantly, the aim of the Bill is to facilitate new arrangements for doctors' revalidation, by giving our Health Service the legal authority to act as a designated body in the same way health trusts in the United Kingdom are, so that we can appoint a responsible officer to report to the General Medical Council on the fitness to practise of every doctor on the Island, once every five years.

25 This Bill also updates and improves the legislation around the regulations on various health care professionals including doctors, nurses, midwives, chiropractors and osteopaths, and to bring the Island into line with the United Kingdom.

The consultation process prior to this Bill received almost unanimous support for the proposals.

It is not anticipated that any local regulations will be required to be made under this legislation as the intention is to maintain exact reciprocity with the United Kingdom, and their regulations will be used.

30 In relation to clause 5 which deals with the appointment of responsible officers to evaluate and report on the fitness to practise of doctors, the doctors' revalidation is to be done in accordance with the United Kingdom Responsible Officer's Regulations.

This, and the Bill overall, is to make sure that, going forward, the Island stays in exactly the same position as the United Kingdom in this essential area. We have to be able to attract doctors to come and work here, and they have to have the ability to move back into the United Kingdom knowing their qualifications and training are acceptable in both areas.

With regard to the appointment of a responsible officer for the Isle of Man, it is the intention of the Department that the Medical Director will take on this role.

40 In relation to new practices which may become accepted in the future, this Bill ensures that if there are any changes in the United Kingdom we will be able to adopt them immediately.

Madam President, I would like to thank officers from the Department, Colin Brew and Kate Usher, for their assistance to me during the course of this Bill.

45 Madam President, I beg to move the Third Reading of the Health Care Professionals Bill to be read and do pass.

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

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

50

**Mr Downie:** Yes, thank you, Madam President.

I would just like to reinforce again my support for the Bill. Without this Bill the whole of the delivery of health in the Isle of Man would, I think, be out of kilter with the United Kingdom. I think this legislation is very well intended to provide a level playing field and an easy to understand situation when doctors come into the Isle of Man or when they return to the United Kingdom.

55 Also I am pleased that it clearly identifies what is a 'health service professional'. As we are seeing new names, new terminology – perhaps in some instances not properly qualified and recognised – this Bill will actually provide a vehicle to make sure that there is no one here who is operating as a bogus doctor, a health service professional, or whatever you want to call them.

60 So I think that in supporting the Bill I wish the Department well. They have got a lot of issues to deal with in healthcare at the moment, and I think to keep the Isle of Man attractive to new medical people is vitally important.

I think this Bill will overcome some of the problems that would obviously have been there if we had been out of step with current medical thinking and medical practices in the UK.

65

**The President:** The mover to reply.

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

70 I thank my seconder for his support and to Mr Downie for his support. He is right in that... and as recent experience has shown, being an isolated community we can sometimes fall behind UK practices and this Bill does help us to ensure that we do stay level with them in these particular areas.

75 Of course, part of the Bill which I did not mention in the Third Reading: it does have penalties for people who actually are purporting to be health care professionals when they are not. So anybody who is a charlatan or a 'quack', shall we say, is caught up by this Bill as well – if they are not actually within the registered profession they can be dealt with.

80 The notion in the future that there may be other skills that are brought forward to become registered such as, say, homoeopathy or Chinese medicine etc, if that were ever to happen – which I think it is unlikely in homoeopathy – but if those things were ever to happen we would have a Bill here which will be able to accommodate those straightaway, and those people would then be registered as professionals, and then can be regulated in the way as other health care professionals.

So I thank Mr Downie for his support and Members overall, and beg to move, Madam President.

85 **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.

## 2. Terrorism and Other Crime (Financial Restrictions) Bill 2014 – Third Reading approved

Mr Coleman to move:

*That the Terrorism and Other Crime (Financial Restrictions) Bill 2014 be read a third time and do pass.*

**The President:** Item 2, Terrorism and Other Crime (Financial Restrictions) Bill 2014.  
I call on Mr Coleman to take the Third Reading.

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

90 Madam President, in moving the Third Reading of the Terrorism and Other Crime (Financial Restrictions) Bill, I would like to remind Hon. Members this Bill is promoted for three reasons.

Firstly, when the Order in Council applying the UK's Terrorist Asset Freezing Act 2010 was brought to Tynwald, the then Chief Minister gave a commitment that the matters contained within the Order in Council would be translated into Manx legislation after the General Election in 2011.

95 Secondly, to address some of the issues raised by the international community, most recently following the desk-based inspection by MONEYVAL.

The third reason behind this Bill is to draw all the measures designed to counter the financing of terrorism together in one Act with similar procedures and penalties.

100 In the event this Bill is passed and receives Royal Assent, the intention would be to then seek the removal of the Order in Council. The aim is to have two items of legislation dealing with terrorism rather than three, as is currently the case.

Madam President, during the clauses stage the long title of the Bill was amended in the Keys, to enable two new clauses to be inserted into the Bill, and was amended again in this Chamber to enable two further clauses to be inserted.

105 The purpose of the new clauses in the Keys was to correct a minor drafting error in the Criminal Justice, Police Powers and Other Amendments Bill relating to bail. The two new clauses in this Chamber: to enable an amendment to be made to section 94A(5) of the Summary Jurisdiction Act

110 1989, and for subsections (3) and (4) of section 10 of the Sexual Offences Act 1992 to be repealed with the effect of removing the last vestiges of legal prohibition on homosexual activity. Minor amendments were also made to clauses 72 and 73: in the case of clause 72 a proposed amendment to the Proceeds of Crime Act 2008 in subsection (1) was omitted, meaning section 140 of the Proceeds of Crime Act will remain unchanged.

I am grateful for Mr Downie for being willing to move the amendments in this Chamber.

115 Mr Butt wanted to be sure that there was adequate provision for a person to appeal against any restrictive measures set out in the Bill, and I consider the provisions in part 4 of the Bill relating to the supervision of the exercise of powers, and in division 2 of part 3 relating to civil penalties, covered that point adequately.

120 Madam President, no other issues were raised during the preceding stages of the Bill, and I beg to move that the Third Reading of the Terrorism and Other Crime (Financial Restrictions) Bill be approved.

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

125 **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.

### **3. Law Officers Bill 2014 – Second Reading adjourned**

The Acting Attorney General to move:

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

**The President:** The Law Officers Bill 2014. I call on the learned Acting Attorney General to move the Second Reading.

130 **The Acting Attorney General:** Madam President, at the First Reading I explained that this Bill gave effect to one of the recommendations contained in a Report of the working of the Attorney General's Chambers by Stephen Wooler CB, formerly Her Majesty's Chief Inspector of the Crown Prosecution Service. Members may recall that the executive summary of that Report was supplied to them in December 2012.

135 A follow-up visit to Chambers by Mr Wooler was then undertaken in April/May 2013 to enable him to report on the implementation of his recommendations, and the report of that 'stock take' report was circulated to Members in July 2013.

To assist Hon. Members since the First Reading of the Bill I arranged for copies of those documents to be again sent to Members of Council, and I hope that was of assistance to you.

140 At the First Reading of the Bill and since, a request was made by certain Members of Council for the full report of Mr Wooler to be made available. I advised Hon. Members at the First Reading that I would make enquiries as to whether this full Report could be made available, or whether it remained confidential. I can advise Members that, since the First Reading, I did make enquiries and I can confirm today that the full report is still not available. It was prepared by Mr Wooler on a confidential basis and must remain so.

145 I can advise Hon. Members that a copy was, however, made available to me at the time of my appointment as Acting Attorney General, with the agreement of Mr Wooler, as a management tool. I can inform Members, and I can give them my assurance, that the Report contains the recommendations upon which this Bill is based.

150 I am therefore familiar with the content of the Report and can confirm to Hon. Members that it was written on a confidential basis and also, as I have said, as a management tool.

I have also said I have seen the Report and it contains all the salient matters relevant to what is foremost. Among the recommendations made in the Report, namely the appointment by the Crown of a second law officer, bringing the Island into line with the position in England, Scotland and Northern Ireland, and the Channel Islands, each of which has two law officers.

155 It is only that singular recommendation in Mr Wooler's Report that is of relevance to this Bill, and the executive summary which has been provided to Hon. Members explains why this step is being required, or is being recommended to you.

The Bill achieves the necessary legislative changes to enable the Crown to appoint a second Crown Officer for the Island, principally by two amendments to existing legislation. One of these amendments, set out in clause 4, operates only in respect of the composition of the legislature, while the other in clause 3 provides that for other purposes reference to the Attorney General will in future include the Solicitor General, thereby permitting both to exercise the full range of the Attorney's functions.

160 Madam President, as you and Hon. Members of Council are aware, the progress of the Law Officers Bill 2014 has been delayed for reasons outwith my control. If the Second Reading and clauses are completed today I would be minded to seek a suspension of Standing Orders to enable the Third Reading to be taken today also.

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

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

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

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

175 Madam President, I have *Hansard* of 11th March and my hon. colleague in Council, Mr Downie, even brought up that we had had the executive summary but we had not seen the full Report.

The Wooler Report was commissioned by the Chief Minister to look into the workings of the Attorney General's Chambers.

180 We have just seen the West Midlands Quality Review Service Report, the first report which, again, was commissioned by the Chief Minister to look in at Noble's – and he said it would be published, 'warts and all'.

The Acting Attorney General has said he has seen the Report, it is being used as a management tool – and I know that there was one other Member here who has also seen the Report. If there are names, those could be redacted, but I feel that it is essential if we are discussing legislation that we see the full facts and the full Wooler Report before us.

185 I am absolutely positive, Madam President, in another place they would be asking for the full Wooler Report before they discuss any of the legislation. Therefore under Standing Order 3.7 subsection (3) I would like to adjourn the Second Reading of this Bill until Members of the Legislative Council have seen the full Wooler Report. If there are names there, those could be redacted – but I think it is essential that we see the full Report.

190 Therefore, Madam President, I would like to move to adjourn the Second Reading of the Law Officers Bill:

*'That this debate be adjourned until the full Wooler Report is available to Council Members'.*

**Mr Downie:** Madam President, following on from my colleague, I know this is unusual but I do wish to support the adjournment. I think if it is not resolved here, I feel that the way this Bill is being progressed will cause embarrassment in the other place. The whole purpose of creating this new post is due to recommendations within the Wooler Report, a Report which... We have been fair and honest in this Chamber, we have asked for further information, nobody has even got back to me

saying, 'We would be prepared to give you a confidential briefing of what is in the Report' – we have heard nothing, the communication really has been non-existent. And to say that we were circulated with a précis back in December 2012, well I do not think that is good enough.

I would urge Members of Council to support the adjournment because I think it is the right thing to do at the present time. I am quite prepared to put my time into having an update and to get a full understanding of some of the recommendations that Wooler has brought forward. But we are asked to vote on something here that we really do not have any knowledge of other than, 'It says in the Wooler Report that there needs to be another officer in the Attorney General's office'.

I would urge Members of Council to support that until we get some clarity.

**The President:** We now have a proposal for adjournment, Hon. Members, that has been proposed and seconded, so we are now into an adjournment debate.

The Hon. Member, Mr Turner.

**Mr Turner:** Yes, thank you, Madam President.

I was not sure at first whether to support the adjournment, but I think the Hon. Member who has moved the adjournment has made a very good case. We are often criticised for passing legislation without knowing the full details, and I think it is important that... certainly the case made by the hon. mover, with his analogy with the health services review is a good one.

I think in this time of openness, warts and all, then we should have sight of the full Report, so at least it can have consideration.

I fully support the principles that in matters of national security and other such issues you would not circulate such documentation, but this is a report into a particular branch of the establishment and therefore I think it – other than maybe causing somebody some embarrassment – this is about the accountability, the procedures. I think it is important, and the points made by the Hon. Member, Mr Braidwood, are valid.

So I will be supporting the adjournment of this item.

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

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

I can appreciate Members' desires to be open and to have all the information they require to make a decision – I can understand that and I agree with that principle – *and* with the principle that maybe this would have problems going through the other Chamber in the future.

I have to say that I was privileged to be a member, the Vice-Chairman, of the Civil Service Commission last year, where I actually did see the main Report. I can confirm that this is a working document which was a critique and examination of the practices of the prosecution service of the Attorney General's Chambers. The Report was a wide ranging report which was not just about this appointment of this officer. It was about lots of the practices within the Department, within the Chambers.

I really do feel that... one of the recommendations is that this Bill should be progressed with a new appointment. It is just one of the many matters which were discussed in that document, which does name names, does name practices, is critical in some areas, and is really a working document for the Chambers to actually use to address the problems which they were facing at the time. Similar to the West Midlands Review: in that, no names are named and no people are criticised personally about their behaviours.

**Mr Braidwood:** Subjective though. Names can be redacted.

**Mr Butt:** But the Wooler Report, I feel, I agree with the Attorney, is a working document for that Department to address their issues and get on with matters.



250 One of the ways they need to do that is by progressing this Bill to appoint an officer. I understand  
the principle that Members are saying, that we should have information, but to my mind I am  
assured from my reading of it and from the Attorney's, that... not *all* we need to know, but we do  
need to know that this Bill is required because of that Report and I can confirm that it is.

I do not think we need to adjourn, Madam President, to see the Report itself. The excerpt we had  
shows the need for this Bill and no more than that. The other details which cover lots of areas other  
255 than this, are really of no concern of us as far as I am concerned, Madam President.

**The President:** The Lord Bishop.

**The Lord Bishop:** Madam President, coming from the outside to a situation like this needs you to  
260 wonder, 'Which way should I vote?' But if I could be helped by the hon. mover: is the reason why we  
have been excluded from the full Report simply because of names? Is it because there are practices  
there of which the Wooler Report is critical – and I would have thought that was a fairly good reason  
for seeing it? Or are there issues of principle that are missing from the executive summary?

In other words, what is it that the full Report would produce that would make it difficult for us to  
265 see it?

Thank you, Madam President.

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

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

Again, like the Lord Bishop says, we are on the horns of a dilemma here, and maybe the Acting  
Attorney General can clarify. But in his defence he did circulate – or the Crown Office, or the Chief  
Secretary's Office – did circulate the original review and the stock take. So we have had an  
opportunity to look at the broad principles, and unless there is something dramatic in the Report  
275 that we should be made aware of, that we are not being made aware of, then I think I would go  
along with Mr Butt on this occasion, but rely on the Acting Attorney General for some further clarity.

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

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

I, too, am inclined to agree with Mr Crowe and Mr Butt on this particular issue. This Bill simply is  
bringing in an additional resource into the Attorney General's Chambers – it is doing nothing else  
other than that. The first recommendation in the executive summary is simply that a second officer  
needs to be appointed because there is a resource deficit in the Chambers. That is really all we are  
285 being asked to determine here.

If this Bill contained other issues, far more reaching than the fact that we might need a second  
resource to be able to try and implement legislation to make the other recommendations come into  
force, then I will not be voting for the amendment.

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

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

Notwithstanding the remarks of my colleagues who have just spoken in support of Mr Butt and  
the mover, surely there is a principle to be upheld and acknowledged here, and it is the duty of  
295 Council to view such a report. If it is a case of names which should not be revealed, they could be (**A  
Member:** Redacted.) redacted, and I think we would be almost using a blind eye here and just  
almost nodding it through.

I think there is a principle to be acknowledged here and I would support my hon. friend, Mr  
Braidwood.

300

**The President:** Do you wish to speak to the adjournment?

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

305 If I could thank Hon. Members for their comments and their queries and, if I may, I will not deal with each one individually but go straight to the crux of the matter, which is simply the confidential nature of this Report and my understanding of the concerns which certain Members of Council have as to why matters could not simply be redacted for a report which would then enable you to see it all.

310 I think you have got to look at this in the context of what Chambers is: it is a very small organisation, and in round figures it does not reach 40 people. It is divided into four divisions which effectively will give *my* role a division, a civil division, the prosecutions division and then the legislative drafting team.

315 The Report and its remit was to examine the factors affecting the manner in which HM Attorney General's Chambers discharges its responsibilities, with particular reference to its structures, ethos and working practices, and to make recommendations for strengthening its cohesiveness and improving its performance. As I have advised Hon. Members it is essentially a management tool.

There is no way, in my view, that simply by crossing out or blanking out names, you could fail to identify those areas of Chambers which would be criticised in any shape or form in this Report – it is too small a place, so that will not work, with the greatest of respect to Hon. Members.

320 I could then suggest to you that I could say that the Report could be redacted in part, so take out for example all areas that dealt with prosecutions, because that is not necessarily a matter which needs to be considered in the context of the second Crown Officer. That is not going to give you much of a report to look at. Similarly for the civil division. That is why the executive summary was then prepared by Mr Wooler, really, to explain to the reader in an executive way – so not as a management tool – the basis upon which he made his many recommendations. As you have seen, 325 Hon. Members, a stock take report was then circulated giving you an update as to where we were going, and where we had reached with reference to implementing his recommendations.

330 You will have noted, Hon. Members, that out of those recommendations there will be certain matters which have still got to come back to the Legislature, because legislative changes are going to be required to deal with recommendations with reference to the change of the Director of Prosecutions' role.

This is the start of the journey and, with the greatest respect, I do not actually see how I can go about creating a redacted form that is going to be in any way, first, legible and secondly, of any value to Hon. Members.

335 I have given Hon. Members my assurance that I have read it, it is personal by nature, it will take nobody a moment to identify who it might be critical of. That is why it is a confidential report, as a management tool, to enable me in my appointment to take what steps are necessary to address concerns which were identified. But if it is the view of this Council, I can take it back and redact it, and then, Madam President, Hon. Members can see what is left – but it is not going to be worth 340 reading, I can assure Hon. Members of that.

You have the open executive summary which, as I have said with reference to this matter, clearly identifies his recommendation of a need for a second Crown Officer, identifies his recommendation, and it is upon that recommendation and the identification of that need that this Bill has been brought forward. That is all that I can say Madam President.

345 Thank you.

**The President:** Mover of the adjournment to reply.

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

350 The Acting Attorney General said this is the start of the journey and there will be more things brought back to us for legislation. Madam President, we have had other reports which have been critical of people and have been circulated under confidential cover.

To me it is a matter of principle: if we are looking at legislation we have to discuss all the full facts. I am sorry, this is not the way forward as far as I am concerned in Legislative Council to have an executive summary. As the Acting Attorney General said, there was follow-up report in April/May of 2013, which was his stock take report. I feel that if the Acting Attorney General says if all the names were redacted it would not be worth circulating, then the full Report in its whole entirety should be circulated under confidential cover so all Members can see the full Report.

We have had this before in other cases, we have had reports of other departments, when we have had scrutiny committees who have actually criticised people – it is under ‘confidential’.

Madam President, I hope that Members will reconsider and vote for the adjournment until we see the full Report.

**The President:** The motion before Council, Hon. Members, is that the debate on the Second Reading of this Bill be adjourned until the full Wooler Report is available to Council Members.

Those in favour, please say aye; against, no. The ayes have it.

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

**FOR**

Mr Braidwood  
Mr Corkish  
Mr Downie  
Mr Turner

**AGAINST**

The Lord Bishop  
Mr Butt  
Mr Coleman  
Mr Crowe

370

**The President:** We have 4 votes for, Hon. Members, and 4 votes against. (**A Member:** Mr Wild.)

It is most unusual for the presiding officer to have to cast a vote, but I shall have to do so Hon. Members, and I do it in favour of the adjournment in order that all Members can be satisfied that the justification for this new role is convincing.

In that case, Hon. Members, the deliberation of the Bill is adjourned.

375

#### **4. European Union (Amendment) Bill 2014 – First Reading approved**

The Acting Attorney General to move:

**The President:** We turn now to Item 4 on our Order Paper, the European Union (Amendment) Bill 2014.

I call on Her Majesty’s Acting Attorney General to take the First Reading.

**The Acting Attorney General:** Madam President, thank you.

380

I am sure that even among the small number of us here in this Chamber, there will be quite a wide range of opinions about the merits or otherwise of the European Union and its influence on the Isle of Man. However, certain things are indisputable. The EU exists; the Island has a formal relationship with the EU through Protocol 3 to the UK’s Act of Accession; and the Island is subject to certain obligations under international law by virtue of Protocol 3.

385

This Bill accepts those facts and recognises changes to the body that the Island has a relationship with through Protocol 3. Primarily it adds Croatia to the list of nations forming the EU by adding the accession treaty of that country to the defined list of EU treaties set out in the European Communities (Isle of Man) Act 1973. It also adds the Irish protocol to the list of treaties: the Irish protocol, basically, just clarifies certain issues that arose out of the Treaty of Lisbon, but it does not change the relationship between the EU and its member states.

390

395 Because the institutions of the European Union are essentially matters for the EU, the Council of Ministers discussed whether primary legislation should be required every time a new country enters the EU. Bills, as Members appreciate, take a long time to draft, consult upon and pass, and the Government felt these Bills do not serve to add value to our statute books.

It is therefore proposed that Council of Ministers can in future bring an order to Tynwald seeking its approval to update the list of EU treaties instead of using primary legislation. However, it does not change our Protocol 3 relationship with the EU, or other practical arrangements that are in place.

400 I should stress for the avoidance of doubt that the power to make such an order is strictly limited, and any amendments to the 1973 Act involving a change to Protocol 3 would still involve a new Act of Tynwald.

Members will note that the Protocol itself is not included in the list of EU treaties, though it is referred to separately in the 1973 Act.

405 Madam President, I can also assure Council that any fundamental change in the Island's relationship with the European Union would be subject to proper and full consultation. As Hon. Members will know, the 1973 Act includes a power to voluntarily apply EU legislation as part of the law of the Island with any appropriate modifications, essentially using the EU legislation as a template for creating Manx legislation.

410 This power in section 2A of the Act is mostly used for the application of EU sanctions but it is also occasionally used for other matters. Members will have noticed this in respect of the recent updates to the Island's intellectual property legislation, where it is seen as being beneficial to bring our legislation clearly into line with that of the UK and the EU.

415 These orders must be laid at one sitting of Tynwald in draft, and again a following sitting where they are moved for approval before they can be made. The Council of Ministers felt that this was an unnecessarily bureaucratic provision and it needs the production of far more paper than is necessary as the order has to be produced on two successive months.

It is proposed that, in future, this will go down the normal affirmative route of requiring the approval of Tynwald for the order, as made, to have effect.

420 Finally, the Bill provides some legal clarification where provisions of an EU instrument are applied to the Island as they are amended from time to time – a list of persons who are subject to EU sanctions, for example.

Madam President, I beg to move that the European Union (Amendment) Bill be read for the first time.

425

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

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

430 **Mr Turner:** Thank you, Madam President.

The learned Attorney pointed out, of course, that the EU exists – of course, it certainly does. I think it is interesting that we are talking about unnecessary bureaucracy and the EU in the same breath. But, nevertheless, I welcome anything that is going to reduce bureaucracy.

435 I think what frustrates a lot of people on the Isle of Man, is the fact that the Isle of Man has to comply with so many of the arduous bits of EU legislation but then does not comply with other bits of it. I think that is something that does irritate people.

I would like to know what would happen as a general comment if the United Kingdom decided, after their referendum, to leave the European Union: what would then happen with the Isle of Man? Also, we talk about best practice in applying legislation voluntarily, and only this week the European Union have actually passed a very good piece of legislation – and that is to abolish roaming fees. But surprise, surprise it is not going to apply to the Isle of Man: instead, the Communications Commission released a document telling people how to avoid roaming fees – by turning off your phone.

445 So we seem to have... We apply legislation when it suits, and when there is something that is actually going to benefit the normal man in the street then we are not interested in applying it. I think that is what really irritates people: we are not in, we are not out, we are sort of hovering around in between.

450 Now we understand all the history to do with Protocol 3 and some of the benefits *that* brings, but it is just more of a comment really that I would hope that in doing so we could start maybe voluntarily applying some of the legislation that actually helps the average member of the public over here.

455 So it is more of a comment, really, I am not a fan of the European Union as a political union but as a trading organisation then clearly it has many merits in terms of business. So, again, just to repeat, the other question is what would happen to our position when the UK decides to leave the European Union?

Thank you, Madam President.

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

460 **Mr Downie:** Thank you, Madam President.

I think basically we have to support the principles of the Bill because there has been another member country, Croatia, which has been admitted, and all we are actually doing is bringing our legislation up to date. I would not have a problem if that could be dealt with by a simple order in Tynwald: 'Here is a new country coming in'.

465 I think we still have to have provisions in our system. I would be a bit more concerned if a country like Turkey was given access – and I know they are currently knocking on the door – and how would we actually cope with that.

470 We were told only a few weeks ago when we were progressing our employment legislation, that certain countries who had not fully signed up to the European Union... people who did not have a right to work in Britain. Yet we had those nationals here on work permits.

So it makes you wonder how all this actually comes about

475 My own view is that the United Kingdom at the present time, I think, is in a mess because they have not got a clue who is there and who is working in the country. As we all know, we read on a daily basis, there is a black economy in certain parts of the United Kingdom where people are not making a proper contribution to their national insurance or health, or anything else, and certain people can claim benefits and other people cannot claim benefits. So it is an issue that we have got to keep an eye on.

480 I am all in favour of trying to make it as simple as possible, but as my hon. colleague, Mr Turner, said, as soon as you mention the European Union it becomes a very complex monster that you have to be mindful of all the time. When you actually analyse Protocol 3 we really do not get a lot out of it these days, and there could be a very good argument to say that we should be looking at another approach.

485 I doubt whether our exports of agricultural products mean very much compared with what they did a few years ago, and as far as customs barriers and so on are concerned most people who manufacture, manufacture for big international companies. We are no different than having aircraft components manufactured in Turkey – who are not members. In fact Third World countries manufacture now for companies within the EU and have no problem importing and exporting and so on – that is the way that the animal has been developed.

490 It is interesting, we are dealing with the protocol on the concerns of the Irish people on the Treaty of Lisbon. Like the Irish, they were very good at getting carve-outs; Malta is another country that has had carve-outs – particularly with VAT, and other things related to the European Union

495 I honestly think that Britain – and the Isle of Man to some extent – missed a trick, because we should have been in there at an early stage looking to give us a different edge. Having just spoken to a friend of mine who has come back from Tenerife on holiday, they are part of the European Union but they do not have any air passenger duties to pay, it is duty free – so from a holiday point of view

they are extremely competitive and they have developed their own little niche in all this. Perhaps it was helpful that the Spanish were some of the main movers when all these things were taking place.

500 But to get back to the Bill, I think... I do not have a problem supporting it, but I just think we need to be very careful about not advising Tynwald of certain changes that are coming along, and as a new country comes in I think that should be dealt with by an order. But you go through some of these instruments and some of the new legislation that is coming out: we really need to be aware of it.

505 Finally, what annoys me more than anything else, when the EU rule does not apply to the Isle of Man, we apply it automatically, (**Mr Turner:** When it suits.) when it suits. As Mr Turner said about the roaming charges, that could have been a good thing for business in the Isle of Man, it could have helped us, and here we are disadvantaged right away.

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

510 **Mr Butt:** Thank you, Madam President.

This should not really be a debate about the European Union... but this Bill is a pragmatic, sensible piece of legislation to make things work more smoothly with our legislation. I think it is a sensible step forward.

515 On the issue of the European Union, I will support the European Union a little bit. Mr Turner says it irritates some people: I think it irritates Mr Turner, I think that is the point I am making. (*Laughter*)

**Mr Turner:** It does indeed!

520 **Mr Butt:** I have just had the privilege of spending three days in an enlightened European country which has not had a carve-out, and I do sometimes think having been to places like – Holland it is – if we were to embrace that sort of culture and those ethics, and their ethos, we would be a happier nation.

Thank you, Madam President.

525 **Mr Turner:** You do not have to be in it to do that.

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

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

530 Madam President, following on from what my hon. colleague, Mr Butt, said, it is a pragmatic Bill; however, I do take on board the comments made by Mr Turner and Mr Downie. The Protocol 3 Act of Accession 1973 has suited us quite well in the past: it is slightly different now, to what we actually get out of it. As Mr Downie said, if you go to the Canary Isles and see the wonderful roads funded by the EU, and they seem to be separatists in that they still have the duty free, they still have special  
535 concessions on VAT.

Yes, we have a special concession with the UK through our Customs and Excise agreement with the 5%, but we have had to pay for that some way. I do feel that other countries play the game, the UK do not –

540 **Mr Turner:** Britain is weak!

**Mr Braidwood:** – therefore the Isle of Man does not. But we have to be pragmatic and go along with the Bill: the other little bits, unfortunately, do not seem to come our way.

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

**Mr Crowe:** I think I am happy to support the Bill, but on the wider issue of the European Union I think the Island's prosperity depends to a large extent on access to Europe. I mean, if you think of the manufacturing sector which provides hundreds of jobs – thousands of jobs, in fact... open access to Europe through the common VAT areas as well. We create hundreds of thousands of jobs which depend on our access to Europe, and no customs barriers into Europe.

So I think, whilst there are disadvantages – and I can understand Mr Turner's point of view and Mr Downie's point of view, there are bad things about this – but I think the open access is to our benefit at the minute. I would not like to see any change and unsettle the business community into thinking we might even think of some changes to this. We cannot tinker at the edges, so we have to go along with the directives that we have to adopt.

So we are where we are, shall we say.

Thank you, Madam President.

**The President:** The learned Acting Attorney General to reply.

**The Acting Attorney General:** Yes, thank you, Madam President.

If I could, firstly, thank Mr Braidwood very much for kindly seconding the First Reading of the Bill and for his comments and support.

If I could collectively, again, refer to Hon. Members' very kind contributions, whether by way of support or comment.

If I could just deal with the comments, really, of the Hon. Mr Turner and Mr Downie: I fully appreciate them voicing the comments which they have expressed today, which perhaps voices no doubt the frustration of many people, many of the public, with reference to European Union legislation and the view that it is simply imposed upon us.

That is not the case: we do have the opportunity which this legislation is endeavouring to tidy up and help us with, where we can quickly bring matters towards you and more cost effectively bring orders before the legislation team in Tynwald and in this Hon. Chamber for review.

What would happen, and therefore by it for approval, and to go to Mr Downie's point there is no question of any other country being added to the list of members of the states of the European Union without it coming before Tynwald. All that this is effectively doing is saying that will not need primary legislation, it can simply come before Tynwald by way of order, so Tynwald will have the opportunity of considering that then.

Dealing with Mr Turner's query as to what would happen if the United Kingdom sought to leave the EU: if I could just remind Hon. Members that our relationship is based on the European Communities (Isle of Man) Act 1973, which Act made provision for:

'... the inclusion of the Isle of Man for certain purposes in the European Communities, consequent upon the enlargement thereof to include United Kingdom.'

Out of that came Protocol 3, of which we were all aware.

We have our own legislative relationship with the EU: if the United Kingdom were to come out, then of course it would be a matter for Tynwald to decide what it ought then to do, based upon the legislation that is currently in place and our own Protocol 3. I cannot therefore give you an answer as to what *would* happen, but I can tell you that it is a matter for Tynwald to determine.

If I could therefore, having made those comments then, move the First Reading of the European Union (Amendment) Bill 2014.

**The President:** The motion is that the European Union (Amendment) Bill 2014, be read a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes consideration of our Order Paper, Hon. Members.

I have been pondering to what extent the proposal to move this morning will hold up the Bill and whether or not there would have been any virtue in us seeing if that Report was available today to

reconvene. However, looking at the timetable I think it would make not a lot of difference, given that if Members do receive the Bill then they have time to consider it and possibly take two readings at the next sitting, in which case it will hold it up for one week effectively, between the Council and the other place.

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**The Lord Bishop:** Madam President, if we have copies of that, what position does that leave the other place? Do they get copies or do they not? Would they have to go through the same process?

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**Mr Downie:** Not got there yet.

**The Lord Bishop:** No, if it did.

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**The President:** That may well lie with the Attorney General's Chambers or the Council of Ministers in whatever they decide to do.

That concludes our business, Hon. Members.

*The Council adjourned at 11.26 a.m.*