

REPORT OF PROCEEDINGS OF THE HOUSE OF KEYS (LEGISLATION AND OTHER MATTERS)

**Douglas, Tuesday, 24th June 2003
at 10.00 a.m.**

Present:

The Speaker (the Hon. J A Brown) (Castletown); Mr D M Anderson (Glenfaba); Hon. A R Bell and Mrs A V Craine (Ramsey); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon. S C Rodan (Garff); Mr P Karran, Hon. R K Corkill and Mr A J Earnshaw (Onchan); Mr G M Quayle (Middle); Mr J R Houghton and Mr R W Henderson (Douglas North); Hon. D C Cretney and Mr A C Duggan (Douglas South); Hon. R P Braidwood and Mrs B J Cannell (Douglas East); Hon. A F Downie and Hon. J P Shimmin (Douglas West); Capt. A C Douglas (Malew and Santon); Hon. J Rimington, Mr Q B Gill and Mr P A Gawne (Rushen); with Mr M Cornwell-Kelly, Secretary of the House.

The Chaplain took the prayers.

Items Considered

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| Litter (Amendment) Bill – Consideration of Council Amendments – Report from Deputation to the Conference | K640 |
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Leave of Absence Granted

The Speaker: Hon. members, just before we proceed with the proceedings of the House, we have leave of absence, as hon. members know, for the hon. member, Mr Quine, who, I understand, has now returned home and is doing very well. I am sure we all wish him a speedy recovery.

Several Members: Hear, hear.

Questions were taken at this point and concluded at 10.56 a.m. They are published separately.

Procedural

The Speaker: Now, before we move on to the next item on the order paper, there are a number of matters I wish to bring to members' attention and also, with the approval of the House, I would like to move a number of the issues forward.

Hon. members, item 6, Bills for Consideration of Council Amendments, in normal procedure would have been straight after the questions and I apologise that that has been shown on the order paper in the position it is. I would propose that we take that in the normal sequence of events.

I would also advise hon. members regarding item 5.1, Bills for Third Reading: as hon. members will be aware, the Local Government (Miscellaneous Provisions) Bill has, in fact, passed through the House and therefore there is no further action to be taken on that matter at this stage.

I shall invite the hon. member for Ramsey, Mr Bell, after we have dealt with the Bill for Consideration of Council Amendments, to seek approval to deal with that matter earlier.

So if hon. members are happy, I would propose that Mr Earnshaw be asked to move the report in relation to the Litter (Amendment) Bill. Agreed?

Members: Agreed.

Litter (Amendment) Bill – Consideration of Council Amendments – Report from Deputation to the Conference

The Speaker: Hon. member Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker. I am aware that there has been something tabled this morning about this but some members may not have had an opportunity to read this item, so I will just go through the notes that I have prepared.

Hon. members will recall that due to a disagreement between the House of Keys and Legislative Council over a key word in this Bill, it was decided that a conference should be arranged to resolve the matter.

The members nominated to represent the House of Keys were the hon. member for Peel, Mrs Hannan, the Chief Minister, Mr Corkill and myself and the aforementioned conference took place under the chairmanship of His Excellency the Lieutenant-Governor on 30th May this year.

To remind members of the history of this Bill: a clause inserted into the Bill contained the word 'employ', which was subsequently amended to 'designate', after completion of its examination in this chamber.

During deliberations in Council, the view was taken that the word 'appoint' should be used in preference to 'designate'. The difference of opinion, therefore, Mr Speaker, related to the words 'designate' and 'appoint'.

In spite of the recommendation of Council, for a number of reasons and following legal opinion, members decided the word 'appoint' had certain shortcomings and for this reason the conference took place.

At the conference, a revised amendment was placed before those present by Her Majesty's Attorney-General which, after due consideration, met with the satisfaction of all those present.

The amendment which the conference recommends be adopted is that printed in today's order paper at page 4 and it is also on the back of the paper which has been tabled today, Mr Speaker, and therefore I beg to move that this, as written, forms part of the Bill.

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: I beg to second, Vainstyr Loayreyder, and reserve my remarks.

The Speaker: Hon. members, we agree to the report of the delegation of the House of Keys to the conference with a delegation from the Council which was held on 30th May 2003. Is that agreed? (**Members:** Agreed.)

Right, hon. member for Onchan, Mr Earnshaw, you wish to move the amendment, sir.

Mr Earnshaw: Yes, would you like me to read the amendment, Mr Speaker?

The Speaker: Yes, please.

Mr Earnshaw: The amendment to the Litter (Amendment) Bill 2003, hon. members, is:

Clause 2 (inserted by the Keys) –

For the new section 5C substitute:

Litter officers

5C. (1) Every local authority shall designate one or more

persons for the purpose of exercising –

- (a) *its functions under section 2 (enforcement), and*
- (b) *any other functions of the authority under this Act.*
- (2) *In relation to proceedings for an offence under this Act, a person designated under subsection (1) shall be deemed to be an officer of the local authority for the purpose of section 53 (appearance by local authorities) of the Local Government Act 1985¹.*

¹ 1985 c24

I beg to move.

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder. I beg to second, sir.

The Speaker: Hon. members, the motion before the House is that the amendment to the Litter (Amendment) Bill 2003 as agreed after the conference with the Legislative Council be included in the Bill. All those in favour say aye; against, no. The ayes have it. The ayes have it. Thank you, hon. member.

**Fireworks Bill –
Statement by Mr Downie –
Leave Granted to Postpone Consideration
of Council Amendments to Next Session**

The Speaker: Now, then, hon. members, if we can move on to item 2 of ‘Bills for Consideration of Council Amendments’ and I call on the hon. member for Douglas West, Mr Downie, to make a statement.

Mr Downie: Yes, thank you, Mr Speaker, hon. members. Hon. members will be aware that there have been a number of amendments moved to the Fireworks Bill in another place. Some of them are fairly complex and complicated, in particular the new schedule, and before raising the matter in the House, I thought it would be beneficial to have an opportunity to discuss the issues with the home affairs department, particularly the police and the fire services, just to make absolutely certain that the introduction of this legislation would not bring about a situation where it was very, very difficult for them to operate.

So with your leave, hon. members, I would really seek your consent to be able to take this matter away to progress it with the relevant government departments and then return to the House in October, when we can then possibly have something that we can discuss at a conference with the other place.

So with your leave, Mr Speaker, I beg to move.

The Speaker: Is that agreed, hon. members?
(**Members:** Agreed.) Thank you.

**Companies, Etc (Amendment) Bill –
Leave Granted to Bring Forward –
Third Reading Approved**

The Speaker: Now, then, hon. members, if we can move on to the next item, the hon. member for Ramsey, Mr Bell, wishes to deal with item 5.2 Companies, Etc (Amendment) Bill. At this stage, the hon. member wishes to make a point.

Mr Bell: Thank you, Mr Speaker. I would just like to ask the indulgence of this hon. House to bring forward item 5.2. Bearing in mind that today is only a half-day sitting and a number of items which appear before this particular issue are likely to generate a certain amount of debate, it may well be that this item will not be reached today and therefore the third reading will not take place until the autumn.

I know the Bill will go no further after today because of the summer recess but we are under a very, very tight timetable, Mr Speaker, to get this Bill through and achieve Royal Assent before the end of the year, in particular dealing with one company which wishes to restructure its business on the Island, and we are anxious to send out a positive message to that company of support and to try our very best to meet the timetable that is required.

So I would ask hon. members, please, if they would indulge me on this one and allow us to bring it forward so that we can get the third reading out of the way to enable us to meet that timetable.

Mr Cretney: I beg to second, Mr Speaker.

The Speaker: Hon. members, are you content to move this item forward at this stage? Is that agreed?
(**Members:** Agreed.) Thank you.

So I invite the hon. member for Ramsey, Mr Bell to take the third reading of the Companies, Etc (Amendment) Bill. Hon. member.

Mr Bell: Thank you, Mr Speaker. Can I thank hon. members for their support on this one.

As I explained at the second reading of the Companies (Amendment) Bill, the purpose of the Bill is to make urgently required amendments to the Companies Act of 1931–93 and other related legislation.

The Bill also makes a number of other minor amendments. Many of the changes are the result of representations from the private sector; others adopt internationally accepted standards of best practice in corporate governments.

The Bill has generally been welcomed by the private sector, with whom the Financial Supervision Commission has extensively consulted over a two year period.

One of the key features of the Bill is the change in the law relating to the issue of bearer shares; an Isle of Man company would no longer be permitted to issue share warrants to bearers.

However, a holder of an existing warrant will still be able to exercise the rights attaching to that warrant by registering as a shareholder.

A number of the changes relate to the efficient operators of the Companies Registry, for example requiring foreign companies to submit an annual return and prescribe forms to facilitate on-line company searches and company incorporations.

Other significant changes are: a public company which is listed on the stock exchange outside the Island will be able to file in the Isle of Man their prospectus.

The procedure for dissolving a solvent company is streamlined; it is anticipated that the effect will be to relieve corporate service providers of the cost of ensuring the companies for which they are responsible are in good order, and properly dissolved, where a client has refused to pay. This will reduce the incidents of such companies falling into default and being struck off the register.

The Bill introduces a power for Treasury to make regulations to define the particular activities or circumstances that will require a foreign company to register in the Isle of Man.

A large part of the Bill relates to the Limited Liability Companies Act 1996; the changes are to make that Act stand alone so that it will no longer be necessary to refer to the Companies Act 1931-93 as well as the Limited Liability Companies Act 1996 to establish the law to limited liability companies – in other words, this is a consolidation.

The Bill introduces a power for the Financial Supervision Commission to make regulations to attempt any class of limited partnership from the requirement to register certain particulars.

The Bill removes the restrictions on the use of the Companies Transfer of Domicile Act 1998 so that any company can apply to transfer into or out of the Island. Again, this amendment is at the request of the CSP industry.

Mr Speaker, a number of questions arose at the clauses stage and I think it might be helpful if I expand on the responses I gave to the House.

In relation to clauses 17 and 18 of the Bill, clause 17 of the Bill substitutes a new section for section 11, and clause 18 inserts new sections 11(a), (b), (c) and (d) to the Limited Liability Companies Act 1996. Those changes mirror similar provisions relating to companies under the Companies Act 1931-93.

The hon. member for Onchan, Mr Karran, said he was concerned about the period of 12 years referred to in sections 11, 11A and 11B of the Limited Liability Companies Act 1996. These sections allow an aggrieved person to apply retrospectively to the Financial Supervision Commission or the Court for an LLC that has been struck off the register or dissolved to be restored to the register.

This period is the same as that in the Companies Act, which has never given rise to any difficulties since it was introduced in 1931, and we believe that a period of 12 years is an acceptable period.

Questions also arose in respect of clause 20, which inserts a new section 52(a) in the Limited Liability Companies Act 1996.

The addition of a power for the Financial Supervision Commission to dispose of valueless documents relating to LLCs again mirrors the commission's power to dispose of valueless documents in relation to companies, which came into force over 40 years ago under the Companies Act 1961.

Documents relating to dissolved companies or dissolved LLCs may be disposed of after 12 years after the date of their dissolution, which coincides with the period allowed for application for a company to be restored to the register.

The Financial Supervision Commission advises me that, in common with every government department and statutory board, it has a statutory obligation to consult the Chief Registrar before it destroys any documents. The Chief Registrar is asked to identify any documents which must be preserved.

In relation to clause 20, the hon. member for Onchan also queried whether the power to dispose of valueless documents might hinder the investigation of the affairs of the company suspected of engaging in criminal activity. He suggested that to dispose of documents after only 12 years was too short a period. The courts are obliged under section 2(8)(iv)(a) of the Companies Act 1931 to accept copies of documents and have on a number of occasions accepted copies instead of the original documents. Any documents held electronically are therefore acceptable to the courts.

Turning now to Mr Karran's other query in relation to clause 18, which was reiterated by the hon. member for Ayre, Mr Quine, they were both concerned that the appeals procedure set out in section 11D of the Limited Liability Companies Act 1996 states that: 'No right of appeal shall lie under this section against any act or decision of the commission (a) in respect of which there is not any expressed provision in this Act in the nature of an appeal or review; or (b) that it is declared by this Act to be conclusive or final, or that it is embodied in any document declared by this Act to be conclusive evidence of any act decision, matter or thing.'

The purpose of setting out an appeals procedure is to fill the gap where currently no appeals procedure exists. I can assure hon. members that there are currently no provisions in the Companies Act of 1931-93 or in the Limited Liability Companies Act of 1996, where there is no right of appeal or where it states that

a particular decision of the Financial Supervision Commission shall be conclusive or final.

Finally, in relation to clause 25, the hon. member for Peel, Mrs Hannan asked whether a company name in the Manx language would be considered undesirable and refused. The commission currently issues guidance on the use of certain words in company and business names. A Manx name would fall within a category of words which are not in the English language. The commission's policy is to allow these words, provided they can be written in English script and the English translation of the word is not undesirable.

The Manx language in this instance is treated like any other non English language: the Companies Registry will and does accept Manx language names. As far as the Companies Registry can recall, the only Manx name that has ever been turned down in the last seven years is one that was offensive and would equally have been refused if the application had been made for that name in the English language.

The Bill has proven to be a non-controversial technical Bill, introducing urgently needed amendments to our companies legislation in advance of what I described at the clauses stage: a fundamental review of that legislation, which I have already started and which will hopefully be ready for consideration by this hon. House later next year.

Mr Speaker, I hope I have answered all the outstanding questions, once again thanking the members for indulgence in bringing this matter forward, and I beg to move the third reading of the Companies, Etc (Amendment) Bill 2003.

The Speaker: Hon. member for Douglas South, Mr Cretney.

Mr Cretney: I beg to second, Mr Speaker.

The Speaker: Hon. members, the motion before the House is that the Companies, Etc (Amendment) Bill be now read a third time. All those in favour say aye; against no. The ayes have it. The ayes have it.

**Boundaries of Constituencies –
A Bill to Amend the Representation of the
People Act 1995 –
Leave to Introduce Granted**

The Speaker: Hon. members, we move on to the next item on our order paper and I call on the hon. member for Middle, Mr Quayle – leave to introduce.

Mr Quayle: Thank you, Mr Speaker. The motion standing in my name at item 2 on the order paper is to seek approval from members that leave be given to introduce a Bill to amend the Representation of the People Act 1995 to make fresh provision in regard to the constituencies from which the members of the House of Keys are elected, to make provision for the definition and approval of their boundaries and for

connected matters. This long title leaves it open as to whether the Bill will prescribe 12 two-member constituencies or 24 single-seat constituencies or any other combination.

If leave to introduce is granted, it would be my intention to seek views from the members during the summer recess as to what members felt to be most appropriate and would allow work to be progressed by the legislative draftsman.

The Bill allows for the setting up of a boundary commission along the lines of section 11 of the 1995 Act, specifically to define the actual boundaries on the basis of the framework provided in the Bill and for the results to be adopted or altered by an order approved in Tynwald.

My manifesto for the 2001 general election included a commitment from me to the effect that constitutional reform was needed to give fairer representation to the voters of Middle. This was a view shared by the other candidates who also included it in their manifesto.

As at September 2002, there were 57,608 voters on the electoral roll, which gives an average of 2,400 for each of the 24 seats of the House of Keys.

Middle, having 3,396 voters, is currently 41.5 per cent above the average; Garff, with 3,195, is 33 per cent above the average – and so on and so forth.

The Butler report of the Commission on the Representation of the People Act 1980, looked in detail at the prospect of the various options of constituencies and, amongst other conclusions, decided to keep the deviation from the average number of voters per member within plus or minus 15 per cent.

The Boundary Review Committee of September 1994 referred to the 1980 report and agreed that the aim was for no greater a variance than plus or minus 15 per cent.

However, no changes to the boundaries have been made since 1986 and unless something is actually done in the near future, then we would face the next election in 2006 with the same boundaries that have existed for 20 years and with the large discrepancies that have arisen.

I have circulated for the benefit of members the position as at September 2002, which shows that 4 of the 15 constituencies have above 15 per cent of the average whilst 3 of them have more than 15 per cent below the average. These 7 constituencies are represented by 10 members and in my opinion it would be desirable to work towards equality of voting in terms of seats per constituency.

The present system certainly breaches the principle of 'one man one vote', with some voters having the opportunity to vote for three representatives, some for two and the remainder for only one. Whilst it is not desirable to change boundaries too often, it is not desirable to cling to existing boundaries until the inequalities become a source of grievance.

I feel that it is an appropriate time for this issue to be addressed and hope that members will grant leave for the Bill to be introduced.

I should at this stage make reference to the Bill being progressed by the hon. member for South Douglas, Mr Cretney. Having discussed the situation with him, he is content to allow my motion to be debated and I see no conflict with his Bill, as it particularly deals with a series of measures to encourage greater numbers of people to vote at general elections.

Equally, the Bill being progressed by the hon. member for Ayre, Mr Quine, has, as we know, had its long title changed by an amendment from the hon. member for Garff, Mr Rodan, and this has now gone off to a select committee to consider the election of 32 members of Tynwald. I feel that my Bill as envisaged would remedy some of the discrepancies that have occurred and for members who wish to preserve the House of Keys in its present form, albeit with changes to some of the boundaries to allow fairer representation, then I trust that they can support leave to introduce, particularly if we are to achieve progress in time for the 2006 general election.

In this regard, I became aware only yesterday that the Council of Ministers will at some stage in the near future be considering this matter and perhaps this Bill, if leave is granted for it to be introduced, it may be possible to work with the Council of Ministers in that regard.

Mr Speaker, I beg leave to move the motion standing in my name.

The Speaker: hon. member for Douglas West, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker. I know there is always a temptation to drift into a full debate at this stage but I would urge members to give the hon. member for Middle the right for leave to introduce.

We are aware that some of these have a habit of falling into the long grass and also, as the member has just indicated, that there are currently other initiatives which may be seen to overlap. What I would urge hon. members to do is to allow the member to have the consultation with other members and indeed a wider audience, but also what we would be achieving by giving him permission this morning, would be to allow him the opportunity of talking with the legislative draftsman in order to ensure that, if there are queries or directions, he can be given the powers to do that.

If we were not to grant it today then the member would be left somewhat high and dry and would possibly waste some of the time over the next three months, which could be put to useful purposes.

Having discussed it with the hon. mover, I wish to discuss further through the consultation on the reintroduction of the single transferable vote. I know that is something which the hon. member is aware of; I do think this has an opportunity to actually address the inequalities he has already discussed and circulated to members but also to maybe enhance some of the current position.

So, I would urge hon. members: it is a fairly easy one to support in order to allow the member to move forward.

The Speaker: Hon. member for Peel, Mrs Hannan.

Mrs Hannan: Thank you, Vainstyr Loayreyder. This is a particular difficult issue; we know that we have got other pieces of legislation being proposed or at least being progressed in various ways, so to bring this particular issue before the House in this way to make fresh provision in regard to constituencies is quite a complicated issue.

If I could just relate my experience: there was a boundary commission set up and they looked at various issues – not after this election and I am not sure why a boundary commission was not set up this time; I know there were other things going on, but I would have thought at some time the issue of looking at the election should have been done in an official way, but I do not think that has actually happened.

The concerns that have been expressed here were concerns that were expressed by the last boundary commission and they suggested on that occasion that there were just two constituencies that should be considered for change: Peel and Glenfaba. Peel has got more and Glenfaba has got less than this average.

However, can I say, the constituents in these areas do not like change and they were very happy with their Glenfaba constituency and their representation and they seem to be very happy with their Peel constituency and their representation, but it is very difficult.

There was a time before when the member for Douglas West, Mr Kneale was proposing that there was going to be a change and I think the suggestion was that Peel and Glenfaba should combine and it should be named Glenfaba because that is the sheading. However, Peel was not at all happy to be losing its name and its representation.

So there is nothing easy with looking at these things. I can assure the member for Middle if he suggests that there should be an amalgamation, there will be public meetings not only in Glenfaba but also in Peel objecting to any change of loss of name or whatever. You could say 'Peel and Glenfaba'; Glenfaba would be then upset because they come after Peel, and vice versa, so there are these issues.

Another thing which concerns me is that what we are saying is that if there are development and more people living in the countryside there must be more representation there – you could say that is what democracy is all about.

However, this depends on what you see is being led; we have areas which are zoned for development and because we are getting more building there we then want more representation, but in actual fact what you are finding is the countryside is being destroyed. We are saying in here that it is one of the major attractions of the Isle of Man is our countryside.

You have only got to look in my friend and colleague's constituency in Middle to see the extremely bad planning that has taken place in Glen Vine. I fought against this as the representative of the people about the development that is going on on the outskirts of Peel – extremely bad planning. I have been fighting all the time for better planning in this area but unless we can involve other people in this we are not going to succeed. What it means is that my constituency should get more representation because we have got this awful planning in the same way as Middle has increased in its size over the last couple of House of Keys lifetimes.

I agree with the comment that has been made by the member for West Douglas that we should have equal representation and therefore I believe the single transferable vote is an absolute must. I think this old colonial attitude of two and three votes in different areas because there are two or three representatives, is something which flies totally against democracy.

That is something that we actually talk about in this place, and in organisations that we actually belong to, as being one of the principal things: we are democratic. We have only been democratic for two lifetimes of the House of Keys – from 1986-96 – and since then we have gone back to this – depending on where you are – how many votes you have got. It was a bad decision for the House of Keys and I think it is one of the worst decisions that has been taken in this House since I became a member of it, in some almost 17 years.

I have a problem with the motion that is on the paper because I think it is open and it allows the member to come back with various proposals within the legislation. We are looking at the definition of 'approval of boundaries and for the connective purposes'. I think, unless the member consults with all the people that are going to be affected by his proposals and . . . Under the proposals, as he has put it in his moving address, we are looking at Douglas East, Douglas West, Garff, Glenfaba, Middle, Peel and Ramsey.

Can I just say: Ramsey is over the average as proposed by the member moving this. In actual fact, that was because part of Lezayre was actually taken into Ramsey not very long ago and therefore Ayre is reduced to a certain extent – not the 15 per cent quoted by the member – but that is because the area that was developed was then moved with those people into Ramsey to give those people within more of an urbanisation of that particular parish . . . to move it into the town so that it got the services that were then required.

So this is a complicated issue; people do not like change and I would suggest that in some of the areas that we could be looking at it is the equalisation of voting as opposed to equalisation of constituencies. I think that is the area that we should be looking at.

I hope that the member, should he get his leave to introduce, taking into account that the member for Ayre and the member for Douglas South also have proposals being considered and a select committee

sitting, which could look at this particular issue . . . but I leave that for other members. Thank you, Vainstyr Loayreyder.

The Speaker: Hon. member for Onchan, Mr Corkill.

Mr Corkill: Thank you, Mr Speaker. I congratulate the hon. member for Middle for bringing this leave to introduce to the agenda today because it is obviously something that, as a new member to this House, who has been recently – or not so recently now – been elected for Middle, he has seen as the iniquitous situation, where the numbers game has changed over time. So I would congratulate him for raising it publicly and putting it on the agenda today. I certainly will be supporting his leave to introduce legislation in this area.

However, as I have expressed on occasions before, sometimes Bills like this can become coat hangers for numerous amendments. I wish the hon. member well and in fact when all the amendments arrive and cling to this particular coat hanger, I hope that it does not fall off the rack and end up in a heap on the floor. These sorts of things do have a history of that type of situation.

Nonetheless, times do move on, the Island has changed, populations have shifted or increased in certain areas more than other areas and I think that it is only right that the democratic process should take note of that and be reviewed from time to time, in a calm progressive fashion – not revolution but evolution and that is a term that we often use in this House.

Can I say that the boundaries of the constituencies for Keys and Board of Education elections were last fixed for the 1986 Keys election in response to recommendations by the Butler report, the Commission on the Representation of the People Act and the mover has made reference to this Butler report. That reported to Tynwald in 1980. The commission, in making its recommendations, adopted the guidelines that it should give consideration to natural and traditional boundaries – and I think we heard some of that traditional boundary element coming from the hon. member for Peel just now.

They gave consideration to natural and traditional boundaries and 'that it should aim to create constituencies with no greater a variance from the average number of voters per member of the House of Keys plus or minus 15 per cent.' So that commission went to work with those terms of reference, effectively: natural and/or traditional boundaries and this plus or minus 15 per cent.

If you look at those criteria today, the hon. mover of this motion is quite right: some of the constituencies are way outside of those criteria.

In a minute, I would just like to come to the point that the hon. member for Peel raised about why the revision of boundaries has not kicked off for some years; there is a reason behind that.

The same guidelines as I have just expressed were used when the Boundary Review Committee, chaired

by His Honour Deemster Callow, examined constituency boundaries in 1994 and this committee submitted its report to Tynwald in September of that year. The report was only received by Tynwald – and we know what that means – and no action was taken on its recommendations.

In my briefing notes there were four recommendations. The first recommendation was that the polling district on the quay in Douglas – S2 it is known as – be removed from South Douglas and included into East Douglas. Another conclusion or recommendation was that the polling district MD3, that is South Braddan, be removed from Middle and be included in the constituency presently known as Malew and Santon, and that the constituency known as Malew and Santon should be renamed. So in that particular recommendation, the commission itself was crossing over these traditional boundaries and trying to rearrange things.

The third recommendation was that the polling district South Lonan should be removed from Garff and be included with Onchan and that the constituency of Onchan should be renamed. The hon. member for Peel said that this renaming is a big issue, and I am sure if people of Onchan said, ‘We are going to have a different name’ – perhaps an anagram of the word ‘Onchan’ (*Interjection*) – then there would be a great big public debate about that. Just as the hon. member for South Douglas is commenting, I am sure he is quite protective of the quayside.

The fourth recommendation was that Tynwald consider the possibility of altering the number of constituencies by combining Glenfaba and Peel – the hon. member has alluded to that already – and that that should be a two-member constituency.

Tynwald in 1994 received that report and nothing happened, which brings me back to the point about boundary reviews because it certainly was on my mind about six months ago and I instructed the Chief Secretary to research the issue about boundary reviews.

I am not sure whether it is in the legislation or in the guidelines that come from the legislation but there is a duty upon executive government to raise the issue every ten years or so in relation to instigating a boundary review – on an independent basis. That paperwork – and it seems more than a coincidence – is surfacing at the same time as the hon. member’s motion – and it is not meant in any way to mess him about with this Bill; it is something that has come through the system.

It is 1994 since this was last looked at and, of course, we are in 2003, coming up to 2004 – that would be the appropriate ten-year – I am not sure whether it is statutory; it may well be statutory, but I think it is guidelines – rule for executive government to kick off a debate about boundary extensions or boundary changes. That would be done by the Council of Ministers bringing a motion to Tynwald, looking for Tynwald’s approval in relation to doing what has been done in the past.

Certainly what I want to say this morning, Mr Speaker, is that from the Chief Minister’s and the Council of Ministers’ point of view there is no fixed party line on this, there is no collective vote in this area. We will obviously be looking at our statutory responsibilities in relation to the Representation of the People’s Bill and we will implement what is statutorily required of us, but we want to do that in a co-operative fashion with what the hon. member is trying to achieve, which is the same event really: a review of the boundaries.

There are papers on the Council of Ministers’ agenda this week and the hon. member has already had a copy of this, to help him give consideration to what he is doing. Obviously, if there is to be a review of boundaries, the normal way would be to have an independent body to look at this and to produce a report.

In the past, the Governor-in-Council function has been the conduit for that to happen, but if the hon. member can achieve the same process then maybe we can work together, but I do not want to take away the hon. member’s individual rights in any way to seek leave of a Bill in his own name; I think that is important to note.

I think time for change is coming to us; the decision last time around, whereby the decision was no decision, despite the review, takes us a long way down the chronology of this situation now – right back, effectively, to a process that started in the 1980s and here we are in 2003.

So I come back to the original point: the hon. member is quite right to highlight this issue. The Island has changed, it will continue to change and I think it is time that we have an independent boundary commission review for Tynwald then to consider.

But it is one of those issues that is very difficult for hon. members because it is always difficult with issues to do with ourselves, our futures and the futures of our constituencies and that always is a difficult issue. I would say that there is so much imbalance now between certain constituencies that it would be wrong of us to put it off this time around. We need that review and we need some conclusions.

The Speaker: Hon. member for Rushen, Mr Rimington.

Mr Rimington: Thank you, Mr Speaker. I am brought to my feet by a couple of comments: one from the hon. mover and one from the hon. member for Peel.

First of all, can I just say in relation to the constitution Bill which is now before a select committee, can I make this absolutely quite clear that that Bill is not a Bill for a 32-member Tynwald; that Bill was framed for a separate Legislative Council and a separate Keys, not 32 members of Tynwald. That is not the Bill.

This terminology seems to be getting in the public arena, in the press and also amongst members that suddenly we have changed this Bill, which was for two

separate chambers and separate Legislative Council elections, overnight and it has now been turned into a 32-member Bill, but it is not the case. We are aware that there is a member who wishes to propose that, but those proposals are not before this House. All that has been done is that an amendment to the long title of the Bill has been made so that such amendments could come forward. So please let us get it straight on what Bill is there: it is not a 32-member Bill.

Secondly, the hon. member for Peel made a very sweeping statement that for only 10 years this House has been democratic; that is absolute nonsense, as well! What the hon. member for Peel is saying is: 'For only 10 years we have been elected by the system of elections which I believe is the most democratic, therefore everything else is undemocratic.' That is not right.

First-past-the-post is not my personal choice – I would agree with the hon. member that STV is more democratic – but it is democratic and it is used widely around the place, not just in the Isle of Man but in a huge number of countries. No-one can sweepingly say that anybody who has first-past-the-post as a method of election can suddenly be labelled as undemocratic.

Yes, it has its drawbacks; every system has its drawbacks. I personally agree with the hon. member about STV, but first-past-the-post is a recognised democratic form of election, which has been used on the Isle of Man and elsewhere for decades if not centuries and it is widely accepted.

The principles of democracy are complex and far more subtle than probably we could explain on the floor of this House today. One could argue that the whole system of parliamentary democracy – and people have argued this – is in itself undemocratic for x, y and z reasons. I am not going to argue with that but those arguments can be made.

A democracy and the interpretations of democracy is a wide-open issue. Certainly the Russian Bolsheviks had quite unique ideas on – that was 'Russian', rather than the constituency of Rushen! – what democracy meant and they had a very radical form of democracy which superficially sounded quite good but in reality did not turn out to be too beneficial, as we saw from the end product at the end of the day.

Those are the two issues that really brought me to my feet in the first place. I am tempted not to support this leave to introduce. There has been a history in the hon. House and it was drummed into me over the years, that we, the House, did in general give people leave to introduce because that was a good thing, and that from that we can allow people to bring forward whatever they like and then we deal with it at second reading, whether it goes forward or not from there.

Well, to my mind that principle has been undermined and I refer to the requests for leave to introduce which I have brought forward. I fully accept that it was legitimate that people should, if they felt it about that issue, say 'No, I am not going to vote for that' – on the issue of voluntary euthanasia – and I think that is actually quite healthy that we do not automatically give leave to introduce and that if we

think an issue is vexatious or frivolous or we are morally against it or whatever, then we say so right at the beginning, instead of wasting parliamentary draftsmen's time and the hon. member's time, if at the end of the day there is a predisposition to not accept it; I think that is the appropriate way to go.

The reason I am not going to support it is in fact what the hon. Chief Minister has said: that there is a process to determine boundaries and that is independent. That is the critical issue: that a boundary commission or body to look at such issues stands separate from any of ourselves, who are party to that because we are the elected members and we are directly involved, directly interested. A boundary commission historically on the Isle of Man and elsewhere in countries that we describe as democratic is always set apart from the actual membership of the parliament itself, as an independent body. I think that is the right way to go.

Obviously, if the hon. member wishes to introduce legislation in connection with voting systems and so forth, then fine; it would be correct to bring it through this sort of channel, but boundary review is an independent process. Thank you, Mr Speaker.

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

Mrs Cannell: Thank you, Mr Speaker. I, too, rise to my feet to congratulate the hon. member for having the initiative to bring forward his leave to introduce a private member's Bill – not an easy task, particularly in the early stages of your political expertise. I came forward with a private member's Bill just after 18 months/two years, it is fairly formidable and it is quite difficult and, of course, being a member on one's own, one has to undertake all the research and consultation oneself, so it is no easy task to pursue – particularly when we look at the issue which the hon. member is looking to address.

But I feel a little like the previous speaker, in that knowing what is involved when working up a private member's Bill, knowing the level of consultation and research will take some considerable time – it will probably take the hon. member all of summer recess – and I think to myself, 'What is the point of this?' when we know that there is a select committee established at this House, that did successfully approve the amendment of the long title of a piece of legislation, which had received second reading, to consider future amendments to it which may seek to establish a parliamentary assembly of 32, being the format for future general elections – and I say 'may'.

I am a member on that select committee, as is the hon. member for Peel, Mrs Hannan, hon. Mr Speaker and the hon. member for Garff, who is at the moment not with us, and – forgive me, Mr Speaker, I cannot remember who the . . . ah, yes, the hon. member for West Douglas, Mr Downie – my apologies!

That select committee has got to not only consider a Bill which has received second reading, which looks at different numbers of representatives in each

constituency, thereby apportioning them different numbers in terms of constituency numbers, which is not exactly moving the boundaries but it is moving numbers, and also considering quite a bit more in addition to that. Now, that committee has to report by April 2004 – that is, April next year.

Following on from what the hon. Chief Minister said: it was 1994 when the Council of Ministers or the House last looked at the boundaries – the last time a change of boundaries was actually envisaged – and perhaps it is coming up to a review and possibly 10 years would fit in fairly well. So I would suggest to hon. members: the very fact that this select committee's task to report back to this House in April next year will mark that 10 year review, and the select committee will have done an awful lot of the leg work for the hon. member and possibly for the Chief Minister's review and we will report and the House will consider it.

I would have thought it would be more appropriate, more helpful and beneficial for the hon. member moving the motion to secure an appointment, or a time of mutual agreement, to actually come and speak with the select committee looking at this, to put his ideas forward and to make his case. It may well be that the committee would consider and *may* – possibly, I do not know because I cannot speak of what the outcome is going to be – see some merit in what the hon. member is suggesting and may well include it as a recommendation. Who knows?

The thing is that it is receiving considerable scrutiny at this moment, and I think for another separate Bill . . . We will fairly soon have so many red herrings running in respect of this particular issue, it will be difficult to pin one down to be able to make some fundamental improvements for the people for the next general election.

So I would ask hon. members not to support his leave to introduce, but I would encourage the hon. member to come and to speak to the select committee, make his case, make his views known and do it through that juncture, because I think it will be more successful for him.

The Speaker: Hon. member for Glenfaba, Mr Anderson.

Mr Anderson: Thank you, Mr Speaker. I was minded to support the leave to introduce but having heard the last two speakers I am not quite so sure now. Maybe when the hon. mover is summing up he would like to respond to a few queries I have concerning his research into this matter.

Firstly, I realise that he has made a commitment within his manifesto to bring this forward and I will be interested to hear: has he had representation from his constituents, since his election about their concerns about their representation?

Secondly, has the hon. member done any research in trends within constituencies? It is all very well taking a snapshot of where we are at present but it would be interesting and valuable to see what

developments for example are taking place, or proposed to take place, within constituencies. It would be a pity if we took decisions and then two years later we found that we have taken the wrong decisions as a result of major developments.

Even the profile of populations within constituencies would be interesting; for example, has the hon. member checked up with secondary schools to see . . . I am very well aware that some secondary schools have very large sixth forms – a sudden increase recently and maybe that extra number coming onto the electoral roll would have a significant impact on certain constituencies, so I would be interested to hear from the hon. member: has he done any research in those sort of areas?

Possibly, to actually look at the solution for his own situation, would he agree that the restoration of the parish of Marown to the Glenfaba constituency would probably resolve his problem in one fell blow, so that we have German, Patrick and Marown restored to the original Glenfaba constituency? Or does he not see that as the solution to this problem?

I realise there are problems in the figures that he has brought before the House in other areas of the Island, but I realise his concern is primarily his own constituency. Thank you, Mr Speaker.

The Speaker: Hon. member for Michael, Mr Cannan.

Mr Cannan: Mr Speaker, I will support this private member's Bill, but I give notice that I will seek to amend it for 24 single-seat constituencies because I have always held the principle, since I came here.

Just to digress slightly, I introduced in 1991 a Representation of the People Act for 24 single seats and it only failed at the third reading by the then Mr Speaker's casting vote.

The principle for 24 single seats is that there should be one person, one vote, one member and I find it quite extraordinary that we have this mixture in here where there are members representing a single constituency, other constituencies, the public, the electorate have three votes, others have two votes. It is a cause of contention; many people outside comment on it, and so I welcome it to see how the opportunity arises that there should be one person, one vote, one member.

The view, of course, is that there should be a 32-member Tynwald, in which case there would be 32 constituencies. I give warning to Mr Quayle, from my experience in 1991-92 with the House of Keys committee and all the arguments and all the amendments, you will hit a very rocky course, sir. But my advice is: do not be deflected; go forward and hopefully something out of this will come to give a better balance of representation.

I was pleased that you have this form to show us the imbalance in the constituencies, and I believe that at the best they should not be 15 but 10 per cent either way in the constituency – you will never get all equal constituencies because of where people live and so on,

but there should not in my view be any variation or deviation greater than plus or minus 10 per cent.

You have my best wishes for progress. I hope it will progress my way but even so, do not be deflected and I hope you do not hit the rocks.

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

Mr Karran: Vainstyr Loayreyder, my advice to the hon. member is to get his Bill back straight after the sitting of this House, do not consult with any committees, get something in written form and get back to this House because the nearer it becomes to the bewitching hour of a general election, the less chance you will have of anything being done in this hon. House.

So my advice as a senior member of this hon. House is to make sure that you get it back as soon as possible, to have any chance that self interest will not rule the day over your private member's Bill.

I must say that I am disappointed to hear from the member for Glenfaba. I understand how vulnerable he feels at the present time in his position and it is a great shame when you think that an ancient sheading like Glenfaba has reduced from three members in 1956 to, questionably, whether it should have one member in 2003 (*Laughter*).

Let us be perfectly honest, the changes that we have seen over the years, such as the hon. member for Michael's seat was at one time a two-seat constituency at the same time as Glenfaba was a three-seat constituency and at that time we saw the situation with Ramsey increasing from one member to two members.

Part of it is the recognition that if we believe in democracy then there is only a certain amount of leeway that we can allow for and I do have to say that the hon. member's situation and with the way that the new Braddan plan looks like it is going, his constituency is going to be even more out of kilter as far as numbers are concerned.

This idea that people are not complaining I think is an issue in that the hon. member for Glenfaba has to realise what is right and what is wrong, and just like in 1986 when the demise of my original constituency happened, we did have the absurdities where you had Ayre, with a thousand votes more than North Douglas, having two representatives and a thousand votes less in North Douglas which had one representative.

These issues have to be changed. My concern is that it is very difficult and I have to say even though the Labour Party policy is for 24 single-seat constituencies, I will not support 24 single-seat constituencies because I believe that it would be –

Mr Cannan: Self preservation.

Mr Karran: No, no. Vainstyr Loayreyder, I more than likely would have no election if I had a single-seat constituency; you only have to look at that over the last nearly 20 years of my representation in this House. It is not that, but I will give an example in my

constituency where you would have the member for Birch Hill; does he repair the economy of the Isle of Man or does he sort out the High Field Road –

Mr Houghton: It is not my constituency!

Mr Karran: – and the Birch Hill Crescent entrances in there, where something like 80 per cent of the constituents would be affected? So what would you do as the single member for the member for Birch Hill? You would not get onto national issues, we would have this place even worse than it is now, apart from its self-interest and its parish pump politics as we have got at the present time.

So I believe that the issue of single seats would have a detrimental effect. I actually agree with the hon. member that it unacceptable that my constituents have three votes and his constituencies have one vote. That was partly due to the demise of STV – that was one way of getting around that – but as STV is not part of the equation, even though I do wish the member for Douglas West the best intentions for reintroducing this STV, I do agree with him that we do have to address this issue as far as that is concerned.

But to address the issue in self-interest of the hon. member who is a single constituent that he wants everywhere to be a single seat, so that the likes of my area, where it is difficult enough to get national issues addressed, would end up having basically at least two estate representatives of Birch Hill and Ballachurry. We do not want that and I do not think that would be good for government especially.

Times are hard in the near future in my opinion and I believe that would not be the way forward, but what I would like to put down in this area, and I think it is important that members think about it: because of the self-interest maybe the issue of the quarterlands or the issue of having constituencies on the basis of six four-member seats in this hon. House would be the most sensible way. That way we are all disturbed, we are all put at a disadvantage and, as part of that, we must recognise that if we go for the quarterlands, the four-member constituencies, you would have to then bring in the STV or you would have the absurdity that I had in my old constituency of Middle, where I banged on one gentleman's door and he said to me, 'Who are you?'; I said, 'I am Peter Karran.' 'Are you canvassing? I have not seen a canvasser since 1948! We have never seen anybody'; this was in 1981, and the fact of the matter was that in the constituency sheading of Middle you won that seat in Onchan. Basically, Santon and South Braddan were parts of the thing which might have been on a different continent, as far as the majority of the members that were standing for the old Middle sheading was concerned.

So I think the issue of the STV would have to come in with larger multi-seat constituencies because I think otherwise there would be too much of a risk that the rural areas, like the hon. member for Peel says, would end up with a situation where people would not take any interest in them because of the numbers game. In STV you cannot play the numbers game; you have

got to get out there and get your vote, everybody's vote is equal and that is the way that it would be done.

I give notice to this House that I would hope that members would look at that. It is all right talking about an independent commission but as I have said the independent commission is very difficult to set up and if it does not come back with the right ideas for the right people then there will be reasons for that independent commission going out of the window, just like the recommendations that the Ard-shirveishagh spoke about in his interpretation of the private member's Bill.

It was interesting to hear what some members regard as democracy and I was a bit alarmed by my good friend and boss in the member for Rushen about democracy. If he goes and talks to Mr Mugabe he would tell you that more than likely Zimbabwe is the most democratic country in the world! I would say that, when you talk about democracy, I have a lot more sympathy with the hon. member for Peel: there has been an evolution even in my time in this House, where we have got rid of the absurdity of property votes, that you can have a situation where people could vote in every parish, every constituency in the Island, which was an affront to democracy in my opinion. I think that we are on an evolutionary process as far as democracy is concerned; I do not think we have got the democracy right yet, and I believe there will be a situation of trying to get democracy right, it is something that will gradually come, as far as this Island is concerned.

Things have been affected as far as democracy is concerned. The fact that nowadays, none of you have to worry about having to have an income outside this hon. House in order to have a reasonable standard of living. When I came into this House, I was the only member in the lower House and there was one in the upper House who was dependent on the income to live on as an MHK, and it was not very easy going. That is democracy; it is about making sure that people have the choice.

So as far as I am concerned, I think that I would defend the hon. member for Peel, as far as her views on democracy are concerned, because I think she should be, but what I would say on this Bill and what people are concerned about outside this hon. House – more where it comes with the point from the hon. member for Glenfaba when he says about people outside this House – I have to concede to him: if it was the difference between sorting out the position of the number of constituents per constituency or sorting out the separation of power between the departments of government or the executive and parliament and the whole way that we have to change that, I think you are quite right. I think you would find that the majority of people outside this House would rather that part of the legislative programme were used – especially when we have heard this morning with the Treasury minister expressing concerns about cutbacks because the parliament has not got the parliamentary and legislative structure right – in order to review and

make the executive accountable for their white elephants over the last decade or so.

That does not give an excuse for not supporting the second reading of this Bill and I shall support the second reading of this Bill because I believe that the member –

Mr Rimington: Leave to introduce.

Mr Karran: – sorry, the leave to introduce for this Bill – simply because the member has got a very valid point: it is an absurdity if he has 50 per cent more and we have 24 per cent less to represent single seats, and we have to address the issue that the hon. member for Michael mentions about the two-, three- and one-seat constituencies.

I am afraid that unless STV comes back then we have to change the situation, but I do hope members will just consider the issue of six four-seat constituencies throughout the Island and I believe that would add more to national government, it would get away from me worrying about being a single-seat constituency as the member for Birch Hill, worrying about Birch Hill Crescent: 'Do I repair the pot holes in the road or do I repair the economy on the Island?' I know it would be an impossibility for the DOT but one day we might get a decent minister – you are all right! (*Laughter*) Thank you, Vainstyr Loayreyder.

The Speaker: Hon. member for Garff, Mr Rodan.

Mr Rodan: Yes, thank you, I will just be brief, Mr Speaker. I have a certain amount of sympathy with the hon. member for Middle because I myself, I think, after his constituency, have the single-member seat with the largest number of electors and that is, as time goes on, going to be an increasingly unacceptable situation in terms of fair democratic representation.

I am afraid, though, that I cannot support him at this time in his wish to move the introduction of a Bill for the simple reason that that would perpetuate, in respect of boundary adjustments, a system that I think is unacceptable in relation to the composition of our parliamentary set-up as a whole, in as much as 24 members being elected by the general public and 8 members of our legislature not directly elected is a situation that is being examined, as other members have referred to, as a matter of principle anyway.

I have no doubt that it would be possible to adjust boundaries and bring about a more equitable situation but I think the problem remains that, so long as we have 24 directly elected seats out of 32, there is always going to be this tension. I believe the opportunity should be taken to have a root and branch reform of the system, and I would go so far myself, personally speaking, as to say that the sooner we have a return to STV and a situation where we have one person, one vote, one value and everyone has a single vote – whether the number of members to be elected utilising that vote are two, three or four – the better.

I think if we were to look at a 32-member system you would find that that would lend itself to ironing

out these discrepancies far better. Thirty-two members would give you an average of 1,800 electors per member and it would not be a matter of having to move to 32 constituencies in order to do that, it would be perfectly possible to use the existing base of 15 constituencies and if you look very carefully at the adjustments that would be required, you would find that certainly in order to achieve the average 1,800 electors per member, one could, by transferring some of the polling districts in Douglas, give the four constituencies there a total of 10 seats instead of 8, which would bring them very close to the average. Reference has been made to adjusting Middle by including Santon and certainly, if one were to do that and give Middle an extra seat, give Onchan an extra seat, give Rushen, Ramsey, Garff and Peel each an extra seat, i.e. 8 seats, one would achieve the 32 members and you would have a remarkably close parity of 1,800 electors per member.

This exercise will have to be argued out in another forum and I know the hon. member with whom I have discussed this is aware of the exercise that is going on, but my fear is that a Bill of the sort he proposes to introduce – over which I have great sympathy, I must say – nonetheless I think would add to the complexity and the confusion and a number of permutations possible. We have heard this morning that there are as many views and permutations as there are members of this House, and my fear would be that this would complicate matters further and I am all for doing one exercise at a time. Thank you, Mr Speaker.

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: Thank you, Vainstyr Loayreyder. If I could begin by giving the Chief Minister credit for his anticipation that the potential for further amendments, if this leave to introduce was granted, would result in a Bill . . . ‘There would be all sorts of amendments’ is what he told us, and then there was the hon. member for Michael’s alacrity in saying that is exactly what he would propose doing if that was the case. So I acknowledge the anticipation and the alacrity of those senior members; 38 minutes was the time between the former to the latter, and if that is an indication of the way that the Chief Minister described the coat hook which this Bill is going to be put upon, then I am sure that is something that we can look forward to. *(Laughter)* We can anticipate that it would look very different at the end of the process to what perhaps the hon. member for Middle is suggesting at the moment.

If I go back to the Chief Minister’s comments, he clearly mentioned the rôle of an independent boundary review body and I think that really is the sum of the difference: the independence. That is the most important difference between all the previous speakers, with perhaps notable exceptions of my hon. colleague in Rushen, Mr Rimington and the hon. member for Douglas, Mrs Cannell. The key, sir, to my mind, is independence.

Now, I do not doubt that the hon. mover is motivated by only the highest and most altruistic

reasons in bringing this motion; I do not say he has any view to self-interest in moving this motion. But – and it is an irrefutable fact – sooner or later self-interest does become a factor in these matters, and we have already seen that in this debate.

We can have the issues the hon. member for Middle raises – perhaps even those he does not raise and maybe he has not even considered – we can have those issues addressed, and addressed independently by the mechanism that the Chief Minister has mentioned previously, and that seems to be the best way forward.

So accordingly I do not intend supporting the leave to introduce that we have before us as a Bill, with all the potential for all sorts of amendments that, as I say, we have already begun to see.

Whilst I, to echo the words of the previous speaker, have great sympathy with the mover of this leave to introduce and a great sympathy with the principle of wherever possible supporting such leads, in this case I have to say that I think there are other mechanisms better located to more readily, more transparently and more independently – and again I come back to that key element, ‘more independently’ – progress the matters that are before us today.

On that basis, unless in summing up the hon. member for Middle can convince me that somehow independence is something that we can do away with in this instance and we can go down the political line that we have already seen rearing its head, if he convinces me that that is the better option and convinces others, then I will be minded to support him, but unless he can do that, I will stick with the option of independence. Thank you, Vainstyr Loayreyder.

The Speaker: Hon. member for Douglas West, Mr Downie.

Mr Downie: Thank you, Mr Speaker. I am brought to my feet because there are a number of issues that I would like the hon. member to address if he does get leave to introduce. My view is that I feel the member has made a good case to the House this morning, there are a lot of issues it will involve him in a lot of work, a lot of it will be long and arduous but, if he is willing to do it on behalf of the House, I think we should afford him that privilege and let him get on with the job. He has already been given a steer in the direction of a number of select committees who are working on similar issues, so more power to his elbow.

A lot of comment was made about STV. I can support either mechanism but I cannot support a situation where we introduce STV and to curry favour with a few electors, we finally alter that system so we have clumping. So we have got the worst of both worlds in my view.

If we are going to have STV voting, let us have the proper proportional representation, let us have a situation where if there are x number of candidates on the ballot sheet, they are all filled in and accounted for and the job is done properly, rather than people just

having the opportunity just to vote for one, and leave everyone else; it defeats the object, in my opinion.

Those of you who represent urban constituencies or some of the major conurbations of population, will know that when you go to canvas there are still a lot of people who are not on the electoral roll, and my view is that we should not have a situation in the Isle of Man where it does not matter if you do not send your return back. There are a lot of people who just do not bother with them; some people just do not really want the hassle of receiving ballot papers or information, they are quite happy not to be on the roll and vote.

So when you look at the numbers that have been issued today, I would say that in my own particular area and in probably South and West Douglas, there are a considerable number of people residing there who are not on the list and there are an awful lot of people who drift in and drift out of areas – they might be there for 12 or 18 months in a flat then move on to another area of town. You really have no way of finding about this transient population, but there again, if you are a member, these are the ones who really cause you most problems because they are the ones who ask you to deal with all the issues and it is galling, having helped a number of people, to find that they are not on anybody's voting list.

It is an issue I think that needs to be looked at. Some years ago as part of the rates reviews, a lot of houses were visited and people were asked to sign on to the electoral roll and also a number of calculations took place to make sure that the proper rate was being set and that was all part of the revaluation process, but that has not happened for a number of years.

I think there will always be disparity with numbers in particular constituencies; North Douglas is one which will have a significant rise in the next few years because that is where the new building is taking place –

Mrs Cannell: Not when there is no water!

Mr Downie: Well, you may say that but I could not possibly agree. There are a number of properties scheduled to be built in North Douglas, as in Middle and Braddan, and whatever we do we will always be playing catch-up, I feel, because the population in certain areas and conurbations will be growing far quicker than we can address it.

I say to the hon. member: do not get hung up on numbers, try and bring forward a system that is seen as being fair and equitable and will be fairly easy to work, but most of all that the voters themselves will be able to understand and relate to themselves and be able to support. The last thing we want to do is to finish up with an exercise where we distance ourselves from the electorate for whatever reason and I think that is a very important issue.

The Speaker: Hon. member for Middle, Mr Quayle, to reply to the debate.

Mr Quayle: Thank you, Mr Speaker. Well it has certainly been a very interesting and enjoyable debate thus far, there have been a number of very good contributions and I thank all members for those contributions, particularly my seconder for leave to introduce, hon. member for West Douglas.

I would have liked to have said that everybody was in support but quite obviously from the contributions, there have been a few that are having difficulty with even the principle of leave to introduce, which I do find rather sad when really it would be a case of perpetuating the inadequacies of the system, as they so obviously exist, as they have existed since 1986, when a report was done in 1994 and was to all intent and purposes just put to one side. I do not feel that it is worthy to just ignore the problems that are existing – and I am not just thinking of Middle which, as has been identified, is the one that is more out of kilter than any – but across the Island, when we think that virtually half of the constituencies to a great or smaller extent are certainly in need of some adjustment.

I should mention in particular that section 11 of the Representation of the People Act 1995, a boundary commission report still has to be implemented by a change in legislation, so it always comes back to a vote in the House of Keys anyway, and I think people may have misheard what I said originally in my proposition, which is that an independent boundary commission would be fitting as part of this Bill.

So for people to think in any way that by it being brought forward by one member, it may not be perhaps fair or equitable then certainly I hope that to a large extent will reassure those people who are thinking that it would be just one member dreaming up the various constituency boundaries; that is not the proposal at all. It was for an independent boundary commission, as I mentioned originally, and has in fact been alluded to by the Chief Minister.

I would pledge, actually, if leave was granted to consult with everybody in this House, obviously, but in particular with the Chief Minister because I was aware yesterday that this had been considered over the last little while and that independent proposals had been arising.

I would also like to refer to the fact that there are occasions when change is required and we cannot just say, as some have said, that we do not want any change whatsoever. In 1796 Patrick, German and Marown were then decreed to constitute the constituency of Glenfaba. Prior to that date, Marown was, in actual fact, in Middle with Onchan, Braddan and Santon. So to the hon. member for Glenfaba, who suggests that Marown could quite neatly return to Glenfaba: in fact, as it was originally in Middle and was arrested by Glenfaba for an intervening period prior to its return home to Middle, then the people of Marown are more than happy to be unified with the parish of Braddan to form the sheading of Middle.

Mr Cretney: It wasn't very democratic then, was it?

Mr Downie: They were self-appointed then.

Mr Quayle: Well, the point I am making is that there have been changes over the years, for example, Garff was decreed to be Maughold and Lonan in 1796; prior to that Onchan had been part of Garff. So there has been change over the hundreds of years and I am sure there should be change in the years ahead.

To enter another point, since 1994 the inequities have in fact become more acute. I think the hon. member for Glenfaba alluded to looking for statistics to see (**Mr Anderson:** Trends.) whether the statistics and trends are increasing. In fact, Middle has increased from 26 per cent above average in 1994 to 41.5 per cent now; Garff went from 26 per cent to 33 per cent and his own constituency of Glenfaba went from 22.4 per cent to 24.5 per cent, so that is actually increasing as a minus figure.

Without actually going through the worthy comments from every particular member – and I do thank members for their comprehensive contributions this morning – I think that the points are too many and varied to address now. I think in particular the Chief Minister in his summary of events concluded really that something has to be done, and I think that the point that I would wish to make to members is, in answer, I think, to the hon. member for Garff, is that – and I am aware of the great deal of work that is being done by the select committee and the hon. member for Ayre, Mr Quine – however, by granting leave to introduce this morning, if members were so inclined, it would allow me to consult further with members. It would allow the legislative draftsman to actually accomplish something for consideration; it may not actually go anywhere if perhaps after consultation it is felt more appropriate that we would go with what is being proposed by that other committee, but I think we do need the option in case, for example, nothing materialised from that select committee or it was not finding favour with the majority of people and we would actually end up then, at the next general election in 2006, with nothing having been achieved in terms of remedying some of the very great inadequacies that have arisen over the last what would have been actually 20 years, 1986 to 2006.

For that reason alone, I think it would be worthy of the House hopefully to grant leave to introduce so that these proposals could be considered and let us see what happens for the future but at least that would be something that could be dealt with.

I think I have dealt with the hon. member for Rushen, when he was concerned about the independent determination of boundaries and that certainly is something which everybody has hopefully has been reassured about.

A Member: About the Bolsheviks.

Mr Quayle: I think we have heard everything this morning: (**Mr Henderson:** Hear, hear.) we have had contributions from the Russian Bolsheviks – and I am not sure whether we are dealing with the ones from the

south of the Isle of Man or those over in Moscow, but certainly I have appreciated every particular comment that has been made, although I accept some of them this morning have not been exactly supportive.

I think overall the general flavour of it today has actually been a recognition that something needs to be done to address the problems that have arisen over the years.

I think I would say that members are aware of the problems. I have fulfilled already a commitment in my manifesto to the people of Middle that I would bring this at an early stage for consideration to the House and I thank members for their forbearance in allowing me to put this case to them.

I hope that members will allow me to continue this process. I acknowledge that it will not be an easy process, there have been better people than myself in the past who have tried and failed, so I defer to their expertise and longevity in the House and hope that, whilst I am a new member from 2001, people will have recognised that there are the problems there to be rectified.

I can conclude then with urging you all to support leave to introduce, which will allow me during the summer months then to progress work on this particular Bill and consult with people. Mr Speaker, I beg to move the motion standing in my name.

The Speaker: Hon. members, the motion before the House in the name of the hon. member for Middle, Mr Quayle, is that leave be given to introduce a Bill to amend the Representation of the People Act 1995. All those in favour please say aye; against no. The ayes have it.

A division was called for and voting resulted as follows:

In the Keys –

For: Mr Anderson, Mr Quayle, Mr Houghton, Mr Cretney, Mr Braidwood, Mr Downie, Mr Shimmin, Mrs Hannan, Mr Bell, Mrs Craine, Mr Karran, Mr Corkill, Mr Earnshaw, Capt. Douglas and the Speaker – 15

Against: Mr Rodan, Mr Rimington, Mr Gill, Mr Gawne, Mr Henderson and Mrs Cannell – 6

The Speaker: Hon. members, the motion carries with 15 votes for and 6 votes against.

Bills for First Reading

The Speaker: Now hon. members we move on to the third item on our order paper, Bills for first reading and I call on the Secretary to the House.

The Secretary: Mr Speaker, the Bills for first reading are: the Race Relations Bill, introduced by the hon. member for Onchan, Mr Corkill; the Insurance

(Amendment) Bill, introduced by the hon. member for Ramsey, Mr Bell; and the Tribunals Bill, introduced by the hon. member for Douglas North, Mr Houghton.

**Audit (Amendment) Bill –
Motion Not Moved**

The Speaker: Hon. members we now move on to item 4, Bills for second reading and I call on the hon. member for Onchan, Mr Karran, Audit (Amendment) Bill.

Mr Karran: Vainstyr Loayreyder, I do not intend to move the Bill until after the summer recess, thank you.

**Human Tissue (Amendment) Bill –
Motion Not Moved**

The Speaker: Hon. member, item 2 then, Human Tissue (Amendment) Bill.

Mr Karran: I wish to do the same with that, Vainstyr Loayreyder. I did warn . . . I thought I said I was going to do that.

The Speaker: Thank you, hon. member.

**Construction Contracts Bill –
Second Reading Approved**

The Speaker: I call on the hon. member for Douglas West – if we can just get him, as he did not expect that! (*Laughter*)

Mr Gill: Seamless, Alex!

Mr Downie: Sorry about that, Mr Speaker – call of nature!

The Speaker: Okay. Hon. member for Douglas West, Mr Downie, Construction Contracts Bill.

Mr Downie: Thank you, Mr Speaker. I am pleased to be able to move the second reading of the Construction Contracts Bill 2003, which is, as you are all aware, promoted by the Department of Trade and Industry.

The Bill is intended to implement the findings of a working party, established by the Department of Trade and Industry, to examine changes introduced in the United Kingdom, following the Latham report on procurement and contractual arrangements in the United Kingdom construction industry.

Sir Michael Latham concluded that the contractual system under which the UK construction industry operated was defective in two main respects: the first, that there was a need for a simple procedure for

settling disputes over payment quickly and cheaply; and the second was that some common terms of construction contracts were unfair on small subcontractors and should in his opinion be outlawed.

Latham's recommendations were generally well received by the UK industry and changes were implemented as part 2 of the Housing Grants Construction and Regeneration Act 1996, which came into force in May 1998 and is commonly known as the UK Construction Act.

The Isle of Man working party comprised representatives of the Department of Trade and Industry, Treasury, private sector, architects, the Attorney-General's Chambers and the Isle of Man Employers Federation, and sought comment on procurement and contractual arrangements from all sections of the local construction industry. The working party concluded that there was a general consensus of agreement in the industry that a Bill should be introduced in the Isle of Man that followed the relevant parts of the UK Act, as it had been well received and was leading to the successful resolution of an increasing number of disputes as the industry became more familiar with its scope.

The Bill before the House today, like the UK Act, provides the basic framework for reform. The Bill will be supplemented by a detail construction contract scheme, to be set out in regulations made by the department and subject to Tynwald approval.

Draft regulations based on the UK equivalent have been prepared by the department and were part of the working parties consultative exercise.

I would now like to explain some of the main provisions in the Bill: the primary purpose of the Bill is to give the parties to construction contracts new rights and to enable a system for the adjudication of disputes to be set up. The Bill gives either party to a construction contract the right to refer a dispute to adjudication as a quick and cheap form of dispute resolution, either under the terms of the contract or under a statutory scheme.

With regard to payments within a construction contract, a party will be entitled to stage payments if the work is to take 45 days or more. There will be agreed procedures for determining what payments are due and when and how they are to be calculated.

The right of a party to withhold payment will be restricted and he must notify the amount withheld and the reason for doing so not later than a fixed period before the final payment date.

A party who has not been paid in full by the final date for payment will have the right to stop work until paid, and the Bill will outlaw the pay clause in contracts under which a contractor is not bound to pay a sub-contractor until he has been paid by the client, a situation which is well known to a lot of us when dealing with small business in the Island (**A Member:** Hear, hear.) This particular clause is one that causes so much pain and suffering to so many of our smaller subcontractors and the industry, in my opinion, will be well rid of it.

Parts of the Bill and regulations will cover the very technical detail of administration, including definitions of construction operations, the types of contractor which the Bill applies, the precise nature of adjudication and the various time scales within which actions must be taken.

Hon. members will no doubt wish to note that contracts with residential occupiers are specifically included from the Bill. Residential occupiers will have rights in other areas such as trading standards, the rationale behind this exemption being the avoidance of inclusion of a small building subcontracts with residential occupiers, which in most cases would not be operating within formal industry conditions of contract and to require such contracts for this type of work would be neither appropriate nor practical.

I trust that hon. members will confer their support on this measure, which is a most important step forward for the local construction industry. (**A Member:** Hear, hear.) Mr Speaker, I beg to move that the Construction Contracts Bill be read for a second time.

Mr Duggan: Mr Speaker, I beg to second sir.

The Speaker: Hon. member for Garff.

Mr Rodan: Yes, just one or two comments, Mr Speaker. I congratulate the minister and his department for bringing forward what he will recollect was an issue which exercised a select committee some years ago on which both he and I sat. It was a select committee concerned with redress of grievance, principally to do with the effect on subcontractors in the event of the main contractor becoming insolvent, and this select committee was considering, in the event that the client was government, whether it should be appropriate for government to make the claims or pay compensation to any subcontractors or suppliers in the event of the main contractor going into receivership or becoming insolvent.

Of course, one of the issues that the committee sought to look at in some detail, was the question of limiting the exposure of subcontractors and to consider steps that could be taken to limit that exposure for the period of the commencement of the project until the final payment of retention moneys, which would have the effect of limiting the amount of loss sustained by subcontractors in the event of financial failure.

There was no doubt about it when evidence was taken by this parliamentary committee: there was a common complaint that payments due to subcontractors were often subject to considerable delay, and the sub-contractor involved could suffer considerable loss and it would appear that the situation was largely due to the phenomenon that because of the nature of the industry, main contractors in fact derived an element of their profit from being able to collect payment from employers and to earn interest on that cash by delaying payments out to subcontractors. There was every incentive and I believe it has been very common practice for some main contractors to be

in breach of their obligations to subcontractors by not making these payments promptly.

This Bill is to be welcomed because it gives some meaningful redress now. Previously the only remedies available for example were to complain to the main contractor, but that might poison the relationship for future work, and to withdraw labour, but our committee concluded that that was not in fact applicable for contracts to the supply of goods or to those payments made towards the end of a contract when the subcontractor's work was largely completed.

Therefore, if the minister could just kindly clarify clause 8 that makes provision for notice of intention to withhold payment; could he just comment on how effective he sees this being (a) when the subcontractors is a supplier of goods and there is no more labour to withdraw; and (b) in the event that the sub-contractor has largely performed the labour and certainly withdrawing labour would have no effect?

The question of legal action, of course, was very much one of last resort because of time and cost. Therefore I think it is to be greatly welcomed that we have, as had been recommended by that committee, provision for adjudication in the provision of construction contract. I think this is a major step forward; it is coming it albeit some five years, I think, following the UK, but these were all issues which the mover will recall did rise to considerable concern in the Isle of Man on the part of subcontractors, and I am very pleased indeed to see the matter being redressed at long last.

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

Mr Karran: Vainstyr Loayreyder, I would like to ask the mover of the Bill a couple of questions. Firstly, one of the concerns of the construction industry is this repeated situation where we have firms going into liquidation. Hopefully this piece of legislation should minimise that – I would take it that the hon. mover would say that it will not stop it, but it should minimise it; is that the case?

One of the concerns I have is the way that legitimate businesses are repeatedly in recent years being hit and the liquidation of these companies has been something of a concern, even though that is to do with the Companies Act.

I would like to ask the mover: who does he intend to administrate this new scheme? I have great concerns about the Employers' Federation; are they the people who are going to administrate this scheme? If not, who is going to administrate this scheme? What would his views be as far as whether this piece of legislation should go to a committee or not? Is he happy that there has been enough consultation with the business community? I know that it is always problem to get people who are too busy earning a living to come to meetings to discuss things with government, and I know that is a major problem, but if he could tell us who he has consulted as far as this legislation is concerned; has he gone and consulted with people who

are being hit on a regular basis by these firms going out of financial control and leaving an awful lot of people with an awful lot of unpaid bills?

So I would be interested to know what the mover has regarding those few points, as far as this Bill is concerned.

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: Thank you, Vainstyr Loayreyder. I think the question I would just raise has been touched on by the mover in his introduction, but just for clarity if I could ask him, with specific regard to the arbitration or adjudication element of the Bill: is the principle and the increasingly common practice of shared professional partnerships, which we see more and more in our capital projects and schemes, taken into consideration in this Bill, and as a general rule do the provisions of the Bill actually support such partnership working? If I could just ask that one question, Mr Speaker.

The Speaker: Hon. member for Douglas West to reply to the debate.

Mr Downie: Right, hon. members. To the hon. member for Garff, Mr Rodan: I would just like to thank him for giving a synopsis of where the Bill has come from. As I said in my opening remarks a lot of work was carried out by Sir Michael Latham in the UK following the introduction of a select committee of the House of Commons, which looked at the UK construction industry and a lot of the issues that they dealt with there were issues that have been argued in this hon. House and in another place time after time. We have all had telephone calls from subcontractors and people in the construction industry who have been aggrieved about the old and antiquated form of construction industry contracts that have been worked in the Isle of Man for a number of years – JCT and all sorts of other forms of contract – which really are quite outdated in this day and age and they do not give a proper framework for the future for the construction industry.

We also know that some of the more unscrupulous main contractors will pick a fight with a sub-contractor and if there is a falling-out, his money is held then until the very end of the contract and as the hon. member for Onchan, Mr Karran said, some of them in the past has found it convenient to go into liquidation. If that situation develops now, there is a grievance procedure and that can be put into place and that person's money can be quite clearly ring-fenced.

I was quite pleased with the support that the hon. member for Garff, Mr Rodan gave; he is quite right in what he said. There have been a lot of people in the construction industry who have had a raw deal and the old system allowed main contractors to delay payments, which in turn added to their profit at the end of the day – if they did not have to pay the money out it all balanced up on the other end of the scale, and a few years ago when interest rates were quite high, it

was very lucrative to do that particularly if you were in a large, multi-million pound contract.

Mr Rodan asked about clause 8, which restricts the right of a party to a construction contract to withhold payment. He must notify the other of the amount withheld and the grounds for withholding it, not later than a fixed period before the final date of payment. The clause provides that the parties can agree what the payment should be, but if they do not the scheme under clause 11 will do so, so one clause links to another one there.

If I can just go on to some of the comments that were made by the hon. member for Onchan, Mr Karran, I would think he would be supporting this legislation with open arms because he has had a number of occasions raised, construction industry matters on the floor of this House. It is a pity he was not present at the meeting of the Islands Construction Industry that was held down in the Hilton Hotel about 11 or 12 weeks ago, when a good number of members of this House were present and their priority, hon. members, was to get this piece of legislation onto the books. There was 100 per cent support for that, there has been a lot of consultation with the industry. It has taken far too long in my opinion to bring this legislation before you today. I agreed at that meeting I would do whatever I can to accelerate it through the legislative process and that is where we are at the moment.

The hon. member for Rushen, Mr Gill, made reference to the arbitration element, the legislation will deal with these issues. The Bill itself does not necessarily have any bearing on what particular procurement route is going to be used, whether it is going to be a joint arrangement . . . The legislation itself will do something quite different, but the regulations are not written yet.

What we will be able to do now, as we are progressing the Bill, is to look at the regulations and to be able to fine tune the legislation itself to cope with whatever procurement practice or package is put together, whether it deals with design and build or private funding arrangements. The main object, as I say, is to protect the subcontractors and provide a proper framework for the contractual arrangements.

I am pleased to say that the scheme will be led and overseen by the DTI; it is not going to the Employers' Federation. There has been provision made in our numbers cap this year to give us an additional person to deal with the construction industry, so there will be somebody in the department who will be fully responsible not only for the construction industry itself but all the other issues that this legislation will bring in.

I hope I have dealt with everybody's questions; no doubt you will have some more when we get to the clauses stage, if this goes through. Mr Speaker, I beg to move the motion standing in my name.

The Speaker: Hon. members, the motion before the House is that the Construction Contracts Bill be

now read a second time. All those in favour say aye; against no. The ayes have it. The ayes have it.

Now, hon. members, that concludes the items on our order paper. Before I adjourn the House, there are just a couple of points I would wish to make.

Good Wishes Upon Retirement to Mr Adrian Pilgrim, Senior Hansard Clerk

The Speaker: Today we will see the retirement of our Senior Hansard Clerk, Mr Adrian Pilgrim, who is with us today.

He is finishing after many years of service – in fact, Adrian started just a month after the 1981 general election, so during all my time here as a member of this hon. House Adrian has been there.

He started in December 1981, and has seen through many changes and modernisation of the *Hansard* office. We have all used his knowledge of the Manx language, especially how to pronounce some of the Manx words, and also how to spell them.

I am sure that we all wish him every success in his retirement, (**Several Members:** Hear, hear.) and hope he has a long and successful one.

The Senior Hansard Clerk: Thank you very much, Mr Speaker.

(Applause)

Statement by the Speaker

The Speaker: Hon. members, this is the last sitting in this chamber for some two years. We will return here in October 2005.

In the meantime, after our summer recess, we will be sitting in St. George's Court, which will be our temporary home until the refurbishment scheme in this chamber, Tynwald chamber and next door is completed, so we will find ourselves in a new venue in fact from next month, when we sit in Tynwald there.

I also look forward to meeting hon. members – I have had apologies from some – but the hon. members who are going to attend at the Golf Links Hotel at 1.30 this afternoon for the Speaker's Lunch, and can I put on record our thanks to our messengers and to the security officers for their work during this session. (**Several Members:** Hear, hear.)

Hon. members, the House will now stand adjourned until Monday, 7th July at Tynwald, at St John's. Thank you, hon. members.

The House adjourned at 1.00 p.m.
