

3. Leave to introduce – Motion carried

The Hon. Member for Onchan (Mr Karran) to move:

That leave be given to introduce a Bill to make new provision for the constitution of the Legislative Council: to require Members of the Legislative Council to be subject to popular election on an all-Island basis after the election to the Legislative Council in 2018; to make amendments to the basis of eligibility for election to the Legislative Council; to remove Members of the Legislative Council from eligibility for service as Ministers or Members of Government Departments; to provide for amended pay and conditions of employment of Members of the Legislative Council; to make the necessary amendments to enactments relating to those matters; and for connected purposes.

The Deputy Speaker: We now turn to Item 3, Leave to Introduce, and I call upon the Hon. Member for Onchan, Mr Karran, to move.

Mr Karran: Lhiass-loayreyder, Hon. Members, I wish to ask again for leave to introduce a Bill to make new provisions for the constitution of the Legislation Council, to require Members of the Legislative Council to be subject to popular election on an all-Island basis after the election to the Legislative Council in 2018, to make amendments to the basic eligibility for election of the Legislative Council, to remove Members of the Legislative Council from the eligibility for service of Ministers or Members of Government Departments, to provide for amended pay and conditions of employment of Members of the Legislative Council, and to make necessary amendments to enactments relating to the matters for connected purposes.

I do not intend to speak too long, because I feel this is a simple matter of declaration of whether you believe that Members of the Legislative Council should be democratically elected or not. The structure of the Bill and the clauses will stand on their own as far as the legislation is concerned, so a simple yes or no for leave to introduce is sufficient to know the position of Hon. Members on this important subject.

The Legislative Council membership has progressed over the last hundred years from the original initiative, where only two MLCs were allowed to be elected by MHKs and the rest were either under the patronage of the Governor or Whitehall cronies, at great expense to the citizens of the Isle of Man at the time. The situation was unacceptable a hundred years ago and I believe that these days the general public finds it quite unacceptable that MLCs are elected by MHKs in order to preside over legislation, have the power over policy, and being Members of Tynwald are able, with a minority of the elected House, to overrule the majority of the elected Lower House. How can this be democracy?

It is well overdue for the Legislative Council to be elected on an all-Island basis and to move them out of executive Government. The opportunity is here for separate clauses and the legislation should now be drafted so that different parts of the Bill can stand alone, so there will be points... different parts that people are very keen on. I have already circulated my proposals to Members and I will be happy to see the proposed amendments. This Bill is drafted so that parts of the legislation can stand alone.

In my opinion, this Bill will sort out a number of democratic deficiencies which have been allowed to develop under the ministerial system since 1986. This Bill will help to get the separation of power between parliament and executive and also stop the abuse of power that has blown the biggest economic boom this nation has ever had. I hope Hon. Members will support the leave to introduce.

I am somewhat perturbed that it has taken longer than I anticipated and I was unaware of the time bar, which was a revelation to me as a senior Member of this Hon. House. I only found out about the time bar after it had gone to print, which was something of a revelation.

As I have said, this Bill is a simple declaration: do you believe that the Legislative Council should be elected by us, or should it be elected by the people of the Isle of Man? If you support the

principle of MLCs being elected by the public, which will be part of the democratic process, then I hope Hon. Members will give leave to introduce this Bill – and you should have it very shortly in front of you – that you have already seen.

I beg to move.

The Deputy Speaker: Hon. Member, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Deputy Speaker.

I beg to second and reserve my remarks.

The Deputy Speaker: Hon. Members, as no-one else wishes to speak – Mr Cretney, sorry. Can I call on the Hon. Member, Mr Cretney.

Mr Cretney: Yes, thank you, Mr Deputy Speaker.

I am standing to support the principle of this Bill. It is something I have always supported. I do believe there are aspects of the Bill though, when it comes to further stages, that I think need some further discussion. For example, it seems to me that if we are going to go to a more democratic basis for election of the Legislative Council then there should not be a bar on those Members becoming Ministers. (**A Member:** Hear, hear.) In fact, it could be argued that they may have a wider mandate than Members of the House of Keys currently do.

However, what I am standing here for is to indicate my support of the Bill going forward to the next stage, and I hope to play my part in one place or another in its progression.

The Deputy Speaker: Anybody else?

Mr Thomas.

Mr Thomas: I am not quite sure that supporting this leave to introduce is merely a statement of whether you believe in elections for parliament... [*Inaudible*] more complicated than that, the situation. (**A Member:** Hear, hear.)

As a general principle I will always, or nearly always, support leave to introduce, but it does not mean that this Bill does not need a lot of further work on it. There are three things, as my friend from Douglas South has already pointed out, which are hard to square. One of those is the fact that we have two Chambers; another of those is the number of people who voted for some person; and the final one is the role of the different people. Trying to resolve those things, which have been going on for years and years... Mr Quine in 1983, 1988 and 1990; Mr Cannan in 2000; Mr Karran himself in 2007; Mr Rodan in 2004; and Mr Gawne, in 2014, called for a single General Election to a Tynwald of 32 or 33 Members. An eight or nine-constituency model has been proposed, a five-constituency model has been proposed and a single all-Island constituency model has been proposed by Mr Karran before in 2007.

We have got to go beyond that, because all of these attempts have been unsuccessful and this one is likely to be unsuccessful, so if the Bill does get leave I will be looking to make a contribution based on the experience of Jersey and Guernsey and their islands, and Iceland and Norway and Scotland and Wales –

A Member: Should be a good debate!

Mr Thomas: – which have dealt with all of these issues.

I also believe some of the issues that Mr Karran is trying to address – the Hon. Member for Onchan is trying to address – can actually be addressed without this legislation, and even if this Bill does not get leave to introduce I hope we can work together as a House actually to think about, right this minute, the process of nominating and electing Legislative Council candidates, because we have

a lot of discretion under section 7 of the 1990 legislation already, which can become more public in coming weeks. Standing Orders can be modified, I think, without primary legislation, and also the role of Legislative Council Members and the payment of Legislative Council Members can be addressed without primary legislation, in my view, and I hope to make that a live issue in the coming weeks.

Thank you very much, Mr Deputy Speaker.

The Deputy Speaker: The Hon. Minister, Mr Gawne.

Mr Gawne: Gura mie eu, Lhiass-loayreyder.

I do not think any Hon. Member will be too surprised to learn that I rise to support the Hon. Member with his leave to introduce. I have supported every attempt to reform the Legislative Council in the short 11 years that I have been in the House of Keys and I believe that it is important that we continue the work of recent generations to reform our constitution. That work has not been completed. We began the more significant element of the work in the early 1960s, where we still had a situation where we had a colonial ruler who effectively patted Tynwald and the House of Keys on the head and allowed us a few little trinkets from time to time, but ultimately we knew who was in charge and it certainly was not the representatives of the people of the Isle of Man.

During that period – and it is interesting that most of the significant reform has taken place during my lifetime – we have moved to a much more democratic system, but there are those who will say that, for some bizarre heritage reasons, we should retain our ancient structures. Well, these structures are far from ancient. They have developed primarily in the last 50 years. The Legislative Council was, in effect, a Council of Ministers. Although no sop to the public by way of any sort of democratic accountability, at that time the Legislative Council was the Council of Ministers, appointed by our colonial ruler, and they basically did whatever they wished. The Keys were there supposedly to keep a rick on what was going on, but they did not do it particularly... or they did not have particularly strong powers to do that.

So, to my mind, this Bill that is being suggested by the Hon. Member is a sensible continuation of a tradition of change to move from pretty much a feudal system of government to a properly democratic system of government. Yes, there may well be areas in relation to the Bill... some principles where there could be some conflict, but as we have demonstrated in the past, we are capable in this Chamber of revising legislation; we are capable of introducing amendments as appropriate.

It may be that some of the functions that the Hon. Member is trying to deliver through this leave to introduce may not prove to be popular and we could always leave some of those out. So, for example, I think the Hon. Member for Douglas South, Mr Cretney, pointed out that if you have such a broad electorate, why are you then turning round and saying that person with the broad electorate cannot therefore be a Minister – because potentially, in fact very likely, you are going to have a much higher number of votes than most Members of the Keys, if not all Members of the House of Keys.

So there may well be some conflicts in there, but I think it is right to continue to challenge where we have reached in terms of our constitutional reform. I do not believe that we do ourselves any favours by suggesting that somehow we are clinging on to some beautiful historical past, because quite frankly the historical past had nothing to do with democracy. Yes, we may have the oldest continuous parliament in the world, but it certainly has only latterly got involved in this rather quaint idea of democracy and we still have not got there – we have still got some distance to travel.

So I applaud the Hon. Member for bringing this leave to introduce and I do hope that Hon. Members will show the courage of previous generations, previous Members of the House of Keys, and continue the journey towards a more democratic parliamentary system.

The Deputy Speaker: Hon. Minister, Mr Skelly.

Mr Skelly: Gura mie eu, Lhiass-loayreyder.

Whilst on the one hand I am disappointed we have not had anything brought forward, I do feel committed towards reform. Like my hon. friend and colleague who just spoke, reform I think is necessary.

The big issue for me is that going towards publicly elected MLCs will effectively create more MHKs and I really do not believe that is what the public wants. I have certainly not heard that.

But I think the biggest issue – and I think Mr Thomas picked up on it – is the issue with regard to the pay scale. Many people have issues, I think, surrounding the actual pay scale of MLCs versus MHKs. What I have always said about Members of the Legislative Council is that of course their primary function, as we all know, is legislation. It is important to actually have that background of legislation, and therefore it is always a good ground for MHKs to progress towards that; but I also believe there is a role there that is very similar to the business community, and that is non-executive, and in my mind you could have a Legislative Council, that is of non-executives, of national importance, but I do believe the scale of pay and responsibility should be responsible to that.

I am going to support this and give the Member the opportunity to try again, but I do want to pick up the points with regard to the fact that I do not believe they should be publicly elected, because that will only create what will be effectively MHKs in a different name, and that is one of the fundamental issues. But there are issues and opportunities there that can be addressed, I think, at the clauses stage, and that is our challenge in terms of revising the legislation so that it is fit and appropriate for Members.

I would just draw you back to my hon. friend from Michael, who brought forward a motion about remuneration, because that is an issue, I think. It was done, I think, two years ago in Tynwald Court and sadly it did not get the support to take a look at that, because we should always be independently reviewed and that is one thing that the Hon. Member from Michael brought forward, to try and get a similar body like an independent parliamentary standards committee to look at all our service and our structure and our remuneration, which would look at what we do and what MLCs do.

So I look forward to seeing something come back that we can debate very meaningfully, and hopefully revise, that will be purposeful. I am very mindful that many attempts have failed in the past, but that is our challenge: to try and come up with something that is fit for purpose for not only Tynwald but I think acceptable for the people of the Isle of Man too.

The Deputy Speaker: Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr Deputy Speaker.

I am going to give praise to the Hon. Member for Onchan, Mr Karran, for actually coming forward with this at this moment in time, because in fact it is probably the last opportunity for this administration to actually consider this type of legislation. Following next year, of course, it will be too late.

I also give him praise for putting together a draft white Bill on the Legislative Council reform for us all to have a look at – I think that is the first time a Member has done that for a very long time; it is not first time it was ever done, but it is the first time it has been done for a very long time – so that we can see that there is sincere commitment there to do something about this. It is not just a case of ‘please give me leave to introduce this Bill and I will go away and work it up’; he has worked it up already and he has had the decency to circulate it to all of us so that we can have a look at where his thinking is. So there is a base from which to start.

Credit again due to him: yes, it has taken a very long time; and no, we have not pulled it off yet. But at each stage when a Bill has been moved and a proposal or a report has come forward and been recommended for reform of the Legislative Council and has fallen, what it has left us with is a sense that there are certain things that Members of the day were unhappy with, but otherwise happy with, and he is attempting to address those.

He is suggesting that they should be elected on an all-Island basis. Personally, I favour a unicameral system of parliamentary process, but he is suggesting an all-Island basis, which has gained more support than otherwise over the years.

He has also suggested amending the basis of eligibility for election. That again is something that has come up in previous debates. He has also gone on to remove the Members from the eligibility for service as Ministers or Members of Government Departments. Of course, in his draft Bill he is also talking about eligibility as the Chief Minister. To me, where he is coming from there is for the people to elect a true revising chamber, a scrutiny chamber, a parliamentary scrutiny chamber. That is where the Hon. Member is coming from, and I have to take my hat off to him on that because that is a new way of thinking in terms of this.

Yes, there will be a constituency to look after and their pay will be amended. It will only be amended in terms, I would have thought, that they would just be on the flat basic pay as an elected representative of the public, whether it is to the Legislative Council or the House of Keys, such as I and the Hon. Member Mr Karran are, and soon to be in his next pay cheque, my colleague Mr Robertshaw to my right, (*Interjection*) because two of us do not serve on Government Departments and do not get paid. I am all for having a system where we have a committee, or in this case a Legislative Council, a group of Members, who are elected so they have a public mandate to be voting on policy and finance, which is important in the Tynwald Chamber, but they also are free in terms of Government responsibility. They are not taking the Queen's shilling from the Government coffers, where they might feel compromised to vote one way or the other, depending on the swing of mood and the power of the Council of Ministers of the day. We need that. We need that independent scrutiny, were Members are not reliant upon the extra pay or the kudos that comes from being a Minister, or a chairman or whatever. That needs to come through respective of the capability of the actual individual who is elected. So I think there is a great deal of favour there.

It has been mentioned in this small debate this morning about... you cannot do that, not be eligible for Ministers. I can testify you do not have to be a Minister to represent your people in your constituency well. Indeed, you do not have to be a member of this Government to do that job either. So just because you are a Minister or Member or a chairman it does not mean to say that you have to reach that level before you are representing the people and doing a jolly good job.

Let's not forget, if we had a system such as this, those who would be elected would have the opportunity to debate policy in Tynwald, to debate and query and scrutinise finance and the Budgets and motions in Tynwald. They also would have the ability to ask Questions of the Government and of Members and chairmen of select committees and scrutiny committees. Of course, most importantly they have a vote and sometimes it can be quite a powerful vote in terms of previously supporting the block vote of the Council of Ministers – not so much these days since electronic voting came in; I have noticed a change since that came in.

So I wish the Hon. Member well. He has done a lot of work so far. I dare say not everybody will be happy with every little bit of what he is proposing. There will be an opportunity to change that, but I think this is an opportunity for all of you in this House now representing your own constituents to do something to address this dreadful situation, which might not be top of the public agenda today, but it has been for a very long time and it is something that we have failed to address. Members here today, you have got the opportunity to address it and give support to the Hon. Member and let him crack on with the process of this new legislation.

Thank you.

The Deputy Speaker: Does any other Member wish to speak?

Mr Ronan: Just quickly, yes.

The Deputy Speaker: Mr Ronan.

Mr Ronan: Thank you, Mr Deputy Speaker.

Just quickly, yes, I will definitely be supporting the leave to introduce, but again I think it is going through the process. There is much in this which can be questioned, I think, and I do have concerns about Members of the Legislative Council, whether they are being publicly elected or not, not being certainly Members of Departments. Considering the size of the Isle of Man Government itself, we have an awful lot to do in our day-to-day work, and some of the work done by Members of the Legislative Council is incredibly valuable in Departments, (**A Member:** Hear, hear.) and that is something I have seen for myself so I think we need to be very careful not just to jump on the populist bandwagon here in that area.

Just touching on what Mr Skelly said, I think he is absolutely right: I think remuneration needs to be carefully considered here, and I think generally across the board as well.

But all in all, again I congratulate the Member for bringing this forward. It is certainly something that has never gone away, certainly in my time, not in this House. If this fails, it will keep coming back and back. Reform is needed in whatever guise that is in – I think that is something we can debate when it comes to this House.

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

Mr Karran: Lhiass-loayreyder, firstly the Hon. Member for South Douglas, David Cretney: I thank him for his support. The reason why I have gone for the bar as far as Ministers and executive Government are concerned is because I think that is one of the fundamental deficits we have got, but what I have done in this Bill is I have tried to work it so that different parts of the Bill stand alone.

When we were first elected to this House many years ago, after the 1986 election and the new ministerial system came about there were two wings of the majority – either the right wing or the ultra-right wing. Being a Member who had to have a situation where we had to fight the argument that... why should we be making it illegal to drive non-roadworthy vehicles? What would the poor people drive if you did not let them buy non-roadworthy vehicles? The commonsense view would have been you pay them a decent wage so they do not have to buy a non-roadworthy vehicle.

So we had the situation where the Labour Party was the balance of power between the two sides – with a rainbow alliance with people like the late George Swales, who was an excellent man – and we had that audit there then, but as it went on it consolidated more in just one undivorced system as far as the executive and the parliament.

I think one of the classic examples of why I think the present system does not work is I happened to be a member of the Public Accounts Committee and there was was a good argument that I should not have been at that meeting of the Public Accounts Committee when the newly elected Chairman of the Public Accounts Committee, taking his seat, had the first item on the agenda as whether we should investigate the financial aspects of the new Hospital. And then we had the sycophants saying, 'Oh, no, I was a social worker, and maybe I shouldn't be here discussing the thing.' Absolute nonsense!

This is where we have lost our way, because when we had the Labour Party some of us were out of executive Government, on the other side of the room, and half the time we wanted to try and achieve things for the Labour Party it was... because we were on one side, half the House would move halfway over the room to where we wanted to be. I believe that one of the problems we have had over the last two administrations is that situation has failed to happen anymore, because whilst I was more worried about the Hon. Member for East Douglas losing me votes, she is right about the situation as far as those in Government and those out.

So I believe that what we should be looking at is (1) the general principle of the MLCs being elected; and (2) I believe there need to be these constitutional changes. As the one who has been a Member of this House for a very long time outside executive Government, and had my roles for 10

years or 11 years as Chairman of the Water Authority and a Member of different Departments, I think there is more clarity from the likes of us seeing what needs to happen.

I think the likes of the PAC and a lot of these Scrutiny Committees are not ever going to be effective because they are too tied to turn up to Department meetings and stuff like this, when they should be doing their scrutiny on this. This is where the PAC – as a former member of the PAC – has failed royally.

So I am glad that the Hon. Minister is going to support, but maybe he can see the reasons why I believe that the... or the ex-Minister is going to support me, the Member for South Douglas, on the issue of the election of the MLCs.

The reason why I want it on an all-Island basis is to get it away from the constituency matters, because I believe that is where we, as MHKs... What I do not want is replication, like anybody else in this House, of more MHKs. We are going into one of the most difficult times. It does seem, with the outbursts from the United Kingdom, that they are trying to use us as political fodder, which could absolutely decimate this Island, and the fantastic social improvement that we have seen in 30 years in this country, from what it was when I first entered this House and what it was when I was a child, where it was not what you know, it was who you know, and the vast majority of people were living on less than half their counterparts in the United Kingdom.

The Hon. Member for West Douglas, Mr Thomas: I am glad he has given support for this Bill. I can only say that – with 30 years of experience in this House, and for 10 years before that outside this House being involved with a political party from the age of 16-17, dealing with MHKs – I have put this Bill together to try and sort that out.

What I am concerned about is that... this Bill is hopefully drafted now in a way so that people can take the bits. As the old national saying used to be, *beggan ry veggan ny share*, little bit little it will get better. I believe that what I have always wanted is evolution, not revolution, and I believe that this piece of legislation is part of that evolution process that will actually bring about good governance.

One of the things is there are very few, apart from me and my hon. colleague from South Douglas... We have been in Government and been in parliament when there was no money. The art is going to be now, for the new Members who are here after the election and for some of us if hopefully re-elected... is the fact that you will have a new experience as far as how to govern and how to be a Member of the House of Keys when there isn't money about.

I thank the Hon. Member for Rushen, Mr Gawne, for his support, and I appreciate he believes that this is a long and hard process, and I thank him for that.

The Hon. Member for Rushen, Mr Skelly: I appreciate that he will support me. I am as embarrassed as anyone at how long it has taken to get this here, and it has been so difficult to get it going.

I am quite happy to hear the Hon. Member's arguments about non-executive directors. What I want to try and do is... What we do not want is back to the days when I was in the Lower House and Eddie Lowey was in the Upper House and we were the only ones under retirement age who did not have another income stream to be in this House. I could never have done what I have done over the years in this House or in politics if I had had a wife and kids and responsibilities like most people do. So what I am concerned about is that I have... By all means, if you want non-executive directors as an MLC basis for an Upper House not elected by the people, then I will be interested in your concept, so long as it does not go back to the old days. I often get told about how in the good old days they did it for the love and the money. I can always remember – because the Member is dead now – going to one of my first meetings of the Highways Board and asking why did we buy 6 tonnes of paint, and the late Hon. Members, Mr Quirk – Willie Quirk from Glenfaba – and Noel looking at one another, knowing damned well the reason why there were 6 tonnes of paint going hard in the Highways Board stores. One of them said, 'Ah, it came from when the Chairman of the Airport Board... it was consolidated into this House.' So this idea of trying to rewrite history as far as how there was no financial gain is utter nonsense. So I would be interested to see what he comes up with on that

basis... *[Inaudible]* non-executive director status MLCs. I will be very interested to see what he comes up with.

What I do not want – I am as committed as him – is I do not want more MHKs. MHKs have a role: they are here for their constituents; they are here for the Government. I have watched in horror over the years where the legislation has dropped to an all-time low and the Upper House actually does more scrutiny of primary legislation than we do. So I am with you as far as not wanting another bunch of MLCs, (**A Member:** MHKs.) and that is why I will fight vigorously against eight single MLC seats for the Upper House, because I do not want an MLC for Onchan and three MHKs; I want an MLC for the nation. I want to see that opportunity that they are not part of the political toing and froing, but they are there to shout foul. That is what we need in this House. The ridiculous times, year after year, where things have been exposed, by very few of us when it comes down to it, and we end up with a situation where, because of the present system and everyone is part of the executive, apart from me and the Hon. Member for East Douglas at the present time, it is very difficult for that.

So I am with you on that. I do not want extra MLCs. I want a national revising assembly, where MLCs are there with specific terms of reference as MLCs to look at primary legislation, to hold executive Government to account because of the fact of the lack of honest transparent party systems in Tynwald.

I thank the Hon. Member for East Douglas. I am sure that we have got enough time to get this Bill through. I have to admit that whilst I am very glad for some praise in this House, the reason why you have got a white Bill is only because the First Reading of this Bill would have been about two months ago, but we got this logjam as far as having to go through this hurdle again. So I do appreciate that.

I believe that, personally speaking, the Hon. Member is so right about issues like the PAC. I have believed for years that the Chairman of the PAC should be classed as a Minister and not as chairman of the board, and the other members should be classed as Members of Departments with no other role. I believe that has been a huge failing of this and the previous administrations. To be fair, this administration has been more polite than the previous one to some of us – maybe because now they cannot defend the indefensible that they have been allowed to get away with, because the penny has dropped outside this Hon. House.

I thank the Hon. Member for Castletown for his question about the MLCs and not wanting to be on the same basis as MHKs. I hope this Bill will be putting the constitutional cornerstones into where they are going to have to be as far as governance is concerned in our nation to stand up to the attacks, to be able to weather the hard storms that are going to come our way with the totally different economic climate that is on our doorstep at the present time.

I thank the Members for supporting, who have spoken on this Bill, and I do hope that leave will be introduced and I hope that you will have a First Reading in the very near future in green form so that we can discuss it in detail in this Hon. House.

I beg to move.

The Deputy Speaker: Hon. Members, the motion is as on the Order Paper. All those in favour, say aye; against, no. The ayes have it.

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

FOR

Mr Anderson
Mrs Beecroft
Mr Cannan
Mrs Cannell
Mr Cregeen
Mr Cretney
Mr Crookall
Mr Gawne
Mr Hall
Mr Houghton
Mr Karran
Mr Quayle
Mr Quirk
Mr Robertshaw
Mr Ronan
Mr Shimmin
Mr Skelly
Mr Thomas

AGAINST

Mr Henderson
Mr Watterson

The Deputy Speaker: The vote, Members, is 18 for, 2 against. The ayes have it. The ayes have it.