

4.1. Representation of the People (Amendment) Bill 2015 – Second Reading approved

Mr Shimmin to move:

That the Representation of the People (Amendment) Bill 2015 be read the second time.

The Speaker: We turn to Item 4, Bills for Second Reading.

First, the Representation of the People (Amendment) Bill. I call on the mover, the Hon. Member for Douglas West, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker.

Today's Second Reading of the Representation of the People (Amendment) Bill is an important step towards improving transparency and governance of the Island's election framework, ensuring that key reforms are in place before the 2016 General Election.

The Bill comprises 37 clauses and two schedules, focusing on four new provisions as well as clarifying and modernising current legislation. These provisions introduce a party registration system, limit candidates' campaign expenses, add requirements relating to donations and place new restrictions on proxy voting.

As Hon. Members will recall, in 2010 a review into the rules and processes applying to candidates standing for election was undertaken by an independent panel following the events during that year's Douglas East by-election. The panel's recommendations were published with a response from the Council of Ministers Governance Committee as part of a public consultation. The results of the review and the consultation are incorporated into the Representation of the People (Amendment) Bill 2011, which did not complete its passage through this House.

The Bill before us today includes reforms attempted in 2011 plus provisions reflecting recommendations on the registration and conduct of political parties, as well as other changes arising from the post-2011 election review. It also includes amendments made further to last year's public consultation and the recent presentation to Tynwald Members.

The independent panel recognised early on that designing a completely watertight system of election funding is impossible. If people are determined to bend the rules this cannot be prevented. It also recognised that any reporting system needs to evolve over time and be fine-tuned on a regular basis, as has happened in all mature democracies. Therefore, a straightforward system has been included in the Bill, which, should it be approved, can be amended in light of practical experience.

Mr Speaker, there has been growing participation by candidates representing political parties, and party regulations are being addressed by seeking to increase the amount of information that is publicly available. There is a new requirement for parties supporting candidates for election to this House to be included on a public register. A deliberate light-touch approach has been taken in this process. To register, a party must supply some basic information plus their constitution and most recent accounts. There are circumstances under which a party can be removed from the register but this is subject to appeal, as is refusal of an application to register.

A key recommendation of the panel was to increase transparency of election funding during the 12 months before polling day for scheduled general elections. In order to legislate for this recommendation, the Bill refers to prospective candidates, namely those who declare their intention to stand before their nomination paper is accepted. There are new provisions to limit the amount a candidate can spend on his or her election campaign during the relevant period. A formula based on a recommendation of the independent panel and agreed by the Council of Ministers is set at £2,000 plus 50p for each registered elector in the candidate's constituency. This amount can be adjusted by regulations. It is important to note that a candidate is only required to submit a statement of

expenses if the Electoral Registration Officer receives a complaint that they have exceeded the maximum amount.

Schedule 2 of the Bill provides details of what constitutes an expense and the meaning of 'a donation'. The Bill requires all Keys candidates to declare donations that are, or are worth equal to or greater than the minimum amount, set at £50, which may be amended by regulations. The declaration has to include a statement that all anonymous donations have been disposed of, as they cannot be retained by a candidate, prospective candidate or a political party. In accordance with the independent panel's intention to improve transparency, certain documents required by the Bill, including declarations and party constitutions, will be publicly available at the General Registry, subject to a fee that Treasury may set.

Mr Speaker, on the issue of proxy votes, there are voters, such as those serving abroad in our Armed Forces, who have no other means of casting their vote. These people should not be disenfranchised. (**Two Members:** Hear, hear.) However, it is well known that this type of voting is open to abuse. Therefore, the Bill restricts the availability of proxy voting to those unable to vote in person or as an advance voter. The Bill adds the term 'advance voter' to replace 'absent voter' to clarify that electors can choose to vote in advance of an election for whatever reason. It is hoped that these changes may increase voter turnout and reduce the number of proxy votes.

Finally, I want to briefly touch upon other changes to clarify and modernise the law. These changes include refining the requirements for qualification and disqualification for membership of the Keys and modernising several provisions to take account of new methods of communication – for example, affording candidates the opportunity to have their manifesto displayed on the Government website.

The 2016 General Election is fast approaching. We have the opportunity to ensure that a fairer and more robust legislative base is in place in advance of that election. Subsequent reforms will be made by the election regulations, which will replace the current mix of regulations and rules, many of which are obsolete. Thereafter new forms, guidance and codes of practice need to be in place. It is important that the whole package is available from early next year so that candidates and officials are aware of the provisions which will apply to the 2016 General Election.

Mr Speaker, that is a lengthy introduction to the Second Reading but I hope that Hon. Members will be able to give the Bill their support.

I beg to move that the Representation of the People (Amendment) Bill 2015 be read a second time.

The Speaker: The Hon. Member for Rushen, Mr Watterson.

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

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

Mr Cretney: Yes, thank you, Mr Speaker.

Yet again I stand to offer my support for this piece of legislation. When the matter was being considered by the panel on behalf of the Manx Labour Party I did write in to acknowledge that we were in support of more openness, as is being proposed here today.

In relation to political parties, it is something that we should have no problems about and we are very happy with, so I just wanted to make that point for the record.

I do believe that a number of the other matters in the legislation, in particular the clarification in relation to proxy voting and absent voters, will make things clearer for those outside, and I welcome that as well.

The Speaker: The Hon. Member for Douglas West, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I, too, rise to fully support this Bill as it goes to the second stage of its passage through both Branches.

I have a few questions. The first one is: can the Minister assure me, as the Member for Glenfaba did at the first version of the Bill, that there will be a third Bill coming back? We had the first Bill to look at the constituencies and to get equality of representation; we have now got this Bill to deal with all the matters of party and advance voting; and it is quite clear in the consultation responses that other issues about registration, as well as electoral reform, would actually be addressed in a third Bill in the next administration. I wanted the Minister to advise whether he concurred with me that that was the right way to do it: we would need to sort things out now, as we did for constituencies previously, and in the future we will look at more issues.

The second point is this word about 'endorsing' candidates, and I wanted the Minister to actually engage more fully in the coming weeks with this Branch, and then perhaps subsequently with the other Branch, to make sure it is completely clear which organisations are in target for being called a party, because the word 'endorse' is the word which needs to be quite clearly defined. Just having a policy-based mandate which is shared to some extent with other people clearly does not mean 'endorse' and it does not in any way imply endorsement from my point of view, and we need to clarify that sort of thing in the coming weeks so there is no misunderstanding.

Finally, I just wanted to clarify the link with constituency boundaries, because previously we had been advised by the Minister for Infrastructure that the wards in Douglas would need to be fixed by April this year if Douglas Council is going to reduce its number of councillors from 18 to 12, and I wanted the Minister just to see whether he could come back to us at a later stage to say whether there was anything pressing if people intend to actually reduce the number of councillors from 18 to 12.

So, in summary, I do hope this Bill will progress quickly, because I am sure there is a lot of detail to deal with later and it will allow for the election – which will be on 22nd September 2016, as I understand it from reading this Bill – to go ahead smoothly, and more smoothly if it is passed quickly.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, the Bill is very interesting. I think that I agree with the hon. mover as far as the issue of you will never be able to cover every eventuality as far as funding is concerned – but we must try our best to do so, because that has been one of the biggest problems over the years. We have the examples of where we can have candidates who own shops and put their adverts in around election time. You will never cover everything as far as that is concerned, we understand that, but we must try our best to protect democracy as far as this Island is concerned.

I am also quite pleased that, once again, one has been vindicated as far as the proxies. When we were actually doing the legislation we had the same abuse, and at least someone now is recognising what our concerns were about how it was so open to abuse. I was more concerned about secret societies than I was about other organisations abusing it, but I am glad that that vindication... even though we will not see any of that in the media, or as far as Members in this Hon. House acknowledging.

What I do think is important, and there needs to be a serious reflection as far as this Bill is concerned... Clause 2 talks about the Appointed Day Order and the different day orders that the Council of Ministers will appoint. The problem is: how do we justify and how do we safeguard what parts suit the Council of Ministers party, as far as making sure that we have a consistent approach? I do think maybe that needs to be looked at, from what a lot of people outside this Hon. Court see is a party, that is totally a party and based on a one-party state by patronage. So how do we make sure that the parts of the operation of this Appointed Day Order provision should be left to what most

outside now recognise as being part of the problem of the lack of parliamentary accountability, by being a party *de facto* in all but name?

I am concerned that clause 5, on the issue as far as the qualification and that the candidate must appear on an Island register... It is a lot better than it used to be, but when I think of one of my predecessors as the Hon. Member for Middle... the late Hon. Member, Ted Ranson, who was an extremely good person, used to complain, in my youth when I used to go to the Onchan Labour Party meetings, about the issue of if you are outed, not on other issues but on the issue of being a Labour supporter, you always had to check that you were on the register. This is what anywhere else would call gerrymandering, and this was an issue... not raised by me, so don't abuse me about the fact. That is a legitimate concern that the former Member for Middle had as far as making sure that people did not disappear off the voters list, because that was a big problem when he was in politics. I am concerned about the issue that they must appear on a register of electors. I am concerned that, whilst there is a lot more flexibility today, as it was only once a year you could get on the voters list, there are now a number of times... To a certain point that is something that I would not die in a ditch over, but I would like the Minister to explain why they have to be on a voters lists.

I believe that there should be a residency qualification of maybe five years to stand as an MHK, and I could sympathise with that even though it should be left to the people's choice as much as possible. I would be interested to know why he has gone for that, because I do think it is an issue that needs to be... and if the mover can just clarify, because obviously I may have not read this clearly, but what is the residential qualification for standing for election for the House of Keys?

As far as the issue of subsection 1(2) about the new disqualifications and the section on conviction as far as relevant offences are concerned, I do agree with it; but I also agree that, as long as it is transparent and people have to openly declare their conviction, I cannot see why we should really be interfering in the criteria of who stands. Democracy is about what the *people* want, but I do believe that if people are not told of these convictions then they should null and void the election process. I am interested in that.

On clause 6 as far as the Bill is concerned, I see that it talks about:

'The Independent Review Panel found the issue of political party funding could be addressed if more information was available and so registration was recommended.'

What I would be interested to know is, as a Member who has been here for 30 years and been involved in politics since the late 1970s, are we going to see a situation as we have seen in the past, where basically different organisations, secret societies, farmers, organisations acted with *de facto* parties, as far as in this Hon. House is concerned? That was a fact – as I say, people recognise that – and that was one of the reasons why we battled so hard when we were trying to get working people their rights that they should have had, and fortunately that was one of the advantages of ministerial government.

The situation is: how do we stop the situation of secret societies? How do we stop where churches, golf clubs or whatever, are not classed as acting *de facto* as political parties in the fact that they are trying to promote their candidates as far as election is concerned? And what coverage are we going to have to make sure that that is not the case? Fortunately, in this House you have to be very old to worry about things like sectarianism. This is something that we do not have today, but I do feel that if we are to discuss it, where does a candidacy stop being promoted as a party and where does it just... as the fact that they happen to go to part of your congregation, or whatever, as far as trying to get your candidate elected? These are issues that do need to be addressed, in my opinion.

I would also be interested in the issue, under clause 6, of 20 registered electors. If we do have a problem in the future – like we obviously did in the past as far as the former Hon. Member for Middle, Mr Ranson, talked to me about on a number of occasions – I am concerned why we have gone for a figure of 20 registered electors. I am concerned that, if we take organisations like Mec Vannin, you are going to maybe inflict the best publicity coup that you will ever have by making them an illegal organisation, which obviously does not give them the credence that I would want to

do. But when you look at the likes of that issue, why we have got to have 20 registered electors? I can remember in the late 1970s being a member of the Willaston and North Douglas Labour Party – Willaston District Labour Party – where there was only an average of around five or six attendees at that branch meeting as far as that party was concerned, and at that time, Rushen being the only other one that was active, would have been classed as an illegal organisation when the average age was more likely about 75. I just really think that we do need to justify the issue of 20 registered electors. I do feel that why they have got to be electors and why they cannot be people who are openly transparent... *[Inaudible]* on the electoral list.

I have to say that I am somewhat disappointed. If anyone was to give you an anonymous donation as far as parties are concerned, it should not happen, as far as I am concerned, but why is it that they are supposed to hand it over to the Manx Lottery Trust, which basically co-opts, as far as CoMin is concerned, only their budding Members in the past, as far as this Hon. House is concerned, who were seen as future people as far as their political persuasions? I just wonder why we have got this.

What concerns me as far as clause 6 is concerned – another repeat – is that if a party does not endorse a candidate for three successive elections they cannot be registered as a party. If that is the case, I think the last time Mec Vannin put a candidate up officially, transparently, was against *me*, and I think that would be more than three elections ago. So what are we proposing here? Are we proposing that Mec Vannin becomes an illegal organisation? Because that is the problem that you have got to realise. And again, I know that the mover is no more wanting to do that than I am, but I do think that this needs to be thought out, because I am sure that there is nobody in this House who wants to make Mec Vannin an illegal organisation. That would be nonsense – absolutely nonsense. My argument is that yes, it is tough in here but you can survive in here and not be part of the establishment in this place, and they should be fighting elections like every other organisation. They have a freedom to do that, or not do that, and if they want to be classed as a political party then I am perfectly happy. I cannot see why we should be making them an illegal organisation.

We have problems with a certain element as far as that because the Royal Oath is concerned. I know that we have people who will not become a Member of this Hon. House because of that oath to the British Queen, but I am concerned that these points need to be addressed. It is not being pedantic; it is about making sure that we do not give the publicity coup that we hear that the Hon. Member from West Douglas is always on about.

Mr Watterson: But you already have.

Mr Karran: As far as candidates are concerned, and the issue... What happens in section 20A of clause 12 when we talk about cash? Let's be perfectly honest about it. None of us particularly want cash; we need help, we need support when we are fighting elections. How do you equate that to somebody giving their businesses time off to go canvassing for a candidate in lieu of cash?

How does the Minister... and I agree and I really welcomed his sincerity as far as the issue that it will be impossible to get around all the funding issues, but when you look at that, the issue of non-cash into supporting candidates is a big issue. Today, the issue of... and you might pull a face Hon. Member, but the fact is that is the reality of how it used to work, the political 'how it worked'. And it still will work that way with big business. You do not have to give people cash, but they can give services in lieu of cash. How do we manage to get around that? So I do feel that this is a step in the right direction as far as that legislation is concerned.

I also would like to know, when we talk about the declaration as far as section 20D, the safeguards of candidates as far as the Bill goes for them being elected, the time period for any complaints that come about – whether that is long enough, as far as that issue is concerned.

The issues of the proxy votes I have already raised, but I am so glad that somebody is actually taking up the concerns that this Hon. Member said, when these issues were brought about in the first place and there was all this, 'Oh, it won't happen.' Well, it is nice to know that we are actually

trying to close the gate after the horse has bolted. I would not want us to go back to the situation where we have constituents who are deep sea and for 25 years were unable to have involvement with being part of the electoral process, but I do feel that getting that balance right is something that is going to be very difficult and I am not sure whether we have actually got it, even with these proposals.

Clause 23 is quite an interesting one because I totally agree with that, as far as the issue of stopping the buying of drinks in public houses. It is something I used to go mad with people, saying that if your vote is only worth a drink then you are absolute idiots, where these people could make quite a lot out of getting into those positions of power, so I am glad about that. I think it is important. It is something that needs to be addressed, so I totally agree with that.

When we talk about the issue in clause 26 –

A Member: We're getting there.

Mr Karran: – the unregistered political party committing an offence, as I have said...

People might be tired, but this is primary legislation and we should scrutinise it.

The situation is how do we define if a trade union promotes candidates as being members of their organisation, as far as whether they are... Masonry, which was the biggest political force in this House for a long time – maybe not today, but they were... where the local golf club sends around anything... How do you secure the Church, the pressure group that decides it wants to open up and promote their candidate from not being classed as an unregistered political party? I am just concerned about the stifling of the political process. It has always happened, as far as different situations are concerned, and admittedly, hopefully, we are becoming more politically astute as far as the nation is concerned from those days. But I still think the mover needs to address that issue.

I think that this Bill is something that needs support and I hope that we will all be supporting this Bill, but I am concerned about the issues of the registration of political parties, making sure that we actually do not end up with a sham situation where the real powerhouse is going to be addressed as far as the people who are quite dishonest in their political persuasion and political allegiances... by not making them clear.

I also worry, as a senior parliamentarian of this Hon. House, about making sure that we do not end up with a situation which I feel would be a far bigger problem as far as this Island is concerned, where you have massive business interests backing candidates as this 'indie' party, as many people outside this Hon. House are concerned, and has been described as the 'indie' party from outside this Hon. House, where they end up with the issues of them being conflicted later on if there was a fire sale of Government assets... that they are impotent to be able to do anything about making sure they look after their constituents' interests rather than the people who have helped them get elected in the first place.

Vainstyr Loayreyder, we have come a long way in 30 years. I was more than likely the first candidate in Middle who was not backed by a church in that constituency. Today it would go against you, being backed by a church. But I do feel that we need to look at these points of what we are criminalising and make sure that you are actually getting things that you really want to criminalise instead of ending up getting people who are not part of the political process. I hope the Hon. Member is right when he says it will not.

The Speaker: Hon. Member for Ayre, Mr Teare.

Do you wish to speak, sir?

Mr Teare: No, thank you, sir.

The Speaker: I call on the mover to reply, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker.

A number of the points will be brought up through the clauses stage.

I thank Hon. Members and would like to put on record my appreciation to Mr Henderson and Mr Quirk, who took the time to contact the Department and talk through some of their concerns and issues, and other Members I am sure have done the same thing and I am grateful for their interest.

It does appear that there is general support for the principle of what we are trying to achieve and general support for the detail that we are looking at; and in looking, the predominant speaker was Mr Karran, but I think most of his issues can be succinctly put around the area Mr Thomas put forward, which is about what does it mean to be endorsing candidates.

Certainly there is no intention, despite getting the headline – I hope it is not used – regarding an existing body on the Isle of Man being made illegal. That is not the intention. This would not be an intention, and therefore it is only when it comes to supporting candidates in the election they would have to be registered. Therefore they can and will remain a political party. The only time that they would need to be registered is if they were to be supporting a candidate, but that will be made clearer, hopefully, during the clauses stage when we get to it in a few weeks' time.

Issues again about removal off the register we will cover at that stage. It is really about the registration of now and the current period of time – we have to be a bit more formal than we have in the past. Some of that is very positive, some of it is bureaucratic, and as the Hon. Member for Onchan has said, it will not be perfect but it is a step in the right direction.

That brings me back to my colleague in West Douglas. Yes, a third Bill will be necessary; therefore that will be up to the next administration what that would include, but those areas we identify during the 2016 election that have not worked perfectly can be built upon, and we should see this as ever improving the process rather than saying we get it right once and then it stays like that for 20 years.

So I think if we can accept the principle that there will be further work done in the future, lessons – as has happened in the past – will be learned, things will change I think from the public's point of view. The main concern they should have is an awareness of the constituency boundaries. It is more likely that the constituency boundaries will affect more of our people (**A Member:** Hear, hear.) in a more telling way than anything to do with this legislation.

This predominantly is down to candidates, political parties, returning officers; the public should not see any major change in this. The only ones who are affected would be those who have got into the habit of using proxy or absent votes. I think, as commented upon by Members, that is something where abuse has taken place. It has been identified; it now needs to be rectified.

With that, Mr Speaker, I will attempt to answer any of the further points at the clauses stage.

I beg to move.

The Speaker: Hon. Members, I put the question that the Representation of the People (Amendment) Bill be read for the second time. Those in favour, please say aye; against, no.

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

FOR

Mr Anderson
Mrs Beecroft
Mr Bell
Mr Cannan
Mrs Cannell
Mr Cregeen
Mr Cretney
Mr Crookall
Mr Gawne
Mr Hall
Mr Henderson
Mr Houghton

AGAINST

None

Mr Karran
Mr Quirk
Mr Robertshaw
Mr Shimmin
Mr Singer
Mr Skelly
Mr Teare
The Speaker
Mr Thomas
Mr Watterson

The Speaker: With 22 votes for and no votes against, it is carried unanimously.