

4.1. Legislative Council Reform Bill 2015 – Second Reading approved

Mr Karran to move:

That the Legislative Council Reform Bill 2015 be read a second time.

The Speaker: We turn now to Item 4 on our Order Paper: Bill for Second Reading, Legislative Council Reform Bill.

I call on the mover, the Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, Hon. Members, in moving the Legislative Council Reform Bill 2015 for its Second Reading I am trying to address two fundamental issues.

Those principles in this piece of legislation are... One is the issue of who the electorate should be: whether it should be us, as MHKs, electing MLCs; or should it be the people of the Isle of Man. I believe that it should be the people of the Isle of Man. I believe that the MLCs have a fundamentally different role to MHKs. That is why I have started with... The voting should be on an all-Island basis by STV, which means that all voting in different communities will have equal ability in terms of representation and the value of votes. In my experience as a Member of this House in 1985 for the ancient sheading of Middle, I can see the importance of an STV voting system with the fact that it would take me a week to canvass less than 300 votes in Santon. In that same week I could do 1,500 votes in the Ballachurry polling area with the same timescales. *(Interjection by Mr Watterson)* The danger will be that... We must not allow a situation where urban areas will have all the representation but rural areas will not. That is why I believe that the election of MLCs should be giving everyone the chance to vote on an equal basis. I hope Hon. Members will support the electoral structure which I suggest for a nationally elected Legislative Council by the people for the people.

The second part of the Bill deals with the equally important issue that is the role of an MLC in Tynwald and in its own Chamber. Legislative Council has always been known as a revising Chamber, and to that end no MLC can be a Minister or Chief Minister. They would be paid as Members of Departments anyway in order to take up the role of Scrutiny Committees and the PAC, which I believe has been a fundamental weakness with us not being able to expose and hold to account the actions of bad governance over the years. There is an important role of a revising chamber. There is that vital role of scrutiny and I believe that revisiting the Chamber of the Legislative Council should make it more robust in its role as a revising... and scrutinising the legislation and the actions of executive Government. There are many examples of ways to create audit and accountability to develop the good systems of government which our citizens deserve. We can look at different structures throughout the world. We have the United States Constitution with its President and its executive. We have the Faroe Islands, which got into dire financial difficulty some time ago now, where they had to change the whole system of government where Ministers are out of the... *[Inaudible]* of the parliamentary process.

Hon. Members, I do not intend to move the clauses of this Bill until after the Easter break, as I want to let you have that input. I may have had 30 years – and years before that as part of the old Manx Labour Party – as an MHK, but I do not say that I have got all the answers. I believe that this is the way forward, this piece of legislation. However, I believe that what I am proposing is the correct way forward and I hope that you will take the opportunity to come up with your suggestions for my Bill. Let's discuss them through the ability at the clauses stage and let's have that detailed debate on each of the seven clauses of this Bill.

I hope Hon. Members will accept the fact that it is now unacceptable that the Upper House of Tynwald, a Branch of Tynwald, is not acceptable to be elected by us as the electoral college. I believe that we need to address this issue sooner rather than later.

I hope you will back the Second Reading of this Bill. Many people do believe that the way we vote for MLCs is totally wrong. I hope Hon. Members will support the Second Reading of this Bill and I do move.

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

Mr Cannan: Thank you, Mr Speaker.

In light of the absence of the Hon. Member's colleague and leader of the Liberal Vannin Party, Mrs Beecroft, I am happy to second the Second Reading today.

I cannot agree with everything the Hon. Member has said or intends with his Bill but I do think there is a strong case for reform of the Legislative Council and, particularly given the proceedings that we sat through last week, which I think the electorate generally viewed with great concern and indeed amazement, the way things are operating at the moment is not satisfactory, probably has not been satisfactory for some considerable time, and I hope that, by supporting the Second Reading, when we get to the clauses stage there may be some sensible proposals from the Keys for some changes which will make the process of election to the Legislative Council in the least a more acceptable process for the electorate.

I beg to second.

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

Mr Singer: Thank you, Mr Speaker.

I have to start off by saying I have always supported reform to bring about public election of the Council, but it has to be in a form that is workable and feasible (**Two Members:** Hear, hear.) and ensures that we do end up with problem-free legislation, with the right people in the job to achieve that. After so many attempts over the years to produce an acceptable product, and I congratulate the mover for making yet another attempt, I have to say to him that I do not believe that the Bill before us is satisfactory in those regards. (**A Member:** Hear, hear.) I am therefore of the opinion that the Bill will need considerable amendment.

It has always been that supporters of reform see that reform in different ways, and that is a problem. What kind of Chamber do we need? What sort of person will ensure that Council works efficiently? How do you attract those candidates for the job? The first priority of a Legislative Council Member is scrutiny of legislation, but you cannot, in my view, make those Members, as is in this Bill, second-class Members of Tynwald, (**A Member:** Hear, hear.) accepting that the views of this House should take precedence over the Legislative Council, despite the latter being an elected Chamber. Either we appreciate the need for the Legislative Council, which I do, or you become a unicameralist – and I think that would be a massive mistake in such a small legislature as ours, which limits options.

So what do I see wrong with the Bill presently before us? First of all, one constituency electing eight Members means that the candidates cannot reasonably be expected to visit all the areas of that constituency before the election. Secondly, eight seats in one constituency means at least 16 candidates or even more on one ballot paper; a nightmare for both the electorate and the returning officer and staff, totally unwieldy. I personally favour the eight constituencies. The general public of the Isle of Man expect the candidate to knock on the door in order to get their vote, and this would be impossible in a single constituency election. Even if you were to get one free postage, running a full election might be so costly and time-consuming as to rule out other than those of means. Hon. Members, the possibility of therefore limiting candidates to those who can afford to finance their elections and not those most suited to be there will likely be back to the old days, which the Hon. Member often refers to, of elected Members only being representative of part of the community, not all of it. In my view, running the Legislative Council as a single constituency would not engage

the enthusiasm of the voters. I think it would be damp squib and the most deserving candidates would probably not be elected. I have to say here I am also an opponent of STV.

I cannot support also the payment to a Legislative Council Member solely as a Department Member, because I believe they should be able to contribute in Government Departments and Committees, and whilst I agree that a Minister should in principle come from the House of Keys I cannot rule out a circumstance which might necessitate a Minister coming from Council, especially as they will have a public mandate. In saying that, I am cognisant of the possibility that, following the next Election in 2016, after retirements and the effect of boundary changes have taken effect, it may well be that half the elected Members are new and only perhaps three of the current Council of Ministers might be returned, and the Chief Minister will need flexibility under extraordinary uncertain circumstances to run the Government. So, in relation to this proposal is the Hon. Member saying that Legislative Council Members should also not be elected to Tynwald Committees? Perhaps he could explain that.

I look forward to seeing amendments at the next stage of this Bill, so that we can have a Bill that can be supported, is workable and is probably formulated to have elected Members of Council who can undertake the job of thorough legislative scrutiny whilst not being excluded from contributing to the future prosperity of the Island.

To sum up, Mr Speaker, I would say that without considerable amendment the content of the Bill is neither to the advantage of the electorate nor the good government of the Island. I am minded to support the Second Reading but will carefully consider its contents and the amendments put forward at the clauses stage.

Thank you, Mr Speaker.

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

Mrs Cannell: Thank you, Mr Speaker.

I am inclined to agree with a lot that the previous speaker, the Hon. Member for Ramsey, Mr Singer said; but I am also minded to support this Bill, because we are being asked to support or otherwise the principle of the Legislative Council being elected and one has to approve that. I approve that.

I am a little bit concerned about the complexity in here though, in terms of how and in what way members of the public are being asked to vote for the Legislative Council, and indeed I share the concern of Mr Singer in terms of the all-Island impact, because it seems an oddity that we would in fact provide for that on a Legislative Council basis but when it came to Members of the House of Keys we would have a totally different system, and I think it would be bureaucratic and problematic.

I do, however, support unicameralism and I always have, and I think there are still one or two Members – and I think Mr Speaker still does – who approve of that method of parliamentary process and election. But we have not got that. I do not think we are too small a parliamentary setting to do it and be successful, but that is not before us.

I am a bit concerned about the single transferable voting. I have never supported it. I followed the debates in the early days when first past the post was changed in favour of STV, and I also viewed and shared the unpopularity of it and followed the process of the House of Keys changing it and returning it to first past the post.

It will require heavy amendment, and rather than having to just deal with the amendments and the purpose of the Bill on the floor of the House of Keys I am going to ask the mover a big favour. He says that he does not intend taking the clauses until after the Easter recess and I think we all appreciate that, but I would ask him if he could convene a meeting with Members to discuss the Bill and to air their concerns, to see if a way forward can be mapped. If there is a will there is a way, and what I am asking the Member to do is to canvass the will of the House to see if we can find a way to make this Bill work, albeit heavily amended.

Thank you.

The Speaker: Hon. Member, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Again, I share the sentiments of the previous two speakers, so I will not summarise those.

I have got a series of questions for the hon. mover. The first one: given the discussion already of unicameralism, which seems to be becoming increasingly popular from the statements in support of it, my question is does the hon. mover have advice that this Bill could be amended such that it would bring about a unicameral situation; or is that beyond the short-term title of this Bill? I say this because obviously parliaments in neighbouring islands, Jersey and Guernsey, operate successfully with unicameral legislatures, using a well-developed committee system. Scotland, Wales and Northern Ireland have a unicameral system. The Faroes and Iceland have a unicameral system; and New Zealand, which has become very popular for investigation these days, moved to a unicameral system in 1950. So, if the mover can assure me that this Bill can actually be used to move in that direction, I think it could be a very rewarding, satisfying and helpful process to actually consider that debate.

The second point is that I wanted the hon. mover to advise whether he shared my belief that in actual fact he can achieve a number of the things he is trying to achieve without legislative enhancement, especially primary legislation. For instance, the role that Members of the Legislative Council have in Government is obviously, as has been described, a function of the political environment at the time. The process of nominating Members of the Legislative Council could change. Section 7 of the 1919 Act, which covers these things, would allow other processes to develop outside the statute or inside the statute but extending the possibilities that the statute allows. Also, the system of allowances – I think in 2011 the Hon. Court tried to change the percentages paid to different Members using an Order, so I do not see how that necessarily needs primary legislation to change it.

My next question is about the scope and the advice he has received about the scope for this Bill in connection with the single constituency and the STV. Has the hon. mover received advice that, for instance, we could use the existing 12 constituencies and double their size or triple their size to get to larger constituencies; or would that be going beyond the title of this Bill that we have got in process? It seems to me that if you want to focus Manx politics on policy more, the larger the constituency the better and the Council of Ministers having larger mandates would be a better thing to focus attention on policy, and conceivably this Bill could actually be used to create some super-constituencies – perhaps one for each of the... perhaps six super-constituencies, (*Interjections*) based on the existing 12 ones, in which case it would be obvious that Members elected on this basis would have to be Members of the Council of Ministers. In fact, it would be a good starting point to be a Member of the Council of Ministers, so you would have to get a great many more people to vote for you. That is the situation in Jersey, for instance. I think you will find the Council of Ministers Members in Jersey have about 15,000 votes. They have not visited every one of those 15,000 people, and that perhaps leads to a focus on policy rather than personality, which in my view cannot be a bad thing.

My final, fourth, question for the hon. mover is about whether he can actually give us any examples in the world where we have two elected chambers with roughly similar electoral bases, because to me it seems flawed. Obviously, the US and Germany have a system whereby there are federal electees and then there are representatives and there is a clear different boundary. In the UK we have a system and in the parliaments of the Commonwealth more generally we have a system that we have in the Island, that works. I would like examples of where we have two chambers elected in parallel with roughly similar electorates. It seems to me that is fraught with difficulties, as has come up in previous attempts to change the situation in this way.

The Speaker: Hon. Members, before I call on the mover to reply, just in reference to the comment by the Hon. Member for Douglas East, Mrs Cannell, the assumed or presumed views of the

Speaker will, of course, not be allowed to influence the debate in any way this morning, and I am sure that is fully understood. It would be most improper if that were to happen, Hon. Members.

I call on the mover to reply. Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would like to thank Hon. Members for their views as far as the House is concerned, and I would like to thank my seconder.

I will be very interested to see what amendments come up as far as individual Members are concerned.

I find it quite concerning that the Hon. Member for Ramsey... about it being workable. As I told him, as far as the payments are concerned, the issue of payment was that they would get that, the Department, and the pay of an MHK as an elected person, just to try and get them away from the executive function. There is no idea of creating this second-class Member and I think the Hon. Member needs to realise that the problem we had from the 30 years we have been here, is everything that has been... gone through being part of the executive process, but the results of that executive process have meant that things like the MEA, like the new Hospital, like IRIS and many other things and many contracts, have had –

The Speaker: Could you come back a bit closer to the Bill itself, please.

Mr Karran: Well, I am. What I am saying is the role of the Bill is that I am trying to create a revising chamber that is not part of the executive process. The problem you have got is that, because everybody is virtually in the executive process, it is very hard for the scrutiny committees and PAC to actually work effectively.

The issue is that it is not about creating a second-class Member in Tynwald. They have a role, an important role. As many people have said over the years, a good democracy is only as good as its opposition. So this idea that somehow, because they are doing the audit and accountability and doing the primary legislation... We see in the very near future maybe a very hostile future government in the UK. The role of a Legislative Council being a revising chamber, being more to do with primary legislation, will never be more important, to make sure that there are not loopholes in there that affect our constitutional defence of protecting the rights and privileges of our small nation... that we have a responsibility to the Manx nation. So I do not see it as a second-class role. It is a role that I have been quite proud to do for many years within this Hon. House.

The issue that the Hon. Member for Ramsey brought up about have six, eight seats... The very reason why I believe we should try to keep to one parliamentary seat for the whole Island is that it does not get in... If you do not have this dutch auction and you do not start with one MHK, and you go to the next MHK and then they go off to an MLC... There is a very important role there, as a revising chamber, a very important role, and that is something that I think people need to realise. They are not there to be a rubber stamp. They are there to scrutinise and to make sure that there are not those landmines in primary legislation, and that is why I believe that it is important to try and get them as away as possible from the sort of stuff that ties so many of us up in this Hon. House, dealing with issues that are of major important to the individual but are not important as far as the national perspective is concerned. That is the reason why I believe that going for eight single areas would be the wrong way forward. I believe that, but I am happy to see the amendments and we will debate the issues.

The Hon. Member raised the issue that MLCs should not be in Government. Well, I actually think there is never going to be a more important role. We have seen, with the issues of these international financial organisations, the issues of different governmental... EU, the United Kingdom... that the primary legislation is so important... role there, and I believe that often we have had more good luck than good management as far as many of the opportunities that have come along, and I believe that that role for an MLC, not being tied into the Government... there is flexibility to a certain degree.

Obviously, a Tynwald committee is open to any Member of Tynwald to be on that committee, so they would have that opportunity.

I totally agree with the Hon. Member for Ramsey that we are more than likely going to find a substantial land change as far as the membership in this Hon. House. I can remember the land change in 1976. I actually was still, even at a very young age, involved. I saw one of the sadnesses of a good friend of mine who lost his seat in 1976 – somebody I looked up to. That actually maybe brought about the opportunities to bring about the evolution of major changes. I believe that it is not going to be easy after the next Election. You are going to have the first administration for 30 years that is not going to be able to run without having loads of money to throw at problems. It is going to be a very difficult time, but what this Bill will do is actually augment and help to change the environment so that we will actually bring about more effective government in those difficult times. The difference will be... like in 1976 with the changes which did happen, there were not the expectations of the general public in those days like there are today. It is going to be very difficult for a future administration, and I believe that the MLCs will have their role as the parliamentary scrutinisers to deal with that.

I thank the Hon. Member for East Douglas about the issue of there should be a clear declaration about the public mandate as far as MLCs are concerned. We have only got to look at issues, like at the present time with the PAC, where you have conflicts where half the PAC cannot, because they are part of Government Departments... If MLCs were outside that, their role would be a lot more robust, a lot more independent, and they would not be part of an executive party function that has been allowed to deliver.

The Hon. Member says she is opposed to the STV system. Well, to be perfectly honest with you, as I think the Member for Ramsey, your Chief Minister, and I are the only ones left who have been elected under STV... I have to be honest with you – there are points that people do not like about STV, but I think most people would now recognise there are also advantages. If we are to make sure that we have that all-Island national constituency for national election of MLCs... I believe that that is the way forward. Otherwise, what we will end up with is people just canvassing in Douglas, Ramsey and Port Erin and no-one will go out... I can always remember, in 1981, when I first canvassed a constituent in Santon, I popped at his door and I said, 'I'm canvassing for the Election', and he said, 'Oh, I haven't seen a canvasser since 1848!' The point is the STV would make sure that there was not that block vote. Everyone's vote would be equal. That person's vote would be used first and transferred down. I am happy to have a discussion with Members. I am happy to do that because this is important. It is very important. The present structure of how the MLCs operate is totally dysfunctional as far as most people outside this Hon. House are concerned. We have only got to see that with the last election that we had only last week. I believe that STV would be a much fairer way to make sure that the person who represents... who lives in Bride, in Dalby or down in Cregneash... his vote is not just lost in the block vote, and that is why I believe STV is important.

I will be happy to concede to the fact of having a meeting and discussing and mapping a way forward to see if there is a way forward. I will arrange that, even though I tend to think it should all be done in public, but I am happy to do that because there is an awful lot of vested interest in the present system that we have got and we have got to try and rise above that vested interest – the issue that many regard the MLCs as a medieval form of redundancy for unelectable MHKs, and that needs to stop. I hope that the Hon. Member for East Douglas will support that.

As far as the Hon. Member for West Douglas is concerned, if he wants a unicameral parliament then I am happy to look at that, but what I am interested in at the moment is... I think the danger will be that they will be starting to try and look at the numbers that are in the legislative assemblies in the Branches of Tynwald, and I actually think that will be dangerous – that we end up with fewer Members – because I believe to do the robust work of a micro-state like us... there are still many functions that... just because we are a small nation, there has to be a critical mass of numbers to do that. So the idea that... he needs to realise that he might find himself opening up a Pandora's box of... where it would be very populous... to see the membership of Tynwald being cut severely, which

I actually think would be counterproductive because I believe, with the way the world is going now, small states like us have never needed to be more on the ball, especially with the legislative process as far as primary legislation is concerned. So I am sure that it can be adapted if... *[Inaudible]* at a later date.

He says that the issue under the... I think it is the Constitution Act 1919, about primary legislation changes. There are opportunities to change things. We have already done that. We do not see Ministers now as MLCs. To be perfectly honest with you, if a Minister goes to the Upper House and is still in the electoral period of having a mandate, then that is an issue that is fairly flexible with me, but I personally think that MLCs... but that is not in tablets of stone. So the issue is that there is a certain amount of flexibility. I do not see the will in here to actually bring about fundamental changes. What I do not want to do is... I do not want the doors being bashed down by an inexperienced next Government that is going to have to pick up the legacy of what this administration and the previous administration... before change is brought about. I believe that that is the danger that you will have if you do not. So there is no excuse that somehow we can do this by secondary legislation. It is important. And I hope that he will realise the reason why I have not gone... I would have gone for four-seat constituencies far better than two-seat constituencies. (**A Member:** Hear, hear.) I am totally for that. I am horrified that I am going to lose 18% of my constituents. The bigger the constituency the better the mandate, (**Two Members:** Hear, hear.) the better the flexibility that we need in the House to make sure we represent the different walks of life. Believe it or not, I do know that 24 Peter Karrans in the House of Keys would not be the recipe for success, (**Several Members:** Hear, hear.) but a few more Peter Karrans might be a recipe for success. But the problem you have got is that the issue as far as the larger constituencies... I would not want to see MLCs identified as doing the role of an MHK, so when your housing does not come through and you are getting nowhere with your MHKs you go to your MLC, because I believe the value of parliamentary scrutiny is as important as the executive function. It has not been sexy for the last 20 years I have been in here and I think we are paying the price for that. I hope the Hon. Member would support that.

He talks about the fact of having two elected assemblies. Well, you have in the US: you have got the Congress and you have got the Senate. Alright, they will not have as distinct roles as what I am proposing within this legislation.

Hon. Members, people outside this Chamber want to see the Upper House elected by the people. Fundamentally, we are a democracy. I believe that we should support the Second Reading of this Bill. I am happy to arrange a meeting at the request of the Hon. Member for East Douglas in the Millennium Room to try and get people together, maybe get the drafter in. I am as keen as anyone else as far as getting this legislation correct. I fundamentally believe that what I have put in this Bill is the way forward. It is the way forward for putting in that audit and accountability that has been so lacking in the past. I hope Hon. Members will support the Second Reading of this Bill.

The Speaker: Hon. Members, the question is that the Legislative Council Reform Bill be read for the second time. Those in favour, please say aye; against, no. The ayes have it.

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

In the Keys – Ayes 15, Noes 3

FOR

Mr Anderson
Mr Cannan
Mrs Cannell
Mr Cregeen
Mr Crookall
Mr Gawne
Mr Hall

AGAINST

Mr Quirk
Mr Teare
Mr Watterson

Mr Houghton
Mr Karran
Mr Robertshaw
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas

The Speaker: Hon. Members, the motion carries, with 15 for and 3 votes against.