

5.1. Representation of the People (Amendment) Bill 2015 – Clauses considered

The Speaker: We turn now to Item 5: the consideration of clauses of the Representation of the People (Amendment) Bill.

I call on the mover, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker.

I am pleased to be before you today to move the Representation of the People (Amendment) Bill.

Before moving on to the consideration of clauses, I would like to thank those Members who have constructively engaged with the progress of this Bill and for the feedback which was given at the Members' presentation.

As detailed explanatory notes have been circulated, I do not propose to go into the detailed specifics of each clause as Members will have that information to hand. I will provide an overview of the effect of the clauses and address issues which were raised at Second Reading.

Mr Speaker, with your permission, I shall be grouping clauses 1 and 2 as they deal with standard provisions.

Clause 1 gives the Bill its short title.

Under clause 2 the Council of Ministers by order can introduce different parts of the Act on different dates for different purposes. This is an accepted and common provision for Bills promoted by the Council of Ministers. The clause also provides for the Act to cease to have effect on the day following its promulgation or on the day following that on which the last of its provisions comes into operation.

I beg to move that clauses 1 and 2 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: I call on the Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I think the importance of the separation of power between parliament and the executive... What I am suggesting here is that the issue as far as the regulations and operations of such days should be appointed not by the Council of Ministers but by the President of Tynwald.

As we have seen, basically the Council of Ministers works *de facto* as a political party all but in name. We have only just seen the announcements from Economic Development... to see that from the reactions from the last sitting of Tynwald... is concerned.

Hon. Members, I believe that what we should be looking at is... Instead of 'the Act comes into operation on such day or days as the Council of Ministers may by order appoint and different days may be appointed for different purposes of the Act', I simply believe that that should be a function – not an executive function but that should be a function – of the parliament and in that way be non-political.

That is why I believe that the amendment for substituting the Council of Ministers for the President of Tynwald would be the proper way forward, as far as the procedure as far as this piece of legislation is concerned, as the Eaghtyrane is supposed to be non-political and I believe that these orders are political and that is the way I believe in the legislation... that we should actually support the amendment standing in my name and I do so move:

Page 9, line 8, for 'Council of Ministers' substitute 'President of Tynwald'.

Page 9, line 11, for 'Council of Ministers' substitute 'President of Tynwald'.

The Speaker: Mr Thomas.

Mr Thomas: For the purposes of debate, and reserving my remarks, I second the amendment in the name of Mr Karran.

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

Mr Shimmin: Thank you, Mr Speaker.

Whilst understanding the Hon. Member for Onchan is seeking to transfer responsibility into the non-political arena, by supporting this amendment you would actually do the reverse – you would actually politicise the non-political President.

I would urge Hon. Members to not support this amendment. The commencement provision is not about the Council of Ministers' manipulation of the process; it is about providing the power to ensure it is brought in in a legally coherent and consistent manner.

Madam President's responsibilities do not extend to determining the degree and rate at which changes to an electoral process should be introduced; and certainly if there were any conflict for the President, that would be politicising both her and indeed the Clerk of Tynwald. So I would urge Hon. Members not to support this amendment.

I beg to move, sir.

The Speaker: Hon. Members, I put first of all clause 1. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2. First of all, dealing with the amendment in the name of Mr Karran, those in favour of the amendment, please say aye; against, no. The noes have it.

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

FOR

Mr Karran

AGAINST

Mr Anderson
Mr Bell
Mr Cannan
Mr Cregeen
Mr Crookall
Mr Gawne
Mr Hall
Mr Houghton
Mr Quirk
Mr Robertshaw
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas
Mr Watterson

The Speaker: There was 1 vote for and 17 against. The amendment therefore fails to carry.

Clause 2: those in favour that it stand part of the Bill, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker.

I would like to group clauses 3 and 4 as they identify the Act which the Bill amends and provide a schedule of amendments to be made throughout the Act.

Clause 3 provides the Representation of the People Act 1995 to be amended in accordance with the provisions of this Bill.

Clause 4 allows for the provisions in schedule 1 to amend the 1995 Act so as to make it gender neutral.

I beg to move that clauses 3 and 4 and schedule 1 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: Hon. Members, I put the motion that clauses 3 and 4 and schedule 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

Mr Shimmin: Thank you, Mr Speaker.

Clause 5 includes new provisions on what qualifies and disqualifies a person from standing for election to the House of Keys.

Inclusion on the electoral register for any area in the Island is a new qualification, extending the existing requirement that any person wishing to nominate a candidate must be a registered elector.

In response to the query at Second Reading from the Hon. Member, Mr Karran, regarding residential qualification, I can confirm the current requirement for candidates to be resident for five years is not amended by the Bill.

New disqualifications are added to provide further assurance that those standing for election are fit and proper persons. The Council of Ministers believes it to be in the public interest to prevent persons with unspent convictions of offences concerning bribery, dishonesty and corruption from standing as candidates. Therefore, the new provisions relate to those convicted of such offences, those serving a custodial sentence following any conviction and those who are an undischarged bankrupt.

The current provision disqualifying those deemed incapable of sitting in the House under this or any other Act is retained but clarified by the Bill. Neither the Bill nor the draft regulations remove the requirement for a candidate to declare on their nomination paper a conviction of any offence for which a person is liable to custody.

This clause also specifies that the General Election will take place every five years on the fourth Thursday in September and that the Keys will be dissolved six weeks before this date.

I beg to move clause 5 do stand part of the Bill.

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

The Speaker: Hon. Member, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I believe that there are good reasons for bringing in qualifications as far as membership of the Keys is concerned.

I move the amendment that I have put down here on page 10 to omit lines 13 and 14 because I believe that whilst the issue with the process of registration of electors has changed remarkably well, we are only talking in my lifetime as a politician where there were difficulties from people making sure that they were on the voters' list. I really do not see the logic as far as this is concerned, only as a way of establishment in order to try and make sure somebody cannot stand.

As I said at the Second Reading, a former Member of this House used to complain bitterly that he had to make sure that people of his political persuasion had to check that they were on voters' lists in order to make sure that they could vote in the elections in his parliamentary and local authority

area. I think it is important that there needs to be a real justification why we need a person registered on the register of electors for any electoral area for the Island.

Democracy is about choice and I cannot see why there is a need for this here. We could end up with somebody who feels as Manx as I am and as Manx as anybody else in this House, has lived here all their life, decides to change their viewpoint, wants to stand for election, and here we have this amendment down here which could effectively stop that choice. If we believe in democracy then we believe in choice. I am sure in this Hon. House there are many people who would love to see this seat vacated with my membership in here, just like there are Members who I feel would be far better outside Tynwald, but that is not up to us to decide. That is not up to us to make that decision. Democracy is basically about choice and I just feel that this is just an opportunity that could create controversy at a later date for people not to be able to stand, and create more suspicion and suggestions in the future.

So, Hon. Members, I believe that we should omit the issue as far as being on the electoral roll. They have got to have Isle of Man status anyway, so it is not as if they can come off the boat as far as that issue is concerned.

I do hope Hon. Members will consider this. Just like the previous amendment where the fact is that there are precedents for the previous amendment, I believe that this amendment is the wrong way forward.

I beg to move:

Page 10, omit lines 13 and 14.

In consequence of this amendment insert 'and' at the end of page 10, line 9 and omit 'and' at the end of line 12.

The Speaker: In that case, we will move straight to a vote. Clause 5: those in favour of clause 5 standing part of the Bill, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

Mr Shimmin: Clause 6 inserts new sections 10A to 10N into the Representation of the People Act 1995.

A deliberate light-touch approach has been taken so that this first step towards regulating political parties does not impose an onerous administrative burden. I appreciate this approach does not cover all eventualities and therefore prompted queries at Second Reading, which I shall endeavour to address.

The purpose of this clause is to take an initial step in encouraging political parties to register in order to increase openness and transparency regarding their activities. To be clear, organisations including political parties that do not appear on the register are not being outlawed by this clause.

The Bill includes a definition of a political party specifying that one of the expressed objectives of a party's constitution must be that they support or otherwise endorse a candidate for election to the Keys. A party covered by this definition is eligible for registration under the clause. A political party that does not meet this definition would not qualify for registration but could continue to promote itself as a political party under its own constitutional arrangements.

Hon. Members will appreciate that it should be fairly clear in the public's mind which organisations should register as political parties.

Candidates will be able to receive donations from any organisation, with transparency coming not from a link to a registered political party but from the requirement to declare donations above the minimum amount. There is a clear difference between receiving donations from organisations and standing for a political party. The draft regulations seek to make this distinction even clearer by allowing candidates to include details of their political party on their nomination paper and, as such, on the ballot paper.

My colleague for Douglas West rightly said that careful thought will have to be given to the nature of implied endorsement. I agree with this, but the ordinary meaning of the word

'endorsement' helps us in this regard, specifying that it has to be explicit and made publicly. If either of these conditions are not met there can be no endorsement, implied or otherwise. For example, simply agreeing with the policies of a political party would not amount to a candidate being endorsed by that party.

I do not propose to go through this lengthy clause line by line, Mr Speaker, as Hon. Members have this information to hand; but to summarise, in order to register, a party has to supply basic information along with a copy of its constitution and most recent accounts. The application has to be signed by at least 20 registered electors, to correspond to the number of electors required to support a candidate's nomination.

Parties can be removed from the register, but this is subject to appeal and re-application. As parties are only required to register in order to support or endorse candidates to the House, one of the reasons for removal is failure to do so for three successive General Elections.

Parties must not retain anonymous donations and must forward them to the Chief Financial Officer. In response to the point raised by the Hon. Member for Onchan, Mr Karran, at Second Reading, although the donations are then forwarded to the Manx Lottery Trust for distribution, the destination for said donations could be changed by regulations, subject to Tynwald approval.

I beg to move that clause 6 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: Hon. Member, Mr Karran.

Mr Karran: Eaghtyrane, I see great problems as far as this registration as far as political parties is concerned. I totally agree with the principle. We will have to wait to see in the future whether we are proved right or wrong on this situation.

I just think that there is a great danger as far as political parties are concerned on the Island. I think there is one that has a long record of being on the Island, which will probably like the controversy that this piece of legislation is going to make, so that is up to Hon. Members if they want to give themselves another own goal.

I am concerned about the issue that the application must be signed by no fewer than 20 individuals, because I have been involved with some of these parties in the past where to have 20 active members might be seen as quite a lot in portraying themselves as a political organisation. So I just believe that we should lower the amount, because I think 10 is more than reasonable enough as far as the people who want to publicly be associated as far as political parties are concerned. Obviously there are other organisations that are better organised than any political party on this Island, but at least they will stay as not a political organisation within the Isle of Man.

It is up to Hon. Members whether they want to keep the 20 or they want to keep the 10. In my opinion, we want to try to be more inclusive. We want to make sure that smaller organisations which want to be registered as a political party can do so.

I so move:

Page 12, line 37 for '20' substitute '10'.

The Speaker: Hon. Members, those in favour that clause 6 do stand part of the Bill, please say aye; against, no. The ayes have it.

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

FOR

Mr Anderson
Mr Bell
Mrs Cannell
Mr Cregeen
Mr Crookall
Mr Gawne
Mr Houghton
Mr Robertshaw
Mr Ronan
Mr Shimmin
Mr Singer
Mr Skelly
The Speaker
Mr Thomas
Mr Watterson

AGAINST

Mr Hall
Mr Karran
Mr Quirk

The Speaker: With 15 votes for and three votes against, the motion therefore carries.
Clause 7, Mr Shimmin.

Mr Shimmin: Mr Speaker, this clause divides part 2 of the Representation of the People Act 1995, which deals with the organisation of elections, into 4 divisions for clarity and ease of reference.
I beg to move that clause 7 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the motion that clause 7 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 8.

Mr Shimmin: Clause 8 substitutes section 12 of the 1995 Act and provides for the Council of Ministers, by order and after appropriate consultation, to divide any constituency into two or more polling districts. For clarity, the 1995 Act only deals with boundaries for constituencies in relation to the House of Keys elections.

To clarify a question raised by my colleague for Douglas West at the previous reading, the Bill will not prevent Douglas, or indeed any other local authority, from redrawing internal boundaries in response to a reduction in the number of their elected numbers. These processes are governed by the Local Government Act 1985.

I beg to move that clause 8 do stand part of the Bill.

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

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, whilst the issue really is to deal with polling districts as far as this piece of legislation is concerned, it does concern me with the fact that we have seen it where polling stations have been placed in the past, where they were put there for the most illogical reasons, maybe for the reasons of helping one candidate over other candidates.

I look at the example in the election where we ended up having Ashley Hill School as a polling area, which had no logic or reason because once it got dark we had a number of people who had accidents because it was completely dark, a blackout in that area and dangerous to people. That was

perceived to be done for the benefit of one of the candidates, who was part of executive Government.

I think that you really are... I am all for controlling parties, I am all for transparency, I am all for making sure that people know who is behind who, but I just feel that you are creating more own goals for yourselves with the fact that it is being left to the Council of Ministers. The reality is that these things have happened. I have been here for 30 years near enough in this Hon. House and these things have happened in the past, where we have seen polling stations... and I think some of the people in this House know what I am on about.

This is where, in my opinion, he should be trying to get... The elections should not be an executive function. You have got a President of Tynwald. It should be a parliamentary process, a process that has been developed. You have got a President who is newly elected before the General Election, and that is where the... [*Inaudible*] because all you do is create own goals for yourselves.

But we will wait and see what happens in the future, and maybe if people remember in the future what people have said, unlike the amnesia that we have over the years, you will come to see that there is a good reason why you should be trying to take it out of the *de facto* Council of Ministers party to be able to do this. We have had a situation where we have never had a hard... as organised as many other jurisdictions, but it will come and there need to be checks and balances.

Hon. Members, you will vote whichever way you want, but I just feel that that is an issue that hopefully the Choonceil Slattysagh, the Legislative Council, will take on board when they read the *Hansard* from this Hon. House.

The Speaker: Hon. Member, Mr Singer.

Mr Singer: I would like to comment on that last speech by the Hon. Member for Onchan. I think it is diabolical what he has said. He is using words – saying ‘perceived’ by many Members in this House – about the placing of polling stations being to the advantage of particular candidates, and I doubt that any Member in this House has any example that they can put forward. The Member himself actually uses words like ‘perceived’ without giving any solid information. It may be that it is a sign of incompetence in placing a polling station in an area which is unsuitable, but to say that it has been manipulated in favour of Members of previous Houses, if not this House, I think is diabolic and I think that it should be treated in a way just to ignore it, because it is just nonsense put forward by that Member.

The Speaker: Hon. Member, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

I just want to remind Members that the last time we amended the Representation of the People Act we actually legislated for the formation of an electoral commission to deal with exactly this issue, with any issues like this that ever arose, following a resolution of Tynwald.

I just wanted to make it clear along the lines of Mr Singer, the Hon. Member for Ramsey, that we have a system in place already.

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

Just for clarification to the Hon. Member for Ramsey, Mr Singer, on what he stated, and very much in support of what the Hon. Member for Onchan has just stated... And it was a perception. I underline, Mr Speaker, ‘a perception’. There was a perception at an election in Onchan some time ago that one of the polling stations was... and this word was used by many voters round Onchan. I am an Onchan voter (**Mr Anderson:** You’re responsible!) and of course I know that this was actually

said. The perception was, Mr Speaker, that a polling station had been gerrymandered. The perception was that –

A Member: It was not proved.

Mr Houghton: – and that has stuck in many minds. What the Hon. Member, Mr Karran, was just trying to state was the fact that the whole thing, the whole integrity of the election... polling stations, which of course the Members can state to the returning officer... a better polling station than one here, instead of one there, but the perception was – and I underline that – that a polling station in Onchan had been gerrymandered. That is a very serious allegation. That is why I am underline ‘perception’ –

A Member: Was it ever proved?

Mr Houghton: – but that was what was going round the public and the public therefore distrusted that election.

It is about integrity – Hon. Members, Mr Speaker, I am sure we all agree here – and I think that is what the Hon. Member, Mr Karran, is stating. I, for my part, do not agree that the polling station was gerrymandered, but the fact is the integrity has to be at all times with the returning officer, and that is the Hon. Member’s point.

The Speaker: I call on the mover to reply.

Mr Shimmin: Thank you, Mr Speaker.

I am not going to get into the issue about perception – that can be created and stimulated within here and elsewhere. However, after the length of time the Hon. Member Mr Karran has been in the House I am surprised that he is referring to this as being a CoMin decision – or at least that is the impression or perception he is giving. This is a matter for returning officers. (**Two Members:** Hear, hear.) This clause is to do with polling districts. The polling stations – which are important to every member of the public who wishes to vote and the candidates – are a matter for the returning officers, quite rightly. After each election the returning officers have meetings and put their information forward, and there is an electoral commission. Therefore, there are all the safeguards. It would be nice occasionally to consider that all of this is not partisan; this is all for the benefit of democracy for the people to have their rights. I think everybody in this House would agree with the sentiments of Mr Karran that things should be fair but also should be seen to be fair; however, I cannot get into that matter. This is polling districts and I would urge Hon. Members to support it unanimously.

Thank you.

The Speaker: I put the question that clause 8 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 9.

Mr Shimmin: Thank you, Mr Speaker.

I shall be grouping clauses 9, 10 and 11 as they all contain provisions relating to the returning officers and their deputies.

Clause 9 amends section 16 of the 1995 Act to clarify when a returning officer must take an oath of office

Clause 10 amends section 18 of the 1995 Act to require a returning officer to appoint one or more deputies who can be authorised to perform any or all of the returning officer’s functions. It

also requires every function of a returning officer to be able to be exercised in the returning officer's absence.

Clause 11 amends section 20 of the 1995 Act to remove the requirement for returning officers to submit their expenses claims in duplicate.

I beg to move that clauses 9, 10 and 11 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: I put the question that clauses 9, 10 and 11 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

Mr Shimmin: Thank you, Mr Speaker.

This is a lengthy explanation of one of the most important aspects of this Bill.

Clause 12 inserts new sections 20A to 20G into the 1995 Act. The provisions contained in this clause should be read in conjunction with new schedule 3A, inserted as schedule 2 to the Bill under clause 33, which I intend to move next. Again, I do not propose to go through this lengthy clause line by line.

The new sections introduce a starting point to regulating and providing transparency regarding donations received and expenses incurred by candidates.

The Independent Review Panel recommended that a period, known as the 'election window', should exist during which expenses should be limited and donations declared. In respect of a General Election this window is 12 months up to polling day, and in the case of any other election the window is from the date on which the vacancy occurs until polling day.

As a person only officially becomes a candidate when their nomination has been accepted by the returning officer, in order to legislate for this recommendation there are references to prospective candidate throughout this clause.

The purpose of the concept of a prospective candidate is to recognise that a person can declare their intention to stand many months before they become an official candidate for an election. There is then an obligation on that person to declare relevant donations and to limit expenses both as a prospective candidate and as a candidate.

The new sections impose a requirement to submit a written declaration of donations of or worth £50 or more received as a candidate or prospective candidate. If no donations have been received then there is still a requirement for a written declaration to be made to that effect.

For consistency, the same election window has been applied to donations, which can be of money, a loan of money, goods or the use of goods or services.

Anonymous donations received must be passed to the Chief Financial Officer.

As far as election expenses are concerned, a candidate's total campaign expenditure during the relevant period as a candidate and, if appropriate, a prospective candidate must not exceed the maximum amount of £2,500 plus 50p per registered elector. This amount is variable by regulation. Depending on the constituency and registration rates, the proposed limit equates to approximately £4,500 to £5,000.

Complaints alleging that a candidate's election expenses have exceeded the maximum amount must be lodged within three months of an election. This period is longer than the existing 28 days during which an election petition can be presented and is considered a reasonable length of time for a candidate to be expected to retain information regarding their campaign expenses. If such a complaint is made, the candidate must supply a written declaration, itemising the amounts expended, whether direct or notional, and the goods and services to which the amounts relate. Invoices, receipts and other proof of expenses must be submitted if requested.

Declarations relating to a candidate's donations and expenses will be available for inspection at the General Registry.

The purpose of these provisions, particularly the limit, is to create a level playing field as far as possible and to promote open and transparent elections. It is important to remove any real or perceived advantage to candidates with significant personal wealth or backed by wealthy individuals or organisations.

I beg to move that clause 12 do stand part of the Bill.

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

The Speaker: Hon. Member, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

As currently drafted, there are no parameters within which a complaint alleging a candidate's election expenses have exceeded the maximum amount has to be made. For example, an anonymous oral complaint can be made without any supporting evidence.

In order to minimise the potential for a vexatious complaint, the Council of Ministers believes that it would be pertinent to amend the Bill to allow the election regulations to set certain criteria which a complaint under this section has to meet. These regulations would be subject to separate Tynwald approval. The amendment would allow, for example, a requirement for a complaint to be made in writing with the name and address of the complainant supplied, together with other particulars such as the reason why it is alleged that the expenses have exceeded the maximum amount.

I therefore beg to move the amendment standing in my name:

Page 20, line 16, in the inserted section 20C(2), after 'complaint' insert 'made in such form and manner, and containing such particulars, as may be prescribed,'.

The Speaker: Mr Skelly.

Mr Skelly: I beg to second and reserve my remarks.

The Speaker: It is not possible to reserve remarks to an amendment.
Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

I for one fully appreciate the importance of putting into legislation safeguards to prevent what happened in my constituency a short time ago.

I have to say that it is good, but I cannot help but feel a little bit uncomfortable with the setting in primary legislation of the limits. Usually, something like this, where we are talking about finance, would be regulated. It would be in the regulations because it is easier to change regulations than it is to change primary legislation. I am surprised therefore that on page 20, when we get into election expenses at 20C and it starts off explaining, in subsection (4):

'For the purposes of this section the "maximum amount" is the total of £2,000 plus 50 pence for each person registered as an elector on the relevant register for the constituency...'

The Minister said it could be between £4,500 and £5,000.

What is unclear is that the current situation, before the passing of this law, is that a member standing for the House of Keys can claim postal expenses – and that is all they can claim back, postal expenses – for the circulation of their manifesto. There is nothing there to provide for the expense that they are put to in the formulation of their manifesto – the artwork, the layout, the printing and

all of that – and any additional material that they might produce. The way this is reading it reads to me, because it is unclear... It does not say for postal expenses or for the distribution of manifestos; it merely says 'election expenses' and one would think that in fact it is being capped – that any Member standing for the House of Keys cannot spend any more than £4,500 or £5,000 in total for everything. Well, that is a nonsense, because times change and things become more expensive as time goes on, so to actually tie oneself down in primary legislation with this figure I find a little bit odd and I wonder if the Minister can further explain why he is doing that.

I agree with him, it is a *very* important part of the actual Bill to try and cap it so that there is not unfair competition by someone who is very wealthy – which, in fact, was what happened last time with posters on lamp posts, *massive* posters on lamp posts all the way through the constituency of Douglas East, that other candidates and successful Members over the years for Douglas East would never have been able to do afford to do. No doubt there was some private investment there. We will never get down to it, we will never know, because we never really got down to the bottom of that situation, despite the fact it went to court.

So I just wonder, can the Minister clarify, because currently the only election expenses we are entitled to claim are those of postal expenses – that is the cost of posting out our manifesto to each of our electors. Or is this the total cost of laying out for a full campaign by a candidate coming forward? I would appreciate some comments, please.

The Speaker: Hon. Member for Onchan, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

I am fully supportive of the clause itself. Just some minor tweaks, if I can just ask the Minister for some clarification.

The Member who has just sat down – for Douglas East, Mrs Cannell – has just brought up one. The postage expenditure is done by the Post Office itself. In the last Election we had quite a vociferous exchange of e-mails with the Post Office and only for the intervention of Mr Crowe at the time we were getting into quite some difficulty. I presume that the postage expenditure will be external from the £2,000 plus 50p, because it is a given. It is not an expenditure as such. The candidate does not pay for that. You deliver the manifestos to the Post Office and they deliver them, or you can actually, to tell the truth, do it another way as well – but I wanted to make sure that was actually ring-fenced out of this £2,000 plus 50 pence.

My other concern is that some of the keener candidates who have kept their posters and bits of wood and timber in pristine condition – because I bought tantalised timber (*Laughter*) which will last me a long time... but I would feel hard... If I was a business, I could probably write it down as an expense, but because my timber is lasting in my garage for some years I will be able to use it come 2016 – it will still be in good condition (**Mr Watterson:** 2036.) – and to be penalised... for somebody to put a value on that material, which if I was a business or a charity, I would have written it down probably to nothing, which may sound silly but those who have got the likes of rosettes and all sorts... posters or magnetic signage which says 'Vote Quirk' with no date, but it just says something else on it... I still think... in my opinion, it was an investment I put in for the future.

The Speaker: Hon. Member, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I was going to talk about the amendment by the Hon. Member for Rushen as far as people either having to put up or shut up as far as complaining. I think this is a very good idea; I think it is.

The only thing I am concerned about is what sort of protection these individuals would have if they highlight this as far as litigation is concerned, because I think this is one of the problems. If you are talking about these big individuals, they can just wipe a little person out – or not even a little

person who can afford legal aid is safe, because anybody who is in that 80% band between Social Security and being extremely wealthy, who can afford the opportunity to litigate...

So I would certainly support this – in fact, I was quite happy to second that amendment – but I am concerned about what the legal implications are. We do not have to look in the Isle of Man but we have only got to look in the adjacent island where they had a chap who was a member of the British Parliament, called Maxwell, who destroyed lots of people because of his fiscal wealth, or perceived fiscal wealth, and aggressive lawyers. So I would like the mover just to explain how he protects that individual from... Obviously we do not want people to make spurious allegations, but I do feel that there is a need for that.

It is also interesting to see, from my first election, where we still had a property vote... We had the big problem as far as the postage that you actually had to pay it out and then claim it back, and in those days it meant that only the wealthy could afford to pay it out to claim it back. I think that we have seen a lot of moves in the right direction from those days, because I know I could only afford to pay it out for the rural part of the sheading of Middle and the urban part had to be done by hand because we simply could not afford the extra £300 or £400 to pay for the postage.

So I just think the mover does need to clarify that point. Otherwise, what we might be doing... whilst people should put it down and we need to get away from rumour and innuendo, we do need to make sure that people have some sort of protection if they are to make a complaint, especially if we are talking about big corporations – you are a very brave person to get up and do that. I hope the hon. mover can explain how he is going to safeguard it.

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

Mr Singer: Thank you, Mr Speaker.

If I can just pick up further on the point made by the Hon. Member for Onchan, Mr Quirk, on the postage situation, there is nothing in here to say that the Government will pay for the postage. On sending out 3,000 envelopes at a cost of £1 a time, unless I have misread it, it means that future Governments may decide they are not going to pay, so this throws out the whole of the expenses that are shown here. I know it does say, under (6), that regulations may amend the section, which picks up the point made by Mrs Cannell, but perhaps the Minister could... Can he guarantee – can anybody guarantee – that in future postage will be paid by Government? Otherwise, it doubles the expense at one stroke.

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

Mr Thomas: Thank you, Mr Speaker.

This clause refers to schedule 3A, which is about the definition of 'donations'. It seems to me that the Council of Ministers or the other place should actually consider whether the technology described in section 5 of that schedule about the exception for newspapers and broadcasts is actually technologically dated. I can imagine a website actually charging for a service when that website is not linked to a radio station or a television broadcaster or a newspaper. So I invite the other place or the Council of Ministers to revisit that definition.

The Speaker: Mr Gawne to reply to the amendment.

Mr Gawne: Gura mie eu, Loayreyder.

I thank my seconder.

I think the only person who raised an issue in relation to the amendment was the Hon. Member for Onchan, Mr Karran, and I think he makes a very important point. The reassurance that I can give him first of all is that the amendment inserts the words 'made in such a form and manner and containing such particulars as may be prescribed', and as I said in the speaking note, an order will

have to be made and that will have to be approved by Tynwald, and I would certainly... I think it is very sad, but in terms of the many high-profile cases that we have seen recently, particularly in the UK, in relation to the way in which big money and powerful people have managed to influence things in ways that are far from pleasant, I think we do have to be aware that this sort of thing can happen.

So it is entirely possible within the... *[Inaudible]* regulations or order – or what it is exactly, but the secondary legislation – that we could, for example, require the person to put their name, address and some sort of detail about the complaint. The complaint then, of course, is made to the electoral registration officer, who collates candidates' expenses and will refer matters then to the Attorney General for consideration as to whether proceedings need to take place. So it is possible that the details of the complainant can remain just with the electoral registration officer, for example, and that is something that could be prescribed in the secondary legislation. I hope that would give the reassurance that the Hon. Member seeks. So, in that way the person could make a complaint and it is clear who has made the complaint, but not necessarily clear to the candidate who has made the complaint. That may be a way in which that could be done in terms of the secondary legislation.

I beg to move the amendment.

The Speaker: Mr Shimmin to reply.

Mr Shimmin: Thank you, Mr Speaker.

I think it is important for everybody to remember that this is stimulated by experiences we have had. In the past, we have been able to go along with things in a more informal manner, so we are trying to tighten it up. What we are doing with this legislation is trying to put the majority of things into the regulations which will indeed make it easier to be amended.

So with regard to Mrs Cannell's point in 20C(6), it does show that this goes into regulations which we intend to be bringing back in the October Tynwald, all being well. Therefore, that figure can be varied at any time via regulations moving forward. The reason for putting a figure in the primary legislation was to actually have this debate around a level of figure and an expectation that that is approximately what is believed by the proposer that it is the right level. It is then up to the politicians involved to determine if that figure is too high or too low. That is one which we do not have a strong view about. We have attempted to take soundings and advice.

With regard to Mr Quirk, yes, postage is external, and we will come to that in... It covers the issue of Mr Singer as well, in clause 19 where we will look at that. Again, we have attempted to do something which is proportionate and reasonable without making it overly bureaucratic in the primary legislation.

I do understand the concern from Mr Karran, and indeed we have tried to get that balance right so that the amendment that we support from Mr Gawne does make it a requirement to have a certain level of commitment to that level of complaint, and an explanation of why they are believing that an individual candidate may have spent too much. But it is not likely to incur the wrath of any larger corporations. However improbable that is, we do believe regulations can now manage that situation to protect the rights of the individual.

With that, I beg to move the motion and I am supporting the amendment.

The Speaker: Hon. Members, I put first the amendment in the name of Mr Gawne. Those in favour of the amendment to clause 12, please say aye; against, no. The ayes have it. The ayes have it.

Clause 12 as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 13, Mr Shimmin.

Mr Shimmin: Mr Speaker, with your permission I would like to now move clause 33. This inserts schedule 3A into the 1995 Act and provides more detail as to the meaning of 'donations and expenses' which were referenced in the previous clause 12. With your permission, I would therefore like to move clause 33.

The Speaker: Is that agreed, Hon. Members? (**Members:** Agreed.) Thank you.
Mr Shimmin.

Mr Shimmin: A full explanation of the meaning of 'donations and expenses' is contained in the explanatory notes. In summary, money spent on services received as part of an election campaign in order to increase a person's chances of success or to try to prejudice the chances of another candidate standing against them are included as election expenses.

A gift of money, a loan of money provided with an interest rate lower than market value and discounted use of goods or services for the same aforementioned purposes are included as donations.

In response to the Hon. Member for Onchan, Mr Karran's comments at Second Reading regarding volunteers' time being a more common and useful donation than a gift of money, I can confirm that the schedule makes it clear that a volunteer's time is not included as a donation or a notional expense, but any goods used or supplied by volunteer would be included as such.

Expenses incurred during the relevant period in normal circumstances – that means the 12 months prior to polling day – are counted.

Concern has been raised regarding campaign material already in a person's possession before this Bill comes into force. My good friend Mr Quirk, from Onchan, raised this in the previous point, which is why I am now trying to explain and expand. I can confirm that any cost incurred before provisions relating to expenses come into force would be excluded from being an expense.

I do not propose to go into further details, except to say there are exceptions in schedule 2 of the Bill, which include volunteers' time, as it is recognised candidates do receive voluntary help with their campaign from family and friends. There is also an exception in relation to expenses incurred in connection with the person's proper performance, such as newsletters which are regularly supplied to people's constituents.

Mr Speaker, I would also just like to point out that there are occasionally first-time expenses – and Mr Quirk alluded to this – such as the acquisition of posts and posters for a first-time candidate, (*Interjection by Mr Anderson*) and there would be an opportunity for the Council of Ministers under the regulations to disregard certain elements for new candidates so that that was not absorbed or subsumed within their expenses for any first election. It is attempting to make this as fair as possible. That has been and can be covered.

With that, I beg to move clause 33 and schedule 2 do stand part of the Bill.

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

The Speaker: Hon. Member, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Hon. Members, I would like to present the proposed amendments numbered 7, 9, 11, 12 and 13 together as they address the same technical inconsistency within schedule 2:

Page 45, line 10 after 'relevant period' insert 'to a candidate or prospective candidate'.

Page 45, line 23, after 'relevant period,' insert 'to the candidate or prospective candidate'.

Page 45, line 32 after 'candidate' insert 'or prospective candidate'.

Page 45, line 33 after 'candidate' insert 'or prospective candidate'.

Page 46, line 7, after 'relevant period,' insert 'to the candidate or prospective candidate'.

The Bill outlaws the retention of anonymous donations received by a candidate or a prospective candidate at any time during the relevant period, which for a routine general election is the period 12 months before polling day until polling day itself.

The schedule incorporates the concept of a prospective candidate as introduced in the Bill on a number of occasions, but the distinction is not made explicit throughout.

Hon. Members, I would like to present amendments numbered 8, 10 and 15 together as they relate to associated technical inconsistencies.

Mr Karran: Where is 15?

Mr Watterson: There isn't a 15.

Mr Gawne: Isn't there?

Two Members: No, 14.

Mr Gawne: Fourteen – apologies. *(Interjections)*

The Speaker: I think what is confusing matters is that under numeral 14, there should be a 15. That is a typo, that that was missed out. So there is a bullet point 15.

Mr Gawne: So I was awake! *(Laughter)* But maybe I should have spotted the error in the Keys Order Paper. *(Interjection by Mr Karran)*

Hon. Members, I would like to present amendments numbered 8, 10 and 15 together as they relate to associated technical inconsistencies:

Page 45, lines 14 and 15 omit 'the gift is either made anonymously or'.

Page 45, lines 28 and 29 omit 'is either made anonymously or'.

Page 46, lines 13 and 14 omit 'is either made anonymously or'.

Firstly, the schedule as drafted has the effect of limiting the time during which anonymous donations of money are deemed to be made to the period after a candidate's nomination is accepted, as opposed to the 12 months prior to the election, as stated in the Bill.

Anonymous donations can be received throughout the relevant period, including before a person becomes a candidate and should be disposed of accordingly.

Amendment 8 seeks to address this inconsistency by removing the restriction to the timeframe within which an anonymous gift of money can be made.

Secondly, a loan of money, goods or services can be deemed to be an anonymous donation as currently drafted. However, I would say by its very nature a loan cannot be anonymous as the lender must be identified in order for it to be repaid. Amendment 10 seeks to remove this anomaly by omitting the reference to a loan of money made anonymously.

Amendment 15 refers to paragraphs relating to a gift or loan of goods or services. The effect of this amendment is that anonymous gifts of goods or services supplied during the entirety of the relevant period must be disposed of, achieved by removing the same inconsistency addressed by amendment 8. Amendment 15 reflects that it is not possible to receive an anonymous loan of goods or services by removing the same anomaly addressed by amendment 10.

Finally, amendment 14 addresses an incorrect cross-reference:

Page 46, line 11, for '7(1)(b)' substitute '6(1)(b)'.

I therefore beg to move the amendments standing in my name.

Mr Skelly: I beg to second, Loayreyder.

The Speaker: Hon. Member, in respect of the other amendments to schedule 2, are these being moved?

Mr Gawne: I did, yes. Sorry, I moved –

The Speaker: You are moving in totality amendments 7 to 15?

Mr Gawne: Yes, I have moved them all.

The Speaker: Thank you very much – and seconded.
Mr Karran.

Mr Karran: Vainstyr Loayreyder, could you explain the process? If we are now not moving clause 13 – we are now moving clause 33 – obviously these amendments are supposed to be amendments to schedule 2 of clause 13, if I –

Two Members: Clause 33.

The Speaker: Clause 33.

Mr Karran: Well it says here that it is also material previously found in subsection 22 of, and schedule 2 to the Act, so I am just a little bit confused, as far as that is concerned.

I support the amendments because quite frankly, obviously it is an omission, it is a typo and that needs to be sorted out. I think it is far better that it is sorted out in this House – the elected House – than it has to be done in the upper House, so I have got no problems, as far as that is concerned.

But I just think it is important that you actually explain to those of us in this Hon. House who try to follow parliamentary procedure, why you have decided to take clause 33 out of step.

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

Mr Singer: Thank you, Mr Speaker.

Could the Minister just explain a point that he made, if I heard him correctly: he said that new candidates can probably buy materials – new materials – and they would not be classed as expenses because they are standing for the first time. That implies that people who are standing for the second time, if they have to buy new materials, they would be charged against expenses; and as it is been five years from one election to the next election, many people do not have the ability to store and they do not keep materials because they do not know if they are going to stand next time anyway, five years in advance.

So if I am right in what I am saying, this is not levelling the playing field at all; it is exactly the opposite.

Maybe I misunderstood what he said.

The Speaker: Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

I am inclined to agree with the previous speaker – we both looked at each of other when the mover said what he said.

We have to have a fair and level playing field, don't we? It is not a case of when a new Member for the first time ever standing, *vis-à-vis* perhaps a Member who is defending their seat are going to be treated differently. That is not on. That cannot be done.

But fortunately, it is not in the primary legislation that is before us, but the mover did so by way of trying to placate the concerns of the Member for Onchan, Mr Quirk, about his tanalised wood, (**Mr Quirk:** Hear, hear.) that exceptions might be made by the Council of Ministers. Can he assure the House that in fact exceptions such as that would not be made by the Council of Ministers because that is grossly unfair?

The Speaker: Mr Gawne to reply.

Mr Gawne: Gura mie eu, Loayreyder.

I think the only issue that I need to respond to is why clause 33 was taken out of order. It certainly came as a shock to me as well! (*Laughter*)

Mr Karran: Oh well, that's good!

Mr Gawne: I am sure that there are good and sound reasons for it, which I am sure the mover will tell us about.

Mr Karran: Thank you.

The Speaker: Mr Shimmin to reply.

Mr Shimmin: Thank you, Mr Speaker. I will stop trying to be helpful in future! (*Laughter*)

The idea of trying to move this following from clause 12 was because clause 12 refers to schedule 3A. Therefore, it was deemed to actually bring that in at the same time. Quite often as you are moving a clause with the schedule attached, do you move that? We wanted to try get this in whilst discussing the expenses issue. So my apologies if that has caused some confusion, not least to the mover of the amendments.

I am grateful for the support and understanding of the Member for Onchan, Mr Karran, and I agree entirely that it is appropriate that this House when issues are raised – and some of these issues have indeed been raised by presentations to Members, so people have identified they wanted further clarification. So it is the process working in the proper way.

With regard to answering Mr Quirk regarding his tanalised posts, I have thrown further disruption to Mr Singer and Mrs Cannell. I can agree entirely with Mrs Cannell. (**A Member:** Hooray!) It is meant to be a level playing field. There will be circumstances where individuals, whether they be existing or future candidates, who are deemed to have spent considerably more than the level would have to justify where they have expended it. This has got no intention of trying disadvantage any candidate – far from it.

I think we all know and understand that the reason for this legislation is to avoid the abuses that we have seen in Douglas East and potentially elsewhere. So all of this can be dealt with by regulations in order to ensure that all candidates have an equal opportunity. What we are attempting to do is try and put a limitation on people buying their way to an election and that should not get down to the level of detail we are having to do now, but unfortunately as soon as you scratch the surface of elections, inevitably that is what we end up doing.

Regulations will come forward in October. That will be an opportunity where, if people disagree with the intent of what we are trying to propose, we will be able to be more flexible. The Bill is written in a way that that flexibility will be incorporated into the future, as time moves on.

My colleague for West Douglas raised the issue that I did not answer in the last one about technology. Again, the regulations need to reflect that modern technology means we can do things in a different way.

With my apologies for any confusion I have inadvertently caused, I beg to move.

The Speaker: Hon. Members, we will deal first with schedule 2 and the amendments in the name of Mr Gawne. Is the House content that we vote collectively on amendments 7 to 15 together? (**Members:** Agreed.) Thank you, Hon. Members.

In that case, the amendments to schedule 2 in the name of Mr Gawne: Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Voting then on clause 33 and schedule 2: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We turn now to clause 13, Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker.

I am grouping clauses 13 and 14 as they deal with election regulations and the effect of non-compliance.

Clause 13 substitutes section 22 and repeals schedule 2, allowing regulations to be made for the conduct of elections.

Under clause 14, section 23 of the 1995 Act is amended to change the previous reference of rules to that of regulations.

I beg to move that clauses 13 and 14 do stand part of the Bill.

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

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

Mr Karran: Vainstyr Loayreyder, the reason I move this is actually for the practicalities and conveniences as much for the returning officer as it is for candidates.

In my opinion, we managed to get common sense to prevail from the absurdity that there was only a two-hour window in order to put your nominations in. When we increased the nomination centres up to 20, with the hard-won battle to get rid of parliamentary costs of £100, we got it up to four hours – which would still be pretty well impossible if somebody had to start afresh, looking for centres, having their nomination paper seized – because once the proposer and seconder... they are supposed to arrest the paper.

I know that to be fair, Vainstyr Loayreyder, there is a lot more common sense when we come to the nomination paper today than there was when I first started in politics. They certainly are not anywhere as pedantic, the returning officers, as what they were 30 years ago – or over 30 years ago, actually.

But the situation is that I really do not see why we should not establish a mechanism where you can put your nomination paper in to your returning officer, during a seven-day period, and then it is sorted.

We have already seen the situation as far as the difficulty of officers, having to sit round for four hours through this period. This actually would make far more sense, as far as giving the returning officers that flexibility for candidates to make an appointment with their returning officer, to have their nomination paper checked over and accepted, and then it can go into the public domain.

I hope Hon. Members will take on board that this in my opinion would be a far more sensible way forward. Democracy is about choice. We might not choose each other to be in this Hon. Court, but it is not us who choose. It is the people of the Manx nation who choose – the electorate of the Manx nation.

In my opinion, I think that this process will be far more effective, more efficient, as far as giving the opportunity to returning officers to have candidates ring up during this period, make an appointment to see your returning office, give them the nomination paper, and then they can validate it.

It is good to see nowadays that returning officers will check – particularly the novices that are standing in that election for the first time. They are far more user friendly. But I do feel that you would be far better looking at this, so that this can be put into regulations, hopefully for the next general election.

I hope somebody in this Hon. House will support this. This is based on experience and common sense. I hope Hon. Members will support it:

Page 23, after line 34 insert –

'Paragraph (d) is subject to subsection (4).

(4) The mechanism established under subsection (3)(d) for the delivery of nominations must include provision for nominations to be delivered, by post or in person, to an address specified for the purpose by the returning officer, during a period of not less than 7 days.'

The Speaker: Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

Yes, I will support my hon. colleague for Onchan Mr Karran on this.

I at an early election, did... well, I think we all suffered for one particular thing, when there were a couple of lists running. We had a list and the returning officer had one, and the numbers were out of sync.

I do believe actually, whether it is part-time or not, the window of opportunity for seven days to do this actually gives a lot more comfort to the candidates and a lot more peace to the returning officers to get it right, instead of having this – although it is a four-hour window now, it is having us sitting in an office, usually in a local authority office, waiting our turn, just like being in the butcher's, waiting for your number to be called.

The Speaker: Hon. Member, Mr Singer.

Mr Singer: Can I also support the principle put down here by Mr Karran.

I think we are all aware – or many of us are aware – of sitting in the office of the returning officer when he is checking up papers, and suddenly he finds something is wrong, and the person has got to go chasing out, trying to find somebody else to sign the paper. The Chief Minister and I are aware of somebody who used wrong numbers and in fact failed to get the paper back in time. I think that it is a sensible idea, seven days, then the returning officer holds on to that paper and publishes them altogether. I think Mr Karran said, publish them when he has checked them; I think they should all be published together at one time.

I certainly think it is a sensible idea and an improvement on the present system.

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

Yes, I rise to support the amendment moved by the Hon. Member, Mr Karran – although I have to say, personally speaking, I have found it quite entertaining over the years, (*Laughter*) when candidates have in fact turned up and they have had the wrong electoral roll numbers or whatever, and they have raced and chased off to get it corrected. But they have always appeared – if they are keen enough, they have always made it just before the o'clock strikes the end of nomination day.

But I think what might happen, in the event that Mr Singer mentioned that he and the Chief Minister witnessed someone who that happened to and they never returned, that is a pity because that then gave the electorate less choice than they might otherwise have enjoyed. So for that reason alone, I think it is probably worth considering, and I would support the amendment.

But I have to say that if you are serious about wanting to stand and represent people's views, then you have to, you should read your rules and regulations before you stand, to make sure that you do not make errors like that.

But I will support flexibility.

The Speaker: Mr Karran to reply to the amendment.

Mr Karran: Vainstyr Loayreyder, it is disappointing that the mover did not put his input into this before, so that we could may correct any misapprehensions as far as this is concerned.

But the issue is that I believe that, especially as Hon. Members have pointed out, that when we first started, the electoral list was almost cut in stone, as far as the lists were concerned. There is more flexibility to get people on a list much later on.

I just think it is about common sense, the practicalities of giving returning officers... And I think returning officers – the ones that I have talked to – have said that they would far rather this list... These conversations have gone on 15 or 20 years ago, as far as this issue is concerned.

So I hope Hon. Members will support this. It gives more flexibility. It gives the issue of the returning officers not having to be in a specific place at a particular time, and I believe that it will give more flexibility. I hope Hon. Members will support this.

We have seen the amendments in the past to increase it from two hours to four hours, but I believe that this is a more effective, more flexible way and it is alright for us, and the Hon. Member for East Douglas saying, we should know our situation and our regulations, but if there is a genuine misunderstanding where a voters' list has gone out of date, there could be quite good reason for that, as far as that issue is concerned.

So I hope Hon. Members will support. I do agree that returning officers are far more flexible when they are scrutinising a nomination paper today, but this would be the right way forward, and I think it might help encourage returning officers to actually be returning officers, because it gives them more flexibility to work around their main job.

The Speaker: Mr Shimmin to reply.

Mr Shimmin: Thank you, Mr Speaker.

I quote:

'Nomination papers may be delivered to the returning officer for a constituency to a place specified by the returning officer, by the candidate personally or by his or her proposer or seconder at a time agreed with the returning officer, being any time in the week before nomination day.'

Mr Quirk: Thank you.

Mr Shimmin: That has been circulated, consulted upon and is included in the regulations that are proposed to come forward in October. All Hon. Members should have received that as an intention to fully endorse everything that has been said by those supporting it. That is part of the consultation that has gone out in regulations.

I am conscious that we have lots of consultation but the point I would make is that what we are trying to do in this legislation is not put everything in primary. It is there – the intention absolutely is endorsed. Everything that the Hon. Member for Onchan, Mr Karran has asked for is intended to be included, but in a format and in a way which is easier to be amended in the future.

So on this occasion, I would ask you not to support the amendment, but only with the guarantee that that is in the regulations proposed to come to Tynwald in October which will achieve exactly the same outcome. I do recognise and respect the views of people. People have listened to the comments. That is the proposal.

Please vote against the amendment. Do not put it in primary. You will get the opportunity in October.

I beg to move.

The Speaker: Clause 13, dealing with the amendment in the name of Mr Karran: those in favour of the amendment, please say aye; against no. The ayes have it.

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

FOR

Mr Cannan
Mrs Cannell
Mr Cregeen
Mr Hall
Mr Karran
Mr Quirk
Mr Singer

AGAINST

Mr Anderson
Mr Bell
Mr Crookall
Mr Robertshaw
Mr Ronan
Mr Shimmin
Mr Skelly
Mr Teare
The Speaker
Mr Thomas
Mr Watterson

The Speaker: With 7 votes for, 11 against, the amendment fails to carry.

Clause 13: those in favour that clause 13 stand part of the Bill, please say aye; against, no. The ayes have it. The ayes have it.

Clause 14: Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

Mr Shimmin: Clause 15 amends section 24 of the 1995 Act to clarify that a person entitled to vote may do so only in person or by proxy.

I beg to move that clause 15 do stand part of the Bill.

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

The Speaker: I put the question that clause 15 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 16.

Mr Shimmin: Mr Speaker, I will take your guidance if I may. It was my intention to move clauses 16, 17, 18 and 25, as they all relate to either the manner of voting, or in the case of clause 25, consequential amendments. Would it be your preference for me to do it in the order it is published?

The Speaker: Is it agreeable that we take clauses 16, 17, 18 and 25 together for debate? I will take votes separately if necessary. **(Members: Agreed.)**

Mr Shimmin.

Mr Shimmin: Thank you, Mr Speaker, and thank you to the House.

Clause 16 substitutes section 25 of the 1995 Act to provide that a person may vote in person at an allotted polling station, in advance of polling day or by proxy.

Clause 17 amends the terminology from 'absent vote' to 'advance vote'.

'Absent voting' had been open to any registered voter who would be absent from the polling station for whatever reason. However, the terminology suggested it was only available to those who would be absent from the Island. Availability of advance voting has been restricted to those in the British Islands due to time restrictions arising from the need to issue, send and then return a completed ballot paper.

Clause 18 effectively makes proxy voting a last resort, available only to those electors who cannot vote at the polling station or in advance. This clause seeks to address the deficiencies in the proxy voting system that were exposed in the 2010 Douglas East by-election, whilst recognising that there are a limited number of circumstances under which proxy voting remains the only option for certain electors.

New restrictions on who may apply and the facility for the Electoral Registration Officer to request further information from any applicant will tighten procedures and place an onus on the applicant to prove that they can only vote by proxy.

Clause 25 removes an incorrect reference to voting by post and changes terminology of 'absent vote' to 'advance vote'.

I beg to move that clauses 16, 17, 18 and 25 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: Hon. Members, I put the question that clauses 16, 17, 18 and 25 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 19.

Mr Shimmin: Mr Speaker, this makes amendments to reflect modern society and acknowledges the growing number of people who prefer to access information electronically.

The clause provides that public notices must appear in one newspaper and on the Government website and makes display in a conspicuous place in the relevant constituency an option, not a requirement.

Clause 19 also entitles candidates to submit their manifesto for display on the Government website and to be delivered to each household containing a registered elector.

I beg to move clause 19 do stand part of the Bill.

The Speaker: Mr Watterson.

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

The Speaker: Hon. Member, Mrs Cannell.

Mrs Cannell: Just one very small query, on section 31(1). It says:

'Every candidate *may* forward an electronic version'

– which of course in law means they may not –

'of his or her manifesto to the Chief Secretary who *must* arrange...'

So the compulsion then is on the Chief Secretary, if he is in receipt of the manifesto, but the candidate does not necessarily factor have to forward an electronic version to the Chief Secretary. That is how I am reading it – I just hope that I am correct in that.

Then we go on to the other page, subsection (2):

'Every candidate is entitled to have his or her manifesto delivered by Isle of Man Post Office...'

And then goes on to say:

'the cost of such delivery subject to regulations must be paid out of money provided by Tynwald.'

I have just got a curious question on that: who pays for it now?

I have never been quite sure, but I never did regard that in fact it had to be paid by Tynwald, other than if Tynwald approves a set amount of money for a forthcoming election, coming forward.

Again, I do not remember any regulations coming forward or an order coming forward, where we were asked to approve that.

So I just wonder of the Minister could make a little bit more comment on that, I would appreciate it, thank you.

The Speaker: Mr Shimmin to reply.

Mr Shimmin: Thank you.

With regard to the first part, absolutely, it is the discretion of the candidate as to whether they wish to have it electronically circulated. Secondly, my understanding is that Treasury currently pay for the postage and, taking the earlier point that Mr Karran made about the separation, it does appear that it would be sensible for being parliamentary process. The funding will still, ultimately, come from the Treasury's coffers, but it will be passed through to Tynwald to disseminate.

With that, I beg to move, sir.

The Speaker: I put the question, clause 19. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 20.

Mr Shimmin: Clause 20, sir, inserts new provisions into the 1995 Act to allow a representative of a named relevant body to be an accredited observer to attend election proceedings. Applications are approved by the Governor and observers will be subject to a code of practice.

I beg to move clause 20 do stand part of the Bill.

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

The Speaker: Clause 20, those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 21.

Mr Shimmin: Mr Speaker, I would like to group clause 21 with 28, as they relate to corrupt and illegal practices and those who may be granted relief.

The Speaker: Is that agreed, Hon. Members?

It was agreed.

Mr Shimmin: Clause 21 amends provisions regarding corrupt and illegal practices to take into account the more serious offences in relation to political parties and to funding which are detailed in clause 26.

Clause 28 amends section 3 of the 1995 Act, to provide protection to returning officers by clarifying anything they have done or omitted to do in good faith in the exercise of their functions would not be subject to high court proceedings in relation to illegal practices, payment or hiring.

I beg to move clauses 21 and 28 do stand part of the Bill.

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

The Speaker: Mr Quirk.

Mr Quirk: Just a query from... If I can, Mr Speaker, just reference to if a practice has been found to be proven, what would happen if you were a member of a political party? Does that mean the candidates fall foul of that? What would the sanction be? Would there have to be a re-run of the election if the candidate won?

The Speaker: Mr Shimmin to reply.

Mr Shimmin: Mr Speaker, the new offences in the Bill relating to those acting in contravention regarding expenses, donations, political parties without reasonable excuse would be a matter for the Attorney General to determine whether there is sufficient evidence to justify a prosecution for the offence and whether the alleged conduct is for a prosecution to be in the public interest.

If a person is found guilty in court they will be liable to a fine and a conviction for certain offences would also bar an individual from standing for election for a certain period of time and remove a sitting Member from their seat. This aligns with the Council of Minister's views on corrupt and illegal practices so, ultimately, that is the sanction.

I beg to move.

The Speaker: I put the question that clauses 21 and 28 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 22.

Mr Shimmin: Mr Speaker, clause 22 expands provisions regarding election publications so that they apply in relation to discouraging or preventing a person being elected as well as promoting a person to be elected.

It also clarifies where such material can be posted, including by electronic means.

I beg to move clause 22 do stand part of the Bill.

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

The Speaker: Clause 22. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 23.

Mr Shimmin: Sir, I would like to group clauses 23 and 24, as they both update the legislation to reflect modern social conditions.

Several Members: Agreed.

The Speaker: Agreed.

Mr Shimmin: Clause 23 substitutes section 40 of the 1995 Act to specify a premises where alcohol or other refreshment is sold or supplied cannot be used for election purposes. Parts of such premises which have separate entrances may be used.

Clause 24 repeals section 41 of the 1995 Act which is an outdated provisions relating to bands of music.

I beg to move clauses 23 and 24 do stand part of the Bill.

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

The Speaker: Those in favour that clauses 23 and 24 do stand part of the Bill, say aye; against, no. The ayes have it. The ayes have it.
Clause 26.

Mr Shimmin: Thank you, Mr Speaker.
Clause 26 inserts new sections 44A and 44B into the 1995 Act to update offences of illegal practices in relation to offences connected to political parties and funding.
I beg to move clause 26 do stand part of the Bill.

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

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you.
I just find this interesting – this particular clause – because I remember, about 25 years ago, trying to establish and found the Manx Green Party, as it was known in those days – (**A Member:** Hear, hear.) a spin-off of the UK Green Party – and wanting to do everything by the book and putting a formal constitution together, going to the General Registry and saying that we wish to establish the Manx Green Party.

In those days there was no provision to be able to do it. ‘Oh, no, we don’t have parties in the Isle of Man. You can register a business but you cannot register a political party. It is against the law.’

So I would imagine now – and I note the Member is moving swiftly with this, with the absence of a political party Member, but is this going to open the flood gates, possibly in the future for political parties to become established in the Isle of Man? I mean they have to be registered so one presumes, therefore, that there is going to be provision for them to be registered and if they are not, they are going to be guilty of a fine not exceeding £5,000.

I just wonder why was this particular clause put in and is it to encourage political parties?
(*Interjections*)

The Speaker: Mr Shimmin to reply.

Mr Shimmin: Thank you, Mr Speaker.
It is not in any way to discourage or encourage party politics. It is merely a reflection of the modern world in which we live, where an absence of legislation meant that there was some doubt in the eyes, not only of the public but also of those representing political parties.

As I said earlier in the debate, there is no intention to try to make any political party criminalised. This is purely for those parties who choose to endorse and support candidates for election to the House of Keys. There is now a registration process and a light touch of requirement on that party. It is recognising the world we live in has political parties and if they are to be seen to be endorsed and they are to be able to be monitored so the public are clear what is going on then that is the only sole intention.

There is no aspect or reason why any existing or future political party should feel intimidated by any of this legislation. Should they choose to want to endorse candidates, there would be a registration process. That is the main difference to what has gone on previously.

I beg to move.

The Speaker: I put the question that clause 26 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 27, Mr Shimmin.

Mr Shimmin: Mr Speaker, grouping clauses 27 and 29, as they both make amendments to interpretation provisions.

The Speaker: Agreed.

Mr Shimmin: Clause 27 removes duplicate definitions of 'candidate' and 'prescribed', as these are defined under section 77 of the 1995 Act.

Clause 29 amends section 77 of the 1995 Act and inserts new definitions into the interpretation section.

I beg to move clauses 27 and 29 do stand part of the Bill.

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

The Speaker: Clauses 27 and 29. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 30.

Mr Shimmin: Thank you, Mr Speaker.

Clause 30 amends section 80 of the 1995 Act to clarify the position that regulations cannot be made in respect of the procedure on election petition as this is dealt with in the rules of court. Regulations may amend the time periods referenced in the newly inserted sections relating to election donations and expenses.

I beg to move clause 30 do stand part of the Bill.

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

The Speaker: Clause 30. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 31.

Mr Shimmin: Clause 31 includes a transitional provision regarding the coming into force of the provisions of the Act. Any period of time before a provision is operational is to be disregarded.

I beg to move clause 31 do stand part of the Bill.

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

The Speaker: Clause 31. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 32.

Mr Shimmin: Clause 32 amends paragraph 1 of schedule 3 of the 1995 Act to insert a new definition for 'prescribed', as it concerns the procedure on election petition.

I beg to move clause 32 do stand part of the Bill.

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

The Speaker: Clause 32. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 34.

Mr Shimmin: Clause 34 repeals transitional provisions which are now spent.

I beg to move clause 34 do stand part of the Bill.

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

The Speaker: Clause 34. Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 35.

Mr Shimmin: Mr Speaker, may I group clauses 35, 36 and 37, as they all contain consequential amendments to various Acts?

Several Members: Agreed.

The Speaker: Agreed.

Mr Shimmin: Clause 35 provides for consequential amendments to the Local Elections Act 1986, relating to election regulations, qualification, disqualification and advance voting. The amendments do not incorporate provisions regarding proxy voting, donations, expenses, registration of political parties or accredited observers.

Clause 36 provides for consequential amendments to the Payment of Members' Expenses Act 1989, only in as far as references to the election rules are replaced with references to election regulations.

Clause 37 provides for consequential amendments to the Registration of Electors Act 2006. In particular, clause 37 clarifies the position that, due to the constituency boundary changes approved in the Representation of the People (Amendment) Act 2014, different polling districts can apply for elections to the Keys and elections to local authorities. Therefore, a person will be registered in one polling district for Keys elections and maybe one polling district for local authority elections which may differ.

A further amendment is included under clause 37 to provide the Chief Secretary must appoint a person employed in the Cabinet Office to be the Electoral Registration Officer.

I beg to move clause 35, 36 and 37 do stand part of the Bill.

Mr Watterson: Mr Speaker, while clause 37 does start to show some of the stupidity about the changes in the boundaries, I am happy to second 35, 36 and 37 do stand part of the Bill.

The Speaker: Hon. Members, I put the question that clauses 35, 36 and 37 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that concludes –