

**4. Council of Ministers (Amendment) Bill 2016 –
For First Reading –
Motion lost**

Mr Cretney to move:

That the Council of Ministers (Amendment) Bill 2016 be read a first time.

The President: We now turn to Item 4 on our Order Paper, the Council of Ministers (Amendment) Bill 2016; and I call on the Hon. Member, Mr Cretney, to take the First Reading.

Mr Cretney: Yes, I specialise in non-controversial matters! *(Laughter)*

The Council of Ministers (Amendment) Bill 2016 was supported unanimously in the House of Keys at Second Reading and without a vote being called at the Third.

It is a Private Member's Bill brought forward by Mr Cannan, Member of the House of Keys, and its purpose is very straightforward in terms of ensuring the primacy in relation to the election of the Chief Minister stands squarely with the directly-elected branch of Tynwald, the House of Keys.

I would suggest that as the primary role of Legislative Council at present – and likely into the future – is one of legislative scrutiny, an element of independence and detachment from any perceived allegiance would be a good thing. Legislative Council must be seen to be acting without fear or favour.

The Bill received three successful amendments in the House of Keys, moved by the Hon. Member for Rushen, Mr Watterson. Firstly, that 13 Members of the Keys rather than a majority of those present would be required for a Chief Minister to be elected. Secondly, that in the event of an unsuccessful first ballot a further ballot could be held without waiting for two weeks. It would be at the Speaker's discretion with an adjournment on the same day, or the day following, for fresh nominations.

The third amendment is a procedural one. The Governor, in the event of the Chief Minister resigning, is required to notify the President. The amendment adds the Speaker, as that office would be co-ordinating arrangements for any replacement.

I recommend that all three amendments be included.

In the House of Keys on 22nd March this year the Chief Minister gave a written update on the review of Tynwald which Lord Lisvane is to undertake following on from the June 2015 Tynwald motion. Such a review to:

- examine the functions of the branches of Tynwald
- assess their efficacy
- consider the scrutiny structure required by the Parliament
- recommend any options for reform

and to report to the sitting of Tynwald on 19th July 2016 ... Under the Inquiries (Evidence) Act 2003 ...

The Chief Minister indicated that the noble Lord is planned to be on the Island in April and May 2016 and is likely to hold more than one public inquiry session so that he can obtain a wide range of views from the public and Tynwald Members.

It is no secret that I believe the possibility of reform is to be welcomed. For years Tynwald Members have sadly made little progress despite allegedly being signed up in both Branches, so I was very happy to endorse this independent overview. On that basis Members may say if such an inquiry is underway *at last*, why are the House of Keys and now Legislative Council considering this Private Member's Bill?

Well, I would argue that this move stands on its own despite what may ultimately flow from the inquiry. This is clearly a matter for the directly-elected Chamber to decide upon, and by decisive vote

they have determined that the election of Chief Minister should exclusively be with those who have been returned by the electorate, not by those who constitute the revising Chamber.

I agree; and seek the support of Council to illustrate recognition of the distinct roles of each of the branches of Tynwald in this matter.

I beg to move that the Bill be read a first time.

The President: Hon. Member, Mr Coleman.

Mr Coleman: I beg to second, Madam President, and reserve my remarks.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

As far as I am concerned this is a move which, if successful, will have very little effect and will benefit the Island very little in any particular way; and as far as I can see it has certainly grabbed the headlines of the press where none existed previously. My view is that it is a political gimmick – which were the words used by Mr Speaker in another place – and I will give my reasoning why I believe that is such shortly, Eaghtyrane.

The current system we have has proved without doubt time and time again over the recent years in holding this Island in very good stead, through all the threats both internally and externally, and internationally, and we have been able to manage our way through that. There is little evidence to support what has been put forward today, Eaghtyrane, other than the mover has consistently pushed out that the measures were unanimously supported in the Keys. Fair enough. However, that does not give us an evidence base to work off here and I think the mover has quite roundly argued against himself by giving us the issue of the Parliamentary Review that is underway.

I see this as central to the argument here this morning whereby if there is a parliamentary review underway with almost a unanimous vote within Tynwald approving that review, then it is incumbent on us here not to support this; but to let the review carry on, undertake its work and make such recommendations as it may, or may not do, going forward. It is not for us to interfere in the primacy of Tynwald, I would argue, inasmuch that a vote has been taken, an approved procedure in principle has been progressed from that; and I would almost see it as a breach of Tynwald procedure if we carry on in this fashion this morning, Eaghtyrane, as we are pre-empting what the review may find, or we could influence what the review is trying to undertake at the minute – which is not good politics or good Legislative Council work.

I would also point out that another reason I see for not supporting this action this morning is that all previous general serving Chief Ministers – if I can put it like that – have been chosen from the Keys, and both Keys and LegCo as far as I can see take full cognisance of the fact that nominees would generally come from House of Keys, except under the exceptional circumstances where we found ourselves in 2005. I would say at that time the Island was nearly cast into political disarray with the resignation of our then Chief Minister.

Luckily, and for the sake of experience, stability and security reasons, we were able to nominate an acting Chief Minister – or Chief Minister *pro tem* – in the form of former Member, Donald Gelling. That procedure was *unanimously* supported by Tynwald at that time. It secured the political stability, the Government and the Cabinet going forward into the next election. It also, I can assure you, caused a huge sigh of relief in the business community in all its shapes and forms, as the stability and security of our political system was allowed to move forward in its current format.

What I would say, Eaghtyrane, is that we need to be very careful in closing doors down that do not need be closed down, and cutting the options down that we have at the minute; the more irons in the fire, I would say, the better, and the greater the choice of how we manage our political system and situations that could very well arise again in the future due to one reason or another. We need to have all options open.

I think at the time, in 2005, both Keys and the Legislative Council operated with diplomatic aplomb, if I can put it like that, in securing a managed situation and way forward with that option. As I say, it is the only time it has ever been used under special circumstances so I do not think in reality the public of this Isle of Man need to be worried about some sort of subversive Legislative Council takeover of the Council of Ministers – far from it. I think the cognisance and common sense that this Chamber shows and has shown in the past speaks for itself without any doubt.

I would also say that, really, here we are again navel-gazing as far as I am concerned. We are taking up the legislative procedures here which would be better served examining other legislation coming through; and other matters, given the threats and challenges that we are facing at the minute. I do not need to trot them all out, Eaghtyrane, but public services pensions, balancing the books, international threats, the Panama incident ... to list but a few that are coming our way, and may be coming our way even with a heavier headwind. We need to be focused on the job in hand.

In all my years served in the House of Keys and in here, I have never once had one member of the public confront me with this issue as a point of principle. In fact, I have never had a member of the public or a constituent confront me with this or any particular issues about Legislative Council. What the public are concerned about – and what I am continually berated about – is the fact of increasing charges, balancing the books and ‘What are you going to do to grow the economy?’ ‘How are we going to see off the international threats?’

And especially, how is the Island going to fly its flag in various forums and meetings in the UK and elsewhere, selling our good news story and promoting our good name? Those are the issues I am regularly regaled with, Eaghtyrane – and this is not one of them.

I would also say that this move will limit the electoral college for the Chief Minister, and it would place the Council of Ministers in an unacceptable position of virtually being able to determine the outcome of the election, even if there were competing factions within the Council supporting two candidates. I think we need to be careful what we are doing here on that score alone.

I would urge Hon. Members to think very carefully about what is going on. Mr Cannan, the Hon. Member who is promoting this Bill, has actually let the cat out of the bag with a statement which was purported to be his on Manx Radio whereby he is quoted as saying this may add weight to arguments for changing Legislative Council. So there lies the crux of the matter as far as I am concerned. I would urge Hon. Members to think about that statement, because what we are really dealing with here is a Trojan horse.

If this Bill is passed then some of the functionality of LegCo is moved and it strengthens the *minority* – and I use that word carefully – argument, to generate more concern about LegCo. This is reform by stealth. It is quite plain to see and Mr Cannan has now admitted as much.

The actual move will not achieve anything in real terms, only in perceptuality – if I can say that. But it is a serious attack on LegCo by way of pushing ill-considered reform through the backdoor – and this is dangerous. The press soundbites are good but the effects have far more serious ramifications, as I have demonstrated.

I would urge Hon. Members to think carefully on this matter because there is a parliamentary review underway at the minute – underline that – and also I view it as reform by stealth measures, and we need to be careful about that. At the end of the day as I opened my speech, the current system ... and if there were some fundamental flaws, Eaghtyrane, I would be completely supportive of the Hon. Member, Mr Cretney, if there were errors occurring or a situation that had caused something negative to occur – fair enough. But that is not the case.

I think we need to be careful what we are tinkering with here where we have a system that has proven its worth – both Branches and combined in Tynwald every month – which is able to steer the Island generally on a good course through thick and thin, and face off the threats that we have to deal with.

The President: Hon. Member, Mr Corkish.

Mr Corkish: Thank you, Madam President.

In another place the mover of this Bill, the Hon. Member for Michael, described it as:

... a simple change to legislation that sees the election of Chief Minister become purely a matter for the House of Keys.

Whilst the mover believes that this is good for democracy and accountability – and, in principle, I am always in support of such ideals – I feel that I cannot support it because I do not think it is a good Bill.

It may appear to some to be simple, but this is a serious move and a constitutional change to our legislative system – a system that has stood us in good stead so far; and such an action should be well-considered and certainly not taken lightly. It could be considered by some to be a populist move but, if it is, it is not to my mind practical. It occurs to me that there are much more important matters to exercise both him and others that crucially affect our Island in the run-up to a general election.

The election of a Chief Minister at the start of a new political term is a crucial step in the formation of a government to guide and govern wisely, in what is increasingly a very difficult and trying time for our Island, as world parliamentary systems also feel the weight of more and more regulation and scrutiny – as indeed we surely will in our little corner of the world, and following the general election.

In such circumstances I would like to think that whoever a new Chief Minister may be, they would be better girded by having the confidence of all Tynwald with them. Would not a Chief Minister feel more comfortable and confident following a vote of confidence from both Branches when seeking such an appointment?

It is very important to good governance in this place that Tynwald – *Tynwald* – has confidence in that choice; and that conversely the Chief Minister has that conjoined, united confidence going forward. And I, like my hon. colleague who has just spoken, will mention in passing the rare but valuable illustration of some years ago, 2005, when it fell to a Member of this Council to step into the Chief Minister's position to maintain stability. What would happen if that scenario were to occur again if this Bill were passed? However, I do note the comments made concerning this state by the mover today.

I will also mention the fact that there is at present a review being undertaken looking at our inner workings during which this matter – which is so concerning to the Member of Michael, and apparently also for my good friend and colleague in Council, Mr Cretney – will probably be addressed. Madam President, this being the likely case it would appear to me that this Bill before us, and being introduced for whatever reason, is a little premature.

We are approaching a general election and we will not know what shape the new House of Keys will take in its membership. There may be little change, or there could be a significant change. There could be a large number of new Members choosing the new Chief Minister, and amongst their number some who have no political experience or understanding of what a Chief Minister represents, or the qualities expected. Perhaps this is why the times of Legislative Council and House of Keys election periods are different.

Madam President, we are elected Members of Tynwald and I hope we bring to the Court of Tynwald experience and independent views, and knowledge carried forward from one House to another. I will not stand in the way of modernity or moving forward to the benefit of enhanced good government, but not at the behest of one Hon. Member who believes that the public are crying out for the purpose of this Bill. The review I mentioned earlier will address this and other matters.

Madam President, we tinker and dismantle tried and tested ways at our peril. Stability of Government and its proven effectiveness has stood us in good stead, as we continue to welcome parliamentarians from various parts of the world who revere and envy the way we conduct ourselves in the parliament that we have.

As mentioned earlier, I await the results of the independent review now taking place; and, Madam President, I will not be supporting this Bill for what I believe are practical and honest reasons – and for no other purpose.

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

I can see all the attraction in the Bill for the media, and those that are interested, and live the politics as a personal interest; but as the previous speaker has said, this is not actually reducing some of the powers of this place but it is actually taking away a function of Tynwald – because it is *Tynwald* that appoints the Chief Minister. And again I do not think that is being fully understood by those who are championing the cause.

As Mr Henderson said – and we can see by the thousands of people that attended the public gallery in the other place and here today – this is obviously a huge burning issue (**A Member:** Absolutely!) that people feel very strongly about ... we can almost hear the demonstrations outside!

I think what people are really wanting to know is that the whole process of appointing a Chief Minister is not in their hands at all, because when we come to election – and we are all voters – the manifestos come through the door, the people come round to visit us and they tell us all about the things that they feel matter in the constituency. But of course we will then vote for them, or vote for the next person, or whoever, but really we are not voting for a Government with any policies because we do not know who is actually going to be running the show!

So whereas people can know ... I know there are parties, and our colleague Mr Cretney here is a member of the Manx Labour Party – and Mr Coleman, I believe? Are you a member of the Labour Party?

Mr Coleman: I am!

Mr Turner: There are published policies for those, but generally there is no real groundswell of party politics when people go to the polls around the various constituencies.

So there is not a clear direction as to what the next five years is going to bring. And I would imagine when we come to the general election this year we will have more of the same. There will be lots of personalities fighting it out based on their own issues, and then when the new House is formed ... well, then the horse-trading starts, doesn't it? Because the various persons interested in becoming the Chief Minister will be doing all the talking and gathering the support from the various Members who have been returned.

But taking that back to the voter, they still do not have any idea or any influence *really* as to who that is going to be. I know we have just changed all the boundaries on the constituencies but previously we had constituencies with a relatively lower number, and yet the Chief Minister has been picked from a constituency from the other end of the Island, over which they had no say whatsoever.

So really, what does this Bill actually achieve in terms of making the whole process more democratic, as the promoters of this Bill say? I do not actually think it has anything. Okay, remove this Council from taking part in the process – but of course the process is taking place in Tynwald Court. It means that we do not turn up and vote for a sitting; but, again like Mr Henderson said, it is not going to achieve anything.

It is eroding the powers and positions of Tynwald, and if we are going to do that then we need to look at what the *whole* process is for: what the two Branches are for, how they operate, how they interact. We of course know that the two Branches, when they meet together in Tynwald Court, do not have equal status because the Standing Orders dictate on certain voting, and about how that goes – if it comes to the casting vote of the President there are procedures there. So there is not the equality of the two Branches in that respect.

Surely it is sensible to see ... this review may come out and decide that we should scrap the whole lot and look at putting in something brand new for the next millennium together. It could be based on a Scottish parliament model, the Northern Ireland Assembly model – we do not know.

I just think it is great words, it looks absolutely brilliant, you could sell this to the man in the street and say, 'Oh yes, of course, they are the directly-elected Chamber so absolutely ...'. Is it going to affect them? Is it going to benefit them?

I do not think it will. And I think, as you say, it is all the right words but not for the right reasons.

The President: The Hon. Member, Mr Crookall.

Mr Crookall: Thank you, Madam President.

Just a few words to add on to what has already been said, I think, really.

I would just say that while we are having the review about the functions of Tynwald, why would you want to do this and pre-empt what might be bringing in some changes at a later date? Tynwald backed that review of Tynwald by Lord Lisvane and I think we should wait and see what happens there.

I believe personally that we have a system that is tried and tested at the moment, that works. Why would you want to close your options down in case of an emergency – as has been proved once before – and take away an option that was needed at the time? It proved that it worked and gave the Island an 'out', if you like, in time of need.

Why would you take that away? It costs nothing to have that option there and yet it could be very damaging to take it away.

I just think we are jumping the gun here and I think we ought to wait until we have had the review and then see; and then let the new House decide, and indeed let Tynwald decide the way forward after we have had that review, Madam President.

There is a lot of experience, and there always has been, in the Legislative Council. Indeed at the moment there are five ex-Ministers, or Ministers, in here and that will be the case into the future. You will always have so much experience here, why would you take away that option that may be needed again one day, Madam President?

I will leave it there, thank you.

The President: The Lord Bishop.

The Lord Bishop: Thank you, Madam President.

Unlike the previous speakers I do not have any problem with this really. I do have a problem with what lies behind it, which is the question of how any body can elect a Chief Minister and therefore, in consequence, a Council of Ministers, without there being a popular mandate?

I realise there is a problem when you do not have a party system, because with the system in the United Kingdom Parliament obviously the party manifesto applies to the Prime Minister. But we have seen today earlier in the case of a Bill being presented to us of a serious nature, that would not have occurred to anybody when we were electing the present Chief Minister.

Now, what is there preventing a future Chief Minister from nominating a Council of Ministers and then pushing through policies for which there is no popular mandate?

So I do not have a problem with this and it does not worry me frankly either way, but I do think there is a serious issue that underlies it that needs dealing with in terms of how we determine the right person to be a Chief Minister.

The President: The Hon. Member, Mr Coleman.

Mr Coleman: Thank you, Madam President.

Before I start, let me say that the mover is fully aware of my views on this and they do not agree with his – and I will be voting against it. I agreed to second it because I felt that we had to give the courtesy of what happened in the other place an airing with full debate here, rather than maybe just have it voted down straight away – or not seconded. And so I agreed to second it, and he is aware that those are my views.

The President: There is some very odd behaviour here this morning!

Mr Coleman: Well, I am odd! (*Laughter*)

A Member: Self-confessed!

A Member: Hear, hear!

Mr Coleman: Again, with reference to what has been said previously I, too, agree that we should be waiting for the outcome of the inquiry.

Even in Westminster the people in the Upper House – those who are not cross-benchers or on the religious side of things – vote for the party leader; Liberal, Conservative, Labour – they vote for the party leader. They still vote even though they are up in the Lords, but they vote as members of the party that elects it, so it is a much wider mandate but they do have a minute input into it.

The next thing really is that with the boundary changes ... and the Hon. Member of Council, Mr Turner, said we could have quite a few new people in after 22nd September; and what we are saying is that ... and again the Hon. Member of Council, Mr Crookall, alluded to this as well. And I exclude myself from this as I think I am the newest politician in this Chamber, really.

There is a wealth of experience up here and there is a wealth of knowledge of working with the potential candidates, knowing how they operate; and also knowledge of whether they think they could be a good Chief Minister – as opposed to possibly a large number of people coming into House of Keys for the first time. And they will be touted for and offered various inducements of whatever sort, to vote for a particular Chief Minister. (*Interjection*)

Well, it is inevitable, anyway.

I think to do away with that wealth of knowledge of people that might be proposed is again just doing away with another option, isn't it? As is doing away with the option of having a Chief Minister appointed from within the Legislative Council, bearing in mind that it has still got to be voted for by House of Keys anyway. (*Interjection*)

It is just short-sighted and, quite frankly, mean-spirited; and I shall be voting against it.

The President: The Hon. Member, Mr Anderson.

Mr Anderson: Thank you, Madam President.

Strangely, I find myself agreeing with the seconder of this Bill (*Laughter*) which I did not expect to be doing this morning. He has outlined his reasoning for seconding the Bill and I accept those.

I agree with other Members that have stated this is premature at this time. We have a review going on and in some way it would influence that review, I believe, if we accepted what is before us today.

It is premature and I think we can just dismiss it.

The President: The mover to reply.

Mr Cretney: Well, thank you; a stout defence of the status quo.

Can I just say I have been here 31 years this month; and how often I have heard ‘more important matters’, ‘premature’, ‘detrimental effect on stability’ in this context? But this is not going as far as previous things that have been spoken about.

What we are talking about here is that the Members who are directly elected by the public should be the people who have the vote on who is going to lead to the Island. And I understand we do not have party politics in the manner that is normally associated with elsewhere, but we will have 24 Members who will be returned to House of Keys. They will have been to the hustings, they will have been and spoken to people, and the potential names of the potential Chief Minister will be in the ether – they always are. And Members will have an idea from those who they represent, or are seeking to represent – they will have had a conversation with them.

We, in here, will not be having any conversations – and Mr Henderson is saying that he has not heard any of this from his electorate. I certainly have over the years in terms of reform of Legislative Council, and one of the reasons I agreed to come here was because I do believe reform is necessary.

And yes, I welcome the review which is being undertaken presently, but I see this as a separate issue. The Members of the House of Keys, and potential new candidates, will be going out and they will be speaking to the electorate and they will have at first hand the views of the electorate, and will be able to have a conversation with them about this matter.

I think it just makes it more democratic than the system that exists.

And yes, Mr Gelling came back as caretaker Chief Minister in 2005; but are we seriously saying that there would be no alternative Members out of the other Members of the House of Keys who could be considered to be a Chief Minister? Are we seriously saying that?

Mr Corkish: It’s what happened the last time.

Mr Cretney: What happened then in my opinion was a different scenario altogether. There was an election in 2006; Mr Gelling came into position in 2005. He was a caretaker, it is a different position altogether.

I am not sure I am going to win this vote, (*Laughter*) but I am ever the optimist; and I beg to move that this matter be considered for the first time.

The President: Hon. Members, the motion is that the Bill be read for the first time. Those in favour, please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

FOR	AGAINST
The Lord Bishop	Mr Turner
Mr Cretney	Mr Coleman
	Mr Anderson
	Mr Corkish
	Mr Henderson
	Mr Crookall

The Acting Clerk: Madam President, that is 2 votes for, and 7 against.

The President: Hon. Members, on that basis the motion fails to carry.

Mr Crookall: Madam President, sorry, can I just clarify something?

The Clerk: Sorry, it was 6 against.

A Member: Thank you.

The President: It was 6 to 2?

The Acting Clerk: Yes.