

Order of the Day

4. CONSIDERATION OF CLAUSES

4.1. Elections (Keys and Local Authorities) Bill 2020 – Clauses considered

Mr Thomas to move.

The Speaker: Consideration of clauses, Elections (Keys and Local Authorities) Bill 2020.
Mr Thomas to move clauses 1, 2, 3 and Schedule 2, please.

665 **Mr Thomas:** Before that, Mr Speaker, thank you very much for working so hard with the
Clerks and the officers, the executive office and Mr President, to create these opportunities to
move important Bills like this one in regular sittings of the House of Keys.

I am pleased to move this on behalf of the Crown and Elections Team at the Cabinet Office
because it is important that this Bill makes progress – but that it is also, at the same time,
carefully considered.

670 As I advised Hon. Members during Second Reading, this Bill proposes to repeal and replace
the Representation of the People Act 1995 and the Local Elections Act 1986, and to consolidate
election rules within a single piece of primary legislation. The intention is to provide greater
clarity and consistency within our electoral system, to address issues that have come to light
during recent elections, and to look to the future.

675 The Bill is divided into 10 Parts, with 158 clauses and six Schedules. In some cases I have
indicated, as you have just confirmed, that I would like certain clauses to be grouped together;
but if any Member would like me to talk to a particular provision and speak to that clause
separately, I will be more than happy to provide assistance and we can consider that particular
clause on that basis.

680 Clauses 1, 2, 3 and Schedule 2 are introductory.

Clause 1 gives the short title that the Bill will have if it is passed.

Clause 2 deals with the Bill's commencement, with the majority of the Bill's provisions
coming into operation on the day that the Act is passed. The remaining provisions can be
brought into operation by the Council of Ministers in the usual way, by Appointed Day Orders.

685 Clause 3 provides for the general interpretation of the Bill's provisions and introduces
Schedule 2 to assist with the interpretation of whether something constitutes a donation or an
election expense for the purposes of this Act.

Mr Speaker, I beg to move that clauses 1, 2, 3 and Schedule 2 stand part of the Bill.

690 **The Speaker:** Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: Thank you.

695 I call on Mr Hooper to move amendments 1, 2 and 59, please.

Mr Hooper: Thank you very much, Mr Speaker.

I would like to propose three amendments which I hope will further assist the clarification of
certain provisions in the Bill.

700 The first amendment is to amend the definition of ‘casual vacancy’ to put beyond doubt what this clause includes and which, for the avoidance of doubt, is where an incumbent demits, is removed, on a Member’s death and as a consequence of a successful recall petition.

705 The second amendment proposed is the definition of ‘national emergency’ to align this with the interpretation of the Emergency Powers Act 1936 which we understand is to be amended; and in the future Civil Contingencies Bill I hope that this clause would be also amended in a similar way.

710 Finally, in Part 2 of Schedule 2, I propose that where a candidate or prospective candidate is endorsed by another person, and that candidate or prospective candidate is taken to have consented to the person incurring expenses on that candidate’s behalf, that there is a *caveat* to state: ‘unless the candidate or prospective candidate has expressly stated otherwise’. This is to ensure that the candidate or prospective candidate is not liable for expenses that he or she is not aware of or has not consented to.

Mr Speaker, I beg to move those three amendments standing in my name:

Amendments to clause 3

1. Page 22, lines 1 to 3, in subsection (1) for the definition of “casual vacancy” substitute the following —

«“casual vacancy” means a vacancy created by—

(a) an incumbent’s demitting office;

(b) an incumbent’s being removed from office before the scheduled end of the incumbency;

(c) the death of an incumbent; or

(d) there being, in respect of an incumbent, a successful recall petition under section 150;».

2. Page 22, lines 35 to 38, in subsection (1) for the definition of “national emergency” substitute the following —

«“national emergency” means any period during which there is in place a proclamation of emergency under section 3 of the Emergency Powers Act 1936;».

Amendment to Schedule 2

59. Page 121, in paragraph 6(2), for the full stop substitute «, unless the candidate expressly states otherwise.».

The Speaker: Thank you.

715 I call on Mrs Caine.

Mrs Caine: Thank you, Mr Speaker. I beg to second the amendment.

The Speaker: Thank you.

720 Now, I ask if anyone wishes to speak to clauses 1, 2, 3 or Schedule 2, or the amendments just moved. If no one wishes to speak I will put the question firstly, that the amendments number 1, number 2 and – Sorry, did someone interject then?

725 So, amendments 1, 2 and 59 be approved and I will presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent being indicated, that motion therefore carries.

I now put to you clauses 1, 2, 3 and Schedule 2 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now. The motion carries.

Clauses 4 and 5, Mr Thomas.

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Mr Thomas: Thank you, Mr Speaker.

735 I think the mover of the amendment, Mr Hooper, made an important point that the definition of 'national emergency' has changed often in the last 70 or 80 years of the life of the Emergency Powers Act. Personally, I find the definition in the Civil Contingencies Act 2004 across very helpful and I hope we can keep that under review in the light of the current emergency, and so on.

Clauses 4 and 5 set out the factors that both qualify and disqualify respectively, an individual from standing as a Member of the Keys.

740 Mr Speaker, I beg to move that clauses 4 and 5 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

745 **The Speaker:** Thank you.

I call on Mr Hooper to move amendments numbered 5 to 7, please.

Mr Hooper: Thank you very much, Mr Speaker.

750 I am proposing these three amendments to merely align the provisions of clause 5 with clause 20, which covers disqualifications for election and holding office as a member of a local authority.

Mr Speaker, I beg to move the amendments standing in my name:

Amendments to clause 5

5. Page 25, line 19, in subsection (1)(e) omit "or".

6. Page 25, line 20, in subsection (1) (f) for the full stop substitute «; or».

7. Page 25, immediately after line 20, after paragraph (f) of subsection (1) insert the following new paragraph —

«(g) has within five years before the day of election or since his or her election, been convicted in the Island, the United Kingdom, the Channel Islands or the Republic of Ireland of any offence and has had passed on him or her a sentence of custody (whether suspended or not) for a period of not less than three months without the option of a fine.».

The Speaker: Mrs Caine.

755 **Mrs Caine:** I beg to second, thank you, Mr Speaker.

The Speaker: Does any Member wish to speak to clauses 4 or 5, or amendments 5, 6 or 7?

760 If no Member wishes to speak I will put first the amendments numbered 5, 6 and 7 in the name of Mr Hooper. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, that motion therefore carries.

I then put clauses 4 and 5, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, clauses 4 and 5, as amended, stand part of the Bill.

765 Clauses 6 and 7, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Clauses 6 and 7 specify when a national election will be held and also the term of the Keys. Notably, clause 6 permits the Council of Ministers, by order, to amend the date of the election from being the traditional fourth Thursday in September to another date in September, thereby

770 allowing for greater flexibility. The making of any such order is subject to the approval of Tynwald.

Clause 7 makes provision that the Keys is dissolved six weeks before a national election as long as it has not already been dissolved under clause 8.

Mr Speaker, I beg to move that clauses 6 and 7 stand part of the Bill.

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The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

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The Speaker: Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker.

I would just like to thank Mr Thomas for this clause because the fact that traditionally the Manx general election is held shortly after our young people go to university I think is very unhelpful. I really hope in the coming general election, and also in future general elections, that we will be able to adjust the date to enable our young people, who are our future, to participate in the general election.

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Thank you.

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The Speaker: Mover to reply.

Mr Thomas: Thank you, Mr Speaker; and to Mr Shimmins. I nearly mentioned Mr Shimmins' huge contribution during moving the clause. I appreciate him raising this issue throughout the process and discussion of it earlier in the Second Reading, and there is also consultation about this and the general consultation on the Registration of Electors Bill.

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The Manx public prefers a Thursday when the election is currently held – not another day, not another Thursday. Obviously we moved about 10 or 15 years ago from November to September. It will be kept under review.

This provides the legal capacity to change the date in the future. The September 2021 election *will* take place on this Thursday unless something unforeseen happens. There is now the possibility for that to be reviewed; but for that to be reviewed during the election to see the impact, and also thereafter to change the date according to the mechanisms described and prescribed in this law.

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Thank you. I beg to move.

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The Speaker: I put the question that clauses 6 and 7 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now.

No dissent being indicated, the motion therefore carries.

Clauses 8 and 9. Mr Thomas.

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Mr Thomas: Thank you, Mr Speaker.

These two clauses allow for special provisions to be made in exceptional circumstances

Firstly, clause 8 enables the Governor to summon the Keys, prorogue the Keys or dissolve the Keys.

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Secondly, clause 9, which is relevant during periods of national emergency, permits the Governor in Council to exercise a variety of measures which includes extending the terms of a Member of the Keys or Legislative Council for up to a year, and declaring that the register of electors remains in force for a period of a year. Should such an order be required for a subsequent year it cannot be made unless a national election intervenes or it receives the prior approval of Tynwald.

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Any question arising under clause 9 must be referred to the Deemsters for determination.

Mr Speaker, I beg to move that clauses 8 and 9 stand part of the Bill.

The Speaker: Dr Allinson.

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Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Mr Hooper to move amendment number 8, please.

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Mr Hooper: Thank you very much, Mr Speaker.

I have proposed this amendment to make sure that there is Tynwald approval required for any order that is made by the Governor in Council with regard to the extension of Keys, the Legislative Council or the register of electors.

Mr Speaker, I beg to move the amendment standing in my name:

Amendment to clause 9

8. Page 26, immediately after line 29, at the end of subsection (1) insert «Tynwald procedure – approval required».

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The Speaker: Thank you.

Mrs Caine.

Mrs Caine: Thank you, Mr Speaker. I beg to second.

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The Speaker: If no Member wishes to speak I will put first the question that amendment 8 be approved and I will presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, that motion therefore carries.

I therefore put clauses 8 and 9, as amended, stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

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Mr Thomas to move clauses 10, 11 and 12, please.

Mr Thomas: Thank you, Mr Speaker.

Clauses 10, 11 and 12 each contain provisions specific to vacancies in the House of Keys.

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Clause 10 obliges the Speaker to report any vacancy to the Governor within seven days of the same coming to his or her attention.

Clause 11 particularises when a seat becomes vacant and also the notice provisions required by both a Member and the Speaker should such person wish to resign their position.

Clause 12 makes clear that if a Member sits or votes during the vacancy of his seat that person commits an offence and is liable to a fine on summary conviction.

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Mr Speaker, I beg to move that clauses 10, 11 and 12 stand part of the Bill.

The Speaker: Dr Allinson.

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Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

I call on Mr Hooper to move amendments 9, 10 and 11, please.

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Mr Hooper: Thank you very much, Mr. Speaker.

I am moving these three amendments to amend specifically clause 11(2) which states that the Keys may by resolution declare –

The Speaker: Sorry, Mr Hooper. I am having trouble hearing you; I presume other Members will as well. If I could just ask you maybe to speak a little slower and a little louder?

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Mr Hooper: Apologies, Mr Speaker.

The Speaker: Excellent!

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Mr Hooper: I am moving these amendments to amend specifically clause 11(2) which states that the Keys may by resolution declare the seat of a Member to be vacant and aligns the provisions with local authorities, so that a Member's seat can be vacated if they miss sittings for a period of three months without leave, as opposed to the much less onerous three quarters of the sittings in a year; and to include where a Member ceases to be qualified to be a Member of the Keys or becomes disqualified otherwise than by virtue of this Act or a conviction.

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Mr Speaker, I beg to move these amendments:

Amendments to clause 11

9. Page 27, line 31, in subsection (2)(a), after the semicolon omit "or".

10. Page 27, lines 32 and 33, for paragraph (b) of subsection (2) substitute the following — «(b) fails, throughout a period of three consecutive months from the date of his or her last attendance, to attend any of the sittings of either the Keys or Tynwald;».

11. Page 27, immediately after line 33, in subsection (2) insert the following new paragraphs —

«(c) ceases to be qualified to be a member of the Keys; or

(d) becomes disqualified for being a member of the Keys otherwise than by virtue of —

(i) a conviction; or

(ii) a breach of any provision of this Act.».

The Speaker: Thank you.

I will seek a seconder for that on the basis that Mrs Caine has her own amendment to this particular clause.

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Ms Edge.

Ms Edge: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

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I call on Mrs Caine to move amendment number 4, please.

Mrs Caine: Thank you, Mr Speaker.

This amendment aims to ensure that a Member's seat becomes vacant if the elected Member loses mental capacity.

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Clause 5 provides that a person is disqualified from being a *candidate* if they are subject to any incapacity by virtue of another Act but does not provide for the same once they hold office. This amendment would ensure that is covered, although I do feel it would be better once the Island has a Capacity Act.

I beg to move:

Amendment to clause 5

4. Page 28, immediately after line 41, insert the following new subsection —

«(11) The seat of a member of the Keys becomes vacant if the member is subject to any incapacity by virtue of this or any other Act.»

900 **The Speaker:** Thank you.
Mr Perkins.

The Speaker: Mr Perkins.

905 **Mr Perkins:** Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

Does anyone wish to speak to any of those clauses or amendments?

910 In which case, I will put first the amendments 9, 10 and 11 in the name of Mr Hooper, and I will presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, I declare that motion carried.

Amendment number 4 in the name of Mrs Caine. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, I declare that motion carried.

915 I put the question that clauses 10, 11 and 12, as amended, stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent being indicated, those clauses as amended stand part of the Bill.

Clause 13 and Schedule 5, Mr Thomas.

920 **Mr Thomas:** Thank you, Mr Speaker.

Before moving those, I just wanted to agree with Mrs Caine that we will be in a much better place when we have the Capacity Act in place. Secondly I would like to thank Mrs Caine, Ms Edge, Miss Costain, Mr Hooper and even you, Mr Speaker, for the careful attention to the legislation over the last fortnight or so which has resulted in all of these amendments being
925 approved. So it really shows well the House of Keys for the diligence it has applied, and can apply, and does apply.

Clause 13 makes clear that a Member cannot sit or vote in the Keys until the Member has taken and subscribed the oath set out in Schedule 5. Schedule 5 sets out the oath in both English and Manx.

930 Mr Speaker, I beg to move that clause 13 and Schedule 5 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

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The Speaker: I call on Mr Hooper to move amendment 12 on the Order Paper.

Mr Hooper: Thank you very much, Mr Speaker.

940 Amendment 12 simply recognises that a Member, upon election, may rather pledge an affirmation instead of an oath.

Mr Speaker, I beg to move the amendment:

Amendment to clause 13

12. Page 29, lines 9 to 12, for clause 13 substitute the following —

«13 Members to take oaths or to affirm

A member of the Keys is prohibited from sitting or voting in the Keys until the member has either —

(a) taken and subscribed the oaths set out in Schedule 5; or

(b) affirmed.»

The Speaker: Mrs Caine.

Mrs Caine: Thank you. I beg to second.

945 **The Speaker:** Thank you.

If anyone wishes to speak ... Otherwise, I will put the question that amendment 12 be approved and I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, that motion therefore carries.

950 I put the motion that clause 13 and Schedule 5, as amended, stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, that motion therefore carries.

Mr Thomas to move clauses 14 and 15.

Mr Thomas: Thank you, Mr Speaker.

955 I am delighted that the very important amendment about the affirmation has been included.

And I just wanted to apologise to Mrs Barber who I forgot to mention in my original list of speakers who have spent a lot of time on this Bill in the last couple of weeks

Clause 14 sets out the procedure to be followed to elect the Speaker of the House of Keys and the circumstances in which such office is vacated.

960 Clause 15 sets out the procedure to be followed to elect the Deputy Speaker of the House of Keys and the circumstances in which that office is vacated.

Mr Speaker, I beg to move that clauses 14 and 15 do stand part of the Bill.

The Speaker: Dr Allinson.

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Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Mr Hooper to move amendments 13 to 19, please.

970 **Mr Hooper:** Thank you very much, Mr Speaker.

Amendments 12, 13 and 14 are being moved to amend clause 14(4). This clause lists the scenarios which give rise to the office of the Speaker being vacated. Currently, this makes no reference to a successful recall petition. (*Interjection*) Not that I anticipate Mr Speaker being subject to such a recall, but the Act certainly provides for such. These three amendments just propose to include this here.

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Similarly, amendments 15, 16 and 17 – sorry, 16, 17, 18 and 19 add into the clause that the office of the Deputy Speaker is also vacated in the event that he or she is subject to a successful recall petition. Furthermore, to align with the previous clause it makes clear that the Deputy Speaker *must* deputise for the Speaker if the Speaker is the one subject to a recall petition.

980 Mr Speaker, I beg to move the amendments:

Amendments to clause 14

13. Page 29, line 27, in subsection (4)(c) omit "or".

14. Page 29, line 28, in subsection (4)(d) for the full stop substitute «; or».

15. Page 29, immediately after line 28, after paragraph (d) of subsection (4) insert the following new paragraph —

(e) on the success of a recall petition against the Speaker under section 150.».

Amendments to clause 15

16. Page 30, line 6, in subsection (2)(c) omit "or".

17. Page 30, line 7, in subsection (2)(d) for the full stop substitute «; or».

18. Page 30, immediately after line 7, in subsection (2) insert the following new paragraph —
«(e) on the success of a recall petition against the Deputy Speaker under section 150.».

19. Page 30, lines 8 to 10, for subsection (3) substitute the following —
«(3) The Deputy Speaker must deputise in the absence of the Speaker and assume the powers of the Speaker —
(a) when the Speaker is absent from the Island;
(b) when the Speaker is not present at any sitting of the Keys; or
(c) where the seat of the Speaker has become vacant as a result of the success of a recall petition under section 150, until a new Speaker has been chosen.».

The Speaker: Thank you.

Just for the purposes of clarity, the numbering of the amendments that I am using is as per the Order Paper; so this is amendments 13 to 19.

Mrs Caine.

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Mrs Caine: Thank you, Mr Speaker.
I beg to second the amendments.

The Speaker: Thank you very much.

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Does anyone wish to speak on the amendments or clauses 14 or 15? If not, I will put the question that amendments 13 to 19 be approved, and I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated that motion therefore carries.

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I therefore put to you that clauses 14 and 15, as amended, stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, that motion therefore carries.

Mr Thomas to move clause 16, please.

Mr Thomas: Thank you, Mr Speaker.

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I am glad you mentioned the numbering issue about the Order Paper and the concatenated version. I think Mr Hooper is coping admirably and I am sure the *Hansard* record will be clear for future readers exactly what was happening, when read in conjunction with the Order Paper.

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Clause 16 sets out particular provisions concerning the eligibility and ineligibility for appointments to such offices as the Chief Minister, the Speaker and Members of Departments and Statutory Boards.

Mr Speaker, I beg to move that clause 16 stands part of the Bill.

The Speaker: Dr Allinson.

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Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

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Does anyone wish to speak to that? Otherwise I will put the motion that clause 16 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, clause 16 stands part of the Bill.

Clause 17, Mr Thomas.

Mr Thomas: Thank you.

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Clause 17 provides certain office-based qualifications prohibiting a person currently appointed as a Deemster, Judge of Appeal, High Bailiff or Deputy High Bailiff from membership of the Keys. However, a person is not disqualified for membership of the Keys by reason of

holding an office of profit under the Crown, or any other office or place, or for appointment to or for holding any office by reason of being a Member of the Keys.

Mr Speaker, I beg to move that clause 17 do stand part of the Bill.

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The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

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The Speaker: Does anyone wish to speak to clause 17? Otherwise I will put the motion that clause 17 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, the motion therefore carries.

Clause 18, Mr Thomas.

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Mr Thomas: Clause 18 preserves the inherent powers, authorities, duties and obligations of the Keys should this Bill become an Act.

Mr Speaker, I beg to move that clause 18 do stand part of the Bill.

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The Speaker: Dr Allinson, clause 18.

Dr Allinson: Thank you very much, Mr Speaker. I beg to second.

The Speaker: Does any Member wish to speak?

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If not, I will put the question that clause 18 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clauses 19 and 20, Mr Thomas.

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Mr Thomas: Clause 19, Mr Speaker, is the first clause in Part 3 of the Bill, which solely concerns Local Elections. Part 3 contains some similar provisions to Part 2 but there are also differences to recognise where national elections and local elections require separate consideration.

Clause 19 establishes the qualifications that a person must hold in order to be able to stand as a candidate for, and be elected as, a member of a local authority.

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Clause 20 particularises where a person will be disqualified for being a candidate for election as a member of a local authority.

Mr Speaker, I beg to move that clauses 19 and 20 do stand part of the Bill.

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The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

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I call on Mrs Caine to move amendment number 20.

Mrs Caine: Thank you, Mr Speaker.

This clause seeks to ensure that candidates and elected members of a local authority have not been sentenced to custody for an offence committed since election or in the previous five years. My amendment would, I believe, close a potential loophole that they would not be disqualified if the offence was committed abroad. Substituting the list of the Island and neighbouring jurisdictions with the words 'in any jurisdiction' would ensure that being

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sentenced for an offence anywhere in the world would disqualify a person from office or from standing in a local election. I beg to move:

Amendment to clause 20

20. Page 32, lines 33 and 34, in subsection (1)(h) for “in the Island, the United Kingdom, the Channel Islands or the Republic of Ireland” substitute «in any jurisdiction».

1075 **The Speaker:** Thank you.
Mr Perkins.

Mr Perkins: Thank you, Mr Speaker. I beg to second.

1080 **The Speaker:** Thank you.
I call on Mr Hooper to move amendments 21 and 22, please.

Mr Hooper: Thank you very much, Mr Speaker.

1085 These two amendments are just for clarity, referring to ‘local authority’ in the clause rather than simply ‘authority’.

Mr Speaker, I beg to move:

Amendments to clause 20

21. Page 32, lines 29 and 30, in subsection (1)(g) for “authority” in each line substitute «local authority».

22. Page 32, line 40, in subsection (2)(a) for “authority” substitute «local authority».

The Speaker: Ms Edge.

Ms Edge: Thank you, Mr Speaker.

1090 I just seek clarity on the amendment as to how a check would be able to be carried out for any offence of anybody from another jurisdiction. I believe it is quite difficult that the Isle of Man is only registered for certain jurisdictions for accessing records.

So I am just wondering if I could seek some clarity around that, please.

1095 **The Speaker:** Ms Edge, were you also seconding Mr Hooper’s amendment, or not?

Ms Edge: Happy to second, yes.

The Speaker: Thank you very much.

1100 Dr Allinson, to speak to the amendments, please.

Dr Allinson: Thank you very much, Mr Speaker.

1105 I would just like, as the previous Member from Onchan, to ask a question of Mrs Caine. Her amendment alters clause 20(1)(h) which is in terms of offences ‘passed on him or her a sentence of custody ... for a period of not less than three months without the option of a fine’.

1110 If she wants to extend that to any jurisdiction, is she not concerned that that would involve offences from other areas of the world which would not be an offence on the Isle of Man; and also facilitates those countries which perhaps do not have as sound a judiciary as we have, from inflicting penalties on Manx residents which actually would be disputed in many other countries?

As the Hon. Member from Onchan has said, it would be extremely difficult to check on these convictions. I would like her to expand a little bit more in terms of the reasons for extending the net of these disqualification items.

Thank you, Mr Speaker.

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The Speaker: Mr Ashford.

Mr Ashford: Thank you, Mr Speaker.

This just follows very nicely on from the Hon. Member for Ramsey, Dr Allinson.

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I have got serious concerns around the amendment by Mrs Caine, the Hon. Member for Garff. I would be exceptionally worried that this opens it up to people being subject to prosecutions in countries that would not be classed as prosecutions here in the Isle of Man; and the fact that there are certain things that would be prosecutable in some countries, say out in the Far East, that we would never dream of having as prosecutable offences here.

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I am just wondering how Mrs Caine squares that circle.

The Speaker: Thank you.

Mrs Barber.

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Mrs Barber: Thank you, Mr Speaker.

My concerns follow on from the others, and I think it is particularly fitting at the beginning of Pride month. There are some countries wherein it would be an offence to be homosexual and someone could have been imprisoned. They could now be living here and having the opportunity of the freedoms that we all are absolutely rightly entitled to, regardless of our sexual orientation, but would find themselves excluded. So I am concerned from that point of view.

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The Speaker: In which case I will ask Mrs Caine first if she wishes to respond to the debate on her amendment.

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Mrs Caine: Thank you, Mr Speaker; and I thank the Hon. Members who have contributed to the debate on this clause.

I accept the point that there are jurisdictions that have laws that would not be an offence in the Isle of Man; and perhaps a better amendment would be to say that it would apply to an offence of custody committed abroad if it was an offence in ours, or the surrounding jurisdictions. But in terms of it being a loophole, there is a possibility that a candidate or an elected local authority member could commit an offence and be sentenced to even a suspended sentence to custody in Europe, for instance, where we would assume that they have a high standard and a similar level of jurisdiction in terms of the judiciary where it would be, I feel, a shame if that person should receive a sentence and then not face any sanction when they return to the Isle of Man.

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So I accept that perhaps there may be the possibility here that the clause as it is written perhaps enables a loophole for people to fall short of the standard expected and not face any sanction; whereas I absolutely agree I would not want to put a person in a situation where, for instance, they could go to a jurisdiction and be accused of being a spy or similar, where they would not face the similar offence here or in neighbouring jurisdictions.

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So I will leave it for Members to determine, but I think that there is a loophole there that could perhaps be better worded.

Thank you, Mr Speaker.

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The Speaker: Mr Hooper to respond to the discussion, such as there was, on his amendments.

Mr Hooper, I am afraid I cannot hear you.

1165 **Mr Hooper:** Sorry, Mr Speaker. I do not have anything to say on those amendments that I have moved. Apologies, I took my silence to mean that I was not expected to speak. Apologies.

The Speaker: Okay, thank you very much.
Mr Thomas, to sum up on the clauses.

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Mr Thomas: Thank you, Mr Speaker; and to Hon. Members who have debated the potential loophole, the potential issue that Mrs Caine is raising. But the three speakers – Dr Allinson, Mr Ashford and Mrs Barber – have raised the potential practical issues and also the whole issue of offences and the transferability across borders.

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I know Mrs Caine had talked about a second version of her amendment and I think I will be voting against Mrs Caine's amendment and encourage Hon. Members too, as I think she did more or less in her closing remarks. But I do think it is an issue that needs to be looked at by our colleagues so this Bill is leaving the House of Keys, I hope, perfectly. But there is an issue that can still be looked at diligently in the other place.

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With that, I beg to move.

The Speaker: Thank you very much.

1185

I will put first the amendment number 20 in the name of Mrs Caine. I presume that the motion will be carried unless any Member indicates dissent. Dissent being indicated, we will move to a vote.

I call on the Clerks to take the vote.

Voting resulted as follows:

FOR

Mrs Caine
Mr Perkins

AGAINST

Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mr Boot
Mr Callister
Mr Cannan
Mrs Corlett
Miss Costain
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

The Speaker: Thank you. With 2 for, and 21 against, the motion therefore fails to carry.

1190

We turn to amendments 21 and 22 in the name of Mr Hooper. I will presume that the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent being indicated for that, that motion therefore carries.

I put clauses 19 and 20 stand part of the Bill as amended. I presume that motion will be carried unless any Member indicates dissent which they should do now, please. No dissent being indicated, the motion therefore carries.

Mr Thomas to move clause 21.

1195

Mr Thomas: Clause 21 provides that the acts and proceedings of any person elected to an office as chairperson or member of a local authority and acting in that office are as valid and effectual as if he or she had been qualified, notwithstanding his or her disqualification or want of qualification.

1200

Mr Speaker, I beg to move that clause 21 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

1205

The Speaker: Thank you.

If no Member wishes to speak, I will put the motion that clause 21 stand part of the Bill and I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, clause 21 stands part of the Bill.

1210

Clause 22, Mr Thomas.

Mr Thomas: Clause 22 provides that local elections must be conducted in accordance with regulations made by the Council of Ministers, which must provide for such elections to be by secret ballot and may prescribe methods utilising electronic means. Such regulations are subject to Tynwald approval.

1215

Mr Speaker, I beg to move that clause 22 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

1220

The Speaker: I now call on Mr Hooper to move amendment number 23.

Mr Hooper: Thank you very much, Mr Speaker.

1225

The amendment here is simply a correcting amendment so that subsection (2) refers to 'Regulations' rather than to 'Rules' in line with the rest of the clause and the rest of the Bill.

Mr Speaker, I beg to move:

Amendment to clause 22

23. Page 33, line 27, in subsection (2) for "Rules" substitute «Regulations».

The Speaker: Thank you.

Mrs Caine.

1230

Mrs Caine: Thank you, Mr Speaker.

I beg to second the amendment.

The Speaker: Thank you very much.

1235

I will give an opportunity if any Member wishes to speak, otherwise I will put the amendment number 23 in the name of Mr Hooper and presume that that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, that motion therefore carries.

1240 Putting clause 22, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been indicated, the motion therefore carries.

Clause 23, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

1245 Clause 23 stipulates the date on which a local election is held, which is the fourth Thursday in the April of every fourth year. However, the Cabinet Office can by order prescribe such other date as being no earlier than 1st April and not later than 14th May, commencing with 2024.

Any such order is subject to the approval of Tynwald.

Mr Speaker, I beg that clause 23 stand part of the Bill.

1250

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

1255

The Speaker: Thank you.

I call on Mr Hooper to move amendments number 24 and 25.

Mr Hooper: Thank you very much, Mr Speaker.

1260 This clause refers to the Cabinet Office prescribing the day on which an election may be held. To bring this into line with other provisions of the Bill, and particularly in line with clause 6, which deals with House of Keys elections, I am moving an amendment so that this is changed from the Cabinet Office to the Council of Ministers.

The second amendment here is to change the date from 2024 to 2025, to take account of the deferment of the local authority elections.

1265

Mr Speaker I beg to move both of these amendments:

Amendments to clause 23

24. Page 34, line 3, in paragraph (b) for "the Cabinet Office" substitute «the Council of Ministers».

25. Page 34, line 4, for "2024" substitute «2025».

The Speaker: Thank you.

Mrs Caine.

Mrs Caine: Thank you. I beg to second.

1270

The Speaker: Thank you.

1275 Now, if anyone wishes to speak to clause 23 or amendments 24 and 25? Otherwise I will put first the question that amendments 24 and 25 be approved, and presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, the motion therefore carries.

Clause 23, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, clause 23 as amended will stand part of the Bill.

Clause 24, Mr Thomas.

1280

Mr Thomas: Clause 24 sets out the term of office of a member of a local authority.

Mr Speaker, I beg that clause 24 stand part of the Bill.

The Speaker: Dr Allinson.

1285 **Dr Allinson:** Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you. I call on Mr Hooper to move amendment number 26, please.

Mr Hooper: Thank you very much, Mr Speaker.

1290 This amendment is consequential on the last ones that were moved, and is a development of deferred Local Elections that are due to take place in 2024. As these are now being scheduled for 2025 this amendment simply replaces 2024 with 2025 everywhere it appears in the clause.

Thank you, Mr Speaker, I beg to move:

Amendment to clause 24

26. Page 34, lines 8 to 28, for "2024" wherever it appears substitute «2025».

The Speaker: Mrs Caine.

1295

Mrs Caine: Thank you. I beg to second.

1300 **The Speaker:** This is the opportunity for Members to speak, otherwise I will put the question that the amendment numbered 26 be approved, and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, amendment 26 therefore carries.

Putting clause 24, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. The motion therefore carries.

Mr Thomas to move clause 25, please.

1305

Mr Thomas: Thank you, Mr Speaker.

1310 Clause 25 allows for special provision to be made during a period of national emergency and permits the Governor in Council to exercise a variety of measures, which include extending the term of local authorities for up to a year; and to declare that the register of electors remains in force for a period of a year.

Should such an order be required for the subsequent year it cannot be made unless a local election intervenes or the making of such an order is previously approved by Tynwald.

Any question that arises in relation to this clause must be referred to the Deemsters for determination.

1315 Mr Speaker, I beg that clause 25 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

1320

The Speaker: Thank you.

Amendment number 27 in the name of Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

1325 This is the corresponding amendment to that which was moved for clause 9 and seeks to require Tynwald approval in the event that the Governor in Council orders the extension of local authorities and the relevant register of electors during a period of national emergency.

Mr Speaker, I beg to move the amendment:

Amendment to clause 25

27. Page 34, immediately after line 37, at the end of subsection (1) insert «Tynwald procedure – approval required».

1330 **The Speaker:** Thank you.
Mrs Caine.

Mrs Caine: I beg to second.

1335 **The Speaker:** Thank you very much.
I will give an opportunity for Members to indicate if they wish to speak to that. Otherwise I will put that amendment 27 be approved, and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, that motion therefore carries.

1340 Putting to you clause 25, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Mr Thomas to move clause 26.

1345 **Mr Thomas:** This clause makes clear, Mr Speaker, that any person elected as chairperson, vice-chairperson or member of a local authority must make a declaration of office in such form as prescribed by the Cabinet Office, and deliver the same to the clerk of the local authority within one month of the election. The clause also sets out how the declaration should be made.

The clause also obliges the local authority to send to the Cabinet Office a list of the names and address of the members of the authority within one month from the election.

1350 Mr Speaker, I beg that clause 26 do stand part of the Bill.

The Speaker: Dr Allinson.

1355 **Dr Allinson:** Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

If no Member wishes to speak, I will put the question that clause 26 stand part of the Bill and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

1360 Clause 27, Mr Thomas.

Mr Thomas: I beg that clause 27, which sets out that a member of a local authority can resign by giving notice to the clerk of the local authority and the resignation takes effect immediately, stand part of the Bill.

1365 **The Speaker:** Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

1370 **The Speaker:** If no Member wishes to speak, I put the question that clause 27 stand part of the Bill and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Clauses 28 to 31. Mr Thomas.

1375 **Mr Thomas:** Mr Speaker, these clauses address a number of means by which a local authority seat shall become vacant and any exceptions to such a circumstance.

Clause 28 is where a member fails to attend meetings of a local authority.

Clause 29 is where a member of a local authority becomes a Member of the Legislative Council or a Member of the House of Keys.

1380 Clause 30 is when a member is adjudged bankrupt.

Clause 31 specifies when a local authority must immediately declare the office of any of its members vacant.

Mr Speaker, I beg that clauses 28 to 31 inclusive do stand part of the Bill.

1385 **The Speaker:** Dr Allinson.

Dr Allinson: Thank you, Mr Speaker.

I beg to second and remove my remarks.

1390 **The Speaker:** Thank you. Calling on Mr Hooper to move amendments numbered 28 to 33 on the Order Paper.

Mr Hooper: Thank you very much, Mr Speaker.

1395 All of these amendments are simply housekeeping amendments to substitute 'local authority' rather than just 'authority'.

I beg to move those amendments:

Amendments to clause 28

28. Page 36, lines 15 and 16, in subsection (1), for "for authority" wherever it appears substitute «local authority».

29. Page 36, line 22, in subsection (2)(a)(i) for "authority" substitute «local authority».

30. Page 36, line 26, in subsection (2)(a)(ii)(A) for "authority" substitute «local authority».

31. Page 36, line 27, in subsection (2)(a)(ii)(B) for "authority" substitute «local authority».

32. Page 36, line 30, in subsection (2)(b) for "authority" substitute «local authority».

33. Page 36, line 32, in subsection (2) for "authority" substitute «local authority».

The Speaker: Thank you.

Ms Edge.

1400 **Ms Edge:** Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

I call on Mrs Caine to move amendments 34 to 37 please.

1405 **Mrs Caine:** Thank you, Mr Speaker.

These amendments seek to include the same provision as in my amendment to clause 11. It enables a local authority seat to be declared vacant if the member is demonstrated not to have the capacity for it.

I beg to move:

Amendment to clause 29

34. Page 37, line 9, for "authority" substitute «local authority».

Amendments to clause 31

35. Page 37, line 22, in subsection (1)(b)(ii) omit "or".

36. Page 37, line 24, in subsection (1)(c) for the full stop substitute «; or».

37. Page 37, immediately after line 24, after paragraph (c) of subsection (1) insert the following new paragraph —

«(d) is subject to any incapacity by virtue of this or any other Act.».

1410 **The Speaker:** Thank you.
Mr Perkins.

Mr Perkins: Thank you, Mr Speaker. I beg to second.

1415 **The Speaker:** Thank you.
Now, the clauses and the amendments are on the table, does any Member wish to speak to those? Otherwise I will put first amendments 28 –
Oh, Ms Edge.

1420 **Ms Edge:** Thank you, Mr Speaker.
Just on Mrs Caine's amendment. Without, obviously, the Capacity legislation I am just wondering what criteria will be applied.

The Speaker: Mrs Caine to reply.

1425 **Mrs Caine:** Thank you, Mr Speaker.
I am anticipating that the Capacity legislation will come in and will be a helpful reinforcement for this clause if ever it was needed to be used. But at present if there was, for instance, any medical or other assessment of a candidate or a local authority incumbent that was declared to
1430 not have capacity for the role, then I think that would be evidence enough for these measures to be taken. But again it shows how we would have greater clarity if the Capacity Act did come in.
Thank you, Mr Speaker.

The Speaker: Thank you.
1435 Mr Hooper, you also have a right to respond should you wish to exercise it.

Mr Hooper: No, thank you, Mr Speaker.

The Speaker: Thank you.
1440 Mr Thomas to reply to the amendments and the clauses.

Mr Thomas: Thank you, Mr Speaker.
I fully support all of the amendments as drafted.
A good question from Ms Edge. If, in the worst case, we do not have Capacity legislation next
1445 year, I am sure guidance and regulations can be provided as per the terms of this particular piece of the legislation.
I beg to move.

The Speaker: Thank you.
1450 I will put first then the question that amendments 28 to 33 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, that motion therefore carries.

1455 Putting to you then Mrs Caine's amendments, numbered 34 to 37. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, that motion therefore carries.

I therefore put to you clauses 28 to 31, as amended, stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been indicated, that motion therefore carries.

1460 Mr Thomas to move clauses 32 to 36, please.

Mr Thomas: This group of clauses deals with the procedures to be followed when filling a casual vacancy.

Clause 32 specifies the date on which a vacancy is deemed to have occurred in various circumstances.

1465 Clause 33 provides when an election to fill a vacancy in the office of chairperson or vice-chairperson must be held.

Clause 34 provides when the election to fill a casual vacancy in the office of a member must be held.

Clause 35 specifies the term of office of persons filling casual vacancies.

1470 Clause 36 provides for temporary appointments to local authorities to be made by the Cabinet Office, where there are so many vacancies that the local authority is unable to act.

Mr Speaker, I beg that clauses 32 to 36 do stand part of the Bill.

The Speaker: Dr Allinson.

1475

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

1480 If no Member wishes to speak, I will put the motion that clauses 32 to 36 stand part of the Bill and I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, that motion therefore carries.

Mr Thomas to move clause 37.

Mr Thomas: Thank you, Mr Speaker.

1485 Clause 37 entitles an eligible elector in respect of a local authority to institute proceedings against a person claiming that they have acted or have claimed to act as a member of a local authority whilst disqualified. If proved, the High Court may declare the office of the member vacant, grant an injunction restraining the member from acting and, where relevant, impose a fine. The clause provides further information on when a person is deemed to be disqualified.

1490 Mr Speaker, I beg that clause 37 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

1495

The Speaker: Thank you very much.

If any Member wishes to speak? Otherwise I will put the question that clause 37 stand part of the Bill, and I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

1500 Clause 38, Mr Thomas.

Mr Thomas: Clause 38 establishes the procedure for appointing a chairperson and a vice-chairperson of a local authority.

Mr Speaker, I beg that clause 38 stand part of the Bill.

1505 **The Speaker:** Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

1510 I call Mr Hooper to move amendment number 38.

Mr Hooper: Thank you very much, Mr Speaker.

The proposed amendment is simply a housekeeping amendment to change 'a' to 'the' inside the clause in relation to a local authority in subsection (1).

1515 Mr Speaker, I beg to move:

Amendment to clause 38

38. Page 41, line 25, in subsection (1) for "a" substitute «the».

The Speaker: Thank you.

Mrs Caine.

Mrs Caine: I beg to second.

1520

The Speaker: Thank you.

Does any Member wish to speak? Otherwise I will put first amendment number 38 in the name of Mr Hooper and I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent being indicated, that motion therefore carries.

1525

Putting to you clause 38, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. Clause 38, as amended, therefore carries.

Clause 39 and Schedule 3, Mr Thomas.

1530

Mr Thomas: Clause 39 sets out the particular sections of the Bill that apply to the office of mayor in the same way as to the office of members of a local authority or chairperson of a local authority. Schedule 3 sets out the procedure for holding an election to appoint a mayor and a deputy mayor.

1535

Mr Speaker, I beg that clause 39 and Schedule 3 do stand part of the Bill.

The Speaker: Dr Allinson

Dr Allinson: Thank you, Mr Speaker. I beg to second.

1540

The Speaker: If no Member wishes to speak I will put the question that clause 39 and Schedule 3 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

1545

The Speaker: Clause 40, Mr Thomas.

Mr Thomas: Mr Speaker, clause 40 provides for the payment of the fees and expenses incurred by Deputy Returning Officers and other officials in connection with local elections. These fees shall be as prescribed by an Order of the Cabinet Office, subject to the approval of Tynwald, and paid out of the district fund of the local authority.

1550

My Speaker, I beg that clause 40 do stand part of the Bill.

The Speaker: Dr Allinson.

1555 **Dr Allinson:** Thank you, Mr Speaker. I beg to second.

The Speaker: Does any Member wish to speak? Otherwise I will put the question that clause 40 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, the motion therefore carries.

1560 Clause 41, Mr Thomas.

Mr Thomas: Clause 41 provides further assistance to interpret the terms found in this section.

1565 Mr Speaker, I beg that clause 41 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

1570

The Speaker: Thank you very much.

If no Member wishes to speak to clause 41, I will put the question that clause 41 stand part of the Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, the motion therefore carries.

1575 We now pick up the pace. Mr Thomas to move clauses 42 to 55.

Mr Thomas: I am proposing to take these clauses together as they concern the criteria and procedure for the registration and conduct of political parties.

1580 Clause 42 makes clear that, unless it is registered, a political party cannot endorse a candidate in a national election.

Clause 43 sets out the conditions which a political party must meet in respect of its name, officeholders, written constitution and the keeping of accounts; and furthermore provides that the Council of Ministers may make regulations regarding the restriction on name, abbreviation or emblem.

1585 Clause 44 makes clear that a political party can only use the name or abbreviation or emblem with which it is registered.

Clause 45 sets out the procedure for an application for registration of a political party to be filed.

1590 Clause 46 sets out the factors which will be checked by the Attorney General regarding compliance with the registration requirements and the subsequent approval or otherwise of the application by the Attorney General.

Clause 47 obliges the officer to maintain a register of political parties and to keep a copy of its constitution and accounts.

1595 Clause 48 sets out the procedure to be followed by a political party, should it wish to change its name or emblem.

Clause 49 sets out the changes in particulars which must be notified to the officer by the political party and the officer must enter in the register the particulars of any such change.

1600 Clause 50 sets out that every political party must make accounts up at least one time in each year which, depending on the amount of the political party's gross income, must be audited by an accountant or other approved person and filed in the Central Registry. The officers of a political party are liable to a fine for non-compliance with this section. The section also authorises the Treasury to make such regulations as it considers necessary to carry the provisions of this part into effect, subject to Tynwald approval.

1605 Clause 51 prohibits a political party from keeping an anonymous donation, which instead must be sent to the Chief Financial Officer within 10 working days of receipt.

Clause 52 sets out when the officer must remove a registered political party from the register subject to the required notice provisions being given.

Clause 53 allows for the inspection and copying of the register subject to payment of a fee.

1610 Clause 54 provides a mechanism for appeals to be made to the High Court against decisions to refuse to register, or the removal from the register.

Finally, clause 55 provides further interpretative provisions used throughout the clause.

Mr Speaker, I beg that clauses 42 to 55 inclusive stand part of the Bill.

The Speaker: Dr Allinson.

1615

Dr Allinson: Thank you very much, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

I call on Miss Costain to move amendments number 39 and 40, please.

1620

Miss Costain: Thank you, Mr Speaker. Sorry, I am still having problems with my mute button today.

1625 The amendment to clause 49 I am bringing because it updates the timescale for filing changes in the particulars of a political party with the Registrar, to bring them in line with other similar filing requirements such as for charities and companies, updating the timing from 10 days to 30 days. This is an administrative provision and is proposed on the grounds that Manx political parties are, by and large, voluntary organisations and from past experience a 10-day timescale can be overly restrictive. The primary focus of this clause is to ensure documents are filed in a timely manner and a tight deadline runs the risk of inadvertently causing people, volunteers in
1630 the main, to be in breach. Updating the timescale and aligning it with charities and companies is a sensible alteration.

1635 Clause 51. This amendment is being moved to bring this Bill in line with an amendment being made to clause 73 which deals with anonymous donations to candidates. With the current 10-day requirement people are required to send any anonymous donation received to the Chief Financial Officer within 10 days of receipt. This could be breached without a party realising, as the only way to keep on top of this requires weekly checks of the bank account, whilst bank statements are received once a month.

1640 With this in mind, the amendment has been drafted so that anonymous donations must be forwarded to the Chief Financial Officer within 10 days of being aware of the donation, or 30 days of receipt, whichever occurs sooner. This is the same proposed timescale and approach as for candidates further in the Bill.

Thank you, Mr Speaker.

Amendment to clause 49

39. Page 46, line 11, in subsection (2) for "10 working days" substitute «30 working days».

Amendment to clause 51

40. Page 48, line 12, in subsection (2), for "within 10 working days of its receipt" substitute the following —

«within either 10 working days of becoming aware of it or 30 working days of receipt of it (whichever period is shorter)».

The Speaker: Thank you, Miss Costain.

Ms Edge, are you seconding these amendments?

1645 **Ms Edge:** Happy to second, Mr Speaker. And obviously just to say, really, that bearing in mind what Miss Costain has just outlined, I think it is fair to move to the 30 days.

The Speaker: Thank you very much.

1650 So the clauses and the amendments having been put, does any Member wish to speak? If not, I will put first –

Sorry, Mr Thomas did you want to reply on the basis that Ms Edge has commented?

1655 **Mr Thomas:** Mr Speaker, just to confirm that these seem eminently sensible amendments and align parties with charities and companies. The Central Registry and others involved need proper process, and this is a proper process.

I beg to move.

The Speaker: Thank you very much.

1660 In which case, I will put first amendments number 39 and 40 in the name of Miss Costain and presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been indicated, the motion therefore carries.

Putting clauses 42 to 55, as amended. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

1665 Mr Thomas to move clauses 56, 57 and 58, please.

Mr Thomas: Thank you, Mr Speaker.

1670 We now come to Part 5 of the Bill which sets out provisions regarding the organisation of elections. The Part is separated into Divisions, some of which apply solely to national elections and some of which apply to national and local elections. I intend to make clear to which each clause refers.

Clauses 56 to 58: Mr Speaker, these three clauses comprise the first Division of the Part and concern the establishment of an electoral commission.

Clause 56 makes clear that this Division applies only to national elections.

1675 Clause 57 requires the Governor in Council to appoint an electoral commission within 12 months of the general election in 2021 and every second national election thereafter. Current and previous Members of the Keys are ineligible to be appointed. The clause further establishes certain terms of reference of the Electoral Commission but mandates Tynwald, by resolution, to direct the Commission to look at other matters concerning the election.

1680 Clause 58 allows the Commissioner to be paid attendance allowances and travelling expenses in accordance with the Payment of Members' Expenses Act 1989.

Mr Speaker, I beg to move that clauses 56, 57 and 58 do stand part of the Bill.

The Speaker: Dr Allinson.

1685

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

I now turn to Mr Hooper to move amendments number 41 and 42, please.

1690

Mr Hooper: Thank you very much, Mr Speaker.

1695 The purpose here of these amendments and the purpose of clause 57 is to support the independence of the Electoral Commission. These amendments are being moved firstly to extend the disqualification for membership so that it applies equally to current and former Members of the Legislative Council as it applies to current and former Members of the House of Keys.

Secondly, I am also moving an amendment to require the Electoral Commission to submit its final report within 18 months, subject to any granted extension. This is to mitigate the possibility of the Electoral Commission continuing indefinitely because no final report has been made.

1700 Mr Speaker, I beg to move amendments 41 and 42:

Amendments to clause 57

41. Page 50, line 12, in subsection (2) immediately after "Keys" insert «or the Council».

*42. Page 50, line 27, in subsection (8) for the full stop substitute the following —
«, which report must be so issued no later than 18 months after the appointment of the Electoral Commission (unless this period is, where circumstances so warrant, extended by agreement between the Electoral Commission and Tynwald).».*

The Speaker: Mrs Caine.

Mrs Caine: Thank you. I beg to second.

1705 **The Speaker:** Thank you very much.

I will give an opportunity if any Member wishes to speak, otherwise I will put the question that amendments 41 and 42 be approved, and I will presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

1710 Putting the motion that clauses 56, 57 and 58, as amended, stand part of the Bill. I will presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Mr Thomas to move clauses 59 to 61, please.

1715 **Mr Thomas:** Thank you, Mr Speaker.

These three clauses make up the second Division of the Part and relate to electoral areas.

Clause 59 establishes that the Division applies only to national elections.

1720 Clause 60 lists the 12 constituencies into which the Island is divided for national elections and the Department of Infrastructure must prepare constituency maps showing the boundaries of each constituency. These are available to purchase and to inspect.

Clause 61 provides that the Cabinet Office may by order divide any constituency into two or more polling districts following appropriate consultation, and in respect of which the Returning Officer must ensure that there is a polling station for each polling district. The Cabinet Office must conduct a review of polling districts two years before each scheduled national election.

1725 Mr Speaker, I beg that clauses 59, 60 and 61 do stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

1730

The Speaker: Ms Edge.

Ms Edge: Thank you, Mr Speaker.

1735 I should have actually asked the Minister this question earlier. It is just with regard to the plans on the maps of the constituency areas. I am just wondering why the Department of Infrastructure? Are they responsible for digital mapping?

The Speaker: Mr Thomas to reply.

Mr Thomas: Thank you, Mr Speaker.

1740 The people responsible for mapping are located in DOI legally and obviously they work in a cross-Government way like more and more public servants are able to do with all of those changing structures. So the simple answer is, yes, they are part of the Department of Infrastructure.

1745 **The Speaker:** Thank you.

In which case, I put the motion that clauses 59, 60 and 61 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Clause 62, Mr Thomas.

1750

Mr Thomas: Mr Speaker, perhaps you would give permission for me to move clauses 62 to 69 together, rather than moving them individually?

The Speaker: Yes, that is no problem.

1755 Clauses 62 to 69, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

We now come to the third Division in the Part and I propose to take clauses 62 to 69 together with the kind permission of Mr Speaker.

1760 Clause 62 provides that this Division, which concerns the Returning Officer and deputy returning officers, applies to both national and local elections.

1765 Clause 63 provides that the Chief Secretary is the Returning Officer for national and local elections and it is the duty of the Returning Officer to ensure that elections are conducted in accordance with election regulations; and also to ensure that suitable arrangements are made to hold pre-election meetings, with the cost of such meetings being paid by the Treasury.

The Returning Officer must also prepare a code of conduct for tellers and where required under this legislation, to give a speaker notice.

1770 Under clause 64 the Returning Officer can appoint one or more deputy returning officers for each constituency, district or ward who may in turn be authorised to carry out any or all of the Returning Officer's functions. The duration of the appointment of the deputy returning officers cannot be for more than five years. The office of deputy returning officer will be declared vacant upon his or her resignation or where the Returning Officer believes it expedient for the deputy returning officer to resign.

1775 Clause 65 specifies such persons who are disqualified from being appointed as either a deputy returning officer or to any other office concerned with the conduct of an election. Should such a person act after failing to disclose that they are disqualified they are liable on summary conviction to a fine.

1780 Clause 66 permits a deputy returning officer to be elected as a Member of the Keys or a local authority provided that it is for a constituency other than that for which they are deputy returning officer. The clause also makes clear that nothing prevents any deputy returning officer from exercising his or her vote at any election.

Clause 67 states that the deputy returning officer must have accepted the appointment before taking any step in the discharge of his or her duties.

1785 Clause 68 states that a deputy returning officer must maintain order at an election and specifies the powers bestowed on the deputy returning officer in order to assist him or her to carry out this duty, which includes the power of arrest and detention; and the deputy returning officer may request the assistance of any constable in order to help in maintaining the peace.

1790 Mr Speaker, clause 69 only applies to national elections and allows for the expenses of deputy returning officers to be paid out of money provided by Tynwald, in accordance with rates fixed by the Treasury. The accounts for all fees and expenses must be furnished to the Treasury within three months of the final closing date of the election.

Mr Speaker, I beg that clauses 62 to 69 stand part of the Bill.

The Speaker: Dr Allinson.

1795

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

I turn to Mrs Caine to move amendment number 43 to clause 65.

1800

Mrs Caine: Thank you, Mr Speaker.

1805 I found (1)(a) in clause 65 slightly bizarre but I am informed this line was carried over from previous legislation. My reason for bringing the amendment is in the spirit of modernising our election law. I feel it would fit better that there is clarity in terms that ‘any minister of religion’ be included in the list of people disqualified from being appointed a deputy returning officer.

I also feel that the provision as drafted is ambiguous. One interpretation is that the effect of the provision as it stands is that a minister of religion who either follows no ‘secular occupation’ at all, or one who follows only the ‘secular occupation’ of teaching in addition to being a minister of religion, is disqualified from being a returning officer.

1810

1815 It could also be interpreted that a minister of religion who follows no secular occupation other than teaching is disqualified. So any minister of religion except those who are also teachers could be disqualified. But the effect of this proposed amendment would be to disqualify anyone who is a minister of religion, regardless of whether or not that person follows a secular occupation of any sort, teaching included. So, being a minister of religion would by itself be a disqualification, which I feel is right and an improvement, being unambiguous.

1820 The hon. mover said earlier this Bill was aimed at providing clarity, and amending this line is necessary to bring clarity, I feel. The separation of politics and religion is also a better fit for a modern democracy. There is no interpretation of ‘minister of religion’, but mine would be that this is a full-time appointed minister of religion and not a lay preacher who may also have another profession. It seems right to me that a minister of religion should not be appointed as a deputy returning officer.

Mr Speaker, I beg to move:

Amendment to clause 65

43. Page 54, lines 1 and 2, in subsection (1)(a) omit “who follows no secular occupation other than that of a teacher”.

The Speaker: Mr Perkins.

1825

Mr Perkins: Thank you, Mr Speaker. I beg to second.

The Speaker: I will open the floor to anyone who wishes to speak. If not, I will put first amendment number 43 –

Mr Harmer.

1830

Mr Harmer: Thank you, Mr Speaker.

Just that I am concerned with the amendment on behalf of Mrs Caine. It does actually really encompass a number of people who are readers and lay preachers, and so forth. I think it is

1835 important that we have freedom of religion and freedom of speech, and I think it will unfortunately catch a lot of people inadvertently. So I am speaking against that amendment.

Thank you, Mr Speaker.

The Speaker: If no-one else wishes to speak, I will ask Mrs Caine if she wishes to reply to the debate on her amendment.

1840 Mrs Caine?

Mrs Caine: Thank you, Mr Speaker.

1845 I welcome the point from Mr Harmer. I think it does show that there is a lot of ambiguity about this clause and there is no mention in the clause of lay preachers, or ministers of religion who are lay preachers rather than following any other secular occupation. So I feel it is strengthened in fact by my proposed amendment.

Thank you, Mr Speaker.

The Speaker: Mr Thomas to respond.

1850

Mr Thomas: Thank you, Mr Speaker.

Mrs Caine's objectives, she stated, were clarity – and who could be against that? She also made the important point which was affirmed by Minister Harmer that we needed clearly to separate politics and religion.

1855 HM Attorney General's Chambers have advised that the expression 'minister of religion' is wider than may be first perceived, and does not just include the ordained clergy of recognised denominations. It would also include a layman who conducts services, and a number of lawyers who conduct services as lay ministers in different denominations would be disqualified.

1860 So therefore I think with the objective of clarity, and politics and religion, personally I will be voting against this amendment, having asserted the need for clarity and the separation of politics from religion. So it is something there that still needs to be looked at in the other place, I guess.

1865 **The Speaker:** Okay. I will put to the House that amendment 43 be approved. However, I think there will be dissent, so we may as well just move straight to a vote.

I call on the Clerks to undertake the vote. Please wait –

The Secretary: Dissent has been registered, so voting has now started.

Voting resulted as follows:

FOR	AGAINST
Mrs Caine	Dr Allinson
Mr Perkins	Mr Ashford
Mr Shimmins	Mr Baker
	Mrs Barber
	Mr Boot
	Mr Callister
	Mr Cannan
	Mrs Corlett
	Miss Costain
	Mr Cregeen
	Ms Edge
	Mr Harmer
	Mr Hooper
	Mr Moorhouse
	Mr Peake
	Mr Quayle

Mr Robertshaw
Mr Skelly
Mr Speaker
Mr Thomas

1870 **The Speaker:** Thank you. With 3 votes for, and 20 against, the noes have it. The noes have it. The amendment therefore fails to carry.

I put the question that clauses 62 to 69 without amendment stand part of the Bill, and I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, clauses 62 to 69 stand part of the Bill.

1875 I call on Mr Thomas to move clause 70.

Mr Thomas: Thank you.

1880 Clause 70 is a Division in its own right and concerns the appointment of an election agent. A person must be named by or on behalf of each candidate, which may or may not be the candidate themselves. Where a registered political party submits a list of candidates, a candidate cannot be named as their own election agent but can be listed as an election agent for all of the candidates. Only one election agent can be appointed for a candidate.

1885 Any appointment as an election agent must be made and signed by the appointer, accompanied by a declaration of acceptance by the agent. Once proper notice has been given, the returning officer, in the case of a national election, or the deputy returning officer in the case of a local election will give public notice of the name and address of the election agent.

Mr Speaker, I beg that clause 70 do stand part of the Bill.

The Speaker: Dr Allinson.

1890 **Dr Allinson:** Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you. I call on Mr Hooper to move amendment number 44.

Mr Hooper: Thank you very much, Mr Speaker.

1895 Mr Speaker, this amendment is being moved to make provision for more clarity to be given to the role of any election agent by the provision of regulations made by the Council of Ministers and to be approved by Tynwald, which may include the role and responsibilities of an election agent and any acts or omissions for which an election agent may be liable.

Mr Speaker, I beg to move amendment number 44:

Amendment to clause 70

*44. Page 57, immediately after line 25, insert the following new subsection —
«(12) The Council of Ministers may by regulations make provision regarding —
(a) the role and responsibilities of an election agent; or
(b) acts or omissions for which an election agent may be liable.
Tynwald procedure – approval required».*

1900 **The Speaker:** Thank you.
Mrs Caine.

Mrs Caine: I beg to second.

1905 **The Speaker:** Thank you very much.

If anyone wishes to speak? In which case I will put the motion that amendment 44 be approved, and I presume that will be carried unless any Member indicates dissent which they should do now. No dissent having been registered, that motion therefore carries.

1910 I put to you then clause 70, as amended, and I presume that the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, clause 70 as amended carries.

Mr Thomas to move clauses 71 to 79.

Mr Thomas: Thank you, Mr Speaker.

1915 We come to Division 5 of the Part which concerns election donations and expenses.

Clause 71 states that the Division applies equally to national elections and local elections.

1920 Under clause 72, candidates must declare the relevant donations that they have received during the relevant period and information about the donation, the donor and the receipt and disposal of anonymous donations. The clause specifies that a donation is relevant if it is over £50.

Under clause 73, a candidate or prospective candidate must send any anonymous donations received to the Chief Financial Officer, within 10 days of receipt. The Chief Financial Officer will make arrangements for its distribution to the nominated charitable trust.

1925 Clause 74 makes clear that a prospective candidate or a candidate's election expenses incurred during the relevant period must not exceed the amount of £2,000 plus 50 pence for each eligible elector. If a person believes that a candidate's expenses have exceeded the maximum amount they can make a complaint to the officer, and the clause sets out the steps that must be taken by the officer in response to the complaint.

1930 Clause 75 sets out the requirements of the declarations made by a candidate in respect of donations received, whether identifiable or anonymous, and when required by the officer in response to a complaint under section 74. Any amendment to the information declared must be notified by submitting a further declaration of the amendment to the officer within 10 working days of becoming aware. Upon receipt, the officer must record the details of the declaration and file a copy of the same in the Central Registry where it is available for inspection by the general public.

1940 Clause 76 sets out that all candidates must submit a declaration of expenses commencing from one year before the scheduled date of the election before election day and a subsequent declaration within 35 days of the election, both of which are available for public inspection. If a complaint is made the officer may request documentary proof of the expenses which must be complied with within 15 days.

Clause 77 states that a candidate must make a written declaration of any financial donation that the candidate made to a resident in the constituency, district or ward.

1945 Clause 78 provides that if a person pays or incurs a candidate's expenses that person must provide the candidate with the necessary information required so that the candidate can comply with the requirement to make a declaration as to his or her expenses.

Finally, clause 79 provides further guidance by way of interpretative provision relevant to this division.

Mr Speaker, I beg that clauses 71 to 79 stand part of the Bill.

1950 **The Speaker:** Thank you very much.

I will call on Mr Hooper to move amendments number 45 and 46, please.

Mr Hooper: Thank you very much, Mr Speaker.

1955 Amendment 45 is being moved to bring this Bill in line with reporting requirements in other Bills which have passed through this Branch. The argument has already been made that the 10 days required to send an anonymous donation to the Chief Financial Officer could easily be breached without a candidate realising necessarily and requires weekly checks of a bank account whilst bank statements are received monthly or less frequently. With this in mind, the amendment has been drafted so that anonymous donations must be forwarded to the Chief

1960 Financial Officer within 10 days of the recipient becoming *aware* of the donation, or 30 days of receipt, whichever occurs sooner.

The amendment to clause 76 is proposed to prevent a candidate from filing the first required expenses declaration at the very start of their election campaign, and would instead require this first expenses declaration to be filed no earlier than 10 days before the day of the election, with
1965 the supplementary declaration then being filed no later than 35 days following the election.

Mr Speaker, I beg to move both of those amendments:

Amendment to clause 73

45. Page 58, line 37, in subsection (2) for “within 20 working days of receiving it” substitute «within 10 working days of becoming aware of the donation or 30 days of receiving it (whichever comes sooner)».

Amendment to clause 76

46. Page 60, line 15, in subsection (2) immediately after “made” insert no earlier than 10 days».

The Speaker: Thank you.

Now, the eagle-eyed amongst you will have noticed that I did not get a seconder for clauses 71 to 79, so Dr Allinson.

1970

Dr Allinson: Thank you very much, Mr Speaker.
I beg to second clauses 71 to 79.

The Speaker: Thank you. I do not intend to ask Mr Hooper to repeat his remarks.
1975 Ms Edge, are you seconding amendments 45 and 46?

Mrs Caine: Yes please, I am happy to second.
Thank you, Mr Speaker.

1980

The Speaker: Sorry. That sounded like Mrs Caine.

Mrs Caine: That was – sorry.

The Speaker: Mrs Caine, you have your own amendment which I will come to next. So you
1985 would not be able to second that, and that is why I was asking if Ms Edge was content to.

Ms Edge: Thank you, Mr Speaker, that is fine.
I am happy to second.

1990

The Speaker: Thank you.
Mrs Caine, you have amendment number 47.

Mrs Caine: Apologies, Mr Speaker, yes.

1995 Amendment 47 is a change proposed to clause 79 correcting a typographical error in the heading Interpretation of Division 4 – it should read Division 5, which is the section where the terms appear.

I beg to move:

Amendment to clause 79

47. Page 61, line 6, in the heading for “Division 4” substitute «Division 5».

The Speaker: Thank you very much.
Mr Perkins.

2000

Mr Perkins: Thank you, Mr Speaker. I beg to second.

The Speaker: Now that we are all caught up and the clauses are before us, and the amendments in the name of Mr Hooper and Mrs Caine have been proposed and seconded, we now open for debate.

2005

First up, I have Mr Callister.

Mr Callister: Thank you, Mr Speaker.

I was wondering if I could just ask the mover some questions relating to clause 74, Election expenses. If we go back to 1st April 2016 the postal charge was 45 pence for a standard letter. If we move towards the election, Members got £2,000 plus one standard letter. In this particular clause it is limiting the postage to 50 pence. The current charge for a standard letter on the Isle of Man per 100 grams here today is 62 pence. So if we were holding the election today every candidate would have to find an additional 12 pence for every manifesto that went into the post. If we take a round figure of 3,000 households that would be £360 off the £2,000 in order to fight the election.

2010

2015

I am just wondering if that particular clause should be £2,000 plus one standard letter, or an A5 letter of less than 100 grams to each eligible constituent within that area. I was wondering if I could get some clarity on that because as we go towards the election next year you could find that most candidates will have to find 20 pence for each eligible elector during this forthcoming election. I would welcome some clarity on that particular point.

2020

The Speaker: Thank you.
Next up, Mr Baker.

2025

Mr Baker: Thank you very much, Mr Speaker.

My question is regarding clause 77 which I think, on fine reading, could be open to misinterpretation. I think if nothing else, this is perhaps something that needs picking up in the other place. There is no clarity around the timescales that apply to these donations by candidates. One could infer the timescale that is mentioned in the preceding clauses which is a year, but it is not completely clear.

2030

The other thing which is not clear is the phrase:

... directly or indirectly, any financial donation to a person resident in the constituency, district or ward ...

My concern on that would be 'indirect'. And where do donations that are made by sitting Members of Keys in the ordinary course of being a constituency Member, to things like local constituency organisations, clubs, societies and events fit in to that clause 77? I think we could end up in quite a lot of debate next year when Members are supporting local horticultural shows or local football clubs, etc., which is certainly in my experience an integral part of playing your part as a sitting Member, certainly in a rural constituency.

2035

I would like some clarity and some reflection on that from the hon. mover.

2040

Thank you, Mr Speaker.

The Speaker: Thank you.

That is all the Members I have, who wished to speak. I will call on Mrs Caine first, if she wishes to respond to any of the points made.

2045

Mrs Caine: No, thank you.

The Speaker: Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

2050 I would like to just comment very briefly on those two points that were raised.

My understanding in respect of the postage for an election manifesto is that that does not actually count towards an election expense. I am sure the hon. mover can confirm how that works. But my understanding is the maximum expense is actually what you are allowed to physically spend, and the postage itself for that single manifesto that is allowed to all candidates does not form part of that because it is covered centrally by the Government.

2055 Mr Baker's comments I think are quite on point. I think there is some clarity in the clause 3 interpretation in relation to what a candidate is, because that talks about the 12-month period. And again I am sure the hon. mover can clarify this a bit more in relation to what kind of donations are being talked about and what is meant by 'indirectly', and perhaps some guidance should be issued around this in advance of the next election. I think Mr Baker makes some sensible points there.

2060 Thank you, Mr Speaker.

The Speaker: Thank you.

2065 Mr Thomas to reply.

Mr Thomas: Thank you, Mr Speaker.

In terms of Mr Callister's point, on the record it would be important to state that subsection (5) allows regulations to amend the amounts prescribed and things like that, so that can be dealt with. But Mr Hooper is completely correct, which is that a manifesto is payable by the state to facilitate the election process, as it has been previously.

2070 Moreover, in the arrangements that are proposed under this legislation there are more expenses that you could argue are being incurred by the state to encourage the quality of elections. So, for instance, requisition meetings in larger constituencies will be more plentiful, and also there are intentions to make manifestos available digitally to encourage that sort of enhancement to our election process. So that is to do with a very good point that Mr Callister raised.

2075 In terms of Mr Baker's questions: I think if extra clarity is needed it is indeed the case that we have got the other place to provide that.

2080 But as Mr Hooper suggested clause 3 as proposed, and as moved and agreed already, provides interpretation of a candidate being a candidate for 12 months, which is a replication of the existing procedure in the elections. That is why we needed to get this this Bill through the Branches if at all possible and with launch then before September 2020, so that the 12-month period for the September 2021 election will start as provided for in this legislation. So 12 months is the clear intention in terms of candidates incurring expenses for the September 2021 election.

2085 Mr Baker was very open in terms of the use of personal moneys by politicians in some places. It seems to me that can be a difficulty. Different politicians have different perspectives on this very issue and if there is any clarity that is needed in terms of how politics works in the Isle of Man I am sure that can be provided in secondary legislation if absolutely necessary. It is not in guidance or in Member standards inside the Tynwald process or whatever, but it is something that can be revisited I guess in the debate in the other place.

2090 With that, Mr Speaker, Hon. Members, I beg to move.

The Speaker: Thank you.

2095 I will put first the amendments in the name of Mr Hooper, and I will presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the amendments 45 and 46 are approved.

2100 Putting to you amendment number 47 in the name of Mrs Caine, I presume that the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, amendment 47 therefore carries.

Putting to you then that clauses 71 to 79, as amended, stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent have been indicated, the motion therefore carries.

2105 We turn then to clauses 80 to 82 please, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Part 6 of the legislation concerns the holding of elections and I would like to take clauses 80, 81 and 82 together as you have just permitted.

2110 Clause 80 provides that a national election can only take place under and by authority of a writ issued by the Governor.

Clause 81 provides that elections must be conducted in accordance with election regulations, setting out what procedures may be included in the regulations.

2115 Clause 82 provides in the event that a person breaches their official duties in connection with the election or the election regulations it does not mean that the election is invalid, as long as it appears to the High Court that the election was so conducted as to be substantially in accordance with the law as to elections, and that the act or omission did not affect the result.

Mr Speaker, I beg that clauses 80, 81 and 82 stand part of the Bill.

The Speaker: Thank you.

2120 Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

2125 I call on Mr Hooper to move amendment 48.

Mr Hooper: Thank you very much, Mr Speaker.

This amendment is an amendment to clause 81 and it is simply a housekeeping amendment to remove the reference to 'local elections', as the section only applies to national elections.

2130 Mr Speaker, I beg to move:

Amendment to clause 81

48. Page 61, line 28, in subsection (1) omit "and local elections".

The Speaker: Thank you.

Mrs Caine.

Mrs Caine: I beg to second.

2135

The Speaker: Thank you very much.

2140 If any Member wishes to speak? Otherwise I will put to you first the question that amendment 48 be agreed, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the amendment therefore is approved.

I put to you clauses 80, 81 and 82 stand part of the Bill as amended. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

Mr Thomas to move clauses 83 and 84.

2145 **Mr Thomas:** Clause 83 sets out the legal entitlement that every eligible elector who is at least 16 years old on the date of the election is entitled to receive a ballot paper and vote in a constituency, district or ward.

Clause 84 follows on from clause 83 in that the person entitled to vote may do so in person, by post or by proxy, in certain specified cases.

2150 Mr Speaker, I beg that clauses 83 and 84 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

2155

The Speaker: Thank you.
Amendment 49, Mr Hooper, please.

Mr Hooper: Thank you very much, Mr Speaker.

2160 This amendment seeks to reinforce the fact that a person cannot vote by proxy if that person has already voted in person or, as the amendment seeks to do, in advance by post.

Mr Speaker, I beg to move the amendment:

Amendment to clause 84

49. Page 64, line 19, in subsection (3) between "person" and the full stop insert «or in advance by means of post».

The Speaker: Thank you.
Mrs Caine.

2165

Mrs Caine: I beg to second.

The Speaker: Thank you very much.

2170 If no one wishes to speak to clauses 83 and 84 or the amendment, I will put the question first that the amendment 49 in the name of Mr Hooper be approved, and I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the amendment therefore carries.

2175 I put to you the question that clauses 83 and 84, as amended, stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been registered, the motion therefore carries.

Clauses 85 and 86, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

2180 Clause 85 sets out the procedure to be followed should a person wish to vote in advance by post, either in his or her own capacity or as proxy for another person. The clause permits regulations to make further provision regarding this section.

Mr Speaker, clause 86 sets out the procedure to be followed if an eligible elector wishes to appoint a proxy voter and the criteria that such proxy should meet. The clause permits regulations to make further provision regarding this section.

2185 Mr Speaker, I beg that clauses 85 and 86 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

2190

The Speaker: Thank you.

Now, unless any Member wishes to speak I will put the motion that clauses 85 and 86 stand part of the Bill and I presume that the motion be carried unless any Member indicates dissent, which they should do now, please. No dissent being registered, the motion therefore carries.

2195 Mr Thomas to move clauses 87, 88 and 89.

Mr Thomas: Mr Speaker, these clauses provide some supplementary provisions regarding the conduct of elections.

2200 Clause 87 provides that for the purposes of this Part, the register of electors is conclusive on whether or not a person registered in it was at the time of the list resident at the address shown and whether or not any address in any constituency, district or ward or part thereof.

Clause 88 provides further specification when public notices are required to be given.

Clause 89 provides for the distribution of election manifestos.

2205 Mr Speaker, I beg that clauses 87, 88 and 89 stand part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

2210 **The Speaker:** Thank you.

I call on Mrs Caine to move amendment number 50.

Mrs Caine: Thank you, Mr Speaker.

2215 Page 66, line 21, contains a small typo – ‘in additional to’ should simply read ‘in addition to’.
I beg to move:

Amendment to clause 88

50. Page 66, line 21, in subsection (3) for “additional” substitute «addition».

The Speaker: Thank you.

Mr Perkins.

Mr Perkins: Thank you, Mr Speaker. I beg to second.

2220 **The Speaker:** Thank you very much.

2225 Now, if anyone wishes to speak to any part of that? Otherwise, I will put the motion that amendment 50 be approved and I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

I put to you clauses 87, 88 and 89, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

2230 Mr Thomas to move clauses 90 to 92.

Mr Thomas: Mr Speaker, these three clauses together concern election observers, and include how an application should be made to become an election observer, and the number and conduct of observers.

2235 Clause 92 requires the Returning Officer to prepare a code of practice on the attendance of accredited observers and sets out what the code must in particular contain.

Mr Speaker, I beg that clauses 90, 91 and 92 stand part of the Bill.

The Speaker: Thank you.

Dr Allinson.

2240 **Dr Allinson:** Thank you, Mr Speaker. I beg to second.

The Speaker: Does anyone wish to speak? Otherwise, I will put the motion that clauses 90, 91 and 92 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

2245 Mr Thomas to move clause 93.

Mr Thomas: Mr Speaker, we come to Part 7 of the Bill, which is entitled 'Offences etc. in connection with elections'. Ensuring the integrity of the conduct of an election is fundamental to safeguarding the democratic process of electing candidates to either local or national government.

2250 Clause 93, which applies to both national and local elections, sets out where a person perpetrates a corrupt practice and where a person perpetrates an illegal practice; and, where relevant, refers to where a person has contravened the provisions of another section of the Bill.

2255 Mr Speaker, I beg that clause 93 stand part of the Bill.

The Speaker: Dr Allinson.

2260 **Dr Allinson:** Thank you, Mr Speaker. I beg to second.

The Speaker: If no Member wishes to speak, I will put the motion that clause 93 stand part of the Bill and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

2265 Clauses 94 to 96, Mr Thomas.

Mr Thomas: Mr Speaker, clauses 94, 95 and 96 together make further provision in respect of certain corrupt practices.

Clause 94 provides that a person commits the corrupt practice of personation if they vote as some other person, whosoever that may be.

2270 Clause 95 pertains to the corrupt practice of bribery and when such a practice is committed, which can be both before and after an election.

Clause 96 pertains to the corrupt practice of committing the offence of undue influence and when this is deemed to occur.

2275 Mr Speaker, I beg that clauses 94, 95 and 96 form part of the Bill.

The Speaker: Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

2280 **The Speaker:** Thank you very much.
Mr Hooper to move amendment number 51 to clause 94.

Mr Hooper: Thank you very much, Mr Speaker.

This is just a housekeeping amendment to remove the reference to an absent voter.

2285 Mr Speaker, I beg to move:

Amendment to clause 94

51. Page 70, line 28, in subsection (3)(b) omit "by an absent voter".

The Speaker: Thank you.
Mrs Caine.

Mrs Caine: Thank you. I beg to second.

2290 **The Speaker:** Thank you very much.

An opportunity for anyone to speak, otherwise I will put first that amendment 51 in the name of Mr Hooper be approved, and I will presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, the motion therefore carries.

2295 I put to you then that clauses 94, 95 and 96 stand part of the Bill, as amended. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Clause 97, Mr Thomas.

2300 **Mr Thomas:** Mr Speaker, clause 97 places restrictions on the printing, publishing or posting of election publications unless it bears the name of the publisher. It also restricts the display of such publications around the building which forms part of a polling station unless it is displayed on a vehicle which is engaged in delivering a voter to, or collecting a voter from, the polling station. Any person contravening this section commits an offence and is liable to a fine on summary conviction.

2305 Mr Speaker, I beg that clause 97 stand part of the Bill.

The Speaker: Thank you.

Dr Allinson.

2310

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you.

We turn to amendment number 52 in the name of Mrs Caine.

2315

Mrs Caine: Thank you, Mr Speaker.

As this clause relates to both national and local elections I would suggest that in addition to a Government Office there should also be reference to a Local Government Office and municipal buildings that should be out of bounds to candidates posting promotional election material.

2320 I beg to move:

Amendment to clause 97

52. Page 72, line 35, in subsection (3)(c) immediately after "Government Office" insert «, or by any Local Government or Municipal Office».

The Speaker: Thank you.

Mr Perkins.

Mr Perkins: Thank you, Mr Speaker. I beg to second.

2325

The Speaker: Thank you.

Now, does any Member wish to speak?

Mr Thomas, do you wish to sum up?

2330 **Mr Thomas:** Thank, you Mr Speaker.

Just to fully support the sentiment and the specific amendment moved by Mrs Caine. She makes the more general point that the standards for local elections need to be equal to those for national elections, and *vice versa*. So therefore with that, Mr Speaker, I thank Mrs Caine for her attention to the detail and for moving this amendment.

2335 I beg to move, and encourage support for Mrs Caine's amendment.

The Speaker: I put first the amendment number 52 in the name of Mrs Caine. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the amendment therefore carries.

2340 Putting to you clause 97, as amended. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Mr Thomas to move clauses 98 to 115.

2345 **Mr Thomas:** Clauses 98 to 115 make further provision for offences which may be committed and therefore it is logical to take them together.

Clause 98 makes clear that a person must not issue any poll card or document so closely resembling an official poll card as to be calculated to deceive.

2350 Clause 99 prohibits a person from corruptly inducing or procuring another person to withdraw from being a candidate.

Clause 100 prohibits the giving of money in respect of a payment which is in contravention of this legislation.

Clause 101 makes clear those actions in which a voter must not engage.

2355 Clause 102 makes clear that a person who engages in a corrupt practice commits an offence and depending on the nature of the offence is liable on information or summarily. A person who engages in an illegal practice is liable summarily.

Under clause 103, if a candidate accepts support from an unregistered political party, that candidate commits an offence. Furthermore, a person who knowingly or recklessly delivers a declaration under Part 4 of this legislation commits an offence.

2360 Mr Speaker, I beg that clause 103 stand part of the Bill as part of the grouped clauses.

Clause 104 contains a number of offences regarding funding including the failure to send anonymous donations to the Chief Financial Officer, exceeding election expenses or failing to make declarations as to expenses.

2365 Clause 105 makes clear that if a deputy returning officer, presiding officer or clerk or assistant acts in breach of his or her official duty that person commits an offence. However, no action for damages or any penalty lies against a person to whom this section applies.

2370 Clause 106 sets out a number of offences in relation to nomination papers. If the person committing the offence is the deputy returning officer or an officer or clerk in attendance, they are liable to be convicted on information. In any other case, a person is liable to summary conviction. Furthermore, every person who intentionally acts in contravention of any provisions of election regulations that give directions or orders for the guidance of voters commits an offence and is liable on summary conviction to a fine.

2375 Clause 107 places an obligation of secrecy on deputy returning officers, tellers, presiding officers, clerks and candidates that are attending polling stations and those at the count. The section prohibits interference with voters in any way. The clause also enables the presiding officer at a polling station to evict a teller who fails to abide by the code of conduct issued under this legislation and, should the teller fail to depart from the polling station, that person commits an offence.

2380 Clause 108 makes it an offence for any person to intentionally refuse to obey or comply with a lawful order or direction of a deputy returning officer given in the execution of his or her duties under the Act.

In clause 109 a person who without lawful authority destroys, mutilates, defaces or removes any notice published by the returning officer in connection with his or her duties under the Act, commits an offence.

2385 Clause 110 prohibits a candidate by himself or through another person displaying in any public place any list of eligible electors showing how or in what manner any such eligible electors will, or it is assumed will, vote in the election, otherwise that candidate commits an offence.

2390 In clause 111 a person must not, for the purpose of promoting or of procuring the election of any candidate at an election publish, display or issue any document setting out the name of any candidate, or two or more candidates, where they are not the candidate that such person is seeking to promote or procure, and the manner in which the vote or votes may be recorded in favour of such particular candidate or candidates, otherwise that person commits an offence.

2395 Clause 112 provides that if a deputy returning officer, other officer or clerk appointed under election regulations or any partner or clerk of such a person, acts as an agent of a candidate in the conduct of the election, he or she commits an offence and is liable on summary conviction.

Clause 113 provides that if any constable tries to persuade or dissuade any person from giving his or her vote at an election that constable commits an offence.

2400 Clause 114 preserves the rights of creditors and states that any provision of this Part which prohibits payments and contracts for payments does not affect the right of any creditor who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of this Act.

Finally, clause 115 provides further interpretative assistance to phrases used in this Part.

Mr Speaker, I beg to move that clauses 98 to 115 inclusively stand part of the Bill.

2405 **The Speaker:** Dr Allinson.

Dr Allinson: Thank you very much, Mr Speaker. I beg to second.

The Speaker: Thank you.

2410 I will give an opportunity for Members to speak on those clauses. Otherwise I will put the motion that clauses 98 to 115 stand part of Bill, and I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Mr Thomas to move clauses 116 to 135 and Schedule 1, please.

2415 **Mr Thomas:** Thank you, Mr Speaker.

Part 8 comprising those clauses is broadly technical, establishing the procedure for complaining of an undue election, an undue return or no return and the consequences of this.

2420 Whilst these clauses are incredibly important in the sense that they provide an avenue of accountability and redress, they have not been changed from the previous legislation and there is no evidence to call into question the effectiveness of these clauses.

Mr Speaker, I beg that clauses 116 to 135 and Schedule 1 stand part of the Bill.

2425 **The Speaker:** Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

2430 With no amendments to those clauses, I will give an opportunity for Members to speak; otherwise I will put the motion that clauses 116 to 135 inclusive and Schedule 1 stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now, please. No dissent having been indicated, the motion therefore carries.

Clauses 136 to 139, Mr Thomas.

2435 **Mr Thomas:** Thank you, Mr Speaker.

2440 Clause 136 defines the term 'recall petition' and introduces how a Member could become subject to a recall petition in particular, by either being convicted of an offence and sentenced to custody after becoming a Member of the Keys, and the appeal period expires without the conviction or sentence having been overturned on appeal; or that following a report from the House of Keys Management and Members' Standards Committee in relation to the Member, the Keys orders the suspension of the Member from the service of the Keys for a specified period of time.

2445 Clause 137 makes further provision on what would satisfy the first recall condition and gives further guidance on the interpretation of a Member being sentenced, which included where a sentence is suspended but not where a Member is remanded in custody or detained under the Mental Health Act 1998 where there is no sentence or order for custody or detention.

2450 Clause 138 makes further provision as to when the appeal period for the purposes of the first recall condition is deemed to have expired, and defines what a relevant appeal is for these purposes.

2455 Finally, clause 139 obliges a court which has imposed a sentence on a Member, to notify the Speaker of the sentence and also if and when any appeal is brought.

Mr Speaker, I beg that clauses 136 to 139 inclusive stand part of the Bill.

The Speaker: Dr Allinson.

2455

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

2460 Now, turning to the amendments: first, amendment number 53 in the name of Miss Costain, please.

Miss Costain: Thank you, Mr Speaker.

This amendment seeks to give some additional clarity and flexibility to the conditions for a recall petition.

2465 Currently the law as drafted would only allow a recall petition to be triggered if an MHK was served a custodial sentence. This means that two individuals could be convicted of the same offence but not both be subject to a potential recall. For example, if two MHKs were convicted of drink driving, but one received custody and the other did not, only the one could trigger a potential recall.

2470 The judiciary of course has discretion to determine what criminal penalty is appropriate and will take all sorts of circumstances into consideration when determining this. But a recall petition is not a criminal sanction, it is a political one. The electorate would very likely view both the aforementioned drink drivers in a similar light and, given the offence is the same, the lapse in judgement it represents is the same.

2475 The exact circumstances of the offence may not have justified a custodial sentence but if it was an offence serious enough that this was an option available to the court, it is surely up to the electorate to decide if it justifies a recall petition or not. This is not a criminal issue it is a political one, and the electorate should have the right to decide for themselves whether the circumstances of a serious event warrant a recall petition.

2480 Thank you, Mr Speaker, I beg to move:

Amendment to clause 136

53. Page 94, line 15, in subsection (3)(a) for "and sentenced to custody" substitute «which carries the potential for a custodial sentence (whether or not such a sentence was imposed)».

The Speaker: Thank you.

Do I have a seconder for Miss Costain's amendment, please?

Ms Edge, I think you have turned your video on rather than your audio.

2485 **Ms Edge:** Apologies! Happy to second, Mr Speaker.

The Speaker: Thank you very much.

We turn then to amendment number 54 in the name of Mr Hooper.

2490 **Mr Hooper:** Mr Speaker, this amendment seeks to make clear that a summary conviction can satisfy the requirement to trigger the recall petition process on the basis that it would demonstrate a lack of judgement which may compromise the ability of the Member to retain the confidence of his or her constituency.

2495 I think, as has just been touched on by the mover of the last amendment, it is this demonstration of a lack of judgement that is most relevant and which forms the basis of this amendment.

Mr Speaker, I beg to move the amendment standing in my name:

Amendment to clause 136

54. Page 94, line 15, in subsection (3)(a) immediately before "convicted" insert «summarily».

The Speaker: Thank you very much.

Do I have a seconder to Mr Hooper's amendment?

2500

Miss Costain: Sorry, Mr Speaker, I have problems again.
Happy to second.

The Speaker: Who is that, sorry?

2505

Miss Costain: Sorry, it is Kate Costain.

The Speaker: Sorry, Miss Costain. Having moved your own amendment I am not sure you can second somebody else's.

2510

Mrs Barber.

Mrs Barber: Happy to second the amendment in Mr Hooper's name.

The Speaker: Thank you very much.

2515

And Mrs Caine to move amendment number 55.

Mrs Caine: Thank you, Mr Speaker.

2520 Similar to earlier, I feel that there is a potential loophole here and where a Member of the Keys is convicted of an offence and sentenced to custody, this recall condition should apply wherever that offence was committed. However, given the flaws pointed out with my previous similar amendment, I would ask not to move this amendment today, with the intention of bringing it to a Member of Council's attention to give it their consideration, if that is possible?

Thank you.

2525 **The Speaker:** That is no problem; you are under no obligation to move that amendment. So I will treat that as withdrawn.

We then have clauses 136 to 139, and amendments 53 and 54 on the table, if anyone wishes to speak to any of them?

Mr Harmer.

2530 **Mr Harmer:** Thank you, Mr Speaker.

Although I fully support Mr Hooper's amendment, I do have concerns on Miss Costain's amendment. I think if a court were to judge particular severity or not severity, I think they could actually attract a lot of quite trivial offences, even speeding fines or all sorts of other offences, if there is the potential of having a full conviction. I think actually it again will attract a lot of unintended consequences.

So I do express deep concern on that amendment. Thank you.

The Speaker: If there is no other Member wishing to speak, I will see if Miss Costain wishes to sum up regarding her amendment.

2540 **Miss Costain:** Yes, thank you, Mr Speaker.

I would just like to say I am not really quite sure what Mr Harmer's concerns are, because I did not think you actually got a prison sentence for speeding or anything like that. It would only be for the more serious offences that could carry a prison term, a custodial sentence, which my amendment is referring to, not really just a matter of speeding or similar offences like that.

2545 So I would ask Members just to consider, really, whether two sentences such as drink driving that could, both of them, carry a custodial sentence but one does and one does not. Is that fair, when asking the electorate if they want to recall somebody?

Thank you.

2550

The Speaker: Mr Hooper, to respond to your amendment.

Mr Hooper: I have nothing specifically to add on my amendment.

2555 **The Speaker:** Thank you.

Mr Thomas, to respond to the debate on clauses 136 to 139.

Mr Thomas: Thank you, Mr Speaker.

2560 I think Mrs Caine has made the right decision inviting consideration in another place on the more general concept of offences.

Miss Costain has raised a very interesting point about judicial discretion versus sentencing guidelines and potentially unfair treatment. And so that also seems to me the sort of issue that could usefully be considered, especially as the argument that seems to have been made by Government is that this might have unintended consequences and has not been fully thought through.

2565 So with that, Mr Speaker, I beg to move.

The Speaker: Thank you.

2570 In which case I will put first amendment number 53 in the name of Miss Costain, and I presume that motion will be carried unless any Member indicates dissent. Right, dissent having been indicated, I will call on the Clerks to run the vote.

Voting resulted as follows:

FOR

Miss Costain
Mr Hooper

AGAINST

Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mr Boot
Mrs Caine
Mr Callister

Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

The Secretary: Everyone has voted.

The Speaker: Thank you. With 2 for, and 21 against, the noes have it. The noes have it.
2575 Amendment 53 therefore fails to carry.

Putting to you next, amendment number 54 in the name of Mr Hooper. I will presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, amendment 54 therefore carries.

2580 I put to you clauses 136, 137, 138 and 139, as amended, stand part of the Bill and I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

Mr Thomas to move clauses 140 to 148 and Schedule 4, please.

2585 **Mr Thomas:** Clauses 140 to 148 are being moved together as they set out the procedure to be followed once the Speaker has been informed that the first or second recall condition has been met.

As soon as practicable, the Speaker must give notice of the fact to a petition officer and a Member will be subject to the process during the period from giving them the notice and ending with either the early termination of the process or else a successful outcome.

2590 Clause 141 makes clear that the deputy returning officer for a constituency is the petition officer, and refers to Schedule 4 which contains further provision regarding the petition officer's general duty to perform his or her functions, and in relation to the recovery of expenditure.

2595 Under clause 142, once a petition officer receives the requisite notice from the Speaker, he or she must designate up to six places where the recall petition is to be made available for signing, and a day from which the petition is available for signing, which is either the 10th working day after the petition officer received the notice or else, if this is not practicable, the date that is the first subsequent day that is reasonably practicable.

Under clause 143 the petition officer must send notice of the petition to eligible electors and other persons, in accordance with regulation made by the Cabinet Office.

2600 Clause 145 contains the criteria a person must meet to be entitled to sign a recall petition.

Clause 146 states that this could be done in person, by post or by proxy.

Clause 147 provides those circumstances in which a person commits an offence which includes signing the recall petition more than once or signing as a proxy more than once.

2605 Clause 148 states that in the event that the polling day for the next election is brought forward under clause 6 or 8 and is within six months of the date on which the Speaker's notice was given or the Member's seat is vacated, this will give rise to the early termination of the recall process, and the petition officer must take such steps necessary to terminate the process and give a public notice of the fact, which the Speaker must then lay before the Keys.

I beg that clauses 140 to 148 and Schedule 4 stand part of the Bill.

2610 **The Speaker:** Dr Allinson.

Dr Allinson: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.
2615 I turn now to Mr Hooper for amendments 56, 57 and 58.

Mr Hooper: Thank you very much, Mr Speaker.
These amendments seek to remove the reference to descriptions of electors and instead
make it a requirement to send a notice to all eligible electors in a constituency.
2620 The amendment to clause 144 is to amend the term 'eligible people' so that it reads 'eligible
electors'.
Mr Speaker, I beg to move those amendments:

Amendment to clause 143

*56. Page 99, lines 10 and 11, for paragraph (a) of subsection (1) substitute the following —
«(a) to all eligible electors for the constituency; and».*

57. Page 99, line 12, in subsection (1)(b) omit "descriptions of".

Amendment to clause 144

*58. Page 99, lines 32 and 37, in subsection (3) for "eligible people" in both places where it
appears, substitute «eligible electors».*

The Speaker: Thank you.
Mrs Caine.

2625 **Mrs Caine:** Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.
Now, if any Member wishes to speak? Otherwise I will put to you first amendments 56, 57
2630 and 58 in the name of Mr Hooper, and I presume that those will be approved unless any
Member indicates dissent, which they should do now. No dissent having been registered, the
motion therefore carries.

I therefore put to you clauses 140 to 148 inclusive and Schedule 4 stand part of the Bill. I
presume that motion will be carried unless any Member indicates dissent, which they should do
2635 now. No dissent having been registered, the motion therefore carries.
Clauses 149 to 152, Mr Thomas.

Mr Thomas: Clause 149 sets out that a recall petition will be deemed successful if the
number of persons who validly sign the petition is at least 10% of the total number of eligible
2640 electors registered in the register of electors for the constituency. If it is successful the petition
officer must notify the Speaker and give public notice of the fact.

Clause 150 sets out that the effect of a successful petition is that the Member's seat becomes
vacant from the time that the petition officer gives notice to the Speaker.

2645 Clause 151 enables the Cabinet Office to make regulations with regard to recall petitions and
sets out what they may contain.

Finally, clause 152 provides further provision to assist with the interpretation of Part 9.

Mr Speaker, I beg to move that clauses 149 to 152, inclusively, stand part of the Bill.

The Speaker: Dr Allinson.

2650 **Dr Allinson:** Thank you, Mr Speaker. I beg to second.

The Speaker: Now, unless any Member wishes to speak I will put the motion that clauses 149 to 152 inclusive stand part of the Bill and I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

We now turn to New Clause 1 in the name of Ms Edge.

Ms Edge: Thank you, Mr Speaker.

I stand to introduce in principle the New Clause 1 into this important Bill. This new clause relates to a candidate declaring their own interests at nomination stage of any electoral process.

It is current practice in some countries for election candidates to complete a declaration of interest form. The interests are then published with the intention of promoting greater transparency for voters and a level playing field among candidates. The main purpose is to provide information of the candidates' interests either pecuniary or other material benefit or membership that may be thought by others to influence his or her actions, speeches or votes.

The Cayman Islands and Bermuda have it in their laws, to mention a couple; and the Ministry of Justice in the UK provides guidance for parliamentary election candidates.

The exact detail of the declaration will be contained as part of the regulation and it is envisaged as being similar to those which Members of the House of Keys and Legislative Council have to complete immediately after election to either of the Branches. I feel this clause would provide a more transparent process for the electorate on the Isle of Man and to make them aware, prior to voting for a candidate, of any interests that may or may not influence their decisions or actions when going into government at a local or national level.

What it means to be transparent is simply be honest about who candidates are as individuals and whether they have any connections to any business, society, political party or other interests when standing. It only seems right that the public has a right to know the full interests of any candidate standing to represent them, providing opportunity for the electorate to have a better informed process when assessing candidates. How many times have we all heard in the public domain during every administration, negative comments about why decisions are made, insinuating that decisions were made due to perceived bias? This clause will remove that doubt for the electorate as it provides transparency from the outset.

Members of all Branches must declare their interests after a successful election to their respective Branch. This clause merely brings that process forward prior to the election.

Some of the most used words in this House, particularly by our current Government, are 'openness' and 'transparency'; and therefore I hope that the Council of Ministers and all Members of Keys will support this new clause to provide that transparency to the people of the Isle of Man.

Mr Speaker, I beg to move New Clause 1 that is standing in my name:

Insertion of New Clause 1

Page 106, in the appropriate place in Part 10 insert the following new clause –

«NC1 Duty of candidates to declare conflicts of interest

A candidate for an election must ensure that, when his or her nomination papers are submitted, there is also submitted whichever of the following is appropriate –

(a) a declaration specifying and providing details of any interest he or she has which may tend to conflict with –

(i) his or her candidature; or

(ii) if elected, his or her position as member of the Keys or a local authority (as the case may be); or

(b) a written declaration that he or she has no interest of the type described in paragraph (a).».

If Honourable Members vote in favour of NC1, kindly decide on its appropriate location, number it appropriately, and accordingly renumber any succeeding clause or clauses

The Speaker: Thank you.

2690 I call on Mrs Caine.

Mrs Caine: Thank you, Mr Speaker. I beg to second.

The Speaker: Thank you very much.

2695 New Clause 1 having been moved and seconded in principle, I then open the floor to speak.
Mr Ashford.

Mr Ashford: Thank you, Mr Speaker.

2700 There is a concern I have around the new clause which is in relation to the fact that I feel it could actually put people off standing. It is fully accepted that Members, once they become a Member of Tynwald, should actually clearly declare all their public interests. But the bit I am concerned about is in relation to candidates. They may well have interests that they intend, if elected, to dispose of, which will no longer be an interest.

2705 I think at a time when we are trying to encourage a diversity of candidates to stand for election, and particularly those who might have wide-ranging business experience, do we really want to be putting it out there that they have to declare all of their interests similar to Members of the House of Keys even before being elected, and in many cases maybe not even being elected?

2710 I think there will be people who will actually think twice about standing if they feel all of their interests are going to be put out there, when they will not even necessarily be elected.

The Speaker: Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

2715 I am just a bit concerned about the wording in this proposed new clause in the sense that ... and it includes Ms Edge's words of introduction as well where she says 'might be deemed to be in some way conflicted'. And then actually in subparagraph (a) the wording is:

a declaration specifying and providing details of any interest he or she has which may tend to conflict ...

The words 'may tend' are very loose. So we both have looseness and subjectivity in this, which leaves me somewhat uncomfortable, Mr Speaker, and inclined to vote against.

2720 Thank you.

The Speaker: We are at this point talking about the new clause in principle rather than in detail, but in principle you can save your remarks for future debate if required.

If no other Member wishes to speak then, Ms Edge, you have the right of reply.

2725

Ms Edge: Thank you, Mr Speaker.

Mr Ashford, Hon. Member for Douglas North is concerned it would put people off. I find that a considerable remark to make when surely transparency is what most people would require from somebody they were electing.

2730 I appreciate what he says with regard to *all* of their interests. However, I did state in my comments that the actual criteria and the table ... We do have a process within Tynwald that could be a part of the regulation. However, that detail will come within the regulation. So I find it difficult to understand how somebody would vote against greater transparency and openness to the electorate.

2735 And with regard to Mr Robertshaw, clearly if it is just a drafting issue that the word perhaps could be changed to satisfy his need, that is something that could be picked up in another place. So with that, Mr Speaker, I beg to move that the clause stand part of the Bill.

2740 **The Speaker:** I put to the House that New Clause 1 be approved in principle, and I presume that the motion will be carried unless any Member indicates dissent, which they should do now. Dissent having been registered, I call on the Clerks to undertake the vote.

Voting resulted as follows:

FOR

Mr Baker
Mrs Barber
Mrs Caine
Mr Callister
Mrs Corlett
Miss Costain
Ms Edge
Mr Hooper
Mr Moorhouse
Mr Perkins
Mr Shimmins
Mr Speaker
Mr Thomas

AGAINST

Dr Allinson
Mr Ashford
Mr Boot
Mr Cannan
Mr Cregeen
Mr Harmer
Mr Peake
Mr Quayle
Mr Robertshaw
Mr Skelly

The Speaker: With 13 in favour, and 10 against, the ayes have it. The ayes have it. I now call on Ms Edge to move the New Clause 1 in detail, please.

2745 **Ms Edge:** Thank you, Mr Speaker.
I beg to move New Clause 1 standing in my name, which is part obviously of this important Bill and I would appreciate if Members could continue to support it; and I just beg to move that the clause stand part of the Bill.

2750 **The Speaker:** Thank you.
Mrs Caine.

Mrs Caine: I beg to second.

2755 **The Speaker:** Thank you.
Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.
On your advice, just to reiterate my concerns about the wording here. If it is the will of the Hon. House to let this go forward I would beg that LegCo look at this in detail as I think currently the wording is sloppy and needs to be tightened up.
Thank you.

2765 **The Speaker:** Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.
Really, I would just like to echo the concerns that Mr Robertshaw has raised. I fully support the principle of this; I think it makes sense to have people declare anything that they have an interest in that may potentially affect their tenure as a Member of the House. This is similar to guidance that was issued to candidates in the UK. I think in the UK it is only a voluntary

2770

declaration of interest for candidates rather than a mandatory one. But essentially the principle I think is sound.

2775 Where I have concerns is with the wording. So, for example, there is no definition here of the conflict of interest, what the type of interest needs to be declared, whether it is going to be broader than actually what is required for Tynwald Members, which is only a direct pecuniary interest. It is not clear to me whether or not the general regulation-making power in the Bill actually would apply to this clause. The clause itself needs to, I think, specifically reference an ability to make regulations that cover things like what is included in a declaration of conflict – when such declaration has to be made, and all the rest of it.

2780 So, as it stands, I fully support the principle but I would be more comfortable if the House actually said no to this particular clause and the way it is worded, and it comes back like we have already talked about with some of the other clauses, with a much better framework and a better way of framing the clause from another place.

Thank you, Mr Speaker.

2785

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

2790 So let's understand what has happened here. We have got an important principle that has been agreed in principle by the House and before us today we have got a new clause which has been drafted by the Attorney General's Chamber. Obviously more work is needed in terms of specifying the interest, which could be done in the form of guidance if the general power to make guidance already completed in this Bill is eligible.

2795 Obviously we have now got the time to look for the detail in the other place. But as it stands the principle has been established today, the clause is adequate and I fully support the clause being voted on, differently from Mr Hooper, in this respect.

I would like to congratulate and thank the Hon. Member for Onchan, Ms Edge, for having had the foresight to work with colleagues to actually put on the table something that needs to be there in the Isle of Man Elections law.

2800

The Speaker: Thank you.

Ms Edge to reply.

Ms Edge: Thank you, Mr Speaker; and thank you to the Members that have spoken on this.

2805 With regard to the drafting, yes it was drafted by the Attorney General's Chambers, and the framing of one word I do not feel should change the principle of what I am actually moving here in this new clause today. I hope that Members will continue to support it; and obviously we have the option in the other place to just tighten up on that wording.

2810 With regard to the Member for Douglas Central, Mr Thomas, and the previous clauses that have been moved on guidance, there is an opportunity at that point for the guidance to be very clear. But I feel that in moving this new clause, it is critical and important to prove that we have an open and transparent Government and elected people; and giving the electorate of the Isle of Man the open opportunity to decide on a fair platform which candidates they would vote for at an election. I do not believe that it would put people off, I think it would possibly encourage
2815 more of our electorate to actually go to the polls if they were fully aware of the circumstances of the candidates that they are electing.

And with that, Mr Speaker, I beg to move the New Clause 1 as part of the Bill.

The Speaker: Thank you very much.

2820 I put the motion that New Clause 1 be approved in detail and therefore stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No Member having indicated dissent, the motion therefore carries.

The New Clause 2, Ms Edge.

2825 **Ms Edge:** Thank you, Mr Speaker.

I am not going to move this New Clause 2. Having obviously looked at it in more detail, I think it does need further exploration due to the differences with the different types of media – the broadcasting under the Communications Act and codes of practice etc., for newspapers. I do feel it needs more exploration and so I do not intend to move this today.

2830 Thank you, Mr Speaker.

The Speaker: New Clause 2 not being moved, then I call on Mr Thomas to move clauses 153 to 158 and Schedule 6, please.

Mr Thomas, I am just checking we have got you. Clauses 153 to 158 and Schedule 6, please.

2835

Mr Thomas: Sorry about that, Mr Speaker.

Part 10, which comprises clauses 153 to 158, contains miscellaneous and supplemental provisions applicable to the whole Act permitting the Governor in Council, the Cabinet Office and the Council of Ministers to make regulations subject to the approval of Tynwald, in clauses 153, 154 and 155 respectively.

2840

Clause 156 omits section 12 of the Isle of Man Constitution Amendment Act 1919, which I think goes back to something that was requested by the Tynwald Standing Orders Committee.

Clause 157 gives effect to Schedule 6, which sets out modifications to other legislation.

Clause 158 repeals in full the Local Elections Act 1986, the Representation of the People Act 1995 and the Representation of the People (Amendment) Act 2015, and section 66 of the Charities Registration Act.

2845

Mr Speaker, I beg to move that clauses 153 to 158 and Schedule 6 stand part of the Bill.

The Speaker: Thank you.

2850

Dr Allinson.

Dr Allinson: Thank you, Mr Speaker.

I am delighted to second.

2855

The Speaker: Thank you.

We turn to amendment number 60 in the name of Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

2860

This final amendment is a corrective amendment to change the reference from 'Part 9' to 'Part 8'.

I beg to move the amendment:

Amendment to Schedule 6

60. Page 128, fourth column, in the first entry under the heading "Substituted portion", for "Part 9" substitute «Part 8».

The Speaker: Thank you very much.

Mrs Caine.

2865

Mrs Caine: I beg to second. Thank you, Mr Speaker.

The Speaker: Thank you very much.

2870 If no Member wishes to speak, I will put first amendment number 60 in the name of Mr Hooper and presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, amendment 60 therefore carries.

I put to the House that clauses 153 to 158 and Schedule 6 stand part of the Bill. I presume that motion will be carried unless any Member indicates dissent, which they should do now. No dissent having been registered, the motion therefore carries.

2875 Hon. Members, this seems like an appropriate point for some mature reflection on the Bill. We will return at 2.30 p.m. for the motion to suspend Standing Orders and, if that is approved, Third Reading, and then move on to the Road Traffic Legislation (Amendment) Bill.

But with that, the House stands adjourned until 2.30 p.m. Thank you very much.

*The House adjourned at 1.05 p.m.
and resumed its sitting at 2.30 p.m.*