

**4. BILLS FOR SECOND READING**

**4.1. Council of Ministers (Amendment) Bill 2020 –  
Second Reading approved**

Mrs Caine to move:

*That the Council of Ministers (Amendment) Bill 2020 be read a second time.*

**The Speaker:** Bills for Second Reading and I call next on Mrs Caine to move the Council of Ministers (Amendment) Bill 2020.

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

1570 I will keep this brief, considering the amount of business before us today, and given how very simple this Amendment Bill is. I expect that most Members will have already decided whether to support it or not. The Bill before us will address what I feel is a regrettable anomaly in our legislation for removing an administration that does not have the majority support among the House of Keys.

1575 Over the past 30 years there has not been a single occasion when a vote of no confidence has been tabled against the Council of Ministers. Given that record, I feel that we could be optimistic that a vote of no confidence would not be brought frivolously or in response to an unpopular policy, which was a fear expressed when the number of votes required was last debated by the previous House. Prior to that, it required a straightforward majority of Tynwald, a total of 17 votes to succeed. I cannot entirely understand the reasoning why 16 votes is now required in this Hon. House to remove a Chief Minister.

1580 I am grateful to our Tynwald researchers who have enabled me to review all motions of no confidence brought since the Council of Ministers Act came in. Over the past 30 years there has not been a vote of no confidence in an individual Chief Minister, or in the Council of Ministers as a whole. One Chief Minister resigned mid-term, perhaps seeing the writing on the wall. He stated it was to protect the office of Chief Minister after being questioned by police over Government tourism premises grants.

1585 Several motions were tabled to seek a vote of no confidence in individual Ministers, but on all but one occasion these were not seconded or not brought. One that proceeded to a vote failed to gain the majority support of Members. The Bill before us will reduce the number of votes needed to remove the Council of Ministers to a straight majority of the Keys from the present two-thirds majority required. It would simply replace 16 votes with 13 votes in the case of a vote of no confidence, the same number that is required to elect a Chief Minister by this Chamber.

1590 I strongly believe a Government that has lost the support of the majority of Hon. Members has lost its credibility and authority. It would be untenable for the leader of such a Government to stay in office. The current requirement of 16 votes would mean a Minister would have to break ranks and support a vote of no confidence in the Government; effectively, a vote of no confidence in him or herself. In fact, the Council of Ministers could continue to vote themselves back into power, even if all other Members did not support them. I do not think we should permit such a possibility.

1600 Therefore, Mr Speaker, I beg that the Council of Ministers (Amendment) Bill 2020 be read a second time.

**The Speaker:** I call on the Member for Ramsey, Mr Hooper.

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**Mr Hooper:** Thank you, Mr Speaker.  
I beg to second and reserve my remarks.

**The Speaker:** Mr Cannan.

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**Mr Cannan:** Thank you, Mr Speaker.

I will stand as the mover of the original amendment in 2016 that changed the face of the election in terms of bringing it down to the House of Keys and removing it from Tynwald's grasp. At the time, in moving what was then a pretty small Bill, we did debate this matter. I do not regard it as a regrettable anomaly, I think actually if you look across the world there are lots and lots and lots of examples of parliaments where a two-thirds majority is required for what we probably regard as a constitutional matter. In fact, if you look at leadership elections, both in a number of parliaments and also within a number of political parties, you will find a two-thirds majority is often required to remove a leader.

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I do not think a summarisation just looking back over 30 years and saying the fact that Tynwald never got rid of, or did not succeed in a vote of no confidence, is necessarily a benchmark for saying that the vote of no confidence system is not working. Indeed, bear in mind, we have only recently changed the way that the Chief Minister is elected.

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So I would just merely point out that this super-majority idea that exists both in corporate law and indeed constitutionally in many examples, and I am not going to bore the House by going through them, but you can look yourselves before the next Reading as to when and how it is applied. It *is* there for a reason.

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I think all I would say to Hon. Members is that you do need to think *very* carefully about this, and particularly amongst a number of independents. If a Chief Minister comes along with a very narrow vote at a particularly difficult time – and there will be difficult times ahead for this nation, I am sure – one needs to think very carefully, if there is a particularly contentious issue, as to why you would not have thought that 16 people will stand up if it is absolutely obvious that a Chief Minister needs to go.

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There does need to be and I have argued, despite having my run-ins with at least one previous Chief Minister – and, of course, working very closely with this Chief Minister – but one recognises that a Chief Minister also has a *very* difficult job to do. It is not a popularity contest, and a Chief Minister will not always be popular.

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So all I would ask is that there needs to be a little bit of consideration from the House as to putting their mark against what appears to be a very easy and reasonable suggestion; but also one needs to consider that there is a question of democratic stability, and there was a very good reason ... And 16, a two-thirds majority, is not uncommon. I think there is a very good reason for having a two-thirds majority, when you come to such a serious matter.

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So I would just ask the House to ponder that, if they are going to take this forward to the next Reading, and just to give it a little bit of thought; because it is a matter that may cause instability, politically and constitutionally in the future, if we do not think carefully about it.

**The Speaker:** Hon. Member for Middle, Mr Shimmins.

**Mr Shimmins:** Thank you very much, Mr Speaker.

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I would just like to ask the mover of the Bill a question. Broadly, I am supportive of the proposal as it is laid out because it feels to me it is consistent. Why would you have a different voting threshold for appointment and removal? So that covers my broad, rather simple approach to this perhaps.

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But my question really is: based on her research over the last 30 years, did she feel that the super-majority was a deterrent for someone moving? (*Interjections*)

**Mr Cannan:** Point of order.

**The Speaker:** If it is a point –

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**Mr Cannan:** Sorry, would the Hon. Member just give way for a moment?

**Mr Shimmins:** I am happy to give way.

1665 **Mr Cannan:** Would he agree with me that actually previously it was a vote of Tynwald on a simple majority and there was no super-majority – just to be clear on that point? This is the first time that there has been a super-majority.

**Mr Shimmins:** As ever, I am grateful for my hon. friend, Mr Cannan's input.

1670 Perhaps if I rephrase the question, because the previous arrangement required a higher number of votes which potentially were not tied or committed by the Council of Ministers, because the previous voting arrangements were for Tynwald, whereas this is for the House of Keys. So, potentially, it would be more difficult to see a vote of no confidence going through.

1675 I am just interested in the view of the mover in terms of the different options, whether it is a straight majority or a super-majority. Clearly there is some risk in anyone bringing a vote of no confidence, so they need to be really quite sure that it would be successful prior to bringing it forward, would be my personal view; and setting the bar that bit higher potentially makes it more unlikely.

So I am just interested in Mrs Caine's views on that dynamic at this stage, Mr Speaker.

1680 Thank you.

**The President:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker.

1685 I do think that this would be a very different vote, it would be very different election really to actually try and change the Chief Minister ... I do think there is a lot more different responsibility around this.

1690 I do personally support the idea of a two-thirds majority, because I think for the very *reason* that you need to get a Minister to actually change against the Council of Ministers. I think that is why it is important to have a two-thirds majority to change the Chief Minister or the Council of Ministers, because you have to persuade one of the present Ministers to actually change their mind.

I think that is what is important; so I will not be supporting this amendment.

Thank you, Mr Speaker.

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**The Speaker:** Mr Hooper.

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

1700 There are only really two questions in this for me. I think it is a fundamental principle of most democracies, especially parliamentary democracies, that the government of the day has to retain the confidence of the House. If the government of the day does not retain the confidence of the House, it cannot function.

1705 So if there were 13 Members in this Hon. House who decided actually, we are not playing ball with Government because we think they are incompetent, they are useless – a vote of no confidence. The fact that the official level of a vote for no confidence is 16, is irrelevant, actually, because 13 Members could put a complete halt to all Government activities. So having this two-thirds bar is somewhat artificial, and it does not really provide the protections that I think Members are articulating that it does.

1710 For me, though, I think the reason that it does not quite feel right is two-thirds of Tynwald is one thing, because it is not possible for the Council of Ministers to block a particular vote; but two-thirds of this Hon. House is slightly different, because it is possible for the Council of Ministers to block a vote that requires a 16 majority, whether it is suspending Standing Orders or

1715 whether it is a vote of no confidence. So if you have a Council of Ministers that is bull-headed, that is deliberately trying to push things through in its own way, it is perhaps sure of itself – and I  
1720 am sure we would never accuse any Council of Ministers of being any of these things. But if they *were*, actually you cannot make them break ranks. If they all turtle down together and say, ‘We are definitely doing the right thing’, you could never pass a vote of no confidence if you need to convince one of them to break ranks. It is that which Mr Peake seems to think is a strength of the system, which actually is a *huge* weakness of it. Convincing a single Minister to break ranks, as well as convincing every other Member of this Hon. House that actually we do not retain confidence in Government, is a *very* high bar. I think it is probably a higher bar than anywhere else.

1725 I know Mr Cannan talked a little bit about this not being uncommon. I would respectfully suggest that it is quite uncommon in democracies of this size where you have such a small House. That is where the issue lies. If you are talking two-thirds of the numbers of MPs in the UK, for example, it is not possible for Government in and of themselves to block that; whereas when you have a very small legislature it is easily possible for the executive to direct the way that legislature functions. And that, I think, would concern me.

1730 So I am fully supportive of the motion, the Bill that has been put before us. I am fully supportive of reducing the numbers down past 16. I personally think that if it takes 13 votes to elect a Chief Minister, then 13 votes to remove him almost seems balanced and fair. But really I would encourage Members, at the very least, let’s progress this to the next stage, and if we then want to have a debate around whether it is 13, 14 or 15, we can have that debate during clauses.

1735 Thank you, Mr Speaker.

**The Speaker:** Hon. Member, Mr Thomas.

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

1740 It is important that we have Manx solutions for Manx problems and I just want to put on record that until 2018, as long as we have had representative democracy, from which responsible government comes, we have had a simple majority for this decision. So supporting Mrs Caine’s motion is actually the ‘Manxer’ solution.

1745 The second point along those lines I want to make is that the Manx House of Keys has always been where power lies as part of Tynwald. This Council of Ministers’ business is the modern introduction in 1990. The Manx solution was always to make sure that the leaders who came out of the House of Keys, most recently, and before that Tynwald more generally, always had the support and managed to retain the support of the parliament from which they derived.

1750 So what you have got before you today is a Manx solution for a Manx problem. In fact it is an inexorable continuation of the move towards responsible government in the Isle of Man coming from our historic, but our evolving representative, democratic parliament, the House of Keys as part of our constitutional arrangement.

1755 I will go back now to read what Mr Speaker said back in 2016, putting in words a similar idea to what Mr Hooper said; because two of us who are currently in this House voted for this proposition back in 2016, along with two others who are no longer in this House. Basically what Mr Speaker said, using very wise words, was that 16 was:

... an extraordinarily high hurdle. It would, to my mind, make the Chief Minister effectively untouchable. Again, I have chosen to recommend to the House that 13 be the appropriate level. Thirteen Members would be enough to block any legislation and the Budget, making the role untenable anyway. As this is the practical hurdle a Chief Minister needs to effectively command the confidence of the House, it makes sense that this should be the legal requirement as well

So for anybody who is thinking of voting against this Bill at the Second Reading, I do think we have got wise counsel there from the grandfather of the House of Keys; (*Laughter*) and the most conservative establishment figure in the House of Keys. (*Interjection*)

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**The Speaker:** Moving on ... Mr Ashford. (*Laughter*)

**Mr Ashford:** Thank you, Mr Speaker, I promise not to call you a grandfather when I make my remarks! (*Interjection*)

1765

I am going to keep my remarks very brief. I am supportive of Mrs Caine, the Hon. Member for Garff's Bill that is coming forward. The previous system has been a simple majority in Tynwald, so it makes sense to have it as a simple majority in this House, from my point of view. We have moved the power to elect the Chief Minister away from Tynwald to the House of Keys, so why wouldn't we have a simple majority in the House of Keys?

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We have mentioned about super-majorities, but as the Hon. Member for Ramsey, Mr Hooper has pointed out, if you ended up in a situation where in this Hon. House 13 Members did not support the Government of the day, you would end up with deadlock and chaos anyway – because the Members will be continuously voting against everything that came forward from that Government, to make the entire position untenable.

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I am very grateful to the Hon. Member for Ramsey for mentioning the UK as well, because I know last year seems an absolute nightmare – well, a long time ago, and it has been a very interesting year since. But of course we have got to remember in the UK they had a very similar thing with super-majorities around the Parliament Act – and didn't *that* work out well last year when they were trying to get a general election! (**A Member:** hear, hear.) It caused absolute deadlock and chaos for about six or seven months, where the Government of the day was even trying to get *themselves* out of office and could not manage to do it. So I am not sure, when you look around the world, that super-majorities do always work in the way that potentially is intended.

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So I am very supportive. I think all that the Bill is doing is moving – because we have moved the election from being a Tynwald election to a House of Keys election, and we have moved the principle of a simple majority in Tynwald to being a simple majority of the House. That is my simplistic view on it, Mr Speaker.

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**The Speaker:** Hon. Member, Mr Robertshaw.

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**Mr Robertshaw:** Thank you, Mr Speaker.

I will keep my comments short, because the previous speaker has captured much of what I was going to say.

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But I would ask Hon. Members, Mr Speaker, to consider that what Mrs Caine is trying to achieve here is continuity. Nothing more and nothing less. It was a simple majority before in Tynwald, at 17, as the Hon. Member for Douglas North has said. So the corollary for this would be that if you supported 16 out of 24, you would therefore support – if it was the old methodology, you would go up to a requirement for 21 out of 32. I think most Members would balk at that.

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I think the simple fact of the matter is that we took it upon ourselves to decide that the House of Keys would take the burden of responsibility for electing the Chief Minister. The converse of that is that it takes the burden of responsibility for removing a Chief Minister, should that be required. I am sure that the House on a simple majority would think very long and hard before taking such a stand. Therefore, if you vote for a continuation of this Bill to support Mrs Caine's work, then in fact you are voting for continuity. I will certainly be doing that.

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Thank you.

**The Speaker:** Ms Edge.

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

1810 I am not going to repeat anything anybody else has said, but I will be supporting the Hon. Member with this move today. I think what I really want to just reiterate to all Members is, how many times, just in this year, have we got to the position where it has been 12 or 13? Fortunately on occasion with the important aspects of legislation going through, the Council of Ministers has listened.

1815 I do not believe any Chief Minister or Council of Ministers that is prepared to listen to everybody in this Hon. Court would ever be in a position to get a vote of 13 – let's hope not anyway. They should not be nervous of that, they should recognise that this is a move for consistency going forward.

1820 We have already had one Minister who broke ranks and he faced the consequences. So think about what Mrs Caine is trying to do here. I think it is very important that we continue, and the Chief Minister and Council of Ministers should be confident that a vote never comes forward.

Thank you, Mr Speaker.

**The Speaker:** Mover to reply, Mrs Caine.

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

I would just like to thank everybody who contributed to the brief debate on a very brief Bill.

1830 I will start with Mr Cannan. Obviously, Mr Cannan was present at the previous time that this was debated, and by my calculation there are eight Members sitting in the current House who voted against this principle when Mr Speaker previously brought a similar amendment.

I am grateful to Mr Robertshaw for indicating that he has changed over (*Interjection by Mr Robertshaw*) and changed his opinion.

**Mr Robertshaw:** As has Mr Cannan, by the way.

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**Mrs Caine:** But in terms of Mr Cannan saying that there are numerous jurisdictions, well, actually, I cannot find them.

1840 As I mentioned in my leave to introduce speech and explanation, I am grateful to Prof. Peter Edge from the School of Law, Oxford Brookes University, because he tells me that overwhelmingly a simple majority *is* enough to cause a head of government to resign. The only exemption that he has found in his research was the Cayman Islands, where the two-thirds majority is required. Although that would seem similar to what we have in the Isle of Man, it is not; because the big difference is that the Caymans, like most jurisdictions, do not have the departmental system of consensus government that we do, where so many Members are already contributing to the work of Government.

1845 So Prof. Edge, from his standpoint, felt that if you combine a two-thirds majority with the very substantial involvement of MHKs in Government, it looks like stability has trumped accountability too much. That is where I am coming from. I take the point about – and I am grateful to Mr Robertshaw, Member for Douglas East – that this is about continuity; and similar points are made by Mr Ashford and Mr Hooper. This is about good governance, and this is about the reputation of the Isle of Man in having that democratic control and good governance. I would say to Mr Cannan, if he could find any other jurisdictions, I am very interested in learning of them. But I would say that the Isle of Man over the 30 years of ministerial government has demonstrated stability and strength. While there are political differences, and issues that flare up that cause issues, I do not think that they have resulted in a single minor, frivolous point becoming an issue that would lead to the constitutional concern that a vote of no confidence might be considered.

1850 Moving on to the responses of others: Mr Shimmins asked about the question – which I think Mr Cannan responded to ... Yes, previously it was a vote of the whole of Tynwald, but this House

1860 took the decision that the democratic will of the people was best represented by people in this House to appoint a Chief Minister, who then sets up the Government of the day. I make it, by my calculation, I think it would be 22 votes of the 33 Members of Tynwald that would have been the outright two-thirds majority. I think people would balk at that; I think that puts into context that it would be setting the bar too high.

1865 Mr Speaker's comments, the 'extraordinarily high hurdle' brought back to us by Mr Thomas, I think it would be ... Would it make the Council of Ministers untouchable? Can you imagine? I think there would be more constitutional crisis by the majority of Tynwald blocking every decision and motion brought by the Government of the day. I think *that* would be the constitutional crisis, not the ability of a majority of Members to demonstrate a lack of  
1870 satisfaction serious enough to bring a vote of no confidence.

I am grateful to my seconder, Mr Hooper, and I can only agree with the points that he made. I agree that the difficulty you would face if you had a Chief Minister retaining, or a Council of Ministers holding on to power, when they knew that the majority of House of Keys Members were against them. I think that would send a very odd message out into the wider world  
1875 population, and also further afield, in terms of any media or political coverage of the state of Government on the Isle of Man – and what kind of democracy. I think in terms of the huge and valued tradition of the Isle of Man and how we have evolved our parliamentary processes, that this is a logical step.

The Manx solution, perhaps for the Manx situation: I do not think it is a problem, it has never  
1880 been a problem, and it does not need to be a problem. I think we just need to change the number from 16 to 13. I hope Hon. Members will support that, so I will leave it there.

Thank you, Mr Speaker.

**The Speaker:** I put the question that the Council of Ministers (Amendment) Bill 2020 be read  
1885 for a second time. Those in favour, please say aye; against, no. The ayes –

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

**FOR**

Mr Ashford  
Dr Allinson  
Mr Baker  
Mrs Barber  
Mrs Caine  
Mr Callister  
Mrs Christian  
Mrs Corlett  
Mr Cregeen  
Ms Edge  
Mr Harmer  
Mr Hooper  
Mr Perkins  
Mr Quayle  
Mr Quine  
Mr Robertshaw  
Mr Shimmins  
Mr Skelly  
Mr Speaker  
Mr Thomas

**AGAINST**

Mr Boot  
Mr Cannan  
Mr Moorhouse  
Mr Peake

**The Speaker:** With 20 votes for, and 4 against, the ayes have it. The ayes have it.